7-3-85
Vol. 50 No. 128
Pages 27409-27570

Federal Register

Wednesday
July 3, 1985

Briefings on How To Use the Federal Register—
For information on briefings in Chicago, IL, New York, NY, and Washington, DC, see announcement on the inside cover of this issue.

Selected Subjects

CONTINUED INSIDE

Selected Subjects

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers for $300.00 per year, or $150.00 for 6 months, payable in advance. The charge for individual copies is $1.50 for each issue, or $1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

There are no restrictions on the republication of material appearing in the **Federal Register.**

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

How To Cite This Publication: Use the volume number and the page number. Example: 50 FR 12345.

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

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

CHICAGO, IL

WHEN: July 8 and 9; at 9 a.m. (identical sessions)

WHERE: Room 1654, Insurance Exchange Building, 175 W. Jackson Blvd., Chicago, IL.

RESERVATIONS: Call the Chicago Federal Information Center, 312-353-4242.

NEW YORK, NY

WHEN: July 9 and 10; at 9 a.m. (identical sessions)

WHERE: 2T Conference Room, Second Floor, Veterans Administration Building, 252 Seventh Avenue (between W. 24th and W. 25th Streets), New York, NY.

RESERVATIONS: Call Arlene Shapiro or Steve Colon, New York Federal Information Center, 212-264-4810.

WASHINGTON, DC

WHEN: September (two dates to be announced later).

Contents

Federal Register
Vol. 50, No. 128
Wednesday, July 3, 1985

Separate Parts in This Issue

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Federal Register
Vol. 50, No. 128
Wednesday, July 3, 1985

Presidential Documents

Title 3—

The President

Executive Order 12524 of July 1, 1985

Amending the Generalized System of Preferences

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including Title V of the Trade Act of 1974 (the Trade Act) (19 U.S.C. 2461 *et seq.*), as amended, section 604 of the Trade Act (19 U.S.C. 2483), and section 503(a)(2)(A) of the Trade Agreements Act of 1979 (93 Stat. 251), and as President of the United States of America, in order to designate, as provided by section 504(c)(6) of the Trade Act (19 U.S.C. 2464(c)(6)), those countries that will be considered to be least-developed beneficiary developing countries not subject to the limitations on preferential treatment of eligible articles for purposes of the Generalized System of Preferences (GSP), after taking into account the considerations in sections 501 and 502(c) of the Trade Act (19 U.S.C. 2461 and 2462(c)); and to modify as provided by sections 504 (a) and (c) of the Trade Act (19 U.S.C. 2464 (a) and (c)) the limitations on preferential treatment of eligible articles from countries designated as beneficiary developing countries, it is hereby ordered as follows:

Section 1. In order to designate the countries that will be considered to be least-developed beneficiary developing countries, general headnote 3(c) of the Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202) is modified by adding the following new paragraph 3(c)(iv):

"(iv) The following beneficiary countries are designated as least-developed beneficiary developing countries pursuant to section 504(c)(6) of the Trade Act of 1974:

Bangladesh
Benin
Bhutan
Botswana
Burkina Faso
Burundi
Cape Verde
Central African Republic
Chad
Comoros
Djibouti
Equatorial Guinea
Gambia
Guinea
Guinea-Bissau
Haiti
Lesotho
Malawi
Maldives
Mali
Nepal
Niger
Rwanda
Sao Tome and Principe
Sierra Leone
Somalia
Sudan
Tanzania
Togo
Uganda
Western Samoa
Yemen Arab Republic (Sanaa)

Whenever an eligible article is imported into the customs territory of the United States directly from one of the countries designated as a least-developed beneficiary developing country, it shall be entitled to receive the duty-free treatment provided for in subdivision (c)(ii) of this headnote without regard to the limitations on preferential treatment of eligible articles in section 504(c) of the Trade Act, as amended (19 U.S.C. 2464(c))."

Sec. 2. Annex II of Executive Order No. 11888 of November 24, 1975, as amended, listing articles that are eligible for benefits of the GSP when imported from any designated beneficiary developing country, is further amended by inserting in numerical sequence "734.56".

Sec. 3. Annex III of Executive Order No. 11888, as amended, listing articles that are eligible for benefits of the GSP when imported from all designated beneficiary countries except those specified in general headnote 3(c)(iii) of the TSUS, is further amended by striking out "734.56".

Sec. 4. General headnote 3(c)(iii) of the TSUS, listing articles that are eligible for benefits of the GSP except when imported from the beneficiary countries listed opposite those articles, is modified by striking out "734.56 . . . Haiti".

Sec. 5. The amendments made by this Order shall be effective with respect to articles both: (1) imported on or after January 1, 1976, and (2) entered, or withdrawn from warehouse for consumption, on or after July 4, 1985.

Ronald Reagan

THE WHITE HOUSE,
July 1, 1985.

[FR Doc. 85-16106
Filed 7-2-85; 11:08 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 50, No. 128
Wednesday, July 3, 1985

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 350, Amdt. 1; Valencia Orange Reg. 351]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Amendment 1 of Regulation 350 increases the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period June 28-July 4, 1985. Regulation 315 establishes the quantity of such fruit that may be shipped to market during the period July 5–11, 1985. The amendment and regulation are needed to provide for orderly marketing of fresh Valencia oranges for the periods specified due to the marketing situation confronting the orange industry.

DATE: Regulation 350, Amendment 1 (§ 908.650) is effective for the period June 28–July 4, 1985. Regulation 351 (§ 908.651) is effective for the period July 5–11, 1985.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone: 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* These rules have been reviewed under USDA procedures and Executive Order 12291 and have been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that these actions will not have a significant economic impact on a substantial number of small entities.

The amendment and the regulation are issued under Marketing Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The actions are based upon the recommendation and information submitted by the Valencia Orange Administrative Committee (VOAC) and upon other available information. It is hereby found that these actions will tend to effectuate the declared policy of the act.

The amendment and the regulation are consistent with the marketing policy for 1984–85. The committee met publicly on June 25, 1985, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges for the specified weeks. The committee reports the demand for Valencia oranges has improved slightly but not enough to justify shipments at a level equal to the shipping schedule which was set in March. The committee is expected to modify its shipping schedule next week.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because there is insufficient time between the date when information upon which the regulations are based became available and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the amendment and the regulation of an open meeting. To effectuate the declared policy of the act, it is necessary to make the regulatory provisions effective as specified, and handlers have been notified of the amendment and regulation and their effective dates.

List of Subjects in 7 CFR Part 908

Marketing agreements and orders, California, Oranges (Valencia).

1. The authority citation for Part 7 CFR Part 908 continues to read as follows:

Authority: (Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

PART 908—[AMENDED]

2. Section 908.650 is added to read as follows:

§ 908.650 Valencia Orange Regulation 350.

The quantities of Valencia oranges grown in California and Arizona which may be handled during the period June 28, 1985, through July 4, 1985, are established as follows:

(a) District 1: 180,000 cartons;
(b) District 2: 270,000 cartons;
(c) District 3: Unlimited cartons.

3. Section 908.651 is added to read as follows:

§ 908.651 Valencia Orange Regulation 351.

The quantities of Valencia oranges grown in California and Arizona which may be handled during the period July 5, 1985, through July 11, 1985, are established as follows:

(a) District 1: 200,000 cartons;
(b) District 2: 300,000 cartons;
(c) District 3: Unlimited cartons.

Dated: June 27, 1985

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 85–15902 Filed 7–2–85; 8:45 am]
BILLING CODE 3410–02–M

7 CFR Part 921

Handling of Fresh Peaches Grown in Designated Counties in Washington; Interim Amendment of the Grade Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule relaxes the grade requirements for certain shipments of Washington peaches. These changes are designed to maximize the marketing of fresh peaches of suitable quality in the interest of producers and consumers.

EFFECTIVE DATE: July 1, 1985. Comments are due by July 31, 1985. The Director of the **Federal Register** approves the incorporation by reference of Washington Standards for Peaches in 7 CFR 921.318.

ADDRESS: Interested persons are invited to submit written comments concerning this interim rule. Comments must be

sent in duplicate to the Docket Clerk, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 2069, South Building, Washington, D.C. 20250. Comments should reference the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone: 202–447–5975.

SUPPLEMENTARY INFORMATION: This interim final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291, and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

The interim final rule is issued under the marketing agreement and order No. 921 (7 CFR Part 921) regulating the handling of fresh peaches grown in designated counties in Washington, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action was recommended by the Washington Fresh Peach Marketing Committee.

This action lowers minimum grade requirements applicable to fresh shipments of Washington peaches during the period July 1, 1985, through March 31, 1986 by permitting the handling of peaches grading Washington No. 2, if packed in a western lug box.

Effective since August 1, 1981, § 921.318 provides the minimum grade, size, pack and container regulations applicable to peaches handled under the marketing order. Currently, it provides that such peaches grade at least Washington Extra Fancy Grade, except that peaches which grade Washington Fancy Grade or better may be handled if they are packed in the western lug box or the standard peach box. However, the committee believes that there is a demand for lower grade peaches shipped to local markets for home canning and immediate consumption. The committee believes that the less restrictive Washington No. 2 grade for peaches shipped in the western lug box would best further that objective as that container is not used for interstate shipments. This action would make available additional quantities of peaches of lower quality not permitted to be shipped under current order regulations. In order to maximize consumption of the 1985 crop of peaches, it is advantageous to establish this change by July 1, 1985. Such an effective date this year, with an opportunity for the public to comment on the interim rule for 30 days following its issuance, would allow the committee and handlers the opportunity to observe the effect of this relaxation of restrictions on the marketing of peaches for the entire 1985 season.

An interim rule was effective during the period August 6, 1984, through March 31, 1985, which contained the same relaxation of restrictions as stated in this interim rule. However, shipments of Washington peaches were well underway by August 6, 1984, and there was insufficient time for the committee to evaluate the effect of this relaxation of grade requirements.

The Secretary finds that upon good cause shown it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in other public procedures, and postpone the effective date of this interim final rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this rule is based and the effective date necessary to effectuate the declared policy of the act. Shipments of Washington peaches are expected to begin on or about the effective date of this rule. Interested persons were given an opportunity to submit information and views on the changes at an open meeting at which the committee recommended implementation of the requirements specified in this rule. Handlers have been apprised of the provisions and effective date of the changes. In addition, this change represents a relief of restrictions by making more peaches available for sale, and no useful purpose is served by delaying the issuance of this interim final rule. The interim final rule provides a 30-day comment period. All comments received will be considered prior to finalization of this rule. It is found that this rule will tend to effectuate the declared policy of the act.

List of Subjects in 7 CFR Part 921

Agricultural Marketing Service, Marketing Agreements and orders, Washington, Peaches, Incorporation by reference.

1. The authority citation for 7 CFR Part 921 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

PART 921—[AMENDED]

2. Section 921.318 is amended by revising paragraph (a)(1) to read as follows:

§ 921.318 Peach Regulation 18.

(a) * * *

(1) *Minimum grade.* Such peaches shall grade at least Washington Extra Fancy Grade: *Provided,* That peaches which grade Washington Fancy Grade or better may be handled if they are packed in the western lug box or the standard peach box: And *Provided further,* That for the period ending March 31, 1986, peaches which grade Washington No. 2 Grade or better may be handled if they are packed in the western lug box.

* * * * *

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

June 27, 1985.

[FR Doc. 85–15903 Filed 7–2–85; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 1040

Milk in the Southern Michigan Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rules.

SUMMARY: This action suspends for the months of June through August 1985 the requirement in the Southern Michigan Federal milk order that a cooperative association deliver to pool distributing plants at least 50 percent of its members' producer milk in order to qualify its supply plants as pool plants under the order. The suspension was requested by a cooperative association that represents producers supplying milk to the fluid market. The action is needed to ensure that dairy farmers who historically have been associated with the Southern Michigan market will continue to share in the market's fluid milk sales.

EFFECTIVE DATE: July 3, 1985.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–4829.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Notice of Proposed Suspension: Issued June 7, 1985, published June 13, 1985 (50 FR 24779).

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. Such action lessens the regulatory impact of the order on certain milk handlers and tends to insure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and of the order regulating the handling of milk in the Southern Michigan marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on June 13, 1985, (50 FR 24779) concerning a proposed suspension of certain provisions of the order. Interested parties were afforded opportunity to file data, views, and arguments thereon. No comments were received in opposition to the proposed action.

After consideration of all relevant information, including the proposal in the notice, the comments received, and other available information, it is hereby found and determined that for the months of June through August 1985 the following provisions of the order do not tend to effectuate the declared policy of the Act;

1. In § 1040.7(b)(2) the words "if transfers from such supply plant to plants described in paragraph (b)(5) of this section and by direct delivery from the farm to plants qualified under paragraph (a) of this section are:"

2. In § 1040(b)(2), paragraphs (i) and (ii).

Statement of Consideration

This action makes inoperative for the months of June through August 1985 the provisions requiring a cooperative association to deliver at least 50 percent of its members' producer milk to pool distributing plants, either through its supply plants or directly from farms, in order to qualify the supply plants as pool plants. The suspension was requested by Michigan Milk Producers Association (MMPA), which represents producers supplying the market.

This action is needed because milk production in this market has substantially increased since the end of the milk diversion program on March 31, and at the same time, Class I sales have remained about the same. Market data indicates that milk production increased approximately 8.7 percent from March to May 1985. At the same time, Class I utilization, as a percentage of producer milk, decreased from 43.0 percent to 39.4 percent.

The production of butter, condensed milk and other Class III uses increased from 211.4 million pounds in March to 212.6 million pounds in April 1985 and to 248.7 million in May 1985, or approximately 17.0 percent from April to May. MMPA submitted data to show that most of this April to May increase can be attributed to their members' milk. For this same period, MMPA indicated that their sales to fluid milk plants remained unchanged.

With the closing of schools and the elimination of the lunch programs, Class I utilization for June 1985 is expected to be even lower, and the situation is not expected to improve much during the balance of the summer. For the month of May 1985, MMPA was not able to pool its members' milk under the 50 percent pooling requirements without excluding one of their supply plants from their pooling unit. The order provides that a cooperative association may combine its supply plants into a unit in order to meet the 50 percent pooling requirement.

Because of the above, it is inappropriate to maintain the qualification requirement for a cooperative association to deliver to distributing plants at least 50 percent of its members' producer milk in order to qualify its supply plants as pool plants under the order.

If the provisions were not suspended for the months of June through August 1985, MMPA would encounter considerable difficulty in pooling certain supply plants and the milk of producers who historically have been associated with the Southern Michigan fluid market. Without the suspension milk would be shipped in an inefficient and costly manner merely to assure its continued pooling under the order. This would disrupt the orderly marketing of milk in the Southern Michigan marketing area.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions in the marketing area in that substantial quantities of milk from producers who regularly supply the market otherwise would be excluded from the marketwide pool, thereby causing a disruption in the orderly marketing of milk;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded an opportunity to file written data, views, or arguments concerning this suspension. No comments were filed in opposition to this action.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register.**

List of Subjects in 7 CFR Part 1040

Milk marketing orders, Milk, Dairy products.

PART 1040—[AMENDED]

The authority citation for Part 1040 continues to read as follows:

Authority: (Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

It is therefore ordered, That the following language in § 1040.7(b)(2) is suspended for the months of June through August 1985.

§ 1040.7 [Temporarily suspended in part]

1. In § 1040.7(b)(2) the words "if transfers from such supply plant to plants described in paragraph (b)(5) of this section and by direct delivery from the farm to plants qualified under paragraph (a) of this section are:"

2. In § 1040.7(b)(2), paragraphs (i) and (ii).

Effective date: July 3, 1985.

Signed at Washington, D.C. on: June 28, 1985.

Alan T. Tracy,

Deputy Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 85–15985 Filed 7–2–85; 8:45 am]

BILLING CODE 3410–02–M

Commodity Credit Corporation

7 CFR Part 1435

[Amdt. 1]

Price Support Loan Program for 1983 Through 1985 Crops Sugar Beets and Sugarcane

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Interim rule.

SUMMARY: This interim rule amends the regulations which govern the Price Support Loan Program for 1983 Through 1985 Crops Sugar Beets and Sugarcane to provide that sugar loan maturity dates may be extended for a period agreed upon by the Commodity Credit Corporation and the processor but in no event to a date later than September 30 following the date of loan disbursement.

EFFECTIVE DATE: June 28, 1985. Comments must be received on or before July 29, 1985 in order to be assured of consideration.

ADDRESS: Interested persons may send comments to Director, Cotton, Grain, and Rice Price Support Division, Agricultural Stabilization and Conservation Service (ASCS), U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Steve Gill, Cotton, Grain, and Rice Price Support Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. Phone: (202) 447-8480.

SUPPLEMENTARY INFORMATION: Information collection requirements contained in this regulation (7 CFR Part 1435) have been approved by the Office of Management and Budget in accordance with the provisions of 44 U.S.C. Chapter 25 and have been assigned OMB Number 0560-0093.

This interim rule has been reviewed under USDA procedures established in accordance with provisions of Departmental Regulation 1512-1 and Executive Order 12291 and has been classified "not major". It has been determined that these program provisions will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S. based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this interim rule applies are: Title—Commodity Loans and Purchases; Number-10.051, as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this interim rule because the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

An Environmental Evaluation with respect to the price support loan program has been completed. It has been determined that this action is not expected to have any significant impact on the quality of the human environment. In addition, it has been determined this action will not adversely affect environmental factors such as wildlife habitat, water quality, and land use and appearance. Accordingly, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

Extending Sugar Loan Maturity Dates

The Agriculture and Food Act of 1981 (the "1981 Act") amended section 201 of the Agricultural Act of 1949 to require that the Secretary of Agriculture support prices of the 1983 through 1985 crops of sugarcane and sugar beets through nonrecourse loans. In general, price support loans for the 1983 through 1985 crops of sugar beets and sugarcane mature on the last day of the sixth month following the month in which the loan is disbursed, but in no event later than September 30 following disbursement of the loan. The 1984-crop sugar price support loans are maturing monthly. Current marketing conditions indicate a substantial likelihood that sugar pledged as loan collateral by sugar processors may be forfeited to CCC upon loan maturity. In order to allow market conditions to strengthen and thereby increase the possibility that sugar processors will redeem their collateral at loan maturity, the regulations at 7 CFR Part 1435 are being amended to provide that sugar loan maturity dates may be extended for a period agreed upon by CCC and the processor, but in no event to a date later than September 30.

Need for Immediate Action

Since 1984-crop sugar price support loans are maturing monthly and there is a need for prompt action, it has been determined that prior notice and opportunity for public comment on the subject matter of this rule are impracticable and contrary to the public interest. Therefore, this final rule shall become effective June 28, 1985. However, comments with respect to this interim rule are requested and should be submitted on or before July 29, 1985 in order to be assured of consideration. This interim rule will be scheduled for review so that a final document discussing comments received and any amendments required can be published in the **Federal Register** as soon as possible.

List of Subjects in 7 CFR Part 1435

Loan programs/agriculture, Price support programs, Sugar.

Interim Rule

PART 1435—[AMENDED]

Accordingly, the regulations at 7 CFR Part 1435 are amended as follows:

1. The authority citation for Part 1435 continues to read as follows:

Authority: Secs. 201 and 401 *et seq.* of the Agricultural Act of 1949, as amended (7 U.S.C. 1446, *et seq.*)

2. Section 1435.115 is amended by revising paragraph (d) to read as follows:

§ 1435.115 Availability, disbursement, and maturity of loans.

* * * * *

(d) *Maturity of Loans.* Except as provided in paragraph (b) of this section, a loan will mature on the last day of the sixth month following the month in which the loan is disbursed, but in no event later than September 30 following disbursement of the loan. Loan maturity dates may be accelerated by CCC in accordance with § 1435.117(b)(3) of this subpart. Norwithstanding the foregoing, CCC and the processor may agree upon an earlier maturity date or a later maturity date (but in no event later than September 30 following disbursement of the loan) if such maturity date will not impair the effectiveness of the support program, as determined by CCC.

Signed at Washington, D.C., on June 28, 1985.

John R. Block,

Secretary.

[FR Doc. 85-15949 Filed 6-28-85; 4:53 pm]

BILLING CODE 3410-05-M

Farmers Home Administration

7 CFR Parts 1941 and 1945

Closing Loans Secured by Chattels

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations for closing loans secured by chattels to provide for a change in administrative instructions. This action is necessary because the form Security Agreements (Crops) is being obsoleted and its function is being assumed by Security Agreement (Chattels and Crops). The intended effect is to remove references to obsolete Form FmHA 440-4A, "Security Agreement (Crops)" and allow Form FmHA 440-4, "Security Agreement (Chattels and Crops)" to assume its function.

EFFECTIVE DATE: July 3, 1985.

FOR FURTHER INFORMATION CONTACT:

Jane Corbett, Loan Officer, Farm Real Estate and Production Division, Farmers Home Administration, USDA, 14th and Independence Avenue, SW., Washington, D.C. 20250, telephone (202) 447-5044.

SUPPLEMENTARY INFORMATION:

This final action has been reviewed under USDA procedures established in Departmental Regulation 1512-1 which implements Executive Order 12291 and has been determined to be exempt from those requirements because it involves only internal agency management. It is the policy of this Department to publish for comment rules relating to public property, loan, grants, benefits, or contracts notwithstanding the exemption in 5 U.S.C. 533, with respect to such rules. The amended regulation removes references to obsolete Form FmHA 440-4A, "Security Agreement (Crops)," and allows Form FmHA 440-4, "Security Agreement (Chattels and Crops)," to serve the same function as Form FmHA 440-4A in addition to its present use. This form was completed by FmHA personnel and its deletion is an internal control on avoiding the duplication of forms used for the same purposes. Therefore, this action is not published for proposed rulemaking since it involves only internal Agency management and publication for comment is unnecessary.

The Catalogue of Federal Domestic Assistance Titles and Numbers are:

Emergency Loans—10.404 and Farm Operating Loans—10.406.

This program/activity is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See 7 CFR Part 3015, Subpart V (48 FR 29115, June 24, 1983) and FmHA Instruction 1940-J, "Intergovernmental Review of Farmers Home Administration Programs and Activities" (December 23, 1983).

This final action has been reviewed in accordance with FmHA Instruction 1940-G, "Environmental Program." FmHA has determined that this final action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

List of Subjects

7 CFR Part 1941

Crops, Livestock, Loan programs—Agriculture, Rural areas, Youth.

7 CFR Part 1945

Agriculture, Disaster assistance, Loan programs—Agriculture.

Therefore, Chapter XVIII, Title 7, Code of Federal Regulations is amended as follows:

PART 1941—OPERATING LOANS

1. The authority citation for Part 1941 is revised to read as follows:

Authority: 7 U.S.C. 1989; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Operating Loan Policies, Procedures, and Authorizations

2. In Exhibit A of Subpart A, Paragraph C is amended by removing the entry for Form FmHA "440-4A . . . Security Agreement (Crops) . . . (*)" under the heading 'Docket Preparation'."

Subpart B—Closing Loans Secured by Chattels

3. Section 1941.57 is amended by revising Paragraph (c)(1) to read as follows:

§ 1941.57 Security instruments.

* * * * *

(c) *Security instrument forms.* (1) Form FmHA 440-25, "Financing Statement," or Form FmHA 440A-25, "Financing Statement (Carbon-Interleaved)"; and Form FmHA 440-4, "Security Agreement (Chattels and Crops)," will be used to obtain security interests in chattel property in States which have adopted the Uniform Commercial Code (UCC), unless a State supplement requires the use of other forms.

* * * * *

PART 1945—EMERGENCY

4. The authority citation for Part 1945 is revised to read as follows:

Authority: 7 U.S.C. 1989; 5 U.S.C. 301, 7 CFR 2.23; 7 CFR 2.70.

Subpart D—Emergency Loans Policies, Procedures, and Authorizations

5. Exhibit A of Subpart D is amended by removing the entry for Form FmHA "440-4A . . . Security Agreement (Crops) . . . (*)" in the listing of forms under Paragraph IV. D.

Dated: June 3, 1985.

Dwight O. Calhoun,

Acting Associate Administrator, Farmers Home Administration.

[FR Doc. 85-15900 Filed 7-2-85; 8:45 am]

BILLING CODE 3410-07-M

7 CFR Part 1944

Section 502 Rural Housing Loan Policies, Procedures and Authorizations

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations regarding Section 502 rural housing (RH) loans to authorize FmHA State Directors to contract for the annual review and processing of Interest Credit Agreement (ICA) renewals. This action is necessary to ensure timely processing of interest credit renewals within the 3-month annual review period. The intended effect is to ensure that all necessary information is collected from eligible RH borrowers and submitted to the FmHA Finance Office to update the borrowers' accounts prior to expiration of the existing ICA.

EFFECTIVE DATE: July 3, 1985.

FOR FURTHER INFORMATION CONTACT:

Ruth Smith, Senior Loan Specialist, Realty, Single Family Housing Processing Division, Farmers Home Administration, USDA, Room 5338, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250, telephone (202) 382-1486.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Departmental Regulation 1512-1, which implements Executive Order 12291, and has been determined to be exempt from those requirements because it involves contracts and internal Agency management. FmHA County Supervisors currently are responsible for the annual renewal of approximately 300,000 ICAs. They must personally interview each of these borrowers to assure that all necessary information is collected and that all sources of income are verified and used to calculate the amount of interest credit. For increased efficiency in the Agency management of the interest credit program, FmHA State Directors will be authorized to contract with contractors for the purpose of expediting interest credit renewals. The contractor will not be authorized to approve or disapprove an ICA. This should enable the County Supervisors in those FmHA County Offices with large RH caseloads to render better assistance to RH borrowers eligible for interest credit.

It is the policy of this Department to publish for comment rules relating to

public property, loans, grants, benefits, or contracts notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rulemaking since it involves only the mechanical processing of ICA's and as such is a matter of internal Agency management. Thus publication for comment is unnecessary.

The Catalog of Federal Domestic Assistance program affected by this action is: 10.410 Low Income Housing Loans.

This action does not adversely affect any FmHA programs or projects which are subject to intergovernmental consultation.

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

List of Subjects in 7 CFR Part 1944

Home improvement, Loan programs—Housing and community development, Low and moderate income housing—Rental, Mobile homes, Mortgages, Rural housing, Subsidies.

For the reasons stated in the preamble, Subpart A of Part 1944, Chapter XVIII, Title 7 of the Code of Federal Regulations is amended as follows:

PART 1944—HOUSING

Subpart A—Section 502 Rural Housing Loan Policies, Procedures and Authorizations

1. The authority citation for Subpart A of Part 1944 continues to read as follows:

Authority: 42 U.S.C. 1480; 7 CFR 2.23; 7 CFR 2.70.

2. In Section 1944.34, the introductory paragraph of paragraph (h)(3) is revised to read as follows:

§ 1944.34 Interest credit.

* * * * *

(h) * * *

(3) *Interest credit renewal.* Pursuant to delegations of procurement authority included in FmHA Instruction 2024-A (available in any FmHA office), State Directors are authorized to enter into contracts for the review and processing of interest credit renewals after prior approval by the Administrator. Contractors are responsible for interest credit renewal actions covered by the contract. Contractors will not be given the authority to approve or disapprove Interest Credit Agreements.

* * * * *

Dated: June 11, 1985.

Dwight O. Calhoun,

Acting Associate Administrator.

[FR Doc. 85-15899 Filed 7-2-85; 8:45 am]

BILLING CODE 3410-07-M

---

7 CFR Part 1945

Memorandum of Understanding Between the Small Business Administration and the Farmers Home Administration

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) revises its Memorandum of Understanding (MOU) between FmHA and the Small Business Administration (SBA) pertaining to Disaster Loan Assistance Programs for disasters commencing on or after October 1, 1983. This action is necessary because of recent changes in the SBA Act, as amended by Public Laws 98-270 and 98-369. The intended effect of this action is to delineate circumstances and prescribe procedures for FmHA and SBA field offices to consider and follow when referring certain farm loan applicants from one Agency to the other for disaster loan assistance, based on declared/designated disasters that occurred on or after October 1, 1983. Adoption of the procedures set forth in the MOU are necessary to avoid undue delay and expense to applicants and duplication of effort by the signatory agencies.

EFFECTIVE DATE: July 3, 1985.

FOR FURTHER INFORMATION CONTACT: Morris Monesson, Deputy Director, Emergency Division, FmHA, USDA, Room 5420, South Agriculture Building, Washington, D.C. 20250, Telephone (202) 382-1632. Alternate Contact: John Gleason, Senior Loan Officer, FmHA, USDA, Room 5424, Telephone (202) 382-1651.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation 1512-1, which implements Executive Order 12291, and has been determined to be exempt from those requirements because it involves only internal Agency management. The MOU pertains to the circumstances that would necessitate the referral of a disaster loan applicant to SBA or the acceptance of an applicant from SBA for loans based on disasters that occurred on or after October 1, 1983. The MOU also pertains to the procedures for FmHA and SBA field offices to follow when referring loan applicants from one Agency to the other.

It is the policy of this Department to publish, for comment, rules relating to public property, loans, grants, benefits, or contracts notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rulemaking, since it involves only internal Agency management and publication for comment is unnecessary.

This action does not directly affect any FmHA programs or projects which are subject to 7 CFR Part 3015, Subpart V, "Intergovernmental Review of Federal Programs" review.

This document has been reviewed in accordance with FmHA Instruction 1940-G, "Environmental Program." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190; an Environmental Impact Statement is not needed.

This action affects the following FmHA program as listed in the Catalog of Federal Domestic Assistance: 10.404—Emergency Loans.

List of Subjects in 7 CFR Part 1945

Agriculture, Disaster assistance, Loan programs—Agriculture.

Therefore, Chapter XVIII, Title 7, Code of Federal Regulations is amended as follows:

PART 1945—EMERGENCY

1. The authority citation for Part 1945 continues to read as follows:

Authority: 7 U.S.C. 1989; 7 CFR 2.23; 7 CFR 2.70

Subpart D—Emergency Loan Policies, Procedures and Authorizations

2. Exhibit B-1 of Subpart D of Part 1945 is added to read as follows:

Memorandum of Understanding Between the Small Business Administration (SBA) and the United States Department of Agriculture (USDA)—Farmers Home Administration

(FmHA) Pertaining to Disaster Loan Assistance Programs for Disasters Commencing on or after October 1, 1983.

This Memorandum of Understanding between Farmers Home Administration and the Small Business Administration results from Public Laws 98–270 and 98–369. This legislation extended section 18(a) of the Small Business Act to October 1, 1987. The relevant portion of section 18(a) states that an agricultural enterprise shall not be eligible for physical disaster loan assistance from SBA unless it is declined for, or would be declined for, emergency loan assistance from FmHA at *substantially similar interest rates.*

Pub. L. 98–270 also reduced SBA's interest rates to a maximum of 8 percent for those borrowers deemed to have credit available elsewhere and 4 percent for those borrowers without credit available elsewhere. These interest rate reductions have partially rendered section 18(a) inoperative, as SBA and FmHA interest rates on loans to borrowers with credit available elsewhere are no longer substantially similar. Adoption of the procedures set forth in this Memorandum of understanding are necessary to avoid undue delay and expense to applicants and duplication of effort by the signatory agencies.

The following procedures are applicable to agricultural enterprises seeking *physical disaster loan* assistance from SBA or emergency (EM) actual loss loan assistance from FmHA for disaster which commenced on or after October 1, 1983, and are so declared a "Major Disaster" by the President or declared a disaster area by the Administrator of SBA.

1. Applicants making application to SBA for physical disaster loans, or to FmHA for EM loans, exceeding $100,000, whether or not they can obtain credit elsewhere, may file directly with FmHA or with SBA, without a letter of referral, because SBA interest rates to applicants who have credit available elsewhere and to those who have no credit available elsewhere for amounts exceeding $100,000 are substantially lower than those of FmHA. However, if during SBA's processing of an application from an applicant unable to get credit elsewhere, it becomes apparent that the applicant's loan eligibility at SBA is for less than $100,000, the loan application will be returned to the applicant with advice that it be submitted to FmHA.

2. Applicants making application to SBA for physical disaster loans of $100,000 or less will be referred to FmHA for assistance.

3. Applicants making application to FmHA for EM actual loss loans of $100,000 or less will:

a. If FmHA finds that an applicant has credit available elsewhere, be referred to SBA, by letter, stating that other credit is available to the applicant. A determination by FmHA that the applicant has credit available elsewhere will be accepted and binding on SBA.

b. If they do not meet FmHA's minimum loss requirements (physical and/or production losses), be referred to SBA, by letter, stating that the FmHA minimum loss criterion, has not been met. (In cases where applicants' loses were sustained from disasters commencing prior to October 1, 1983, applicants will be advised that SBA has substantially similar minimum loss criteria as does FmHA; and therefore, such applicants will *not* be referred to SBA for the reason of not having sufficient losses to qualify for an EM loan.)

c. If determined ineligible by FmHA for a credit reason(s) such as poor credit history, insufficient cash flow or inadequate collateral, not be referred to SBA.

d. If they are found ineligible by FmHA for a reason(s) of their status, such as: Certain aliens; corporations, partnerships, and cooperatives not being primarily engaged in farming; or farm owners who do not operate their own farms, be referred to SBA, by letter, stating the specific reason(s) for ineligibility, regardless of the amount of the loan requested, or whether credit is or is not available elsewhere, or no matter when the disaster commenced.

This Memorandum of Understanding supplements but does not replace the Memorandum of Understanding between the two Agencies, dated September 26, 1980. That Memorandum of Understanding continues in effect and is applicable only for disasters commenced between July 31, 1980, and September 30, 1983. Any physical disaster loan applications received by SBA from agricultural enterprises as a result of disasters which commenced on or after October 1, 1982, but prior to October 1, 1983, which SBA accounts subsequent to the date of the signing of this Memorandum of Understanding, will be processed by SBA under its regulations in effect at the time of the commencement of the disaster; and are subject to the procedures set forth in paragraphs 1, 2, and 3 above.

Dated: June 10, 1985.

James C. Sanders,
Administrator, Small Business Administration.

Dated: January 23, 1985.

Charles W. Shuman,
Administrator, Farmers Home Administration.

Dated: January 31, 1985.

Dwight O. Calhoun,
Acting Associate Administrator, Farmers Home Administration.

[FR Doc. 85–15901 Filed 7–2–85; 8:45 am]
BILLING CODE 3410–07–M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 723

Federal Credit Unions; Operational Systems; Removal of CFR Part

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: This action deletes Part 723, Operational Systems, from the National Credit Union Administration's Rules and Regulations. While serving a useful purpose at the time of the promulgation, the rule has been found to be of little importance in today's environment.

EFFECTIVE DATE: July 3, 1985.

ADDRESS: National Credit Union Administration, 1776 G Street, NW, Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Martin F. Kushner, Office of Programs. Telephone: (202) 357–1065.

SUPPLEMENTARY INFORMATION:

Background

Part 723, Operational Systems, was adopted in 1974 when credit unions were experimenting with numerous programs relating to electronic funds transfer systems. Since these sytems were new to credit unions, it was necessary for NCUA to closely monitor the programs and determine their potential impact on the credit union industry. The regulation, as currently written, requires parties to submit pilot programs to NCUA for evaluation and approval. After a review of the program NCUA can designate the proposal as a pilot program and establish one or more pilot credit unions.

Significant statutory and regulatory changes governing credit union activities have occurred since this regulation was adopted. The direction of these changes has been to permit the board of directors of each federal credit union to determine the types of services,

consistent with the powers stated in section 107 of the Federal Credit Union Act (12 U.S.C. 1757), it wishes to offer to its members. Throughout the deregulatory process, federal credit union officials have continually demonstrated the ability to make sound business decisions, taking into account the overall safety and soundness of their credit union.

Accordingly, there is no longer a demonstrated need to retain a regulation that could limit the creativity of credit union management and stifle innovative ideas. Federal credit union officials should feel free to experiment with new services as long as they remain cognizant of the limitations imposed by the Federal Credit Union Act and the NCUA Rules and Regulations and consider the impact of any new programs on the overall safety and soundness of their credit union. When considering any new program, credit union officials should develop a detailed plan, obtain a legal opinion if necessary, and perform a cost analysis. When there is any doubt of the legality of a new program, credit unions are encouraged to contact their regional office of the NCUA to obtain an opinion on the propriety of the program or service.

Regulatory Procedures

The NCUA Board hereby certifies that this final rule will not have a significant economic impact on a substantial number of small credit unions. Since the elimination of the regulation will reduce regulatory burden and does not create any negative impact on credit unions, the NCUA Board is issuing a final rule without seeking comments from the public.

Paperwork Reduction Act

This rule eliminates a paperwork requirement currently in place and, thereby, reduces the paperwork burden of federal credit unions.

List of Subjects in 12 CFR Part 723

Operational systems, Credit unions.

PART 723 [REMOVED]

Accordingly, Title 12 CFR Part 723 is removed.

By the National Credit Union Administration on the 12th day of June 1985.

Rosemary Brady,

Secretary of the NCUA Board.

[FR Doc. 85-15895 Filed 7-2-85; 8:45 am]

BILLING CODE 7535-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Size Standard for Real Estate Agents

AGENCY: Small Business Administration.

ACTION: Emergency interim final rule.

SUMMARY: SBA is establishing an interim emergency size standard for the real estate agent industry of $1 million. This size standard is necessary because there is no standard for this industry. It is needed to establish eligibility for real estate firms for SBA financial assistance programs.

DATE: Effective July 3, 1985. Comments must be received August 2, 1985.

ADDRESS: Address all comments to: Andrew A. Canellas, Director, Size Standards Staff, Small Business Administration, 1441 L Street, NW., Room 500, Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Harvey D. Bronstein, Economist, Size Standards Staff, (202) 653-6373.

SUPPLEMENTARY INFORMATION: SBA is establishing a size standard for the real estate agent industry, SIC-6531 on an emergency basis in response to requests for Economic Injury Disaster Loans (EIDL). The Agency intends to consider public comments before establishing a permanent size standard. Because of the urgency of disaster lending, however, time does not permit the issuance of a proposed rule before implementing this final rule. By law, EIDL loans are limited to small business, so a size standard is necessary to determine the eligibility of real estate agent firms for financial assistance.

When examining the characteristics of an industry for size standards purposes, SBA normally relies on generally accepted published statistical sources such as the Census Bureau, Internal Revenue Service, and others for a description of industry structure. Data on the number of firms, average firm size by sales and employees, distribution and range of firm sizes, and so on, are essential for this task. Because the normal statistical sources provide little or no data on real estate agents, SBA had to turn to trade sources to obtain comparable information.

The National Association of Realtor's (NAR) publications "Profile of Real Estate Firms; 1984," "Membership Profile 1984," and "Real Estate Brokerage 1981," have proved quite helpful. The Association says it has 100,000 members which are companies, most of which are real estate agent firms; this is estimated as covering three-quarters of all firms in the industry. Another source which counts numbers of firms is Dun & Bradstreet, which estimates 75,000 in 1982. Based on information presented in the "Profile of Real Estate Firms", SBA has composed the following table on firm size distribution.

REAL ESTATE FIRMS BY SALES FORCE SIZE CATEGORIES, 1984

Size of sales force (percent)	5 or less persons	6-10	11-20	21-50	Over 50
Firms	50	23	16	8	3
Cumulative	50	73	89	97	100
Sales force	10	12	16	17	45
Cumulative	10	22	38	55	100

These data were compiled from a survey of NAR members in which the sample size was 1200 out of 6500 firms contacted at random. Average firm size as measured in salespersons was 10.

Within certain exceptions, SBA usually tries to express size standards in dollars, based on annual receipts. In the real estate agent industry, receipts are based on fees and commissions. These receipts are distributed to the firm's salespersons and to other participating firms in a real estate transaction. The residual from these distributions is termed "Company Dollars"[1] and according to NAR represents about 40 percent of the gross amount of fees and commissions.

NAR's 1981 report provides detailed financial information on real estate agent firms. Its sample size, 417 firms, is much smaller than the 1984 report and is also biased, as it is overly-representative of real estate agent firms with better than average financial performance. However, because it is the latest report with such detailed information, its results can be useful. The report shows average firm size of $271,000 in net receipts or Company Dollars and 23.5 salespersons, for firms in this sample. On a per salesperson basis, this is $11,500 in Company Dollars. These company dollars would represent $28,800 in gross commissions for 1981—

[1] Company Dollars as defined by NAR represent "the funds remaining from Gross Income after all sales and listing commissions, including those to co-brokerage firms have been distributed."

$$\text{Derived by Gross Commissions} = \frac{\text{Company Dollar}}{0.4}$$

Adjusting this amount for inflation to 1984 results in $33,000 in gross commissions.

The 1984 "Membership Prcfile" indicates that median gross personal income per salesperson is $15,000, based on a mix of one-quarter part-time and three-quarters full-time salespersons. Since the salesperson's share of the firm's total commissions is about 45 percent, the average salesperson brings in about $33,000 in gross commissions. Also, in discussions with NAR economists and real estate agent firms, it is believed that the current nationwide average gross commissions or receipts per salesperson are about $35,000. Because this estimate is reasonably close to the other derived figures, this amount will be used to transpose the firm size categories in the abcve table from salespersons to receipts.

In the 1981 report, NAR informally recognized four size categories of real estate agent firms: small, medium, large, and very large. These are not NAR's official size categories nor were they rigorously determined. They were used for analytical purposes only. Measured in terms of full-time equivalent sales persons, the categories, respectively, were: 10 or fewer, 11 to 30, 30 to 60, and over 60 salespersons.

In determining a size standard, SBA considered various alternatives. The most commonly used size standard in services is $3.5 million. This would be approximately equivalent to 100 salespersons and would fall in the extreme upper end of the size distribution. Clearly $3.5 million is inappropriate.

The above table also allows examination of a 50 salespersons size standard. Firms at or below this size include 97 percent of all firms and 55 percent of sales. It is equivalent to about $1.8 million in receipts. At this size, such firms would probably do business from 3 or 4 establishments according to NAR estimates. A 50 salesperson firm is well within the large size category used by NAR in its 1981 study. In addition, while not a goal, SBA's size standards for all industries in aggregate cover approximately 40 percent of sales. Fifty-five percent of industry sales would be included by firms at a 50 salesperson size standard.

A threshold in the firm size distribution occurs between the small and large NAR size categories at between 10 and 30 salespersons. A size standard of 20 salespersons would include those in NAR's small category, but only reach 89 percent of firms. In general, SBA size standards reach 97 to 98 percent of firms.

Consequently, SBA is setting this emergency size standard at the dollar equivalent of 30 salespersons, $1 million (based on fees and commissions). This is below NAR's large size category. Also, firms below this size standard include about 93 percent of all firms and 45 percent of industry sales. Such a firm would typically operate two establishments.

SBA's intent in measuring firm size for this standard is that all sales and listing commissions and fees to the firm from all sources including other brokers be included as receipts. The term "Company Dollar," although widely used in this industry, is a net figure and does not indicate firm size for SBA purposes.

Pursuant to the authority of 5 U.S.C. 553(b)(B), this regulation is being promulgated as a final rule. Due to the urgent nature of disaster assistance, SBA has determined that it is necessary to establish this size standard quickly to facilitate the efficient operation of the disaster program. Publishing a proposed rule and providing an opportunity to comment before it can be promulgated in final form would delay the necessary assistance to the disaster victims, and thus, would be contrary to the public interest. SBA, however, intends to accept public comments on this interim emergency rule and will review them in preparing a permanent size standard.

SBA has determined that this regulation is a nonmajor rule as defined by Executive Order 12291. The intent of this action is to define the universe of real estate agent businesses eligible for financial assistance including EIDL loans. In FY 1984, SBA made a total of $85 million of EIDL loans in all industries at an average loan size of $77,000. The maximum loan size permitted is $500,000. Because all industries together accounted for $85 million in loans, the present action pertaining to only one industry will have an impact of far less than $100 million per year. In addition, this regulation is not likely to result in a major increase in costs or prices or have a significant adverse effect on the United States economy.

SBA certifies pursuant to section 608 of the Regulatory Flexibility Act, 5 U.S.C. that this interim final rule is being published pursuant to an emergency for the reasons indicated above, and the SBA is therefore waiving the requirements of section 603 of the Regulatory Flexibility Act. SBA will publish a final regulatory analysis of its final size standard in compliance with section 604 of the Regulatory Flexibility Act, when the final size standard is published. SBA also certifies that this regulation contains no reporting or recordkeeping requirements which are subject to the Paperwork Reduction Act, 44 U.S.C., Chapter 35.

List of Subjects in 13 CFR Part 121

Small businesses.

Accordingly, pursuant to the authority contained in section 3(a) and 5(b)(6) of the Small Business Act, 15 U.S.C. 632(a) and 634(b)(6).

1. The authority for Part 121 is revised to read as follows:

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

2. Section 121.2(c)(2) is amended by adding the following entry to the table in Division H, Major Group 65.

§ 121.2 [Amended]

(c) * * *

(2) * * *

* * * * *

DIVISION H—FINANCE, INSURANCE AND REAL ESTATE, MAJOR GROUP 65—REAL ESTATE

6531	Real estate agents and managers.	$1 million (as measured by gross fees and commissions).

* * * * *

Dated: June 21, 1985.

James C. Sanders,

Administrator.

[FR Doc. 85-15685 Filed 7-2-85; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF COMMERCE

Economic Development Administration

[Docket No. 50582-5082]

13 CFR Part 302

Designation of Areas; Notification of Officials

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: Interim rule.

SUMMARY: This rule amends EDA's regulations concerning notification by the Assistant Secretary of Commerce for Economic Development to local, State, and national officials of redevelopment area qualifying status, designation status and modification or termination.

The amendments concern the time when notification is to be given. Time for giving notice and circumstances for such notice are being changed to promote inclusiveness and promptness.

DATES: *Effective Date:* July 3, 1985.

Comments by: September 3, 1985.

ADDRESS: Send comments to the Assistant Secretary for Economic Development, U.S. Department of Commerce, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues NW., Room 7800B, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Walter Archibald, Director, Office of Compliance Review, Economic Development Administration, U.S. Department of Commerce, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues NW., Room 7329, Washington, D.C. 20230, (202) 377-2710.

SUPPLEMENTARY INFORMATION: EDA is amending 13 CFR Part 302 on area designation at Subpart D—Notice as to when the Assistant Secretary is to notify local, State and national officials. Section 302.50(c) concerning notice of termination, is being revised to add a time for notice of modification. Notice of termination or modification (except for minor boundary changes) will be given at the conclusion of the annual review of area eligibility. If minor boundary changes are being made, notice will be given whenever such actions occur. Section 302.50(d) concerning notice of qualification for area designation status, is being changed to state that notice of qualification will be given by the Assistant Secretary whenever statistics are received warranting such qualification.

Because this rule relates to grants, benefits, or contracts, it is exempt from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553).

No other law requires that notice and opportunity for comment be given for the rule.

Accordingly, the Department's General Counsel has determined and so certified to the Office of Management and Budget, that dispensing with notice and opportunity for comment is consistent with the APA and all other relevant laws.

However, because the Department is interested in receiving comments from those who will benefit from amendments to the rule being issued in final, this rule is being issued as interim final. Public comments on the interim final rule are invited and should be sent to the address listed in the **"ADDRESS"** section above.

Comments received by September 3, 1985 will be considered in promulgating a final rule.

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

Because this rule is exempt from the requirements of section 553 of the APA, it can be and is being made immediately effective upon publication.

Under Executive Order (E.O.) 12291 the Department must judge whether a regulation is "major" within the meaning of Section 1 of the Order and therefore subject to the requirement that a Regulatory Impact Analysis be prepared. This regulation is not major because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule does not contain a collection of information for purposes of the Paperwork Reduction Act (Pub. L. 96-511).

List of Subjects in 13 CFR Part 302

Community development.

PART 302—[AMENDED]

1. The authority for Part 302 continues to read as follows:

Authority: Sec. 701, Pub. L. 89-136, 79 Stat. 570 (42 U.S.C. 3211); sec. 1-105, DOC Organization Order 10-4, as amended (40 FR 56702, as amended).

2. 13 CFR Part 302 Subpart D is amended by revising paragraphs (c) and (d) of section 302.50 to read as follows:

§ 302.50 Notification of public officials.

* * * * *

(c) Notice of termination or of modification (other than minor boundary adjustments) of area qualification or designation status, will be given at the conclusion of the annual review of area eligibility. Notice of minor boundary adjustment will be made whenever such actions occur.

(d) Notice of qualification will be given whenever statistics are received by EDA warranting such qualification.

* * * * *

Dated: May 20, 1985.

Paul W. Bateman,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 85-15880 Filed 7-2-85; 8:45 am]

BILLING CODE 3510-24-M

International Trade Administration

15 CFR Parts 376 and 399

[Docket No. 50455-5055]

Foreign Policy Controls; Police-Model Helmets

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Office of Export Administration maintains the Commodity Control List, which includes all commodities subject to Department of Commerce export controls, including controls maintained for foreign policy reasons.

Police-Model helmets are currently controlled for reasons of foreign policy (human rights/crime control) under ECCN 5999B. However, it has been determined that some policy-model helmets are lined with materials currently controlled under ECCNB 1746A and should, more appropriately, be classified under this entry.

This rule amends the Export Administration Regulations to state that police-model helmets containing 50% or more aromatic polyamide fiber by value are included in ECCN 1746A and are also subject to foreign policy controls for reasons of human rights/crime control.

EFFECTIVE DATE: This rule is effective July 3, 1985.

FOR FURTHER INFORMATION CONTACT: Richard Usrey, Exporter Assistance Division, Office of Export Administration, Department of Commerce, Washington, D.C. 20230 (Telephone: (202) 377-3856).

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

In connection with various rulemaking

requirements, the Office of Export Administration has determined that:

1. Since this regulation involves a foreign affairs function of the United States, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring a notice of proposed rulemaking, an opportunity for public participation and a delay in effective date are inapplicable.

2. This rule contains a collection of information requirement under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. but does not impose any additional burden. The collection of this information has been approved by the Office of Management and Budget under control number 0625–0001.

3. Because a notice of proposed rulemaking is not required to be published for this rule, it is not a rule within the meaning of section 601(2) of the Regulatory Flexibility Act, 5 U.S.C. 601(2) and is not subject to the requirements of that Act. Accordingly, no initial or final Regulatory Flexibility Analysis has been or will be prepared.

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

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

List of Subjects in 15 CFR Parts 376 and 399

Exports.

Accordingly, the Export Administration Regulations (15 CFR Part 376 and 399) are amended as follows:

1. The authority citation for 15 CFR Part 376 is revised and 15 CFR Part 399 continues to read as follows:

Authority: Secs. 203, 206, Pub. L. 95–223, Title II, 91 Stat. 1626, 1628 (50 U.S.C. 1702, 1704). Executive Order No. 12470 of March 30, 1984 (49 FR 13099, April 3, 1984); Presidential Notice of March 28, 1985 (50 FR 12513 March 29, 1985).

PART 376—[AMENDED]

§ 376.14 [Amended]

2. Paragraph (a) of § 376.14 is amended by revising the phrase—"5680B, 4799B, 5998B and 5998B."—to read—"5680B, 1746A (police-model helmets containing 50% or more aromatic polyamide fiber by value only), 4799B, 5998B, and 5999B."

PART 399—[AMENDED]

§ 399.1 [Amended]

3. In Commodity Group 7, "Chemicals, Metalloids, Petroleum Products and Related Materials," of the Commodity Control List (Supplement No. 1 to § 399.1), ECCN 1746A is amended by revising the *GLV $ Value Limit* paragraph and the *Reason for Control* paragraph; and by adding a *Special Foreign Policy Controls* paragraph and a *Technical Data* paragraph, reading as follows:

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

* * * * *

GLV $ Value Limit: For police-model helmets containing 50% or more aromatic polyamide fiber by value, the $ value limit is $100 only to Australia, Japan, New Zealand and members of NATO and $0 to all other destinations. For items other than such police-model helmets, the $ value is $100 to Country Groups T&V, except $0 for the People's Republic of China; $0 for all other destinations.

Processing Code: * * *

Reason for Control: National security; crime control (foreign policy). Foreign policy controls under this entry apply only to police-model helmets.

Special Licenses Available: * * *

Special Foreign Policy Controls: Foreign policy controls apply to police-model helmets controlled by this ECCN to any destination except Australia, Japan, New Zealand and members of NATO. (See ECCN 5999B for foreign policy controls on all other police model helmets.)

Technical Data: Export of technical data related to police-model helmets containing 50% or more aromatic polyamide fiber by value require a validated license to all destinations except Australia, Japan, New Zealand and members of NATO.

* * * * *

Dated: April 2, 1985.

John K. Boidock,

Director, Office of Export Administration, International Trade Administration.

[FR Doc. 85–15874 Filed 7–2–85; 8:45 am]

BILLING CODE 3510-DT-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed for Old Monore Elevator & Supply Co., Inc., providing for the manufacture of 5–, 20–, and 40-gram-per-pound tylosin premixes used to make complete feeds for swine, beef cattle, and chickens.

EFFECTIVE DATE: July 3, 1985.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1414.

SUPPLEMENTARY INFORMATION: Old Monroe Elevator & Supply Co., Inc., Old Monroe, MO 63369, is the sponsor of a supplement to NADA 119–261 submitted on its behalf by Elanco Products, Co. The supplement provides for the manufacture of 5–, 20–, and 40-gram-per-pound tylosin premixes used to make complete feeds for swine, beef cattle, and chickens for use as in 21 CFR 558.625(f)(1)(i) through (vi). The firm presently holds an approval under NADA 119.261 for the manufacture of a 10-gram-per-pound tylosin premix for such use. The supplement is approved and the regulations are amended to reflect the approval.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24 (d)(1)(i) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an

environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR Part 558 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343–351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

2. Section 558.625 is amended by revising paragraph (b)(69) to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(69) To 026948: 5, 10, 20, and 40 grams per pound, paragraph (f)(1)(i) through (vi) of this section.

* * * * *

Dated: June 25, 1985.

Marvin A. Norcross,

Acting Associate Director for Scientific Evaluation.

[FR Doc. 85–15868 Filed 7–2–85; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Tylosin and Sulfamethazine

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed for Wayne Feed Division, Continental Grain Co. The NADA provides for manufacturing premixes containing 5, 10, 20, or 40 grams per pound each of tylosin and sulfamethazine used to make finished swine feeds.

EFFECTIVE DATE: July 3, 1985.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV–135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1414.

SUPPLEMENTARY INFORMATION: Wayne Feed Division, Continental Grain Co., P.O. Box 459, Libertyville, IL 60048, is sponsor of NADA 131–958 submitted on its behalf by Elanco Products Co. The NADA provides for the manufacture of premixes containing 5, 10, 20, or 40 grams per pound each of tylosin (as tylosin phosphate) and sulfamethazine intended for use to subsequently make finished swine feeds. The resulting feeds are for use in maintaining weight gains and feed efficiency in the presence of atrophic rhinitis, lowering the incidence and severity of *Bordetella bronchiseptica* rhinitis, preventing swine dysentery (vibrionic), and controlling swine pneumonias caused by bacterial pathogens (*Pasteurella multocida* and/or *Corynebacterium pyogenes*). The NADA is approved and the regulations are amended to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(i) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR Part 558 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343–351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

§ 558.630 [Amended]

2. In § 558.630 *Tylosin and sulfamethazine* in paragraph (b)(10) by adding numerically the number "034936."

Dated: June 26, 1985.

Lester M. Crawford,

Director, Center for Veterinary Medicine.

[FR Doc. 85–15866 Filed 7–2–85; 8:45 am]

BILLING CODE 4160–01–M

UNITED STATES INFORMATION AGENCY

22 CFR Part 501

Appointment of Foreign Service Personnel

AGENCY: United States Information Agency.

ACTION: Final rule.

SUMMARY: The United States Information Agency is amending its regulations covering the appointment of Foreign Service personnel. These amendments establish the new procedures for employment in the Foreign Service in the United States Information Agency.

EFFECTIVE DATE: July 3, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Ballow, Chief, Policies and Services Staff, Office of Personnel, United States Information Agency, Washington, D.C. 20547, (202) 485–2645.

SUPPLEMENTARY INFORMATION: The Foreign Service Act of 1980, enacted October 17, 1980, revised, among other provisions, the types of and requirements for Foreign Service appointment and realigned the Foreign Service salary structure. USIA published proposed regulations on April 24, 1985 (50 FR 16098) to implement the new legislation which became effective February 15, 1981. No comments were received during the comment period which ended May 24, 1985. Therefore, Chapter V, Part 501 is amended to update the mid-level FSO Candidate program; add a new section regarding the appointment of Overseas Specialists; substitute experience requirements for minimum age for mid-level entry as an FSO Candidate; revise the maximum age requirement; and cross-reference Part 11 of Title 22 regulations governing eligibility for appointment as a Foreign Service Officer and the junior level Career Candidate program, prescribed jointly by the Department of State and USIA. Typographical errors have been corrected, but the meaning and intent of the regulations have not been changed.

List of Subjects in 22 CFR Part 501

Government employees.

E.O. 12291 Federal Regulation

USIA has determined that this is not a major rule for the purposes of E.O. 12291, Federal Regulation, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In addition, this rule relates solely to Agency personnel and falls under section I(a)(3) of E.O. 12291.

Dated: June 21, 1985.

Charles Z. Wick,

Director, United States Information Agency.

Accordingly, 22 CFR, Chapter V, Part 501, has been revised and is published in its entirety.

PART 501—APPOINTMENT OF FOREIGN SERVICE OFFICERS

Sec.

Authority: Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.).

§ 501.1 Policy.

It is the policy of the United States Information Agency that Foreign Service Officers occupy positions in which there is a need and reasonable opportunity for interchangeability of personnel between the Agency and posts abroad, and which are concerned with (a) the conduct, observation, or analysis of information and cultural activities, or (b) the executive management of, or administrative responsibility for, the overseas operations of the Agency's program.

§ 501.2 Eligibility for appointment as Foreign Service Officer.

Cross-reference: The regulations governing eligibility for appointment as a Foreign Service Officer are codified in Part 11 of this title.

§ 501.3 Noncompetitive interchange between Civil Service and Foreign Service.

(a) An agreement between the Office of Personnel Management and the Agency under the provisions of Executive Order 11219 (3 CFR 1964–65 Comp. p. 303) provides for the noncompetitive appointment of present or former Foreign Service employees as career or career conditional Civil Service employees.

(b) Under this agreement former career personnel of the Agency's Foreign Service (FSCR, FSRU, FSIO, FSS, FSO, or FP) and such present personnel desiring to transfer, are eligible, under certain conditions, for noncompetitive career or career-conditional appointment in any Federal agency that desires to appoint them. The President has authorized the Office of Personnel Management by executive order to waive the requirements for competitive examination and appointment for such Agency career Foreign Service personnel.

(c) A present or former Civil Service employee may be appointed on a competitive basis in any Foreign Service class for which the employee has qualified under the provisions of section 3947 of title 22, United States Code.

§ 501.4 Junior Level Career Candidate Programs (Class 6, 5, or 4).

Cross-reference: The regulations governing the junior level Career Candidate program are codified in Part 11 of this title.

§ 501.5 Mid-level FSO Candidate Program (Class 3, 2, or 1).

(a) *General.* The mid-level FSO Candidate program, under the provisions of section 306 of the Foreign Service Act of 1980, supplements the junior-level Career Candidate program to meet total requirements for Foreign Service Officers at the mid-level in the Foreign Service. Foreign Service limited appointments of FSO Candidates are made to Class 3, 2, or 1 for a period not to exceed five years. Occasionally, appointments may be offered at the Class 4 level. The FSO Commissioning Board will determine whether FSO Candidates have performed at a satisfactory level and demonstrated the required level of growth potential and competence, and will make a recommendation on commissioning as Foreign Service Officers. FSO Candidates who are not recommended for commissioning prior to the expiration of their limited appointment will be separated from the mid-level program.

(b) *Sources of Applicants.* (1) The United States Information Agency draws a significant number of FSO Candidates from Agency employees who apply, and are found qualified by the Board of Examiners for the Foreign Service (BEX).

(2) The Agency also draws Candidates from outside applicants who possess skills and abilities in short supply in the Foreign Service and who have capabilities, insights, techniques, experiences, and differences of outlook which would serve to enrich the Foreign Service and enable them to perform effectively in assignments both abroad and in the United States. Minority applicants are recruited for mid-level entry under the COMRAT program. Appointment from sources outside the Agency is limited and based on intake levels established in accordance with total USIA FSO workforce and functional requirements. Such appointments are based on successful completion of the examination process, and existing assignment vacancies.

(c) *Eligibility Requirement.* (1) *USIA Employees.* On the date of application, employees must have at least three years of Federal Government service in a position of responsibility in the Agency. A position of responsibility is defined as service as an Overseas Specialist at Class 4 or above or as a Domestic Specialist at GS–11 or above within the Agency. The duties and responsibilities of the position occupied by the applicant must have been similar or closely related to those of a Foreign Service Officer in terms of knowledge, skills, abilities, and overseas experience. Agency Domestic and Overseas Specialists must be no more than 58 years of age on the date of redesignation or appointment as an FSO Candidate.

(2) *Applicants Under Special Recruitment Programs.* Minority and women applicants must be no more than 58 years of age, must have approximately nine years of education or experience relevant to work performed in USIA, must be knowledgeable in the social, political and cultural history of the U.S. and be able to analyze and interpret this in elation to U.S. Government policy and American life.

(3) *Outside Applicants.* On the date of appointment, applicants must be no more than 58 years of age, with nine years of relevant work experience and/or education, or proficiency in a language for which the Agency has a need, or substantial management expertise. Relevant work experience is defined as public relations work, supervisory or managerial positions in communications media, program director for a museum or university-level teacher of political science, history, English or other relevant disciplines. Appointments from these sources for the limited vacancies available are made on

a competitive basis to fill specific Service needs after ensuring that the vacancies cannot be filled by Foreign Service Officers already in the Foreign Service Officer Corps.

(d) *Application Procedures.* (1) Applicants must complete Standard Form 171, Application for Federal Employment; Form DSP-34, Supplement to Application for Federal Employment; a 1,000 word autobiography; a statement affirming willingness and capacity to serve at any post worldwide; and transcripts of all graduate and undergraduate course work and forward them to the Special Recruitment Branch, Office of Personnel (M/PDSE).

(2) The filing of an application for the Foreign Service does not in itself entitle an applicant to examination. The decision to proceed with an oral examination is made by a Qualifications Evaluation Panel after determining the applicant's eligibility for appointment and reviewing the applicant's qualifications including his/her performance, and administrative files (or equivalents), claimed language proficiency and other background or factors which may be related to the work performed by FSOs. An oral examination is given only in those cases where the applicant is found to possess superior qualifications, proven ability, and high potential for success in the Foreign Service.

(e) *Examination Process.* (1) *Written Examination.* A written examination will not normally be required of applicants for FSO Candidate appointments. However, if the volume of applications for a given class or classes is such as to make it infeasible to examine applicants orally within a reasonable time, such applicants may be required to take an appropriate written examination prescribed by the Board of Examiners. Those who meet or exceed the passing level set by the Board of Examiners on the written examination will be eligible for selection for the oral examination.

(2) *Oral Examination.* (i) Applicants approved by the Qualifications Evaluation Panel for examination will be given an oral examination by a panel of Deputy Examiners approved by the Board of Examiners. The oral examination is designed to enable the Board of Examiners to determine whether applicants are functionally qualified for work in the Foreign Service at the mid-level, whether they would be suitable representatives abroad of the United States, whether they have the potential to advance in the Foreign Service, and whether they have the background and experience to make a contribution to the Foreign Service. The oral examination is individually scheduled throughout the year and is normally given in Washington, D.C. At the discretion of the Board of Examiners, it may be given in other American cities, or at Foreign Service posts, selected by the Board.

(ii) The panel will orally examine each applicant through questioning and discussion. There will also be a writing exercise and an in-basket test. Applicants taking the oral examination will be graded according to the standards established by the Board of Examiners. The application of anyone whose score is at or above the passing level set by the Board will be continued. The application of anyone whose score is below the passing level will be terminated. The applicant may, however, reapply in 12 months by submitting a new application.

(3) *Foreign Language Requirement.* All applicants who pass the oral examination will be required to take a subsequent test to measure their fluency in foreign languages, or their aptitude for learning them (MLAT) for which a score of 50 points (on a scale of zero to eighty) is necessary to qualify for further processing. No applicant will be recommended for career appointment who has not demonstrated such a proficiency or aptitude. An applicant may be selected, appointed and assigned without first having demonstrated required proficiency in a foreign language, but the appointment will be subject to the condition that the employee may not receive more than one promotion and may not be commissioned as an FSO until proficiency in one foreign language is achieved.

(4) *Medical Examination.* Those applicants recommended by the Board of Examiners for an FSO candidacy, and their dependents who will reside with them overseas, are required to pass a physical examination at the Department of State Medical Division.

(5) *Security and Suitability Considerations.* A background investigation or appropriate security clearance update will be conducted on each applicant, and no application may be continued until a security clearance has been granted.

(6) *Class of Appointment.* The Board of Examiners fixes the entry level for appointment as an FSO candidate.

(7) *Certification for Appointment.* After completion of all aspects of the examination, the Board of Examiners certifies to the Agency successful candidates for appointment as FSO Candidates. Determinations of duly constituted panels of examiners and deputy examiners are final, unless modified by specific action of the Board of Examiners for the Foreign Service.

(8) *FSO Candidate Registers.* (i) After approval by the Board of Examiners, and certification as to suitability and security clearance by the Agency's Director of Security, successful applicants will have their names placed on a register for the class for which they have been found qualified. Appointments to available openings will be made from the applicants entered on the register for the class of the position to be filled. Inclusion on the register does not guarantee eventual assignment and appointment as an FSO Candidate. Applicants who have qualified but have not been appointed because of lack of openings will be dropped from the register 18 months after the date of placement on it (or the completion of an inside applicant's current overseas tour, whichever is longer). Such applicants may reapply for the program, but will be required to repeat the entire application process, including BEX testing.

(ii) Any applicant on the register who refuses an assignment offer will be removed from the Register and will not be eligible to reapply for the program for seven years.

(iii) The Board of Examiners may extend the eligibility period when such extension is in its judgment justified in the interest of the Foreign Service.

(f) *Appointment as an FSO Candidate.* (1) An FSO Candidate will be given a four-year Foreign Service limited appointment. Agency Career Overseas Specialists will be redesignated as FSO Candidates for a period of four years. The appointment or redesignation may be extended for one year, but must be terminated at the end of the fifth year. The purpose of the FSO Candidacy is to permit on-the-job evaluation of an individual's suitability and capacity for effective service as a Foreign Service Officer.

(2) FSO Candidates will be assigned to Generalist positions overseas, and will compete for promotion with other Generalist officers under the Annual Generalist Selection Boards. FSO Candidates at the Class 1 level may not compete for promotion into the Senior Foreign Service prior to commissioning as an FSO.

(3) The FSO Candidacy may be terminated during the four-year period for unsatisfactory performance (22 U.S.C. 4011) or for such other cause as will promote the efficiency of the Service (22 U.S.C. 4010).

(g) *Commissioning as a Foreign Service Officer.* (1) Upon completion of three years' service (most of which will have been overseas), the FSO Candidate

will be eligible for commissioning as a Foreign Service Officer. The FSO Commissioning Board will review all FSO Candidates appointed on or after March 1, 1980 and will recommend on tenure.

(2) The criterion used for deciding whether to recommend commissioning of FSO Candidates is the Candidate's demonstrated potential to perform effectively as a Foreign Service Officer in a normal range of generalist assignments up through the Class 1 level. No quota or numerical limit is placed on the number of affirmative decisions.

(3) If recommended for commissioning, and having satisfied the language proficiency requirements, the name of the FSO Candidate will be forwarded to the President and the Senate and, upon approval, the FSO Candidate will be commissioned as an FSO.

(4) If the FSO Commissioning Board does not recommend commissioning of the FSO Candidate during its review, it may recommend extension of the FSO Candidacy to allow for a future review. Under no circumstances will an FSO Candidacy be extended to a total of more than five years.

(5) Candidates not recommended for commissioning or who have not satisfied the language proficiency requirement will be separated from the Service at the expiration of their appointment. However, FSO Candidates who were appointed from within the Agency with career status as a Domestic or Overseas Specialist may exercise reappointment rights to their previous category in lieu of separation.

§ 501.6 Appointment of Overseas Specialists.

(a) *General.* Members of the Agency's Foreign Service appointed as Overseas Specialists serve on rotational U.S.-overseas assignments in the following types of positions: General Administration; Publication Writers and Editors; Exhibit Managers; Printing Specialists; English Teaching Specialists; Correspondents; Engineers for the Voice of America; Regional Librarian Consultants; and Secretaries. Appointees serve a trial period of service as Specialist Candidates under Foreign Service limited appointments (or redesignation) for a period not to exceed five years. Appointments are made to F.S. classes 8 through 1. Specialist Candidates are given career appointments as Overseas Specialists based on the recommendations of Specialist Selection Boards. Specialist candidates not recommended for tenuring will be separated from the Foreign Service, or reinstated in the Civil Service.

(b) *Sources of Applicants.* Qualified USIA domestic employees comprise a significant recruitment source for Overseas Specialist appointments. Such employees will be given priority consideration over outside applicants when applying for Overseas Specialist positions, when qualifications are otherwise equal.

(c) *Eligibility Requirements.* All applicant must be citizens of the United States, and must be at least 21 years of age and no more than 58 years of age at the time of appointment. The 21-year age requirement may be waived by the Director, Office of Personnel (M/P or VOA/P) when she or he determines that the applicant's services are urgently needed. USIA employee applicants must also have at least three years of Federal government experience and occupy a position at the GS–11 level (or equivalent) or above (GS–10 for Electronic Technicians in the Voice of America). All applicants must be available for worldwide assignment to positions in their occupational category.

(d) *Application Procedures.* (1) Applications for all specialties except secretarial should include a current SF–171, Application for Federal Employment; a DSP–34, Supplement to Application for Federal Employment; university transcripts; a 1,000 word autobiographical statement which should include mention of the qualifications the applicant would bring to the job and reason for desiring to work for the Agency; and a statement affirming willingness and capacity to serve at any post worldwide.

(2) *Special Requirements for Foreign Service Secretaries.* Secretarial applicants must submit a current SF–171, Application for Federal Employment, and a 250 word essay on a commonly understood subject to demonstrate grammatical competence. The following specific requirements must be met by applicants: Ability to type accurately at 60 words per minute; four years of secretarial or administrative experience (business school or college training may be substituted for up to two years of required work experience); and attainment of an acceptable score in verbal ability and spelling tests. Applicants will subsequently be given a written examination to measure administrative aptitude.

(e) *Examination Process*—(1) *Application Review.* All applications are to be sent to the Special Recruitment Staff, Office of Personnel (M/PDSE), or to the Foreign Personnel Advisor (VOA/PF) for Voice of America positions.

(2) *Qualifications Evaluation Panel.* A Qualifications Evaluation Panel will evaluate the applicant's qualifications including his/her performance and administrative files (or equivalent), claimed language proficiency and other background or factors which may be related to the work performed by an Overseas Specialist Officer in the relevant specialty.

(3) *Oral Examination.* (i) Applicants who are passed on by the Qualifications Evaluation Panel to the Board of Examiners will be given an oral examination to evaluate the applicant's total qualifications for service as an Overseas Specialist in the desired functional specialty.

(ii) The Board panel examining all candidates except those of the Voice of America will consist of one USIA Overseas Specialist and two BEX Deputy Examiners. For VOA candidates, the panel will consist of the Foreign Personnel Advisor, a BEX Deputy Examiner assigned to the Voice of America, and a Deputy Examiner assigned to the Board of Examiners.

(iii) The panel will examine each applicant through questioning and discussion. Hypothetical problem-solving exercises, a writing exercise and an in-basket test may also be required. The panel will also recommend the F.S. entry level for appointment. If the panel's recommendation is unfavorable, the application process will be discontinued. An unsuccessful applicant may apply again in 12 months.

(4) The same medical and security requirements applicable to FSO Candidates pertain to Specialist Candidates.

(5) *Overseas Specialist Candidate Register.* If an applicant is successful in the examination, and medical and security clearances have been successfuly completed, his/her name will be added to the appropriate Overseas Specialist Register for a period of 18 months, or completion of an inside candidate's current tour of duty overseas, whichever is longer, at the Foreign Service class determined in the examination process and based on previous experience. Inclusion on the register does not guarantee eventual assignment and appointment as an Overseas Specialist Candidate.

(f) *Appointment as a Specialist Candidate.* (1) When the Office of Personnel identifies an overseas vacancy which cannot be filled from the existing ranks of Overseas Specialists, applicants on the Overseas Specialist register will be considered for the assignment. An applicant will not be appointed unless an overseas position

has been identified and a need for the individual in the Foreign Service has been certified by the Director, Office of Personnel (M/P or VOA/P). Any applicant selected from the Register who refuses an assignment offer will be dropped from the Register and precluded from reapplying for a period of seven years.

(2) Applicants will be given a Foreign Service limited appointment (or redesignation) for a period of four years at the Foreign Service Class determined in the examination process. The purpose of this untenured appointment is to allow the Agency to evaluate and assess the Specialist Candidate's abilities and future potential prior to offering career appointment as an Overseas Specialist. The limited appointment may be extended for one additional year, but must be terminated at the end of the fifth year if the Candidate does not obtain career tenure.

(3) The Candidate will receive the orientation and training necessary to serve overseas and will be assigned overseas in a position in his or her specialty. USIA Civil Service employees selected as Overseas Specialist Candidates will be appointed only if the Agency element to which they are currently assigned is willing to affirm in writing that a position at the appropriate level will be made available for the employee should the candidacy end unsuccessfully. USIA Civil Service applicants will be appointed as Overseas Specialist Candidates on or about the date of their departure for post of assignment or upon assumption of an assignment (which has been identified and will follow a period of orientation in Washington). The Agency may also assign a Candidate to a U.S.-based position for an initial assignment of up to 24 months when the Candidate will spend the majority of his/her time traveling overseas and will, except for the U.S. basing, be fully functioning as an Overseas Specialist. Specialist Candidates will compete for promotion by the Annual Overseas Specialist Selection Board with other officers in the same specialty and at the same class level. Specialist Candidates at the Class 1 level are ineligible for promotion into the Senior Foreign Service.

(4) The Specialist candidacy may be terminated a any time for unsatisfactory performance (22 U.S.C. 4011) or for such cause as will promote the efficiency of the Service (22 U.S.C. 4010).

(g) *Career Appointment as an Overseas Specialist.* In accordance with section 3946 of title 22 United States Code, the decision to offer a Specialist Candidate a career appointment will be based on the recommendation made by the Annual Overseas Specialist Selection Board which reviews all employees in the Candidate's occupational category and class level.

(1) *Eligibility.* Specialist Candidates who have performed at least two years of overseas service will be eligible for review for career status at the time of the Candidate's third Board review. Candidates serving an initial tour in the U.S. but spending the majority of time working overseas will be credited with up to one year's overseas service, but no more than half of the time based in the U.S. If a Specialist Candidate is not recommended for career status during the initial review, the Candidate may be reviewed again when the next Annual Overseas Specialist Selection Board convenes if the initial Board so recommends.

(2) *Selection Board Review.* The Selection Board(s) will review the official performance file of the eligible Specialist Candidates and in accordance with established precepts, will determine whether the Candidates should be recommended for career appointment as Overseas Specialists. Recommendations by the Board will be based on the Candidate's demonstrated aptitude and fitness for a career in the Foreign Service in their occupational specialties. No quota or numerical limit is placed on the number of positive career status decisions that can be made by Selection Boards. The Specialist candidacy will be terminated if the Candidate fails to be recommended for career status after a second Board review for tenuring. Candidates may be terminated earlier than the expiration of their limited appointment if so recommended by the Board and approved by the Director, Office of Personnel (M/P or VOA/P). Specialist Candidates recommended for career status by the Selection Board will be given Foreign Service career appointments (or redesignation) as Overseas Specialist, to take effect within one month of the Board's recommendation.

§ 501.7 Appointment as Chief of Mission.

(a) *Appointment by President.* Chiefs of mission are appointed by the President, by and with the advice and consent of the Senate. They may be career members of the Foreign Service or they may be appointed from outside the Service.

(b) *Recommendation of Foreign Service Career Members.* On the basis of recommendations made by the Director of USIA, the Secretary of State from time to time furnishes the President with the names of Foreign Service career members qualified for appointment as chiefs of mission. The names of these officers, together with pertinent information concerning them, are given to the President to assist him in selecting qualified candidates for appointment as chiefs of mission.

(c) *Status of Foreign Service Career Members Appointed as Chiefs of Mission.* Foreign Service career members who are appointed as chiefs of mission retain their career status as Foreign Service career members.

§ 501.8 Reappointment of Foreign Service Officers and Career Overseas Specialists.

The President may, by and with the advice and consent of the Senate, reappoint to the Service a former Foreign Service Officer who is separated from the Service. The Director (USIA) may reappoint to the Service a former career Overseas Specialist.

(a) *Requirements for Reappointment.* (1) On the date of application, each applicant must be a citizen of the United States.

(2) No applicant will be considered who has previously been separated from the Foreign Service pursuant to Section 608 or 610 of the Foreign Service Act of 1980 (or predecessor Sections 633, 635, or 637 of the Foreign Service Act of 1946, as amended); or who resigned or retired in lieu of selection out or separation for cause.

Note.—This requirement will not apply where it has been determined by the Foreign Service Grievance Board under 3 FAM 660 or by the Director, Office of Personnel, that the separation or the resignation or retirement in lieu of selection out or separation for cause was wrongful; where reappointment is determined by the Director, Office of Personnel, as an appropriate means to settle a grievance or complaint of a former Foreign Service career member on a mutually satisfactory basis; or where reappointment is the indicated redress in a proceeding under 3 FAM 130 "Equal Employment Opportunity."

(b) *Application.* Apply by letter addressed to the Director, Office of Personnel. Include the standard application forms, SF–171, Application for Federal Employment; and DSP–34, Supplement to Application for Federal Employment; and a brief resume of work and other experience since resignation from the Foreign Service. Whenever the Director, Office of Personnel, finds that the reappointment of one or more former Foreign Service Career Members may be in the best interest of the Service, all application forms, along with the available personnel files, will be referred as appropriate to the Board of Examiners for the Foreign Service which will conduct an advisory evaluation of the qualifications of each applicant.

(c) *Nature of Evaluation.* (1) The Board of Examiners' advisory qualifications evaluation of FSO applicants (i) will be based on a review of all pertinent information relating to the applicant's record of employment in the Foreign Service and to subsequent experience, as well, and (ii) will take into consideration among other factors, the rank of the applicant's contemporaries in the Service in recommending the class in which the applicant will be reappointed under section 308 of the Foreign Service Act of 1980.

(2) In consultation with the Foreign Service Personnel Division (M/PF or VOA/PF) and officials from the pertinent Agency elements, the Overseas Specialist applicant's total qualifications and experience will be evaluated based on the application and an interview. On the basis of this review and the recommendations of the appropriate officials, the personnel office will determine whether the application should be continued and, if so, will recommend the appointment class.

(d) *Medical Examination and Security Investigation.* Qualified applicants and their dependents who will accompany them overseas will be given a physical examination. A security investigation will also be conducted. The reappointment action is subject to completion of a satisfactory security investigation and satisfactory medical examination of the applicant and his/her dependents.

(e) *Selection for Reappointment.* The Director, Office or Personnel (M/P or VOA/P), taking into consideration (1) the qualifications and experience of each applicant as outlined in the qualifications evaluation performed by the Board of Examiners for the Foreign Service or the personnel office, (2) future placement and growth potential, and (3) the needs of the Service for the applicant's skills determines which applicant, or applicants, are qualified for reappointment and the appointment class that is considered to be appropriate. An Overseas Specialist may not be reappointed until and unless an overseas assignment has been identified. The Director, Office of Personnel (M/P or VOA/P) is responsible for initiating appointment action. Any voluntary applicant who refuses an offer of reappointment will not be considered for reappointment again.

§ 501.9 Interchange of FSOs Between USIA and Other Foreign Affairs Agencies.

Foreign Service Officers (FSOs) desiring transfer from one agency to another may apply under the following provisions:

(a) *Applications.* Applications for interchange appointments should be sent to the Board of Examiners for the Foreign Service, Department of State, Washington, D.C. 20520.

(b) *Certification and Approval.* (1) When a Foreign Service Officer of another Foreign Affairs Agency wishes to transfer to the U.S. Information Agency, a certification of need is required from the Director, Office of Personnel, USIA, and approval is required by the Director of Personnel for the other Agency for the officer's release to USIA.

(2) When a USIA FSO wishes to transfer to another Foreign Affairs Agency, a certification of need is required from the Director of Personnel of the other Agency, and approval is required by the Director, Office of Personnel, USIA, for the officer's release to that Agency.

(3) A review by the Board of Examiners for the Foreign Service will certify the eligibility of candidates for exchange. BEX will notify the Office of Personnel, USIA when a Foreign Service Officer of another Agency has been approved for transfer and USIA will process the necessary employment papers.

(4) A new FSO appointment for officers transferring between another Foreign Affairs Agency and USIA is not required.

[FR Doc. 85-15760 Filed 7-2-85; 8:45 am]
BILLING CODE 8230-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8034]

Treatment of Funded Welfare Benefit Plans

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations relating to welfare benefit funds maintained pursuant to a collective bargaining agreement. This action is necessary because of changes to the applicable law made by the Tax Reform Act of 1984. The regulations provide guidance concerning limits on contributions to and reserves of a welfare benefit fund maintained pursuant to a collective bargaining agreement. The text of the temporary regulations set forth in this document also serves as the text of the proposed regulations cross-referenced in the notice of proposed rulemaking in the Proposed Rules section of this issue of the **Federal Register.**

DATES: The temporary regulations apply to contributions paid or accrued after December 31, 1985, and are effective after December 31, 1985.

FOR FURTHER INFORMATION CONTACT: John T. Ricotta of the Employee Plans and Exempt Organizations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:EE) (202) 566-4396 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary regulations relating to limits on contributions to and the reserves of welfare benefit funds maintained pursuant to a collective bargaining agreement under section 419A(f)(5) of the Internal Revenue Code of 1954 (Code), as added to the Code by section 511 of the Tax Reform Act of 1984 (26 U.S.C. 419A). The temporary regulations will remain in effect until superseded by final regulations on his subject.

Format

These temporary regulations are presented in the form of questions and answers. Taxpayers may rely on them for guidance pending the issuance of final regulations. No inference should be drawn regarding issues not expressly raised, or by the inclusion or exclusion of certain questions.

Written comments are requested regarding current funding practices and requirements of collectively bargained welfare benefit funds, and the need for special rules in selected situations, such as for collectively bargained funds maintained by employers in declining industries. In addition, comments are requested regarding appropriate rules for allocating the assets of a welfare benefit fund between employees covered by a collective bargaining agreement and other employees.

Nonapplicability of Executive Order 12291.

The Treasury Department has determined that this regulation is not subject to review under Executive Order 12291.

Regulatory Flexibility Act

No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) for temporary regulations. Accordingly,

the Regulatory Flexibility Act does not apply and a Regulatory Impact Analysis is not required for this rule.

List of Subjects in 26 CFR 1.401–0—1.425–1

Income taxes, Employee benefit plans Pensions, Stock options, Individual retirement accounts, Employee stock ownership plans.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 1 is amended as follows:

PART 1—[AMENDED]

Paragraph 1. The authority citation for Part 1 continues to read in part:

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

Para. 2. A new §1.419A–2T is added immediately following § 1.416–1 to read as follows:

§ 1.419A–2T Qualified asset account limitation for collectively bargained funds. (Temporary)

Q–1: What account limits apply to welfare benefit funds that are maintained pursuant to a collective bargaining agreement?

A–1: Contributions to a welfare benefit fund maintained pursuant to one or more collective bargaining agreements and the reserves of such a fund generally are subject to the rules of sections 419, 419A, and 512. However, neither contributions to nor reserves of such a collectively bargained welfare benefit fund shall be treated as exceeding the otherwise applicable limits of section 419(b), 419A(b), or 512(a)(3)(E) until the earlier of: (i) The date on which the last of the collective bargaining agreements relating to the fund in effect on, or ratified on or before, the date of issuance of final regulations concerning such limits for collectively bargained welfare benefit funds terminates (determined without regard to any extension thereof agreed to after the date of issuance of such final regulations), or (ii) the date 3 years after the issuance of such final regulations.

Q–2: What is a welfare benefit fund maintained pursuant to a collective bargaining agreement for purposes of Q&A–1?

A–2: (1) For purposes of Q&A–1, a collectively bargained welfare benefit fund is a welfare benefit fund that is maintained pursuant to an agreement which the Secretary of Labor determines to be a collective bargaining agreement and which meets the requirements of the Secretary of the Treasury as set forth in paragraph 2 below.

(2) Notwithstanding a determination by the Secretary of Labor that an agreement is a collective bargaining agreement, a welfare benefit fund is considered to be maintained pursuant to a collective bargaining agreement only if the benefits provided through the fund were the subject of arms-length negotiations between employee representatives and one or more employers, and if such agreement between employee representatives and one or more employers satisfies section 7701(a)(46) of the Code. Moreover, the circumstances surrounding a collective bargaining agreement must evidence good faith bargaining between adverse parties over the welfare benefits to be provided through the fund. Finally, a welfare benefit fund is not considered to be maintained pursuant to a collective bargaining agreement unless at least 50 percent of the employees eligible to receive benefits under the fund are covered by the collective bargaining agreement.

(3) In the case of a collectively bargained welfare benefit fund, only the portion of the fund (as determined under allocation rules to be provided by the Commissioner) attributable to employees covered by a collective bargaining agreement, and from which benefits for such employees are provided, is considered to be maintained pursuant to a collective bargaining agreement.

(4) Notwithstanding the preceding paragraphs and pending the issuance of regulations setting account limits for collectively bargained welfare benefit funds, a welfare benefit fund will not be treated as a collectively bargained welfare benefit fund for purposes of Q&A–1 if and when, after July 1, 1985, the number of employees who are not covered by a collective bargaining agreement and are eligible to receive benefits under the fund increases by reason of an amendment, merger, or other action of the employer or the fund. In addition, pending the issuance of such regulations, for purposes of applying the 50 percent test of paragraph (2) to a welfare benefit fund that is not in existence on July 1, 1985, "90 percent" shall be substituted for "50 percent".

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

M. Eddie Heironimus,

Acting Commissioner of Internal Revenue.

Approved: June 28, 1985

Ronald A. Pearlman,

Assistant Secretary of the Treasury.

[FR Doc. 85–15940 Filed 7–1–85; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

28 CFR Part 32

Public Safety Officers' Death Benefits

AGENCY: Office of Justice Programs, Justice.

ACTION: Final regulation.

SUMMARY: The regulations covering public safety officers' death benefits and the appendix to those regulations are being amended to comply with statutory amendments to the Public Safety Officers' Benefits [PSOB] Act. The Bureau of Justice Assistance has been authorized to administer the PSOB program. As a nomenclature change, this Bureau has been substituted for the "Law Enforcement Assistance Administration" as the admininstering agency. Other changes to the regulation include provision of coverage to Federal public safety officers; changes to facilitate transactions with the Department of Labor; and clarification of "gross negligence" and "intoxication" standards.

EFFECTIVE DATE: July 3, 1985.

FOR FURTHER INFORMATION CONTACT: Charles A. Lauer, 202–724–7792.

SUPPLEMENTARY INFORMATION: Proposed regulations were published for comment on March 19, 1985. One comment was received from a State police department addressing several technical issues relating to the measurement of a decedent's blood alcohol level. The department's comments will be helpful in reviewing specific claims but did not warrant a change in the proposed regulations.

Two changes reflecting the coverage of Federal public safety officers have been made in the final regulations. The heading and text of § 32.5 has been amended to state that the Bureau of Justice Assistance will give substantial weight to the investigative findings of not only State and local agencies, but Federal agencies as well. In addition, § 32.6(b) has been amended to clarify that deaths of Federal public safety

officers are covered only if they result from injuries sustained on or after October 12, 1984.

The final regulations also include the following amendments proposed on March 19.

1. The Justice Assistance Act of 1984, Title II of Pub. L. 98–473, 98 Stat. 1837 (Oct. 12, 1984) eliminated the Law Enforcement Assistance Administration and created a bureau which administers the Public Safety Officers' Benefits Program called the Bureau of Justice Assistance. Accordingly, the references to the "Administration" have been replaced by the term "Bureau of Justice Assistance" or "Bureau" to reflect the statutory change in the organization's terminology.

2. An amendment to the benefits payable section, section 1201(e), is intended to facilitate our financial transactions with the Department of Labor with respect to benefits payable under 5 U.S.C. 8191. It relieves the Department of Labor of the administrative burden of reimbursing the Department of Justice for amounts it paid to PSOB survivors who are also eligible for section 8191 benefits. The Department of Labor need no longer make actual disbursements to the Bureau of Justice Assistance, every time a claim is paid under both programs. (The 5 U.S.C. 8191 program is a benefits program for the families of State and local law enforcement officers that is administered by the Department of Labor.) As explained by the Senate Judiciary Committee Report on S. 241 (96th Cong.), at 58, "under the new language the Department of Labor need only keep internal records of payments that would have been made under the section 8191 program, but for the PSOB Act, until such time as those payments exceed the benefits awarded to the beneficiary in question under PSOB. At that time, the Department of Labor will begin to makes whatever actual payments may still be due section 8191 beneficiaries. The amendment codifies a recommendation of the General Accounting Office." (S. Rept. No. 96–142 (May 14, 1979))

3. An additional circumstance has been added to the Act under which a benefit will not be paid to a public safety officer's survivors. If a public safety officer was performing his or her duties in a grossly negligent manner at the time of his or her death (section 1202(3)) no benefit shall be paid. This clarification of "line of duty" death changes the rule of law established in *Harold* v. *United States*, Ct. Cl. 424–79 (Decided Sept. 10, 1980), in which the court ordered payment to a law enforcement officer because the PSOB Act contained no provision which expressly denied benefits to survivors of an officer when his death was caused by his own negligence.

4. The definition of "intoxication" has been amended to reflect statutory amendments to section 1203(4) of the Act. Under the predecessor Act, coverage was denied if it could be shown that intoxication was the proximate cause of death. Establishing or disproving "proximate cause" was extremely difficult. As a result, some claims had to be paid where officers were highly intoxicated. This new amendment eliminates the causation requirement and instead replaces it with a two-tiered approach in which blood alcohol levels are determinative of intoxication.

5. The PSOB Act now covers Federal law enforcement officers and fire fighters killed in the line of duty in the same manner as it covers State and local public safety officers. This amendment is applicable to covered Federal public safety officers who were killed in the line of duty after October 11, 1984. This death benefit to survivors of Federal public safety officers is in addition to death benefits that may be received under the Federal employee workers' compensation law (FECA), 5 U.S.C. 8191.

This order is not a rule within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601–612. This order is not a "major rule" as defined by section 1(b) of Executive Order No. 12291, 3 CFR Part 127 (1981). The collection of information requirements contained in the proposed regulation have been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act, 44 U.S.C. 3504(h).

List of Subjects in 28 CFR Part 32

Administrative practice and procedure.

For the reasons set out in the preamble, Title 28 CFR Part 32, is revised as set forth below:

PART 32—PUBLIC SAFETY OFFICERS' DEATH BENEFITS

Subpart A—Introduction

Sec.

Subpart B—Officers Covered

Subpart C—Beneficiaries

Subpart D—Interim and Reduced Payments

Subpart E—Filing and Processing of Claims

Subpart F—Determination, Hearing, and Review

Authority: Secs. 801(a) and 1204(a) of the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. 3701, et seq., as amended (Pub. L. 90–351, as amended by Pub. L. 93–83, Pub. L. 93–415, Pub. L. 94–430, Pub. L. 94–503, Pub. L. 95–115, Pub. L. 96–157, and Pub. L. 98–473).

Subpart A—Introduction

§ 32.1 Purpose.

The purpose of this regulation is to implement the Public Safety Officers' Benefits Act of 1976 which authorizes the Office of Justice Programs, Bureau of Justice Assistance to pay a benefit of $50,000 to specified survivors of public safety officers found to have died as the direct and proximate result of a personal injury sustained in the line of duty. The Act is Part J of Title I of the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. 3701, et seq., as amended by Pub. L. 93–83, Pub. L. 93–415, Pub. L. 94–430, Pub. L. 94–503, Pub. L. 95–115, Pub. L. 96–157, and Pub. L. 98–473.

§ 32.2 Definitions.

(a) "The Act" means the Public Safety Officers' Benefits Act of 1976, 42 U.S.C. 3796, et seq., Pub. L. 94–430, 90 Stat. 1346 (September 29, 1976), as amended.

(b) "Bureau" means the Bureau of Justice Assistance of the Office of Justice Programs (hereinafter referred to as the Bureau or BJA).

(c) "Line of duty" means any action which an officer whose primary function is crime control or reduction, enforcement of the criminal law, or suppression of fires is obligated or authorized by rule, regulations, condition of employment or service, or

law to perform, including those social, ceremonial, or athletic functions to which the officer is assigned, or for which the officer is compensated, by the public agency he serves. For other officers, "line of duty" means any action the officer is so obligated or authorized to perform in the course of controlling or reducing crime, enforcing the criminal law, or suppressing fires.

(d) "Direct and proximate" or "proximate" means that the antecedent event is a substantial factor in the result.

(e) "Personal injury" means any traumatic injury, as well as diseases which are caused by or result from such an injury, but not occupational diseases.

(f) "Traumatic injury" means a wound or the condition of the body caused by external force, including injuries inflicted by bullets, explosives, sharp instruments, blunt objects or other physical blows, chemicals, electricity, climatic conditions, infectious diseases, radiation, and bacteria, but excluding stress and strain.

(g) "Occupational disease" means a disease which routinely constitutes a special hazard in, or is commonly regarded as a concomitant of the officer's occupation.

(h) "Public safety officer" means any individual serving a public agency in an official capacity, with or without compensation, as a law enforcement officer or a firefighter.

(i) "Law enforcement officer" means any individual involved in crime and juvenile delinquency control or reduction, or enforcement of the law, including but not limited to police, corrections, probation, parole, and judicial officers.

(j) "Firefighter" includes any individual serving as an officially-recognized or designated member of a legally-organized volunteer fire department.

(k) "Child" means any natural, illegitimate, adopted, or posthumous child or stepchild of a deceased public safety officer who, at the time of the public safety officer's death, is:

(1) Eighteen years of age or under;

(2) Over eighteen years of age and a student, as defined in section 8101 of Title 5, United States Code; or

(3) Over eighteen years of age and incapable of self-support because of physical or mental disability.

(l) "Stepchild" means a child of the officer's spouse who was living with, dependent for support on, or otherwise in a parent-child relationship, as set forth in § 32.13(b) of the regulations, with the officer at the time of the officer's death. The relationship of stepchild is not terminated by the divorce, remarriage, or death of the stepchild's natural or adoptive parent.

(m) "Student" means an individual under 23 years of age who has not completed four years of education beyond the high school level and who is regularly pursuing a full-time course of study or training at an institution which is:

(1) A school or college or university operated or directly supported by the United States, or by a State or local government or political subdivision thereof;

(2) A school or college or university which has been accredited by a State or by a State recognized or nationally recognized accrediting agency or body;

(3) A school or college or university not so accredited but whose credits are accepted, on transfer, by at least three institutions which are so accredited for credit on the same basis as if transferred from an institution so accredited; or

(4) An additional type of educational or training institution as defined by the Secretary of Labor.

Such an individual is deemed not to have ceased to be a student during an interim between school years if the interim is not more than four months and if the student shows to the satisfaction of the Bureau that the student has a bona fide intention of continuing to pursue a full-time course of study or training during the semester or other enrollment period immediately after the interim or during periods of reasonable duration during which in the judgment of the Bureau the student is prevented by factors beyond the student's control from pursuing the student's education. A student whose 23rd birthday occurs during a semester or other enrollment period is deemed a student until the end of the semester or other enrollment period.

(n) "Spouse" means the husband or wife of the deceased officer at the time of the officer's death, and includes a spouse living apart from the officer at the time of the officer's death for any reason.

(o) "Dependent" means any individual who was substantially reliant for support upon the income of the deceased public safety officer.

(p) "Intoxication" means a disturbance of mental or physical faculties—

(1) Resulting from the introduction of alcohol into the body as evidenced by (i) a post-mortem blood alcohol level of .20 per centum or greater or (ii) a post-mortem blood alcohol level of at least .10 per centum unless the Bureau receives convincing evidence that the public safety officer was not acting in an intoxicated manner immediately prior to the officer's death; or

(2) Resulting from drugs or other substances in the body.

(q) "Public agency" means the United States, any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Trust Territories of the Pacific Islands, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States, or any unit of local government, department, agency, or instrumentality of any of the foregoing.

(r) "Support" means food, shelter, clothing, ordinary medical expenses, and other ordinary and customary items for maintenance of the person supported.

Subpart B—Officers Covered

§ 32.3 Coverage.

In any case in which the Bureau determines under regulations issued pursuant to this part, that a public safety officer, as defined in § 32.2(h), has died as the direct and proximate result of a personal injury sustained in the line of duty, the Bureau shall pay a benefit of $50,000 in the order specified in § 32.10, subject to the conditions set forth in § 32.6.

§ 32.4 Reasonable doubt of coverage.

The Bureau shall resolve any reasonable doubt arising from the circumstances of the officer's death in favor of payment of the death benefit.

§ 32.5 Findings of State, local, and Federal agencies.

The Bureau will give substantial weight to the evidence and findings of fact presented by State, local, and Federal administrative and investigative agencies. The Bureau will request additional assistance or conduct its own investigation when it believes that the existing evidence does not provide the Bureau with a rational basis for a decision on a material element of eligibility.

§ 32.6 Conditions on payment.

(a) No benefit shall be paid—

(1) If the death was caused by the intentional misconduct of the public safety officer or by such officer's intention to bring about the officer's death;

(2) If the public safety officer was voluntarily intoxicated at the time of the officer's death;

(3) If the public safety officer was performing the officer's duties in a

grossly negligent manner at the time of the officer's death;

(4) To any individual who would otherwise be entitled to a benefit under this part if such individual's actions were a substantial contributing factor to the death of the public safety officer; or

(5) To any individual employed in a capacity other than a civilian capacity.

(b) The Act applies only to deaths occurring from injuries sustained on or after September 29, 1976, except that deaths of Federal public safety officers are covered only if they result from injuries sustained on or after October 12, 1984.

§ 32.7 Intentional misconduct of the officer.

The Bureau will consider at least the following factors in determining whether death was caused by the intentional misconduct of the officer:

(a) Whether the conduct was in violation of rules and regulations of the employer, or ordinances and laws; and

(1) Whether the officer knew the conduct was prohibited and understood its import;

(2) Whether there was a reasonable excuse for the violation; or

(3) Whether the rule violated is habitually observed and enforced;

(b) Whether the officer had previously engaged in similar misconduct;

(c) Whether the officer's intentional misconduct was a substantial factor in the officer's death; and

(d) The existence of an intervening force which would have independently caused the officer's death and which would not otherwise prohibit payment of a death benefit pursuant to these regulations.

§ 32.8 Intention to bring about death.

The Bureau will consider at least the following factors in determining whether the officer intended to bring about the officer's own death:

(a) Whether the death was caused by insanity, through an uncontrollable impulse or without conscious volition to produce death;

(b) Whether the officer had a prior history of attempted suicide;

(c) Whether the officer's intent to bring about the officer's death was a substantial factor in the officer's death; and

(d) The existence of an intervening force or action which would have independently caused the officer's death and which would not otherwise prohibit payment of a death benefit pursuant to these regulations.

§ 32.9 Voluntary intoxication.

The Bureau will apply the following evidentiary factors in cases in which voluntary intoxication is at issue in an officer's death.

(a) The primary factor in determining intoxication at the time the injury occurred, from which death resulted, is the post-mortem blood alcohol level.

(1) Benefits will be denied if the decedent had a post-mortem blood alcohol level of .20 per centum or greater; or

(2) Benefits will be denied if the decedent has a post-mortem blood alcohol level of at least .10 per centum but less than .20 per centum unless the Bureau receives convincing evidence that the public safety officer was not acting in an intoxicated manner immediately prior to his death.

(b) Convincing evidence includes, but is not limited to: Affidavits or investigative reports demonstrating that the decedent's speech, movement, language, emotion, and judgment were normal (for the officer) immediately prior to the injury which caused the death.

(c) In determining whether an officer's intoxication was voluntary, the Bureau will consider:

(1) Whether, and to what extent, the officer had a prior history of voluntary intoxication while in the line of duty;

(2) Whether and to what degree the officer had previously used the intoxicant in question; and

(3) Whether the intoxicant was prescribed medically and was taken within the prescribed dosage.

Subpart C—Beneficiaries

§ 32.10 Order of priority

(a) When the Bureau has determined that a benefit may be paid according to the provisions of Subpart B and § 32.11 of Subpart C, a benefit of $50,000 shall be paid in the following order or precedence:

(1) If there is no surviving child of such officer, to the surviving spouse of such officer;

(2) If there are a surviving child or children and a surviving spouse, one-half to the surviving child or children of such officer in equal shares, and one-half to the surviving spouse;

(3) If there is no surviving spouse, to the child or children of such officer, in equal shares; or

(4) If none of the above, to the dependent parent or parents, in equal shares.

(b) If no one qualifies as provided in paragraph (a) of this section, no benefit shall be paid.

§ 32.11 Contributing factor to death.

(a) No benefit shall be paid to any person who would otherwise be entitled to a benefit under this part if such person's intentional actions were a substantial contributing factor to the death of the public safety officer.

(b) When a potential beneficiary is denied benefits under subsection (a), the benefits shall be paid to the remaining eligible survivors, if any, of the officer as if the potential beneficiary denied benefits did not survive the officer.

§ 32.12 Determination of relationship of spouse.

(a) Marriage should be established by one (or more) of the following types of evidence in the following order of preference:

(1) Copy of the public record of marriage, certified or attested, or by an abstract of the public record, containing sufficent data to identify the parties, the date and place of the marriage, and the number of prior marriages by either party if shown on the official record, issued by the officer having custody of the record or other public official authorized to certify the record, or a certified copy of the religious record of marriage;

(2) Official report from a public agency as to a marriage which occurred while the officer was employed with such agency;

(3) The affidavit of the clergyman or magistrate who officiated;

(4) The original certificate of marriage accompanied by proof of its genuineness and the authority of the person to perform the marriage;

(5) The affidavits or sworn statements of two or more eyewitnesses to the ceremony;

(6) In jurisdictions where "common law" marriages are recognized, the affidavits or certified statements of the spouse setting forth all of the facts and circumstances concerning the alleged marriage, such as the agreement between the parties at the beginning of their cohabitation, the period of cohabitation, places and dates of residences, and whether children were born as the result of the relationship. This evidence should be supplemented by affidavits or certified statements from two or more persons who know as the result of personal observation the reputed relationship which existed between the parties to the alleged marriage including the period of cohabitation, places of residences, whether the parties held themselves out as husband and wife and whether they were generally accepted as such in the communities in which they lived; or

(7) Any other evidence which would reasonably support a belief by the

Bureau that a valid marriage actually existed.

(b) BJA will not recognize a claimant as a "common law" spouse under § 32.12(a)(6) unless the State of domicile recognizes him or her as the spouse of the officer.

(c) If applicable, certified copies of divorce decrees of previous marriages or death certificates of the former spouses of either party must be submitted.

§ 32.13 Determination of relationship of child.

(a) *In general.* A claimant is the child of a public safety officer if the individual's birth certificate shows the officer as the individual's parent.

(b) *Alternative.* If the birth certificate does not show the public safety officer as the claimant's parent, the sufficiency of the evidence will be determined in accordance with the facts of a particular case. Proof of the relationship may consist of—

(1) An acknowledgement in writing signed by the public safety officer; or

(2) Evidence that the officer has been identifed as the child's parent by a judicial decree ordering the officer to contribute to the child's support or for other purposes; or

(3) Any other evidence which reasonably supports a finding of a parent-child relationship, such as—

(i) A certified copy of the public record of birth or a religious record showing that the officer was the informant and was named as the parent of the child; or

(ii) Affidavits or sworn statements of persons who know that the officer accepted the child as his; or

(iii) Information obtained from a public agency or public records, such as school or welfare agencies, which shows that with the officer's knowledge the officer was named as the parent of the child.

(c) *Adopted child.* Except as may be provided in paragraph (b) of this section, evidence of relationship must be shown by a certified copy of the decree of adoption and such other evidence as may be necessary. In jurisdictions where petition must be made to the court for release of adoption documents or information, or where the release of such documents or information is prohibited, a revised birth certificate will be sufficient to establish the fact of adoption.

(d) *Stepchild.* The relationship of a stepchild to the deceased officer shall be demonstrated by—

(1) Evidence of birth to the spouse of the officer as required by paragraphs (a) and (b) of this section; or

(2) If adopted by the spouse, evidence of adoption as required by paragraph (c) of this section; or

(3) Other evidence, such as that specified in § 32.13(b), which reasonably supports the existence of a parent-child relationship between the child and the spouse;

(4) Evidence that the stepchild was either—

(i) Living with; or

(ii) Dependent for support, as set forth in § 32.15; or

(iii) In a parent-child relationship, as set forth in § 32.13(b), with the officer at the time of the officer's death, and

(5) Evidence of the marriage of the officer and the spouse, as required by § 32.12.

§ 32.14 Determination of relationship of parent.

(a) *In general.* A claimant is the parent of a public safety officer if the officer's birth certificate shows the claimant as the officer's parent.

(b) *Alternative.* If the birth certificate does not show the claimant as the officer's parent, proof of the relationship may be shown by—

(1) An acknowledgement in writing signed by the claimant before the officer's death; or

(2) Evidence that the claimant has been identified as the officer's parent by judicial decree ordering the claimant to contribute to the officer's support or for other purposes; or

(3) Any other evidence which reasonably supports a finding of a parent-child relationship, such as:

(i) A certified copy of the public record of birth or a religious record showing that the claimant was the informant and was named as the parent of the officer; or

(ii) Affidavits or sworn statements of persons who know the claimant had accepted the officer as the claimant's child; or

(iii) Information obtained from a public agency or public records, such as school or welfare agencies, which shows that with the officer's knowledge the claimant had been named as the parent of the child.

(c) *Adoptive Parent.* Except as provided in paragraph (b) of this section, evidence of relationship must be shown by a certified copy of the decree of adoption and such other evidence as may be necessary. In jurisdictions where petition must be made to the court for release of adoption documents or information, or where release of such documents or information is prohibited, a revised birth certificate showing the claimant as the officer's parent will suffice.

(d) *Step-parent.* The relationship of a step-parent to the deceased officer shall be demonstrated by—

(1)(i) Evidence of the officer's birth to the spouse of the step-parent as required by § 32.13 (a) and (b); or

(ii) If adopted by the spouse or the step-parent, proof of adoption as required by § 32.13(c); or

(iii) Other evidence, such as that specified in paragraph (b) of this section, which reasonably supports a parent-child relationship between the spouse and the officer; and

(2) Evidence of the marriage of the spouse and the step-parents, as required by § 32.12.

§ 32.15 Determination of dependency.

(a) To be eligible for a death benefit under the Act, a parent or a stepchild not living with the deceased officer at the time of the officer's death shall demonstrate that he or she was substantially reliant for support upon the income of the officer.

(b) The claimant parent or stepchild shall demonstrate that he or she was dependent upon the decedent at either the time of the officer's death or of the personal injury that was a substantial factor in the officer's death.

(c) The claimant parent or stepchild shall demonstrate dependency by submitting a signed statement of dependency within a year of the officer's death. This statement shall include the following information—

(1) A list of all sources of income or support for the twelve months preceding the officer's injury or death;

(2) The amount of income or value of support derived from each source listed; and

(3) The nature of support provided by each source.

(d) Generally, the Bureau will consider a parent or stepchild "dependent" if he or she was reliant on the income of the deceased officer for over one-third of his or her support.

Subpart D—Interim and Reduced Payments

§ 32.16 Interim payment in general.

(a) Whenever the Bureau determines upon a showing of need and prior to final action that the death of a public safety officer is one with respect to which a benefit will probably be paid, the Bureau may make an interim benefit payment not exceeding $3,000 to the individual entitled to receive a benefit under Subpart C of this part.

(b) The amount of an interim payment under this Subpart shall be deducted

from the amount of any final benefit paid to such individual.

§ 32.17 Repayment and waiver of repayment.

Where there is no final benefit paid, the recipient of any interim benefit paid under § 32.16 shall be liable for repayment of such amount. The Bureau may waive all or part of such repayment considering for this purpose the hardship which would result from such repayment.

§ 32.18 Reduction of payment.

(a) The benefit payable under this part shall be in addition to any other benefit that may be due from any other source, except—

(1) Payments authorized by section 12(k) of the Act of September 1, 1916, as amended (D.C. Code, Sec. 4–622);

(2) Benefits authorized by section 8191 of Title 5, United States Code, providing compensation for law enforcement officers not employed by the United States killed in connection with the commission of a crime against the United States. Such beneficiaries shall only receive benefits under such section 8191 that are in excess of the benefits received under this part; and

(3) The amount of the interim benefit payment made to the claimant pursuant to § 32.16.

(b) No benefit paid under this part shall be subject to execution or attachment.

Subpart E—Filing and Processing of Claims

§ 32.19 Persons executing claims.

(a) The Bureau shall determine who is the proper party to execute a claim in accordance with the following rules—

(1) The claim shall be executed by the claimant or the claimant's legally designated representative if the claimant is mentally competent and physically able to execute the claim.

(2) If the claimant is mentally incompetent or physically unable to execute the claim; and

(i) Has a legally appointed guardian, committee, or other representative, the claim may be executed by such guardian, committee, or other representative, or

(ii) Is in the care of an institution, the claim may be executed by the manager or principal officer of such institution.

(3) For good cause shown, such as the age or prolonged absence of the claimant, the Bureau may accept a claim executed by a person other than one described in paragraphs (a)(1) and (a)(2) of this section.

(b) Where the claim is executed by a person other than the claimant, such person shall, at the time of filing the claim or within a reasonable time thereafter, file evidence of such person's authority to execute the claim on behalf of such claimant in accordance with the following rules—

(1) If the person executing the claim is the legally-appointed guardian, committee, or other legally-designated representative of such claimant, the evidence shall be a certificate executed by the proper official of the court of appointment.

(2) If the person executing the claim is not such a legally-designated representative, the evidence shall be a statement describing such person's relationship to the claimant or the extent to which such person has the care of such claimant or such person's position as an officer of the institution of which the claimant is an inmate or patient. The Bureau may, at any time, require additional evidence to establish the authority of any such person to file or withdraw a claim.

§ 32.20 Claims.

(a) Claimants are encouraged to submit their claims on BJA Form 3650/1, which can be obtained from: Public Safety Officers' Benefits Program, Bureau of Justice Assistance, Washington, DC 20531.

(b) Where an individual files Form 3650/1 or other written statement with the Bureau which indicates an intention to claim benefits, the filing of such written statement shall be considered to be the filing of a claim for benefits.

(c) A claim by or on behalf of a survivor of a public safety officer shall be filed within one year after the date of death unless the time for filing is extended by the Director for good cause shown.

(d) Except as otherwise provided in this part, the withdrawal of a claim, the cancellation of a request for such withdrawal, or any notice provided for pursuant to the regulations in this part, shall be in writing and shall be signed by the claimant or the person legally designated to execute a claim under § 32.19.

§ 32.21 Evidence.

(a) A claimant for any benefit or fee under the Act and the regulations shall submit such evidence of eligibility or other material facts as is specified by these regulations. The Bureau may at any time require additional evidence to be submitted with regard to entitlement, the right to receive payment, the amount to be paid, or any other material issue.

(b) Whenever a claimant for any benefit or fee under the Act and the regulations has submitted no evidence or insufficient evidence of any material issue or fact, the Bureau shall inform the claimant what evidence is necessary for a determination as to such issue or fact and shall request the claimant to submit such evidence within a reasonable specified time. The claimant's failure to submit evidence on a material issue or fact as requested by the Bureau shall be a basis for determining that the claimant fails to satisfy the conditions required to award a benefit or fee or any part thereof.

(c) In cases where a copy of a record, document, or other evidence, or an excerpt of information therefrom, is acceptable as evidence in lieu of the original, such copy or excerpt shall, except as may otherwise clearly be indicated thereon, be certified as a true and exact copy or excerpt by the official custodian of such record, or other public official authorized to certify the copy.

§ 32.22 Representation.

(a) A claimant may be represented in any proceeding before the Bureau by an attorney or other person authorized to act on behalf of the claimant pursuant to § 32.19.

(b) No contract for a stipulated fee or for a fee on a contingent basis will be recognized. Any agreement between a representative and a claimant in violation of this subsection is void.

(c) Any individual who desires to charge or receive a fee for services rendered for an individual in any application or proceeding before the Bureau must file a written petition therefore in accordance with paragraph (e) of this section. The amount of the fee the petitioner may charge or receive, if any, shall be determined by the Bureau on the basis of the factors described in paragraphs (e) and (g) of this section.

(d) Written notice of a fee determination made under this section shall be mailed to the representative and the claimant at their last known addresses. Such notice shall inform the parties of the amount of the fee authorized, the basis of the determination, and the fact that the Bureau assumes no responsibility for payment.

(e) To obtain approval of a fee for services performed before the Bureau, a representative, upon completion of the proceedings in which the representative rendered services, must file with the Bureau a written petition containing the following information—

(1) The dates the representative's services began and ended;

(2) An itemization of services rendered with the amount of time spent in hours, or parts thereof;

(3) The amount of the fee the representative desires to charge for services performed;

(4) The amount of fee requested or charged for services rendered on behalf of the claimant in connection with other claims or causes of action arising from the officer's death before any State or Federal court or agency;

(5) The amount and itemization of expenses incurred for which reimbursement has been made or is expected;

(6) The special qualifications which enabled the representative to render valuable services to the claimant (this requirement does not apply where the representative is an attorney); and

(7) A statement showing that a copy of the petition was sent to the claimant and that the claimant was advised of the claimant's opportunity to submit his or her comments on the petition to BJA within 20 days.

(f) No fee determination will be made by the Bureau until 20 days after the date the petition was sent to the claimant. The Bureau encourages the claimant to submit comments on the petition to the Bureau during the 20-day period.

(g) In evaluating a request for approval of a fee, the purpose of the public safety officers' benefits program—to provide a measure of economic security for the beneficiaries thereof—will be considered, together with the following factors—

(1) The services performed (including type of service);

(2) The complexity of the case;

(3) The level of skill and competence required in rendition of the services;

(4) The amount of time spent on the case;

(5) The results achieved;

(6) The level of administrative review to which the claim was carried within the Bureau and the level of such review at which the representative entered the proceedings;

(7) The amount of the fee requested for services rendered, excluding the amount of any expenses incurred, but including any amount previously authorized or requested;

(8) The customary fee for this kind of service; and

(9) Other awards in similar cases.

(h) In determining the fee, the Bureau shall consider and add thereto the amount of reasonable and unreimbursed expenses incurred in establishing the claimant's case. No amount of reimbursement shall be permitted for expenses incurred in obtaining medical or documentary evidence in support of the claim which has previously been obtained by the Bureau, and no reimbursement shall be allowed for expenses incurred by the claimant in establishing or pursuing the claimant's application for approval of his fee.

Subpart F—Determination, Hearing, and Review

§ 32.23 Finding of eligibility or ineligibility.

Upon making a finding of eligibility, the Bureau shall notify each claimant of its disposition of his or her claim. In those cases where the Bureau has found the claimant to be ineligible for a death benefit, the Bureau shall specify the reasons for the finding. The finding shall set forth the findings of fact and conclusions of law supporting the decision. A copy of the decision, together with information as to the right to a hearing and review shall be mailed to the claimant at his or her last known address.

§ 32.24 Request for a hearing.

(a) A claimant may, within thirty (30) days after notification of ineligibility by the Bureau, request the Bureau to reconsider its finding of ineligibility. The Bureau shall provide the claimant the opportunity for an oral hearing which shall be held within sixty (60) days after the request for reconsideration. The claimant may waive the oral hearing and present written evidence to the Bureau within sixty (60) days after the request. The request for hearing shall be made to the Director, Public Safety Officers' Benefits Program, BJA, Washington, D.C. 20531.

(b) If requested, the oral hearing shall be conducted before a hearing officer authorized by the Bureau to conduct the hearing, in any location agreeable to the claimant and the hearing officer.

(c) In conducting the hearing, the hearing officer shall not be bound by common law or statutory rules of evidence, by technical or formal rules of procedure, or by Chapter 5 of the Administrative Procedures Act, but must conduct the hearing in such manner as to best ascertain the rights of the claimant. For this purpose the hearing officer shall receive such relevant evidence as may be introduced by the claimant and shall, in addition, receive such other evidence as the hearing officer may determine to be necessary or useful in evaluating the claim. Evidence may be presented orally or in the form of written statements and exhibits. The hearing shall be recorded, and the original of the complete transcript shall be made a part of the claims record.

(d) Pursuant to 42 U.S.C., the hearing officer may, whenever necessary:

(1) Issue subpoenas;

(2) Administer oaths;

(3) Examine witnesses; and

(4) Receive evidence at any place in the United States.

(e) If the hearing officer believes that there is relevant and material evidence available which has not been presented at the hearing, the hearing officer may adjourn the hearing and, at any time prior to mailing the decision, reopen the hearing for the receipt of such evidence.

(f) A claimant may withdraw his or her request for a hearing at any time prior to the mailing of the decision by written notice to the hearing officer so stating, or by orally so stating at the hearing. A claimant shall be deemed to have abandoned his or her request for a hearing if he or she fails to appear at the time and place set for the hearing, and does not, within 10 days after the time set for the hearing, show good cause for such failure to appear.

(g) The hearing officer shall, within thirty (30) days after receipt of the last piece of evidence relevant to the proceeding, make a determination of eligibility. The determination shall set forth the findings of fact and conclusions of law supporting the determination. The hearing officer's determination shall be the final agency decision, except when it is reviewed by the Director under paragraph (h) or (i).

(h) The Director may, on his or her own motion, review a determination made by a hearing officer. If the Director decides to review the determination, the Director shall:

(1) Inform the claimant of the hearing officer's determination and his or her decision to review that determination; and

(2) Give the claimant 30 days to comment on the record and offer new evidence or argument on the issues in controversy.

The Director, in accordance with the facts found on review, may affirm or reverse the hearing officer's determination. The Director's determination shall set forth the findings of fact and conclusions of law supporting the determination. The Director's determination shall be the final agency decision.

(i) A claimant determined ineligible by a hearing officer under paragraph (g) may, within thirty (30) days after notification of the hearing officer's determination:

(1) Request the Director to review the record and the hearing officer's determination; and

(2) Comment on the record, and offer new evidence or argument on the issues in controversy.

The Director shall make the final agency determination of eligibility within thirty (30) days after expiration of the comment period. The notice of final determination shall set forth the findings of fact and conclusions of law supporting the determination. The Director's determination shall be the final agency decision.

(j) No payment of any portion of a death benefit, except interim benefits payable under § 32.16, shall be made until all hearings and reviews which may affect that payment have been completed.

Appendix to Part 32—PSOB Hearing and Appeal Procedures

a. *Notification to Claimant of Denial.* These appeal procedures apply to a claimant's [1] request for reconsideration of a denial made by the Public Safety Officers' Benefits (PSOB) Office (the PSOB Office). The denial letter will advise the claimant of the findings of fact and conclusions of law supporting the PSOB Office's determination, and of the appeal procedures available under § 32.24 of the PSOB regulations. A copy of every document in the case file that (1) contributed to the determination, and (2) was not provided by the claimant shall also be attached to the denial letter, except where disclosure of the material would result in a clearly unwarranted invasion of a third party's privacy. The attached material might typically include medical opinions offered by the Armed Forces Institute of Pathology, legal memoranda from the Office of General Counsel of the Office of Justice Programs, or memoranda to the file prepared by PSOB Office staff. A copy of the PSOB regulations shall also be enclosed.

b. *Receipt of Appeal.* 1. When an appeal has been received, the PSOB Office will assign the case, and transmit the complete case file to a hearing officer. Assignments will be made in turn, from a standing roster, except in those cases where a case is particularly suitable to a specific hearing officer's experience.

2. The PSOB Office will inform the claimant of the name of the hearing officer, request submission of all evidence to the hearing officer, and send a copy of this appeals procedure. If an oral hearing is requested, the PSOB Office will be responsible for scheduling the hearing and making the required travel arrangements.

3. The PSOB Office will be responsible for providing all administrative support to the hearing officer. An attorney from the Office of General Counsel (OGC) who has not participated in the consideration of the claim will provide legal advice to the hearing officer. The hearing officer is encouraged to solicit the advice of the assigned OGC attorney on all questions of law.

4. Prior to the hearing, the hearing officer shall request the claimant to provide a list of expected witnesses, and a brief summary of their anticipated testimony.

[1] As used in this procedure, the word "claimant" means a claimant for benefits or, where appropriate, the claimant's designated representative.

c. *Designation of Hearing Officers.* A. In an internal instruction the BJA Director designated a roster of hearing officers to hear PSOB appeals.

1. The hearing officers are specifically delegated the Director's authority to:

(i) Issue subpoenas;

(ii) Administer oaths;

(iii) Examine witnesses; and

(iv) Receive evidence at any place in the United States the officer may designate.

d. *Conduct of the Oral Hearing.* A. If requested, an oral hearing shall be conducted before the hearing officer in any location agreeable to the officer and the claimant.

1. The hearing officer shall call the hearing to order and advise the claimant of (1) the findings of fact and conclusions of law supporting the initial determination; (2) the nature of the hearing officer's authority; and (3) the manner in which the hearing will be conducted and a determination reached.

2. In conducting the hearing, the hearing officer shall not be bound by common law or statutory rules of evidence, by technical or formal rules or procedures, or by Chapter 5 of the Administrative Procedure Act, but must conduct the hearing in such a manner as to best ascertain the rights of the claimant.

3. The hearing officer shall receive such relevant evidence as may be introduced by the claimant and shall, in addition, receive such other evidence as the hearing officer may determine to be necessary or useful in evaluating the claim.

4. Evidence may be presented orally or in the form of written statements and exhibits. All witnesses shall be sworn by oath or affirmation.

5. If the hearing officer believes that there is relevant and material evidence available which has not been presented at the hearing, the hearing may be adjourned and, at any time prior to the mailing of notice of the decision, reopened for the receipt of such evidence. The officer should, in any event, seek to conclude the hearing within 30 days from the first day of the hearing.

6. All hearings shall be attended by the claimant and his or her representative, and such other persons as the hearing officer deems necessary and proper. The wishes of the claimant should always be solicited before any other persons are admitted to the hearing.

7. The hearing shall be recorded, and the original of the complete transcript shall be made a part of the claims record.

8. The hearing will be deemed closed on the day the hearing officer receives the last piece of evidence relevant to the proceeding.

9. If the claimant waives the oral hearing, the hearing officer shall receive all relevant written evidence the claimant wishes to submit. The hearing officer may ask the claimant to clarify, or explain the evidence submitted, when appropriate. The hearing officer should seek to close the record no later than 60 days after the claimant's request for reconsideration.

e. *Determination.* 1. A copy of the transcript shall be provided to the claimant, to the PSOB Office, and OGC after the conclusion of the hearing.

2. The hearing officer shall make his, or her, determination no later than the 30th day after the last piece of evidence has been received. Copies of the determiation shall be made available to the PSOB Office and OGC for their review.

3. If either the PSOB Office or OGC disagrees wth the hearing officer's final determination, that office may request the Director to review the record. If the Director agrees to review the record, the Director will send the hearing officer's determination, all comments received form the PSOB Office, OGC, or other sources (except where disclosure of the material would result in an unwarranted invasion of privacy), and notice of his or her intent to review the record, to the claimant. The Director will also advise the claimant of his or her opportunity to offer comments, new evidence, and argument to the Director within 30 days after the receipt of notification. The Director shall seek to advise all parties of the final agency decision within 30 days after the expiration of the comment period.

4. If the PSOB Office and OGC agree with the hearing officer's determination, or the Director declines to review the record, the hearing officer's determination will be the final agency decision, and will be sent to the claimant by the PSOB Office immediately.

5. If the hearing officer's determination is a denial, all material that (1) contributed to the determination and (2) was not provided by the claimant shall be attached to the denial letter, except where disclosure of the material would result in a clearly unwarranted invasion of a third party's privacy. The claimant will be given an opportunity to request the Director to review the record and the hearing officer's decision and to offer comments, new evidence, or arguement to the Director within 30 days. The Director shall advise all parties of the final agency decision within 30 days after the expiration of the comment period.

6. The PSOB Office will provide administrative support to the hearing officer and the Director throughout the appeal process.

Lois Haight Herrington,

Assistant Attorney General, Office of Justice Programs.

[FR Doc. 85-15815 Filed 7-2-85; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Parts 500, 505, 515, 520, 535, and 540

Embargo Program Regulations; Technical and Clarifying Amendments

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control is making a number of technical and clarifying amendments to the regulations implementing the embargo

programs it administers. None of the changes will alter the manner in which the office administers any of these programs.

EFFECTIVE DATE: July 3, 1985.

FOR FURTHER INFORMATION CONTACT: Dennis M. O'Connell, Director, Office of Foreign Assets Control, Department of the Treasury, Washington, D.C. 20220, 202/376-0395.

SUPPLEMENTARY INFORMATION: Notices of approval pursuant to the Paperwork Reduction Act are being inserted into each set of regulations. Section 505.10 is being amended to update its citations. Sections 500.101 and 515.101 are being amended to clarify their effect and to delete references to 8 CFR Chapter II, which no longer exists. Section 500.201(d) is being amended to eliminate a reference to the People's Republic of China (the "PRC") which is no longer subject to the Foreign Assets Control Regulations. Section 500.206 is being removed because it relates to the PRC and is therefore obsolete. The definition of "national" in §§ 500.302(a)(1) and 515.302(a)(1) is being changed to reflect more accurately the Office's application of that term. Section 515.301 is being amended to correct a typographical error. Section 500.321 is being amended to delete "The Panama Canal Zone" from the definition of "United States," in order to reflect the change in the status of the Canal Zone under the Panama Canal Treaty. Section 500.329 and § 515.329 are being amended to clarify their meaning. Sections 500.413 and 500.414 are being removed because they relate solely to § 500.541, which no longer exists. Section 515.413 is being amended to delete a reference to § 515.541, which no longer exists. Sections 500.505, 500.506 and 500.507 and §§ 515.505, 515.506 and 515.507 are being removed and replaced by new §§ 500.505 and 515.505, in order to simplify and clarify the operation of these licenses. Section 500.528(b) is being amended to simplify its operation in accordance with current office practice. Section 515.559(b) is being amended to update its citations. Section 515.560(i) is being removed because it no longer has any effect. Subsections 500.561 (d) and (e) are being removed because they relate to the PRC, which is no longer subject to the Foreign Assets Control Regulations.

Since the regulations involve a foreign affairs function, the provisions of the Administrative Procedures Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Similarly, because the amendments are issued with respect to a foreign affairs function of the United States, they are not subject to Executive Order 12291 of February 19, 1981, dealing with Federal Regulations.

List of Subjects in 31 CFR Parts 500, 505, 515, 520, 535, and 540

Foreign assets, Foreign trade.

PART 500—[AMENDED]

31 CFR Part 500 is amended as follows:

1. The "Authority" paragraph for Part 500 continues to read as follows:

Authority: Sec. 5, 40 Stat. 415, as amended; 50 U.S.C. App. 5, E.O. 9193, 7 FR 5205, 3 CFR 1938–1943 Comp., p. 1174; E.O. 9989, 13 FR 4891, 3 CFR, 1943–1948 Comp., p. 748, unless otherwise noted.

2. Section 500.101 is revised to read as follows:

§ 500.101 Relation of this part to other laws and regulations.

(a) This part is independent of Parts 505, 515, 520, 530, 535 and 540 of this Chapter. No license or authorization contained in or issued pursuant to one of those parts, or any other provision of law, authorizes any transaction prohibited by this part.

(b) No license or authorization contained in or issued pursuant to this part shall be deemed to authorize any transaction prohibited by any law other than the Trading With the Enemy Act, 50 U.S.C. App. 5(b), as amended, the Foreign Assistance Act of 1961, 22 U.S.C. 2370, or any proclamation, order, regulation or license issued pursuant thereto.

3. Section 500.201(d) is revised to read as follows:

§ 500.201 Transactions involving designated foreign countries or their nationals; effective date.

* * * * *

(d) The term "designated foreign country" means a foreign country in the following schedule, and the terms "effective date" and "effective date of this section" mean with respect to any designated foreign country, or any national thereof, 12:01 a.m. eastern standard time of the date specified in the following schedule, except as specifically noted after the country or area.

Schedule

(1) North Korea, i.e., Korea north of the 38th parallel of north latitude: December 17, 1950.

(2) Cambodia: April 17, 1975.

(3) North Vietnam, i.e., Vietnam north of the 17th parallel of north latitude: May 5, 1964.

(4) South Vietnam, i.e., Vietnam south of the 17th parallel of north latitude: April 30, 1975, at 12:00 p.m. e.d.t.

§ 500.206 [Removed]

4. Section 500.206 is removed.

5. Section 500.302(a)(1) is revised to read as follows:

§ 500.302 National.

(a) The term "national" shall include:

(1) A subject or citizen of a country or any person who has been domiciled in or a permanent resident of that country at any time on or since the "effective date," except persons who were resident or domiciled there in the service of the U.S. Government.

* * * * *

6. Section 500.321 is revised to read as follows:

§ 500.321 United States; Continental United States.

The term "United States" means the United States and all areas under the jurisdiction or authority thereof, including U.S. trust territories and commonwealths. The term "continental United States" means the states of the United States and the District of Columbia.

7. Section 500.329 is revised to read as follows:

§ 500.329 Person subject to the jurisdiction of the United States.

The term "person subject to the jurisdiction of the United States" includes:

(a) Any individual, wherever located, who is a citizen or resident of the United States;

(b) Any person within the United States as defined in § 500.330;

(c) Any corporation organized under the laws of the United States or of any state, territory, possession, or district of the United States; and

(d) Any corporation, partnership, or association, wherever organized or doing business, that is owned or controlled by persons specified in paragraphs (a) or (c) of this section.

§ 500.413 [Removed]

8. Section 500.413 is removed.

§ 500.414 [Removed]

9. Section 500.414 is removed.

10. Section 500.505 is revised to read as follows:

§ 500.505 Certain persons unblocked.

(a) The following persons are hereby licensed as unblocked nationals:

(1) Any individual resident in the United States who is not a specially designated national; and

(2) Any corporation, partnership or association that would be a designated national solely because of the interest therein of an individual licensed in paragraph (a) or (b) of this section as an unblocked national.

(b) Individual nationals of a designated country who take up residence in the authorized trade territory may apply to the Office of Foreign Assets Control to be specifically licensed as unblocked nationals.

(c) The licensing of any person as an unblocked national shall not suspend the requirements of any section of this Chapter relating to the maintenance or production of records.

§ 500.506 [Removed]

11. Section 500.506 is removed.

§ 500.507 [Removed]

12. Section 500.507 is removed.

13. Section 500.528(b) is revised to read as follows:

§ 500.528 Certain transactions with respect to blocked foreign patents, trademarks and copyrights authorized.

* * * * *

(b) Payments effected pursuant to the terms of paragraphs (a)(4) and (5) of this section may not be made from any blocked account.

* * * * *

§ 500.561 [Amended]

14. Section 500.561 is amended by removing paragraphs (d) and (e).

15. New § 500.901 is added to read as follows:

Subpart I—Miscellaneous Provisions

§ 500.901 Paperwork Reduction Act notice.

The information collection requirements in §§ 500.517(c), 500.527(c), 500.549, 500.550 (a) and (b), 500.551, 500.552, 500.554 (a) and (b), 500.556 (a) and (b), 500.557, 500.558, 500.559, 500.560, 500.561, 500.562, and 500.801 have been approved by the Office of Management and Budget under the Paperwork Reduction Act and assigned control number 1505–0075.

PART 505—[AMENDED]

31 CFR Part 505 is amended as follows:

1. The "Authority" paragraph for Part 505 is amended to read as follows:

Authority: Sec. 5, 40 Stat. 415, as amended; 50 U.S.C. App. 5, E.O. 9193, 7 FR 5205, 3 CFR, 1938–1943 Comp., p. 1174; E.O. 9989, 13 FR 4891, 3 CFR, 1943–1948 Comp. p. 748, unless otherwise noted.

2. Section 505.10(b) is revised to read as follows:

§ 505.10 Prohibitions.

* * * * *

(b) The merchandise is included in the Commodity Control List of the U.S. Department of Commerce (15 CFR Part 399) and identified by the code letter "A" following the Export Control Commodity Numbers, or of a type the unauthorized exportation of which from the United States is prohibited by regulations issued under the Arms Export Control Act of 1976, 22 U.S.C. 2778, or the Atomic Energy Act of 1954, 42 U.S.C. 2011 et seq., or successor acts restricting the export of strategic goods.

Schedule

Albania	Lithuania
Bulgaria	North Korea
Cambodia (Kampuchea)	Outer Mongolia
Czechoslovakia	People's Republic of China
Estonia	Poland and Danzig
German Democratic Republic	Romania
East Berlin	Tibet
Hungary	U.S.S.R.
Latvia	Vietnam

PART 515—[AMENDED]

31 CFR Part 515 is amended as follows:

1. The "Authority" paragraph for Part 515 is revised to read as follows:

Authority: Sec. 5, 40 Stat. 415, as amended, 50 U.S.C. App. 5; Sec. 620(a), 75 Stat. 445, 22 U.S.C. 2370(a); Proc. 3447, 27 FR 1085, 3 CFR, 1959–1963 Comp., E.O. 9193, 7 FR 5205, 3 CFR 1938–1943 Comp., p. 1174; E.O. 9989, 13 FR 4891, 3 CFR 1943–1948 Comp., p. 748.

2. Section 515.101 is revised to read as follows:

§ 515.101 Relation of this part to other laws and regulations.

(a) This part is independent of Parts 500, 505, 520, 530, 535, and 540 of this Chapter. No license or authorization contained in or issued pursuant to one of those parts, or any other provision of law, authorizes any transaction prohibited by this part.

(b) No license or authorization contained in or issued pursuant to this part shall be deemed to authorize any transaction prohibited by any law other than the Trading With the Enemy Act, 50 U.S.C. App. 5(b), as amended, the Foreign Assistance Act of 1961, 22 U.S.C. 2370, or any proclamation, order, regulation or license issued pursuant thereto.

3. Section 515.302(a)(1) is amended to read as follows:

§ 515.302 National.

(a) The term "national" shall include:

(1) A subject or citizen of a country or any person who has been domiciled in or a permanent resident of that country at any time on or since the "effective date," except persons who were resident or domiciled there in the service of the U.S. Government.

* * * * *

§ 515.311 [Amended]

4. Section 515.311 is amended by changing the comma following the word "bankers" to an apostrophe, so that the sentence reads" . . . bankers' acceptances . . . ."

5. Section 515.329 is revised to read as follows:

§ 515.329 Person subject to the jurisdiction of the United States.

The term "person subject to the jurisdiction of the United States" includes:

(a) Any individual, wherever located, who is a citizen or resident of the United States;

(b) Any person within the United States as defined in § 515.330;

(c) Any corporation organized under the laws of the United States or of any State, territory possession, or district of the United States; and

(d) Any corporation, partnership, or association, wherever organized or doing business, that is owned or controlled by persons specified in paragraphs (a) or (c) of this section:

6. Section 515.413 is revised as follows:

§ 515.413 Furnishing technical advice to American-owned foreign firms.

Section 515.201 of the regulations does not prohibit an engineering firm in the United States from providing technical assistance to a person in a third country with respect to specifications, quality control, etc., although such advice may result in purchases by that third country of goods of Cuban origin. However, the engineering firm may not itself procure any such goods for its own account or for that of the foreign person.

7. Section 515.505 is revised to read as follows:

§ 515.505 Certain persons unblocked.

(a) The following persons are hereby licensed as unblocked nationals.

(1) Any individual resident in the United States who is not a specially designated national; and

(2) Any corporation, partnership or association that would be a designated national solely because of the interest therein of an individual licensed in paragraph (a) or (b) of this section as an unblocked national.

(b) Individual nationals of a designated country who have taken up residence in the authorized trade territory may apply to the Office of

Foreign Assets Control to be specifically licensed as unblocked nationals.

(c) The licensing of any person as an unblocked national shall not suspend the requirements of any section of this Chapter relating to the maintenance or production of records.

§ 515.506 [Removed]

8. Section 515.506 is removed.

§ 515.507 [Removed]

9. Section 515.507 is removed.

10. Section 515.559(b) is revised to read as follows:

§ 515.559 Transactions by American-owned or controlled foreign firms with Cuba.

* * * * *

(b) The term "strategic goods" means any item, regardless of origin, of a type included in the Commodity Control List of the U.S. Dapartment of Commerce (15 CFR Part 399) and identified by the code letter "A" following the Export Control Commodity Numbers, or of a type the unauthorized exportation of which from the United States is prohibited by regulations issued under the Arms Export Control Act of 1976, 22 U.S.C. 2778, or under the Atomic Energy Act of 1954, 42 U.S.C. 2011, et seq., or successor acts restricting the export of strategic goods.

* * * * *

§ 515.560 [Amended]

11. Section 515.560(i) is removed, and replaced by the notation "[reserved]."

12. New § 515.901 is added to read as follows:

Subpart I—Miscellaneous Provisions

§ 515.901 Paperwork Reduction Act notice.

The information collection requirements in §§ 515.527(c), 515.542(c), 515.543, 515.544 (a) and (b), 515.545(a) (1) and (2), 515.545(b), 515.546, 515.547, 515.548, 515.549 (a) and (b), 515.550, 515.551(a) (1), (2) and (3), 515.552(a) (1) (2) and (3), 515.553, 515.554, 515.555, 515.556, 515.557, 515.558, 515.559, 515.560, 515.565, and 515.801 have been approved by the Office of Management and Budget under the Paperwork Reduction Act and assigned control number 1505–0075.

PART 520—[AMENDED]

31 CFR Part 520 is amended as follows:

1. The "Authority" paragraph for Part 520 continues to read as follows:

Authority: Sec. 5, 40 Stat. 415, as amended; 50 U.S.C. App. 5; E.O. 8389, Apr. 10, 1940, 5 FR 1400, as amended by E.O. 8785, June 14, 1941, 6 FR 2897, E.O. 8832, July 26, 1941, 6 FR 3715, E.O. 8963, Dec. 9, 1941, 6 FR 6348, E.O. 8998, Dec. 26, 1941, 6 FR 6785, E.O. 9193, July 6, 1942, 7 FR 5205; 3 CFR, 1943 Cum. Supp.; E.O. 10348, Apr. 26, 1952, 17 FR 3769, 3 CFR, 1949–1953 Comp., p. 871; E.O. 11281, May 13, 1966, 31 FR 7215, 3 CFR, 1966 Supp., unless otherwise noted.

2. New § 520.901 is added as follows:

Subpart I—Miscellaneous Provisions

§ 520.901 Paperwork Reduction Act notice.

The information collection requirements in §§ 520.205(e) (1) and (5) and 520.801 have been approved by the Office of Management and Budget under the Paperwork Reduction Act and assigned control number 1505–0075.

PART 535—[AMENDED]

31 CFR Part 535 is amended as follows:

1. The "Authority" paragraph for Part 535 continues to read as follows:

Authority: Secs. 201–207, 91 Stat. 1626; 50 U.S.C. 1701–1706; E.O. 12170, 44 FR 65729; E.O. 12205, 45 FR 24099; E.O. 12211, 45 FR 26685; unless otherwise noted.

2. New § 535.905 is added to read as follows:

§ 535.905 Paperwork Reduction Act notice.

The information collection requirements in §§ 535.568 and 535.801 have been approved by the Office of Management and Budget and assigned control number 1505–0075.

PART 540—[AMENDED]

31 CFR Part 540 is amended as follows:

1. The "Authority" paragraph for Part 540 continues to read as follows:

Authority: Sections 201–207, 91 Stat. 1626, 50 U.S.C. 1701–1706; E.O. 12513.

2. New § 540.901 is added to read as follows:

Subpart I—Miscellaneous Provisions

§ 540.901 Paperwork Reduction Act notice.

The information collection requirements in §§ 540.504, 540.505, 540.540, 540.541, 540.601, and 540.602 have been approved by the Office of Management and Budget and assigned control number 1505–0089.

Dated: June 27, 1985.

Dennis M. O'Connell,

Director, Office of Foreign Assets Control.

Edward T. Stevenson,

Acting Assistant Secretary (Enforcement and Operations).

[FR Doc. 85–15919 Filed 7–2–85; 8:45 am]

BILLING CODE 4810–25–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 76

[Docket Nos. 20521, 20548, etc.; FCC 85–252]

Multiple and Cross-Ownership of AM, FM, TV, and CATV Systems

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission, on reconsideration, revises in part the standards for exempting from attribution limited partnership interests in broadcast, cable television, and newspaper properties in the application of the media multiple ownership rules. In addition, the Commission, on its own motion, clarifies certain matters relating to the aggregation of ownership interests and revises certain reporting requirements relating to the attribution standards. This action is necessary to eliminate ambiguities and apparent inconsistencies in the present attribution standards, to simplify the regulatory structure relating to attribution and to provide additional guidance to persons who are subject to these rules.

EFFECTIVE DATE: July 31, 1985.

FOR FURTHER INFORMATION CONTACT: Laurel Bergold, Mass Media Bureau, (202) 632–7792.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 73

Radio broadcasting, Television.

47 CFR Part 76

Cable television.

Memorandum Opinion and Order

In the matter of Corporate Ownership Reporting and Disclosure by Broadcast Licensees, Docket No. 20521; Amendment of §§ 73.35, 73.240 and 73.636 of the Commission's Rules Relating to Multiple Ownership of Standard, FM, and Television Broadcast Stations, Docket No. 20548; Amendment §§ 73.35, 73.240, 73.636 and 76.501 of the Commission's Rules relating to Multiple Ownership of AM, FM, and Television Stations and CATV Systems, BC Docket No. 78–239; and Reexamination of the Commission's Rules and Policies Regarding

the Attribution of Ownership Interests in Broadcast, Cable Television and Newspaper Entities, MM Docket No. 83-46, RM-3653, RM-3695, and RM-4045.

Adopted: May 9, 1985.

Released: June 24, 1985.

By the Commission: Commissioner Rivera not participating.

1. Before the Commission are petitions for reconsideration of the *Report and Order* (*"Report"*) [1] in the above-captioned proceedings filed by the American Council of Life Insurance ("Council") and Michael Couzens, P.C. ("Couzens") as well as various oppositions filed against these petitions.[2] After careful review of the petitions, the responsive pleadings and our *Report,* we are persuaded to modify our attribution policy as it relates to limited partnerships. Specifically, we eliminate a threshold requirement that nonattributable limited partnership interests conform to the Revised Uniform Limited Partnership Act of 1976 ("RULPA") [3] and clarify the meaning of the further requirement contained in our *Report* that the holders of such interests not be materially involved in the management or operation of the partnership. We also extend the temporary one year exception for "passive investors" (*i.e.,* investment companies, insurance companies and bank trust departments) whose interests exceed the benchmark as a result of involuntary acquisitions to interests acquired as a result of the prudent exercise of creditors rights. We decline, however, to make any other changes requested by the petitioners in the policies established in the *Report.* In addition, by our own motion, we clarify, *inter alia,* certain matters relating to the aggregation of ownership interests and revise certain reporting requirements.

I. Introduction

2. By the attribution rules the Commission evaluates whether or not a specific ownership or positional interest conveys a degree of influence or control to its holder sufficient to warrant limitation by the media multiple ownership rules. The attribution rules in essence constitute the means by which the media multiple ownership rules are implemented.[4]

3. In its *Report,* the Commission made a number of revisions to the standards governing the means by which it attributes interests in broadcast, cable television and newspaper properties and to the manner in which these interests are reported. Eliminating the distinction between "closely held" and "widely held" corporations, the Commission increased the basic ownership benchmark for attribution to five percent and raised the benchmark for "passive investors" to ten percent.[5] The Commission determined that interests at or above these benchmarks established a rebuttable presumption of a "cognizable interest" but an exception was made for certain interests acquired involuntarily on a temporary basis. In order to reflect the more attenuated interest in the licensee in situations where the ownership interest of an individual or entity is separated by intervening corporations, the Commission also adopted a "multiplier" approach in determining attribution in vertical ownership chains.[6] In addition, the Commission determined that interests held in licensees in the form of non-voting stock, whether or not convertible to voting stock; warrants, debentures and other convertible interests; and debt and lease back arrangements would not be attributed to the owner.

4. With respect to trusts, the Commission determined that the attribution would be evaluated on a case-by-case basis but specified the criteria which would be used in making such evaluations. The Commission generally reaffirmed that officers and directors would be attributed interests in their licensees, but established a mechanism whereby officers and directors who are neither directly or indirectly involved in the activities of the broadcast licensee can be relieved of this interest.

5. The Commission made a number of determinations with respect to matters relating to limited partnerships. Comparing a typical limited partner to a holder of debt or non-voting stock, the Commission found that a typical limited partnership interest confers no influence or control over the license and therefore "can be safely exempted from the effects and implications of the attribution rules."[7] Tacitly recognizing, however, that this lack of influence or control may not exist in all limited partnerships, the Commission determined that it was necessary to established a mechanism by which "to verify appropriate insulation of the general partner from any possibility of control or influence by the limited partners."[8] The Commission found that the provisions of the RULPA constituted an appropriate threshold verification standard and exempted from attribution the limited partnership interests of businesses conforming to this statute.[9] As a further requirement, the Commission held that "[a]ny limited partner relieved of attribution . . . may not be involved in any material respect in the management or operation of the

---

[1] *Report and Order* in MM Docket No. 83-46, 97 FCC 2d 997 (1984) [hereinafter referred to as *"Report"*].

[2] The National Association of Broadcasters ("NAB"); McKenna, Wilkinson & Kittner ("McKenna") and William R. Varecha ("Varecha") each filed an opposition to Couzens' petition. The National Cable Television Association, Inc. ("NCTA") filed an opposition to Council's petition. Couzens filed a reply to the oppositions of the NAB, McKenna and Varecha.

[3] Revised Uniform Limited Partnership Act section 101 *et seq.* (1976).

[4] The Media multiple ownership rules involve constraints on media ownership. These rules have both national and local dimensions.

The national network/cable ownership rule prohibits an individual or entity from owning, operating or controlling a national television network and cable television system. 47 CFR 76.501(a)(1) (1984). The Commission has proposed deletion of this rule. *Notice of Proposed Rule Making* in CT Docket No. 82-434, 91 FCC 2d 76 (1982). Under the national 12 station rule, an individual or entity is generally prohibited from owning, operating or controlling more than 12 AM, 12 FM and 12 television stations as well as television stations which, in the aggregate, can reach more than 25 percent of the national audience. *Report and Order* in Gen. Docket No. 83-1009, FCC 84-350 (released August 3, 1984), *reconsid. granted in part,* FCC 84-638 (released Feb. 1, 1985), *appeal docketed sub nom. National Association of Black Owned Broadcasters v. FCC,* No. 85-1139 (D.C. Cir. filed Mar. 4, 1985).

In addition to these national rules, there are four local media multiple ownership rules. The duopoly rule procribes any individual or entity from owning, operating or controlling two or more broadcast stations in the same service area if the stations' primary service signal contours overlap. The one-to-a-market rule in effect limits common ownership, operation or control of a radio and television station in the same market. The newspaper/broadcast cross-ownership rule, a variant of the one-to-a-market rule, similarly prohibits any individual or entity from owning, operating, or controlling a broadcast station and a daily newspaper in the same market. The broadcast/cable cross-ownership rule proscribes common ownership of a colocated broadcast and cable television system. 47 CFR 73.3555 (a)-(c), 76.501 (1984). The substance of the latter rule has recently been incorporated into the Communications Act. Cable Communications Policy Act of 1984, section 613(a), Pub. L. No. 98-549, 98 Stat. 2779 (1984).

[5] The Commission also determined that it was unnecessary to attribute an interest to minority shareholders of a corporate licensee in situations where that licensee has a single majority voting stockholder.

[6] While the Commission generally determined to adopt the proposal to multiply successive ownership interest in vertical ownership situations, it declined to utilize this multiplier approach in situations where any link represents a percentage interest which exceeds 50 percent.

[7] *Report,* 97 FCC 2d at 1022.

[8] *Id.* at 2023.

[9] *Id.* The Commission determined that limited partnerships which did not conform to the provisions of RULPA would be accorded noncognizable status upon the submission of the limited partnership agreement to the Commission with an explanation as to how the agreement satisfies its concerns. *Id.*

broadcast, cable television, or newspaper entity concerned."[10]

6. The Commission applied the attribution rules adopted in its *Report* to each of the media multiple ownership rules. No modification was made, however, in the attribution rules applicable to the cable/telephone cross-ownership rule.[11]

II. Decision on Reconsideration

A. Summary of Pleadings

7. While most elements of the Commission's decision have not been challenged, the Commission has been asked to reconsider three aspects of its *Report*. Specifically, we have been requested: (1) To extend the scope of this proceeding to encompass the attribution rules applicable to our cable/telephone cross-ownership rule, (2) to "clarify" that the concept of a "distress acquisition" encompasses interests temporarily acquired as a result of the prudent and necessary exercise of foreclosure, conversion or creditor rights and (3) to revise our treatment of limited partners so that such persons are treated as cognizable owners under the attribution rules.

1. Telephone/Cable Cross-Ownership Rule

8. Council requests the Commission to revise the attribution standards applicable to the telephone/cable cross-ownership rule. Council states that the Commission expressed an intention to establish a comprehensive framework for the attribution standards applicable to all of the Commission's multiple ownership rules but nonetheless failed to include attribution standards for telephone/cable ownership rules within the scope of its order. Citing the capital intensive nature of both industries, technological developments and the AT&T divestiture, Council asserts that the rationales underlying the liberalization of the attribution standards applicable to the media multiple ownership rules should apply with equal or greater force to the telephone/cable cross-ownership rule. While Council acknowledges that the *Notice of Proposed Rule Making ("Notice")*[12] did not expressly propose revisions to the telephone/cable ownership rule, it concludes that extention of the new attribution standards to this rule would not run afoul of the notice requirements of the Administrative Procedure Act[13] since the *Notice* expressed the Commission's intention to undertake a comprehensive review of the attribution standards. Even if the Commission were to conclude that its *Notice* did not provide the requisite statutory notice, however, Council contents that the Commission should still take steps in this proceeding to extend the revised attribution standards to the telephone/cable ownership rule. Specifically, it suggests that the Commission by order provide the public with notice of its intention to take the action requested by Council, afford parties the opportunity to comment on this proposal and extend the attribution standards applicable to the media multiple ownership rules to the telephone/cable cross-ownership rule unless substantial and compelling reasons to refrain from acting in this manner are presented by the commenting parties.

9. NCTA opposes Council's request that the attribution standards promulgated in the Commission's *Report* be made applicable to the telephone/cable cross-ownership rule. NCTA asserts that the Commission's objective in establishing attribution benchmarks for the multiple ownership rules was to determine that degree of ownership which will provide the potential ability to influence programming decisions. NCTA contends that purpose underlying the telephone/cable cross-ownership rule is to prevent a telephone carrier from using its monopoly control over telephone service to adversely affect telephone company customers and competing cable operators. Since the purposes underlying these two rules are entirely different, NCTA states that there is no reason to assume that the attribution benchmarks established for the media multiple ownership rules should be automatically extended to the telephone/cable ownership rule. In addition, NCTA takes issue with Council's alternative proposal that the Commission issue a further order announcing its intention to incorporate the attribution standards established in its *Report* to the cable/telephone cross-ownership rule, stating that only a full rule making proceeding would permit the Commission to obtain the information necessary to determine the propriety of revising the ownership benchmarks for that rule.

2. Temporary Involuntary Acquisitions

10. In its petition, Council also requests the Commission to "clarify" the scope of the exception accorded to the involuntary acquisition of stock on a temporary basis which exceeds the benchmark. Council urges the Commission to modify its characterization of such interests as "involuntary," stating that this description could be interpreted to exclude certain "distress" acquisitions which are necessary to protect the assets of the company or the interests of its shareholders or policyholders. Council urges the Commission to specify that interests acquired "as a result of the prudent and necessary exercise of foreclosure, conversion, creditor or other similar rights"[14] are within the scope of this exception. No parties in this proceeding opposed Council's request.

3. Limited Partnership Interests

11. In its petition, Couzens requests the Commission to reconsider its decision to exempt limited partners from the definition of cognizable ownership and to treat limited partners in the same manner as voting shareholders. Couzens notes that neither voting shareholders nor limited partners conduct the day-to-day business affairs of their respective entities but that both types of owners, through the retention of specific types of power, may exercise a significant amount of indirect control. For example, Couzens states that the power of a limited partner to elect or remove general partners is comparable to the power of voting shareholder to elect or remove directors. Couzens compares the power of voting shareholders to dissolve the corporation or sell substantially all of the corporate assets to the power of limited partners to terminate the partnership or approve the sale of its assets. Couzens also contends that the power of a voting shareholder to approve amendments to the Articles of Incorporation or to adopt, amend or repeal the bylaws is similar to the power of a limited partner to amend the partnership agreement.

12. Couzens asserts that reliance on the provisions of the RUPLA is impractical, stating that the Commission has failed to consider the administrative resource impact in the use of a standard which would require the Commission to make difficult "control" determinations. Couzens also suggests that if the *Report* is interpreted to adopt the uniform law as it may be subsequently amended, the Commission may have impermissibly delegated its authority. In contrast, Couzens asserts that if the *Report* is interpreted to adopt the current

[10] *Id.*

[11] 47 CFR 63.54 (1984).

[12] *Notice of Proposed Rule Making* in MM Docket No. 83-46, FCC 83-46 (released Feb. 15, 1983), 48 FR 10082 (Mar. 10, 1983) [hereinafter referred to as *"Notice"*].

[13] 5 U.S.C. 553(b) (1982).

[14] "Petition for Reconsideration in Part," filed by American Council of Life Insurance (June 8, 1984) at 7-8.

provisions of the uniform act, the Commission's standard is one which is likely to be revised. In addition, Couzens states that the Commission's treatment of limited partnership interests as noncognizable conflicts with the congressional intent that partnership interests should be recognized in computing media ownership and minority ownership preferences under the statutory changes authorizing the Commission to award licenses by a process of random selection.[15]

13. McKenna, NAB and Varecha each urge the Commission to reaffirm the noncognizable status of limited partnership interests.[16] Each of these parties notes that limited partnerships can provide a useful source of capital to the broadcast industry and asserts that the standard established by the Commisssion's *Report* is appropriate.

14. Varecha takes issue with Couzens' contention that limited partners possess powers similar to those of corporate shareholders. He contends that the ability of a limited partner to replace a general partner is at most a contingent control right since Commission approval under section 310(d) of the Communications Act must be obtained prior to such a transfer.[17] In contrast, Varecha states that the power of the shareholders to replace the entire board of directors ordinarily does not require any Commission scrutiny since such a change by itself does not constitute a change in ownership or control under section 310(d).

15. Varecha also notes that the shareholders are the owners of the corporation and that the board of directors serve at the discretion and solely for the benefit of the shareholders. In contrast, Varecha states that since both the general partners and the limited partners are joint owners, it is unusual for partnership agreements to permit a limited partner to replace a general partner without cause. Moreover, Varecha contends that a limited partner who takes part in the control of the business risks unlimited liability whereas the efforts of a corporate shareholder to influence or control the business do not entail such a risk.

16. Defending the Commission's determination to use the RULPA as a standard, NAB asserts that the method in which "control" is defined under that statute would not permit the limited partner, by virtue of his or her ownership status, to unduly influence the licensee's operations, such as its programming decisions, in a manner which would concern the Commission. NAB contends that the power to manage the entity is given to the general partners and that the specific activities permitted to limited partners under the statute constitute extraordinary matters which would not enable the limited partner to affect programming decisions on a regular basis. NAB asserts that the role of a limited partner is analogous to that of a holder of debt or nonvoting stock in a corporation and, therefore, should not be subject to the attribution rules. Similarly, McKenna asserts that the limited partners in most limited partnerships have virtually no power over partnership affairs.

17. Each of the three parties opposing Couzens' petition emphasizes that conformance to the provisions of the RULPA is merely a threshold standard. They note that, in addition to compliance with the model statute, a limited partner seeking nonattributable status is also required to refrain from any material involvement in the management or operation of the business. The opponents to Couzens' petition assert that this additional requirement will sufficiently assure that limited partners will not engage in the types of activities which would warrant attribution of their interests for purposes of the media multiple ownership rules.

18. Finally, NAB and Varecha take issue with Couzens' contention regarding the conflict between the Commission's treatment of the ownership interests of limited partners as noncognizable and the congressional intent to recognize partnership interests in computing preferences under the lottery statute. These parties state that at most the congressional statements concerning the method of computing preferences were addressed in a context which differed materially from the issues regarding which interests will be attributed for purposes of the media multiple ownership rules and consequently are not dispositive in determining the standards which should be established in this proceeding.

19. Noting that the revised model act does not specify the types of actions which would constitute participation by a limited partner in the affairs of the business, in its reply, Couzens again urges the Commission to withdraw its reliance upon the provisions of the RULPA as a standard in determining whether or not a limited partner should be relieved from attribution. In addition, it takes issue with the view that the *Report* requires exempt limited partners to refrain from material involvement in the business. It asserts, instead, that compliance with the provisions of the RULPA, while inappropriate, is in fact the sole standard promulgated in the *Report*. Addressing Varecha's contentions regarding the limitations imposed by the Communications Act on the ability of a limited partner to remove a general partner, Couzens asserts that this removal power is atypical and that influence by a limited partner can be exercised in other ways. Couzens warns against reliance upon the powers of a "typical" limited partnership, pointing out that an exemption from attribution for limited partnership interests will be used in the future by persons who wish to avoid the strictures of the multiple ownership rules. In addition, Couzens reiterates its position that the lottery statute reflects a legislative intent that limited partnership interests be attributed.

20. Apparently modifying in part its initial position that all limited partnership interests should be attributable, Couzens states that "the oppositions are persuasive that such a result is too harsh."[18] It asserts that the Commission should exempt from attribution limited partnership interests where the applicant demonstrates that the "Articles of Limited Partnership" do not include any powers of the limited partners to participate in the conduct of the business.

B. Discussion of the Issues on Reconsideration

1. Telephone/Cable Cross-Ownership Rule

21. We are not persuaded by Council's suggestion that we should address in this proceeding—either by action in this *Order* or by issuance of supplementary notice and subsequent order—the issue of attribution standards applicable to the telephone/cable cross-ownership rule. First, contrary to Council's contention, we do not believe that the scope of the *Notice* in this proceeding can reasonable be deemed to encompass this issue. We note in this regard that the *Notice* announced our intention to review the attribution standards applicable to what we specifically characterized as the "media

[15] 47 U.S.C. 309(i) (1982).

[16] Should the Commission determine that additional assurances of non-involvement may be desirable, NAB asserts that the Commission should expand the non-involvement requirement contained in the *Report* to include those activities with which it is concerned. NAB expressly states that the Commission may wish to consider withdrawing its reliance on RULPA in favor of a certification approach.

[17] 47 U.S.C. 310(d) (1982).

[18] "Reply," filed by Michael Couzens, P.C. (July 27, 1984) at 7.

multiple ownership rules."[19] Furthermore, in an earlier phase of this proceeding, Council specifically recognized that the attribution standards governing the telephone/cable cross-ownership rule were not raised in the *Notice*. In fact, in its comments responding to the *Notice*, Council characterized the telephone/cable cross-ownership rule as "[t]he only ownership rule conspicuously *absent* from the scope of this wide-ranging proceeding."[20]

22. Secondly, we do not believe it is either necessary or appropriate to expand the scope of this proceeding in order to consider the attribution issues raised by Council. Traditionally, we have addressed the attribution standards applicable to the media multiple ownership rules separately from consideration of the appropriate attribution standards governing the telephone/cable cross-ownership rule.[21] We have done so largely because these two categories of multiple ownership rules relate at least in part to different industries, affect the interests of different parties, and have disparate underlying objectives.[22] Council has advanced no convincing reason to alter this approach. In addition, we have recently adopted a *Report and Order* in MM Docket No. 84-1296 which, *inter alia*, specifically declined to impose the media ownership attribution standards in cable/telephone cross-ownership situations.[23] For these reasons, therefore, we shall not use this proceeding to expand the telephone/cable cross-ownership attribution rule.

2. Involuntary Acquisitions of Stock on a Temporary Basis

23. On reconsideration we are persuaded to grant Council's request that we clarify the "involuntary" acquisition exception to the attribution rules to include all interests temporarily acquired "as a result of the prudent and necessary exercise of foreclosure, conversion, creditor or other similar rights."[24] Notwithstanding our use of the term "involuntary" to limit the scope of the exception, Council suggests that the exception encompasses certain "voluntary" acquisitions which "are compelled by circumstances to protect company assets and the interests of the company's policyholders and shareholders."[25] In the absence of adverse comment to Council's suggestion and upon further reflection on the circumstances leading to the exercise of creditors rights, a grant of Council's request is justified.

24. We conclude that the interpretation espoused by Council is not inconsistent with the purposes underlying our attribution rules. As noted above, we adopted an attribution benchmark for "passive investors" that is higher than the benchmark applicable to non-passive investors.[26] The higher benchmark applied to the interests of passive investors reflects the fact that this type of investor generally obtains stock solely for investment purposes and possesses no interest in controlling the management or policies of the corporation.[27] Yet in adopting this benchmark, we necessarily recognized the need to attribute ownership of voting stock held even by passive investors in certain circumstances. We determined that "merely voting or trading large blocks of stock can affect the management of a company"[28], even where the investor has no intention of exercising any influence or control over the corporation. We concluded that this would often result in situations where a passive investor held voting stock in blocks of 10 percent or more.

25. Notwithstanding this requirement, we determinied that passive investors could exceed the 10 percent benchmark for a period not exceeding one year without incurring an attributable interest in the involuntary acquisition of stock in certain narrowly defined situations. The two situations described in our *Report* which trigger the exception are the acquisition by an insurance company resulting from the recapitalization of a company in which it has invested and the acquisition by a bank trust department resulting from the execution of an estate.[29] Common to both situations is the element of lack of control. A creditor has no control over whether or not a company in which it has invested will become bankrupt and require recapitalization. Similarly, a bank trust department has no control over the type and extent of a testator's stock holdings at the time of his or her death. Because the institutional investor is unable to either predict with reasonable certainty or take action to timely prevent the acquisition of interests which would place it in violation of the media multiple ownership rules, we provided a temporary exception to the attribution rules in this type of limited circumstance.

26. The acquisitions described in Council's petition are similiar to those described in our *Report*. Although the acceptance of collateral or similar actions which give rise to foreclosure, conversion or creditor rights is within the control of the passive investor, the exercise of those rights is not triggered by events within its control. The institutional investor has fiduciary responsibilities to its investors to maximize the investment and would be in most instances constrained to exercise foreclosure actions. In any event, a one year temporary exception will satisfy the Commission's concerns that a passive investor is not using the foreclosure process to violate the multiple ownership rules and unlawfully concentrate the programming decisions of licensees in itself with concomitant detrimental effects on media diversity. While the institutional investor could structure the transaction, by utilizing a qualified trust or other insulating mechanism, so that the interest acquired is exempt from attribution, that appears to be a cumbersome and costly mechanism to impose on investors who

[19] *Notice, supra* n.12 at para. 3.

[20] "Comments" filed by the American Council of Life Insurance (April 25, 1983) at 16 (emphasis added).

[21] The attribution standards applicable to the telephone/cable cross-ownership rule were addressed in the *Final Report and Order* in Docket No. 18509, 21 FCC 2d 307, *reconsid. granted in part*, 22 FCC 2d 746 (1970), *aff'd sub nom. General Telephone Co. of the Southwest v. United States*, 499 F.2d 846 (5th Cir. 1971). That order did not address any issue relating to the attribution standards applicable to the media ownership rules. Similarly, when the Commission has revised the attribution standards applicable to the media multiple ownership rules, it has chosen not to consider revisions to the attributions standards applicable to the telephone/cable cross-ownership rule. *See, e.g., Report and Order* in Docket No. 20520, 59 FCC 2d 970 (1976), *reconsid. granted in part*, 65 FCC 2d 336 (1977), *aff'd sub nom. National Citizens Committee for Broadcasting v. FCC*, 559 F.2d 189 (D.C. Cir.), *cert. denied*, 434 U.S. 987 (1977).

[22] A common objective underlying each of the media multiple ownership rules is to promote diversity of program and service viewpoints and to encourage diversity of expression of the communications media. *See, e.g., Report and Order* in Docket No. 8967, 18 FCC 288, 291 (1953); *Second Report and Order* in Docket No. 18110, 50 FCC 2d 1046 (1975). The objective underlying the telephone/cable cross-ownership rule, in contrast, is to prevent a telephone company from abusing its control over its monopoly services and facilities in the competitive CATV market. For example, all CATV systems have to use the telephone company's pole lines or conduit space, and the telephone/cable cross-ownership rule reflects the Commission's concern that were a telephone company permitted to own a CATV systems in its operating area, it could discriminate against competing CATV systems in providing access to these facilities. *Final Report and Order* in Docket No. 18509, *supra* n.24.

[23] *Report and Order* in MM Docket No. 84-1296, FCC 85-179 (released April 19, 1985).

[24] "Petition for Reconsideration in Part," *supra* n.14 at 7.

[25] *Id.*

[26] *See Report*, 97 FCC 2d at 1013.

[27] *Id.* at 1012-13.

[28] *Id.* at 1013.

[29] *Id.* at 1017.

are merely exercising fiduciary responsibilities. In short, like the situations described in our *Report*, exercise of creditor rights by passive investors is triggered by events not within its control. Therefore, a temporary one year exception to the effects of the multiple ownership rules is warranted.

3. Limited Partnerships

27. *Non-Attributable Status for Properly Insulated Limited Partnership Interests.* On reconsideration, we affirm our initial determination to relieve from attribution limited partnership interests in entities that sufficiently insulate the limited partner from influence or control of partnership affairs. We remain convinced that the exemption of properly insulated limited partnership interests furthers the public interest; this exemption not only facilitates the infusion of capital into broadcasting enterprises but, in addition, it eliminates unnecessary and potentially costly regulation while still maintaining the intergrity of the diversity rationale underlying the multiple ownership rules.

28. Although under state law, a limited partner is required to participate in certain matters relating to the business,[30] the performance of none of these mandatory functions—either singly or in the aggregate—by itself provides the limited partner with an ownership interest of concern to us for purposes of the multiple ownership rules. For example, the mere fact that the limited partner has the right to certain records and data concerning the company [31] does not empower that partner to influence or control the company's affairs. Similarly, while the limited partner does have to agree to the provisions of the certificate of limited partnership [32] and, under the Uniform Limited Partnership Act of 1916 ("ULPA"), authorize amendments to that document [33], this power does not inexorably lead to influence or control over the business of the partnership. Nor, in our view, is mandatory participation by the limited partners in the admission of new general partners,[34] by itself, sufficient to require the attribution of a limited partnership interest.[35] Likewise, exercise of the other mandatory rights of a limited partner—such as the right to seek a judicial dissolution or winding up of the business [36], the right to compensation or a share in the company's profits,[37] and a right to bring a derivative suit on behalf of the partnership in situations where the general partner refuses to take this action [38]—would not, *per se*, materially involve the limited partner in the management or operation of the business for purposes of the multiple ownership diversity concerns. Moreover, by distinguishing between influential and non-influential ownership interests, the exemption is consistent with the objectives underlying the attribution rules.

29. In support of its assertion that we should presumptively attribute all limited partnership interests, Couzens compares the powers of a holder of a limited partnership interest to that of a voting shareholder. We find, however, that a limited partnership is a distinct form of business association with unique characteristics [39] that justify the differential treatment of limited partnership interests for attribution purposes. Perhaps the most critical distinction between a limited partnership interest and a voting shareholder's interest is the broad flexibility given to the partners of a limited partnership to determine the powers of a limited partner. Unlike the rights accorded to a typical corporate shareholder, the partners have the ability to insulate the limited partner's participation in the business by the inclusion of specific restrictions in the partnership agreement or the certificate of limited partnership.

30. Further, we disagree with Couzens' contention that our decision not to presumptively attribute all limited partnership interests in applying our media multiple ownership rules is inconsistent with the expressed intent of Congress and our own interpretation of that intent. In this connection, Couzens refers to the Conference Report [40] accompanying the lottery amendments to the Communications Act [41] and to the Commission's reading of that Report in its decisions implementing the lottery provisions.[42] Couzens correctly points out that this legislative history, and our subsequent actions in light thereof, have resulted in our generally attributing limited partnership interests in computing lottery preferences.[43] The Conference Report, however, is devoid of any reference concerning the attribution standards governing the media multiple ownership rules. Moreover, in our lottery decisions, we expressly noted that the attribution rules established for determining lottery preferences were "not identical" to those used in applying the media multiple ownership rules.[44] In sum, we do not believe that Congressional intentions or our decisions in the lottery context constrain our treatment of limited partnership interests in the distinct context of applying our media multiple ownership rules.[45]

31. We also disagree with Couzens' assertion that "the Commission's insistence on lack of control by the limited[ ] [partner]" is on a "collision course" [46] with the development of limited partnership law. The Commission does not "insist" that a limited partner lack control over the business. A company which is controlled by a limited partner is free to enter the broadcasting field; it is able to obtain construction permits and

[30] In regulating limited partnerships, forty-nine states, the District of Columbia and the Virgin Islands have adopted either the Uniform Limited Partnership Act of 1916 [UNIFORM LIMITED PARTNERSHIP ACT (1916)] ("ULPA") or its successor, RULPA, *supra* n.3.

[31] RULPA sections 105, 305; ULPA section 10.

[32] *Id.*

[33] ULPA section 25(b). The revised act does not require all partners to sign amendments to the certificate of limited partnership. RULPA section 204(a)(2).

[34] *See* RULPA section 401; ULPA section 9(e).

[35] This is particularly true in light of our clarification in this *Order* that for such interest to be noncognizable under the "no material involvement" standard, the general partner must possess a veto over such admissions. *See* para. 46, *infra*.

[36] *See* ULPA section 10; RULPA section 802. The RULPA provides that all partners can consent to a non-judicial dissolution. RULPA section 801.

[37] *See, e.g.*, ULPA section 10.

[38] *See* RULPA section 1001. There is no comparable provisions in the ULPA.

[39] Similarly, the activities which limited partners are required to perform under state law and the ability of the partners to prescribe, within wide boundaries, the powers of a limited partner differentiates a limited partnership interest from those interests which are automatically exempted from our attribution rules.

[40] H.R. Rep. No. 765, 97th Cong., 2d Sess. 45 (1982).

[41] 47 U.S.C. 309(i) (1982).

[42] *Second Notice of Proposed Rule Making* in Gen. Docket No. 81-768, 91 FCC 2d 911, 924 (1982); *Secand Report and Order* in Gen. Docket No. 81-768, 93 FCC 2d 952, 976 (1983).

[43] *Second Report and Order* in Gen. Docket No. 81-768, *supra* n.45.

[44] *Id.* at n.35.

[45] We also reject Varecha's contention that *Anax Broadcasting, Inc.*, 87 FCC 2d 483 (1981), a transfer of control case, requires us to exempt all limited partnership interests from attribution. In *Anax*, the limited partners were restricted to a purely passive role in the business by virtue of the specific terms of the limited partnership agreement. *Id.* at 488. As a consequence, the mere fact that we found that a transfer of specific interests governed by a restrictive limited partnership agreement in *Anax* did not constitute a transfer of control for purposes of section 310(d) does not support the broad proposition that all limited partners are *de jure* incapable of exercising any material influence or control over partnership affairs for purposes of the diversity concerns underlying the multiple ownership rules. *See also Wometco Enterprises, Inc.*, FCC 85-30 (released February 6, 1985), *appeal docketed sub nom. Traylor v. FCC*, No. 85-1099 (D.C. Cir., filed February 15, 1985).

[46] "Petition for Reconsideration," filed by Michael Couzens, P.C. (June 4, 1984) at 10.

broadcast licenses from the Commission on the same basis as any other company. The sole effect of the attribution criteria adopted in this proceeding is that the interest of the "active" limited partner in the limited partnership is counted in the application of the multiple ownership rules.

32. Moreover, the trend in limited partnership law is neither to mandate nor restrict the powers accorded to limited partners. As we noted above, the modern trend, as reflected in the RULPA, is to give the partners flexibility in determining intra-partnership relations. Our decision to condition an exemption from attribution upon the adoption of appropriate restrictions on the activities of a limited partner is fully consistent with modern limited partnership law as long as these restrictions do not conflict with any requirements of the applicable limited partnership statute. Because the relevant state statutes permit the partners to agree to the restrictions which would permit exemption from attribution under our rules, the "inconsistency" cited by Couzens does not exist.

33. Finally, while retaining its position that limited partnership interests should be cognizable, Couzens suggests that we should ameliorate even what Couzens characterizes as the "harsh" result of automatically attributing all limited partnership interests by permitting an applicant to demonstrate that the "Articles of Limited Partnership" do not empower the limited partner to participate in the conduct of the business. We will not adopt this *ad hoc* waiver approach. Not only would it impose regulatory burdens on limited partners who in fact lack the ability to materially influence partnership affairs, but it would also require the Commission to make costly administrative determinations on specific requests filed by individual applicants. We find that the better approach is the one adopted herein in which we specify the criteria which would insulate a limited partner from active involvement in the business and grant an exemption from our attribution rules upon certification by the licensee that the limited partner is in compliance with these criteria.[47] It addresses Couzens' legitimate concern that influential limited partnership interests be attributed but does so in a manner which promotes administrative efficiency and avoids unnecessary regulation.

34. *Appropriate Standard for Assessing A Cognizable Interest.* Although we decline to establish a rule that presumptively attributes all limited partnership interests, we are also not altering our determination that some types of limited partnership interests should be cognizable. While many limited partners may not possess the ability to signficantly influence or control partnership affairs, all limited partners are not similiarly insulated.[48] No party in this proceeding has disputed that an exemption from attribution for limited partners that have the power to participate actively in the business would contravene our regulatory objectives nor has any party opposed our determination that a mechanism is needed to assure that the interests of such limited partners remain cognizable.[49] The major dispute among the parties is the proper standard to effectuate these uncontroverted goals. Accordingly, in this section, we shall address in turn the two standards established in our *Report* to determine whether or not a specific limited partnership interest is cognizable under our attribution rules: the "conformance to RULPA" standard and the "no material involvement" standard.

35. *"Conformance-to-RULPA" Standard.* Upon further reflection, we have determined that the threshold standard established in our *Report* exempting from attribution those limited partnerships which conform to the provisions of the RULPA is inappropriate. We note that both the petitioner, Couzens, and one of the parties opposing the petition, NAB, have suggested that we consider withdrawing our reliance upon the revised model act. There are three reasons why we find that this threshold standard should be eliminated.

36. First, it is unnecessary for us to have two disparate standards which both address the criteria used to determine which limited partnership interest should be exempted from attribution. As explained *infra*, we believe our requirement that all exempted limited partners refrain from any material involvement in their company's management and operations, particularly as clarified on reconsideration, is sufficient by itself to meet out objectives. The retention of the threshold standard interposes an unnecessary layer of complexity into our regulatory process, making the attribution rules unduly complicated and imposing unwarranted regulatory burdens. The elimination of this standard, therefore, will simplify our regulatory processes without harm to the objectives underlying our rules.

37. Second, we find that the provisions of the RULPA fail to provide the persons subject to the standard with adequate guidance. There has been no uniform interpretation of the statute and, moreover, the scope of permissive activities, in large part, is not contained in the statute at all but rather is determined by the terms of individual partnership agreements. In addition, the apparent inconsistency between RULPA and the "no material involvement" standard interjects ambiguity and confusion into the attribution process.

38. Third, we have determined that reliance on the provisions of the RULPA is inconsistent with the objectives underlying the attribution rules. Contrary to our initial finding, we now believe that the mere fact that a limited partnership conforms to the provisions of the RULPA does not provide meaningful assurance that the limited partner will lack the ability to significantly influence or control partnership affairs.

39. While the RULPA specifies that a limited partner can participate in any of the "safe harbor" activities enumerated in that model statute without being deemed to have taken part in the "control" of the business,[50] it is clear that exercise of many of these activities could involve the limited partner in the affairs of the partnership to a far greater

[47] *See* paras. 44–46, *infra*.

[48] Our experience in assessing the ownership structures of broadcast licensees reflects that the role of limited partners varies significantly in different broadcast entities. *Compare Decision* in BC Docket No. 79–286, 90 FCC 2d 583 (1982) (general partner has sole responsibility for all management functions) and *Anax Broadcasting Inc.*, 87 FCC 2d 483, 488 (1981) (limited partners required to maintain a purely passive role) *with Merrimack Valley Broadcasting*, 92 FCC 2d 506, 508, 615 (1982) (the two limited partners are full time sales manager and full time traffic sales manager, respectively) and *Greater Wichita Telecasting Inc.*, 90 FCC 2d 1046, 1052, *reconsid. denied*, 92 FCC 2d 780 (1982) (limited partner is in "vital" position as assistant station manager).

[49] While several parties, citing a statement in our *Report*, emphasize that the "typical" limited partner has no significant involvement in the management of the company (*Report*, 97 FCC 2d at 1022), we do not find this to be determinative. First, a tacit assumption underlying this statement is that certain "atypical" limited partners have significant management responsibilities and we find that a standard is necessary to separate these limited partners from those that are effectively isolated from participation in partnership affairs. Second, we anticipate that multiple owners, in their evaluation of different types of business organizations, will properly take into consideration the rules we adopt in this proceeding. If these persons perceive that there are specific advantages in establishing "atypical" limited partnerships due to the revision of the attribution rules adopted in this proceeding, we can expect the number of "active" limited partners to increase significantly.

[50] RULPA section 303(b).

degree than is appropriate for one who has been granted a total exemption from attribution on the basis of the "passive" nature of his or her equity holding. For example, under the "safe harbor" provisions, a limited partner could act as a manager of a broadcast station. He or she could also perform as a consultant to assess the appropriate programming format or to choose individual programs for the broadcast station. The safe harbor provisions permit a limited partner to "advise" the general partner on the type of programming he or she wants for the station or on any other matters relating to the business. If this "advice" is not adopted, the limited partner could participate in a decision to remove the general partner.[51] In fact, under the "safe harbor" provisions, a limited partner in certain instances could possess the preemptory power to remove a general partner [52] at any time and for any reason.

40. Moreover, the "safe harbor" provisions are merely examples of activities which the model act permits the limited partners to perform.[53] The statute expressly sanctions the performance of activities in addition to the "safe harbor" provisions and the judicial standards used in accessing the scope of these "additional" activities stem from a different policy rationale than those policies underlying the attribution rules.[54]

41. Furthermore, the model act, by its express terms, permits a limited partner to retain limited liability and to participate "in the control of the business" [55] as long as this participation "is not substantially the same as the exercise of the powers of a general partner" [56] and creditors have no actual knowledge of this control. The RULPA, therefore, makes distinctions between different degrees of "control." As long as creditors lack the requisite knowledge, the statute actually permits a limited partner to exercise a "little" control without giving up the benefits of limited liability.

42. In sum, while the performance of many of the "safe harbor" activities by a limited partner would be fully consistent with the RULPA, these activities would allow for the possibility of influence or control that would warrant attribution of the limited partner. The fact that the limited partner who exercised these powers would nonetheless be attributed under our "no material involvement" standard, only serves to illustrate that the retention of RULPA as a standard both unduly complicates our regulatory scheme and is unnecessary for the achievement of our regulatory objectives. We conclude that the continued use of the RULPA as a threshold criterion in attribution determinations for limited partnership interests is no longer advisable and we herein eliminate it.[57]

43. *"No Material Involvement" Standard.* In our *Report,* we determined that no limited partner relieved from attribution could be:

> Involved in any material respect in the management or operation of the broadcast, cable television, or newspaper entity concerned.[58]

Although Couzens erroneously disputes its existence [59], no party has questioned the propriety of this standard. In fact, the three parties substantively addressing this standard agree that it provides an appropriate mechanism to enable the Commission to verify that limited partners who are relieved from attribution will lack the ability to influence or control partnership affairs. We agree with this assessment and therefore affirm that a limited partner, to be exempt from attribution, must refrain from involvement in any material respect in the management or operation of the media activities.

44. Nonetheless, we believe it appropriate to provide additional guidance to limited partners as to what kind of insulation is sufficient to exempt a limited partnership interest from attribution. This will enable limited partners who wish to take advantage of our exclusion to include within their partnership agreement [60] the appropriate

---

[51] We disagree with Varecha's assertion that, because the transfer of a general partnership interest is subject to Commission approval under Section 310 of the Communications Act, the contingent power of a limited partner to remove a general partner is *per se* insufficient to constitute "control." *See* 47 U.S.C. 310(d) (1982). While not finding that prior Commission approval of the replacement of a general partner would be necessary for purposes of Section 310, a general partner is likely to follow the advice of a limited partner if he or she knows that the limited partner possesses the power of removal even if his or her replacement is subject to Commission approval. Therefore, the power of removal, even if it is a "contingent" right, potentially provides a limited partner with the ability to control, or at least to materially influence, partnership affairs. Moreover, the power of removal is merely one of a number of "safe harbor" provisions contained in the RULPA. The revised act permits limited partners to engage in other activities which provide them with the ability to control or materially influence the business.

[52] Section 303(b)(5)(v) of RULPA specifies that the limited partner does not participate in the control of the business by voting on the removal of a general partner and section 302 provides that the right to vote can be "on a per capita *or other* basis." RULPA sections 302, 303(b)(5)(v) [emphasis added]. If the partnership agreement specifies that the right to vote on the removal of a general partner is to be based on the percentage of equity contribution and if the limited partner contributed a majority of the capital, the power of the limited partner to remove the general partner would be absolute.

[53] *RULPA* at section 303(c).

[54] In evaluating activities beyond the scope of the "safe harbor" provisions, the courts have adopted either the "creditor reliance" standard or the "powers" standard. *See, generally,* M. Piece, "Limited Partner Control and Liability Under the Revised Uniform Limited Partnership Act", 32 Southwest L.J. 130 (1979). The sole purpose underlying the "creditor reliance" standard is to provide partners with discretion in determining the powers of limited partners so long as this discretion does not result in injury to third parties. This standard does not prevent limited partners from becoming intimately involved in all aspects of the business as long as third parties are not misled to their detriment. Because the "creditor reliance" test is unconcerned with the potential of the limited partner to materially influence or control the management or operations of the business, that policy diverges from the rationale underlying the attribution rules. *See, e.g., Frigidaire Sales Corporation v. Union Properties,* 14 Wash. App. 634, 544 P.2d 701 (1976), *aff'd,* 88 Wash. 2d 400, 562 P.2d 244 (1977).

The "powers" standard, which is the other criterion used in interpreting the "control" test, is also inadequate in assessing whether or not a particular interest should be subject to attribution under the media multiple ownership rules. Although this standard, unlike the "creditor reliance" standard, does evaluate the actions and powers of the limited partners, the line drawn by certain courts applying the "powers" test permit the holder of a limited partnership interest to possess the type of power over partnership affairs which we find inconsistent with an exemption from our attribution rules. For example, some of the cases applying this standard permit the limited partner to influence or control the operations of the business as long as the general partner possesses the authority to check or to countermand the actions of the limited partner. *See, e.g., Silvola v. Rowlett,* 129 Colo. 552, 272 P.2d 287 (1954).

[55] RULPA section 303(a).

[56] *Id.*

[57] In light of this holding, there is no need for us to consider Couzens' arguments that reliance on the provisions of the RULPA is an impermissible delegation of authority or that the standard is impractical or administratively burdensome.

[58] *Report,* 97 FCC 2d at 1023. *See* 47 CFR 73.3555, NOTE 2(f) (1984).

[59] The "no material involvement" standard is expressly embodied in the text of our *Report* (*Report,* 97 FCC 2d at 1023), in the recodification of the substantive attribution rules [47 CFR 73.3555 NOTE 2(f)(1984)] and in the revision of the regulations prescribing the reporting of attributable interests. 47 CFR 73.3615(a) (1984).

[60] As the drafters of the RULPA have indicated, "the certificate of limited partnership is confined principally to matters respecting the addition and withdrawal of partners and of capital, and other important issues are left to the partnership agreement." RULPA, Commissioner's Comment to section 101, 6 U.L.A. 182 (1983 Supp.). Consequently, we expect that the safeguards insulating an exempt limited partner typically will be contained in the partnership agreement. We are not precluding partners, however, from incorporating these safeguards in the certificate of limited partnership, if they so choose.

safeguards which, in turn, would permit a licensee to make the requisite certification. Not only will our guidelines provide greater certainty, but they will also lessen the need for the Commission to make costly *ad hoc* administrative determinations regarding the adequacy of specific unsulating mechanisms.

45. In establishing these standards, we reiterate that our intention is neither to restrict nor to prohibit, as a general matter, the types of business activities in which limited partners may engage. If a limited partner is willing to have his or her interest in the partnership attributed, we have no intention, by this order, of scrutinizing in any manner the activities of that partner. Consequently, we do not purport to prescribe either the kind or extent of involvement of an attributed limited partner in partnership affairs.

46. Moreover, depending upon the extent, type and location of their other media interests, we expect that certain limited partners would choose to incorporate within their partnership agreement the insulating provisions necessary to qualify for an exemption from attribution, whereas other limited partners would elect to acquire or retain the capacity to influence the partnership notwithstanding the application of our attribution rules. Indeed, it is likely that different limited partners, within the same company, may reach different conclusions regarding the need for an exemption from attribution. As a consequence, compliance with the requirements described below is restricted in scope to those limited partners who wish to qualify for an attribution exemption. We also wish to make clear that these guidelines are not incorporated into our rules and serve only to indicate the type of insulation the Commission will consider in evaluating challenges to the exclusion.

47. We believe that it is appropriate to provide the partners of a limited partnership with flexibility in the manner in which they draft their limited partnership agreement. For example; the partners, by establishing separate classes of limited partners or prescribing limitations applicable only to specified limited partners, could formulate an agreement in which the requisite insulating provisions were limited in scope to those partners desiring an exemption from attribution. In such a situation, the licensee would be able to make the certification necessary to exempt the specific partners who meet our "no material involvement" standard notwithstanding the fact that there may be other limited partners in the same partnership who do not qualify for an exemption. Limited partners who are not adequately insulated would simply be reported by the licensee as holding a cognizable ownership interest.

48. To be relieved from attribution, the limited partnership agreement should specify that the exempt limited partner [61] cannot act as an employee of the limited partnership if his or her functions, directly or indirectly, relate to the media enterprises of the company.[62] For example, the interest of a limited partner who acted as a station manager would be attributed. We will also require the limited partnership agreement to bar an exempt limited partner from serving, in any material capacity, as an independent contractor or agent with respect to the partnership's media enterprises. By way of illustration, an exempt limited partner could not hold a management contract for the station or act as an agent for the station in procuring programming. Moreover, the partnership agreement should restrict exempt limited partners from communicating with the licensee or the general partner on matters pertaining to the day-to-day operations of its business.[63]

49. The partnership agreement should also contain several provisions relating to the voting power of the limited partner. The partnership agreement may permit the exempt limited partners to vote on the admission of additional general partners, but the agreement should empower the general partner to veto any such admission.[64] In addition, the partnership agreement should either prohibit the exempt limited partner from voting on the removal of a general partner or limit this right to situations where the general partner is subject to bankruptcy proceedings, as described in sections 402 (4)–(5) of the RULPA [65] or is adjudicated incompetent by a court of competent jurisdiction.

50. Moreover, with the exception of permitting a limited partner to make loans to, or act as a surety for the business, the agreement should also bar the exempt limited partner from performing any services to the limited partnership materially relating to its media activities.[66] In addition, the agreement should also state, in express terms, that the exempt limited partner is prohibited from becoming actively involved in the management or operation of the media businesses of the partnership.[67] Finally, in determining the appropriate attribution of interests to a limited partner, we will scrutinize the close familial relationships of that partner. In this regard, while we have held that a "familial/business relationship, *standing alone*, is insufficient to create a presumption of common control for purposes of applying the mutiple ownership rules," [68] we have evaluated the facts and circumstances in specific cases to determine whether or not it was appropriate to attribute interests on the basis of a close familial relationship.[69] We will continue to follow this approach in dealing with attribution based on familial relationships generally. With respect to the specific situation in which a marital relationship is involved, we have previously determined that the interest held by one spouse are to be presumptively attributed to the other.[70]

---

[61] If the limited partner is not a natural person, these restrictions apply to the constituent parts of the limited partner, *e.g.*, its directors, officers, partners, *etc.* Where applicable, in vertical chain situations, our multipiler will be used. *See* 47 CFR 73.3555, NOTE 2(d) (1984).

[62] While a limited partner can also be a general partner [*see* RULPA § 303(a)], the interest of such a person in the business is attributable by virtue of the general partnership interest.

[63] This requirement is generally comparable to the requirement that we imposed upon persons taking advantage of our "passive investor" benchmark. In our *Report*, we imposed the requirement that passive investors "refrain[] from contact or communication with the licensee on any matters pertaining to the operation of its stations. . . ." *Report*, 97 FCC at 1013. Compliance with the provision we adopt here would restrict a limited partner from voting on any matters relating to the day-to-day operations of the business.

[64] The RULPA specifies that the written consent of each partner is necessary for the admission of new general partners into the business. RULPA § 401. Therefore, under RULPA, the power to veto the admission of new general partners is given to both the limited partners and the general partners.

[65] RULPA § 402(4)(5). This restriction is analogous to our determination concerning trusts. In our *Report*, we stated that a person who "holds the unrestricted power to replace a trustee . . . [will] have the assets of that trust attributed to him, unless such power is contingent upon some event beyond that person's control." *Report*, 97 FCC 2d at 1024.

[66] The RULPA, but not the ULPA, permits the contribution of the limited partner, in whole or in part, to be in the form of services. *See* RULPA sections 101(2), 201 (5)–(6); ULPA § 4.

[67] If a limited partner relieved from attribution subsequently acts in a manner which contravenes the insulating provisions of the partnership agreement or the certificate of limited partnerships, or if that partner subsequently becomes materially involved in the management or operations of the partnership, the Commission will attribute the limited partnership interest of the nonconforming limited partner.

[68] *Alabama Radio Corporation and Deep South Broadcasting Co.*, 69 FCC 2d 1256, 1263 n.9 (1978) (emphasis in original). *See* KTRB Broadcasting Co., 46 FCC 2d 605, 607 (1974) and *Alexander Klein*, 86 FCC 2d 423, 428 (1981).

[69] *See, e.g., East Arkansas Broadcasters, Inc.*, FCC 60–1283, 20 RR 934 (1960).

[70] *Alexander Klein*, 86 FCC 2d at 426 (1981); *Lady Sarah McKinney Smith*, 59 FCC 2d 398, 401 (1976); *Waters Broadcasting Corp.*, 88 FCC 2d 1218–19.

Continued

Notwithstanding the nearly conclusive statute the Commission has accorded this presumption in the past,[71] we will henceforth permit this presumption to be rebutted, on a case-by-case basis, in appropriate circumstances. We find that the inclusion of the above restrictions in the limited partnership agreement, coupled with proper consideration of close familial relationships, provide sufficient insulation to permit the licensee or cable television system to certify that the limited partner could not be involved in any material respect in the management or operation of the business.[72]

III. Clarification and Revision on Our Own Motion

51. On our own motion, we raise certain matters addressed in our *Report.* Specifically, we clarify matters concerning the single majority stockholder exception and revise certain requirements governing the reporting of ownership interests.[73] Additionally, we clarify the applicability of the divestiture requirements of § 76.501 of our rules in situations where interests grandfather under the cable cross-ownershp provisions pass to an heir or legatee.

52. *Aggregation Policy.* Under our aggregation policy a person with stock in several separate acounts has a cognizable interest if the sum of these accounts is equal to or exceeds the benchmark standard, even if each account, when considered in isolation, is below the benchmark.[74] The reason for this policy is to prevent persons from "evading our ownership constraint by breaking down their interests into non-cognizable discrete investments." [75] While it is clear that we aggregate separate accounts to determine whether or not a person has an attributable interest, in our *Report* it is not clear whether we aggregate separate accounts to determine whether a single person owns majority voting stock in the corporation, thereby exempting from attribution all other corporate shareholders, regardless of the size of their stock interests.

53. As long as the single majority stockholder interest is reflected on the face of the ownership report,[76] discrete interests will be aggregated in determining the applicability of the "single majority stockholder" exception.[77] The rationale underlying the exception is that the minority corporate stockholders, "even acting collaboratively, would be unable to direct the affairs or activities of the licensee on the basis of their shareholdings." [78] The inability of the minority corporate shareholders to direct the affairs of the corporation is not dependent upon whether the single majority shareholder possesses majority interest by virtue of a single majority account or by virtue of two or more stock accounts which, in the aggregate, exceed 50 percent of the voting shares of the corporation. Moreover, fundamental fairness dictates that if we aggregate discrete interests in determining whether a person is subject to attribution, we should similarly aggregate discrete interests in determining whether or not a person is exempt from attribution. Therefore, for both attribution and reporting purposes, we will aggregate discrete interests in application of the "single majority stockholder" rule.

54. Because of the potential in limited instances for the multiplier and aggregation rules to result in more than one single majority stockholder, modification of the aggregation rule in certain situations is necessary.[79] Accordingly, only those *de jure* control interests in intermediate corporations and direct interests in licensees will be aggregated in determining whether a party has standing as a single majority stockholder.[80]

55. In addition, clarification is needed as to the manner in which we implement our aggregation policy in a situation where the same person owns both "passive investor" and general

rev'd on other grounds, 88 FCC 2d 1204, 1206 (1981), *set aside,* 91 FCC 2d 1260 (1982), *aff'd sub nom. West Michigan Broadcasting Co. v. Fcc,* 735 F.2d 601 (D.C. Cir. 1984), *cert. denied,* Case No. 84-7000 (March 4, 1985).

[71] *Id.*

[72] There are a number of powers which a limited partner may exercise consistent with these guidelines. A limited partner exempt from the attribution rules can exercise all of the powers mandated by either of the uniform acts. For example, he or she may determine the contents of the certificate of limited partnerships as well as amendments to that document. Subject to the veto of the general partner, the exempt limited partner can vote on the admission of new partners. He or she can petition for a judicial dissolution upon the conditions specified by state law or file derivative suits on behalf of the partnership.

In addition to these activities, there are other powers which a limited partner can possess and still qualify for an exemption from attribution. An exempt limited partner may vote on the removal of a partner who is adjudicated an incompetent by a court of competent jurisdiction or is subject to bankruptcy proceedings as described in section 402 (4)-(5) of the RULPA. RULPA section 402 (4)-(5). The exempt limited partner may make loans to, or act as surety for, the business. He or she may vote on the sale, exchange, lease, mortgage, pledge or other transfer of all or substantially all of the assets of the business other than in the ordinary course of the business. In addition, the exempt limited partner can vote on a change in the nature of the business or petition the Commission for authority to effectuate an assignment or transfer of control of the company. An exempt limited partner can be a customer of the partnership. Moreover, the exempt limited partner, *inter alia,* can also provide services to the limited partnership as long as those activities do not materially relate to the media activities of the partnership.

[73] There is also a matter concerning ownership reports which does not require revision but warrants clarification. In our revisions to § 73.3615, we specified that licensees owning multiple stations with different anniversary dates could file a single report on the date of their choice as long as the reports are not more than one year apart. 47 CFR 73.3615(a) (1984). If the licensee selects the anniversary date of a station and subsequently sells that station, it can select the anniversary date of another station as the date for the filing of its ownership report so long as its reports are not filed more than one year apart.

[74] *See Report,* 97 FCC 2d at 1026.

[75] *Notice, supra* n.12 at para. 36.

[76] Licensees are required to report all interests which exceed the benchmark standard. In addition, they are required to report discrete interests of a person below the benchmark but which aggregated exceed the benchmark in situations where those interests are known to the licensee. *Report,* 97 FCC 2d at 1028-29. Therefore, if the discrete interests constituting a majority share are either at or above the benchmark or below the benchmark but known to the licensee, they are subject to the reporting requirements and a minority shareholder can take advantage of the automatic "single majority stockholder" exclusion. If the discrete interests constituting the majority stockholding interest are below the benchmark standard and unknown to the licensee, the minority shareholder cannot take advantage of the "single majority" exclusion. In such a situation, however, the minority shareholder can seek to rebut the presumption that the interest should be deemed cognizable. *See id.* at 1010-11.

[77] Under this rule, if an individual owns 100 percent interest in corporation A, which in turn owns 35 percent stock of a licensee corporation and the same individual owns 100 percent interest in corporation B, which in turn owns 20 percent stock of the same station, that individual will be deemed to be a "single majority stockholder" in the broadcast station and all other stockholders of the licensee corporation will be relieved from attribution.

[78] *Report,* 97 FCC 2d at 1008-09.

[79] For example, assume X has a 60% interest in Corporation A which in turn has a 40% interest in a licensee. X also has a 49% interest in Corporation B which in turn has a 49% interest in the licensee. Under the typical application of the multiplier and aggregation rules, X would be attributed with a 64% interest in the licensee [Corporation A's 40% interest in the licensee added to the product of Corporation B's 49% interest in the licensee and X's 49% interest in Corporation B (49% × 49%=24%)]. Assume, however, that Z owns the remaining 11% of the licensee directly and the remaining 51% interest in Corporation B. Under these circumstances Z would be attributed with Corporation B's 49% and his own 11% for a total ownership interest in the licensee of 60%. Unless the aggregation procedures are modified, both X and Z could be considered a single majority stockholder.

[80] In the example described in footnote 79 above, Z's *de jure* control of Corporation B would result in the attribution to Z alone of Corporation B's 49% interest in the licensee which, when added to Z's 11% direct interest, would render Z the single majority stockholder. X's 49% interest in Corporation B would be disregarded for purposes of determining the single majority stockholder.

investment interests.[81] In this type of situation a bipartite standard will be applied in order to ascertain whether or not the interests are attributable. First, the "passive investor" and general benchmark interests will be separately aggregated. If the sum of either group is equal to or exceeds the benchmark established in our *Report* for that type of investment, the holder of the interests has an investment which is cognizable under the attribution rules. Second, if the two sums individually are below the relevant benchmarks, these two sums will be added and the interests will be attributed if the total is equal to or exceeds the higher "passive investor" benchmark of ten percent of the stock of the corporation.[82] Moreover, the licensee will be required to report any such subbenchmark interests which, if aggregated in the manner prescribed above, exceed the attribution benchmarks where those interests are known to the licensee.

56. *Single Majority Stockholder Exemption.* The "single majority stockholder" exception unlike other attribution exemptions, is based upon the quantity of stock held by a third person rather than upon the extent or nature of the holder's own stock interests. As a consequence, a minority interest in excess of the otherwise applicable attribution benchmark that qualifies for an exemption from attribution by virtue of the single majority stockholder exception may become cognizable if the majority stockholder effectuates a transfer or assignment which results in no single individual or entity holding more than fifty percent of the voting stock. The availability of the single majority stockholder exemption, therefore, may be eliminated by actions of persons other than the holder of that exemption.

57. Because the imposition of unnecessary restraints upon the alienability of stock interests disserves the public interest, we will not consider the existence of the single majority stockholder exemption in evaluating assignments or transfers requested by the majority stockholder. As a consequence, we will not prevent or delay a single majority stockholder from assigning or transferring stock merely because the interest of a minority stockholder may become cognizable as a result of such an assignment or transfer.

58. Our concern with unreasonable restraints upon the alienability of stock interests, however, does not imply that we will fail in our obligation to vigorously enforce our media multiple ownership rules. A minority stockholder who relies upon the single majority stockholder exception has an affirmative obligation to assure that the interests which he or she possesses are consistent with the limitations embodied in our ownership rules. Specifically, a minority stockholder has the responsibility to take any corrective action necessary in the event that the elimination of the availability of the single majority stockholder exception places him or her in violation of the media multiple ownership rules. For example, he or she could effectuate a partial assignment or transfer of the non-conforming ownership interests or place the interest in a trust which qualifies for an exemption from attribution. Given that the loss of a previously available single majority shareholder exemption may be relatively precipitous and beyond the control of the minority stockholder, we will afford a transition period of up to one year in which the affected minority stockholder may cure any resulting violation.

59. *Ownership Reports.* On our own motion, we make four types of revisions to the scope of the data which we require to be submitted in the ownership reports.[83] Two types of changes are corrections of inadvertent errors made in the revisions of the text of § 73.3615 of our rules. The other two changes concern the persons required to file ownership reports.

60. First, our *Report* specifies that changes will be made to the reporting requirements "to correspond to the new attribution standards and methods adopted herein."[84] Yet the language of our rule concerning the reporting requirements in vertical ownership situations does not completely effectuate this intent.[85] We therefore revise § 73.3615 of our rules to conform the reporting requirements to the substantive attribution rules.

---

[81] Persons holding interests qualifying for "passive investor" status are subject to the 10 percent benchmark with respect to that interest whether or not that person is included within the definition of a "passive investor." For example, an individual holding the majority stock of an insurance company which in turn owns 6 percent stock in a broadcast station does not have a cognizable interest in the station. While the individual may not come within the strict definition of "passive investor," his or her indirect ownership interest in the station is wholly the result of the ownership of an entity which qualifies for "passive investor" treatment. As a consequence, the individual is subject to the 10 percent "passive investor" benchmark. A contrary rule would produce the anomalous result of having the owner of a more remote interest being subject to a more rigorous standard than the owner of a direct interest.

[82] For example, assume that an individual owns a majority of stock in the following four companies: (1) An insurance company, which in turn owns 4 percent of the stock of the licensee corporation; (2) an investment company, which in turn owns 2 percent of the stock the licensee corporation; (3) Corporation A, which in turn owns 2 percent of the stock of the licensee corporation and (4) Corporation B, which in turn owns 1 percent of the stock of the licensee corporation. To determine whether or not this individual has an attributable holding, one first adds the 4 percent holding of the insurance company and the 2 percent holding of the investment company and ascertains that the 6 percent total is below the 10 percent "passive investor" benchmark. Similarly, the 2 percent stock holding of Corporation A is added to the 1 percent stock holding of Corporation B; the 3 percent total is below the 5 percent benchmark. Under the second part of the standard, the 6 percent "passive investment" total is added to the 3 percent "non-passive investment" total to ascertain that the sum of these figures is less than 10 percent. The owner of these holdings, therefore, is not deemed to have an attributable interest in the licensee. If this person, however, subsequently acquires majority stock interest in a bank, the trust department of which in turn owns 3 percent of the stock of the licensee, the holdings of this person would be attributable because the total of the 9 percent sum of the "passive investment" stock and the 3 percent general investment stock exceeds 10 percent; the interests are subject to attribution even though the separate "passive investment" and "general investment" sums do not exceed their respective benchmarks.

[83] It is proper for us to make these revisions on our own motion. We note that the *Notice* specified that the type of information that we require licensees to submit in an ownership report is within the scope of this proceeding. *See, e.g., Notice, supra* n.12 at para. 40. In addition, both the Administrative Procedure Act and our own regulations exempt rules of practice and procedure from the notice and comment rulemaking requirements. 5 U.S.C. 553(b)(A) (1982); 47 CFR 1.412(a)(5) (1984). In *Revision of Application for Construction Permit for Commercial Broadcast Station*, FCC 81-278 (released October 19, 1981), 50 RR 2d 381 (1981), we held that revisions to the information required in the application for a construction permit, Form 301, was exempt from the notice of comment rulemaking requirements of the Administrative Procedure Act. Section 73.3615, which prescribes the scope and material to be included in the ownership report, Form 323, is such a rule. As we stated in revising Form 301 on our own motion, "we are changing neither substantive law or policy nor any underlying Commission requirement pertaining to ultimate public interest finding. Rather, we are revising the form and manner in which this information is submitted." *Id.* at 381.

[84] *Report*, 97 FCC 2d at 1028.

[85] The language of the revised rules adopted in our *Report* does not incorporate an exception to the use of a "multiplier" in situations where a link in the ownership chain represents a percentage interest which exceeds 50 percent; require the reporting of corporate shareholders, officers and directors who have an attributable interest through means of a corporate partner at the second link of the vertical ownership chain; or require reporting of attributable interests above the second link. In the revisions to Section 73.3615, we also clarify that the "multiplier" is applicable only to corporate ownership interests rather than to all types of interests in a vertical ownership chain held by corporations. For example, the "multiplier" does not apply to any ownership interests in a partnership whether or not that interest is held by a corporation.

61. Second, we are deleting the term "partner" which was inadvertently added to § 73.3615(a)(3)(i) of our rules as revised in our *Report*. By its terms, § 73.3615(a)(3)(i) elicits information on corporations, associations, trusts, estates and receiverships. Since the preceding provision, § 73.3615(a)(2), specifically deals with partnerships, we find it unnecessary to request information on partners in § 73.3615(a)(3)(i).[86]

62. Third, upon further reflection, we have decided to revise the scope of the exemption granted to "50/50 partnerships" from the requirement that ownership reports be filed annually.[87] While we continue to believe that it is appropriate to exempt many "50/50 partnerships," we will require the filing of annual reports for such partnerships which do not consist entirely of natural persons. This minor modification is necessary in order to assure that we are made aware of changes to attributable interests in the partners in situations where assignment or transfer applications are not required. For example, annual reports would provide information on changes in the officers or directors of a corporate partner.

63. In addition, we have determined to extend this reporting exemption to encompass all partnerships consisting entirely of natural persons. Our rules require prior Commission approval of an assignment or transfer of any partnership interest.[88] Because we will obtain adequate ownership information on natural person partnerships in the context of the assignment and transfer process, we believe that we can safely eliminate the annual reporting requirement as it applies to all partnerships composed entirely of natural persons.

64. Fourth, upon further reflection, we have decided to revise in one respect the reporting requirements imposed upon permittees. Our regulations currently require a permittee to file an initial Ownership Report shortly after the grant of its application for a construction permit.[89] Traditionally, we had also required that a permittee both file an ownership report on an annual basis and within thirty days inform the Commission of any ownership change affecting the information contained in that report by means of a supplemental ownership report. In our *Report*, we determined that the annual reporting and supplemental filing requirements were unnecessary to achieve our regulatory objectives and, as a consequence, eliminated these reporting requirements. While we remain convinced on reconsideration that the reduction in the reporting burdens on permittees is warranted, there is one modification which in our view should be made to the revised reporting requirements now applicable to permittees. In light of the substantial effort necessary for the construction of broadcast facilities, it is likely that significant time will elapse between the filing of the initial Ownership Report and the commencement of commercial broadcasting. Consequently, we believe that supplemental information should be filed when the permittee applies for a broadcast license. We believe that the slight administrative burden associated with the filing of a single updated report or the certification of the accuracy of the existing Report is clearly outweighed by our increased ability to enforce the media multiple ownership rules. Therefore, we will require a permittee, at the time at which it applies for a station license, to file an updated Ownership Report or to certify that the data contained in its current Ownership Report are unchanged.

65. *Divestiture of Cable Interests Transferred to Heirs or Legatees.* Finally, as a ministerial matter, we are taking the opportunity presented by our amendment of the attribution notes to § 76.501 of the rules to add a note to that section clarifying another matter. The added note makes explicit our position that cable interests grandfathered under the cable cross-ownership provisions need not be divested when those interests are transferred to an heir or legatee, whether by will or by intestacy, provided that the degree or extent of cross-ownership would not be increased by such transfer. The broadcast multiple ownership rules have long contained a note that specifically provides for such a divestiture exception,[90] and nothing suggests that the result would or should be different where cable interests are involved. Our action here serves simply to memorialize our view in this regard and to thereby remove any uncertainty which might exist on this issue.

66. As prescribed by the Regulatory Flexibility Act, [91] we have prepared a final regulatory flexibility analysis ("FRFA") which outlines the effect of the substantive rules adopted in this *Memorandum Opinion and Order* on small entities. The FRFA is contained in Appendix D.

67. The requirements contained in this *Memorandum Opinion and Order* have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose new or modified requirements or burden on the public. Implementation of any new or modified requirement or burden will be subject to approval by the Office of Management and Budget as prescribed by the Act.

68. Accordingly, it is ordered, that Parts 73 and 76 of the Commission's Rules and Regulations are amended effective July 31, 1985, as set forth in the attached Appendices A, B, and C.

69. It is further ordered, that the "Petition for Reconsideration in Part" filed by the American Council of Life Insurance is granted to the extent described herein and is otherwise denied.

70. It is further ordered, that the "Petition for Reconsideration" filed by Michael Couzens, P.C., is granted to the extent described herein and is otherwise denied.

71. It is further ordered, that the Secretary shall cause this *Memorandum Opinion and Order* to be printed in the Federal Communications Commission Reports.

72. Authority for the actions taken herein is contained in Sections 4(i), 4(j), 303 and 405 of the Communications Act of 1934, as amended.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

PART 73—[AMENDED]

47 CFR Part 73 is amended as follows:

The authority citation for part 73 continues to read:

Authority: Secs. 4, 303, 48 Stat., as amended, 1066, 1082; (47 U.S.C. 154, 303).

2. 47 CFR 73.3555 **Note 2** is amended by revising paragraph (g) and by adding paragraph (i) to read as follows:

§ 73.3555 Multiple ownership.

* * * * *

Note 2: * * *

* * * * *

(g)(1) A limited partnership interest shall be attributed to a limited partner unless that partner is not materially involved, directly or indirectly in the management or operation of the media-related activities of the partnership and the licensee or system so certifies.

(2) In order for a licensee or system to make the certification set forth in paragraph (a)(1) of this section, it must verify that the partnership agreement or certificate of

---

[86] 47 CFR 73.3615(a)(3)(i) (1984).

[87] *Report*, 97 FCC 2d at 1032.

[88] *See* 47 CFR 73.3540(a), (f)(6) (1984).

[89] 47 CFR 73.3615(b) (1984).

[90] *See* § 73.3555, Note 4 (formerly §§ 73.35, Note 8; 73.240, Note 8 and 73.636, Note 8).

[91] *See* 5 U.S.C. § 601 *et seq.* (1982).

limited partnership, with respect to the particular limited partner exempt from attribution, establishes that the exempt limited partner has no material involvement, directly or indirectly, in the management or operation of the media activities of the partnership. The criteria which would assure adequate insulation for purposes of this certification are described in the *Memorandum Opinion and Order* in MM Docket No. 83-46, FCC 85-252 (released June 24, 1985). Irrespective of the terms of the certificate of limited partnership or partnership agreement, however, no such certification shall be made if the individual or entity making the certification has actual knowledge of any material involvement of the limited partners in the management or operation of the media-related businesses of the partnership.

* * * * *

(i) Discrete ownership interests will be aggregated in determining whether or not an interest is cognizable under this section. An individual or entity will be deemed to have a cognizable investment if:

(1) The sum of the interests held by or through "passive investors" is equal to or exceeds 10 percent; or

(2) the sum of the interests other than those held by or through "passive investors" is equal to or exceeds 5 percent; or

(3) the sum of the interests computed under paragraph (i)(1) of this section plus the sum of the interests computed under paragraph (i)(2) of this section is equal to or exceeds 10 percent.

* * * * *

Appendix B

47 CFR Part 73 is amended as follows:

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

Authority: Secs. 4, 303, 48 Stat., as amended, 1066, 1082; (47 U.S.C. 154, 303).

2. 47 CFR 73.3615 is amended by revising the introductory text of paragraph (a), (a)(1), the introductory text of (a)(2), the introductory text of (a)(3), (a)(3)(i), (a)(3)(iv)(B), and (b) to read as follows:

§ 73.3615 Ownership reports.

(a) Each licensee of a commercial AM, FM, or TV broadcast station shall file an Ownership Report on FCC Form 323 once a year, on the anniversary of the date that its renewal application is required to be filed. Licensees owning multiple stations with different anniversary dates need file only one Report per year on the anniversary of their choice, provided that their Reports are not more than one year apart. A licensee with a current and unamended Report on file at the Commission may certify that it has reviewed its current Report and that it is accurate, in lieu of filing a new Report. Ownership Reports shall provide the following information as of a date not more than 60 days prior to the filing of the Report:

(1) In the case of an individual, the name of such individual;

(2) In the case of a partnership, the name of each partner and the interest of each partner. Except as specifically noted below, the names of limited partners shall be reported. A limited partner need not be reported, regardless of the extent of its ownership, if the limted partner is not materially involved, directly or indirectly, in the management or operation of the licensee and the licensee so certifies.

* * * * *

(3) In the case of a corporation, association, trust, estate or receivership, the data applicable to each:

(i)(A) The name, residence, citizenship, and stockholding of every officer, director, trustee, executor, administrator, receiver and member of an association, and any stockholder which holds stock accounting for 5 percent or more of the votes of the corporation, except that an investment company, insurance company, or bank trust department need be reported only if it holds stock amounting to 10 percent or more of the votes, provided that the licensee certifies that such entity has made no attempt to influence, directly or indirectly, the management or operation of the licensee, and that there is no representation on the licensee's board or among its officers by any person professionally or otherwise associated with the entity.

(B) A licensee shall report any separate interests known to the licensee to be held ultimately by the same individual or entity, whether those interests are held in custodial accounts, by individual holding corporations or otherwise, if, when aggregated:

(*1*) The sum of all interests except those held by or through "passive investors" is equal to or exceeds 5 percent; or

(*2*) The sum of all interests held by or through "passive investors" is equal to or exceeds 10 percent; or

(*3*) The sum of the interests computed under paragraph (a)(3)(i)(B)(*1*) of this section plus the sum of the interests computed under paragraph (a)(3)(i)(B)(*2*) of this section is equal to or exceeds 10 percent.

(C) If the majority of the voting stock of a corporate licensee is held by a single individual or entity, no other stockholding need be reported for that licensee;

* * * * *

(iv) * * *

(B) Where X is not a natural person and has attributable ownership interest in the licensee under § 73.3555 of the rules, regardless of its position in the vertical ownership chain, an Ownership Report shall be filed for X which, except as specifically noted below, must contain the same information as required of a licensee. If X has a voting stockholder interest in the licensee, only those voting interests of X that are cognizable after application of the "multiplier" described in Note 2(d) of § 73.3555 of the rules, if applicable, shall be reported. If X is a corporation, whether or not its interest in the licensee is by virtue of its ownership of voting stock, the officers and directors shall be reported. With respect to those officers and directors whose duties and responsibilities are wholly unrelated to the licensee, and who wish to be relieved of attribution in the licensee, the name, title and duties of these officers and directors, with statements properly documenting that their duties do not involve the licensee, shall be reported.

* * * * *

(b) Except as specifically noted below, each permittee of a commercial AM, FM or TV broadcast station shall file an Ownership Report on FCC Form 323 (1) within 30 days of the date of grant by the FCC of an application for original construction permit and (2) on the date that it applies for a station license. The Ownership Report of the permittee shall give the information required by the applicable portions of paragraph (a) of this section. A permittee with a current and unamended Report on file at the Commission may certify that it has reviewed its current Report and it is accurate, in lieu of filing a new Report.

* * * * *

Appendix C

47 CFR Part 76 is amended as follows:

1. The authority citation for Part 76 continues to read:

Authority: Secs. 7, 303, 48 Stat., as amended, 1066, 1082; (47 U.S.C. 154, 303).

2. 47 CFR 76.501(a) **Note 2** is amended by revising paragraph (g) and by adding new paragraph (i) as follows:

§ 76.501 Cross-ownership.

* * * * *

(a) * * *

Note 2: * * *

* * * * *

(g)(1) A limited partnership interest shall be attributed to a limited partner unless that partner is not materially involved, directly or indirectly, in the management or operation of the media-related activities of the partnership and the licensee or system so certifies.

(2) In order for a licensee or system to make the certification set forth in paragraph (g)(1) of this section, it must verify that the partnership agreement or certificate of limited partnership, with respect to the particular limited partner exempt from attribution, establishes that the exempt limited partner has no material involvement, directly or indirectly, in the management or operation of the media activities of the partnership. The criteria which would assure adequate insulation for purposes of this certification are described in the *Memorandum Opinion and Order* in MM Docket No. 83-46, FCC 85-252 (released June 24, 1985). Irrespective of the terms of the certificate of limited partnership or partnership agreement, however, no such certification shall be made if the individual or entity making the certification has actual knowledge of any material involvement of the limited partners in the management or operation of the media-related businesses of the partnership.

* * * * *

(i) Discrete ownership interests will be aggregated in determining whether or not an interest is cognizable under this section. An individual or entity will be deemed to have a cognizable investment if:

(1) The sum of the interests held by or through "passive investors" is equal to or exceeds 10 percent; or

(2) The sum of the interests other than those held by or through "passive investors" is equal to or exceeds 5 percent; or

(3) The sum of the interests computed under paragraph (i)(1) of this section plus the sum of the interests computed under paragraph (i)(2) of this section is equal to or exceeds 10 percent.

* * * * *

3. 47 CFR 76.501(a) is amended by adding a new **Note 4** as follows:

§ 76.501 Cross-ownership.

* * * * *

(a) * * *

Note 4: Paragraph (a)(2) of this section will not be applied so as to require the divestiture of ownership interests proscribed herein solely because of the transfer of such interests to heirs or legatees by will or intestacy, provided that the degree or extent of the proscribed cross-ownership is not increased by such transfer.

Appendix D

Final Regulatory Flexibility Analysis[1]

1. *Need for and Objective of the Rule.* The reasons that the Commission determined to revise the standards by which it assesses whether or not to attribute limited partnership interests were to eliminate ambiguities and apparent inconsistencies in the present attribution standards, to simplify the regulatory structure relating to attribution and to assure that the interests of limited partners which do in fact possess the ability to materially influence business affairs are taken into account in the application of the media multiple ownership rules. Small entities benefit from the clarification and simplification of the attribution standards relating to limited partnership interests.

2. *Issues Raised in Response to the Initial Regulatory Flexibility Analysis.* No party to this proceeding raised any issue specifically in response to either the Initial Regulatory Flexibility Analysis contained in the *Notice of Proposed Rulemaking* or the Final Regulatory Flexibility Analysis contained in the *Report and Order.*

3. *Significant Alternatives Considered and Rejected.* The Commission considered the proposal to presumptively attribute all limited partnership interests. Recognizing, however, that many limited partners lack the ability to materially influence the management or operations of the company in which they have invested, the Commission determined that this approach would impose unnecessary costs both upon limited partners and the Commission's processes.

The Commission rejected the notion that it would retain the threshold standard that exempts limited partnership interests which, *inter alia,* conform to the provisions of the Revised Uniform Limited Partnership Act of 1976 ("RULPA"). Because the *Report and Order* requires that a person seeking an exemption from attribution for a limited partnership interest to refrain from any material involvement in the management or operations of the business, the Commission found that retention of the "conformance to RULPA" standard was unnecessary. It also determined that the use of two disparate standards for assessing when a limited partnership interest is exempt from attribution tends to engender confusion and uncertainty. It found that the "conformance to RULPA" standard failed to provide a clear framework by which persons holding limited partnership interests could readily ascertain whether or not their interests were cognizable and that the activities permitted by this standard were in fact inconsistent with the policies underlying the attribution standards.

4. *Public Dissemination of this Document.* The attached *Memorandum Opinion and Order,* which includes this Final Regulatory Flexibility Analysis, is publicly available. This document can be obtained at the Federal Communications Commission, Office of Public Affairs, Room 202, 1919 M St. NW., Washington, D.C. 20554.

[1] Section 604 of the Regulatory Flexibility Act, *inter alia,* requires an agency to prepare a final regulatory flexibility analysis in instances in which it is required to provide notice of a rule change and in fact promulgates a final rule. 5 U.S.C. 604(a) (1982). *See* 5 U.S.C. 553(b) (1982). The rule changes concerning the manner in which the Commission attributes limited partnership interests, but not the revisions to the data which are required to be submitted in an Ownership Report, are within the scope of section 604(a). *See* n.83, *supra.*

[FR Doc. 85-15735 Filed 7-2-85; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 81-11; Notice 13]

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment

Correction

In FR Doc. 85-12357 beginning on page 21052 in the issue of Wednesday, May 22, 1985, make the following corrections:

1. On page 21056, in the first column, in § 571.108 the third and fourth lines from the bottom should read:

S4.1.1.36 * * *

(a) * * *

2. Also on page 21056, in the third column, the Standard number at the beginning of the next to last line should read "S4.1.1.37".

BILLING CODE 1505-01-M

Proposed Rules

Federal Register
Vol. 50, No. 128
Wednesday, July 3, 1985

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.

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 561

[FAP OH5275, 3H5378/P369; PH-FRL 2859-5]

Thiodicarb; Proposed Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes to establish a feed additive regulation to permit thiodicarb and its metabolite in or on the commodities cottonseed hulls and soybean hulls. The proposed regulation to establish the maximum permissible level for residues of this insecticide in or on these commodities was requested by Union Carbide Agricultural Products Co., Inc.

DATE: Comments, identified by the document control numbers [FAP OH5275, FAP 3H5378/P369] must be received on or before August 2, 1985.

ADDRESS:

Written comments by mail to: Information Services Section, Program Management and Support Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

In person, bring comments to: Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Jay Ellenberger, Product Manager (12), Registration Division (TS-767C), Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 202, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-2386).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of October 28, 1980 (45 FR 71421), which announced that Union Carbide Agricultural Products Co., Inc., P.O. Box 12014, Research Triangle Park, NC 27709, had submitted a food additive petition (FAP OH5275) to EPA proposing that 21 CFR Part 561 be amended by adding a regulation under section 409 of the Federal Food, Drug and Cosmetic Act (FFDCA) establishing a tolerance for residues of the insecticide thiodicarb (dimethyl *N, N'*-[thiobis [(methylimino) carbonyloxy]]bis[ethanimidothioate]) in or on the feed commodities soybean hulls at 0.4 part per million (ppm) and cottonseed hulls at 0.8 ppm.

No comments were received in response to the notice of filing.

Subsequently, the petition was amended to include the metabolite methomuyl (*S*-methyl *N*-[methylcarbamoyl)oxy] thioacetimidate) in the tolerance expression.

The petition was later amended to withdraw the request for a feed additive tolerance on soybeans because the tolerance proposal for the raw agricultural commodity soybeans was withdrawn. A new tolerance was proposed for the raw agricultural commodity soybeans resulting in the need for a new food additive proposal for soybean hulls.

In the **Federal Register** of February 2, 1983 (48 FR 4717), EPA issued a notice that announced that Union Carbide Agricultural Products Co., Inc., had submitted a food additive petition (FAP 3H5378) to EPA proposing that 21 CFR Part 561 be amended by adding a regulation under section 409 of the FFDCA establishing a tolerance for residues of the insecticide thiodicarb and its metabolite methomyl in or on the feed commodity soybean hulls at 0.8 ppm.

No comments were received in response to the notice of filing;

The metabolism studies in livestock show that thiodicarb is metabolized in steps by thiolysis to methomyl, followed by hydrolysis to methomyloxime, which is subsequently metabolized to acetonitrile. Acetonitrile is then metabolized to acetamide, which is then hydrolyzed to acetic acid that enters the intermediary metabolism cycle of these animals, and is ultimately expired as carbon dioxide. Plant metabolism studies show that thiodicarb is likewise metabolized to methomyl oxime and then to acetonitrile and carbon dioxide, both of which are volatilized. Conversion of thiodicarb to acetamide in plants has not been studied. However, because of the long pre-harvest intervals (30-day phi for cottom and 60 day phi for soybeans) and the low level of detectable parent residues on cotton and soybeans, EPA does not expect detectable levels of acetamide to occur in cottonseed and soybean hulls as a result of the proposed use. A feeding study shows that detectable residues of thiodicarb and its methomyl metabolite will not occur in eggs, milk, fat and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep as a result of the proposed use on cotton and soybeans. However, residues of acetonitrile and acetamide could be present in tissues, eggs, and milk at maximum estimated levels of 0.002 ppm. Acetamide has been characterized as a carcinogen.

I. Toxicology of Acetamide

Four studies have been conducted with acetamide that have demonstrated a possible oncogenic effect. The first study was conducted by F. T. Dessau and B. Jackson in 1955. Two groups of Rockland albino rats were treated with a 40-percent solution of acetamide at a rate of 4,000 mg/kg (equivalent to 40,000 ppm for younger rats or 80,000 ppm for older rats) by intubation 5 days/week for a period of 117 days (Group I) and 205 days (Group II). Histopathological examination showed hepatocellular irregularities in 5 of the 8 rats in Group I and in 3 of 5 rats in Group II, which were absent in the 10 control animals. These irregularities consisted of a greater variability of cellular and nuclear size, giant nuclei, and the presence of numerous mitoses, some of unusual appearance. Benign

hepatocellular adenomas were also found in two treated animals in Group II.

Dessau and Jackson conducted a second study in 1961, with three groups of male Wistar albino rats. The test duration was 12 months. Test material was administered in a diet of ground Wayne Laboratory Blox. Group I consisted of 50 treated and 50 control animals. The treated animals were administered a diet containing 5 percent (50,000 ppm) acetamide. Group II consisted of four subgroups each consisting of 25 rats. The three treated subgroups received a 5 percent (50,000 ppm), 2.5 percent (25,000 ppm), and 1.25 percent (12,500 ppm) diet of acetamide. The fourth subgroup received a control diet. Group III consisted of 99 animals. These animals were initially fed a 5-percent diet of acetamide, and each week two rats were taken off the test diet and placed on a control diet for the remainder of the testing period. In Group I, 48 animals were evaluated with hepatomas found in 4 of the animals. In Group II, 1 of 18; 6 of 22; and 4 of 24 examined rats given a diet containing 5, 2.5, and 1.25 percent acetamide, respectively, exhibited hepatomas. In Group III, hepatomas were found in 22 of the 81 rats examined. No hepatomas were found in any of the control animals of Group I or II.

In a study conducted by J.H. Weisburger, R.S. Yamamoto, R.M. Glass, and H.H. Frankel in 1969, 24 male Wistar rats were administered 2.5 percent (25,000 ppm) acetamide in a diet of Wayne Laboratory Blox. Eleven animals were given the basal diet and served as controls. Hepatomas were found in 2 of 8 treated and 0 of 4 control animals that were sacrificed after 12 months. The 16 animals remaining in the treated group were maintained on the basal diet for an additional 3 months. Hepatomas were found in 7 of 16 treated and 0 of 7 control rats that were sacrificed after 15 months. The authors also tested a 2.5 percent acetamide diet supplemented with 5.6 percent arginine and showed that arginine protects against the development of hepatomas in rats.

The fourth study with acetamide was conducted by R.W. Fleischman et al. in 1980, with one test group of Fisher rats and two test groups of C57B1/6 mice. Test animals were administered acetamide in a diet of ground Wayne Laboratory Blox for 12 months and continued on a controlled diet of Wayne Blox pellets for an additional 4 months. Rats were administered 2.36 percent (23,600 ppm) acetamide. Mice in Groups I and II were administered 1.18 percent (11,800 ppm) and 2.36 percent acetamide, respectively. In acetamide-treated rats, neoplastic nodules were noted in 1 of 47 males examined and 3 of 48 females examined. Hepatocellular carcinomas were noted in 41 of 47 treated male rats and 33 of 48 female rats examined. There were no abnormalities noted in the 50 male or the 49 female control animals. Malignant lymphomas were noted in 7 of 50 male mice examined in the low-dose group and 7 of 46 male mice examined in the high-dose group versus 0 and 95 of the matched controls. There were no abnormalities noted in female mice from either test group.

The Agency has evaluated the acetamide studies and found each of them to have deficiencies when compared with current standards for oncogenicity testing. Only a small number of male rats were used and/or examined in three of the four studies in the test groups, or the controls, or both. None of the studies provide a definitive dose-response relationship, and none of the studies meet EPA criteria for technical adequacy. In all studies, the exposure rates were extremely high. This may have been responsible for the excessive weight loss and mortality noted in several of the studies. Oxytetracycline (Terramycin) was administered to test animals in the study conducted by Weisburger et al. (1969). This raises questions on the quality of the animals used and the possibility of adversely influencing the results of the experiment. In the study conducted by R. W. Fleischman et al. in 1980, the results in mice are not considered valid. In this study, males and females fed the low dose (1.18%) diet were from a different supplier than those given the high dose (2.36%) or control diet, and males from two suppliers were pooled as controls. Also, the animals were placed on test over a period of 13 months. These critical flaws preclude any meaningful interpretation of the results of this study. On the other hand, it does not appear that the technical flaws in the rat study by Fleischman *et al* should be considered substantially worse than those of Weisburger et al or Jackson and Dessau. Of the studies, the Fleischman study offers the longest duration (i.e., 16 months) and is the only one which investigated acetamide-induced changes in females as well as males. Although the incidence of response in females was not as great as in males, significant incidences of hepatocellular carcinomas were demonstrated in both sexes.

Although none of the four acetamide studies meet current standards for oncogenicity testing, the studies collectively demonstrate that, at least under certain conditions, long-term dietary administration of acetamide at high doses is associated with the occurrence of liver tumors in rats.

There is evidence that dietary factors and/or species-specific metabolic processes may be involved in the mechanism of the oncogenic responses which were elicited under the conditions of the experiments cited above. For example, all of these experiments were conducted using laboratory chow which was obtained from the same supplier; however, Weisburger *et al* cited a personal communication in which Jackson reported that acetamide did not cause liver tumors in rats when a basal diet from a different supplier was used. Also, Weisburger *et al* reported that addition of arginine to the diet provided almost complete protection against acetamide-induced hepatic tumors in rats.

However, the Agency believes it is prudent to assume for present purposes that acetamide is a possible human carcinogen. Therefore, this document is being published as a proposed rule and provides the public with a 30-day public comment period. EPA encourages comments on the Agency's proposed method for establishing the requested food additive tolerances for thiodicarb and its metabolite methomyl.

The Agency has evaluated the data submitted in the petitions and other relevant material on thiodicarb. The toxicological data considered in support of the tolerances include a 2-year rat feeding/oncogenicity study with thiodicarb that was negative for oncogenic effects at the levels tested (1.0, 3.0, and 10.0 mg/kg/day) and has cholinesterase and chronic toxicity no-observed-effect levels (NOEL) of 10.0 and 3.0 mg/kg/day, respectively; a mouse oncogenicity study that was negative at the levels tested (1.0, 3.0, and 10.0 mg/kg/day); a 6-month dog feeding study with a ChE and subchronic NOEL of 15.0 mg/kg/day; a rat teratology study that was negative at 30.0 mg/kg/day, the highest dose tested (HDT); a mouse teratology study that was negative at 200 mg/kg/day (HDT) and also had a NOEL of 200 mg/kg/day for fetotoxicity; a 3-generation rat reproduction study with a NOEL of 10.0 mg/kg/day (HDT); and an acute delayed neurotoxicity study that was negative at 660 mg/kg (HDT). Short-term assays indicated no mutagenic potential.

II. Section 409 Tolerances

Under section 301 et seq. of FFDCA (21 U.S.C. 321 et seq.), it is unlawful to introduce into (or deliver or receive in)

interstate commerce any food that is adulterated. The term "food" includes "articles used for food or drink for man or other animals" and "articles used for components of any such article" (21 U.S.C. 321(f)).

FFDCA section 402(a)(2)(C) states that a food shall be deemed adulterated "if it is, or bears or contains, any food additive which is unsafe within the meaning of [FFDCA] section 409: *Provided,* That where a pesticide chemical has been used on a raw agricultural commodity in conformity with an exemption granted or a tolerance prescribed under (FFDCA section 408) and such raw agricultural commodity has been subjected to processing such as * * * milling, the residue of such pesticide chemical remaining in or on such processed food shall, notwithstanding the provisions of sections 406 and 409, not be deemed unsafe if such residue in or on the raw agricultural commodity has been removed to the extent possible in good manufacturing practice and the concentration of such residue in the processed food when ready to eat is not greater than the tolerance prescribed for the raw agricultural commodity."

Thiodicarb is intended to be applied to the raw agricultural commodities cotton and soybeans. The hulls of cottonseed and soybeans, separated in the milling process, are used as animal feed. Cottonseed hulls and soybean hulls are thus processed foods. Thiodicarb and, presumably, cottonseed hulls and soybean hulls will be distributed and sold in interstate commerce. Although the Agency proposes to establish tolerances under FFDCA section 408 for thiodicarb and its metabolites on cottonseed and soybeans, the thiodicarb residue levels on cottonseed hulls and soybeans hulls are greater than the proposed tolerance levels on their parent raw agricultural commodities. Accordingly, the proviso to FFDCA section 402(a)(2)(C) does not apply, and separate food additive regulations must be set for thiodicarb on cottonseed hulls and soybean hulls in order for those products not to be adulterated within the meaning of FFDCA section 402(a)(2)(C).

Finally, EPA's regulations (409 CFR 162.7(d)(3)(v) and 162.184(a)(4)) allow the issuance of a registration providing for use of a pesticide product that will result in residues on food or feed only if any clearances required by the FFDCA have first been obtained.

The EPA Administrator is vested with responsibility for issuing food additive regulations concerning pesticide chemicals by Reorganization Plan No. 3 of 1970. Section 409 states that a food additive regulation may be issued either in response to a petition or upon the Administrator's own initiative. A food additive regulation must prescribe the conditions under which the additive may be safely used, and may to that end specify the maximum quantity which may be used or permitted to remain in or on food, the manner in which the additive may be added to or used in or on food, and any other requirements deemed necessary to assure the safety of the additive's use, FFDCA section 409(c)(1)(A). Under FFDCA section 409(c)(3), a food additive regulation may not be issued if a fair evaluation of the data before the Administrator "fails to establish that the proposed use of the food additive, under the conditions of use to be specified in the regulation, will be safe" (this is known as the "general safety clause").

In addition to the requirement of the general safety clause, section 409(c)(3) also contains a specific criterion, called the "Delaney clause," which (with an important exception discussed later in this document) provides that "no additive will be deemed to be safe if it is found to induce cancer when ingested by man or animal." The Food and Drug Administration, which has responsibility for administering FFDCA section 409 with respect to all food additives other than pesticides (and which, prior to EPA's creation in 1970, also had responsibility for pesticide food additives) has interpreted the term "additive" in section 409 as applying not only to the parent food additive compound (here, thiodicarb) but also to other substances formed by metabolism of the parent compound (here, acetamide). (See the FDA document entitled "Criteria and Procedures for Evaluating Assays for Carcinogenic Residues," published in the **Federal Register** of March 20, 1979 (44 FR 17070, 17081–82).) For the purposes of this analysis, EPA adopts FDA's interpretation, for the reason set forth by FDA in that document. Thus, although long-term feeding studies in which thiodicarb was administered to animals did not demonstrate any evidence of oncogenicity, the potential oncogenicity of acetamide, a metabolite of thiodicarb, also must be considered with respect to the Delaney clause. As stated earlier in this document, acetamide has been shown to induce cancer in animal feeding studies. This conclusion is not changed by the fact that the animals received extremely high doses of acetamide, nor by the deficiencies in the conduct of the studies, although EPA cannot conclude from the studies that humans would be likely at risk from ingestion of acetamide residues at the levels that would result from the proposed use of thiodicarb. For purposes of FFDCA section 409, therefore, EPA will analyze acetamide as a substance "found to induce cancer when ingested by * * * animal[s]."

The Delaney clause's prohibition on the issuance of a food additive regulation for a substance which has been shown to induce cancer in animals is subject to an important exception with respect to pesticides such as thiodicarb which will be present in the feed of cattle or other animals which are raised for the production of eggs, meat, or milk for human consumption. FFDCA section 409(c)(3)(A) states that the Delaney clause "shall not apply with respect to the use of a substance as an ingredient of feed for animals which are raised for food production, if the [Administrator] finds (i) that, under the conditions of use and feeding specified in the proposed labeling and reasonably certain to be followed in practice, such additive will not adversely affect the animals for which such feed is intended, and (ii) that no residue of the additive will be found (by methods of examination prescribed or approved by the [Administrator] by regulations * * *) in any edible portion of such animal after slaughter or in any food yielded by or derived from the living animal."

FDA has analyzed extensively the meaning of this exception (commonly referred to as the "DES proviso") in a document published in the **Federal Register** of March 20, 1979 (44 FR 17070). In that document, FDA concluded that the proviso should be implemented by requiring that residues of an oncogenic compound should not be allowed to be present in the total diet of humans unless it can be verified by analytical methodology that if such residues do occur they will be present at a level less than that which, by use of prescribed methods of extrapolation from animal bioassay data and a series of conservative assumptions, yields an excess cancer risk level that is deemed insignificant (which FDA sets at the level of one in a million, or 1×10^{-6}). The FDA approach then goes on to set forth a requirement for analytical methodology that will allow FDA to determine whether residues in any edible tissue (meat, milk, or eggs) will bear residue levels in excess of those which would be equivalent to the allowable total diet residue level.

EPA believes that the overall approach to implementation of the "DES proviso" set forth by FDA is a reasonable one, and, with the exceptions discussed later in this

document, proposes to adopt the reasoning and methodology of the FDA document in deciding whether to promulgate the food additive regulation proposed for thiodicarb.

Under FDA's approach, the allowable level of the residue of concern in the total diet, denominated S_o, can be expressed as follows:

$$S_o = \frac{\text{(Allowable excess risk from residue in total diet)}}{\text{(Food factor for total diet)(Extrapolation slope)}}$$

A dose/response probability slope for acetamide has been calculated and extrapolated to the residue levels under consideration. Using this slope $(3.30\times10^{-8}\ \text{ppb})^{-1}$, a food factor of 1 (i.e., the entire diet), and choosing an allowable risk of 1×10^{-6} the associated residue for acetamide in the total diet S_o can be derived:

$$S_o = \frac{1\times10^{-6}}{(1)(3.30\times10^{-8}\ \text{ppb})^{-1}} = 30.0\ \text{ppb}$$

Thus, using the procedures for risk extrapolation specified in the FDA document, an individual's diet (estimated to be 1,500 gm/day) could contain up to 30 ppb acetamide, and the excess lifetime cancer risk would not exceed 1×10^{-6}.

The FDA approach incorporates a series of conservative assumptions to be used in calculating the residue levels to be allowed in the total diet and in individual food items. The approach assumes that: (1) Response is linear to dose even at very low dose levels; (2) each member of the public should be protected from an individual excess risk of a certain level; (3) an individual will consume the commodity in question every day for a lifetime; (4) each quantity of the commodity consumed will contain the regulated food additive or metabolite at levels just under the prohibited level; and (5) other competing causes of illness or death to humans should be disregarded in the computation.

The 1979 FDA document also acknowledges the difficulty of choosing the appropriate level of risk deemed to be insignificant, noting that it had considered levels ranging from 1 in 20,000 to 1 in 100,000,000. FDA concluded that "the acceptable risk level should: (1) Not significantly increase human cancer risk and (2) subject to that constraint, be as high as possible in order to permit the use of carcinogenic animal drugs and food additives as decreed by Congress." In choosing the 1 in 1 million figure, FDA noted that "[a] risk figure significantly higher than 1 in 1 million, for example 1 in 10,000, might present a significant additional risk of cancer to the public." (44 FR 10792–10793)

Using FDA's procedure for calculation of allowable levels in target tissues, S_m, one finds that $S_m = SS_o/T$, where T is the fraction of the total diet represented by an individual edible tissue. One of the most significant conservative assumptions made by FDA is that eggs constitute 33 percent of the daily diet of humans; meat constitutes 33 percent of the daily diet of humans; and milk constitutes 100 percent of the daily human diet. Thus,

Commodity	T	SS_m
Milk	1	S_o=30 ppb.
Meat	⅓	S_o=90 ppb.
Eggs	⅓	S_o=90 ppb.

These levels are the maximum concentrations of acetamide that can be permitted in each of the individual edible tissues. The allowable residue of acetamide in milk using FDA's approach is 30 ppb based on milk constituting 100 percent of the total diet. Since meat is assumed to constitute 33 percent of the total diet, it may contain three times this level, or 90 ppb. Eggs are also assumed to constitute 33 percent of the diet and could likewise contain 90 ppb of acetamide.

For meat, the liver was chosen as the target tissue. (A target tissue is the tissue selected to monitor for residues in the target animal.) Studies in which thiodicarb was fed to cattle and poultry showed that acetamide, if present, would occur in greater concentration in the liver than in any other tissue. Beef liver was found to contain 17× the concentration of acetamide as compared to meat (muscle). In poultry, the liver contained 6× the concentration of acetamide found in muscle. Thus, the allowable level for acetamide in beef liver is 1,530 ppb (17×90 ppb) and that in poultry liver is 540 ppb (6×90 ppb). These concentrations in these commodities, considering the dietary consumption of meats and livers, would not present an excess cancer risk greater than 1×10^{-6} utilizing the experimental data discussed previously.

EPA has estimated that at the proposed tolerance levels, acetamide would be present in cattle liver and poultry liver at maximum concentrations of 1.8 ppb and 0.06 ppb, respectively. These acetamide levels are well below the above allowable levels for beef liver and poultry liver as calculated under the SOM procedure.

Union Carbide has submitted an analytical method (gas-liquid chromatography using a nitrogen-phosphorus specific detector) for detection of residues of acetamide in beef and poultry liver. The lowest limits of reliable measurement for acetamide in beef and poultry liver are 770 ppb and 400 ppb, respectively. A copy of this method will be made available upon written request sent to the Information Services Section at the address listed above.

EPA proposes to find that this method is adequate to detect residues of acetamide in beef and poultry liver that would represent an unreasonable risk of cancer to consumers of meat (muscle tissue) within the meaning of the 1979 FDA document.

EPA has estimated the maximum expected levels of acetamide in milk and eggs resulting from thiodicarb use on cotton and soybeans to be 0.3 ppb and 0.07 ppb, respectively. The levels are well below those calculated using the SOM procedures, i.e., 30 and 90 ppb as shown above. Union Carbide has submitted data showing that acetamide residues are present in milk and eggs from animals not exposed to thiodicarb. The source of the acetamide is unknown. These data consisted of samples purchased at local grocery stores in 11 States. The acetamide residues in these samples ranged from approximately 275 to 500 ppb in milk (average 400) and 75 to 350 ppb in eggs (average 170). The maximum acetamide residues in milk (0.3 ppb) and eggs (0.07 ppb) that will result from the proposed use of thiodicarb on cotton and soybeans are much lower than these "background" levels and are also much lower than the levels which would result in a cancer risk of 1×10^{-6}.

Union Carbide has requested that the Agency waive the requirement for a method of analyzing for residues of acetamide in milk and eggs. Based on these data, the Agency tentatively concludes that acetamide is ubiguitous in milk and eggs. However, the Agency is directing its Analytical Chemistry Section to obtain milk samples (pasteurized and unprocessed/unpasteurized) and analyze for acetamide residues using USDA's pesticide-free dairy cattle. These data are being developed during this comment period and they may help the Agency to determine whether acetamide is of pesticide origin. Based on the results of this work, the Agency may conclude that further action is necessary. A regulatory method capable of measuring acetamide residues at levels equivalent to a 1×10^{-6} risk level would be futile, since the amount of ubiguitous acetamide present would mask the expected negligible conbtribution of acetamide from use of thiodicarb on cotton and soybeans. Therefore, the Agency is prepared to waive at this time the requirement of regulatory analytical methods for analysis of acetamide in milk and eggs under the SOM policy contingent upon the work being conducted in order to confirm the presence of acetamide in milk and eggs.

The Agency has determined that Union Carbide has satisfied the provisions of the "DES proviso." Accordingly, EPA believes that it would be proper to issue the proposed food additive tolerances for thiodicarb.

The data submitted in the petition and all other relevant material have been evaluated. Based on the information considered by the Agency, it is concluded that the pesticide can be safely used in the prescribed manner when such use is in accordance with the label and labeling registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act as amended (7 U.S.C. 136 et seq.). Therefore, it is proposed that the feed additive regulation be established as set forth below.

A related proposed rule (PP 0F2413, 3F2793/P368) proposing to establish tolerances for cottonseed at 0.4 ppm and soybeans at 0.2 ppm under FFDCA section 408 appears elsewhere in this issue of the **Federal Register.**

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition and document control number [FAP OH5275, 3H5378/P369]. All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Information Service Section at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

List of Subjects in 21 CFR Part 561

Feed additives, Pesticides and pests.

Dated: June 28, 1985.

Marcia E. Williams,

Acting Assistant Administrator for Pesticides and Toxic Substances.

PART 561—[AMENDED]

Therefore, 21 CFR Part 561 is amended as follows:

1. The authority citation for Part 561 continues to read as follows:

Authority: 21 U.S.C. 348.

2. Section 561.386 is revised, to read as follows:

§ 561.386 Thiodicarb.

Tolerances are established for residues of thiodicarb (dimethyl, *N, N'*-[thiobis[(methylimino) carbonyloxy]]bis [ethanimidothioate] and its metabolite methomyl in or on the following processed feeds when present therein as a result of application of this insecticide to growing crops:

Feed	*Part per million*
Cottonseed hulls	0.8
Soybean hulls	0.8

[FR Doc. 85-16086 Filed 7-2-85; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 61

Preparation of Rolls of Indians

Correction

In FR Doc. 85-14397 beginning on page 25082 in the issue of Monday, June 17, 1985, make the following corrections:

1. On page 25087, in the third column, in § 61.4(b)(2), the date "October 15, 1985" in the sixth line should read "(120 days from date of publication)".

2. On the same page and in the same column, in the first line of § 61.4(b)(3), "applicant" should read "application".

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[EE-66-84]

Treatment of Funded Welfare Benefit Plans

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking by cross reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this issue of the **Federal Register,** the Internal Revenue Service is issuing temporary regulations relating to contributions to and reserves of welfare benefit funds maintained pursuant to a collective bargaining agreement. The text of those temporary regulations also serves as the comment document for this notice of proposed rulemaking.

DATES: Written comments and requests for a public hearing must be delivered or mailed by September 3, 1985. The regulations are proposed to be effective for contributions paid or accrued after December 31, 1985.

ADDRESS: Send comments and requests for a public hearing to Commissioner of Internal Revenue, Attn: CC:LR:T (EE-66-84), 1111 Constitution Avenue NW., Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: John T. Ricotta of the Employee Plans and Exempt Organizations Division, Office of Chief Counsel, Internal

Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T (EE–66–84), telephone: 202–566–4396 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations provide guidance concerning the limits on contributions to and the reserves of welfare benefit funds maintained pursuant to a collective bargaining agreement under section 419A(f)(5) of the Internal Revenue Code of 1954 (Code), as added to the Code by section 511 of the Tax Reform Act of 1984 (26 U.S.C. 419A). The proposed regulations are issued under the authority contained in section 7805 of the Code (26 U.S.C. 7805). For the text of the temporary regulations, see FR Doc. 85–15940 published in the Rules and Regulations portion of this issue of the **Federal Register.**

Special Analyses

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Comments and Requests for a Public Hearing

Before adopting the temporary regulations referred to in this document as final regulations, consideration will be given to any written comments that are submitted (preferably 8 copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

List of Subjects in 26 CFR 1.401–0—1.425–1

Income taxes, Employee benefit plans, Pensions, Stock options, Individual retirement accounts, Employee stock ownership plans.

M. Eddie Heironimus,

Acting Commissioner of Internal Revenue.

[FR Doc. 85–15941 Filed 7–1–85; 8:45 am]

BILLING CODE 4830–01–M

---

26 CFR Part 1

[LR–267–82]

Capital Gains Tax and Passive Investment Income Tax With Respect to Certain S Corporations; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to a tax imposed on capital gains of certain S corporations and a tax imposed on the excess net passive income of certain S corporations that have accumulated earnings and profits from subchapter C years. Changes to the applicable law were made by the Subchapter S Revision Act of 1982, as amended by the Technical Corrections Act of 1982 and the Tax Reform Act of 1984. The regulations would provide the public with the guidance needed to comply with the law as amended by these Acts.

DATE: Written comments and requests to comment orally at a public hearing must be delivered or mailed by September 3, 1985. The amendments under section 1374 are generally proposed to be effective for taxable years beginning after December 31, 1982, and the amendments under section 1375 are generally proposed to be effective for taxable years beginning after 1981.

ADDRESS: Send comments and requests to comment orally at a public hearing to: Commissioner of Internal Revenue, Attn: CC:LR:T (LR–267–82), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: John G. Schmalz of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attn: CC:LR:T) (202–566–3516, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 1374 and 1375 of the Internal Revenue Code of 1954. Generally, these proposed regulations are proposed to conform the Income Tax Regulations to section 2 of the Subchapter S Revision Act of 1982 (96 Stat. 1669), as amended by section 305(d)(3) of the Technical Corrections Act of 1982 (96 Stat. 2400) and sections 102(d)(1), 474(r), and 721 (u) and (v) of the Tax Reform Act of 1984 (98 Stat. 623, 844, and 971).

In General

Section 1374 imposes a tax on the capital gains of certain S corporations. The tax is imposed for any taxable year in which the S corporation has a net capital gain in excess of $25,000 for the taxable year if the amount of the net capital gain exceeds 50 percent of the taxable income for such year and the taxable income for such year is in excess of $25,000.

The amount of the tax is generally 28 percent of the amount of the net capital gain in excess of $25,000. However, in no case will the tax imposed by section 1374 on the corporation exceed the tax that would have been imposed by section 11 on the corporation if the corporation were not an S corporation. Section 1374(c) contains exceptions to the tax imposed by section 1374(a) and a special rule in the case of property with a substituted basis. Section 1374(d) and § 1.1374A–1(d) define the term "taxable income" for purposes of section 1374.

Section 1375 imposes a tax on the excess net passive income of certain S corporations that have subchapter C earnings and profits. This tax can generally be avoided by the corporation distributing its subchapter C earnings and profits before the close of the taxable year. The tax is computed by multiplying the excess net passive income by the highest rate of tax specified in section 11(b). Section 1375(b) and § 1.1375A–1(b) define the term "excess net passive income." A special rule contained in section 1375(c) ensures that a net capital gain that is taken into account under section 1375 in computing the passive income tax will not also be taken into account in determining the capital gains tax under section 1374. Section 1375(d) provides that the tax imposed by section 1375 may be waived in certain limited cases where an S corporation determined in good faith that it had no subchapter C earnings and profits at the end of a taxable year and it is later determined that it did have such earnings and profits. Section 1.1375A–1(d) provides rules concerning this waiver.

Comments and Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are

submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. If one is requested, a public hearing will be held and a notice of time and place for the public hearing will be published in the **Federal Register.**

The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act. Comments on these requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Internal Revenue Service, New Executive Office Building, Washington, D.C. 20503. The Internal Revenue Service requests that persons submitting comments on these requirements to OMB also send copies of those comments to the Service.

Regulatory Flexibility Act and Executive Order 12291

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule under Executive Order 12291 and that a Regulatory Impact Analysis therefore is not required. Although this document is a notice of proposed rulemaking that solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these regulations do not constituted regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Drafting Information

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

List of Subjects in 26 CFR 1.1361A-1—1.1388-1

Income taxes, Small business, Subchapter S corporation, Cooperatives.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

PART 1—[AMENDED]

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

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

§§ 1.1361-1 through 1.1361-16 [Removed]

Par. 2. Sections 1.1361-1 through 1.1361-16 are removed.

Par. 3. There are inserted immediately after § 1.1348-3 the following new §§ 1.1361A-0, 1.1374A-1, and 1.1375A-1 to read as follows:

§ 1.1361A-0 Effective date.

(a) Except as otherwise provided in the regulations, the provisions of §§ 1.1374A-1 and 1.1375A-1 apply to taxable years beginning after December 31, 1982.

(b) The provisions of §§ 1.1371-1 through 1.1378-3 apply to a qualified casualty insurance electing small business corporation and to a qualified oil corporation for taxable years beginning after December 31, 1982, and the provisions of §§ 1.1374A-1 and 1.1375A-1 shall not apply. See section 6(c) (2), (3), and (4) of the Subchapter S Revision Act of 1982.

§ 1.1374A-1 Tax imposed on certain capital gains.

(a) *General rule.* Except as otherwise provided in paragraph (c) of this section, if for a taxable year beginning after 1982 of an S corporation—

(1) The net capital gain of such corporation exceeds $25,000, and

(2) The net capital gain of such corporation exceeds 50 percent of its taxable income (as defined in paragraph (d) of this section) for such year, and

(3) The taxable income of such corporation (as defined in paragraph (d) of this section) for such year exceeds $25,000,

section 1374 imposes a tax (computed under paragraph (b) of this section) on the income of such corporation. The tax is imposed on the S corporation and not on the shareholders.

(b) *Amount of tax.* The amount of tax shall be the lower of—

(1) An amount equal to the tax, determined as provided in section 1201(a)(2), on the amount by which the net capital gain of the corporation for the taxable year exceeds $25,000, or

(2) An amount equal to the tax which would be imposed by section 11 on the taxable income of the corporation (as defined in paragraph (d) of this section) for the taxable year were it not an S corporation.

No credit shall be allowable under part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (other than under section 34) against the tax imposed by section 1374(a) and this section. See section 1375(c)(2) and § 1.1375A-1(c)(2) for a special rule that reduces the amount of the net capital gain of the corporation for purposes of this paragraph (b) in cases where a net capital gain is taxed as excess net passive income under section 1375. See section 1374(c)(3) and paragraph (c)(1)(ii) of this section for a special rule that limits the amount of tax on property with a substituted basis in certain cases.

(c) *Exceptions to taxation*—(1) *New corporations and corporations with election in effect for 3 immediately preceding years*—(i) *In general.* If an S corporation would be subject to the tax imposed by section 1374 for a taxable year pursuant to paragraph (a) of this section, the corporation shall, nevertheless, not be subject to such tax for such year, if:

(A) The election under section 1362(a) which is in effect with respect to such corporation for such year has been in effect for the corporation's three immediately preceding taxable years, or

(B) An election under section 1362 (a) has been in effect with respect to such corporation for each of its taxable years for which it has been in existence,

unless there is a net capital gain for the taxable year which is attributable to property with a substituted basis within the meaning of paragraph (c)(1)(iii) of this section.

(ii) *Amount of tax on net capital gain attributable to property with a substituted basis.* If for a taxable year of an S corporation either paragraph (c)(1)(i) (A) or (B) of this section is satisfied, but the S corporation has a net capital gain for such taxable year which is attributable to property with a substituted basis (within the meaning of paragraph (c)(1)(iii) of this section), then paragraph (a) of this section shall apply for the taxable year, but the amount of tax determined under paragraph (b) of this section shall not exceed a tax, determined as provided in section 1201 (a), on the net capital gain attributable to property with a substituted basis.

(iii) *Property with substituted basis.* For purposes of this section, the term "property with a substituted basis" means:

(A) Property acquired by a corporation ("the acquiring corporation") during the period beginning 36 months before the first day of the acquiring corporation's taxable year and ending on the last day of such year;

(B) The basis of such property in the hands of the acquiring corporation is determined in whole or in part by reference to the basis of any property in the hands of another corporation; and

(C) Such other corporation was not an S corporation throughout the period beginning the later of:

(1) 36 months before the first day of the acquiring corporation's taxable year, or

(2) The time such other corporation came into existence,

and ending on the date such other corporation transferred the property, the basis of which is used to determine, in whole or in part, the basis of the property in the hands of the acquiring corporation.

(iv) *Existence of a corporation.* For purposes of this section, a corporation shall not be considered to be in existence for any taxable year which precedes the first taxable year in which such corporation has shareholders or acquires assets or begins business, whichever is first to occur.

(v) *References to prior law included.* For purposes of this paragraph (c), the term "S corporation" shall include an electing small business corporation under prior subchapter S law, and the term "election under section 1362 (a)" shall include an election under section 1372 of prior subchapter S law.

(iv) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). M Corporation was organized and began business in 1977. M subsequently made an election under section 1362 (a) which was effective for its 1984 taxable year. If such election does not terminate under section 1362 for its taxable years 1984, 1985, and 1986, M is not subject to the tax imposed by section 1374 for its taxable year 1987, or for any subsequent year for which such election remains in effect, unless it has, for any such year, an excess of net long-term capital gain over net short-term capital loss attributable to property with a substituted basis. If there is such an excess for any such year, and the requirements of paragraph (a) of this section are met, M will be subject to the tax for such year. If there is no such excess for any year after 1986, M will not be subject to the tax for any such year even though the requirements of paragraph (a) of this section are met.

Example (2). N corporation was organized in 1983, and was an S corporation for its first taxable year. N is not subject to the tax imposed by section 1374 for 1983, or for any subsequent year for which its original election under section 1362 (a) has not terminated under section 1362 (d), unless, for any such year, it has an excess of net long-term capital gain over net short-term capital loss attributable to property with a substituted basis and the requirements of paragraph (a) of this section are met.

(2) *Treatment of certain gains of options and commodities dealers*—(i) *Exclusion of certain capital gains.* For purposes of this section, the net capital gain of any options dealer or commodities dealer shall be determined by not taking into account any gain or loss (in the normal course of the taxpayer's activity of dealing in or trading section 1256 contracts) from any section 1256 contract or property related to such a contract.

(ii). *Definitions.* For purposes of this paragraph (c)(2)—

(A) *Options dealer.* The term "options dealer" has the meaning given to such term by section 1256(g)(8).

(B) *Commodities dealer.* The term "commodities dealer" means a person who is actively engaged in trading section 1256 contracts and is registered with a domestic board of trade which is designated as a contract market by the Commodities Futures Trading Commission.

(C) *Section 1256 contracts.* The term "section 1256 contracts" has the meaning given to such term by section 1256(b).

(iii) *Effective dates*—(A) *In general.* Except as otherwise provided in this paragraph (c)(2)(iii) this paragraph (c)(2) shall apply to positions established after July 18, 1984, in taxable years ending after such date.

(B) *Special rule for options on regulated futures contracts.* In the case of any option with respect to a regulated futures contract (within the meaning of section 1256), this paragraph (c)(2) shall apply to positions established after October 31, 1983, in taxable years ending after such date.

(C) *Elections with respect to property held on or before July 18, 1984.* See §§ 1.1256 (h)-1T and 2T for rules concerning an election to have this paragraph (c)(2) apply to certain property held on or before July 18, 1984.

(d) *Determination of taxable income*—(1) *General rule.* For purposes of this section, taxable income of the corporation shall be determined under section 63(a) as if the corporation were a C corporation rather than an S corporation, except that the following deductions shall not apply in the computation—

(i) The deduction allowed by section 172 (relating to net operating loss deduction), and

(ii) The deductions allowed by part VIII of subchapter B (other than the deduction allowed by section 248, relating to organization expenditures).

For any taxable year in which a tax under this section is imposed on an S corporation, the S corporation shall attach a Form 1120 completed in accordance with this paragraph (d) to its tax return filed for such taxable year.

(2) *Special rule for net capital gains taxed as excess net passive income under section 1375.* See section 1275(c)(2) and § 1.1375A–1(c)(2) for a special rule that reduces the taxable income of the corporation for purposes of section 1374(b)(2) and § 1.1374A–1(b)(2) in cases where a net capital gain is taxed as excess net passive income under section 1375.

(e) *Reduction in pass-thru for tax imposed on capital gain.* See section 1366(f)(2) for a special rule reducing the S corporation's long-term capital gains and the corporation's gain from sales or exchanges of property described in section 1231 for purposes of section 1366 (a) by an amount of tax imposed under section 1374 and this section.

(f) *Examples.* The following examples illustrate the principles of this section and assume that a tax will not be imposed under section 1375:

Example (1). Corporation M is an S corporation for its taxable year beginning January 1, 1983. For 1983, M has an excess of net long-term capital gain over net short-term capital loss in the amount of $30,000. However, its taxable income for the year is only $20,000 as a result of other deductions in excess of other income. Thus, although the excess of the net long-term capital gain over the net short-term capital loss exceeds $25,000 and also exceeds 50 percent of taxable income, M is not subject to the tax imposed by section 1374 for 1983 because its taxable income does not exceed $25,000.

Example (2). Corporation N is an S Corporation for its 1983 taxable year. For 1983, N has an excess of net long-term capital gain over net short-term capital loss in the amount of $30,000, and taxable income of $65,000. Thus, although N's net capital gain ($30,000) exceeds $25,000, it does not exceed 50 percent of the corporation's taxable income for the year (50 percent of $65,000, or $32,500), and therefore N is not subject to the tax imposed by section 1374 for such year.

Example (3). Assume that Corporation O, an S corporation, is subject to the tax imposed by section 1374 for its taxable year 1983. For 1983, O has an excess of net long-term capital gain over net short-term capital loss in the amount of $73,000, and taxable income within the meaning of section 1374, which includes capital gains and losses, of $100,000. The amount of tax computed under paragraph (b)(1) of this section is 28 percent of $48,00 ($73,000—$25,000), or $13,440. Since this is lower than the amount computed under paragraph (b) (2) of this section, which is $25,750 ($3,750+$4,500+$7,500+$10,000), $13,440 is the amount of tax imposed by section 1374.

Example (4). Assume that in example (3) the taxable income of O for 1983 is $35,000. This results from an excess of deductions over income with respect to items which were not included in determining the excess of the net long-term capital gain over the net short-term capital loss. In such case, the amount of tax, computed under paragraph (b)(2) of this section, is $5,550. Since this is lower than the amount computed under paragraph (b)(1) of this section, $5,550 is the amount of tax imposed by section 1374.

Example (5). Corporation P, an S corporation, for its taxable year 1983 has an

excess of net long-term capital gain over net short-term capital loss in the amount of $65,000 and has taxable income of $80,000. P's election under section 1362 has been in effect for its three immediately preceding taxable years, but P, nevertheless, is subject to the tax imposed by section 1374 for 1983 since it has an excess of net long-term capital gain over net short-term capital loss (in the amount of $20,000) attributable to property with a substituted basis. The tax computed under paragraph (b)(1) of this section, $11,200 (28 percent of $40,000 ($65,000–$25,000)), is less than the tax computed under paragraph (b)(2) of this section, $17,750. However, under the limitation provided in paragraph (c) of this section which is applicable in this factual situation, the tax imposed by section 1374 for 1983 may not exceed $5,600 (28 percent of $20,000, the excess of net long-term capital gain over net short-term capital loss attributable to property with a substituted basis).

§ 1.1375A-1 Tax imposed when passive investment income of corporation having subchapter C earnings and profits exceed 25 percent of gross receipts.

(a) *General rule.* For taxable years beginning after 1981, section 1375(a) imposes a tax on the income of certain S corporations that have passive investment income. In the case of a taxable year beginning during 1982, an electing small business corporation may elect to have the rules under this section not apply. See the regulations under section 1362 for rules on the election. For purposes of this section, the term "S corporation" shall include an electing small business corporation under prior law. This tax shall apply to an S corporation for a taxable year if the S corporation has—

(1) Subchapter C earnings and profits at the close of such taxable year, and

(2) Gross receipts more than 25 percent of which are passive investment income.

If the S corporation has no subchapter C earnings and profits at the close of the taxable year (because, for example, such earnings and profits were distributed in accordance with section 1368), the tax shall not be imposed even though the S corporation has passive investment income for the taxable year. If the tax is imposed, the tax shall be computed by multiplying the excess net passive income (as defined in paragraph (b) of this section) by the highest rate of tax specified in section 11(b).

(b) *Definitions*—(1) *Excess net passive income*— (i) *In general.* The term "excess net passive income" is defined in section 1375(b)(1), and can be expressed by the following formula:

$$ENPI = NPI \times \frac{PII - (.25 \times GR)}{PII}$$

Where:
ENPI = excess net passive income
NPI = net passive income
PII = passive investment income
GR = total gross receipts

(ii) *Limitation.* The amount of the excess net passive income for any taxable year shall not exceed the corporation's taxable income for the taxable year (determined in accordance with section 1374(d) and § 1.1374A-1(d)).

(2) *Net passive income.* The term "net passive income" means—

(i) Passive investment income, reduced by

(ii) The deductions allowable under chapter 1 of the Internal Revenue Code of 1954 which are directly connected with the production of such income (other than deductions allowable under section 172 and part VIII of subchapter B).

For purposes of the preceding sentence, to be directly connected with the production of income, an item of deduction must have proximate and primary relationship to the income. Expenses, depreciation, and similar items attributable solely to such income qualify for deduction.

(3) *Other definitions.* The terms "subchapter C earnings and profits," "passive investment income," and "gross receipts" shall have the same meaning given these terms in section 1362(d)(3) and the regulations thereunder.

(c) *Special rules*—(1) *Disallowance of credits.* No credit is allowed under part IV of subchapter A of chapter 1 of the Code (other than section 34) against the tax imposed by section 1375(a) and this section.

(2) *Coordination with section 1374.* If any gain—

(i) Is taken into account in determining passive income for purposes of this section, and

(ii) Is taken into account under section 1374, the amount of such gain taken into account under section 1374(b) and § 1.1374A-1(b) (1) and (2) in determining the amount of tax shall be reduced by the portion of the excess net passive income for the taxable year which is attributable (on a pro rata basis) to such gain. For purposes of the preceding sentence, the portion of excess net passive income for the taxable year which is attributable to such capital gain is equal to the amount determined by multiplying the excess net passive income by the following fraction:

$$\frac{NCG}{NPI}$$

Where:
NCG = net capital gain
NPI = net passive income.

(d) *Waiver of tax in certain cases*—(1) *In general.* If an S corporation establishes to the satisfaction of the Commissioner that—

(i) It determined in good faith that it had no subchapter C earnings and profits at the close of the taxable year, and

(ii) During a reasonable period of time after it was determined that it did have subchapter C earnings and profits at the close of such taxable year such earnings and profits were distributed.

the Commissioner may waive the tax imposed by section 1375 for such taxable year. The S corporation has the burden of establishing that under the relevant facts and circumstances the Commissioner should waive the tax. For example, if an S corporation establishes that in good faith and using due diligence it determined that it had no subchapter C earnings and profits at the close of a taxable year, but it was later determined on audit that it did have subchapter C earnings and profits at the close of such taxable year, and if the corporation establishes that it distributed such earnings and profits within a reasonable time after the audit, it may be appropriate for the Commissioner to waive the tax on passive income for such taxable year.

(2) *Corporation's request for a waiver.* A request for waiver of the tax imposed by section 1375 shall be made in the form of a ruling request and shall contain all relevant facts to establish that the requirements of paragraph (d)(1) of this section are met. Such request shall contain a description of how and on what date the S corporation in good faith and using due diligence determined that it had no subchapter C earnings and profits at the close of the taxable year, a description of how and on what date it ws determined that the S corporation had subchapter C earnings and profits at the close of the year and a description (including dates) of any steps taken to distribute such earnings and profits. If the earnings and profits have not yet been distributed, the request shall contain a timetable for distribution and an explanation of why such timetable is reasonable. On the date the waiver is to become effective, all subchapter C earnings and profits must have been

distributed. Send requests for a waiver to: Internal Revenue Service, Associate Chief Counsel (Technical), Attention: CC:IND:S, 1111 Constitution Avenue, Washington, D.C. 20224.

(e) *Reduction in pass-thru for tax imposed on excess net passive income.* See section 1366(f)(3) for a special rule reducing each item of the corporation's passive investment income for purposes of section 1366(a) if a tax is imposed on the corporation under section 1375.

(f) *Example.* The following example illustrates the principles of this section:

Example. Assume Corporation M, an S coporation, has for its taxable year total gross receipts of $200,000, passive investment income of $100,000, $60,000 of which is interest income, and expenses directly connected with the production of such interest income in the amount of $10,000. Assume also that at the end of the taxable year Corporation M has subchapter C earnings and profits. Since more than 25 percent of Corporation M's total gross receipts are passive investment income, and since Corporation M has subchapter C earnings and profits at the end of the taxable year, Corporation M will be subject to the tax imposed by section 1375. The amount of excess net passive investment income is $45,000 ($90,000×(50,000/100,000)). Assume that the other $40,000 of passive investment income is attributable to net capital gain and that there are no expenses directly connected with such gain. Under these facts, $20,000 of the excess net passive income is attributable to the net capital gain ($45,000×($40,000/$90,000)). Accordingly, the amount of gain taken into account under section 1374(b)(1) and the taxable income of Corporation M under section 1374(b)(2) shall be reduced by $20,000.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 85-15950 Filed 7-2-85; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 936

Oklahoma Permanent Regulatory Program Under the Surface Mining Control and Reclamation Act of 1977

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

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for a public comment period and for a hearing on material submitted by the Oklahoma Department of Mines in response to requirements placed upon the State by the Director of OSM, and published in the April 12, 1984 **Federal Register** (49 FR 14674–14689). The material consists of two documents. The first document is a detailed plan addressing the permitting aspects of the Oklahoma program and the second document is the State's plan for implementing and maintaining the inspection and enforcement components of the approved State program.

This notice sets forth times and locations that the material is available for public inspection, the comment period during which interested persons may submit written comments on the documents and information pertinent to the public hearing.

DATES: Written comments not received on or before 4:00 p.m. on August 2, 1985 will not necessarily be considered. A public hearing on the material as well as other aspects of the Oklahoma program will be held on July 29, 1985 at the address listed below under **"ADDRESSES"**. Any person interested in making an oral or written presentation at the hearing should contact Mr. Robert Markey at the OSM Tulsa Field Office by 4:00 p.m. on July 18, 1985.

ADDRESSES: The public hearing will be held at the Federal Building, 125 South Main Street, Muskogee, Oklahoma 74401.

Written comments should be mailed or hand-delivered to: Robert L. Markey, Director, Tulsa Field Office, Office of Surface Mining, Room 3432, 333 West Fourth Street, Tulsa, Oklahoma 74103.

See **"SUPPLEMENTARY INFORMATION"** for addresses where copies of the material and administrative record on the Oklahoma program are available. Each requestor may receive, free of charge, one copy of each of the two documents submitted by contacting the OSM Tulsa Field Office listed below.

FOR FURTHER INFORMATION CONTACT: Mr. Robert L. Markey, Director, Tulsa Field Office, Office of Surface Mining, Room 3432, 333 West Fourth Street, Tulsa, Oklahoma 74103, Telephone: (918) 581-7923.

SUPPLEMENTARY INFORMATION: Copies of the Oklahoma submission, the Oklahoma program, and the administrative record on the Oklahoma program are available for 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, Tulsa Field Office, Room 3432, 333 West Fourth Street, Tulsa, Oklahoma 74103.

Office of Surface Mining Reclamation and Enforcement, 1100 L Street, NW., Room 5124, Washington, D.C. 20240, Telephone: (202) 343-4855.

Oklahoma Department of Mines, Suite 107, 4040 North Lincoln, Oklahoma City, Oklahoma 73105.

Background

Information pertinent to the general background, revisions, modifications and amendments to the proposed permanent program submission as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Oklahoma program can be found in the January 19, 1981, **Federal Register** (46 FR 4910), in the April 2, 1982 **Federal Register** (47 FR 14152), in the May 4, 1983 **Federal Register** (48 FR 14674), and in the March 18, 1985 **Federal Register** (50 FR 10759).

Additional information pertinent to the action taken by the Director, OSM, under the authority of 30 CFR Part 733 with regard to the status of Oklahoma's permanent regulatory program was published in the April 12, 1984 **Federal Register** (49 FR 14674).

In the April 12, 1984 **Federal Register** notice, the Director, OSM published his findings and decision concerning the status of the Oklahoma permanent regulatory program. Based on his evaluation and findings, the Director determined that certain aspects of the approved Oklahoma program were not being administered in full compliance with the Surface Mining Control and Reclamation Act (SMCRA). To ensure that the adverse effects of surface mining was controlled as required by SMCRA and the State program, OSM assumed responsibility for enforcement of the inspection and enforcement provisions of the approved program, effective April 30, 1984. The Director also placed certain requirements upon Oklahoma as a prerequisite to resuming full authority to implement the provisions of the Oklahoma program. Among the remedial action requirements placed upon the State, the Director required the State to submit to OSM a detailed plan to resume full authority for implementing the inspection and enforcement functions of the approved program. The State was also required to submit to OSM a detailed plan addressing all elements of the permitting process as required by the Oklahoma permanent regulatory program. Lastly, the April 12, 1984 **Federal Register** stated that the Director would consider returning full program authority to Oklahoma only after submission of the two plans discussed above and submission of a written petition to the

Director requesting the return of authority to the State.

On November 2, 1984, the Oklahoma Department of Mines submitted to OSM a document entitled, *Petition to Resume State Inspection and Enforcement Actions.* (See OK–649 for petition). The State submitted this petition to partially fulfill the requirements placed upon it by the Director in Section 30 CFR 936.19 as published in the April 12, 1984 **Federal Register**. The document, signed by the Deputy Chief Mine Inspector of the Oklahoma Department of Mines and the Governor of Oklahoma, formally petitions the Office of Surface Mining to return full program authority to the State upon conclusion of the required public hearing.

The State also submitted to OSM on May 13, 1985, a document entitled *Oklahoma Permitting Plan.* (See OK–670). The Plan addresses Oklahoma's systems and procedures for processing permit applications, calculating bond amounts, releasing or forfeiting bonds and adding and training qualified staff.

Oklahoma also submitted to OSM on June 7, 1985, its *Inspection and Enforcement Plan.* (See OK–671). The plan is a detailed narrative addressing the procedures for implementing and administering the various components of the States inspection and enforcement requirements.

The requirement to submit the two detailed plans discussed above was part of the remedial action requirements placed upon the State by the Director at 30 CFR 936.18 in his April 12, 1984 decision concerning the status of the Oklahoma program.

OSM is seeking comment on the *Oklahoma Permitting Plan* and the *Oklahoma Inspection and Enforcement Plan* submitted by the State of Oklahoma to partially satisfy the "733" requirements placed upon it.

The full text of both documents submitted by the Oklahoma Department of Mines for OSM's consideration is available for public review at the addresses listed under **ADDRESSES.**

Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

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

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

List of Subjects in 30 CFR Part 936

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

Dated: June 27, 1985.

Jed D. Christensen,

Acting Director, Office of Surface Mining.

[FR Doc. 85–15904 Filed 7–2–85; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-2858-5]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: USEPA proposes to disapprove several revisions to the Illinois State Implementation Plan (SIP) for ozone. These proposed SIP revisions request extended compliance schedules for Arvey Corporation (Arvey), Moore American Graphics (Moore American) and Meyercord Company (Meyercord). In the March 20, 1984, **Federal Register** (49 FR 10277), USEPA proposed to disapprove these actions because IEPA did not have an approvable 1982 attainment demonstration for ozone. USEPA today is proposing to disapprove these SIP revisions because the State has not demonstrated that these compliance schedules are as expeditious as practicable.

DATE: Comments on these revisions and on the proposed action must be received by August 2, 1985.

ADDRESSES: Copies of the SIP revisions are available at the following addresses for review. (It is recommended that you telephone Uylaine E. McMahan, at (312) 353–0396, before visiting the Region V office): U.S. Environmental Protection Agency, Region V, Air and Radiation Agency, 230 South Dearborn Street (5AR–26), Chicago, Illinois 60604.

Comments on this proposed rule should be addressed to: Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR–26) USEPA, Region V, 230 S. Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Uylaine E. McMahan, (312) 353–0396.

SUPPLEMENTARY INFORMATION: On May 2, 1983, the Illinois Environmental Protection Agency (IEPA) submitted a proposed revision to its ozone SIP for seven laminators and coaters operated by Arvey in Chicago, Illinois. This proposed revision is in the form of a February 10, 1983, Opinion and Order of the Illinois Pollution Control Board (IPCB) (PCB 82–9). This Opinion and Order grants a variance from the existing SIP requirements until December 31, 1984, and provides a legally enforceable compliance schedule.

On May 27, 1983, IEPA submitted a proposed revision to its ozone SIP for three laminators and four coaters operated by Moore American in Bridgeview, Illinois. This proposed revision is in the form of an April 12, 1983, Opinion and Order of the IPCB (PCB 82–1). This Opinion and Order grants a variance from the existing SIP requirements until December 31, 1983, and provides a legally enforceable compliance schedule.

On April 20, 1983, IEPA submitted a proposed revision to its ozone SIP for pressure sensitive elastomeric films, mylar polyester on silicone release paper, and protective film overcoats with either heat reactive or pressure sensitive adhesives applied by Meyercord at its facility in Chicago, Illinois. This proposed revision is in the form of a March 10, 1983, Opinion and Order of the IPCB (PCB 82–53). This Opinion and Order grants a variance from the existing SIP requirements until January 31, 1986, and provides a legally enforceable compliance schedule.

Under the existing federally approved SIP, each coating line unit for the sources listed above is subject to the emission control requirements contained in Rule IPCB Rule 205(n)(1)(C) of Chapter 2: Air Pollution of the IPCB rules and Regulations. IPCB Rule 205(n)(1)(C) limits volatile organic

compound (VOC) emissions to 2.9 pounds of VOC per gallon. Final compliance was required by December 31, 1982.

These sources are all located in the Chicago urban ozone nonattainment area, which has until December 31, 1987, to attain the ozone national ambient air quality standard. USEPA may approve compliance date extensions for sources in such an area, if the State demonstrates that the extended compliance date is as expeditious as practicable, and will not prevent the area from attaining the ozone standard as expeditiously as practicable, but no later than the end of 1987.

In the March 20, 1984 **Federal Register** (49 FR 10277), USEPA proposed to disapprove these proposed SIP revisions because the Illinois ozone SIP lacked an approvable attainment demonstration for the Chicago nonattainment area. The attainment demonstration contained in the State's 1982 ozone SIP was proposed for disapproval in the February 3, 1983, **Federal Register.** Subsequently, on August 15, 1984, USEPA proposed to approve the State's 1982 SIP attainment demonstration.

In response to USEPA's March 20, 1984, Notice of Proposed Rulemaking, IEPA commented that the reasons advanced by USEPA for disapproval of the proposed compliance schedule changes in the March 20, 1984, Notice of Proposed Rulemaking, no longer existed, because Illinois had submitted an approvable 1982 Ozone SIP attainment demonstration. IEPA commented that USEPA should, therefore, approve the proposed compliance date extension, without reproposal. If, however, there were alternative grounds for disapproval not stated in the March 20, 1984, Notice, the State commented that USEPA should repropose in a rulemaking which identified and addressed these grounds.

Today, USEPA is publishing this supplemental notice of proposed rulemaking on Arvey, Moore American and Meyercord, which identifies alternative grounds for disapproval which were not discussed in the earlier proposed rulemaking.

Proposed Actions

Two major elements which need to be considered in USEPA's review of proposed compliance data extensions are the expeditiousness of the schedule and the likelihood of success associated with the proposed compliance plan.

USEPA is proposing to disapprove these SIP revisions because the State did not provide adequate documentation that the sources had been proceeding expeditiously to develop complying coatings. USEPA's review of each source is summarized below:

Arvey Corporation

Arvey did not adequately document that they had been proceeding expeditiously to develop complying coatings. Only limited information regarding past compliance efforts was submitted. Based upon the limited information contained in the submittal, it is doubtful that Arvey has been proceeding expeditiously. Furthermore, Arvey's efforts to reformulate complying adhesives and coatings have clearly failed, as evidenced by their decision to utilize add-on control equipment to achieve compliance. Therefore, there is no basis for granting Arvey a compliance date extension based upon its reformulation program.

Arvey's program to achieve compliance by April 1, 1985, through use of incineration was not submitted as a SIP revision. However, Arvey could have readily achieved compliance by December 31, 1982, through the use of add-on controls.

Moore American Graphics

Moore American requested a variance for a period of 1 year, with the possibility of further extensions needed due to the supplier's difficulty in producing a working alternative low-solvent technology. Moore American has asserted that numerous tests were conducted in developing acceptable water-based coatings. However, the documentation provided by the IEPA, indicated two tests were recorded, one on November 5, 1982, and a second in the following month.

To obtain a compliance date extension, the State must demonstrate that the compliance plan (reformulation to low-solvent coatings) is as expeditious as practicable. IN USEPA's judgment, it is not likely that this plan has a significant likelihood of success. Conducting only two tests since the surface coating regulations have been adopted (1979) cannot be considered expeditious progress.

Meyercord Company

Meyercord did not adequately document that they had been proceeding expeditiously to develop complying coatings during 1979, 1980, and 1981. Meyercord's proposed compliance date extension to January 31, 1986, is not expeditious because the company is now using an afterburner to achieve compliance as of December 31, 1984. In USEPA's judgment, they could have readily achieved compliance by December 31, 1982, through use of an afterburner.

In summary, this compliance date extension is not approvable because Meyercord's reformulation program was not documented to be either expeditious or likely to be sufficient to fully achieve complaince successfully, and the company is now using an afterburner to achieve compliance.

Additional information concerning USEPA's analysis of each SIP submittal and the detailed basis for USEPA's proposed disapproval is contained in the technical support documents available at USEPA's Region V office.

USEPA is providing a 30-day comment period on this supplemental notice of proposed rulemaking. Public comments received on or before August 2, 1985 will be considered in USEPA's final rulemaking. All comments will be available for inspection during normal business hours at the Region V office listed at the front of this notice.

Under 5 U.S.C. Section 605(b), I certify that this proposed disapproval will not have a significant economic impact on a substantial number of small entities because it applies to three sources: Arvey Corporation, Moore American, and Meyercord Company.

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

List of Subjects in 40 CFR Part 52

Air pollution control, ozone, sulfur oxides, nitrogen dioxide, lead, particulate matter, carbon monoxide, hydrocarbons, intergovernmental relations.

(Secs. 110, 172 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, 7502, and 7601(a))

Dated: March 26, 1985.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 85-15923 Filed 7-2-85; 8:45 am]

BILLING CODE 6560-50-M

---

40 CFR Part 180

[PP OF2413, 3F2793/P368; PH-FRL 2859-6]

Thiodicarb; Proposed Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes the establishment of tolerances for residues of the insecticide thiodicarb and its metabolites in or on the raw agricultural commodities cottonseed and soybeans. This proposed regulation to establish the maximum permissible level for residues of this insecticide in or on the

commodities was requested by Union Carbide Agricultural Products Company, Inc.

DATE: Comments must be received on or before August 2, 1985.

ADDRESSES:

Written comments by mail to:
Information Services Section, Program Management and Support Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 2460.

In person, bring comments to: Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Jay Ellenberger, Product Manager (12), Registration Division (TS–767C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 202, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703–557–2386.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of October 28, 1980 (45 FR 71421), which announced that Union Carbide Agricultural Products Co., Inc., P.O. Box 12014, Research Triangle Park, NC 27709, had submitted a pesticide petition (OF2413) to EPA proposing that 40 CFR Part 180.407 be amended by establishing a tolerance for residues of the insecticide thiodicarb (dimethly N, N'-[thiobis[(methylimino—carbonyloxy]]bis[ethanimidothioate]) in or on the raw agricultural commodities cottonseed at 0.4 part per million (ppm), soybean seed at 0.1 ppm, and soybean straw at 0.2 ppm.

No comments were received in response to the notice of filing.

Subsequently, this petiton was amended to include the metabolite methomyl (*S*-methyl *N*-[(methylcarbamoyl)oxy]thioacetimidate) in the tolerance expression.

This petition was later amended by Union Carbide to withdraw its request for a tolerance on soybean seed and soybean straw. This resulted in a separate petition for soybeans.

In the **Federal Register** of February 2, 1983 (48 FR 4717), EPA issued a notice that announced that Union Carbide Agricultural Products Co., Inc., had submitted a pesticide petition 3F2793) to EPA proposing that 40 CFR Part 180.407 be amended by establishing a tolerance for residues of the insecticide thiodicarb and its metabolite methomyl in or on the raw agricultural commodity soybeans at 0.2 ppm.

No comments were received in response to the notice of filing.

The scientific data submitted in the peititions and other relevant material have been evaluated. A discussion of the toxicological data considered in support of these tolerances can be found in a companion proposed rule (FAP OH5275, 3H5378/P369) published elsewhere in this issue of the **Federal Register.**

Based on a 2-year rat feeding study showing a no adverse effect level (NOEL) at a dose of 3.0 mg/kg/day and using a safety factor of 100, the acceptable daily intake (ADI) of thiodicarb for humans is 0.03 mg/kg of body weight/day. The theoretical maximum residue contribution in the human diet from the proposed tolerances and a previously established tolerance is 0.0452 mg/day, which represents 2.5 percent of the ADI of the chemical.

The metabolism of thiodicarb in plants and animals is adequately understood for purposes of the proposed tolerances. A study in livestock shows that acetamide, a potential carcinogen, is produced as a part of the metabolism process for thiodicarb. Conversion of thiodicarb to acetamide in plants has not been studied, although detectable levels of acetamide are not expected in cottonseed and soybeans as a result of the proposed use.

Detectable residues of thiodicarb and its methomyl metabolite are not expected in fat, meat or meat by-products of cattle, goats, hogs, horses, poultry, or sheep, or in milk or eggs as a result of the proposed uses. However, residues of acetamide could be present at levels up to 0.002 ppm.

Four studies have been conducted with acetamide that have demonstrated an oncogenic effect in rats. Descriptions of these studies can be found in the companion proposed rule published elsewhere in this **Federal Register.** The Agency has conducted a quantitative risk assessment using the multi-stage procedures. The results of the most recent study (Fleischman *et al.*, 1980) with respect to male rats provide the basis for the most conservation estimation of risk. Based on this study the Agency has calculated an upper bound estimate of total dietary risk of approximately 10^{-6} [C] from acetamide as a result of the use of thiodicarb on the commodities cotton and soybeans. The quantitative designation "10^{-6}" indicates that the risk of developing cancer is one in a million greater than the risk if one was not exposed through the diet to thiodicarb. However, this number represents the upper bound estimate of excess oncogenic risk at the 95 percent confidence level and the actual risk may be lower. The qualitative designation "C" refers to EPA's weight-of-the evidence classification which in this case shows acetamide to be a "possible human carcinogen". The assessment is also based on the following assumptions:

1. The metabolic pathway of thiodicarb in humans is presumed to be the same as that found in test animals, and the highest value of risk obtainable from the animal data is applicable to humans.

2. All consumed residues of thiodicarb are converted to acetamide (this is unlikely as suggested by the available data mentioned later in this document).

3. The total production of cotton and soybeans in the United States will be treated with thiodicarb, and all cotton and soybean components will contain thiodicarb residues at the full tolerance level.

As stated above, however, EPA believes that the actual risk is less that 10^{-6}. The available metabolism data suggest that significant portions of thiodicarb consumed by animals are not converted to acetamide, but these data were not sufficient to quantify adequately the portions that are not converted to acetamide. Therefore, the full tolerance levels of thiodicarb were used as the exposure levels in determining the total dietary exposure to acetamide. The toxicology data base for thiodicarb includes two valid oncogenicity studies that were negative for oncogenic effects. Further, it is the Agency's opinion that the four oncogenicity studies on acetamide are insufficient to fully address the oncogenic potential of acetamide. (Refer to the companion document published in this issue of the **Federal Register** for a discussion of these studies.)

There are no regulatory actions pending against the registration of thiodicarb. On the basis of the available

studies on acetamide and the chronic oncogenicity studies for thiodicarb, the Agency has concluded that the human risk posed by the use of thiodicarb on cotton and soybeans does not raise prudent concerns of unreasonable adverse effects and that a special review under 40 CFR 162.11 is not warranted.

An analytical method, liquid chromatography, is available to determine residues of thiodicarb and its methomyl metabolite. Based on the above information the Agency has determined that the proposed tolerances for residues of the pesticide in or on the commodities would protect the public health.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number [PP OF2413, 3F2793/P368]. All written comments filed in response to this petition will be available in Rm. 236, CM 2, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations proposing the establishment of new tolerance or raising tolerance levels or establishing exemptions for tolerance requirements do not have a sustantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: June 28, 1985.

Marcia E. Williams,

Acting Assistant Administrotor for Pesticides and Toxic Substances.

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. By amending § 180.407 by adding and alphabetically inserting the raw agricultural commodities cottonseed and soybeans, to read as follows:

§ 180.407 Thiodicarb; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Cottonseed	0.4
Soybeans	0.2

[FR Doc 85-16087 Filed 7-2-85; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 23

National Health Service Corps; Private Practice Entrance and Startup Loans

AGENCY: Public Health Service, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes new regulations (Subparts B and C of Part 23, 42 CFR) to implement the provisions of section 338E of the Public Health Service (PHS) Act (42 U.S.C. 254p) regarding special loans for former National Health Service Corps (NHSC) members to enter private practice and the provisions of section 338C of the PHS Act (42 U.S.C. 254n) regarding private practice startup loans. The law requires that the Secretary of Health and Human Services shall, by regulation, set interest rates and repayment terms for private practice option (PPO) special loans. This notice also makes several technical corrections to Subpart A of 42 CFR Part 23.

DATE: Comments must be received by August 2, 1985.

ADDRESS: Comments must be addressed to Director, Office of Policy Coordination, Bureau of Health Care Delivery and Assistance, Room 13-27, 5600 Fishers Lane, Rockville, Maryland 20857. Comments will be available for examination by the public between 8:30 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays, at this address.

FOR FURTHER INFORMATION CONTACT: Mr. James Corrigan, Associate Bureau Director for Legislation and Policy, Bureau of Health Care Delivery and Assistance, 5600 Fishers Lane, Room 7A-05, Rockville, Maryland 20857, (301) 443-2380.

SUPPLEMENTARY INFORMATION: The Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35, made a number of significant changes in those sections of the PHS Act which are the legislative authorities for the NHSC program. Section 2709(a) of Pub. L. 97-35 transferred sections 753 and 755 from title VII of title III of the PHS Act and redesignated them as sections 338C and 338E respectively. Section 2709(f) of Pub. L. 97-35 amended section 338E of the PHS Act to authorize the Secretary to make loans to scholarship individuals who have completed 2 years of their NHSC obligation and agreed to enter private practice in a health manpower shortage area (HMSA). Section 2709(d)(3) of Pub. L. 97-35 amended the PHS Act by adding section 338C(e)(1) to authorize the Secretary to make arrangements for the use, lease or acquisition of equipment and supplies for individuals who have completed less than 2 years of their NHSC obligation and have agreed to enter private practice in a HMSA. The update to the list of HMSAs was most recently published in the **Federal Register** at 48 FR 37822 (August 19, 1983).

Loans to Former Corps Members

The PPO special loan under section 338E of the PHS Act is a one-time loan of $12,500 or $25,000 which may be used for acquiring equipment and supplies, renovating facilities, and for hiring nurses and other personnel to provide health services. A loan may be made to a former NHSC member who has (1) completed at least 2 years of obligated service in the NHSC, (2) agreed in writing to engage in the private full-time clinical practice of his or her profession in a HMSA for a period of 1 or 2 years depending on the amount of the loan, (3) agreed in writing to conduct his or her practice in accordance with the provisions of section 338C(b)(1) of the PHS Act, and (4) agreed to additional conditions as required by the Secretary.

Section 338E(c) requires the Secretary to prescribe by regulation the interest rates and repayment terms for these loans. The regulations relating to PPO special loans to former Corps members are proposed in subpart B of Part 23.

Private Practice Startup Loans

Private practice startup loans (PPSL) under section 338C(e) of the PHS Act very slightly from section 338E loans in terms of eligibility, use of loan funds, and the length of the period of the practice obligation. Startup loans are made to persons with scholarship obligations who select the PPO as their first assignment or who have completed less than 2 years of their NHSC scholarship obligation as assigned NHSC personnel. These loan funds may

only be used for the purchase or lease of equipment and supplies needed for the provision of health services. In return for the loan funds, the borrower incurs a practice obligation which, unlike section 338E loans, may not exceed the remaining period of the borrower's NHSC scholarship service obligation. The regulations implementing the PPSL program have been proposed in Subpart C of Part 23.

Specific information on application procedures and forms for either of these programs may be obtained by writing to the Director, National Health Service Corps, 5600 Fisher Lane, Rockville, Maryland 20857.

Interest Rate

A number of established interest rates were examined in an attempt to determine which one would represent an adequate return on the principal under competitive market conditions, be attractive to the potential borrower to encourage selection of the PPO, and be easily identifiable by the public so that potential applicant can make informed choices and so that these regulations will not need to be amended as the rate changes. The Federal Reserve discount rate was considered because it is markedly lower than commercial rates but still represents a fair return for the Government. The Federal Reserve discount rate does not fluctuate significantly over time and is, therefore, easy to forecast. Also, the discount rate is routinely published in newspapers. At this time, the Federal Reserve discount rate is 9 percent.

The Office of Management and Budget (OMB) has recently published a revised circular No. A-70 regarding "Federal Credit Policy" requiring Federal managers to relate credit assistance more closely to financial markets. The Treasury Current Value of Funds (CVF) rate was considered and selected because this rate more closely satisifies the requirements of OMB Circular No. A-70. The CVF is favorable rate which would promote NHSC program objectives by encouraging scholarship recipients to apply for these loans and thereby extending the period of time service is provided to persons in health manpower shortage areas.

The CVF is an annual rate which fluctuates with market conditions and may be adjusted quarterly if market conditions increase or decrease by 2 percent or more. The rate is accessable through annual publication in the **Federal Register** and through the Treasury Department. The current CVF rate is 9 percent.

Loan Repayment Terms

The loan repayment terms in these regulations represent standard terms that are generally used in financial markets and are consistent with departmental guidelines for loan agreements. Interest would be charged at the Treasury Current Value of Funds rate in effect on April 1 immediately preceding the date on which the loan is awarded and would accrue from the date the loan is made. The borrowers would pay only interest for the first 2 years of the loan and, beginning with the third year, would pay interest plus principal for the remaining period of the loan. Although the proposed regulations provide for a maximum loan repayment period of 10 years, loans are currently being made with 5-year repayment schedules. The Secretary may exercise forbearance, upon the request of the individual; however, in no event will borrower be given more than 10 years, from the date the loan was made, to repay the loan.

Default

Under these regulations, a borrower may be placed in default of his or her loan agreement for: (1) The failure to make scheduled payments; (2) the failure to meet the terms and conditions of the loan agreement or promissory note; or (3) the institution of bankruptcy proceedings. In the event of default, the Secretary would be authorized to accelerate payment of the loan. Collection of the debt would be in accordance with the Departmental Claims Collection regulations set forth in 45 CFR Part 30. Debt collection mechanisms authorized under 45 CFR Part 30 include, but are not limited to: (1) Assessing interest and penalty and administrative cost charges on overdue debts; (2) reporting overdue debts to credit reporting agencies; (3) referring overdue debts to a collection agency and/or the Department of Justice; and (4) pursuing administrative or salary offset. Nothing in these PPO Loan regulations should be construed to result in the abrogation of any authority the Secretary would have under 45 CFR Part 30.

Corrections to Subpart A

In addition to the establishment of subparts B and C, there are five areas in the existing regulation at 42 CFR Part 23, Subpart A, that require technical correction:

1. Section 23.4(b)(5), as published, erred by indicating that applicants for assignment of Corps personnel *must* request startup loans. This section would be amended to indicate that such applicants *may* request startup loans.

2. Section 23.6 would be amended to delete the statement that the values assigned to the criteria for determining the entities to which NHSC personnel will be assigned will be published annually in the **Federal Register.** The publication requirements are too cumbersome and meet no perceived need.

3. Section 23.6(b) would be amended to delete paragraph (2), the factor related to the use of physician assistants, nurse practitioners, or expanded function dental auxiliaries, from consideration in determining the entities to which NHSC personnel will be assigned. This factor has been deleted from the PHS Act by section 2703(c) of Pub. L. 97-35.

4. Section 23.7(a)(3) would be amended by deleting "(a)(3)" immediately after "section 334" so that it would be applicable to entities which are small health centers, as well as those which are not. This would be consistent with the provisions of section 334 of the PHS Act, as recently amended by Pub. L. 98-194.

5. Section 23.10(a) be amended by specifying that it applies to the waiver of the reimbursement requirements of section 334(a)(3) of the PHS Act; and new § 23.10 (b) and (c) would be added describing the waiver of the reimbursement requirements of sections 334(f)(1) and 334(b)(5)(A) of the PHS Act, as recently added by Pub. L. 98-194. The current § 23.10(b) would be renumbered as § 23.10(d) and amended to reflect the new authority provided by Pub. L. 98-194 to grant prospective waivers.

Determination Concerning Impact of the Rule

The Secretary certifies, pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96-354), that this regulation will not have a significant economic impact on a substantial number of small entities. The reason for the Secretary's certification is that the regulation will affect only a small number health care providers and patients treated by those providers; therefore, the Department has determined that this notice of proposed rulemaking does not require preparation of a regulatory flexibility analysis.

The Secretary has also determined, in accordance with Executive Order 12291 of February 17, 1981, entitled "Federal Regulation," that the proposed rule does not constitute a "major rule" because it will not: have an annual effect on the economy of $100 million or more; result in a major increase in costs or prices for

consumers, any industries, any governmental agencies or any geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Sections 23.4(b)(5), and 23.34 (a), (f), (h), and (i) of this proposed rule contain information collection requirements. As required by section 3504(h) of the Paperwork Reduction Act of 1980, we have submitted a copy of this proposed rule to the Office of Management and Budget (OMB) for its review of these information collection requirements. Other organizations and individuals desiring to submit comments on the information collection requirements should direct them to the agency official designated for this purpose whose name appears in this preamble, and to the Office of Information and Regulatory Affairs, OMB, New Executive Office Building (Room 3208), Washington, D.C. 20503, ATTN: Desk Officer for HHS.

List of Subjects in 42 CFR Part 23

Government employees, Health professions, Loan programs, Manpower, Scholarships and fellowships.

Accordingly, 42 CFR Part 23 is amended as set forth below.

Dated: February 21, 1985.

James O. Mason,

Acting Assistant Secretary for Health.

Approved: May 6, 1985.

Margaret M. Heckler,

Secretary.

PART 23—NATIONAL HEALTH SERVICE CORPS

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

Authority: Secs. 333, 338E(c), and 338C(e)(1), Public Health Service Act. 90 Stat. 2272, as amended, 95 Stat. 905, 97 Stat. 1345 (42 U.S.C. 254f et seq.), 95 Stat. 912 (42 U.S.C. 254p(c)), 95 Stat. 910 (42 U.S.C. 254n(e)(1)).

Subpart A is proposed to be amended as follows:

1. In § 23.4(b), paragraph (b)(5) is revised to read as follows:

§ 23.4 How must an entity apply for assignment?

* * * * *

(b) * * *

(5) If an entity wishes to request an interest free loan (not to exceed $50,000) under section 335(c) of the Act to assist the applicant in establishing the practice of the assigned National Health Service Corps personnel, a detailed justification of the amount requested must be included.

* * * * *

§ 23.6 [Amended]

2. In § 23.6, (a) the word "and" is added before the word "third" and the words "and fourth" are removed in the second sentence of the introductory text of paragraph (b); (b) paragraph (b)(2) is removed, and paragraphs (b)(3) and (b)(4) are redesignated (b)(2) and (b)(3) respectively; and (c) the last sentence which follows paragraph (b)(4) is removed.

§ 23.7 [Amended]

3. In § 23.7(a)(3), "(a)(3)" is removed immediately after "section 334."

§ 23.10 [Amended]

4. In § 23.10:

(a) in the introductory text to paragraph (a), "section 334" is removed and "section 334(a)(3)" is inserted in lieu thereof;

(b) the current paragraph "23.10(b)" is renumbered as "23.10(d)" and "a prospective or retrospective" is inserted before "waiver."

(c) a new paragraph (b) is added:

* * * * *

(b) The Secretary may waive in whole or in part the reimbursement requirements of section 334(f)(1) of the Act if he or she determines that the National Health Service Corps site is a small health center (as defined by section 334(f)(5) of the Act) that needs all or part of the amount otherwise payable to—

(1) expand or improve its provision of health services;

(2) increase the number of individuals served;

(3) renovate or modernize facilities for its provision of health services;

(4) improve the administration of its health service programs; or

(5) establish a financial reserve to assure its ability to continue providing health services;

(d) a new paragraph (c) is added:

* * * * *

(c) Where the Secretary determines that a National Health Service Corps site is eligible for a waiver under paragraph (a)(1) or (2) of this section, the Secretary may waive the application of the reimbursement requirements of section 334(a)(3) of the Act and apply the reimbursement requirements of section 334(f)(1) of the Act. The Secretary may waive in whole or in part the reimbursement requirements of section 334(f)(1) for such a site if he or she determines that the National Health Service Corps site meets the requirements of paragraph (a)(1) of this section. Funds retained by a National Health Service Corps site as a result of such waiver must be used for the purposes set forth in paragraphs (b) (1) through (5) of this section.

It is further proposed to add Subparts B and C to Part 23 to read as follows:

Subpart B—Private Practice Special Loans for Former Corps Members

Sec.

Subpart C—Private Startup Loans

Subpart B—Private Practice Special Loans for Former Corps Members

§ 23.21 Definitions.

As used in this subpart, terms have the same meanings as those given to them in Subpart A, § 23.2. In addition:

"National Health Service Corps scholarship recipient" means an individual receiving a scholarship under the Public Health and National Health Service Corps Scholarship Training Program authorized by section 225 of the Act as in effect on September 30, 1977, and repealed on October 1, 1977, or a scholarship under the NHSC Scholarship Program authorized by section 338A of the Act, formerly section 751 of the Act.

"Private full-time clinical practice" means the provision of ambulatory clinical services for a minimum of 40 hours per week for at least 45 weeks a year, including the provision of hospital coverage services appropriate to meet the needs of patients treated and to assure continuity of care. The 40 hours per week must be performed in no less than 4 days per week with no more than 12 hours of work being performed in any 24-hour period.

§ 23.22 What is the purpose of a private practice loan?

The purpose of the private practice loan is to assist NHSC scholarship recipients in establishing private full-time clinical practices in designated health manpower shortage areas.

§ 23.23 Who is eligible to receive a private practice option loan?

(a) Eligibility for loans is limited to NHSC scholarship recipients who have completed at least 2 years of their service obligations at a NHSC site. NHSC scholarship recipients remain eligible for loans under this subpart for 1 year after they have completed their service obligations at a NHSC site.

(b) Scholarship recipients who are in arrears 31 days or more on a Health Professions Student Loan (42 U.S.C. 294m *et seq.*), Health Education Assistance Loan (42 U.S.C. 294 *et seq.*), Nursing Student Loan (42 U.S.C. 297a *et seq.*), or any other Federally guaranteed or direct student loan are ineligible for this loan program.

(c) NHSC scholarship recipients who have received loans under either this Subpart or Subpart C of this Part are ineligible for loans under this Subpart.

§ 23.24 In what amounts are loans made?

The Secretary may make loans either in the amount of $12,500, if the recipient agrees to practice in accordance with the loan agreement for a period of at least 1 year but less than 2 years, or $25,000, if the recipient agrees to practice in accordance with the loan agreement for a period of at least 2 years.

§ 23.25 How will interest rates for loans be determined?

Interest will be charged at the Treasury Current Value of Funds (CVF) rate in effect on April 1 immediately preceding the date on which the loan is approved and will accure from the date the loan funds are disbursed to the borrower.

§ 23.26 How is the loan repaid?

Payments shall be made at monthly intervals, beginning 1 month from the date of the loan disbursement, in accordance with the repayment schedule established by the Secretary and set forth in the loan agreement. Only interest payments are required during the first 2 years. The repayment schedule may be extended in accordance with § 23.31(a).

§ 23.27 What happens if scheduled payments are late?

(a) Failure to make full payment of principal and/or interest when due will subject the borrower to the assessment of administrative costs and penalty charges, in addition to the regular interest charge, in accordance with 45 CFR Part 30.

(b) Failure to make full payment of principal and/or interest when due may result in the Secretary placing the borrower in default of the loan. See § 23.28(a).

§ 23.28 What events constitute default?

The following events will constitute defaults of the loan agreement:

(a) Failure to make full payment of principal and/or interest when due, and continuance of that failure for a period of sixty (60) days, or a lesser period of time if the Secretary determines that more immediate action is necessary in order to protect the interests of the Government.

(b) Failure to perform or observe any of the terms and conditions of the loan agreement and continuance of that failure for a period of sixty (60) days.

(c) The institution of bankruptcy proceedings, either voluntary or involuntary, under any State or Federal statute, which may adversely affect the borrower's ability to comply with the terms and conditions of the agreement or the promissory note.

§ 23.29 What happens in the case of a default?

(a) In the event of default, the Secretary may declare the entire amount owed (including principal, accrued interest and any applicable charges) immediately due and payable. Collection of the amount owed will be made in accordance with 45 CFR Part 30.

(b) The borrower is not entitled to written notice of any default and the failure to deliver written notice of default in no way affects the Secretary's right to declare the loan in default and take any appropriate action under the loan agreement or the promissory note.

(c) The failure of the Secretary to exercise any remedy available under law or regulation shall in no event be construed as a waiver of his or her right to exercise that remedy if any subsequent or continued default or breach occurs.

§ 23.30 May the loan be prepaid?

The borrower shall have the option to prepay the balance of any part of the loan, together with accrued interest, at any time without prepayment penalty.

§ 23.31 May loan payments be postponed or waived?

(a) Whenever health, economic, or other personal problems affect the borrower's ability to make scheduled payments on the loan, the Secretary may allow the borrower an extension of time or allow the borrower to make smaller payments than were previously scheduled; however, interest will continue to accrue at the rate specified in the promissory note until the loan is repaid in full. The loan must be fully repaid within 10 years after it was made.

(b) No waiver, full or partial, of repayment of the loan will be granted; except that the obligation of a borrower to repay a loan shall be cancelled upon the death or total and permanent disability of the borrower, as determined by the Secretary.

(c) In order to make a determination under paragraph (a) or (b) of this section, the Secretary may require supporting medical, financial, or other documentation.

§ 23.32 What conditions are imposed on the use of the loan funds?

(a) The borrower must use the total amount of the loan to purchase or lease, or both, equipment and supplies, to hire authorized personnel to assist in providing health services and/or to renovate facilities for use in providing health services in his or her private practice. Equipment and supplies purchased and/or leased, personnel hired and facilities renovated shall be limited to the items requested in the loan application and approved by the Secretary.

(b) The borrower must expend the loan funds within 6 months from the date of the loan or within such other time as the Secretary may approve. Documentation of the expenditure of funds must be furnished to the Secretary upon request.

§ 23.33 What security must be given for these loans?

The Secretary may require the borrower to pledge to the Secretary a security interest in specified collateral.

§ 23.34 What other conditions are imposed?

(a) The borrower must sign a loan agreement describing the loan and practice conditions, and a promissory note agreeing to repay the loan plus interest.

(b) The borrower must agree to enter into private full-time clinical practice in a HMSA for the time period specified in the loan agreement.

(c) The borrower must accept assignment, for the time period specified in the loan agreement, under section 1842(b)(3)(B)(ii) of the Social Security Act as full payment for all services for which payment may be made under part B of title XVIII of that Act.

(d) The borrower must enter into an appropriate agreement, for the time period specified in the loan agreement, with the State agency which administers the State plan for medical assistance under title XIX of the Social Security Act to provide services to individuals entitled to medical assistance under the plan.

(e) During the time period specified in the loan agreement, the borrower must provide health services to individuals at the usual and customary rate prevailing in the HMSA in which services are provided; however, services must be provided at no charge or at a nominal charge to those persons unable to pay for these services.

(f) The borrower must keep and preserve all documents, including bills, receipts, checks, and correspondence which affect the operation of the private practice and the expenditure of loan funds for the period of the practice obligation specified in the loan agreement plus 3 years. Accounts will be maintained under one of the accounting principles identified by the Secretary in the loan agreement.

(g) The borrower must provide the Secretary and the Controller General of the United States, or their representatives, access during normal working hours to accounts, documents, and records for the purposes of audit or evaluation; and must permit the Secretary or his or her representative to inspect the private practice at reasonable times during the period of the practice obligation specified in the loan agreement plus 3 years. All information as to personal facts and circumstances about recipients of services shall be held confidential, and shall not be divulged without the individual's consent except as may be required by law or as may be necessary to provide medical service to the individual or to provide for medical or fiscal audits by the Secretary or his or her designee with appropriate safeguards for confidentiality of records.

(h) For the entire period of loan repayment, the borrower must acquire, maintain, and when requested, must provide the Secretary with copies of policies of insurance on equipment and supplies in amounts adequate to reasonably protest the borrower from risk, including public liability, fire, theft, and worker's compensation.

(i) If the Secretary retains a security interest pursuant to § 23.33, the borrower must keep and preserve all documents which affect that security interest for the period of the loan repayment and allow the Secretary or his or her designee access, during normal working hours, to those documents.

(j) The borrower must maintain the loan proceeds in a separate account from his or her other transactions and must agree to draw upon this account and expend the loan proceeds in accordance with § 23.32.

(k) The Secretary may impose other conditions which he or she deems appropriate under law or regulation to protect the Government's interests.

§ 23.35 What criteria are used in making loans?

Approval of loan applications will be based on the criteria set forth below:

(a) The need in the HMSA for the applicant's health profession as determined under section 332 of the Act;

(b) The applicant's need for the loan funds; and

(c) The comments from State or local health professional societies on the appropriateness of the applicant's intended private practice; and

(d) The applicant's credit worthiness and projected financial ability to repay the loan.

Subpart C—Private Startup Loans

§ 23.41 What conditions are applicable to loans under this subpart?

The regulations set out in Subpart B of this part are fully applicable to loans awarded under section 338C(e)(1) of the Public Health Service Act, except as noted below:

(a) *Eligibility.* (1) In lieu of § 23.23(a), the following applies to loans made under this subpart:

(i) Eligibility for loans is limited to NHSC scholarship recipients who plan to enter private practice and have not begun fulfilling their scholarship service obligation or are currently fulfilling their scholarship service obligation under section 338B of the Act and have completed less than 2 years of this obligation.

(2) In lieu of § 23.23(c), the following applies to loans made under this subpart:

(i) NHSC scholarship recipients who have received loans under either this subpart or subpart B of this Part are ineligible for loans under this subpart.

(b) *Loan amounts.* (1) In lieu of § 23.24, the following applies to loans made under this subpart:

(i) The Secretary may make loans in the amount of $12,500 if the recipient agrees to practice in accordance with the loan agreement for a period of at least 1 year but less than 2 years or the remaining period of the borrower's NHSC scholarship servcie obligation, whichever is shorter.

(ii) The Secretary may make loans in the amount of $25,000 if the recipient agree to practice in accordance with the loan agreement for a period of at least 2 years or the remaining period of the borrower's NHSC scholarship service obligation, whichever is shorter.

(c) *Use of funds.* (1) In lieu of § 23.32(a), the following applies to loans made under this subpart:

(i) The borrower must use the total amount of the loan only to purchase or lease, or both, the equipment and supplies needed for providing health services in his or her private practice. Equipment and supplies purchased and/or leased shall be limited to the items requested in the loan application and approved by the Secretary.

[FR Doc. 15537 Filed 7-2-85; 8:45 am]

BILLING CODE 4160-17-M

Health Care Financing Administration

42 CFR Parts 405 and 412

[BERC-315-CN]

Medicare Program; Changes to the Inpatient Prospective Payment System and Fiscal Year 1986 Rates

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Correction of proposed rule.

SUMMARY: This document corrects technical errors that appeared in the proposed rule published June 10, 1985, which set forth changes to the Medicare inpatient hospital prospective payment system and the prospective payment rates of FY 1986.

FOR FURTHER INFORMATION CONTACT: Philip Cotterill, (301) 594-8994.

SUPPLEMENTARY INFORMATION: In FR Doc. 85-13972 beginning on page 24366 in the issue of Monday, June 10, 1985, make the following corrections in the table presented in the top half of page 24438:

1. In the column titled "Proposed Wage Index", the percent change for the West North Central Census Region, "−0.23." is corrected to read "0.23."

2. In the column titled "Proposed DRG Weights", the percent change for Rural Hospitals, 0-99 Beds, "−0.11" is corrected to read "−1.13."

Section 1102, 1871, and 1886 of the Social Security Act (42 U.S.C. 1302, 1395hh, and 1395ww)

(Catalog of Federal Domestic Assistance Programs No. 13.773, Medicare—Hospital Insurance)

Dated: July 1, 1985.

K. Jacqueline Holz,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 85-16079 Filed 7-2-85; 8:45 am]

BILLING CODE 4120-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 630

[Docket No. 50581-5081]

Foreign Fishing and Atlantic Swordfish Fishery

Correction

In FR Doc. 85-13122 beginning on page 23159 in the issue of Friday, May 31, 1985, make the following correction.

§ 630.25 [Corrected]

On page 23167, third column, in § 630.25(c), fifth line, insert the following after "described in":

"§ 630.21 during the VSC is not allowed when the quota established under".

BILLING CODE 1505-01-M

50 CFR Part 662

[Docket No. 50602-5102]

Northern Anchovy Fishery; Preliminary Determination

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

ACTION: Notice of preliminary determination.

SUMMARY: This notice announces the preliminary determination of estimated spawning biomass and harvest quotas for the northern anchovy *(Engraulis mordax)* fishery in the fishery conservation zone (FCZ) for the 1985-1986 fishing season. The harvest quotas have been determined by application of the formulas in the Northern Anchovy Fishery Management Plan (FMP) and implementing regulations. These regulations require the announcement of the estimated spawning biomass and preliminary determination of harvest quotas to be made on or about July 1 each year. A final determination will be announced on or about August 1, 1985. Public comments on the estimated spawning biomass and preliminary determination are invited.

DATES: Comments must be received on or before July 20, 1985.

ADDRESS: Comments should be addressed to Mr. E. Charles Fullerton, Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731. Comments also may be made at the next meeting of the Pacific Fishery Management Council on July 10, 1985, at the Holiday Inn-Crowne Plaza 5985 West Century Boulevard, Los Angeles, California.

FOR FURTHER INFORMATION CONTACT: Mr. William L. Craig (Fishery Biologist, NMFS), 213-548-2518.

SUPPLEMENTARY INFORMATION: In consultation with the California Department of Fish and Game and the Southwest Fisheries Center, NMFS, the Director of the Southwest Region, NMFS (Regional Director) has made a preliminary determination that the spawning biomass of the central subpopulation of northern anchovy is estimated to be 521,000 metric tons (mt). This preliminary determination is based on Administrative Report Number LJ-84-18, Southwest Fisheries Center, NMFS. The report, currently under review, documents the method used to estimate the 1985 central subpopulation of northern anchovy.

The biomass estimate is derived from a method of estimating stock abundance based on egg production which has been found to be more accurate and cost-effective than the original larvacensus method used since the FMP was implemented in 1978 through 1983. Amendment 5 to the FMP, effective April 8, 1984 (49 FR 9572, March 14, 1984), changed certain management measures for determination of commercial harvest quotas and adopted the improved stock estimates. It also deleted the reduction quota reserve established by Amendment 4, because the uncertainty inherent in the larva-census method is substantially reduced by using the egg production method.

The Regional Director has made the following preliminary determinations for the 1985-1986 fishing season, applying the formulas in the FMP and in § 662.20 to calculate the harvest quotas and expected processing levels:

1. The total U.S. harvest quota or optimum yield (OY) of northern anchovy is 144,900 mt plus an unspecified amount for use as live bait.

2. The total U.S. harvest quota for reduction purposes is 140,000 mt.

a. Of the total reduction harvest qouta, 9,072 mt is reserved for the reduction fishery in subarea A (north of Pt. Buchon). The Maximum reduction fishery in subarea A is the total reduction quota minus the amount taken in subarea B.

b. The reduction quota for subarea B (south of Pt. Buchon) is 130,928 mt. The reduction fishery in subarea B may be limited to less than this amount if more than 9,072 mt is taken in subarea A.

3. The U.S. harvest allocation for non-reduction fishing (i.e., fishing for anchovy for use as dead bait and direct human consumption) is 4,900 mt. However, non-reduction fishing is not limited until the total catch in both the reduction and non-reduction fisheries reaches the total harvest quota of 144,900 mt.

4. There is no U.S. harvest limit for the live bait fishery.

5. The domestic annual processing (DAP) capacity for the reduction and non-reduction industry is 49,000 mt.

6. The amount allocated to joint venture processing is zero because there is no history of, nor are there applications for, joint ventures.

7. The domestic annual harvest (DAH) capacity for the reduction fishery is 49,000 mt.

8. The FMP states that the total allowable level of foreign fishing (TALFF) in the FCZ will be based upon the U.S. portion of the OY minus the DAH and minus that amount of expected harvest in the Mexican fishery zone which is in excess of that allocated by the FMP. Since DAH plus this excess harvest totals more than the U.S. OY, the TALFF is zero.

A summary of the information on which this preliminary determination is based has been provided to the Pacific Fishery Management Council (Council). Consultations with the Council will continue through July. In addition, the Regional Director will consider, until July 31, any evidence received from domestic land-based processors that the preliminary DAP should be modified. A final determination of the harvest quotas will be announced on or about August 1, 1985.

List of Subjects in 50 CFR Part 662

Fish, Fisheries, Fishing.

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

Dated: June 28, 1985.

Carmen J. Blondin,

Deputy Assistant Administrator For Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 85-15963 Filed 7-2-85; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 50, No. 128
Wednesday, July 3, 1985

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

June 28, 1985.

The Department of Agriculture 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) since the last list was puiblished. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of reponses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, D.C. 20250, (202) 447–2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Extension

- Agricultural Research Service

Fruit Germplasm Resources Inventory
ARS 185
Once every 3 years
State of local governments; Farms; 500 responses 3,500 hours; not applicable under 3504(h)
Dr. Miklos Faust (307) 344–3567

- Animal and Plant Health Inspection Service

Federal Plant Pest and Noxious Weed Regulations
PPQ Forms 525 and 526
On occasion
Individuals or households; State or local governments; Businesses or other for-profit; Federal agencies or employees; 5,815 responses: 765 hours; not applicable under 3504(h)
L.M. Sedgwick, Jr. (301) 436–8584

- Rural Electrification Administration

Accounting System Requirements for REA Telephone Borrowers
REA Bulletin 461–1
Recordkeeping
Non-profit institutions; Small businesses or organizations; 929 recordkeepers; 241,540 hours; not applicable under 3504(h)
Roland Heard (202) 382–8227

Jane A. Benoit,
Departmental Clearance Officer.

[FR Doc. 85–15935 Filed 7–2–85; 8:45 am]
BILLING CODE 3410–01–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 22–85]

Foreign-Trade Zone 70; Detroit, MI; Application for Subzone at Mazda Auto Plant In Flat Rock

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Greater Detroit Foreign-Trade Zone, Inc., grantee of Foreign-Trade Zone 70, requesting special-purpose subzone status for the automobile manufacturing plant of Mazda Motor Manufacturing (USA) Corporation (MMUC) in Flat Rock, Michigan, adjacent to the Detroit Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on June 10, 1985.

The proposed subzone would be located at Gibralter Rd. and Interstate 75 in Flat Rock, Wayne County, Michigan, where a 350 acre facility is under construction. It will employ 3500 persons to produce compact automobiles. At the outset, about half the value of the auto will involve foreign parts and material such as engines, transmissions, steering gears, brake assemblies, steel and some subframe components. The company plans to substantially increase domestic sourcing over the next few years. Some exports are expected.

Zone procedures will allow Mazda to avoid duty payments on the foreign parts used in its exports. On its domestic sales the company will be able to take advantage of the same duty rate available to importers of finished autos. The duty rates on most of the components ranges from 2.0 to 8.0 percent whereas the duty rate on finished autos is 2.6 percent. Subzone status will be an important factor in full utilization of this plant.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli, (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; William Morandini, District Director, U.S. Customs Service, North Central Region, 477 Michigan Ave., Detroit, MI 48226; and Colonel Raymond T. Beurket, District Engineer, U.S. Army Engineer District Detroit, P.O. Box 1027, Detroit, MI 48231. Comments concerning the proposed subzone are invited in writing from interested persons and organizations. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before August 9, 1985.

A copy of the application is available for public inspection at each of the following locations:

U.S. Dept. of Commerce District Office, 445 Federal Bldg, 231 W. Lafayette, Detroit, MI 48226
Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529,

14th and Pennsylvania NW., Washington, D.C. 20230

Dated: June 27, 1985

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 85-15891 Filed 7-2-85; 8:45 am]

BILLING CODE 3510-DS-M

[Docket No. 20-85]

Foreign-Trade Zone 23, Erie County, NY; Application for Subzone, Greater Buffalo Press Ink Making Plant in Chautauqua County

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the County of Erie, New York, grantee of Foreign-Trade Zone 23, requesting special-purpose subzone status for the ink manufacturing facilities of Greater Buffalo Press, Ltd. (GBP), in Chautaugua County, New York, adjacent to the Buffalo Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on June 10, 1985. A bill is pending in the N.Y. Legislature concerning the applicant's authority to make this application (N.Y. State Senate Bill 5927).

The proposed subzone would involve a site for GBP's ink making plant on a site on Stegelska Ave. in Dunkirk, and for a new facility under construction on a 51-acre parcel on Middle Road to the north of Dunkirk Airport in Sheridan. The plant produces color inks for GBP's high-speed comic and commercial newspaper supplement printing operations in the U.S. and Canada. With the new facility, the company would expand its operations to supply foreign and domestic printers with its ink products. The dry color pigments used in GBP's ink making process are sourced abroad.

Zone procedures would exempt GBP from duty payments on the foreign materials used in inks which are exported. On inks used domestically, the company would be able to take advantage or the same duty rate available to importers of ink. The rate on pigments is 22.8 percent, whereas the one on printing ink is 1.9 percent. The cost savings from zone procedures would help improve the international competitiveness of GBP's domestic facilities.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Edward A. Goggin, Assistant Regional Commissioner, U.S. Customs Service, Northeast Region, 100 Summer Street, Boston, MA 02110; and Colonel Robert R. Hardiman, District Engineer, U.S. Army Engineer District Buffalo, 1776 Niagara Street, Buffalo, New York 14207.

Comments concerning the proposed subzone are invited in writing from interested persons and organizations. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before August 6, 1985.

A copy of the application is available for public inspection at each of the following locations:

U.S. Department of Commerce District Office, 1312 Federal Building, 111 West Huron Street, Buffalo, New York 14202

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th and Pennsylvania NW., Washington, D.C. 20230.

Dated: June 27, 1985.

John J. Da Ponte Jr.,

Executive Secretary.

[FR Doc. 85-15888 Filed 7-2-85; 8:45 am]

BILLING CODE 3510-DS-M

[Docket No. 18-85]

Foreign-Trade Zone 57; Mecklenburg County, NC; Application for Subzone at IBM Printer and Electronic Equipment Plant

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the North Carolina Department of Commerce, grantee of Foreign-Trade Zone 57, requesting special-purpose subzone status for the printer and electronic equipment manufacturing plant of International Busines Machines Corporation (IBM) in Mecklenburg County, North Carolina, adjacent to the Charlotte, Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on June 5, 1985.

The plant is located at Interstate 85 and W. T. Harris Blvd. in Mecklenburg County. The 1168-acre facility is used to produce electronic banking equipment, printers, and electronic assemblies, employing 5000 persons. Foreign-sourced parts comprise up to 5.0 percent of finished product value and include items such as motors, power supplies, mechanical parts and electronic components. Some 16 percent of the finished products are exported.

Zone procedures will allow IBM to avoid duty payment on the foreign parts used in its exports. On domestic sales, the company would be able to take advantage of the same duty rate available to importers of these finished products. The duty rates on the imported components used by IBM range from 4.0 to 11.0 percent, whereas the rates for the finished equipment range from 4.0 to 4.3 percent. Subzone status will help make products made at this plant more competitive with those produced abroad.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Howard C. Cooperman, Deputy Assistant Regional Commissioner, U.S. Customs Service, Southeast Region, 99 S.E. 5th St., Miami, FL 33131; and Colonel Wayne A. Hanson, District Engineer, U.S. Army Engineer District Wilmington, P.O. Box 1890, Wilmington, NC 28402.

Comments concerning the proposed subzone are invited in writing from interested persons and organizations. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before August 6, 1985. A copy of the application is available for public inspection at each of the following locations.

U.S. Customs Service, Port Director's Office, 3224 Piper Lane. Charlotte, NC 28219

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th and Pennsylvania NW., Washington, D.C. 20230

Dated: June 27, 1985.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 85-15889 Filed 7-2-85; 8:45 am]

BILLING CODE 3510-DS-M

[Docket No. 21-85]

Foreign-Trade Zone 41, Milwaukee, WI; Application for Expansion of Subzone 41E for Bay Shipbuilding in Manitowoc

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Foreign-Trade Zone of Wisconsin, Ltd. (FTZW); grantee of Foreign-Trade Zone 41, requesting an expansion of Subzone 41E to include a

site in Manitowoc, Wisconsin, within the Manitowoc Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on June 20, 1985.

On May 6, 1985, the Board approved Subzone 41E for the shipbuilding facility of Bay Shipbuilding Corporation located in Sturgeon Bay, Wisconsin (Board Order 301, 50 FR 20251). Similar status is now being requested for 5 equipment storage and handling warehouses within a complex located in Manitowoc Harbor, Manitowoc, Wisconsin, which are used for some of the shipyard's storage and handling requirements. The complex is owned by the Manitowoc Company, Bay Shipbuilding's parent.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr., Chairman, Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Clinton P. Littlefield, District Director, U.S. Customs Service, North Central Region, 628 E. Michigan St., Milwaukee, WI 53202; and Colonel Raymond T. Beurket, District Engineer, U.S. Army Engineer District Detroit, P.O. Box 1027, Detroit, MI 48231.

Comments concerning the proposed subzone expansion are invited in writing from interested persons and organizations. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before August 2, 1985.

A copy of the application is available for public inspection at each of the following locations:

U.S. Dept. of Commerce District Office, 517 East Wisconsin Ave., Milwaukee, WI 52302

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th and Pennsylvania NW., Washington, D.C. 20230

Dated: June 27, 1985.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 15890 Filed 7–2–85; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

Foreign Buyer Program; Support for Domestic Trade Shows

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Implementation of the Foreign Buyer Program.

SUMMARY: This notice sets forth objectives, circumstances and application review criteria associated with the Department's program to support domestic U.S. trade shows.

DATE: These administrative procedures were effective May 10, 1985.

ADDRESS: Export Promotion Services/ Foreign Buyer Program, U.S. and Foreign Commercial Service (US&FCS), International Trade Administration, U.S. Department of Commerce, Room 2806, 14th and Constitution Avenue, NW., Washington, D.C. 20230 (202/377–0872).

FOR FURTHER INFORMATION CONTACT: Director, Marketing Development Division, Export Promotion Services, International Trade Administration, U.S. Department of Commerce, 14th & Constitution Avenue, NW., Washington, D.C. 20230 (202/377–0872).

SUPPLEMENTARY INFORMATION:

Introduction

The International Trade Administration of the Department of Commerce is pleased to announce a change in the Trade Fair Certification Program and the establishment of the new Foreign Buyer Program.

The new Foreign Buyer Program has been established to select and promote leading trade shows in the United States in high-export potential industries. This program supplants the Trade Fair Certification Program for domestic (U.S.) shows.

The Foreign Buyer Program was created in order to give hands on assistance to U.S. companies interested in exporting, through increased counseling, market analysis and overseas promotion to potential buyers, agents and distributors. Shows selected for inclusion in the Foreign Buyer Program will provide a venue for U.S. companies interested in exporting and expanding their products into international markets.

The Trade Fair Certification Program will continue to function as it has in the past, but will shift to certify only overseas shows. However, domestic trade fairs taking place before December 31, 1986, are still eligible for Domestic Trade Fair Certification if applications are received no later than *August 31, 1985.*

As part of its mission to foster, promote and develop U.S. commerce, the Department has for many years assisted U.S. firms participating in domestic trade shows to meet with potential foreign buyers, agents and distributors.

In keeping with this policy, the Department has implemented the Foreign Buyer Program. Under this program, the Department will select and promote domestic trade shows in high-export potential industries in order to bring foreign buyers together with U.S. firms. The program will also assist show organizers in identifying and recruiting new-to-market/new-to-export firms to exhibit in these trade shows. Selection of a trade show is one-time, e.g., a trade show organizer seeking selection for a recurring event, must submit a new application for selection for each occurrence of the event.

Because of limited resources available, the Department will limit selection to 10 events during fiscal year 1986 and 15 events in fiscal year 1987. The Department will select those events which in its judgment most clearly and best meet the Department's objectives as well as satisfying the general selection criteria. For this reason, an event not selected should not be viewed as a finding that the event will not be successful in promoting U.S. exports.

Selection and Logo. Each successful applicant will be provided copies of an official U.S. Department of Commerce logo and/or logo of the U.S. and Foreign Commercial Service for use in its advertising promotional materials. Selection is intended to indicate that the Department has found these events to be leading international trade shows worthy of the participation by U.S. exporting firms and promotion in overseas markets by U.S. Embassies and Consulates. Selection does not extend or characterize the event as a U.S. Government guarantee of the success or the proper performance of the undertakings of the organizer as to participants or other persons or organizations, nor does selection imply an official endorsement of one trade event organizer over others.

Department of Commerce Support of Foreign Buyer Program Events. The support provided for selected events may differ slightly depending on the specific needs identified and agreed upon by the Department and the show organizer. Services will include but may not be limited to special overseas marketing efforts by staff of the Foreign Commercial Service, such as contacting key foreign government and private sales prospects, publicity in appropriate Departmental periodicals and the identification of both new-to-market/ new-to-export U.S. companies by US&FCS account executives and trade specialists in District Offices.

General Selection Criteria. Subject to Departmental budget and resource

constraints, selection will be granted to those events which, in the judgment of the Department, most clearly and best meet the following criteria:

a. Export Potential: The products and services to be promoted at the trade show should be from U.S. industries which have high export potential as determined by U.S. Department of Commerce Sources.

b. International Interest: Trade shows will be selected which meet the needs of a significant number of overseas markets covered by the U.S. and Foreign Commercial Service, correspond to marketing opportunities as identified by these posts, and which warrant the attention and promotional efforts by those overseas posts. Previous foreign audience attendance at the show may be used as an indicator.

c. Scope: The event must offer a broad spectrum of U.S. products and/or services to U.S. exhibitors. Trade shows with a majority of American firms exhibiting will be given preference.

d. Stature: The trade show must be clearly recognized within and by the industry it covers, as a leading event for the promotion of that industry's products and services both domestically and internationally and as a show place for the latest technology or techniques in that industry.

e. Exhibitor Interest: There must be a clearly demonstrated interest on the part of U.S. exhibitors to receive international business visitors during the trade show. A significant number of these exhibitors should be new-to-export or seeking to expand into additional foreign markets.

f. Logistics: The trade show site, facilities transportation services and availability of accommodations must be in keeping with the stature of an international-class trade show.

g. *Cooperation:* Successful applicants will be required to enter into a Memorandum of Understanding which sets forth the Specific actions to be performed by the show producer/owner and the USDOC. There must be a willingness on the part of the trade show organizer to cooperate with the US&FCS to further ITA export expansion goals.

Specific Department Actions. For selected shows the Department of Commerce will:

a. Designate an account executive as central point of contact to work with the show organizer on all aspects of promotion abroad and foreign buyer assistance at the show. The Account Executive will work with the show organizer to develop a promotion marketing plan and overall promotional timetable which will identify activities to be undertaken and dates by which each activity should be completed.

b. Advise and work closely with all interested U.S. Embassies and Consulates to assure maximum trade show promotion.

c. Promote industry trade show participation through announcements in key domestic and international publications (e.g., regional, posts and embassy commercial newsletters, *Business America, Export Promotion Calendar* and *Commercial News USA).*

d. Provide show organizer with specifications for a multi-language brochure; distribute brochure to appropriate U.S. Embassies and Consulates.

e. Survey U.S. companies exhibiting at the event to solicit and encourage them to meet with foreign buyers attending the show. Compile this information into a "*Export Interest Directory*", which will contain the name of the U.S. company, products wishing to export and area of business interest (agent/distributor/immediate sales etc.), geographic area(s) of world holding major interest of the company, among other pertinent information. This document will be printed and distributed to all U.S. Embassy and Consular posts worldwide sixty (60) days prior to the event.

f. If available, provide Show Organizer with mailing addresses of potential new-to market/new-to export exhibitors.

g. Review with the show organizer potential support by appropriate trade associations, state development agencies, banks, transportation companies, chambers of commerce, and other organizations.

h. Provide a final show report to both the show organizer and promoting Embassies/ Consulates not later than 90 days after the show ends.

1. Request US&FCS Domestic Offices to provide export or marketing counseling to those American participants which have indicated a need for such counseling prior to the event.

Services Provided at Trade Show Site

An account excutive will provide management of on-site registration to foreign buyers and post-organized groups, facilitate matching foreign buyers with interested exhibitors, and counsel potential exporting firms exhibiting at trade show about available US&FCS products and services.

Request US&FCS Domestic Office to provide a trade specialist for export counseling assistance to U.S. firms at the show.

Participate, as appropriate, in special export service seminars specifically aimed at new-to market/new-to-export firms exhibiting at trade show.

Encourage with local bank and financial institutions to have a representiative available to provide export finance counseling.

Provide counseling to exhibitors in a designated area in the International business Center where information on all US&FCS products and services will be available.

Specific Responsibilities of the Show Organizer

Designate an official authorized to work with the US&FCS account executive on all aspects of the show promotion.

Provide the US&FCS with a current list of exhibitors, with name and address of appropriate contact. The name of contact should, if possible, be the descision maker of the exhibiting firm on international matters. The exhibitor list should be on gummed mailing labels.

Produce a multilingual promotional brochure in the quantities specified by the account executive. Draft of brochure must be approved by the account executive prior to printing. These brochures are needed not less than 6 months prior to the show.

If available, provide to the US&FCS names and addresses of foreign attendees to previous shows. Provide a list of per-registered foreign attendees at the current show, including names, addresses, and business interests. Both lists to be provided by country and on a mutually agreed date.

Establish a system whereby US&FCS account executive are assured access to all foreign attendees at time of registration.

Establish an International Business Center (IBC) at the show in a prominent location. The IBC should include (a) a separate registration area for foreign vistors (b) appropriate furniture and office equipment, (c) interpreters, (d) registration staff and support. The IBC must be given high visibility in show catalog/program, floor plans, and by strategically placed signs at the exhibition entrance and on the exhibition floor.

At an agreed date following the show, provide the US&FCS with a registration printout of the names and addresses of the foreign attendees, by country.

When, Where and How To Apply for Selection in the Foreign Buyer Program

Interested applicants who meet the basic criteria outlined in this

announcement, should write a letter on company or association letterhead and submit three (3) complete sets of sample promotional material. Letters and promotional materials should be submitted eighteen (18) months in advance of the event.

Applications will be processed by the Marketing Deveolpment Division of Export Promotion Services and final selection of events will be made by an International Trade administration (ITA) Committee, comprised of representatives from Trade Development, International Economic Policy and U.S. and Foreign Commerial Service, For Fiscal Year 1988 show selection announcements will be made by October 1, 1986. FBP shows selected for fiscal year 1987 will be announced in spring 1986.

Note.—Applications will be accepted after October 1, 1985 or earlier upon approval from the Office of Management and Budget (OMB) of information collection.

Fee: The Department will charge a fee of $1000 for shows selected and promoted during fiscal year 1986. The user fee is subject to change beginning in fiscal year 1987.

Robert A. Taft,

Acting Manager for Export Promotion Services.

[FR Doc. 15898 Filed 7-2-85; 8:45 am]

BILLING CODE 3510-25-M

[A-455-502]

Certain Steel Wire Nails From Poland

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether certain steel wire nails from Poland 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 this action so that it may determine whether imports of these products are causing material injury, or threaten material injury, to a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before July 22, 1985, and we will make our preliminary determination on or before November 12, 1985.

EFFECTIVE DATE: July 3, 1985.

FOR FURTHER INFORMATION CONTACT: William Kane, Office of Investigations, International Trade Administraton, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-1766.

SUPPLEMENTARY INFORMATION:

The Petition

On June 5, 185, we received a petition in proper form filed by 10 domestic steel wire nail manufacturers on behalf of the U.S. domestic producers of such merchandise. The petitioners are the Atlantic Steel Company, Atlas Steel & Wire Corporation, Continental Steel Corporation, Davis Walker Corporation, Dickson Weatherproof Nail Company, Florida Wire & Nail Company, Keystone Steel & Wire Company, Northwestern Steel & Wire Company, Virginia Wire & Fabric Company, and Wire Products Company. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from Poland are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are causing material injury, or threaten material injury, to a United Stats industry.

The petitioners base the United States price on 1984 and 1985 price quotations received by unrelated U.S. purchasers for steel wire nails produced in Poland.

Petitioners claim that Poland is a state-controlled economy country within the meaning of the Act. It alleges that the state-controlled nature of the industry and the consequent ability to set prices without regard to production costs does not permit a reliable calculation of foreign market value based either on sales or offers of sales of the product under investigation in Poland or to counties other than the United States. Therefore, petitioners request that the Department of Commerce choose a surrogate country to establish foreign market value. The petitioners choose Greece and Italy as the non-state-controlled economy surrogate countries whose prices should be used as the basis for determining foreign market value.

To support their allegations of sales at less than fair value, petitioners construct the value of steel wire nails. In so doing, petitioners rely on U.S. producers' cost of production information including costs of steel wire and other material and fabrication inputs, adjusting labor rates to reflect an average of those in the proposed surrogate countries.

Based on the comparison of the adjusted U.S. price of steel wire nails imported from Poland with the adjusted cost of production of steel wire nails produced in Poland, the petitioners allege dumping margins ranging from 78.2 percent to 83.6 percent.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necesssary for the initiation of an antidumping duty investigation and whether it contains information reasonably available to the petitioners supporting the allegations.

We examined the petition on certain steel wire nails from Poland and have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether certain steel wire nails from Poland are being, or are likely to be, sold in the United States at less than fair value.

In the course of our investigation, we will determine whether the economy of Poland is state-controlled to an extent that sales of such or similar merchandise in the home market or to third country markets do not permit determination of foreign market value. If it is determined to be a state-controlled economy, we will then choose a non-state-controlled economy surrogate country for purposes of determining foreign market value. If our investigation proceeds normally, we will make our preliminary determination by November 12, 1985.

Scope of Investigation

The merchandise covered by the petition consists of one-piece steel wire nails from Poland as currently provided for in the *Tariff Schedules of the United States* (TSUSA) under item numbers 646.25 and 646.26, and similar steel wire nails of one-piece construction, whether at, over or under .065 inch in diameter as currently provided for in item number 646.3040; two-piece steel wire nails provided for in item number 646.32; and steel wire nails with lead heads provided for in item number 646.36.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and 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 Determination by ITC

The ITC will determine by July 22, 1985, whether there is a reasonable indication that imports of certain steel wire nails from Poland are causing material injury, or threaten material injury, to a United States industry. If its determination is negative the investigation will terminate; otherwise, it will proceed according to statutory procedures.

Dated: June 25, 1985.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 85-15883 Filed 7-2-85; 8:45 am]

BILLING CODE 3510-DS-M

[C-791-005]

Deformed Steel Bars for Concrete Reinforcement From South Africa; Intention To Review and Preliminary Results of Changed Circumstances Administrative Review and Tentative Determination To Revoke Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of Intention to Review and Preliminary Results of Changed Circumstances Administrative Review and Tentative Determinantion to Revoke Countervailing Duty Order.

SUMMARY: The Department of Commerce believes there exist changed circumstances sufficient to warrant an administrative review, under section 751(b)(1) of the Tariff Act, of the countervailing duty order on deformed steel bars for concrete reinforcement ("rebars") from South Africa. The review covers the period from October 1, 1984. The Department notified the petitioner, Industrial Siderurgica, that absent an affirmative statement of interest, the Department would revoke the countervailing duty order. We received no response from the petitioner. This absence of an affirmative statement of interest, after notification, provides a reasonable basis for the Department to revoke the order. Therefore, we intend to revoke the order. In accordance with the Department's notification, the revocation will apply to all rebars entered, or withdrawn from warehouse, for consumption on or after October 1, 1984. Interested parties are invited to comment on these preliminary results and tentative determination to revoke.

EFFECTIVE DATE: October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Barbara Williams or Philip Otterness, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On October 28, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 47900) a countervailing duty order on deformed steel bars for concrete reinforcement from South Africa.

In a letter dated April 4, 1985, the Department requested an affirmative statement of interest in the order from the petitioner, Industrial Siderurgica. We stated that if we received no response by May 4, 1985, we would assume that Industrial Siderurgica was no longer interested in maintenance of the order. Under section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department may revoke a countervailing duty order that is no longer of interest to domestic interested parties.

Scope of the Review

Imports covered by the review are shipments of South African rebars. Such merchandise is currently classifiable under items 606.7900 and 606.8100 of the Tariff Schedules of the United States Annotated. The review covers the period from October 1, 1984.

Preliminary Results of the Review and Tentative Determination

As a result of our review, we preliminarily determine that the absence of the petitioner's affirmative statement of interest in continuation of the countervailing duty order on rebars from South Africa, after notification, provides a resonable basis for revocation of the order.

Therefore, we tentatively determine to revoke the order on this product effective October 1, 1984. We intend to instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after October 1, 1984, without regard to countervailing duties and to refund any estimated countervailing duties collected with respect to those entries. The current requirement for a cash deposit of estimated countervailing duties will continue until publication of the final results of this review.

This notice does not cover unliquidated entries of rebars from South Africa which were entered, or withdrawn from warehouse, for consumption prior to October 1, 1984, and which were not covered in a prior administrative review. The Department will cover any such entries in a separate review, if one is requested.

Interested parties may submit written comments on these preliminary results and tentative determination to revoke within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within five days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. The Department will publish the final results of the review and its decision on revocation, including its analysis of issues raised in any such written comments or at a hearing.

This intention to review, administrative review, tentative determination to revoke, and notice are in accordance with sections 751(b) and (c) of the Tariff Act (19 U.S.C. 1675(b), (c)) and sections 355.41 and 355.42 of the Commerce Regulations (19 CFR 355.41, 355.42).

Dated: June 27, 1985.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 85-15881 Filed 7-2-85; 8:45 am]

BILLING CODE 3510-DS-M

[C-201-013]

Portland Hydraulic Cement and Cement Clinker From Mexico; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on portland hydraulic cement and cement clinker form Mexico. The review covers the period July 1, 1983, through December 31, 1983, and 19 programs.

As a result of the review, the Department has preliminarily determined the bounty or grant to be zero or *de minimis* for four firms and 3.49 percent *ad valorem* for all other firms for the period of review. Interested

parties are invited to comment on these preliminary results.

EFFECTIVE DATE: July 3, 1985.

FOR FURTHER INFORMATION CONTACT: Alan Long, Stephen Nyschot or Norman Kreutter, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telepone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On September 21, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 43063) a countervailing duty order on portland hydraulic cement and cement clinker form Mexico and announced its intent to conduct an administrative review of the order. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of Mexican portland hydraulic cement and cement clinker other than white, non-staining. Such merchandise is currently classifiable under items 511.1420 and 511.1440 of the Tariff Schedules of the United States Annotated.

The review covers the period July 1, 1983, through December 31, 1983, and 19 programs: (1) FOMEX; (2) Article 94 of the Banking Law; (3) CEPROFI; (4) FONEI; (5) NDP preferential discounts; (6) accelerated and immediate depreciation allowances; (7) NAFINSA: (8) border zone valued added tax; (9) FONEP; (10) state tax incentives; (11) FOMIN; (12) FOGAIN: (13) import duty reduction and exemptions; (14) export services offered by IMCE; (15) FIDEIN: (16) preferential vessel and freight rates; (17) commercial risk insurance; (18) government-financed technology development under the National Development Plan; and (19) CEDI.

Analysis of Programs

1) FOMEX

The Fund for the Promotion of Exports of Mexican Manufactured Products ("FOMEX") is a trust of the Mexican Treasury Department, with the National Bank of Foreign Trade acting as trustee for the program since August 1, 1983. The National Bank of Foreign Trade, through financial institutions, makes FOMEX loans available at preferential rates to manufacturers and exporters for two purposes: pre-export (production) financing and export financing. We consider both pre-export and export FOMEX loans to be export bounties or grants since these loans are given only on merchandise destined for export. We found that the annual interest rate that financial institutions changed borrowers for FOMEX pre-export financing, denominated in Mexican pesos, was either 7 or 8 percent during the period of review. The annual interest rate for FOMEX export financing, denominated in the currency of the importing country, ranged from 3.5 to 10 percent during the period of reveiw.

Since we lacked information on effective FOMEX interest rates in this case, we chose nominal peso and dollar rates as our benchmarks. For peso-denominated loans we used as a benchmark for the commercial interest rate in Mexico the average of the nominal interest rates published monthly by the Banco de Mexico in the *Indicadores Economicos*. For dollar-denominated loans, we used interest information obtained from the U.S. Federal Reserve Board. Based on this information, we preliminarily determine that, during the period of review, comparable peso-denominated loans were available commercially at 64.43 percent and comparable dollar-denominated loans were available at 12.66 percent. Using the weighted-average FOMEX pre-export and export rates, 7.73 percent and 5.76 percent, we found the resulting interest differentials during the review period to be 56.70 percent for peso-denominated loans and 6.90 percent for dollar-denominated loans.

Two exporters of this merchandise used these programs during the period of review. Because one of them, Cementos Anahuac del Golfo, was able to tie all FOMEX loans to exports to specific countries, we used only its FOMEX loans on U.S. shipments and allocated the benefits over only the value of U.S. shipments during the period of review. Since the other, Comentos de Chihuahua, could not tie its FOMEX per-export loans to exports to specific countries and had no FOMEX export loans, we used all of its pre-export loans and allocated the benefits over all exports. We then weight averaged the resulting *ad valorem* benefits by each company's proportion of the value of Mexican exports to the U.S. of this merchandise (excluding exports from firms with zero or *de minimis* aggregate benefits). On this basis, we preliminarily determine the benefit from FOMEX per-export loans to be 1.36 percent, and from FOMEX export loans to be 1.24 percent, for a total benefit during the review period of 2.60 percent *ad valorem*.

On April 1, 1984, the Banco de Mexico raised the interest rates for FOMEX pre-export and export financing to 19.30 percent and 7.10 percent, respectively. To calculate the estimated duty deposit rate, we compared the new FOMEX interest rates to our most recent commercial benchmarks. The interest differential for peso-denominated loans is 42.40 percent, and for dollar-denominated loans, 7.02 percent. On this basis, we preliminarily find, for purposes of cash deposits of estimated countervailing duties, a FOMEX beneift of 2.26 percent *ad valorem*.

2) Article 94 of the Banking Law

The Banco de Mexico determines the precentages of deposits at credit institutions that those institutions must depost at the Banco de Mexico and must invest in other types of assets. Section 2 of Article 94 of the General Law of Credit Institutions and Auxiliary Organizations ("the Banking Law") establishes that up to 25 percent of a bank's total deposits must be funneled as loans into specially designated sectors of economic activity. Loans granted under section 2 are obtained at below-market interest rates.

In Circular 1842/79, the Banco de Mexico established 12 categories of industries that are eligible to obtain financing under section 2 of Article 94. Most categories carry their own maximum interest rates, set by the Banco de Mexico. Category 12 consists only of exports of manufactured products and during the period of review carried a maximum interest rate equal to the Costo Procentual Promedio minus 5 points, which is below the comparable commercial rate.

We consider financing obtained at the preferential interest rate under category 12 to constitute an export bounty or grant because it is given only on merchandise destined for export. Producers of portland hydraulic cement and cement clinker received financing under category 12 during the period of review. To calculate the benefit from these peso-denominated loans, we used as a benchmark the same average commercial interest rate as for the FOMEX pre-export loans. The resulting interest differential for these Article 94 loans during the review period is 11.23 percent.

Since these article 94 loans are based on shipments to specific countries, we allocated the benefits that each company received on its exports to the U.S. over the value of that company's total exports of the merchandise to the U.S. during the period of review. We then weight averaged the resulting *ad valorem* benefits by each company's proportion of the value of Mexican exports to the U.S. of this merchandise

(excluding exports from firms with zero or *de minimis* aggregate benefits). On this basis, we preliminarily determine the benefit from Article 94 loans to be 0.13 percent *ad valorem.*

3) CEPROFI

Certificates of Fiscal Promotion ("CEPROFI") are tax certificates that are used to promote the goals of the National Development Plan ("NDP") and are granted in conjunction with investments in designated industrial activities and geographic regions. CEPROFI certificates can be used to pay a variety of federal tax liabilities.

Article 25 of the decree that established the basic authority for the issuance of CEPROFI's, published in the *Diario Oficial* on March 6, 1979, requires each recipient to pay a 4 percent supervision fee. The 4 percent supervision fee is "paid in order to qualify for, or to receive," the CEPROFI's. Therefore, it is an allowable offset from the gross bounty or grant, as defined by section 771(6)(A) of the Tariff Act.

Portland hydraulic cement and cement clinker firms received CEPROFI benefits under three provisions: "Category I," which makes CEPROFI certificates available for manufacture and processing of construction and capital goods; "Category II," which makes CEPROFI certificates available for particular industrial activities; and a third provision, which makes CEPROFI certificates available for the purchase of Mexican-made equipment.

The Department held in the final affirmative countervailing duty determination on bricks from Mexico (49 FR 19564, May 8, 1984) that a CEPROFI certificate granted for the purchase of Mexican-made equipment was not a bounty or grant since such certificates are available to any company that purchases Mexican-made equipment.

We consider the other two types of CEPROFI certificates to be domestic subsidies and we allocated the benefits each company received from the Category I and Category II CEPROFI programs, less the 4 percent supervision fee, over the total value of each firm's sales to all markets during the period of review. We then weight averaged the resulting *ad valorem* benefits by each company's proportion of the value of Mexican exports to the U.S. of this merchandise (excluding exports from firms with zero or *de minimis* aggregate benefits). On this basis, we preliminarily determine the benefit from the CEPROFI program to be 0.47 percent *ad valorem.*

4) FONEI

The Fund for Industrial Development ("FONEI") is a specialized financial development fund, administered by the Banco de Mexico, which grants long-term loans at below-market rates. FONEI loans are available under various programs having different eligibility requirements. The plant expansion program is designed for the creation, expansion, or modernization of enterprises in order to promote the efficient production of goods capable of competing in the international market or to meet the objectives of the NDP, which include industrial decentralization. We consider this FONEI loan program to confer a bounty or grant because it restricts loan benefits to those enterprises located outside the Zone IIIA.

Only Cementos de Chihuahua had FONEI loans for plant expansion outstanding during the period of review. Cementos de Chihuahua received a ten-year fixed-rate loan in October 1973, a ten-year variable-rate loan in September 1981, and an eight-year variable-rate loan in September 1982.

We used as our benchmark for the fixed-rate FONEI loan granted in 1973 the commercial rate for comparable peso-denominated loans in 1973, 14 percent. Cementos de Chihuahua completed the repayment of the 1973 FONEI loan on October 1, 1983. We determine that the benefit from this loan is the interest savings realized by Cementos de Chihuahua during the period of review.

We treated the variable rate FONEI loans as a series of short-term loans. To calculate the benefits from these peso-denominated loans, we used as a benchmark the same average commercial interest rate as for FOMEX pre-export loans.

We allocated the benefits resulting from the fixed- and variable-rate FONEI loans over the total value of Cementos de Chihuahua's sales to all markets. We then weight averaged the resulting *ad valorem* benefits by each company's proportion of the value of Mexican exports to the U.S. of this merchandise (excluding exports from firms with zero or *de minimis* aggregate benefits). On this basis we preliminarily determine the benefit from FONEI loans to be 0.04 percent *ad valorem.*

5) NDP Preferential Discounts

Preferential discounts are granted under the NDP to companies located in specific regions or engaged in certain priority activities. During the period of review, Cementos de Chihuahua received credits equal to a 15 percent discount on its purchases of natural gas, and Cementos Portland Nacional received credits equal to a 10 percent discount on its purchases of heavy fuel oil.

The Department allocates benefits from preferential programs such as this to the period in which cash savings occur. (*See* final affirmative countervailing duty determination on carbon black from Mexico (48 FR 29564, June 27, 1983)). We consider the benefits from this program to be equal to the total value of the credits received. We allocated the total value of the credits received by each firm during the period of review over the value of that firm's sales to all markets during the period. We then weight averaged the resulting *ad valorem* benefits by each company's proportion of the value of Mexican exports to the U.S. of this merchandise (excluding exports from firms with zero or *de minimis* aggregate benefits). On this basis, we preliminarily determine the benefit from preferential discounts to be 0.25 percent *ad valorem.*

6) Accelerated and Immediate Depreciation

For purposes of economic development, the Mexican Treasury Department may grant accelerated depreciation allowances and immediate depreciation allowances to industries in certain geographic regions or to industries for certain designated industrial activities. Cementos Anahuac and Cementos Anahuac del Golfo used accelerated and/or immediate depreciation in 1983. To calculate the resulting benefits, we deducted the amount of depreciation otherwise allowable from total depreciation. During 1983, Cementos Anahuac and Cementos Anahuac del Golfo had no taxable income after normal adjustments against which to apply accelerated and immediate depreciation. Therefore, we preliminarily determine that there were no countervailable benefits from either the accelerated or immediate depreciation programs during the period of review.

7) NAFINSA

Nacional Financiera, S.A. ("NAFINSA") is an investment bank that acts as a financial agent of the federal government. Among other activities, NAFINSA provides long-term loans to companies for industrial projects.

Cementos de Chihuahua had two NAFINSA long-term loans outstanding during the period of review. The Department held such loans not to be countervailable in the final affirmative

countervailing duty determination on oil country tubular goods from Mexico (49 FR 47054, November 30, 1984).

8) Border Zone Value Added Tax

The Mexican Treasury Department mandates a 6 percent value added tax ("IVA") for taxable activities within 20 kilometers of an international boundary or in the free zones of Baja California, portions of Sonora and portions of Campeche. There is an IVA of 15 percent in the remainder of the country.

Petitioners allege that the lower IVA rate in effect for certain regions of Mexico constitutes a countervailable subsidy program since it is not generally available. The Department held such reduced IVA rates not to be countervailable in the final affirmative countervailing duty determination on lime from Mexico (49 FR 35672, September 11, 1984). We have no information which would now lead us to alter that decision.

9) Other Programs

We also examined the following programs and preliminarily find that exporters of portland hydraulic cement and cement clinker did not use them during the review period:

(A) National Pre-investment Fund for Studies and Projects ("FONEP");

(B) State tax incentives;

(C) National Industrial Development Fund ("FOMIN");

(D) Guarantee and Development Fund for Medium and Small Industries ("FOGAIN");

(E) Import duty reductions and exemptions;

(F) Export services offered by the Mexican Institute of Foreign Commerce ("IMCE");

(G) Trust for Industrial Parks, Cities, and Commercial Centers ("FIDEIN");

(H) Preferential vessel and freight rates;

(I) Commercial risk insurance;

(J) Government-financed technology development under the NDP; and

(K) Tax Rebate Certificates ("CEDI").

Preliminary Results of Review

As a result of our review, we preliminarily determine the bounty or grant to be zero for Comentors Guadalajara, Cementos Mexicanos, and Cementos Ahahuac and 0.40 percent *ad valorem* for Cementos Hidalgo. The Department considers any rate less than 0.50 percent *ad valorem* to be *de minimis*. For all other firms, we preliminarily determine the bounty or grant to be 3.49 percent *ad valorem*.

The Department intends to instruct the Customs Service to assess no countervailing duties on shipments of this merchandise from the four firms with a zero or *de minimis* rate of benefit, and countervailing duties of 3.49 percent of f.o.b. invoice price on shipments from all other firms entered, or withdrawn from warehouses, for consumption on or after July 8, 1983, the date of the Department's affirmative preliminary determination, and exported on or before December 31, 1983.

The Department intends to instruct the Customs Service not to collect a cash deposit of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, on shipments from the four firms and to collect 3.15 percent of the entered value on shipments from all other firms entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final rusults of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1765(a)(1)) and section 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: June 27, 1985.

Alan F. Holmer,

Deputy Assistant Secretary Import Administration.

[FR Doc. 85-15882 Filed 7-2-85; 8:45 am]

BILLING CODE 3510-DS-M

[T570-503]

Certain Steel Wire Nails From the People's Republic of China (PRC)

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether certain steel wire nails from the People's Republic of China (PRC) 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 this action so that it may determine whether imports of these products are causing material injury, or threaten material injury, to a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before July 22, 1985, and will make our preliminary determination on or before November 12, 1985.

EFFECTIVE DATE: July 3, 1985.

FOR FURTHER INFORMATION CONTACT: William Kane, Office of Investigations, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-1766.

SUPPLEMENTARY INFORMATION:

The Petition

On June 5, 1985, we received a petition in proper form filed by 10 domestic steel wire nail manufacturers on behalf of the U.S. domestic producers of such merchandise. The petitioners are the Atlantic Steel Company, Atlas Steel & Wire Corporation, Continental Steel Corporation, Davis Walker Corporation, Dickson Weatherproof Nail Company, Florida Wire & Nail Company, Keystone Steel & Wire Company, Northwestern Steel & Wire Company, Virginia Wire & Fabric Company, and Wire Products Company. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from the People's Republic of China are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are causing material injury, or threaten material injury, to a United States industry.

The petitioners base the United States price on 1984 and 1985 price quotations received by unrelated U.S. purchasers of Chinese steel wire nails.

Petitioners claim that the PRC is a state-controlled economy country within the meaning of the Act. They allege that the state-controlled nature of the industry and the consequent ability to set prices without regard to production costs prevent a reliable calculation of foreign market value based either on sales or offers of sales of the product under investigation in the PRC or to

countries other than the United States. Therefore, petitioners request that the Department of Commerce choose a surrogate country to establish foreign market value. The petitioners choose India and Singapore as the non-state-controlled economy surrogate countries whose prices should be used as the basis for determining foreign market value.

To support their allegations of sales at less than fair value, petitioners construct the value of steel wire nails. In so doing, petitioners rely on U.S. producers' cost of production information including costs of steel wire and other material and fabrication imputs, adjusting labor rates to reflect an average of those in the proposed surrogate countries.

Based on the comparison of the adjusted U.S. price of steel wire nails imported from the PRC with the adjusted cost of production of Chinese steel wire nails, the petitioners allege average dumping margins ranging from 60.1 percent to 85.8 percent.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and whether it contains information reasonably available to the petitioners supporting the allegations.

We examined the petition on certain steel wire nails from the PRC and have fund that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether certain steel wire nails from the PRC are being, or are likely to be, sold in the United States at less than fair value.

In the course of our investigation, we will determine whether the economy of the People's Republic of China is state-controlled to an extent that sales of such or similar merchandise in the home market or to third country markets do not permit determination of foreign market value. If it is determined to be a state-controlled economy, we will then choose a non-state-controlled economy surrogate country for purposes of determining foreign market value. If our investigation proceeds normally, we will make our preliminary determination by November 12, 1985.

Scope of Investigation

The merchandise covered by the petition consists of: One-piece steel wire nails as currently provided for in the *Tariff Schedules of the United States* (TSUSA) under item numbers 646.25 and 646.26, and similar steel wire nails of one-piece construction, whether at, over or under .065 inch in diameter as currently provided for in item number 646.3040; two-piece steel wire nails provided for in item number 646.32; and, steel wire nails with lead heads provided for in item number 646.36.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and 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 Determination by ITC

The ITC will determine by July 22, 1985, whether there is a reasonable indication that imports of certain steel wire nails from the PRC are causing material injury, or threaten material injury, to a United States industry. If its determination is negative the investigation will terminate; otherwise, it will proceed according to statutory procedures.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

June 25, 1985.

[FR Doc. 85-15884 Filed 7-2-85; 8:45 am]

BILLING CODE 3510-DS-M

[A-479-501]

Certain Steel Wire Nails From Yugoslavia

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether certain steel wire nails from Yugoslavia 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 this action so that it may determine whether imports of this merchandise are causing material injury, or threaten material injury, to a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before July 22, 1985, and we will make our preliminary determination on or before November 12, 1985.

EFFECTIVE DATE: July 3, 1985.

FOR FURTHER INFORMATION CONTACT: William Kane, Office of Investigations, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-1766.

SUPPLEMENTARY INFORMATION:

The Petition

On June 5, 1985, we received a petition in proper form filed by 10 domestic steel wire nail manufacturers on behalf of the U.S. industry producing such merchandise. The petitioners are the Atlantic Steel Company, Atlas Steel & Wire Corporation, Continental Steel Corporation, Davis Walker Corporation, Dickson Weatherproof Nail Company, Florida Wire & Nail Company, Keystone Steel & Wire Company, Northwestern Steel & Wire Company, Virginia Wire & Fabric Company, and Wire Products Company. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from Yugoslavia are being, or are likely to be sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the act), and that these imports are causing material injury, or threaten material injury, to a United States industry.

The petitioners base the United States price aon 1984 and 1985 price quotations received by unrelated U.S. purchasers for steel wire nails produced in Yugoslavia.

For foreign market value, petitioners construct a value for Yugoslavian steel wire nails based on U.S. producers' material and fabrication costs adjusted for differences in labor costs based on prevailing labor rates in Greece as an economy comparable to Yugoslavia, as Yugoslavian labor rates were not publicly available.

Based on a comparison of U.S. price and foreign market value using the foregoing methodology, the petitioners allege an average dumping margin of 88.1 percent.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and whether it contains information

reasonably available to the petitioners supporting the allegations.

We examined the petition on certain steel wire nails from Yugoslavia and have found that it meets the requirements of section 732 (b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether certain steel wire nails from Yugoslavia asre being, or are likely to be, sold in the United States at less then fair value. If our investigation proceeds normally, we will make our preliminary determination by November 12, 1985.

Scope of Investigation

The merchandise covered by the petition consists of one-piece steel wire nails as currently provided for in the *Tariff Schedules of the United States* (TSUS) under item numbers 646.25 and 646.26, and similar steel wire nails of one-piece construction, whether at, over or under .065 inch in diameter as currently provided for in item number 646.3040; two-piece steel wire nails provided for in item number 646.32; and steel wire nails with lead heads provided for in item number 646.36.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrived at this determination. 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 Determination by ITC

The ITC will determine by July 22, 1985, whether there is a reasonable indication that imports of certain steel wire nails from Yugoslavia are causing material injury, or threaten material injury, to a United States industry. If its determination is negative the investigation will terminate; otherwise, it will proceed according to statutory procedures.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

June 25, 1985.

[FR Doc. 85-15885 Filed 7-2-85; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Receipt of Application for a Small Take—Commercial Fishing Exemption

Notice is hereby given that the following application has been received to take marine mammals incidental to the pursuit of commercial fishing operations within the Fishery Conservation Zone of the United States, as authorized by the Marine Mammal Protection Act of 1972 as amended (16 U.S.C. 1361-1407) (MMPA).

The South Atlantic Fishery Management Council has applied on behalf of fishermen participating in the swordfish gillnet fishery of the North Atlantic Ocean, for a small take exemption to the general permit requirements of the MMPA. This exemption is permitted by section 101(a)(4) of that act. The applicant requests on annual total take of 100 marine mammals (75 North Atlantic, 25 Gulf of Mexico/Caribbean Sea) of the following species:

Atlantic white-side dolphil—*Lagenorhynchus acutus*
Bottlenosed dolphin—*Tursiops truncatus*
Common dolphin—*Delphinus delphis*
Dwarf sperm whale—*Kogia simus*
False killer whale—*Pseudorca crassidens*
Goosebeaked whale—*Ziphius cavirostris*
Minke whale—*Balaenoptera acutorostrata*
Northern bottlenosed whale—*Hyperoodon ampullatus*
Pilot whale—*Globiocephala spp.*
Pygmy killer whale—*Feresa attenuata*
Pygmy sperm whale—*Kogia breviceps*
Risso's (Grampus) dolphin—*Grampus griseus*
Rough-toothed dolphin—*Steno bredanensis*
Spinner dolphin—*Stenella longirostris*
Spotted dolphin—*Stenella plagiodon*
Striped dolphin—*Stenella coeruleoalba*

If this exemption is granted, the Council will be responsible for collecting reports on incidental takes. Gillnet vessels not carrying a U.S. government observer will be required to keep detailed logs concerning location, date of entanglement and species and number of marine mammals killed, seriously injured or released uninjured. The Council will submit a report annually on the takings.

The application is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, DC;
Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts 01930-3799; and
Regional Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Interested parties may submit written comments on the application within thirty (30) days of the date of this notice to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Washington, DC 20235.

Dated: June 27, 1985.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service, National Oceanic and Atmospheric Administration.

[FR Doc. 85-15962 Filed 7-2-85; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Office of the Secretary

DOD Advisory Group on Electron Devices; Meeting

SUMMARY: Working Group B (Microelectronics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATE: The meeting will be held at 9:00 a.m., Tuesday, 30 July 1985.

ADDRESS: The meeting will be held at Palisades Institute for Research Services, Inc., 2011 Crystal Drive, One Crystal Park, Suite 307, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: Becky Terry, AGED Secretariat, 2011 Crystal Drive, Arlington, VA 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. The Microelectronics area includes such programs as integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with section 10(d) of Pub. L. 92-463, as amended (5 U.S.C.

App. II section 10(d) (1982)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly, this meeting will be closed to the public.

Dated: June 28, 1985.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 85-15946 Filed 7-2-85; 8:45 am]

BILLING CODE 3810-01-M

Defense Intelligence Agency Scientific Advisory Committee; Closed Meeting

SUMMARY: Pursuant to the provisions of subsection (d) of section 10 of Pub. L. 92-463, as amended by Section 5 of Pub. L. 94-409, notice is hereby given that a closed meeting of a panel of the DIA Scientific Advisory Committee has been scheduled as follows:

DATES: August 7, 1985 9:00 a.m. to 5:00 p.m.

ADDRESS: The DIAC, Bolling AFB, D.C.

FOR FURTHER INFORMATION CONTACT: Lt Col Harold D. Linton, USAF, Executive Secretary, DIA Scientific Advisory Committee, Washington, D.C. 20301 (202/373-4930).

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified information as defined in section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on Space Activities.

Dated: June 28, 1985.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 85-15945 Filed 7-2-85; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Conflict Environment; Advisory Committee Meetings

SUMMARY: The Defense Science Board Task Force on Conflict Environment will meet in closed session on 12-13 September and 17-18 October 1985 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will continue to receive classified briefings on Conflict Environment and to discuss preparation of their report.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. 92-463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Panel meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Dated: June 28, 1985.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 85-15944 Filed 7-2-85; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Follow-on Forces Attack; Advisory Committee Meetings

SUMMARY: The Defense Science Board Task Force on Follow-on Forces Attack will meet in closed session on 24-25 July and 5-6 September 1985 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will continue to examine the technical and programmatic aspects as well as conceptual applications of the capabilities and systems to accomplish attacking follow-on forces.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. 92-463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Panel meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Dated: June 28, 1985.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 85-15943 Filed 7-2-85; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Military Traffic Management; International Program

AGENCY: Military Traffic Management Command (MTMC) Army, DOD.

ACTION: Notice of expansion of the solicitation for movement of international commercial air unaccompanied baggage (UB) under the Direct Procurement Method (DPM). The DPM commercial air solicitation was first announced in the **Federal Register** dated October 3, 1984 (49 FR 39095).

SUMMARY: The MTMC conducted a test for movement of DPM UB via commercial air from Ft. Benning, Georgia, and Ft. Sill, Oklahoma, to Frankfurt, Germany. The test period covered 6 months (April 1-September 30, 1985).

Results of the test concluded that this is an effective and efficient method for movement of UB. As a result, MTMC has elected to expand the DPM Air Solicitation program worldwide.

This solicitation will standardize the service performed by the commercial air freight forwarders/carriers. The solicitation will eliminate the present Memorandum of Understanding, dated January 14, 1981, between certain air carriers and MTMC. Carriers/forwarders will be requested to submit single factor rates to include the following services:

a. Pickup shipment at origin contractor's facility.

b. Land transportation to origin airport.

c. Air transportation from airport at origin to destination area.

d. Land transportation from destination airport to destination contractor's facility.

e. Processing of shipment through appropriate customs.

f. Expeditious movement and delivery to ultimate destination warehouse as directed by the installation transportation officer.

The air freight forwarders/carriers submitting the most favorable offer will be awarded all traffic moving via DPM commercial air, between the origin/destination points. Estimated tonnages will be provided. However, there is no guarantee that any tonnages will move under this solicitation. The government reserves the right to use any method of shipment, i.e., DPM MAC, Code J, and Code 8.

Rates submitted will be for a 6-month period with an option for cancellation at designated periods within the cycle.

The solicitation package will be distributed in July for rates effective October 1, 1985.

FOR FURTHER INFORMATION CONTACT: LTC Robert P. Coleman or Ms. Naomi King, HQ, Military Traffic Management Command, Attn: MT-PPC (Room 408), 5611 Columbia Pike, Falls Church, Virginia 22041-5050, (202) 756-2577.

Joseph R. Marotta,

Colonel, GS, Director of Personal Property.

[FR Doc. 85-15936 Filed 7-2-85; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement for the Proposed James River Channel Restoration Project

AGENCY: U.S. Army Corps of Engineers, Omaha District.

Sponsor: South Dakota Department of Water and Natural Resources, Pierre, South Dakota.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. The proposed action is to restore the flow capacity of the James River to near the 1922 capacity, to improve recreational access and to preserve natural and cultural values along the river. The South Dakota Department of Water and Natural Resources has applied to the Corps of Engineers for permits under section 404 of the Clean Water Act and Section 10 of the River and Harbor Act of 1899.

2. Flow capacity of the channel will be increased by selected removal of accumulated sediment, log jams and debris and man-made obstructions. Methods of clean out include hydraulic and mechanical dredging, and snagging and clearing.

3. Alternatives being evaluated by the applicant include:

a. Remove log jams, debris and man-made obstructions only

b. Remove log jams, debris, man-made obstructions and accumulated sediment deposits

c. Construct high flow channel by-passes and remove log jams, debris, and man-made obstructions where needed

d. No action

All of the above alternatives, except no action, assume acquisition of public areas for recreation and conservation purposes. Rights to these areas will be acquired from adjacent landowners through donations or easements and fee purchases from willing sellers.

Alternatives available to the Corps of Engineers include:

a. Approve the permit application

b. Denial of the permit application

c. Approve the permit application with some modification

4. Since 1980 the sponsor has conducted public meetings in order to develop a feasible project, and has obtained state and local funding support. In late 1984 the sponsor received a federal permit to conduct a test dredging operation in an upper reach of the river near Stratford, South Dakota. Dredging and environmental monitoring operations began in late 1984 and are continuing in 1985. The purpose of the dredging test is to determine operational and environmental feasibility. A federal and state agency EIS scoping meeting was held on May 22–23 to address concerns relating to fish and wildlife, water quality, stream hydraulics, and riparian and wetland ecosystems. Additional scoping of issues to be addressed in the EIS is desired from local agencies and the general public at this time.

In additional to meeting the requirements of the National Environmental Policy Act, the project must comply with section 10 of the River and Harbor Act of 1899, with the Historic Preservation Act, the Endangered Species Act, the Fish and Wildlife Coordination Act, section 404 of the 1977 Clean Water Act, the National Wild and Scenic River Act, Executive Order 11988 regarding Flood Plains, Executive Order 11593 regarding Protection and Enhancement of the Cultural Environment, Executive Order 11930 regarding Wetlands, and CEQ Memorandum of August 1976, Analysis of Impacts on Prime and Unique Farmlands.

5. Scoping meetings for the DEIS are scheduled for 12:30 pm and 7:00 pm on Thursday, July 18 and Friday, July 19 in four cities along the James River.

The meeting schedule is as follows:

Thursday, July 18, 12:30 pm

Sheraton Motor Inn, 1400 8th Avenue, Northwest, Aberdeen, South Dakota

3rd Avenue and Wisconsin Southwest, Huron, South Dakota

Friday, July 19, 12:30 pm

Mitchell Holiday Inn, Havens and Ohlman, Mitchell, South Dakota

Friday, July 19 7:00 pm

Sheraton Motor Inn, East Highway 50, Yankton, South Dakota

The participation of the public and all interested government agencies is invited.

The Omaha District estimates that the DEIS will be released for public review in early 1986.

ADDRESS: Questions about the proposed action, DEIS, or scoping meetings should be directed to Richard Gorton: Chief, Environmental Analysis Branch; Omaha District, CE; 6014 U.S. Post Office and Courthouse; Omaha, Nebraska 68102–4978, phone (402) 221–4598.

Dated: June 24, 1985.

Arvid L. Thomsen,

Chief, Planning Division, Omaha District, CE.

[FR Doc. 85–15877 Filed 7–2–85; 8:45 am]

BILLING CODE 3710–62–M

DEPARTMENT OF ENERGY

Energy Information Administration

Oil and Gas Reserve System Forms; Request for Comments

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Request for comments on the extension of the Oil and Gas Reserve System Forms.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, the Energy Information Administration (EIA), as required by the Paperwork Reduction Act of 1980, conducts a consultation program to provide the general public with an opportunity to comment on proposed and continuing reporting forms. This program helps to ensure that requested data can be provided in the desired format, reporting burden is minimized, reporting forms are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

At this time EIA solicits comments on the extension of its Oil and Gas Reserve System forms. The three forms which constitute the Oil and Gas Reserve system are described in the Supplemental Information Section of this Notice. They are the Form EIA–23, "Annual Survey of Domestic Oil and Gas Reserve," the Form EIA–23P, "Oil and Gas Well Operator Update Report," and the Form EIA–64A, "Annual Report of the Origin of Natural Gas Liquids Production." Interested persons are asked to review these forms, especially the proposed elimination of schedule B of Form EIA–23, and provide comments to the contact person described below.

DATES: Written comments must be received by EIA within 30 days of the publication of this notice.

ADDRESS: Comment should be sent to Mr. Paul Chapman at the address listed below.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Chapman, Dallas Field Office, Office of Oil & Gas, Energy Information Administration, 1114 Commerce Street, Room 804, Dallas, Texas 75242–2899, Telephone (214) 767–2200.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with provisions of the Department of Energy Organization Act (Pub. L. 95–91), the Energy Information Administration (EIA) is responsible for carrying out comprehensive national

energy data programs including the compilation and dissemination of economic and statistical information. EIA's Oil and Gas Reserves system in designed to provide information for use by the Congress, Federal and State agencies, industry, and other interested parties on the status of proved reserves of crude oil, natural gas and lease condensate. In keeping with its responsibilities, EIA is planning to request a 3-year extension of the three forms used to gather information for this system.

The Form EIA–23 collects information on the proved reserves of crude oil, natural gas, and lease condensate from a sample of operators of domestic crude oil and/or gas wells. All data, except for natural gas commitment status information, are reported on a total operated basis. The total operated reporting basis of schedule A includes total reserves and production associated with wells operated by an individual operator. Schedule B of the form collects natural gas commitment status data on a gross working interest ownership basis, which includes the respondents' working interest in a given property plus the proportionate share of any royalty interest associated with the working interest. EIA is proposing the elimination of the Schedule B, in the absence of a convincing rationale for its continuation, as a means of reducing respondent burden.

The Form EIA–23P, "Oil and Gas Well Operator Update Report," is designed to determine the status (active or inactive) and approximate level of production for domestic oil and gas well operators currently on the operator frame for the Form EIA–23. Removal of inactive firms and knowledge of the approximate size of active operators is necessary to reduce both the sample size and the sampling errors of future EIA–23 surveys. Form EIA–64A, "Annual Report of the Origin of Natural Gas Liquids Production," is designed to collect information on the volume of natural gas received and the natural gas liquids extracted at gas processing plants, by areas of origin, and the total gas skrinkage resulting from the natural gas liquids extracted by the plants. EIA does not proprose, at this time, any changes to either Form EIA–23P or EIA–64A.

II. Request for Comments

EIA invites the public to comment on this proposal within 30 days of the publication of this notice. The following general guidelines are provided to assist in the preparation of responses.

(As a potential respondent)

(1) Taking into consideration the proposed change in Form EIA–23, how many hours, including time for review, computation, preparation, and administrative review, will it take your firm to complete and submit each of the three forms.

(2) Again, taking into consideration the proposed change to Form EIA–23, estimate the cost of filing these forms, including direct and indirect cost associated with the data collection. Direct costs should include all one-time and recurring costs, such as development, assembly, equipment ADP, and other administrative costs.

(3) Do you know of any other Federal State or local agencies which collect similar data? If yes, please identify these agencies.

(4) Do you support the proposed change to Form EIA–23? Are there additional changes that you would recommend?

(5) Apart from the proposed change to Form EIA–23, are there any other changes or modifications that you would recommend for Form EIA–23, or Form EIA–23P, or Form EIA–64?

(6) What other suggestions do you have for improving these three forms?

(As a potential user)

(1) Do you need data at the levels of aggregation that would be available using the modified Form EIA–23; that is, do the categories, frequency, and geographic detail reflect your needs?

(2) Do you need any of the elements of information that would be eliminated by this proposal? For what purposes would you use these data?

(3) How could these forms be improved to better meet your specific data needs?

(4) Are there alternative sources of data? Do you now use them? What are their deficiencies?

EIA is also interested in receiving comments on the need for the collection of this information. Comments or summaries of comments will be provided in EIA's submission to the Office of Management and Budget requesting a 3-year extension of these data collections and will become a matter of public record.

Issued in Washington, D.C. on June 28, 1985.

Dr. H. A. Merklein,

Administrator, Energy Information Administration.

[FR Doc. 85–15947 Filed 7–2–85; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. RP85–113–001]

Northern Natural Gas Co., Division of InterNorth, Inc.; Request for Waiver

June 26, 1985.

Take notice that on June 3, 1985, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern) requested a waiver of the provisions of order No. 399, requiring lump-sum payments to each jurisdictional customer to flow through Btu refunds received from first sellers. Northern asserts that its total Btu refund is de minimis, that the rate impact is insignificant, and that administrative costs clearly outweigh the benefits of lump-sum refunds. Northern proposes to include the Btu refund in its next regularly scheduled PGA filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 3, 1985. 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. 85–15929 Filed 7–2–85; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 7328–001]

Small Hydro East; Surrender of Preliminary Permit

June 28, 1985

Take notice that Small Hydro East, Permittee for the proposed Crystal Falls Project No. 7328, requested by letter dated May 29, 1985, that its preliminary permit be terminated. The preliminary permit was issued on June 18, 1984, and would have expired on November 30, 1985. The project would have been located on the Phillips Brook in Coos County, New Hampshire.

The Permittee filed the request on May 29, 1985, and the preliminary permit for Project No. 7328 shall remain in effect through the thirtieth day after

issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb.

Secretary.

[FR Doc. 85-15930 Filed 7-2-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP85-153-000 et al]

Southern Natural Gas Co. et al.; Filing of Pipeline Refund Reports and Refund Plans

June 26, 1985.

Take notice that pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before July 3, 1985. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

APPENDIX

Filing date	Company	Docket No.	Type filing
5/16/85	Southern Natural Gas Co.	RP85-153-000	Report.[1]
5/20/85	Locust Ridge Gas Co.	RP84-86-006	Do.
5/21/85	Natural Gas Pipeline Co. of America.	RP85-99-001	Do.[1]
5/31/85	South Georgia Natural Gas Co.	RP85-9-000	Do.[1]
6/10/85	....do	RP81-25-004	Do.
6/10/85	....do	RP80-136-008	Do.
6/10/85	Transcontinental Gas Pipe Line Corp.	TA85-2-29-005	Do.
6/19/85	Cimarron Transmission Co.	RP85-100-001	Do.[1]
6/20/85	Tennessee Gas Pipeline Co.	RP85-94-002	Do.[1]
6/20/85	Arkansas Oklahoma Gas Corp.	RP85-105-001	Do.[1]

[1] Refunds resulting from Btu Measurement Adjustments. Each company will retain its basic Docket No. and Sub-Docket Nos. will be assigned to any future Btu refund reports.

[FR Doc. 85-15931 Filed 7-2-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI64-106-002 et al.]

Sun Exploration and Production Company et al.; Applications for Certificates, Abandonments of Service and Petitions To Amend Certificates[1]

June 28, 1985.

Take notice that each of the Applicants listed herein 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 July 16, 1985, 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.

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.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and dated filed	Applicant	Purchaser and location	Price per 1,000 ft	Pressure base
CI64-106-002, D, June 17, 1985	Sun Exploration and Production Company, P.O. Box 2880, Dallas, Texas 75221-2880.	Northern Natural Gas Company, Ozona, *et al.* Field, Crockett County, Texas.	(1)	
CI84-476-001, E, June 21, 1985	Anadarko Production Company (Succ. in Interest to Sun Exploration & Production Company), P.O. Box 1330, Houston, Texas 77251-1330.	Trunkline Gas Company, East Cameron Block 338, Offshore Louisiana, OCS-G-2063.	(2)	14.73
CI85-507-000, (G-17918), B, June 14, 1985.	Union Texas Petroleum, A Division of Allied Corporation, P.O. Box 2120, Houston, Texas 77252-2120.	Lone Star Gas Company, Sec. 4-T2N-R4W, Carter—Knox Field, Stephens County, Oklahoma.	(3)	
CI85-509-000 (CI75-269), B, June 17, 1985.	Sun Exploration and Production Company	Northern Natural Gas Company, Mocane Field, Beaver County, Oklahoma.	(4)	
CI85-510-000 (CI80-95), B, June 17, 1985.	Geo. Oil and Gas Company of Houston, P.O Box 2511, Houston, Texas 77001.	Northwest Pipeline Corporation, Blue Cloud Field, Rio Blanco County, Colorado.	(5)	
CI85-511-000, B, June 18, 1985	Hufo Oils, 1016 Andrews Highway, Midland, Texas 79701.	Panhandle Eastern Pipe Line Company, Panhandle Moore Field, Moore County, Texas.	(6)	
CI85-512-000, B, June 18, 1985	....do	Panhandle Eastern Pipe Line Company, Panhandle Carson Field, Carson County, Texas.	(6)	
CI85-517-000, A, June 19, 1985	Felmont Oil Corporation, 6 East 43rd Street, New York, N.Y. 10017.	Natural Gas Pipeline Company of America, Vermilion Block 277, Offshore Louisiana.	(7)	14.73
CI85-518-000, A, June 19, 1985	Case-Pomeroy Oil Corporation, P.O. Box 1511, Midland, Texas 79702.	....do	(7)	14.73
CI85-519-000 (CI69-1224), B, June 20, 1985.	Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77001.	Montana-Dakota Utilities, Rattlesnake Field, Washakie County, Wyoming.	(8)	
CI62-462-000, D, June 24, 1985	Sun Exploration and Production Company	Northern Natural Gas Company, Sitka Field, Clark County, Kansas.	(9)	
CI66-470-002, D, June 24, 1985	....do	Arkansas Louisiana Gas Company, Red Oak-Norris Field, LeFlore County, Oklahoma.	(10)	
CI66-470-003, D, June 24, 1985	Sun Exploration and Production Company, P.O. Box 2880, Dallas, Texas 75221-2880.	Arkansas Louisiana Gas Company, Red Oak Field, LeFlore County, Oklahoma.	(11)	

Docket No. and dated filed	Applicant	Purchaser and location	Price per 1,000 ft	Pressure base
CI85-502-000 (CI79-237), B, June 10, 1985.	Gulf Oil Corporation, P.O. Box 2100, Houston, Texas 77252.	Gas Gathering Corporation, Bayou Bouillon Field, St. Martin Parish, Louisiana.	([12])	

[1] Assignment of C. E. Davidson lease to Vernon E. Faulconer.
[2] By assignment, executed on 6-14-84, effective 5-1-84, Applicant acquired 3.169371% of working interest in East Cameron Block 338, Offshore, Louisiana, OCS-G-2063, which was dedicated under a contract dated 11-11-76 by and between Clark Oil Producing Company (predecessor in interest to Sun) and Trunkline Gas Company.
[3] Union Texas's interest in the lease dedicated to R.S. 54 was assigned to Singer-Fleischaker Oil Co.—effective 1-1-69. The primary term of the contract expired on 1-26-79.
[4] Assignment of acreage under contract to P. F. Beeler.
[5] Sale of dedicated properties to Quinoco Petroleum, Inc. on 1-1-84.
[6] Seller and Purchaser have mutually agreed to termination of the basic gas contract.
[7] Applicant is filing under Gas Purchase Contract dated 3-14-85.
[8] Termination of contract.
[9] Quitclaim and Bill of Sale to Egret Energy Corporation of Section 13, T33S, R22W, Clark County, Kansas.
[10] Partial Assignment and Bill of Sale to Kaiser-Francis Oil Company of Johnnie Remer Unit and James Craig Unit.
[11] Partial Assignment and Bill of Sale to John R. Dean of Fisher Gas Unit.
[12] Gas Gathering Corporation (G.G.C.) advised Gulf that their resale contract with Transcontinental Gas Pipe Line Corporation (Transco) expired on 4-26-85 but was extended to 6-1-85. G.G.C. also advised Gulf that G.G.C. could not recommend the acceptance of an offer being made by Transco for an additional five year period beginning 6-1-85 and advised that if Gulf did not wish to agree to the offer made by Transco, G.G.C. could not accept Gulf's natural gas after 6-1-85. G.G.C. further indicated that if Gulf approved they would agree to an alternative market with Monterey Pipe Line Company (Monterey). G.G.C. stated that it is their intention to file on abandonment for their sale of natural gas to Transco and requested Gulf do the same to enable them to sell the gas they purchase from Gulf to Monterey.
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. 85-15932 Filed 7-2-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA85-2-18-000 and TA85-2-18-001]

Texas Gas Transmission Corp.; Notice of Proposed Changes in FPC Gas Tariff

June 25, 1985.

Take notice that Texas Gas Transmission Corporation (Texas Gas) on June 21, tendered for filing Forty-Ninth Revised Sheet No. 7 and Twelfth Revised Sheet No. 7-B to its FPC Gas Tariff, Third Revised Volume No. 1.

The tariff sheets are proposed to be effective July 1, 1985, and reflect primarily the impact of Texas Gas' exercise of "market-out" provisions in certain gas purchase agreements effective July 1, 1985.

Texas Gas requests waiver of the notice requirements to make its rates effective July 1, 1985. Waiver of the PGA time-of-filing requirements is also requested to permit the proposed rates to become effective outside of the semi-annual schedule in effect for Texas Gas.

Copies of the filing were served upon the company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 3, 1985. 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. 85-15933 Filed 7-2-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CI85-521-000]

UER Marketing Co.; Application for Blanket Limited Term Certificate and Limited Partial Abandonment Authorization

June 27, 1985.

Take notice that on June 21, 1985, UER Marketing Company, P.O. Box 1478, 600 Travis, Houston, Texas 77001, filed an application pursuant to Sections 4 and 7 of the Natural Gas Act, 15 U.S.C. Sections 717c, 717f, and the provisions of 18 CFR Part 157, for a blanket limited-term certificate of public convenience and necessity authorizing UER Marketing to conduct a short-term spot sales marketing program, hereinafter referred to as USA, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Approval would (1) authorize the sale of natural gas for resale in interstate commerce; (2) permit limited-term, partial abandonment of certain natural gas sales; (3) confer pre-granted abandonment authorization for sales of natural gas made pursuant to the requested certificate; (4) authorize transportation of natural gas by pipeline companies able and willing to participate in the USA program; and (5) confer pre-granted abandonment authorization for the transportation service allowed under the requested certificate. UER Marketing also requests the Commission to declare that, with respect to UER Marketing and its activities, the Commission will assert Natural Gas Act jurisdiction only over sales for resale and tranportation not otherwise exempt from the NGA.

Under the USA program, UER Marketing proposes to sell natural gas qualifying for the section 102, 103, 107, and 108 rates under the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. Sections 3301-3432. Only contractually committted gas will be sold. UER Marketing and participating producers will seek temporary releases of gas from the purchasers in order to meet market demand for natural gas sales. Releasing purchasers will be absolved from take-or-pay liability. Arrangements for transporting the released gas will be made on a case-by-case basis.

Any person desiring to be heard or to make any protest with reference to said application should on or before *July 15, 1985,* file with the Federal Energy Regulatory Commission, in Washington, DC. 20426, petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). 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. Person's wishing to become parties to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless Applicant is otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-15934 Filed 7-2-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. PR85-58-004]

El Paso Natural Gas Co.; Tariff Filing

June 28, 1985.

Take notice that on June 25, 1985 El Paso Natural Gas Company ("El Paso") tendered for filing, pursuant to Part 154 of the Federal Energy Regulatory Commission ("Commission") Regulations Under the Natural Gas Act and in accordance with the Stipulation and Agreement in Settlement of Rate Proceedings ("Stipulation and Agreement") filed concurrently by El Paso at Docket Nos. PR85-58-000, RP85-129-000, RP85-130-000, RP85-140-000, and CP79-224-005 and 006, the revised and original tariff sheets to its FERC Gas Tariff identified on the attached Appendix.

El Paso states that the tendered tariff sheets serve to implement the settlement of rate and other issues as agreed to in the Stipulation and Agreement and requests that the Commission grant such waiver of its rules, regulations and orders as may be necessary to permit the tendered tariff sheets to become effective July 1, 1985, as provided for in said Stipulation and Agreement.

El Paso states that copies of the filing have been served upon all parties of record in Docket Nos. RP85-58-000, RP85-129-000, RP85-130-000, RP85-140-000, and CP79-224-005 and 006, and, otherwise, upon all interstate pipeline system customers of El Paso and all interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, 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 July 5, 1985. 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.

Appendix—El Paso Natural Gas Company

First Revised Volume No. 1

First Revised Sheet No. 1
Substitute Fourth Revised Sheet No. 100
Original Sheet No. 101
Original Sheet Nos 102 through 199 [1]
First Revised Sheet No. 200
Substitute First Revised Sheet No. 210
First Substitute Second Revised Sheet No. 211
First Substitute Second Revised Sheet No. 212
Substitute Second Revised Sheet No. 213
Substitute First Revised Sheet No. 220
Substitute Third Revised Sheet No. 221
Substitute Second Revised Sheet No. 222
Substitute Second Revised Sheet No. 223
Substitute Second Revised Sheet No. 224
First Revised Sheet No. 225
First Revised Sheet No. 230
Substitute First Revised Sheet No. 231
First Revised Sheet No. 232 [1]
First Revised Sheet No. 240
Original Sheet Nos. 242 through 249 [1]
Original Sheet No. 250
Original Sheet No. 251
Original Sheet No. 252
Original Sheet No. 253
Original Sheet No. 254
Original Sheet No. 255
Original Sheet No. 256
Original Sheet Nos. 257 through 299 [1]
Substitute First Revised Sheet No. 355
Substitute First Revised Sheet No. 356

Original Volume No. 1-A

First Revised Sheet No. 1
First Revised Sheet No. 20
Original Sheet No. 21 [1]
Original Sheet No. 22
Original Sheet No. 23 [1]
Original Sheet No. 24
Original Sheet Nos 25 through 99 [1]
First Revised Sheet No. 101
First Revised Sheet No. 102
First Revised Sheet No. 103
First Revised Sheet No. 104 [1]
Original Sheet Nos. 105 through 109 [1]
Original Sheet No. 110
Original Sheet No. 111
Original Sheet No. 112
Original Sheet No. 113
Original Sheet No. 114
Original Sheet No. 115
Original Sheet No. 116
Original Sheet Nos. 117 through 119 [1]
Original Sheet No. 120
Original Sheet No. 121
Original Sheet No. 122
Original Sheet No. 123
Original Sheet No. 124
Original Sheet Nos. 125 through 199 [1]
Original Sheet No. 309 [1]
Original Sheet No. 310
Original Sheet No. 311
Original Sheet No. 312
Original Sheet No. 313
Original Sheet No. 314
Original Sheet No. 315
Original Sheet No. 316
Original Sheet No. 317
Original Sheet No. 318
Original Sheet No. 319
Original Sheet Nos. 320 through 399 [1]

Third Revised Volume No. 2

Substitute Twenty-ninth Revised Sheet No. 1-D
First Substitute Fourteenth Revised Sheet No. 1-D.2
Second Revised Sheet No. 1-E

Original Volume No. 2A

Substitute Thirtieth Revised Sheet No. 1-C

[1] These tariff sheets are not attached to the Stipulation and Agreement being filed concurrently herewith and are tendered as part of this filing for pagination purposes only.

[FR Doc. 85-15926 Filed 7-2-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-1-13-002]

Gas Gathering Corp.; Corrected Filing

June 25, 1985.

Take notice that on June 3, 1985, Gas Gathering Corporation (GGC) tendered for filing a corrected FERC Form No. 542-PGA with supporting data which included Twenty-third Revised Sheet 8 of 8 to its FERC Gas Tariff, Rate Schedule No. 2—Supplement No. 24. The revised sheet reflects an effective date of January 1, 1985. GGC states that the changes rectify certain errors discovered through various meetings and discussions among GGC, the Commission Staff, and GGC's sole jurisdictional sale for resale customer, Transcontinental Gas Pipe Line Corporation, the only parties involved in the above-referenced proceeding. According to § 381.103(b)(2)(iii) of the Commission's regulations (18 CFR 381.103(b)(2)(iii)), the date of filing is the date on which the Commission receives the appropriate filing fee, which in the instant case was not until June 18, 1985.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 3, 1985. 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. 85-15927 Filed 7-2-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI85-515-000]

Jan Energy Co.; Application for Commission Authorization Relating to JanGas

June 28, 1985.

Take notice that on June 19, 1985, Jan Energy Company (Jan), of 322 E. Lancaster Avenue, Wayne, Pennsylvania 19087, filed an application for certain authorizations required in connection with the proposed "JanGas".

Jan specifically requests that the Commission grant the following: (1) Authority for the sale of gas by Jan for resale in interstate commerce, specified in Tenneco Oil Co., *et al.*, 28 FERC ¶ 61,383 (September 26, 1984), modified, 29 FERC ¶ 61,334 (December 21, 1984); (2) blanket abandonment authority permitting the temporary release of gas to producers who elect to participate in JanGas; (3) permission for Jan to fulfill certain reporting requirements contained in the Commission's generic SMP order except those contained in Ordering Paragraph (V), Subparagraphs (2), (5)[5] and [7]; (4) permission to assume the Part 284 reporting requirements normally imposed on pipelines; (5) a declaration that participation in JanGas will not alter the existing jurisdictional status under the NCA of participating intrastate and Hinshaw pipelines; and (6) waiver of the 48-hour post transaction requirement set forth in 18 CFR 284.4.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 15, 1985, file with the Federal Energy Regulatory Commission, Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). 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.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-15928 Filed 7-2-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-166-000]

Southern Natural Gas Co.; Compliance Filing

June 28, 1985.

Take notice that on June 25, 1985, Southern Natural Gas Company (Southern) tendered for filing First Revised Sheet No. 30D to its FERC Gas Tariff, Sixth Revised Volume No. 1. Southern states that this filing is being made pursuant to Ordering Paragraph (B) of the Federal Energy Regulatory Commission's June 7, 1985 order in Docket No. CP85-464-000 and that the revised sheet sets forth the rates to be effective under its Flexible Discount Rate Schedule during July of 1985. Southern is requesting an effective date of July 1, 1985.

Southern indicates that copies of the filing have been mailed to all its jurisdictional purchasers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 5, 1985. 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. 85-15924 Filed 7-2-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-5-5-002]

Midwestern Gas Transmission Co.; Rate Filing Pursuant to Tariff Rate Adjustment Provisions

June 28, 1985.

Take notice that on June 26, 1985, Midwestern Gas Transmission Company (Midwestern) filed Substitute Fourteenth Revised Sheet No. 5 Original Volume No. 1 of its FERC Gas Tariff, to be effective, under certain conditions, July 1, 1985.

Midwestern states that the purpose of the filing is to reflect PGA rate adjustments for its Southern System based on (1) rate changes filed by Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), and (2) various purchases of gas directly from producer-suppliers. Midwestern states that Substitute Fourteenth Revised Sheet No. 5 will replace Fourteenth Revised Sheet No. 5 filed in Docket Nos. TA85-5-5-000 on May 31, 1985 to be effective July 1, 1985 provided the Commission permits the rates reflected in Natural Gas Pipeline Company of America's June 19, 1985 PGA to become effective.

Midwestern 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 motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before July 5, 1985. 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. 85-15925 Filed 7-2-85; 8:45 am]

BILLING CODE 6717-01-M

Office of General Counsel

Intent To Grant Partially Exclusive Patent License; Battelle Memorial Institute

Notice is hereby given of an intent to grant to Battelle Memorial Institute, of Columbus, Ohio, a partially exclusive license to practice the invention described in U.S. Patent No. 4,376,598, entitled "In-Situ Vitrification of Soil," and corresponding patent applications in Great Britain, France, Canada, Italy, Japan, and Federal Republic of Germany. The patent is owned by the United States of America, as represented by the Department of Energy (DOE).

The proposed license will be partially exclusive, i.e. limited to fields of use other than radioactive waste management and subject to a license and other rights retained by the U.S. Government. DOE intends to grant the license, upon a final determination in accordance with 35 U.S.C. 209(c), unless within 60 days of this notice the Assistant General Counsel for Patents, Department of Energy, Washington, D.C. 20585, receives in writing any of the following, together with supporting documents:

(i) A statement from any person setting forth reasons why it would not be in the best interests of the United States to grant the proposed license; or

(ii) An application for a nonexclusive license to the invention in which applicant states that he has already brought the invention to practical application or is likely to bring the invention to practical application expeditiously in a field of use other than radioactive waste management.

The Department will review all written responses to this notice, and will grant the license if, after expiration of the 60-day notice period, and after consideration of written responses to this notice, a determination is made, in accordance with 35 U.S.C. 209(c), that the license grant is in the public interest.

Issued in Washington, D.C. on June 27, 1985.

J. Michael Farrell,

General Counsel.

[FR Doc. 85-15948 Filed 7-2-85; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59195A; FRL-2858-6

Certain Chemicals; Approval of Test Marketing Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of two applications for test marketing exemptions (TMEs) under section 5(h)(6) of the Toxic Substances Control Act (TSCA), TME-85-48, and TME-85-49. The test marketing conditions are described below.

EFFECTIVE DATE: June 26, 1985.

FOR FURTHER INFORMATION CONTACT: Robert Jones, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611E, 401 M St., SW., Washington, D.C. 20460, (202-382-3395).

SUPPLEMENTARY INFORMATION. Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test market exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present any unreasonable risk of injury.

EPA hereby approves TME-85-48 and TME-85-49. EPA has determined that test marketing of the new chemical substances described below, under the conditions set out in the TME applications, and for the time period and restrictions specified below, will not present any unreasonable risk of injury to health or the environment. The production volume, use and the number of customers must not exceed that specified in the applications.

The following additional restrictions apply to TME-85-48, and TME-85-49. A bill of lading accompanying each shipment must state that use of the substance is restricted to that approved in the TME. In addition, the Company shall maintain the following records until five years after the dates they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

1. The applicant must maintain records of the quantity of the TME substance produced and must make these records available to EPA upon request.

2. The applicant must maintain records of the dates of shipment to each customer and the quantities supplied in each shipment, and must make these records available to EPA upon request.

3. The applicant must maintain copies of the bill of lading that accompanies each shipment of the TME substance.

T-85-48

Date of Receipt: May 15, 1985.

Notice of Receipt: May 24, 1985 (50 FR 21503).

Applicant: Sohio Engineered Materials Company.

Chemical: Aluminum arsenate.

Use: Controlled doping of silicon wafers.

Production Volume: 500 pounds.

Number of Customers: 100.

Worker Exposure: During manufacture, 2 workers may be exposed dermally up to 2 hours per day for less than 10 days. During use 1-2 workers per site at up to 100 sites may be exposed dermally for 1-2 hours per day for less than 10 days.

Test Marketing Period. Twelve months.

Commencing on: June 26, 1985.

Risk Assessment: EPA identified moderate to high health and environmental concerns based on acute and chronic toxicity of arsenate salts. Because of the nature of the use for the substance, and because the substance has a negligible vapor pressure and will be handled in a cast solid form, no significant human exposure is expected under test marketing conditions. In addition, the chemical is not expected to be absorbed through the skin. EPA identified no releases to water for the TME substance. Therefore, the TME substance will not present any unreasonable risk of injury to health or the environment.

Public Comments: None.

T-85-49

Date of Receipt: May 15, 1985.

Notice of Receipt: May 24, 1985 (50 FR 21503).

Applicant: Sohio Engineered Materials Company.

Chemical: Yttrium arsenate.

Use: Controlled doping of silicon wafers.

Production Volume: 500 pounds.

Number of Customers: 100.

Worker Exposure: During manufacture, 2 workers may be exposed dermally up to 2 hours per day for less than 10 days. During use, 1-2 workers per site at up to 100 sites may be exposed dermally for 1-2 hours per day for less than 10 days.

Test Marketing Period: Twelve months.

Commencing on: June 26, 1985.

Risk Assessment: EPA identified moderate to high health and environmental concerns based on acute and chronic toxicity of arsenate salts. Because of the nature of the use for the substance, and because the substance has a negligible vapor pressure and will be handled in a cast solid form, no significant human exposure is expected under test marketing conditions. In addition, the chemical is not expected to be absorbed through the skin. EPA identified no releases to water for the TME substance. Therefore, the TME substance will not present any unreasonable risk of injury to health or the environment.

Public Comments: None.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

Dated: June 26, 1985.

Edwin F. Tinsworth,

Acting Director, Office of Toxic Substances.

[FR Doc. 85-15920 Filed 7-2-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL RESERVE SYSTEM

Indiana National Corp. et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than July 25, 1985.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Indiana National Corporation,* Indianapolis, Indiana, to acquire through its wholly-owned subsidiary, Indian Mortgage Company 21.1 percent of the voting shares of Keystone Mortgage Corporation, Indianapolis, Indiana, thereby engaging in the production of single family mortgage loans pursuant to § 225.25(b)(1). These activities would be conducted in Indianapolis, Indiana and Greenwood, Indiana.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Nebanco, Inc.,* Wallace, Nebraska, to retain shares of American Corporation, North Platte, Nebraska, thereby acting as agent (or underwriter) with respect to insurance limited to assuring repayment of the outstanding balance due on a specific extension of credit by a bank holding company or its subsidiary in the event of the death or disability of the debtor, pursuant to section 4(c)(8)(A) of the Act.

Board of Governors of the Federal Reserve System, June 27, 1985.

Jams McAfee,

Associate Secretary of the Board.

[FR Doc. 85-15887 Filed 7-2-85; 8:45 am]

BILLING CODE 6210-01-M

J. Carl H. Bancorp.; Formation of; Acquisition by; or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.24) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the Offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than July 26, 1985.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *J. Carl H. Bancorporation,* Earling, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of Farmers Trust and Savings Bank, Earling, Iowa.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-15886 Filed 7-2-85; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Vessel Sanitation Inspection Program

AGENCY: Centers for Disease Control (CDC), Public Health, HHS.

ACTION: Request for public comment.

SUMMARY: CDC is considering making changes in the Vessel Sanitation Inspection Program relating to sanitation inspections of cruise ships and other passenger vessels. Public comment is requested on the proposed changes.

DATE: Comments must be received on or before October 1, 1985.

ADDRESS: Comments may be mailed to Director, Division of Quarantine, Centers for Disease Control, 1600 Clifton Rd., Atlanta, Georgia 30333.

FOR FURTHER INFORMATION CONTACT: Laurence S. Farer, M.D., Director, Division of Quarantine, Center for Prevention Services, CDC, 1600 Clifton Rd., Atlanta, Georgia 30333.

SUPPLEMENTARY INFORMATION: The CDC Vessel Sanitation Inspection Program is conducted under the authority of Sections 361(a) and 366(c) of the Public Health Service Act (42 U.S.C. 264(a) and 269(c)), and Title 42, Part 71, of the Code of Federal Regulations.

For many years the Public Health Service has conducted sanitation inspections of passenger cruise vessels. This Vessel Sanitation Inspection Program is designed to minimize health risks, especially those which might lead to gastrointestinal disease outbreaks, for

American travelers and the American public.

Although gastrointestinal disease outbreaks at sea are not common, passenger ships are unique in having a large aggregation of people in a relatively isolated situation, in being the only source of food and water for passengers and crew while at sea, and in having limited medical facilities.

The current program, under the auspices of CDC's Division of Quarantine, is based on the World Health Organization's "Guide to Ship Sanitation," augmented by CDC recommendations for sanitation and surveillance developed in collaboration with industry representatives. Unannounced inspections, performed semi-annually, now focus on the following six areas; Water, refrigeration, food preparation, potential contamination of food, personal cleanliness of food handlers, and the vessel's cleanliness and state of repair. Vessels which fail to meet the CDC standard (score of 85 or above out of a possible total score of 100) receive unannounced reinspections at more frequent intervals. A summary of the results of these inspections is published every 2 weeks and distributed to local health departments, the media, and the travel industry. Detailed inspection reports are available on request.

At the represent time, CDC is reviewing the procedures for these inspections. The following changes are being considered:

(1) Revision of the inspection scoring system: The current system is based on 42 inspection items, 32 of which are critical for meeting the CDC standard. The proposed system is based on 37 inspection items, 11 of which are critical for meeting the CDC standard.

(2) Revision of the method for restoring credit for certain deficiencies corrected during the inspection: The current method restores full credit for deficiencies corrected during the inspection. The proposed method restores full credit only for correction of structural or equipment deficiencies, and partial credit for correction of deficiencies of a behavioral nature which may be subject to recurrence.

(3) Implementation of an affidavit procedure for vessel management to obtain restoration of credit by attesting to correction of certain deficiencies subsequent to the inspection. There is no provision in the current program for ship management to attest to the correction of any deficiency by affidavit.

(4) Implementation of a review system to allow vessel management to contest a deficient item or an inspection score. There is no formal review procedure in the current program.

(5) Publication of numerical scores for vessels not meeting the CDC standard. Presently, published results indicate only if CDC standard was or was not met.

Comment is requested on the proposed changes in the Vessel Sanitation Inspection Program. Interested parties may receive copies of the current inspection form, the biweekly publication containing inspection results, and a proposed staff manual containing the changes, by writing to the address above.

Dated: June 25, 1985.

Donald R. Hopkins, M.D.

Acting Director, Centers for Disease Control.

[FR Doc. 85-15870 Filed 7-2-85; 8:45 am]

BILLING CODE 4160-18-M

Cardiovascular Fetotoxicity and Functional Teratogenesis; Open Meeting

The following meeting will be convened by the National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control (CDC) and will be open to the public for observation and participation, limited only by the space available:

Date: July 19, 1985.

Time: 9 a.m.-12 noon.

Place: Auditorium, Robert A. Taft Laboratories, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

Purpose: To review and discuss a proposed study which will examine the effects of ethylene glycol monomethyl ether on ornithine decarboxylase activity in the neonatal and fetal rat. Viewpoints and suggestions from industry, organized labor, academia, other government agencies, and the public are invited.

Additional information may be obtained from: Mark Toraason, Ph.D., Division of Biomedical and Behavioral Science, NIOSH, CDC, 4676 Columbia Parkway, Cincinnati, Ohio 45226, Telephones: FTS: 684-8357; Commercial: 513/684-8357.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 85-15921 Filed 7-2-85; 8:45 am]

BILLING CODE 4160-19-M

Food and Drug Administration

Advisory Committee; Amendment of Notice

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is amending an advisory committee meeting notice of the Ophthalmic Devices Panel to reflect a change in the agenda and the meeting date. The panel will meet on July 15 only. The announcement of the Ophthalmic Devices Panel meeting, which was published in the **Federal Register** of June 24, 1985 (50 FR 26051), is revised to read as follows:

Ophthalmic Devices Panel

Date, time, and place. July 15, 9 a.m., North Auditorium, Health and Human Services Bldg., 330 Independence Ave. SW. (entrance on C St.), Washington, DC.

Type of meeting and contact person. Open public hearing, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 12:30 p.m.; closed committee deliberations, 12:30 p.m. to 4:30 p.m.; Mary Elizabeth Jacobs, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7320.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes recommendations for their regulation. The committee also reviews data on new devices and makes recommendations regarding their safety and effectiveness and their suitability for marketing.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before July 1, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss issues relating to approvals of premarket approval applications (PMA's) for intraocular lenses (IOL's) and neodymium:yttrium-aluminum-garnet (nd:YAG) lasers. The committee will also discuss PMA's for contact lenses and other ophthalmic devices, and requirements for PMA approval. Comments received on the discussion held at the May 13 panel meeting on ultraviolet light (UV) effects on the eye and labeling issues for UV-absorbing IOL's and the draft contact lens solution guidelines will also be

discussed. Copies of the revised contact lens guidelines will be available to interested persons.

Closed committee deliberations. The committee will review trade secret or confidential commercial information regarding a PMA for an IOL. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Dated: June 27, 1985.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-15867 Filed 7-2-85; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 75N-0139]

Oral Proteolytic Enzymes; Withdrawal of Approval of New Drug Applications; Temporary Stay of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing notice that, with respect to the drug products Papase, Chymoral, Ananase, and Avazyme, the Commissioner's decision withdrawing approval of certain oral proteolytic enzyme products has been temporarily stayed so that the drug sponsors can seek a judicial stay pending appeal.

ADDRESS: The parties' submissions, the Commissioner's decision, including the final order, and all other documents related to the decision may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Robert J. Rice, Jr., Division of Regulations Policy (HFF-221), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3480.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 11, 1985 (50 FR 24581), FDA announced the availability of the decision by the Commissioner of Food and Drugs to withdraw approval of the new drug applications for five drug products containing oral proteolytic enzymes, effective July 1, 1985. The NDA's are for Orenzyme, Chymoral, Papase, Ananase, and Avazyme.

Warner-Lambert Company (NDA 12-293, Papase), Armour Pharmaceutical Company (NDA 12-178, Chymoral), William H. Rorer, Inc. (NDA 12-527, Ananase), and Wallace Laboratories, Division of Carter-Wallace, Inc. (NDA 12-626, Avazyme) petitioned for a stay of the effective date of the Commissioner's decision, pending judicial review of the decision. Merrill-Dow Pharmaceuticals, Inc. (NDA 11-783, Orenzyme) indicated that it did not intend to seek a stay.

By letters dated June 21 and June 24, 1985, the Commissioner denied those petitions for a stay on the basis that the criteria for granting a stay in 21 CFR 10.35(e) had not been met. In the exercise of this discretion, the Commissioner granted a limited, temporary stay so that the drug sponsors have an opportunity to seek a judicial stay. With respect to each petitioning firm, the temporary stay will expire automatically on July 10, 1985, if by that date the firm has not petitioned the Court of Appeals for a stay, accompanied by a request for expedited briefing and consideration. If the firm does so petition on or before that date, the temporary stay will continue in effect until the court rules on the request for a stay.

The parties' submissions and the agency's orders are on public display in the Dockets Management Branch (address above).

FDA is providing notice of the Commissioner's decision to grant a limited, temporary stay in accordance with § 10.35(f) of the regulations.

Dated: June 28, 1985.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-15968 Filed 7-1-85; 10:33 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

National Strategic Materials and Minerals Program Advisory Committee Meeting

Notice is hereby given, in accordance with the Federal Advisory Committee Act, that the National Strategic Materials and Minerals Program Advisory Committee (NSMMPAC) will meet on Wednesday, July 17, 1985 from 9:00 a.m. until 12:00 noon, or until business is concluded. The meeting will convene in Room 7000 A & B, Main Interior Building, 18th & C Streets, NW, Washington, D.C.

It will be open to the public, however, facilities and space to accomodate members of the public are limited.

The proposed agenda is:

9:00—10:00—Chairman's introductory remarks; discussion of accomplishments and goals

10:00-10:30—Briefing on Office of Technology Assessment report "Strategic Materials: Technologies to Reduce U.S. Import Vulnerability"

10:30-Conclusion—Reports from working groups; new business, discussion of future agenda

Statements are invited from groups and members of the general public who have an interest in mining, minerals or materials issues. To ensure that time will be available to hear such statements, prospective witnesses are requested to notify the Committee contact (see below) of their intention to appear. Written statements for the record should be submitted prior to August 15, 1985.

FOR FURTHER INFORMATION CONTACT: Gully Walter, Department of the Interior, Washington, D.C. Room 6650, (202) 343-2136.

Dated: June 21, 1985.

Gully Walter,

For Executive Director.

[FR Doc. 85-15905 Filed 7-2-85; 8:45 am]

BILLING CODE 4310-10-M

Bureau of Land Management

[INT RMP/FEIS 85-21]

Availability of the Proposed Walker Resource Management Plan and Final Environmental Impact Statement, Carson City District, NV

June 26, 1985.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of the Proposed Walker Resource Management Plan and Final Environmental Impact Statement, Carson City District, Nevada.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the National Environmental Policy Act, the Carson City District of the Bureau of Land Management has prepared a combined final environmental impact statement and proposed resource management plan for the Walker resource management planning area. Wilderness recommendations in the plan are preliminary and subject to change during administrative review.

SUPPLEMENTARY INFORMATION: The proposed resource management plan is designed to guide future management actions within the Walker resource management planning area. The planning area encompasses 1.9 million acres of public land largely in Mineral County, and parts of Lyon and Douglas Counties of Nevada. The document describes the proposed resource management plan and contains written and oral comments received during the public review period and responses to

those comments, and changes which were made as a result of public comment.

A 30-day public review period will end August 9, 1985. During that period any portion of the plan, with the exception of the wilderness recommendations, may be protested as outlined in 43 CFR, 1610.5–2. All protests should be sent to: Director, Bureau of Land Management, 18th and C Streets, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: John Matthiessen, Walker Resource Area Manager, Bureau of Land Management, 1050 E. William St., Ste. 335, Carson City, NV 89701, (702) 882–1631.

Copies of the draft document are available for review at the following locations:

Office of Public Affairs, Bureau of Land Management, 18th and C Streets, Washington, DC 20240
Bureau of Land Management, Elko District Office, 2002 Idaho Street, Elko, Nevada 89801, (702) 638–4071
Bureau of Land Management, Nevada State Office, 300 Booth Street, Reno, Nevada 89520, (702) 784–5448
Bureau of Land Management, Las Vegas District Office, 4765 West Vegas Drive, Las Vegas, Nevada 89102, (702) 385–6403
Bureau of Land Management, Winnemucca District Office, 705 East 4th Street, Winnemucca, Nevada 89445, (702) 623–3676
Carson City Library, 900 N. Roop Street, Carson City, Nevada 89701
Government Publications Dept., University of Nevada, Reno, Reno Library, Reno, Nevada 89557
Bureau of Land Management, Ely District Office, Star Route 5, Box 1, Ely, Nevada 89301, (702) 289–4865
Bureau of Land Management, Carson City District Office, 1050 E. William Street, Suite 335, Carson City, Nevada 89701, (702) 882–1631
Bureau of Land Management, Battle Mountain District Office, North 2nd and Scott Streets, Battle Mountain, Nevada 89820, (702) 635–5181
University of Nevada, Reno, Getchell Library, Reno, Nevada 89507
University of Nevada, Las Vegas, James R. Dickinson Library, 4505 Maryland Parkway, Las Vegas, Nevada 89154
Mineral County Library, 1st and D Streets, Hawthorne, Nevada 89415
Lyon County Library, 20 Nevin Way, Yerington, Nevada 89447
Nevada State Library, Library Building, Carson City, Nevada 89710

Edward F. Spang,

State Director, Nevada.

[FR Doc. 85–15860 Filed 7–2–85; 8:45 am]

BILLING CODE 4130–HC–M

Sale of Public Lands; Siskiyou County, CA

Correction

In FR Doc. 85–8506 beginning on page 14029 in the issue of Tuesday, April 9, 1985, make the following correction:

On page 14029, in the table, in the fourth land description from the bottom, "NE¼SW¼, NW¼SE¼" should have read "SW¼SW¼".

BILLING CODE 1505–01–M

Minerals Management Service

Development Operations Coordination Document

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that Chevron U.S.A. Inc. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 5062, Block 861, Mobile Area, offshore Louisiana and Mississippi. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Pascagoula, Mississippi.

DATE: The subject DOCD was deemed submitted on June 18, 1985. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the DOCD fom the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, *Attention OCS Plans,* Post Office Box 44396, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Mr. Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838–0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to Sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to Section 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised Section 250.34 of Title 30 of the CFR.

Dated: June 20, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85–15865 Filed 7–2–85; 8:45 am]

BILLING CODE 4310–MN–M

National Park Service

Potential 1986 U.S. World Heritage Nominations

AGENCY: National Park Service, Interior.

ACTION: Notice and request for public comment.

SUMMARY: On March 4, 1985, the Department of the Interior, through the National Park Service, set forth in a public notice the process and schedule that will be used in calendar year 1985 to identify and prepare U.S. nominations to the World Heritage List (50 FR 8680). In addition, the March 4 notice identified the criteria and requirements that U.S. properties must satisfy before nomination of World Heritage status, and solicited public comments and suggestions regarding cultural and natural properties that should be considered as potential U.S. nominations this year. This notice announces and invites comment on the potential 1986 U.S. World Heritage nominations as described below.

In addition, responses to the March 4 notice identified properties which are not presently included on the U.S. Indicative Inventory of Potential Future Nominations to the World Heritage List;

normally a prerequisite to be considered for nomination. Due to the lateness of comments received on these properties, the Department will continue to study the properties in question regarding their suitability for possible addition to the U.S. Indicative Inventory. The Federal Interagency Panel for World Heritage will review the properties at its July meeting and will make final recommendations regarding possible additions to the Inventory. Proposed additions to the Inventory will be announced in the **Federal Register** with a request for review and comment.

DATES: Written comments or recommendations regarding any property listed herein as a potential 1986 U.S. World Heritage nominations must be received within 30 days after publication of this notice to ensure full consideration. The final list of proposed 1986 nominations will be selected from among the potential nominations, and will be published in the **Federal Register.** A draft nomination document will be prepared for any property selected as a proposed nomination. In November 1985, the Federal Interagency Panel for World Heritage will review the accuracy, completeness, and suitability of the draft 1986 nomination(s) documentation and will make recommendations to the Assistant Secretary of the Interior for Fish and Wildlife and Parks. The Assistant Secretary subsequently transmits any approved nomination(s) on behalf of the United States to the World Heritage Committee Secretariat, through the Department of State, by December 15 for evaluation by the World Heritage Committee in a process that could lead to inscription on the World Heritage List by fall 1986. Notice of transmittal of U.S. nominations will be published in the **Federal Register.**

Decisions with regard to possible additions to the U.S. Indicative Inventory will be based upon comments received and upon further study and will be announced in the final **Federal Register** notice, as outlined above, of this year's procedure.

ADDRESS: Written comments or recommendations should be sent to the Director, National Park Service, U.S. Department of the Interior, P.O. Box 37127, Washington, D.C. 20013–7127. Attention: World Heritage Convention-773.

FOR FURTHER INFORMATION CONTACT: Mr. David G. Wright, Associate Director, Planning and Development, National Park Service, U.S. Department of the Interior, P.O. Box 37127, Washington, D.C. 20013–7127, Telephone: (202) 343–6741.

SUPPLEMENTARY INFORMATION: The Convention Concerning Protection of the World Cultural and Natural Heritage, now ratified by the United States and 85 other countries, has established a system of international cooperation through which cultural and natural properties of outstanding universal value to mankind may be recognized and protected. The Convention seeks to put into place an orderly approach for coordinated and consistent heritage resource protection and enhancement throughout the world.

Participating nations identify and nominate their sites for inclusion on the World Heritage List, which currently includes 186 cultural and natural properties. The World Heritage Committee judges all nominations against established criteria.

Under the Convention, each participating nation assumes responsibility for taking appropriate legal, scientific, technical, administrative, and financial measures necessary for the identification, protection, conservation, and rehabilitation of World Heritage properties situated within its borders.

In the United States, the Department of the Interior is responsible for directing and coordinating U.S. participation in the World Heritage Convention. The Department implements its responsibilities under the Convention in accordance with the statutory mandate contained in Title IV of the National Historic Preservation Act Amendments of 1980 (Pub. L. 96–515; 16 U.S.C. 470a–1, a–2). On May 27, 1982, the Interior Department published in the **Federal Register** the policies and procedures which it uses to carry out this legislative mandate (47 FR 23392). The rules contain additional information on the Convention and its implementation in the United States, and identify the specific requirements that U.S. properties must satisfy before they can be nominated for World Heritage status, i.e., the property must have previously been determined to be of national significance, its owner must concur in writing to its nomination, and its nomination must include evidence of such legal protections as may be necessary to ensure preservation of the property and its environment.

The Federal Interagency Panel for World Heritage assists the Department in implementing the Convention by making recommendations on U.S. World Heritage policy, procedures, and nominations. The Panel is chaired by the Assistant Secretary for Fish and Wildlife and Parks, and includes representatives from the Office of the Assistant Secretary for Fish and Wildlife and Parks, the National Park Service, and the U.S. Fish and Wildlife Service within the Department of the Interior; the President's Council on Environmental Quality; the Smithsonian Institution; the Advisory Council on Historic Preservation; National Oceanic and Atmospheric Administration, Department of Commerce; Forest Service; Department of Agriculture; the U.S. Information Agency, and the Department of State.

Potential 1986 U.S. World Heritage Nominations

The Department of the Interior, through the National Park Service, has identified the following as potential 1986 U.S. nominations to the World Heritage List. A brief description is provided for each potential nomination, along with the World Heritage criteria that it appears to satisfy. The final list of proposed 1986 U.S. nominations to the World Heritage List will be selected from among the potential nominations included herein. Identification of a property as a potential 1986 nomination does not confer World Heritage status on it. A draft nomination document will be prepared for each property that is ultimately selected as a proposed 1986 nomination. The Department encourages all interested parties to comment and make recommendations on the potential nominations, as these comments and additional evaluation will serve as the basis for identifying proposed 1986 nominations.

The following have been identified as potential 1986 U.S. World Heritage nominations:

I. Cultural Properties

Polynesian

Nan Madol, Island of Ponape. (6°55′ N; 158°15′ E). A prehistoric city, dating from 900–1400 A.D., constructed of large carved basalt blocks. The site is the best preserved, and most impressive, monument to Polynesian culture. *Criteria:* (iii) Bears a unique or at least exceptional testimony to a civilization which has disappeared.

Hawaiian

Pu'uhonua O Honaunau National Historical Park, Hawaii. (19°25′ N; 155°55′ W). This area (formerly known as City of Refuge National Historical Park) includes sacred ground, where

vanquished Hawaiian warriors, noncombatants, and kapu breakers were granted refuge from secular authority. Prehistoric housesites, royal fishponds, and spectacular shore scenery are features of the park. *Criteria:* (iii) Bears unique or at least exceptional testimony to a civilization which has disappeared; (vi) directly or tangibly associated with events or with ideas or beliefs of outstanding universal significance.

II. Natural Properties

Hawaiian Islands

Hawaii Volcanoes National Park, (19°20' N; 155°20' W). Contains outstanding examples of active and recent volcanism, along with luxuriant vegetational development at its lower elevations. *Criteria:* (i) An outstanding example illustrating the earth's evolutionary history, (ii) an outstanding example of significant geological processes, and (iii) contains superlative natural phenomena, formations, and areas of exceptional natural beauty.

Haleakala National Park, Hawaii. (20°40' N; 156°10' W). Ranging from sea level to 3000 m, has a great variety of habitats. Of international botanical significance, over 95 percent of the species, and 20 percent of the genera of flowering plants are found nowhere else on earth. Criteria: (i) An outstanding example representing major stages of the earth's evolutionary history, (ii) outstanding example representing ongoing biological evolution; (iii) contains superlative natural beauty.

North America Warm Deserts

This proposal incorporates five U.S. properties into a potential theme nomination. At the request of the Federal Interagency Panel, the Department will begin discussions with the Mexican Government regarding possible cooperation in assessing the representation of this theme on the World Heritage list. The U.S. properties are:

Big Bend National Park, Texas. (29°25' N; 103°11' W). With many excellent examples of mountain systems and deep canyons formed by a major river. A variety of unusual geological formations are found here with many vegetation types—dry coniferous forests, woodland, chaparral, and desert—associated with them. Criteria: (ii) An outstanding example of significant geological processes and biological evolution, and (iii) contains superlative natural phenomena, formations, and areas of exceptional natural beauty.

Saguaro National Monument, Arizona. (32°10' N; 110°40' W). Giant saguaro cactus, unique to the Sonoran Desert of southern Arizona and northwestern Mexico, reach up to 50 feet in height in the cactus forests in this park. Criteria: (ii) An outstanding example of biological evolution; (iii) contains superlative natural phenomena.

Organ Pipe Cactus National Monument, Arizona. (32°0' N; 112°50' W). Contains block-faulted mountains separated by wide alluvial valleys, along with playas, lava fields, and sands. It includes representative examples of the Sonoran Desert found in this region and nowhere else in the United States. Criteria: (ii) An outstanding example of biological evolution; (iii) contains superlative natural phenomena.

Joshua Tree National Monument. California. (33°50' N; 116°0' W), located at the junction of Mohave and Sonoran Deserts, contains an unusually rich variety of desert plants, including extensive stands of Joshua trees, set amongst striking granitic formations. Criteria: (ii) An outstanding example of biological evolution; (iii) contains superlative natural phenomena and formations.

Death Valley National Monument, California/Nevada. (36°30' N; 117°0' W). A large desert area, which is nearly surrounded by high mountains, contains the lowest point in the Western Hemisphere. It is highly representative of Great Basin/Mohave Desert (mountain and desert) ecosystems. Criteria: (ii) An outstanding example of significant geological processes and biological evolution; (iii) contains superlative natural phenomena.

Sierra Nevada

Sequoia/Kings Canyon National Parks, California. (36°40' N; 118°30' W). A combination of two adjoining national parks, this tract includes Mount Whitney, the tallest mountain in the United States outside of Alaska, Mineral King Valley, and two enormous canyons of the Kings River. Groves of giant sequoia, the world's largest living things, are found here. Criteria: (ii) An outstanding example of significant geological processes and biological evolution; (iii) contains superlative natural phenomena and areas of exceptional natural beauty.

Dated: June 7, 1985.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85-15937 Filed 7-2-85; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-221]

Certain Apparatus for the Disintegration of Urinary Calculi; Change of the Commission Investigative Attorney

Notice is hereby given that, as of this date, Gary J. Rinkerman, Esq. and Denise T. DiPersio, Esq., of the Office of Unfair Import Investigations will be the Commission investigative attorneys in the above-cited investigation.

The Secretary is requested to publish this notice in the **Federal Register.**

Dated: June 21, 1985.

Respectfully submitted.

Arthur Wineburg,

Office of Unfair Import Investigations.

[FR Doc. 85-15966 Filed 7-2-85; 8:45 am]

BILLING CODE 7020-02-M

Agency Form Submitted for OMB Review

AGENCY: In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Commission has submitted a proposal for the collection of information to the Office of Management and Budget (OMB) for review.

Purpose of information collection: The proposed information collection is a "generic clearance" under which the Commission can issue questionnaires for the following types of investigations: countervailing duty, antidumping, escape clause, escape clause review, market disruption and "interference with programs of the USDA."

Summary of proposal:

(1) Number of forms submitted: three.

(2) Title of forms: *Sample Producer's Sample Importer's and Sample Purchaser's questionnaires* (i.e., the "samples" are an aggregate of the information that is likely to be collected in a series of questionnaires issued under the generic clearance).

(3) Type of request: extension.

(4) Frequency of use: on occasion.

(5) Description of respondents: Businesses or farms that produce, import and/or purchase products under investigation.

(6) Estimated annual number of respondents: 4,000.

(7) Estimated total annual number of hours to complete the forms: 100,000.

(8) Information obtained from the forms that qualifies as confidential business information will be so treated by the Commission and not disclosed in

a manner that would reveal the individual operations of a firm.

Additional information or comment: Copies of the proposed forms and supporting documents may be obtained from Debra Baker (tel. no. 202-523-0284). Comments about the proposal should be directed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attention: Ms. Francine Picoult). If you anticipate commenting on the proposal but find that time to prepare comments will prevent you from submitting them promptly you should advise OMB of your intent as soon as possible. Ms. Picoult's telephone number is (202) 395-7231. Copies of any comments should be provided to Charles Ervin (United States International Trade Commission, 701 E Street, NW. Washington, DC 20436).

Issued: June 27, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-'15952 Filed 7-2-85; 8:45 am]

BILLING CODE 7020-82-M

[332-214]

Effects of Restraining U.S. Steel Imports on the Exports of Selected Steel-Consuming Industries

AGENCY: International Trade Commission.

ACTION: Institution of investigation and scheduling of public hearing.

EFFECTIVE DATE: June 25, 1985.

FOR FURTHER INFORMATION CONTACT: Jose Mendez (202-523-1792), Research Division, Office of Economics, U.S. International Trade Commission, Washington, DC 20436 (telephone 202-523-0275).

Background

The Commission instituted the investigation No. 332-214 under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(b)) following receipt on May 2, 1985 of a request therefore from the Committee on Finance of the United States for the purpose of gathering and obtaining information on the effects of restraining U.S. steel imports on the exports of selected U.S. steel consuming industries. In accordance with the Committee's request, the study will first identify the domestic export industries that are most dependent upon steel inputs, including but not limited to producers of steel products such as steel shipping containers, drums and barrels. For the identified industries, it will then undertake an assessment of the effects of the steel import restraints on their costs of production, exports, and investment decisions.

Public Hearing

A public hearing in connection with this investigation will be held at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC, beginning at 10:00 a.m., on October 8, 1985. All persons shall have the right to appear, by counsel or in person, to present information and to be heard. Requests to appear at the public hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on September 23, 1985. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs. The deadline for filing prehearing briefs is September 25, 1985.

Written Submissions

In lieu of or in addition to appearances at the public hearing, interested parties are invited to submit written statements concerning the investigation. Commercial or financial information which a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. To be assured of consideration by the Commission, written statements should be received no later than September 25, 1985. All submissions should be addressed to the Secretary at the Commission's office in Washington, DC.

Posthearing briefs must be submitted not later than the close of business on October 15, 1985. A signed original and 14 true copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's Rules (19 CFR 201.8).

Hearing-imparied persons are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 724-0002.

Issued: June 26, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-15953 Filed 7-2-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-207 (Final)]

Cellular Mobile Telephones and Subassemblies Thereof From Japan

AGENCY: International Trade Commission.

ACTION: Institution of a final antidumping investigations and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigation No. 731-TA-207 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan of cellular mobile telephones and subassemblies thereof, classified under items 685.28 and 685.32 of the Tariff Schedules of the United States,[1] which have been found by the Department of Commerce, in a preliminary determination, to be sold in the United States at less than fair value (LTFV). Unless the investigation is extended, Commerce will make its final LTFV determination on or before August 19, 1985, and the Commission will make its final injury determination by October 9, 1985, (see sections 735(a) and 735(b) of the act (19 U.S.C. 1673d(a) and 1673d(b)).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR Part 207), and part 201, subparts A through E (19 CFR Part 201, as amended by 49 FR 32569, Aug. 15, 1984).

EFFECTIVE DATE: June 11, 1985.

FOR FURTHER INFORMATION CONTACT: Larry Reavis (202-523-0296), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC. 20436.

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of cellular mobile telephones from Japan are being sold in the United States at less than fair value within the meaning of section 731 of the act (19 U.S.C. 1673). The investigation was requested in a petition filed on

[1] These tariff items were enacted in the Trade and Tariff Act of 1984, Pub. L. 98-573, effective January 1, 1985; item 685.29, referenced in investigation No. 731-TA-207 (Preliminary) was stricken from the TSUS.

November 5, 1984 by Motorola Inc., Schaumburg, IL. In response to that petition the Commission conducted a preliminary antidumping investigation and, on the basis of information developed during the course of that investigation, determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the subject merchandise (49 FR 50316, Dec. 27, 1984).

Participation in the investigation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list.—Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) of the rules (19 CFR 201.16(c)), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Staff report.—A public version of the prehearing staff report in this investigation will be placed in the public record on August 20, 1985, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing.—The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on September 5, 1985, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on August 21, 1985. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10:00 a.m. on August 29, 1985, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is September 2, 1985.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the tme the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2), as amended by 49 FR 32569, Aug. 15, 1984)).

Written submissions.—All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on September 12, 1985. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before September 12, 1985.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commisson.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6, as amended by 49 FR 32569, Aug. 15, 1984).

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.202).

Issued: June 24, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 15956 Filed 7-2-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-199 (Final)]

Certain Dried Salted Codfish From Canada

Determination

On the basis of the record [1] developed in the subject investigation, the Commission [2] determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)), that the establishment of an industry in the United States is materially retarded by reason of imports from Canada of certain dried heavy salted codfish, provided for in item 111.22 of the Tariff Schedules of the United States, which have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective January 29, 1985, following a preliminary determination by the Department of Commerce that imports of certain dried heavy salted codfish from Canada were being sold at LTFV within the meaning of section 731 of the Act (19 U.S.C. 1673). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of February 21, 1985 (50 FR 7236). The hearing was held in Washington, DC, on May 20, 1985, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on June 27, 1985. The views of the Commission are contained in USITC Publication 1711 (July 1985), entitled "Certain Dried Salted Codfish from Canada: Determination of the Commission in Investigation No. 731-TA-199 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Issued: June 27, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-15957 Filed 7-2-85; 8:45 am]

BILLING CODE 7020-02-M

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Vice Chairman Liebeler dissenting.

[Investigation No. 731-TA-270 (Preliminary)]

64K Dynamic Random Access Memory Components From Japan

AGENCY: International Trade Commission.

ACTION: Institution of a preliminary antidumping investigation and scheduling of a conference to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigation No. 731-TA-270 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan of 64K dynamic random access memory devices (64K DRAMs), of the N-channel metal oxide semiconductor type, provided for in item 687.74 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value. As provided in section 733(a), the Commission must complete preliminary antidumping investigations in 45 days, or in this case by August 8, 1985.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, subparts A and B (19 CFR Part 207), and Part 201, subparts A through E (19 CFR Part 201, as amended by 49 FR 32569, Aug. 15, 1984).

EFFECTIVE DATE: June 24, 1985.

FOR FURTHER INFORMATION CONTACT: George L. Deyman (202-523-0481), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted in response to a petition filed on June 24, 1985, by Micron Technology, Inc., Boise, ID, on behalf of merchant manufacturers of 64K DRAMs.

Participation in the investigation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than seven (7) days after publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list.—Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) of the rules (19 CFR 201.16(c), as amended by 49 FR 32569, Aug. 15, 1984), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Conference.—The Commission has scheduled a conference in connection with this investigation for 9:30 a.m. on July 15, 1985, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Parties wishing to participate in the conference should contact George L. Deyman (202-523-0481) not later than July 11, 1985, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Written submissions.—Any person may submit to the Commission on or before July 18, 1985, a written statement of information pertinent to the subject of the investigation, as provided in § 207.15 of the Commission's rules (19 CFR 207.15). A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the rules (19 CFR 201.8, as amended by 49 FR 32569, Aug. 15, 1984). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6, as amended by 49 FR 32569, Aug. 5, 1984).

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

Issued: June 28, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-15960 Filed 7-2-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 701-TA-249 (Preliminary) and 731-TA-262 through 265 (Preliminary)]

Iron Construction Castings From Brazil, Canada, India, and the People's Republic of China

Determinations

On the basis of the record [1] developed in investigation No. 701-TA-249 (Preliminary), the Commission determines, pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Brazil of certain heavy iron construction castings,[2,3] provided for in item 657.09 of the Tariff Schedules of the United States (TSUS), which are alleged to be subsidized by the Government of Brazil. In addition, the Commission determines that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury,[3] or that the establishment of an industry in the United States is materially retarded,[4] by reason of imports from Brazil of certain light iron construction castings,[5]

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] For the purposes of this investigation, the term "certain heavy iron construction castings" is limited to manhole covers, rings and frames; catch basin grates and frames; and cleanout covers and frames. Such castings are used for drainage or access purposes for public utility, water, and sanitary systems.

[3] Chairwoman Stern and Commissioner Lodwick found only a reasonable indication of a threat of material injury to the heavy iron construction castings industry.

[4] Chairwoman Stern and Commissioner Eckes found a reasonable indication of a threat of material injury to the light iron construction castings domestic industry.

[5] For the purposes of this investigation, the term "certain light iron construction castings" is limited to valve, service, and meter boxes. Such castings are placed below ground to encase water, gas or other valves, or water or gas meters.

provided for in TSUS item 657.09, which are alleged to be subsidized by the Government of Brazil.

On the basis of the record[6] developed in the subject investigations, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C 1673b(a)), that there is a reasonable indication that industries in the United States are materially injured by reason of imports from Brazil (investigation No. 731-TA-262 (Preliminary)),[7] [8] Canada (investigation No. 731-TA-263 (Preliminary)), India (investigation No. 731-TA-264 (Preliminary)), and the People's Republic of China (investigation No. 731-TA-265 (Preliminary)) of certain heavy and light iron construction castings,[9] [10] provided for in TSUS item 657.09, which are alleged to be sold in the United States at less than fair value (LFTV).[11]

Background

On May 13, 1985, petitions, were filed with the Commission and the Department of Commerce by counsel on behalf of the Municipal Castings Fair Trade Council alleging that an industry in the United States is materially injured or threatened with material injury by reason of subsidized imports of certain iron construction castings from Brazil and by reason of imports from Brazil, Canada, India, and the People's Republic of China of such castings which are being sold at LTFV. Accordingly, effective May 13, 1985, the Commission instiued preliminary countervailing duty and antidumping investigations under the provisions of the Tariff Act of 1930 to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise into the United States.

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of May 22, 1985 (50 FR 21148). The conference was held in Washington, DC, on June 5, 1985, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on June 27, 1985. The views of the Commission are contained in USITC Publication 1720 (June 1985), entitled "Iron Construction Castings From Brazil, Canada, India, and the People's Republic of China," Determinations of the Commission in Investigations Nos. 701-TA-249 and 731-TA-262 through 265 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations.

Issued: June 28, 1985.

By order of the Commission:

Kenneth R. Mason,

Secretary.

[FR Doc. 85-15958 Filed 7-2-85; 8:45 am]

BILLING CODE 7020-02-M

[6] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[7] Commissioner Eckes found a reasonable indication of a threat of material injury to the domestic industry from imports of light iron construction castings from Brazil (investigation No. 731-TA-262 (Preliminary)).

[8] Chairwoman Stern finds only a reasonable indication of threat of material injury regarding imports from Brazil, and a reasonable indication of material injury or that regarding imports from Canada, India, and the People's Republic of China.

[9] For the purposes of these investigations, the term "certain heavy iron construction castings" is limited to manhole covers, rings and frames; catch basin grates and frames; and cleanout covers and frames. Such castings are used for drainage or access purposes for public utility, water, and sanitary systems.

[10] For the purposes of these investigations, the term "certain light iron construction castings" is limited to valve, service, and meter boxes. Such castings are placed below ground to encase water, gas or other valves, or water or gas meters.

[11] Commissioner Lodwick found a reasonable indication of a threat of material injury to the domestic industries from the subject imports in investigations Nos 731-TA-262, 263, 264, and 265 (Preliminary).

[Investigation No. 701-TA-240 (Final)]

Oil Country Tubular Goods From Austria

AGENCY: International Trade Commission.

ACTION: Institution of a final countervailing duty investigation.

SUMMARY: The Commission hereby gives notice of the institution of final countervailing duty investigation No. 701-TA-240 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Austria of oil country tubular goods.[1] provided for in items 610.32, 610.37, 610.39, 619.40, 610.42, 610.43, 610.49, and 610.52 of the Tariff Schedules of the United States, which have been found by the Department of Commerce, in a preliminary determination, to be subsidized by the Government of Austria. Unless this investigation is extended, Commerce will make its final subsidy determination by August 7, 1985 and the Commission will make its final injury determination by September 23, 1985 (see sections 705(a) and 705(b) of the act (19 U.S.C. 1671d(a) and 1671d(b))).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, subparts A and C (19 CFR Part 207), and part 201, subparts A through E (19 CFR Part 201, as amended by 49 FR 32569, Aug. 15, 1984).

EFFECTIVE DATE: June 3, 1985.

FOR FURTHER INFORMATION CONTACT: Vera Libeau (202-523-0368), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 724-0002.

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 701 of the act (19 U.S.C. 1671) are being provided to manufacturers, producers, or exporters in Austria of oil country tubular goods. The investigation was requested in a petition filed on February 28, 1985 by United States Steel Corp. In response to that petition the Commission conducted a preliminary countervailing duty investigation and, on the basis of information developed

[1] For purposes of this investigation, "oil country tubular goods" includes drill pipe, causing, and tubing for drilling oil or gas wells, of carbon or alloy steel, whether such articles are welded or seamless, whether finished or unfinished, and whether or not meeting American Petroleum Institute (API) specifications.

during the course of that investigation, determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the subject merchandise (50 FR 16173, April 24, 1985).

Participation in the investigation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list.—Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) of the rules (19 CFR 201.16(c), as amended by 49 FR 32569, Aug. 15, 1984), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Hearing, staff report, and written submissions.—The Commission will hold a public hearing in connection with this investigation; the time and place of the hearing will be announced at a later date. A public version of the prehearing staff report in the investigation will be placed in the public record prior to the hearing, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21). The dates for filing prehearing and posthearing briefs and the date for filing other written submissions will also be announced at a later date.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20, as amended by 49 FR 32569, Aug. 15, 1984).

Issued: June 24, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-15959 Filed 7-2-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-261 (Preliminary)]

12-Volt Lead-Acid Type Automotive Storage Batteries From the Republic of Korea

Determination

On the basis of the record [1] developed in the subject investigation, the Commission unanimously determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is no reasonable indication that an industry in the United States is materially injured, or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports from the Republic of Korea (Korea) of 12-volt lead-acid type automotive storage batteries, provided for in item 683.05 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value (LTFV).

Background

On May 8, 1985, a petition was filed with the Commission and the Department of Commerce by General Battery International Corporation, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of 12-volt lead-acid type automotive storage replacement batteries from Korea. Accordingly, effective May 8, 1985, the Commission instituted preliminary antidumping investigation No. 731-TA-261 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of May 15, 1985 (50 FR 20301). The conference was held in Washington, DC, on May 30, 1985, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on June 24, 1985. The views of the Commission are contained in USITC Publication 1710 (June 1985), entitled "12-Volt Lead Acid Type Automotive Storage Batteries from the Republic of Korea: Determination of the Commission in Investigation No. 731-TA-261 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Issued: June 28, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-15961 Filed 7-2-85; 8:45 am]

BILLING CODE 7020-02-M

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

INTERSTATE COMMERCE COMMISSION

[I.C.C. Order No. P-84]

Rail Carriers; Atchison, Topeka & Santa Fe Railway Co.; Passenger Train Operation

To: The Atchison, Topeka and Santa Fe Railway Company.

It appearing, that the National Railroad Passenger Corporation (Amtrak) has established through passenger train service between New Orleans, Louisiana and Los Angeles, California, and between Chicago, Illinois and Los Angeles, California, via San Antonio, Texas. The operation of these trains requires the use of the tacks and other facilities of Southern Pacific Transportation Company (SP). A portion of the SP tracks near Tucson, Arizona, are temporarily out of service because of a derailment. An alternate route is available via The Atchison, Topeka and Santa Fe Railway Company between Los Angeles, California and El Paso, Texas, via Barstow, California.

It is the opinion of the Commission that the use of such alternate route is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

(a) Pursuant to the authority vested in me by order of the Commission decided April 29, 1982, and of the authority vested in the Commission by section 402(c) of the Rail Passenger Service Act of 1970 (45 U.S.C. 562(c), The Atchison, Topeka and Santa Fe Railway Company (ATSF) is directed to operate trains of the National Railroad Passenger Corporation (Amtrak) between Los Angeles, California, via Barstow, California, and a connection with Southern Pacific Transportation Company at El Paso, Texas.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the

compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act of 1970, as amended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(d) *Effective date.* This order shall become effective at 11:00 p.m. (MDT), June 12, 1985.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m. (EDT), June 13, 1985, unless otherwise modified, amended, or vacated by order of this Commission.

This order shall be served upon The Atchison, Topeka and Santa Fe Railway Comapny and upon the National Railroad Passenger Corporation (Amtrak), and a copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., June 12, 1985.

Interstate Commerce Commission.

Bernard Gaillard,

Agent

[FR Doc. 85-15876 Filed 7-2-85; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. MC-F-16291]

Aluminum Co. of America—Continuance in Control—Rea Magnet

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemption.

SUMMARY: Aluminum Company of America (Alcoa), a non-carrier holding company and Rea Magnet Wire Company, Inc. (Rea Magnet), a wholly-owned subsidiary which seeks initial carrier authority under Docket No. MC-183733, have filed a petition for exemption under 49 U.S.C. 11343(e) to allow Alcoa to continue in control of Rea Magnet upon Rea Magnet obtaining motor carrier status. Alcoa presently controls four short-line railroads, the Bauxite and Northern Railway Company, the Massena Terminal Railroad Company, the Point Comfort and Northern Railway Company, and the Rockdale Sandow & Southern Railroad Company as well as two motor carriers, the Buckeye Molding Company (Buckeye) (No. MC-153900) and the Penn Way Trucking Company (Penn Way) MC-180522). Approval for Alcoa's existing control of Buckeye and Penn Way was obtained in prior proceedings docketed as Nos. MC-F-15741 and MC-F-16017 respectively. As a result of Alcoa's continued control of Rea Magnet, once the latter becomes a regulated carrier, Alcoa will then be in control of seven common carriers. Continuance in control of a carrier, by a person that is not a carrier but that controls any number of carriers, may be carried out only under Commission regulation or under an exemption from regulation. See 49 U.S.C. 11343(a)(5) 11343(e).

DATES: Comments must be received by July 23, 1985.

ADDRESSES: Send comments (an original plus 10 copies) referring to Docket No. MC-F-16291 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioners' representative: Paula J. Jesion, Esq., Sullivan & Associates, 180 North Michigan Avenue, Suite 1700 Chicago, IL 60601

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Alcoa and Rea Magnet seek exemption under 49 U.S.C. 11343(e) and the Commission's regulation in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property, Under 49 U.S.C. 11343,* 367 I.C.C. 113 (1982), 47 FR 53303 (November 24, 1982).

A copy of the petition may be obtained from petitioners' representative, or it may be inspected at the Washington, DC office of the Interstate Commerce Commission during normal business hours.

Decided: June 26, 1985.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 85-15896 Filed 7-2-85; 8:45 am]

BILLING CODE 7035-1-M

[Docket No. AB-6 (Sub-No. 236)A]

Burlington Northern Railroad Co.—Abandonment—Between Zeeland, ND and Eureka, SD

The Commission has found that the public convenience and necessity permit Burlington Northern Railroad Company (BN) to abandon BN's 19.22-mile rail line between milepost 44.8 near Zeeland, ND and milepost 25.58 at Eureka, SD. The certificate authorizing this abandonment will be effective within 30 days, unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and served concurrently on the applicant, with copies to Mr. Louis Gitomer, Room 5417, Interstate Commerce Commission, Washington, DC 20423, no later than 10 days from publication of this Notice. Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

James H. Bayne,

Secretary.

[FR Doc. 85-15897 Filed 7-2-85; 8:45 am]

BILLING CODE 7035-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 85-44]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council.

DATE AND TIME: July 24, 1985, 9 a.m. to 5 p.m., and July 25, 1985, 8:30 a.m. to 3 p.m.

ADDRESS: National Aeronautics and Space Administration, Federal Building 6, Maryland Avenue SW, Washington, DC 20546, Room 7002.

FOR FURTHER INFORMATION CONTACT: Mr. Nathaniel B. Cohen, Code LB, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-8335).

SUPPLEMENTARY INFORMATION: The NASA Advisory Council was established as an interdisciplinary group to advise senior management on the full range of NASAs programs, policies, and plans. The Council is chaired by Mr. Daniel J. Fink and is composed of twenty-five members. Standing committees containing additional members report to the Council and provide advice in the substantive areas

of aeronautics, life sciences, space applications, space and earth sciences, space systems and technology, and history, as they relate to NASA's activities.

Visitors will be admitted to the meeting room up to its capacity, which is approximately 60 persons including Council members and other participants. Visitors will be requested to sign a visitor's register.

Type of meeting: Open.

Agenda

July 24, 1985

9 a.m.—Introduction to Meeting
9:10 a.m.—Agency Program Planning Overview
9:30 a.m.—Space Science and Applications Planning
11:15 a.m.—Space Station Planning
1 p.m.—Space Flight Planning
2 p.m.—Tracking and Data Systems Planning
3:45 p.m.—Aeronautics and Space Technology Planning
4:30 p.m.—Commercial Programs Planning
5 p.m.—Adjourn

July 25, 1985

8:30 a.m.—NASA Institutional Planning
9:30 a.m.—Planning Discussion
10 a.m.—NASA University Program
11:30 a.m.—History Committee Report
1 p.m.—Other Business
3 p.m.—Adjourn

L. W. Vogel,

Director, Logistics Management and Information Programs Division, Office of Management.

June 27, 1985.

[FR Doc. 85-15859 Filed 7-2-85; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

Applications for Licenses to Export and Import Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application" please take notice that the Nuclear Regulatory Commission has received the following applications for export and import licenses. Copies of the applications are on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street NW., Washington, D.C.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register.** Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Executive Legal Director, U.S Nuclear Regulatory Commission, Washington, D.C. 20555, the Secretary, U.S. Nuclear Regulatory Commission, and the Executive Secretary, U.S. Department of State, Washington, D.C. 20520.

In its review of applications for licenses to export production or utilization facilities, special nuclear materials or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility or material to be exported. The table below lists all new major applications.

Dated this 26th day of June 1985 at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Marvin R. Peterson, Acting Assistant Director,

Export/Import and International Safeguards, Office of International Programs.

NRC EXPORT APPLICATIONS

Name of applicant, date of application, date received, application No.	Material type	Material in kilograms		End-Use	Country of destination
		Total element	Total isotope		
Transnuclear, Inc., June 25, 1985, June 25, 1985.	93 percent enriched uranium....	4.911	4.582	HEU for use as fuel in McMaster Nuclear Reactor.....	Canada.

[FR Doc. 85-15917 Filed 7-2-85; 8:45 am]

BILLING CODE 7590-01-M

Applications and Amendments to Operating Licenses Involving No Significant Hazards Consideration; Bi-Weekly Notice

Background

Pursuant to Pub. L. 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular bi-weekly notice. Pub. L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This bi-weekly notice includes all amendments issued, or proposed to be issued, since the date of publication of the last bi-weekly notice which was published on June 19, 1985 (50 FR 25480), through June 24, 1985.

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

By August 2, 1985, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and

any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR § 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all pubilc and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to *(Branch Chief):* petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner had made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(4).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the local public document room for the particular facility involved.

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth, Massachusets

Date of amended request: April 15, 1983, as revised May 14, 1985.

Description of amendment request: The May 14, 1985 submittal supersedes the April 15, 1983 submittal which was previously noticed in the **Federal Register** on August 23, 1983 (48 FR 38390). The proposed amendment would revise the Technical Specifications by incorporating revised radiological effluent and environmental monitoring limiting conditions for operation, action statements and surveillance requirements. The proposed changes are in response to NRC requests of July 11, and November 15, 1978. The proposed changes are intended to implement the design objectives and requirements of 10 CFR 50.34(a), 10 CFR 50.36a, 10 CFR Part 20, 10 CFR Part 50 Appendix A General Design Criteria 60 and 64 and 40 CFR Part 190.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for the application of standards for determining whether a significant hazards consideration exists by providing examples of amendments that are considered not likely to involve significant hazards considerations (48 FR 14870). One such amendment

involves a change to make a license conform to changes in the regulations, where the license change results in very minor changes to facility operations clearly in keeping with the regulations.

The change proposed by the licensee is intended to implement: 10 CFR 50.34(a), which pertains to Design Objectives for equipment to control releases of radioactive materials in effluents from nuclear power reactors; 10 CFR 50.36a, which pertains to Technical Specifications of effluents from nuclear power reactors; 10 CFR Part 20, which pertains, in part, to the controlled release of radioactive materials in liquid and gaseous effluents; 10 CFR Part 50, Appendix A, General Design Criteria 60, which pertains to control of releases of radioactive materials to the environment, and 64, which pertains to monitoring radioactively releases; and 40 CFR Part 190, which pertains to radiation doses to the public from operations associated with the entire uranium fuel cycle. This amendment, therefore, reflects changes to make the Pilgrim license conform to changes in the regulations. Since the licensee is presently obligated by these regulations to control and limit offsite releases of radioactive materials to levels which are as low as is reasonably achievable, the license change will only result in very minor changes in facility operations which are clearly in keeping with the regulations.

Therefore, since the application for amendment involves proposed changes that are similar to an example for which no significant hazards consideration exists, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Plymouth Public Library, North Street, Plymouth, Massachusetts 02360.

Attorney for licensee: W.S. Stowe, Esq., Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199.

NRC Branch Chief: Domenic B. Vassallo.

Consumers Power Company, Docket No. 50–155, Big Rock Point Plant, Charlevoix County, Michigan

Date of amendment request: November 1, 1984, as supplemented on May 16, 1985.

Description of amendment request: The proposed amendment requests changes that are primarily administrative in nature. Included are: (1) Modification of the calibration frequency of dose-rate measuring instruments, (2) re-numbering of a previously motor-operated valve whose operator has been modified to convert to a manually-operated valve (this change is administrative since the valve will continue to remain in the locked-open position), (3) addition of H4 fuel to the Table of Core Operation Limitations (this change is editorial since H4 fuel is identical to H3 fuel values currently included in the table), and (4) other minor editorial or typographical corrections.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870, April 6, 1983). One of the examples (1) of actions not likely to involve a significant hazards consideration relates to a purely administrative change to the Technical Specifications such as a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature. This example applies to changes (2), (3) and (4) described above. Thus, the staff proposes to determine that the changes involve no significant hazards consideration.

The staff has examined the proposed change regarding calibration frequency for dose-rate measuring instruments. Additional supporting information was obtained via telephone calls with the licensee. This information was then formally submitted to the NRC by letter dated May 16, 1985. The proposed modification would reduce the required calibration frequency of portable gamma monitors on the high range scales

(20R/hr) from once every 3 months to once every 6 months. Calibration on these high range scales must be done by shipping the instruments offsite to a calibration facility. Due to the high source intensity necessary to calibrate these scales, background radiation results in radiation exposure to laboratory personnel during the calibration process. Thus, calibration on these scales should not be performed too frequently. Based upon the above discussion, the staff proposes to determine that the proposed change would not involve a significant hazards consideration determination since it (1) does not involve a significant increase in the probability or consequences of a previously evaluated accident, (2) does not create the possibility of a new or different kind of accident from an accident previously evaluated, and (3) does not involve a significant reduction in a margin of safety.

Local Public Document Room location: North Central Michigan College, 1515 Howard Street, Petoskey, Michigan 49770.

Attorney for licensee: Judd L. Bacon, Esquire, Consumer Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Branch Chief: John A. Zwolinski.

Consumers Power Company, Docket No. 50–255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: June 14, 1985.

Description of amendment request: The proposed amendment would change the existing Technical Specification for heatup, cooldown, and hydrostatic test of the reactor vessel by adjusting the pressure/temperature limits to account for the effects of irradiation of the Palisades reactor vessel materials. The methodology of Regulatory Guide 1.99, Revision 2 is used as the basis for the new, more restrictive limits.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870, April 6, 1983). One of the examples (ii) of actions not likely to involve a significant hazards consideration relates to changes constituting an additional limitation, restriction, or control not presently included in the technical specifications. Although there are pressure/temperature limits presently included in the technical specifications, the changed limits are more restrictive to account for increased irradiation of the reactor vessel and to maintain the margin of safety. Revised pressure/temperature limits are required to meet the reactor vessel fracture toughness requirements in 10 CFR Part 50, Appendix G. This would result in a higher temperature requirement for the corresponding reactor vessel pressure. Use of the proposed new limits, since they place more stringent limits on operation, would maintain the required margin of safety to the nil-ductility transition temperature for the reactor vessel material.

Therefore, since the proposed changes are similar to example (ii), the staff proposes to determine that the proposed changes would not involve a significant hazards consideration.

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Branch Chief: John A. Zwolinski.

Dairyland Power Cooperative, Docket No. 50-409, La Crosse Boiling Water Reactor, Vernon County, Wisconsin

Date of amendment request: July 11, 1984.

Description of amendment request: Resulting from the review of Multi-Plant Action Item B-24, Venting and Purging of Containment while at Full Power, the NRC requested on April 30, 1984 that Dairyland Power Cooperative (the licensee) submit revised technical specifications (TS) for containment ventilation isolation valve operability and isolation time, limiting conditions for operation, surveillance requirements, and periodic replacement of resilient valve seats. These TS and related bases for the specifications were submitted by the licensee on July 11, 1984.

Existing TS at La Crosse require that for containment integrity to exist, all penetrations required to be isolated during accident conditions must be capable of being closed by an operable containment automatic isolation valve or closed by at least one manual valve, blind flange, or deactivated automatic valve secured in the closed position. The reactor building isolation system must be tested for proper operation prior to every cold startup, but not required more often than at 30-day intervals. In addition to these existing requirements, the licensee's July 11, 1984 request proposed additional TS including (1) operability of containment ventilation valves based upon isolation time, (2) limiting conditions for operation when valves are found to be inoperable, (3) surveillance requirements which include testing after maintenance or repair and periodic replacement of resilient valve seat rings and (4) associated bases for these specifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for making these determinations by providing certain examples (April 6, 1983, 48 FR 14870). One of the examples (ii) of actions involving no significant hazards consideration relates to a change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications. The proposed changes fall within this example since they are all additional requirements not currently included in the TS. On this basis, the staff proposes to determine that the application does not involve a significant hazards consideration.

Local Public Document Room location: La Crosse Public Library, 800 Main Street, La Crosse, Wisconsin 54601.

Attorney for licensee: O.S. Heistand, Jr., Esquire, Morgan, Lewis & Bockius, 1800 M Street NW., Washington, D.C. 20036.

NRC Branch Chief: John A. Zwolinski.

Indiana and Michigan Electric Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendment request: April 23, 1985.

Description of amendment request: The amendments would revise the Technical Specifications for operation of the auxiliary feedwater system: (1) To delete the requirement that the Motor Driven Auxiliary Feedwater Pumps be automatically started in Mode 3 due to a loss of main feedwater pump signal, (2) to add statements for ACTION to be taken if more than one auxiliary feedwater pump is inoperable, (3) to clarify surveillance requirements to allow acceptance of discharge pressures based on calculational adjustments of test data to account for variations from a fluid temperature of 60 °F, and (4) to correct surveillance requirements by deleting verification of pumps starting from the control room and by verification of correct valve position for non-automatic and automatic valves depending upon the operation condition at the time of verification. The amendments would also make an administrative change to add the term "independent" to the Unit 2 Technical Specification to accurately describe the Auxiliary Feedwater Pumps.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether the license amendments involve no significant hazards considerations by providing certain examples (48 FR 14871). One of these examples (vi) is a change which either may result in some increase to the probability or consequences of a previously analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptance criteria with respect to the system or component specified in the Standard Review Plan. The changes to delete the requirement that the Motor Driven Auxiliary Feedwater Pumps be automatically started in Mode 3 due to a loss of main feedwater pump signal, to clarify the surveillance requirements to allow calculational adjustments to discharge pressures to account for variations from a fluid temperature of 60°F, and to correct surveillance requirements for starting pumps from the control room and verification of correct valve position depending upon the operation conditions are all directly related to this example as follows. During normal plant startup upon entering Mode 3, the "loss of main feedwater pump" instrumentation trip logic now automatically starts the Motor Driven Auxiliary Feedwater Pumps although delivery to the steam generators is not required. When water is required, it is usually added slowly at the direction of the operator. This acceptable operation has been recognized by the staff and was corrected in the later versions of the Westinghouse Standard Technical Specifications. The change to allow acceptance of discharge pressures based on calculational adjustments of test data to account for variations from a fluid temperature of 60 °F is to allow comparison of pump performance corrected for water density effects on discharge pressure. The staff has found the calculational adjustments acceptable but only if the fluid temperature measurement techniques are demonstrated to be substantially improved (See S. Varga, NRC, letter to J. Dolan, IMEC, dated April 11, 1985). The last changes under this example would remove the requirement to start the pumps from the control room (actually a redundant requirement to the definition of Operability under Section 1.6. of the Technical Specifications) and to verify the correct position of valves depending upon operating conditions. Non-automatic valves can be verified to be in their correct position at any time but automatic values in the auxiliary feedwater systems may be at any position until reactor power reaches about 10% at which time the valves in the flow path can be verified fully open and the pumps in automatic control. The staff has recognized this acceptable operation and the later versions of the Westinghouse Standard Technical Specifications have been corrected. Another example (ii) provided by the Commission is a change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications. The proposed change to add statements for ACTION to be taken if more than one auxiliary feedwater pump is inoperable is directly related to this example. The current Technical Specifications address actions if only one pump is inoperable; the proposed change will address different requirements if two or all three of the pumps are inoperable.

The Commission has also provided an example (i) of a purely administrative change to technical specifications. The change to the Unit 2 description of the

Auxiliary Feedwater System to include the word "independent" will make both Units the same and consistent with the wording of the Standard Technical Specification. This change is directly related to the example. On this basis, the Commission proposed to determine that the amendments involve no significant hazards considerations.

Local Public Document Room location: Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street NW., Washington, D.C. 20036.

NRC Branch Chief: Steven A. Varga.

Indiana and Michigan Electric Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendment request: May 10, 1985.

Description of amendment request: The proposed amendments would revise the Technical Specifications relating to the electrical power systems and in response to the Generic Letter No. 83–28, add surveillance requirements to periodically test the undervoltage trip attachments and shunt trip attachments. The changes to the electrical power system would more precisely identify the required battery banks, define the full electrolyte level as up to the bottom of the maximum level indication mark, define shutdown for battery service tests to be MODES 5 or 6, for Unit 1 eliminate a surveillance pertaining to battery recharging time to be consistent with the Unit 2 requirements, eliminate the battery service test if a performance discharge test is performed, delete a footnote which designates when AC power sources are turned off or on as a result of a design change in the critical reactor instrumentation distribution design, and delete references to tie breakers and standby circuits to connect battery trains.

Basis for proposd no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether amendments involve no significant hazards consideration by providing certain examples (48 FR 14871). One of these examples (i) is a purely administrative change to Technical Specifications. Three of the proposed changes are somewhat related to this example in that the changes all involve minor clarification of statements with example in that the changes all involve minor clarification of statements with no change in intent or requirements. These are the changes to more precisely identify the required battery banks, the change to define the full electrolyte level up to the bottom of the maximum level indicator mark, and the change to define shutdown for battery service tests to be MODES 5 or 6. Another example (ii) is a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications. The proposed change to add surveillance requirements for the Undervoltage Trip Attachments and Shunt Trip Attachments is directly related to this example. Generic Letter 83.28 proposed these attachments and appropriate surveillance requirements as a means of satisfying a portion of the NRC concerns following the anticipated transients without scram event at the Salem facility.

The remaining four proposed changes are related to the example (iv) which is a change which may either result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan. The change on Unit 1 to eliminate a surveillance pertaining to battery recharging time is also accompanied by the addition of a surveillance requirement for new batteries which is consistent with the Unit 2 requirement. The results of the new Unit 1 surveillance requirement is clearly within the criteria found acceptable by the staff for the Unit 2 requirements. The change to eliminate the battery service test if a performance discharge test is performed would result is less actual testing, however, the performance discharge test profile envelopes the battery service test profile and completion of the performance discharge test ensures adequate capacity to meet the requirements of the battery service test. The staff has previously found this acceptable and the Standard Technical Specifications acknowledge deletion of the battery service test it the performance discharge test is performed. The third change related to this example is the deletion of a footnote which requires an AC power source be turned off when certain batteries are undergoing a load test. The licensee has redesigned the critical reactor instrumentation distribution (CRID) system so that the GRID cabinets continue to receive 120 Volt power from two sources but the inverter supplying power to the CRID will no longer connect both sources. The inverter can load the batteries alone without interference from the second AC source, therefore, there is no need to have this second source turned off. The redesign of the CRID supply involves adding a transformer and separating the 600V AC supply from the inverter. This new equipment is in addition to previous equipment and on this basis may increase the probability of an accident but the system design is in accordance with previously acceptable criteria. The last change under this example (iv) is the change to delete references to the tie breakers and standby circuits to connect battery trains. Mechanical interlocks could not be provided for the manually operated switches, therefore, the tie breakers between trains were disconnected. Disconnecting the tie breakers removes a licensee backup system which might be used in the event of a complete loss of one battery but the NRC has not given credit to ties between trains and considers the disconnect to improve safety by assuring redundancy and separation of equipment. On the above basis, the Commission proposes to determine that the amendments involve no significant hazards consideration.

Local Public Document Room location: Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street NW., Washington, D.C. 20036.

NRC Branch Chief: Steven A. Varga.

Mississippi Power & Light Company, Middle South Energy, Inc., Mississippi Electric Power Association, Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: May 15, 1985.

Description of amendment request: The amendment would revise Figure 6.2.1–1 "Offsite Organization" and Figure 6.2.2–1 "Unit Organization" in the Technical Specifications by deleting the positions of Manager, Nuclear Human Resources, and Administrative Supervisor, respectively. The responsibilities and functions of the Manager, Nuclear Human Resources, would be assigned to a new position of Manager of Employment in the Mississippi Power & Light (MP&L) Company's Personnel Department. The responsibilities of the Administrative Supervisor would be assigned to a new position of Personnel Supervisor reporting to the Manager of Employment The new position of Manager of

Employment would be enhanced by the addition of two positions for nuclear recruiting while retaining the responsibilities of the present position of the Manager of Nuclear Human Resources. The Personnel Supervisor and staff would remain on site and would continue to provide personnel services for the plant under the Manager of Employment.

Basis for proposed no significant hazards consideration determination: The primary function of the Manager, Nuclear Human Resources, is to recruit and develop employees for the Nuclear Production Department (NPD) of MP&L. The change would place this position (with the title changed to Manager of Employment) under the MP&L Personnel Department thereby making the entire resources of the Personnel Department available to support the functions of this position. The Manager of Employment would be the same person now assigned to the position of Manager, Nuclear Human Resources. The Manager of Employment would retain responsibility for three positions conducting NPD position task analyses and would be given responsibility for two new positions having responsibility for recruiting employees for the Grand Gulf Nuclear Station and other nuclear-related activities. The Personnel Supervisor and staff at Grand Gulf Nuclear Station will continue to provide personnel services for the plant under the Manager of Employment. The proposed change would increase the availability to the Nuclear Production Department of MP&L's resources in recruitment and development of employees. Because this change would not affect plant equipment design, safety criteria or safety analyses and would enhance human resource management, this change does not significantly increase the probability or consequences of an accident previously evaluated or create the possibility of a new or different kind of accident from any accident previously evaluated, nor does it involve a significant reduction in a margin of safety. Accordingly, the Commission proposes to determine that these changes do not involve a significant hazards consideration.

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154.

Attorney for licensee: Nicholas S. Reynolds, Esquire, Bishop, Liberman, Cook, Purcell, and Reynolds, 1200 17th Street, NW., Washington, D.C. 20036.

NRC Branch Chief: Elinor G. Adensam.

Northeast Nuclear Energy Company et al., Docket No. 50-336, Millstone Nuclear Power Station, Unit 2, New London County, Connecticut

Date of amendment request: May 28, 1985.

Description of amendment request: The proposed changes to the Technical Specifications would make changes relative to fire protection systems including fire detectors, fire water pump diesels, spray and/or sprinkler systems, hose stations, and penetration fire barriers.

Revisions to Section 3/4.3.7 and Table 3.3-10 are proposed to reflect the installation of additional fire detection instrumentation in the Auxiliary Building and Containment. Action and Surveillance Requirements for the instrumentation located in containment have been added. Specific Surveillance Requirements for supervised and non-supervised instrumentation circuits have also been incorporated.

Revision to Surveillance Requirement Section 4.7.9.1.3 pertaining to the diesel driven fire pumps is made to reflect the as-built design of the diesel starting system which uses two independent 12-volt batteries.

The list of spray and/or sprinkler systems in Section 3.7.9.2 has been updated to reflect additions to the plant fire protection systems.

Technical Specification Section 3/4.7.9.3, Fire Hose Stations, is revised, in part, to reflect provisions of the Standard Technical Specifications (STS) for Combustion Engineering nuclear steam supply systems (NUREG-0212, Revision 2) and the operability for fire hose stations in Containment during operational MODES 5 and 6. Specifically, the licensee intends to locate fire hose station equipment outside Containment when in MODES 1-4. Table 3.7-2 has also been updated to include new hose stations.

Revision to Technical Specification Section 3/4.7.10. Penetration Fire Barriers, is made to reflect the need to protect redundant safe shutdown related systems and equipment as required by Appendix R to 10 CFR Part 50. The Applicability statement has been revised to account for different equipment requirements during various plant operating MODES as specified in other portions of the Technical Specifications. The Action statement for a non-functional fire barrier reflects the STS with slight modifications to the frequency of a fire watch patrol given an operable fire detection or suppression system on *both* sides of a non-functional fire barrier. In addition, a third provision is proposed for the Action statement which requires a temporary fire barrier/penetration seal be installed for a period not to exceed 30 days. If the barrier cannot be repaired within the specified time period, the licensee proposes to provide the Commission a special report outlining the cause of the barrier inoperability and the plans and schedules for restoring the barrier to functional status. A Special Report category is proposed to be added to Section 6.9.2. The Surveillance Requirements of Section 4.7.10 pertaining to fire barrier penetration seals are revised to reflect a reduction in the numbers of seals subject to visual inspection. Should any of the seals in the inspection sample be nonfunctional, additional inspections are to be performed.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for making a no significant hazards consideration determination (48 FR 14870). Example (i) of this guidance is a purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature. The proposed wording change to Surveillance Requirement Section 4.7.9.1.3 reflects the as-built battery design of two 12-volt batteries rather than the 24-volt battery. This change is similar to example (i) of the guidance by correcting an error. The addition made to Section 6.9.2 provides consistency throughout the Technical Specifications by listing a reporting requirement committed to in another Section and is therefore similar to Example (i).

Example (ii) of the guidance relates to a change that constitutes an additional limitation, restriction or control not presently included in the technical specifications: for example, a more stringent surveillance requirement. The inclusion of additional surveillance and control equipment would be similar to example (ii); therefore, the additional fire detection instrumentation included in Table 3.3-10 and the additional spray and/or sprinkler systems contained in Section 3.7.9.2 would be included under this example.

Example (vi) of the guidance relates to a change which either may result in some increase to the probability or consequences of a previously analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan: for example, a

change resulting from the application of a small refinement of a previously used calculational model or design method. The changes to Sections 3/4.3.3.7 and 3/4.7.9.3 are consistent with the STS as endorsed by Chapter 16 of the Standard Review Plan and, therefore, are similar to example (vi). The proposed changes to Section 3/4.7.10 are consistent with Draft Revision 3 of the STS and are within the acceptance criteria specified in the Standard Review Plan and are therefore similar to example (VI).

The revised Surveillance Requirements in Section 3/4.7.10 take into account operating experience with penetration seal material and manufacturer's technical data on seal degradation over time. Operating experience and manufacturer's data indicate that there is no degradation with age and there are virtually no maintenance requirements for fire barrier penetration seals when properly installed. Plant design changes receive a fire protection review. This review specifically addresses the need to reinstate any new or existing fire barrier penetration seals as part of the work closeout requirements. This provision provides assurance that maintenance and construction work will not result in non-functional fire barriers. Semi-annual fire inspections conducted by American Nuclear Insurers, fire inspections by the licensee's Fire Protection Engineering Section and monthly inspections conducted by Millstone Station Services personnel provide a random check of penetration seals above and beyond the proposed Surveillance Requirements of Specification 4.7.10.b. For the reasons stated above, the proposed changes to the Surveillance Requirements in Section 3/4.7.10 would not involve a significant increase in the probability or consequences of an accident previously evaluated. For these same reasons, the proposed change would not create the possibility of a new or different kind of accident from any accident previously evaluated or involve a significant reduction in a margin of safety.

Based on the above considerations, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut.

Attorney for licensee: Gerald Garfield, Esq., Day, Berry and Howard, One Constitution Plaza, Hartford, Connecticut 06103.

NRC Branch Chief: Edward J. Butcher, Acting.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit, 1 Washington County, Nebraska

Date of amendment request: June 6, 1985.

Description of amendment request: The amendment would add new technical specifications addressing the surveillance requirements related to the licensee's solid radioactive waste Process Control Program (PCP). Specifically, the requirements will state that the PCP shall be used to verify the solidification of radioactive waste.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples, (ii), of actions not likely to involve a significant hazards consideration relates to changes that constitute additional restrictions or controls not presently included in the technical specifications. The proposal to add technical specifications addressing the surveillance requirements related to the licensee's solid radioactive waste PCP comes under example ii because there are presently no surveillance requirements. Based upon the above, the staff proposes to determine that the application does not involve a significant hazards consideration.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

Attorney for licensee: Leboeuf, Lamb, Leiby, and MacRae, 1333 New Hampshire Avenue, NW., Washington, D.C. 20036.

NRC Branch Chief: Edward J. Butcher, Acting.

Power Authority of The State of New York, Docket No. 50–286, Indian Point Unit No. 3, Westchester County, New York

Date of amendment request: April 23, 1985.

Description of amendment request: The amendment would revise the Technical Specifications Sections 2.1, 2.3, 3.1, 3.10 and 5.3. The proposed changes are in support of the Cycle 4/5 refueling, which is scheduled to commence on June 7, 1985. The Cycle 4/5 refueling would involve the first of a three-phase fuel design transition from the Westinghouse 15X15 low parasitic (LOPAR) design to the 15X15 Optimized Fuel Assembly (OFA) design and an introduction of Wet Annular Burnable Absorber (WABA) rods into the core.

The OFA fuel design results in an increased rod drop time of 2.4 seconds, as compared to a 1.8 second rod drop time for the LOPAR assembly. The accident re-analyses necessitated by the increased rod drop time have been submitted for review. The re-analyses have been performed assuming asymmetric steam generator tube plugging levels. The proposed Technical Specification revisions also include a modified F delta H limit equation reflecting an increased partial power multiplier and a provision for the use of WABA rods in the core.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). One of the examples of actions not likely to involve a significant hazards consideration relates to a change which either may result is some increase to the probability or consequences of a previously analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan (Example vi). The amendment would allow the first of a three-phase fuel design transition from the Westinghouse 15X15 LOPAR fuel design to the 15X15 OFA design and an introduction of WABA rods into the core. To demonstrate full compatibility of the OFA and LOPAR fuel assemblies, the licensee has provided mechanical, nuclear, thermal-hydraulic, and accident evaluations. The results of the licensee's evaluations appear to be consistent with the criteria specified in the Standard Review Plan sections involving Fuel System Design (4.2), Nuclear Design (4.3), Thermal and Hydraulic Design (4.4), and Accident Analysis (Chapter 15) and were performed using methods previously reviewed and approved by the staff. Therefore, the staff proposes to determine that the amendment does not involve a significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Branch Chief: Steven A. Varga.

Public Service Co. of Colorado, Docket No. 50–267, Fort St. Vrain Nuclear Generating Station, Platteville, Colorado

Date of amendment request: May 22, 1985.

Description of amendment request: The proposed change to the Technical Specifications incorporates a new requirement which will allow the performance of Xenon stability testing. The purpose of the testing is to show that power perturbations will be dampened.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870). The examples of actions that are considered not likely to involve significant hazards considerations include changes that constitute an additional limitation, restriction, or control not presently included in the Technical Specifications. Since the proposed change adds a requirement to provide controls during the performance of a test, which is part of the originally required rise-to-power testing, the staff proposes to determine that the proposed action does not involve a significant hazards consideration.

Local Public Document Room location: Greeley Public Library, City Complex Building, Greeley, Colorado.

Attorney for licensee: Bryant O'Donnell, Public Service Company of Colorado, P.O. Box 840, Denver, Colorado 80201.

NRC Branch Chief: Eric H. Johnson.

Southern California Edison Company et al., Docket Nos. 50-361 and 50-362 San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of Amendment Request: January 25, 1984 and August 7, 1984 (Reference PCN-97).

Description of Amendment Request: The proposed change would revise Technical Specification 3/4.6.4.1, "Hydrogen Monitors," which concerns the operability of hydrogen monitors and defines periodic tests to verify operability. These monitors would be used to measure hydrogen concentration within the containment following an accident. The proposed change consists of three parts as follows:

(a) T.S. 3.6.4.1 states that the two independent hydrogen monitors must be operable and defines the actions to be taken when one monitor is inoperable. Since T.S. 3.6.4.1. does not address inoperablity of both monitors, plant shutdown would be required in accordance with the technical specifications. The proposed change adds an action statement to T.S. 3.6.4.1 which provides conditions under which both hydrogen monitors could be inoperable and shutdown would not be required. A period of forty-eight hours will be allowed during which at least one hydrogen monitor must be returned to operable status. If this condition is not met, the plant must be shutdown within the following six hours.

(b) The proposed change would add an action statement to T.S. 3.6.4.1 which will provide an exception to the applicability of T.S. 3.0.4 when only one hydrogen monitor is operable. T.S. 3.0.4 prohibits upward mode changes while relying on the provisions of the action statement. Since Modes 1 and 2 (Power Operation and Start-up, respectively) require that two hydrogen monitors be operable, the plant may not enter Mode 1 or Mode 2 if one of the hydrogen monitors is inoperable. The proposed exception to T.S. 3.0.4 will allow the plant to enter a higher operational mode with one of the two hydrogen monitors inoperable.

(c) T.S. 4.6.4.1 requires that the hydrogen monitors must be tested regularly by performing channel functional tests and channel calibrations. A channel functional test involves the simulation of a signal to the hydrogen monitor. Channel calibration entails verification of the hydrogen monitor's accuracy by applying known concentrations of hydrogen to the monitor's sensor. Currently, T.S. 4.6.4.1 requires that 1% and 4% hydrogen concentration gases be used. During the channel calibration some of the containment isolation valves are required to be open, which reduces containment integrity for the period of calibration.

The proposed change to T.S. 4.6.4.1 would substitute a 0% hydrogen concentration gas for the 1% hydrogen concentration gas used for channel calibration. The 0% hydrogen concentration gas requires less testing time than the 1% hydrogen concentration gas, thereby minimizing the time period during which the containment isolation valves are open and increasing containment integrity. In addition, the hydrogen monitor manufacturer (General Electric) recommends the use of a 0% hydrogen concentration gas and one other concentration of hydrogen gas (e.g., 4%) for channel calibration.

Basis for Proposed No Significant Hazards Considerations Determination: The Commission has provided guidance concerning the application of standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870) of amendments that are considered not likely to involve significant hazards considerations. Example (vi) relates to a change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptance criteria with respect to the system or component specified in the Standard Review Plan (SRP). Example (i) relates to a purely administrative change to technical specifications: for example, correction of an error.

SRP Section 6.2.5 "Combustible Gas Control In Containment," provides acceptance criteria for hydrogen monitors. SRP 6.2.5 references NUREG-0737 "Clarification of TMI Action Plan Requirements" for specific requirements for hydrogen monitors. NUREG-0737 requires technical specifications for the hydrogen monitors. Acceptable mode technical specifications satisfying the NUREG-0737 requirements were provided to licensees in NRC Generic Letter 83-37 dated November 1, 1983.

NRC Generic Letter 83-37 delineates the NRC staff requirements for Technical Specifications for hydrogen monitors and provides an action statement which allows both hydrogen monitors to be inoperable with the condition that at least one monitor must be restored to operable status within seventy-two hours. The proposed change described in part (a) above, would allow both hydrogen monitors to be inoperable for a period of forty-eight hours during which at least one monitor must be restored to operable status. This proposed change is consistent with Generic Letter 83-37, but is more restrictive in that it allows only forty-eight hours for the restoration of the hydrogen monitor's operability, rather than seventy-two hours. Because proposed change (a) above is consistent with Generic Letter 83-37, it meets the acceptance criteria of SRP Section 6.2.5 and is similar to Example (vi) of 48 FR 14870.

The hydrogen monitors constitute post-accident monitoring instrumentation performing the same general function as the accident monitoring instrumentation in T.S. 3.3.3.6. Technical Specification 3.3.3.6, "Accident Monitoring Instrumentation," provides an exception to the applicability of T.S. 3.0.4 while complying with the action statements for any of the accident monitoring instruments covered by T.S. 3.3.3.6. Consistent with technical specifications for other accident monitoring instrumentation, the proposed change will allow an exception to T.S. 3.0.4 but only with one hydrogen monitor inoperable, whereas T.S. 3.3.3.6 would

otherwise provide an exception to T.S. 3.0.4 with either one or both hydrogen monitors inoperable. Because proposed change (b) above, achieves consistency within the technical specifications, it is similar to example (i) of 48 FR 14870.

The hydrogen monitor manufacturer (General Electric) recommends the use of a 0% hydrogen concentration gas and one other concentration of hydrogen gas (e.g., 4%) for channel calibration. The proposed change described in part (c), above, calls for the use of the manufacturer-recommended concentrations of hydrogen gas for channel calibration, rather than the use of the currently specified 1% and 4% hydrogen concentration gases. Proposed change (c) above, meets the no significant hazards criteria established in 10 CFR 50.92 in that operation with the proposed amendment would not:

(1) Involve a significant increase in the probability or consequences of an accident previously conducted. Specifically, the proposed change will result in equal or better calibration, thereby giving readings that are at least as good as the previous method of calibration.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated. This instrument does not perform any pre-accident function. Therefore, it meets this criteria.

(3) Involve a significant reduction in a margin of safety. The proposed change does not reduce a safety margin, since the monitor's function will not be impaired by calibration in accordance with the manufacturer's recommendation.

Local Public Document Room Location: San Clemente Library, 242 Avenida Del Mar, San Clemente, California 92672.

Attorney for licensees: Charles R. Kocher, Esq., Southern California Edison Company, 2244 Walnut Grove Avenue, P.O. Box 800, Rosemead, California 91770, and Orrick, Herrington & Sutcliffe, Attn.: David R. Pigott, Esq., 600 Montgomery Street, San Francisco, California 94111.

NRC Branch Chief: George W. Knighton.

Southern California Edison Company et al., Docket Nos. 50-361 and 50-362 San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of Amendment Request: March 18, 1985 (Reference PCN-188).

Description of Amendment Request: The proposed change would revise Technical Specification 3/4.3.2, "Engineered Safety Features Actuation System Instrumentation." Technical Specification 3/4.3.2 requires that Engineered Safety Features Actuation System (ESFAS) instrumentation channels be operable and defines a number of functional tests and response time tests that must be conducted periodically in order to verify operability. Specification 3/4.3.2 identifies the instruments required for the Toxic Gas Isolation System (TGIS). The TGIS is actuated when concentrations of toxic gases (e.g. chlorine, butane/propane or ammonia) in the control room supply ducts exceed the concentration setpoints. Upon receipt of a TGIS signal, the control room heating ventilation and air conditioning (HVAC) system is automatically isolated. The setpoints are selected such that the toxic gas concentration in the control room will not exceed allowable limits during the first two minutes after the detector responds. This provides adequate protection for the control room operators by allowing sufficient time to don protective gear.

Recently, Amendments 29 and 18 to the operating licenses for San Onofre Nuclear Generating Station Unit 2 and 3, respectively, deleted the requirement for TGIS carbon dioxide instrumentation. Analysis in support of this amendment demonstrated that the maximum control room concentration of carbon dioxide at any time without control room isolation would be 11,000 ppm. The carbon dioxide instrumentation was deleted because the licensee demonstrated that the protective action limit of 50,000 ppm for carbon dioxide would never be exceeded. However, through an oversight Amendments 29 and 18 did not delete all references to carbon dioxide instrumentation from the technical specifications, but only deleted the reference to the carbon dioxide instrumentation from Table 3.3-4, "ESFAS Instrumentation Trip Values." The TGIS carbon dioxide instrumentation is also included in Table 3.3-3, "ESFAS Instrumentation," and Table 4.3-2, "ESFAS Instrumentation Surveillance Requirements". The proposed change corrects this oversight by deleting the remaining references to the TGIS carbon dioxide instrumentation from these tables.

Basis for Proposed No Significant Hazards Consideration Determination: The Commission has provided guidance concerning the application of standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870) of amendments that are considered not likely to involve significant hazards considerations. Example (i) relates to a purely administrative change to the technical specifications: For example a change to achieve consistency throughout the technical specifications, correction of an error or a change in nomenclature. The proposed change described above, by deleting the remaining references to TGIS carbon dioxide instrumentation, which should have been removed by Amendments 29 and 18, corrects an error and achieves consistency within the technical specifications. Therefore the proposed change is similar to example (i) of 48 FR 14870 and thus the NRC staff proposes to determine that this change does not involve a significant hazards consideration.

Local Public Document Room Location: San Clemente Library, 242 Avenida Del Mar, San Clemente, California 92672.

Attorney for licensees: Charles R, Kocher, Esq., Southern California Edison Company, 2244 Walnut Grove Avenue, P.O. Box 800, Rosemead, California 91770 and Orrick, Herrington & Sutcliffe, Attn.: David R. Pigott, Esq., 600 Montgomery Street, San Francisco, California 94111.

NRC Branch Chief: George W. Knighton.

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit No. 1, Callaway County, Missouri

Date of amendment request: May 17, 1985.

Description of amendment request: The purpose of the proposed amendment request is for: (1) A one-time extension for the performance of Type C tests on 59 containment isolation valves (this would require a one-time exemption from Appendix J to Part 50), (2) deletion of isolation time requirements from Table 3.6-1 for the main steam isolation valves and main feedwater isolation valves, and (3) editorial changes to valve function descriptions and system designators in Table 3.6-1.

Basis for proposed no significant hazards considerations determination: (1) Appendix J to Part 50 requires that Type C tests by performed during each reactor shutdown for refueling but in no case at intervals greater than 2 years. The 59 containment isolation valves were last tested between August and December of 1983. The licensee has requested an exemption that would result in the testing being performed during the first refueling outage for Callaway, currently, scheduled to occur during April-June of 1986. The licensee's amendment application addresses the

short length of exposure of the subject valves to an operating environment and the favorable previous local leak rate test measurements. Based on these considerations, the approximately eight month extension in time for the performance of Type C tests will not involve a significant increase in the probability of valve failure and will, therefore, not increase the probability or consequences of any previously analysed accident.

Since the proposed extension will not impact isolation valve integrity, will not affect the method of plant operation, and will not affect equipment important to safe operation, the proposed amendment does not create the possibility of a new and different accident from any previously evaluated. Since the length of exposure to an operating environment is small and the previous local leak rate test measurements were favorable, the proposed amendment will not significantly reduce any margins of safety.

(2) and (3) On April 6, 1983 the NRC published guidance in the **Federal Register** (48 FR 14870) concerning examples of amendments that are not likely to involve significant hazards considerations. This amendment request is similar to the example of a purely administrative change to the technical specifications that may involve a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature. The isolation time requirements for the main steam and main feedwater isolation valves are more appropriately addressed in other sections of the technical specifications, and the editorial changes to valve function descriptions are purely administrative in nature. The proposed changes to the technical specifications satisfy the criteria of this example.

Based on the foregoing, the requested amendment does not present a significant hazards.

Local Public Document Room locations: Fulton City Library, 709 Market Street, Fulton, Missouri 65251 and the Olin Library of Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts & Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

NRC Branch Chief: B.J. Youngblood.

Virginia Electric and Power Company et al., Docket Nos. 50–338 and 50–339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virgina

Date of amendments request: February 14, 1985.

Description of amendments request: The proposed change would eliminate from the NA–1&2 Technical Specifications (TS) the rod bow penalty on the nuclear enthalpy hot channel factor. The proposed change is made possible by an improved fuel rod bowing evaluation methodology that has demonstrated that the presently specified rod bow penalty on 17x17 R-grid fuel can be reduced. This improved methodology has been reviewed and approved by the NRC in its letter dated December 29, 1982 from C. O. Thomas (NRC) to E. P. Rahe, Jr., (Westinghouse) and entitled "Acceptance for Referencing of Licensing Topical Report WCAP–8691(P)/WCAP–8692(NP)". The total retained DNBR Margin for 17x17 fuel is quantified to be 9.1%. The new R-grid rod bow penalties when added together are substantially less than 9.1%. Therefore, removal of the presently specified TS rod bow penalty is compensated for by implementation of the NRC-approved rod bow penalties.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the no significant hazards consideration by providing certain examples (48 FR 14870). Example (vi) of a no significant hazards consideration involves a change which may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system as specified in the Standard Review Plan. Although the instant amendment would permit a reduction of the retained DNBR margin due to the removal of the rod bow penalty on the nuclear enthalpy hot channel factor, the reduction is compensated for by implementation of the NRC-approved rod bow penalties, which provides for adequate and for some factors with additional available margin. On this basis, the staff proposes to determine that the proposed amendment does not involve significant hazards considerations.

Local Public Document Room locations: Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Attorney for licensee: Michael W. Maupin, Esq., Hunton, Williams, Gay and Gibson, P.O. Box 1535, Richmond, Virginia 23212.

NRC Branch Chief: Edward J. Butcher, Acting.

Wisconsin Pubic Service Corporation, Docket No. 50–305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of amendment request: May 30, 1985.

Description of amemdment request: License amendment would provide revised Techncial Specifications (T.S.) to direct the plant Quality Control Group to report to higher level plant management. In addition, would eliminate blank T.S. pages and would incorporate other minor administrative and editorial changes in T.S.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance for the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870) of actions likely to involve no significant hazards consideration. Examples of actions involving no significant hazards consideration are changes that relate to:

(i) A purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature, and

(ii) A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications: for example, a more stringent surveillance requirement.

The changes eliminating blank T.S. pages and other minor administrative and editorial changes are encompassed in example (i).

The T.S. change to direct the Quality Control Group to report to a higher level of plant management enhances the authority of this group and represents an additional control not presently included in the T.S., as indicated in example (ii).

Since the application for amendment involves proposed changes that are similar to examples for which no significant hazards consideration exists, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Attorney for licensee: Steven E. Keane, Esquire, Foley and Lardner, 777 East Wisconsin Avenue, Milwaukee, Wisconsin 53202.

NRC Branch Chief: Steven A. Varga.

PREVIOUSLY PUBLISHED NOTICES OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO OPERATING LICENSES AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices because time did not allow the Commission to wait for this bi-weekly notice. They are repeated here because the bi-weekly notice lists all amendments proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: June 11, 1985.

Description of amendment request: The proposed amendment would revise the technial specifications to update the pressure/temperature limit curves for hydrostatic and leak rate testing and for heatup and cooldown rates. All of these curves are being updated to show the required limitations out to 22.0 effective full power years.

Date of publication of individual notice in **Federal Register:** June 18, 1985 (50 FR 25364).

Expiration date of individual notice: July 18,1985.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

NRC Branch Chief: John A. Zwolinski.

Florida Power Corporation et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of amendment request: February 27, 1985, as revised May 24, 1985, and June 7, 1985

Brief description of amendment: The amendment would move the Fire Service System tables from the Technical Specifications (TSs) to the Fire Protection Plan (FPP) to allow timely implementation of operability and surveillance requirements. The affected Technical Specifications are the Fire Detection Instrumentation (TS 3.3.3.7), Deluge and Sprinkler Systems (TS 3.7.11.2) and Fire Hose Stations (TS 3.7.11.4). Also a Fire Protection license condition would be added requiring that the FPP not be changed so as to significantly decrease the level of fire protection in the plant without the Commission's approval and that all changes be submitted annually to the Commission along with the updated FSAR. *See* 10 CFR 50.71.

Date of publication of individual notice in **Federal Register:** June 14, 1985 (50 FR 24969).

Expiration date of individual notice: July 15, 1985.

Local Public Document Room location: Crystal River Public Library, 668 NW First Avenue, Crystal River, Florida.

Florida Power Corporation et al., Docket No. 50-302, Crystal River Unit No. 3 Nuclear Generating Plant, Citrus County, Florida

Date of amendment request: April 25, 1985.

Brief description of amendment: The amendment would revise the Technical Specifications (TSs) to support the operation of Crystal River Unit 3 at full rated power during the upcoming Cycle 6 operation. The proposed amendment requests changes in the following areas:

1. Reactor core safety limits and trip setpoints for reactor thermal power and axial power imbalance.

2. Minimum boric acid and borated water volumes.

3. Regulating and axial power shaping rod group insertion limits.

4. Axial power imbalance limits.

5. Reactor Protection System response time testing requirements.

6. Deletion of specific requirements pertaining to Cycle 5.

In support of the license amendment request for operation of Crystal River Unit 3 during Cycle 6, the licensee submitted, as an attachment to the application, a Babcock & Wilcox (B&W) Report, BAW-1860, dated April 1985. A summary of the Cycle 6 operating parameters along with a safety analysis are included therein.

For Cycle 6 Crystal River Unit 3 will operate with 60 fresh fuel assemblies similar to the fuel used in Cycle 5. Additionally, Cycle 6 will incorporate longer less absorbing Inconel (gray) axial power shaping rods (APSRs) instead of the silver-indium-cadmium (black) APSRs used used previously.

The NOODLE code was used in determining core physics parameters and the LYNX-T code, which uses crossflow methods, in the thermal-hydraulic analyses. Other analytical methods have been used and accepted for previous cores.

Date of publication of individual notice in **Federal Register:** June 13, 1985 (50 FR 24849).

Expiration date of individual notice: July 15, 1985.

Local Public Document Room location: Crystal River Public Library, 668 N.W. First Avenue, Crystal River, Florida.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the period since publication of the last bi-weekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on the assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission,

Washington, D.C. 20555, Attention: Director, Division of Licensing.

Consolidated Edison Company of New York, Docket No. 50–247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: December 14, 1984.

Brief description of amendment: The amendment revises the Technical Specifications to incorporate the requirements to perform augmented inservice inspection of the IP–2 reactor vessel during the second ten year inspection interval. The augmented inspection is required as a result of a flaw indication reported on the IP–2 reactor vessel during the cycle 6/7 refueling outage. In accordance with Section XI of the ASME Code the amendment requires the inspection to be performed at a frequency of three times over the next ten years. Should any additional inspection demonstrate that the flaw in within the Section XI allowable for which no augmented inspection is required, the amendment allows the requirement for augumented inspection to become void.

Date of issuance: June 6, 1985.

Effective date: June 6, 1985.

Amendment No.: 95.

Facilities Operating License No. DPR–26: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 27, 1985 (50 FR 7984)

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 6, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Consumers Power Company, Docket No. 50–155, Big Rock Point Plant, Charlevoix County, Michigan

Date of application for amendment: November 8, 1984, which supersedes provious submittals dated October 27, 1981, December 15, 1981 and December 16, 1983.

Brief description of amendment: The amendment incorporates technical specification changes to add a description of an operating requirements for the new stack gas monitoring system.

Date of issuance: June 10, 1985.

Effective date: June 10, 1985.

Amendment No. 75.

Facility Operating License No. DPR–6. This amendment revised the license and the Technical Specifications.

Date of initial notice in **Federal Register:** February 27, 1985 (50 FR 7984).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 10, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: North Central Michigan College, 1515 Howard Street, Petoskey, Michigan 49770.

Consumers Power Company, Docket No. 50–155, Big Rock Point Plant, Charlevoix County, Michigan

Date of application for amendment: November 14, 1984.

Brief description of amendment: The amendment modifies the Technical Specifications to include the recently modified Reactor Enclosure Treated Waste Line Isolation Valve, CV–4049, as an automatic containment isolation valve in the list of automatic containment isolation valves which are local leak rate tested.

Date of issuance: June 7, 1985.

Effective date: June 7, 1985.

Amendment No. 74.

Facility Operating License No. DPR–6. This amendment revised the license and the Technical Specifications.

Date of initial notice in **Federal Register:** February 27, 1985 (50 FR 7985).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 7, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room Location: North Central Michigan College, 1515 Howard Street, Petoskey, Michigan 49770.

Dairyland Power Cooperative, Docket No. 50–409, La Crosse Boiling Water Reactor, Vernon County, Wisconsin

Date of application for amendment: September 29, 1982.

Brief description of amendment: Revises technical specifications regarding reactor coolant system safety valves to incorporate new requirements for operability and surveillance testing.

Date of Issuance: June 7, 1985.

Effective date: June 7, 1985.

Amendment No. 43.

Provisional Operating License No. DPR–45. Amendment revised the Appendix A Technical Specifications.

Date of initial notice in **Federal Register:** October 26, 1983 (48 FR 49583).

The Commission's related evaluation for the license amendment is contained in a Safety Evaluation dated June 7, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: La Crosse Public Library, 800 Main Street, La Crosse, Wisconsin 54601.

Dairyland Power Cooperative, Docket No. 50–409, La Crosse Boiling Water Reactor, Vernon County, Wisconsin

Date of application for amendment: October 18, 1984 as revised on January 10, 1985.

Brief description of amendment: Modifies license conditions to remove specific quantity limitations for radioactive byproduct, source, or special nuclear material used for sample analysis or instrumental calibration or associated with radioactive apparatus or components.

Date of Issuance: June 5, 1985.

Effective date: June 5, 1985.

Amendment No. 42.

Provisional Operating License No. DPR–45. Amendment revised the license.

Date of initial notice in **Federal Register:** March 27, 1985 (50 FR 12143).

The Commission's related evaluation for the license amendment is contained in a Safety Evaluation dated June 5, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: La Crosse Public Library, 800 Main Street, La Crosse, Wisconsin 54601.

Duquesne Light Company, Docket No. 50–334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of application for amendment: November 3, 1983 and supplemented by letters dated July 31, 1984 and March 21, 1985.

Brief description of amendment: The only requirements left in Appendix B are those that have to do with infrared aerial photography and soil sampling, and related administrative requirements. The amendment eliminates Appendix B in its entirety, leaving Appendix A, which becomes the only appendix to the Beaver Valley Unit 1 Operating License.

Date of issuance: June 24, 1985.

Effective date: June 25, 1985.

Amendment No. 93.

Facility Operating License No. DPR–66. Amendment revised the Technical Specifications.

Date of initial notice in the **Federal Register:** September 28, 1984, (49 FR 38398).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 24, 1985.

No significant hazards consideration comments received. None.

An Environmental Assessment has been prepared in accordance with 10 CFR 50.12(b) and a finding of No Significant Impact made dated June 21, 1985 (50 FR 25806).

Local Public Document Room locations: B.F. Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

GPU Nuclear Corporation, Docket No. 50-219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: July 19, 1984, as supplemented by the agreement in meeting minutes dated February 22, 1985.

Brief description of amenmdent: The amendment authorizes Appendix A Technical Specification (TS) changes pertaining to the primary containment atmosphere to (1) reduce the maximum oxygen limit from less than 5% to less than 4% in TS 3.5.A.6 and add appropriate text to its Bases and (2) correct a typographical spelling error in the Bases of TS Section 4.5.

Date of issuance: June 7, 1985.

Effective date: June 7, 1985.

Amendment No. 86.

Provisional Operating License No. DPR-16. Amendment revised the Appendix A Technical Specifications.

Date of initial notice in the **Federal Register:** March 27, 1985 (50 FR 12145).

The Commission's related evaluation of the amendment is contianed in a Safety Evaluation dated June 7, 1985.

No significant hazards consideration comments received. No.

Local Public Document Room location: Ocean County Library, 101 Washington Street, Toms River, New Jersey 08753.

Indiana and Michigan Electric Company, Docket No. 50-315, Donald C. Cook Nuclear Plant, Unit No. 1, Berrien County, Michigan.

Date of application for amendment: March 1, 1985.

Brief description of amendment: The amendment revises the Technical Specifications to account for increased flow in the pump bypass line. The specific changes add to footnote to the Safety Injection System single pump flow requirements to (1) indicate combined loops 1, 2, 3, and 4 cold leg flow is to be less than or equal to 640 gpm to be consistent with the containment analysis and (2) total flow, including miniflow, is not to exceed 700 gpm to be consistent with the limits in the ECCS analysis.

Date of issuance: June 24, 1985.

Effective date: June 24, 1985.

Amendment No. 84.

Facility Operating License No. DPR-58. Amendment revised the Technical Specifications.

Date of initial notice in the **Federal Register:** May 21, 1985 (50 FR 20981).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 24, 1985.

No significant hazards consideration comments received. None.

Local Public Document Room location: Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Iowa Electric Light and Power Company, Docket No. 50-311, Duane Arnold Energy Center, Linn County, Iowa

Date of application for amendment: December 5, 1984, as supplemented January 24, 1985.

Brief description of amendment: The amendment revises the Technical Specifications to (1) permit changing the well cooling water backwash automatic valves to manual valves and to keep them locked shut, (2) correct some inconsistencies in the present specifications and as-built logic circuits for Groups 6 and 7 containment isolation valves, and (3) make the Technical Specifications clearer and more complete.

Date of issuance: June 11, 1985.

Effective date: June 11, 1985.

Amendment No. 123.

Facility Operating License No. DPR-49. Amendment revised the Technical Specifications.

Date of initial notice in the **Federal Register:** February 27, 1985 (50 FR 7992).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 11, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, S.E., Cedar Rapids, Iowa 52401.

Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of application for amendment: October 1, 1984.

Brief description of amendment: The revision to the Technical Specifications adds Limiting Conditions for Operation and surveillance requirements for the Control Room Air Treatment System, updates the testing requirements for the absorber filters that are a part of the Control Room Air Treatment and the Emergency Ventilation systems, and changes the testing frequencies for the above mentioned system.

Date of issuance: June 11, 1985.

Effective date: June 11, 1985.

Amendment No.: 73.

Facility Operating License No DPR-63. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 27, 1985 (50 FR 7996).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 11, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: State University College at Oswego, Penfield Library—Documents, Oswego, New York 13126.

Northeast Nuclear Energy Company et al., Docket No. 50-336, Millstone Nuclear Power Station Unit No. 2, Town of Waterford, Connecticut

Date of application for amendment: February 6, 1985 as supplemented June 5 and June 11, 1985.

Brief description of amendment: The revisions to the Technical Specifications modify the allowable region of operation when the core power distribution is monitored by the Excore Detector Monitoring System. These revisions reflect changes in Cycle 7 operating characteristics and allow operation in fuel Cycle 7.

Date of issuance: June 19, 1985.

Effective date: June 19, 1985.

Amendment No.: 99.

Facility Opeating License No. DPR-65. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 27, 1985 (50 FR 12132 at 12150). The June 5, 1985 letter provided the final Cycle 7 reload characteristics and the June 11, 1985 letter provided a Technical Specification page which was inadvertently left out of the February 6, 1985 submittal and provided addition clarfication. Neither letter revised the initial noticing action.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 19, 1985.

No significant hazards Consideration comments received: No.

Attorney for licensee: Gerald Garfield, Esq., Day, Berry and Howard, One Constitution Plaza, Hartford, Connecticut 06103.

Local Public Document Room location: Waterford Public Library, Rope Ferry Road, Route 156, Waterford, Connecticut.

Northeast Nuclear Energy Company et al., Docket No 50-336, Milistone Nuclear Power Station Unit No. 2, Town of Waterford, Connecticut

Date of application for amendment: April 2, 1985.

Brief description of amendment: This amendment modified the Technical Specifications by changing the chlorine detection system setpoint, eliminating the date associated with Regulatory Guide 1.95, changing the control room emergency ventiflation system flow rate, specifying the removal efficiency of the charcoal adsorber, and the insertion of control room radiation monitoring information.

Date of issuance: June 19, 1985.

Effective date: June 19, 1985.

Amendment No.: 100.

Facility Operating License No. DPR-65. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 23, 1985 (50 FR 15997 at 16007). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 19, 1985.

No significant hazards consideration comments received: No.

Attorney for licensee: Gerald Garfield, Esq., Day, Berry and Howard, One Constitution Plaza, Hartford, Connecticut 06103.

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Units Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: October 1, 1981.

Brief description of amendments: The changes to the Technical Specifications permit the following:

(1) Changes in the "Remarks" column of Table 3.2.B to provide indication that an interlock applies to both the Residual Heat Removal (RHR) and Core Spray Systems.

(2) A clarification pertaining to the Suppression Chamber High Level trip setting in accordance with Mark I containment studies (Table 3.2.B).

(3) A revision concerning the surveillance requirements for the Primary Containment Isolation Signal (PCIS) and Low Pressure Coolant Injection (LPCI) interlock switch to correct an error by requiring more stringent requirements (Table 4.2.B).

(4) Correct the calibration frequency for Reactor Level Instrumentation which had inadvertently been changed under previous amendments (Table 4.2.F).

(5) A revision to Appendix B thermal mapping reporting frequency from 30 days to annually. In addition, this section is revised to more clearly specify the required events necessary to initiate thermal mapping monitoring and exempt data collection during periods when river and weather conditions preclude safe data gathering (Appendix B, Section 3.1).

Date of issuance: June 10, 1985.

Effective Date: June 10, 1985.

Amendment Nos.: 109 and 112.

Facility Operating Licenses Nos. DPR-44 and DPR-56. Amendments revised the Technical Specifications.

Date of initial notice in the **Federal Register:** April 25, 1984 (49 FR 17868).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 10, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Street, Harrisburg, Pennsylvania.

Public Service Electric and Gas Company, Docket No. 50-311, Salem Nuclear Generating Station, Unit 2, Salem County, New Jersey

Date of application for amendment: October 15, 1984.

Brief description of amendment: The amendment revises the sodium hydroxide test flow rate for Unit 2 to agree with the value for Unit 1.

Date of issuance: June 13, 1985.

Effective Date: June 13, 1985.

Amendment No.: 38.

Facility Operating License No. DPR-75: Amendment revised the Technical Specifications.

Date of initial notice in the **Federal Register:** April 23, 1985 (50 FR 16011).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 13, 1985.

No significant hazards consideration comments have been received: No.

Local Public Document Room location: Salem Free Library, 112 West Broadway, Salem, New Jersey 08079.

Rochester Gas and Electric Coropration, Docket No. 50-244, R.E. Ginna Nuclear Power Plant, Wayne County, New York

Date of application for amendment: December 19, 1983.

Brief description of amendment: The amendment revises the second and subsequent 10 year interval start dates of the Quality Group B and C programs of the Inservice Inspection Program and the program for High Energy Piping Outside Containment, to coincide with the interval of the Quality Group A program. The change also incorporates inspections intervals for the Inservice Pump and Valve Testing Program, with corresponding interval start dates for the second and subsequent intervals.

Date of issuance: June 19, 1985.

Effective Date: June 19, 1985.

Amendment No.: 5.

Facility Operating Licenses No. DPR-18 Amendment revised the Technical Specifications.

Date of initial notice in the **Federal Register:** April 25, 1984 (49 FR 17871).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 19, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610.

Rochester Gas and Electric Corporation, Docket No. 50-244, R.E. Ginna Nuclear Power Plant, Wayne, County, New York

Date of amendment request: March 30, 1984.

Description of amendment request: The amendment will bring the Technical Specifications into conformance with 10 CFR 50.72, 50.73, and 50.49.

Date of issuance: June 7, 1985.

Effective date: June 7, 1985.

Amendment No.: 4.

Facility Operating License No. DPR-18. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** May 23, 1984 (49 FR 21837).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 7, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610.

Attorney for licensee: Harry H. Voigt, Esquire, LeBoeuf, Lamb, Leiby and MacRae, 1333 New Hampshire Avenue, NW., Suite 1100, Washington, D.C. 20036.

NRC Branch Chief: John A. Zwolinski.

Southern California Edison Company, Docket No. 50-206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

Date of application for amendment: April 9, 1985.

Brief description of amendment: The amendment requires that a steam generator inspection be performed during the refueling outage scheduled to begin no later than November 30, 1985.

Date of issuance: June 5, 1985.
Effective date: June 5, 1985.
Amendment No.: 89
Provisional Operating License No. DPR-13: Amendment revised the license condition 3.E.
Date of initial notice in **Federal Register:** May 1, 1985 (50 FR 18587).
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 5, 1985.
No significant hazards consideration comments received: No.
Local Public Document Room location: San Clemente Public Library, 242 Avendia Del Mar, San Clemente, California 92672.

Washington Public Power Supply System, Docket No. 50-397, WNP-2, Richland, Washington

Date of amendment request: March 14, 1985.
Brief Description of amendment request: This amendment revises the WNP-2 license by modifying the Technical Specifications to provide relief, for one time only, from the surveillance requirement 4.4.3.2.2, of leak testing three of the eighteen Reactor Coolant System Pressure Isolation Valves. These valves are designated RCIC-V-66, RCIC-V-13 and RHR-V-23 and are identified in Table 3.4.3.2-1 of the Technical Specifications.
Date of issuance: June 12, 1985.
Effective date: June 12, 1985..
Amendment No.: 10.
Facility Operating License No. NPR-21: Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** May 9, 1985, (50 FR 19596) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 12, 1985.
No significant hazards consideration comments received: None.
Local Public Document Room Location: Richland Public Library, Swift and Northgate Streets, Richland, Washington 99352.

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of application for amendment: November 30, 1984.
Brief description of amendment: Change to nuclear peaking factor resulting from use of higher burnup fuel.
Date of issuance: June 20, 1985.
Effective date: June 20, 1985.
Amendment No.: 62.
Facility Operating License No. DPR-43: Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** December 31, 1984 (49 FR 50829)
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 20, 1985.
No significant hazards consideration comments received: No.
Local Public Document Room location: University of Wisconsin, Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)

During the period since publication of the last bi-weekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing. For exigent circumstances, a press release seeking public comment as to the proposed no significant hazards consideration determination was used, and the State was consulted by telephone. In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant, a shorter public comment period (less than 30 days) has been offered and the State consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Licensing.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By August 2, 1985, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to *(Branch Chief):* petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be extertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

Consumers Power Company, Docket No. 50–255, Palisades Plant, Van Buren County, Michigan

Date of application for amendment: May 24, 1985.

Brief description of amendment: This amendment extends the time that one of the emergency diesel generators can be inoperative during the month of May 1985 by 3 days.

Date of issuance: June 5, 1985.

Effective date: May 24, 1985.

Amendment No. 88.

Provisional Operating License No. DPR–20. The amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No.

The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination of no significant hazards considerations are contained in a Safety Evaluation dated June 5, 1985.

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

Local Public Document Room location: Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Michigan 49006.

Iowa Electric Light and Power Company, Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of application for amendment: June 14, 1985.

Brief description of amendment: The amendment revises the Amendment No. 121 effective date from May 28, 1985 to July 31, 1985.

Date of issuance: June 20, 1985.

Effective date: June 20, 1985.

Amendment No.: 125.

Facility Operating License No. DPR–49. Amendment revised the license.

Public comments requested as to proposed no significant hazards consideration: No.

The Commission's related evaluation of the amendment and final determination of no significant hazards are contained in a Safety Evaluation dated June 20, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, S.E., Cedar Rapids, Iowa 52401.

Louisiana Power and Light Company, Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of application for amendment: May 14, 1985.

Brief description of amendment: This amendment authorized a change in Techical Specification ¾.3.3.10 and 4.11.1.1.1 to provide for steam generator blowdown through the Circulating Water System (CWS) with an automatic termination feature and to define the sampling and analysis program for steam generator blowdown through the CWS or the Waterford 3 waste pond.

Date of Issuance: June 18, 1985.

Effective Date: May 16, 1985.

Amendment No.: 1.

Facility Operating License No.: NPF–38 Amendment revised the Technical Specifications.

Press release issued requesting comments as to proposed no signficant hazards consideration: No.

Comments received: No.

The Commission's related evaluation is contained in a Safety Evaluation dated June 18, 1985.

Attorney for licensee: Mr. Bruce W. Churchill, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036.

Local Public Document Room Location: University of New Orleans

Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122.

Dated at Bethesda, Maryland this 26th day of June 1985.

For the Nuclear Regulatory Commission.

Edward J. Butcher,

Acting Chief, Operating Reactors Branch No. 3, Division of Licensing.

[FR Doc. 85-15916 Filed 7-2-85; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Section 201 Investigation Regarding Imports of Nonrubber Footwear

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: Notice is hereby given that the President has received the recommendation of the United States International Trade Commission (ITC) regarding imports of nonrubber footwear pursuant to section 201 of the Trade Act of 1974. Public comments are due by c.o.b. Monday, July 15, 1985.

SUPPLEMENTARY INFORAMTION: On July 1, 1985 the ITC reported its finding in an investigation of Nonrubber Footwear, Inv. No. TA-201-55 to the President pursuant to section 201 of the Trade Act of 1974 (19 ULS.C. 2251). The ITC determined that imports of nonrubber footwear provided for in items 700.05 through 700.45, inclusive, 700.56, 700.72 through 700.83, inclusive, and 700.95 of the Tariff Schedules of the United States (TSUS) are causing substantial injury to a domestic industry in the United States.

Pursuant to section 201(d)(1), the Commission found and recommended (Vice Chairman Liebler dissenting) the amount of increase in, or imposition of, any duty or import restriction necessary to remedy the injury to the industry.

Chairwoman Stern and Commissioner Eckes, Lodwick, and Rohr recommended the imposition of a quota of 474 million pairs on imports of nonrubber footwear with a customs value of over $2.50 per pair. They recommended that the quota remain at that level for the first two years of the relief period, to be increased by three (3) percent in the third year, by six (6) percent in the fourth year, and by nine (9) percent in the fifth year.

Nonrubber footwear valued at $2.50 or less per pair would be exempt from this relief.

To implement the quota, the Commission recommended that import licenses be sold through an auctioning system.

Commissioners Eckes, Lodwick, and Rohr recommended that the quota be imposed retroactively to June 1, 1985.

Chairwoman Stern and Commissioner Rohr recommended the division of the 474 million pair quota into three specific segments to provide more effective relief to those parts of the industry which have been most injured by imports. This would restrict the imports within the quota accordingly:

(1) That a 214 million pair ceiling be placed on nonathletic footwear with a customs value of over $5.00;

(2) That a 110 million pair floor be reserved for all athletic footwear (of any value); and

(3) That the remaining 150 million pair portion of the quota be made available to all footwear valued by customs between $2.51 and $5.00. This portion of the quota would also be open for bidding by athletic footwear.

After receiving the ITC's recommendation, the President must (1) determine what method and amount of import relief he will provide or (2) determine that the provision of import relief is not in the national economic interest and if so what whether he will direct expeditious consideration of adjustment assistance petitions. Under 19 U.S.C. 2252, the President has 60 days to make his decision regarding import relief.

In determining whether to provide import relief and the method and amount of relief, the President must take into account, in addition to other consideration he may deem relevant, the following factors:

(1) The probable effectiveness of the import relief as a means to promote adjustment, the efforts being made or to be implemented by the industry concerned to adjust to import competition; and other consideration relevant to the position of the industry in the nation's economy;

(2) The effect of import relief on consumers and on competition in the domestic market for such articles;

(3) The effect of import relief on the international economic interest of the United States;

(4) The impact on United States industries and firms as a consequence of any possible modification of duties or other import restrictions which may result from international obligations with respect to compensation;

(5) The geographic concentration of imported products marketed in the United States;

(6) The extent to which the U.S. market is a focal point for exports of such articles by reason of restraints on exports of such articles, or on imports of such articles into, third country markets; and

(7) The economic and social costs which would be incurred by taxpayers, communities and workers if import relief were or were not provided

The Office of the United States Trade Representative (USTR) chairs the Trade Policy Committee (TPC). The USTR with the advice of the TPC will issue a recommendation to the President regarding what action, if any, he should take with respect to the ITC's report and findings.

USTR welcomes briefs and comments from interested parties and interested members of the public regarding the imposition of import relief. Twenty (20) copies of any brief or comment must be filed in conformity with 15 CFR 2003.2 with the Secretary, Trade Policy Staff Committee, Room 500, Office of the United States Trade Representative, 600 17th Street, N.W., Washington, D.C. 20506. Briefs should be submitted as soon as possible but in any case no later than c.o.b. Monday, July 15, 1985.

FOR FURTHER INFORMATION CONTACT: Hiram Lawrence, Office of the United States Trade Representative, 600 17th Street, N.W., Washington, D.C. 20506; telephone (202) 395-3475.

Donald M. Phillips,

Chairman, Trade Policy Staff Committee.

[FR Doc. 85-16114 Filed 7-2-85; 11:32 am]

BILLING CODE 3190-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Losses and Goals Advisory Committee; Meeting

AGENCY: Losses and Goals Advisory Committee of the Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting to be held pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, 1-4. Activities will include:

- Review draft chapters of Losses Statement;
- Discussion of Glossary of Terms;
- Review fish loss data collection form;
- Discussion of stock selection issue paper;
- Other, and
- Public comment.

Status: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of its Losses and Goals Advisory Committee.

DATE: July 29, 1985, 9:30 a.m.

ADDRESS: The meeting will be held at the Council's Hearing Room, 850 SW Broadway, Suite 1100, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT:
John Marsh, 503–222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 85–15863 Filed 7–2–85; 8:45 am]

BILLING CODE 0000–00–M

Resident Fish Substitutions Advisory Committee; Meeting

AGENCY: Resident Fish Substitutions Advisory Committee of the Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting to be held pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, 1–4. Activities will include:

- Discussion of draft resident fish substitutions issue paper;
- Update of resident fish productivity report;
- Other, and
- Public comment.

Status: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of its Resident Fish Substitutions Advisory Committee.

DATE: July 19, 1985, 9:30 a.m.

ADDRESS: The meeting will be held at the Council's Hearing Room, 850 SW. Broadway, Suite 1100, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT:
John Marsh, 503–222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 85–15862 Filed 7–2–85; 8:45 am]

BILLING CODE 0000–00–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–14601]

Eaton & Howard Balanced Fund; Application for Order Declaring That Applicant Has Ceased To Be an Investment Company

June 25, 1984.

Notice is hereby given that Eaton & Howard Balanced Fund ("Applicant"), 24 Federal Street, Boston, MA 02110, filed and application on May 30, 1985, pursuant to section 8(f) of the Investment Company Act of 1940 ("Act") for an order of the Commission declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for the text of the applicable provisions.

According to the application, Applicant was organized as a trust and registered under the Act as an open-end, diversified management investment company. On December 10, 1984, the Trustees of Applicant approved an Agreement and Plan of Reorganization ("Plan") pursuant to which substantially all of Applicant's assets were transferred to Eaton Vance Investors Fund, Inc. ("Fund"), a registered open-end, diversified management investment company, in exchange for capital stock of the Fund. The application states that Applicant and the Fund were both members of a group of twenty-three investment companies which employ Eaton Vance Management, Inc. ("EVM") as their investment adviser. Applicant and the Fund both engaged Eaton Vance Distributors, Inc., a wholly-owned subsidiary of EVM, as their principal underwriter to distribute their shares. It is stated that the Plan was approved by Applicant's shareholders pursuant to a shareholder solicitation which was concluded on April 15, 1985.

According to the application, on the date of the exchange, April 26, 1985, the Fund acquired Applicant's net assets valued at $56,291,415.55, in exchange for 7,011,789.166 shares of capital stock of the Fund. Applicant states that it distributed to its shareholders shares of the Fund received in the exchange in proportion to their ownership interests. Applicant states further that it now has no assets, securityholders, debts or outstanding liabilities remaining and is not now a party to any litigation or administrative proceeding. In addition, Applicant represents that it is not now engaged, nor proposes to engage, in any business activities other than those necessary to wind up its affairs.

Applicant further states that on May 23, 1985, a certificate of the Trustees was filed with the Secretary of the Commonwealth of Massachusetts terminating its legal existence. As a consequence of such filing, Applicant's existence ceased under Massachusetts law except for such purposes as are necessary to close its affairs.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than July 21, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85–15908 Filed 7–2–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–14596; 812–6061]

Johnstown American Companies; Application

June 24, 1985.

Notice is hereby given that Johnstown American Companies ("Applicant" or the "Company"), 5775–A Peachtree Dunwoody Road, Atlanta, Georgia 30343, a Massachusetts business trust, filed an applicant of February 19, 1985, and amendments thereto on April 25 June 13, 1985, pursuant to section 3(b)(2) of the Investment Company Act of 1949 ("Act"), for an order declaring that Applicant is not an investment company, or, in the alternative, pursuant to section 6(c) of the Act exempting Applicant until March 31, 1986, from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the applicable statutory provisions.

Applicant represents that it is a real estate service organization with operations in over 100 cities and 28 states, primarily in the Southeast and Southwest, that provides directly or through its wholly-owned subsidiaries a broad range of real estate services to property owners and lending institutions. Applicant was formed by a corporate reorganization and combination ("Reorganization") on March 15, 1983, of Johnstown Financial Corporation ("JFC") and Lane Company (Lane") with Hamilton Investment Trust ("Hamilton"). At the time of Reorganization, both JFC and Lane were closely-held companies primarily engaged in managing real estate properties owned by other persons. Hamilton, formed in 1971 as a publicly owned real estate investment trust, ceased its qualification as a real estate investment trust in 1976. JFC and Lane

at the time of Reorganization were, respectively, 80% and 100% owned by Johnstown American Enterprises, Inc. ("Enterprises"); the remaining 20% of JFC was owned by certain officers and shareholders of Consolidated Capital Equities Corporation ("Consolidated"), a sponsor of real estate programs in the form of investment trusts or limited partnerships.

Applicant states JFC was organized in 1977 by John Lie-Nielson, chairman and chief executive officer of the Company. JFC managed Consolidated's properties and Mr. Lie-Nielson has served as Consolidated's Vice President, President and Director; Mr. Lie-Nielson is presently a director of Consolidated.

Applicant continues to manage Consolidated's properties. The Reorganization was effected by the exchange of Hamilton shares for shares of JFC and Lane so that JFC and Lane became wholly-owned by Hamilton, and Hamilton's name was changed to Johnstown American Companies. Following the Reorganization JFC was liquidated into Applicant, and Enterprises, owning approximately 61.5% of Applicant, made a distribution of all the common shares and class B common shares to Enterprise's shareholders. Applicant, as a result of the distribution, is no longer a subsidiary of Enterprises.

Applicant states that in October, 1983, Applicant made a public offering of common shares with net proceeds of $8,588,000 ("1983 Offering"). The proceeds, together with financial resources from operations, were used by Applicant to acquire additional property management firms and firms offering services that complement those of Applicant. For an aggregate price of approximately $27,150,000, Applicant acquired eight condominium management companies, four commercial management companies, two brokerage and leasing companies, Johnstown Mortgage Company ("Mortgage"), a full service mortgage banking company acquired from affiliates, and a marketer of new condominiums and townhouses. In 1984, Applicant organized an Atlanta-based commercial brokerage company, an appraisal and consulting company, a retail carpet and installation company and a resort property management firm.

Applicant states that as of November 30, 1984, Applicant and its subsidiaries managed 751 apartment and condominium communities with approximately 128,000 units and 81 commercial, office and industrial buildings with approximately 5,700,000 square feet of leasable space. Applicant believes, based on industry surveys, that it is the leading manager of residential units in the United States. Revenue from management fees for the year ended August 31, 1984, was $12,292,000, constituting 30% of Applicant's and its subsidiaries' total revenues; brokerage revenue on a consolidated basis totaled approximately $9,691,000, representing 23% of total revenues; carpet sales and installation revenue was approximately $8,757,000, representing 21% of total revenue; and $731,000, constituting 16% of total revenue, was earned from construction supervision, security administration, and other consulting services. Applicant and its subsidiaries as of November 30, 1984, employed approximately 4,000 persons, including 3,100 employees who, as on-site management employees, had their payroll and benefits charged directly to the owners of such properties as a cost related to operation of such properties.

Applicant states that it sold $35,000,000 of notes through an underwritten public offering in February, 1985 ("1985 Offering"). Proceeds from the 1985 Offering will be used to acquire real estate service and other related businesses. Pending acquisition of such businesses, Applicant intends to invest the proceeds in money market instruments of investment grade. Prior to the 1985 Offering, investment securities as defined in the Act comprised less than 30% of Applicant's total assets on an unconsolidated basis; however, after the 1985 Offering, and the investment of the proceeds thereof entirely in money market instruments, the value of Applicant's investment securities will exceed 40% of Applicant's total assets on an unconsolidated basis and it will therefore fall within the definition of an investment company under section 3(a)(3) of the Act. Applicant asserts that because it is primarily engaged in a business or businesses other than that of investing, reinvesting, owning, holding or trading in securities, Applicant qualifies for the Act's section 3(b)(1) exemption and should be granted an order of exemption pursuant to section 3(b)(2) of the Act.

According to the application, on November 30, 1984, Applicant's investment securities consisted primarily of investments in mutual funds and money-market funds suitable for meeting the cash management needs of Applicant, commercial paper and certificates of deposits, and mortgage note receivables from affiliates, officers and employees, acquired at the time of Reorganization. Applicant has disposed of most of the mortgage note receivables acquired. Applicant represents that it does not intend to increase significantly the ratio of investment securities to total assets on any permanent or long-term basis, and that historically Applicant has been, and will continue to be, primarily engaged in the real estate service business.

Applicant states that no mention of Applicant's investments or investment policies has ever been made in press releases. Applicant also states that all written communications with shareholders or the investment community have related primarily to acquisitions and other developments of Applicant, and none have mentioned Applicant's investments except to briefly note receipt of interest and other income, to discuss the business of Mortgage, or to discuss loans made by Applicant to partnerships to which it renders management services. Applicant states it has made loans to Mr. Lie-Nielson or Applicant's President George H. Lane, III, on a secured basis, to assist in the purchase of properties by privately-held partnerships for which Mr. Lie-Nielson or Mr. Lane serves as general partner. Applicant believes these financial services are an important addition to revenue and income because they produce acquisition fees, management fees, financing fees and sales commissions. In addition, the properties held by such partnerships are managed by Applicant and its subsidiaries. Applicant states its practice is to limit the amount of such loans to 100% of the purchase price of the property to be acquired by such partnerships and that the loans are on a recourse basis against the partnership and its properties.

Applicant represents that none of its officers engage in securities trading or portfolio management, other than customary cash management activities. Applicant also represents that no employee of the Applicant or its subsidiaries spends a significant amount of time managing investments. Intermittently, Applicant states, it retains outside consultants for advice concerning investments and cash management in order to maximize the yield to Applicant of its existing cash and short-term investments.

Income from investments for the fiscal year quarter ending November 30, 1984, Applicant states, represented 3% of the total revenue and 12% of the total income, respectively, of Applicant on a consolidated basis. Investment income as a percentage of income is significantly higher than as a percentage of revenue because Applicant has no expenses associated with investment income. Applicant states that investment income increased after the

1983 Offering and the investment of its proceeds, but that subsequently the percentage income from investments declined as a result of acquisitions and increasing operating revenues and income of Applicant. A similar trend is expected to develop with respect to the investment of the proceeds of the 1985 Offering. Applicant believes that the fact that only a relatively small portion of its revenues is derived from investments demonstrates that Applicant historically has not engaged in the business of an investment company. Applicant further represents that its history demonstrates it is not acting, nor is it intending to act, as an investment company by temporarily investing the proceeds of the 1985 Offering in short-term securities pending application of such proceeds to acquisitions and Applicant's business.

Applicant also asserts that 260 of its employees are considered corporate-level employees and 50% of these employees have their salaries, benefits and support costs reimbursed to Applicant and its subsidiaries by the managed properties to the extent such employees render services to the respective managed properties. Applicant represents that no employee of Applicant or its subsidiaries spends a significant portion of time managing investments, and substantially all of the employees' time relates to operations of Applicant.

Applicant concludes that it relied on Rule 3a–2 after the 1983 Offering, and that therefore it cannot rely on Rule 3a–2 presently. Applicant states that the five factors of Applicant's historical development, its public statements, the activities of its officers and directors, the nature of its assets and the source of its income, demonstrate that Applicant is primarily engaged in the real estate service business and is not primarily engaged in the business of investing, reinvesting, owning, holding or trading in securities.

Applicant also states that it is negotiating to purchase Consolidated Capital Equities Corporation at a price in excess of $150,000,000. Although no definite agreements have been executed, Applicant expects the transaction to close during the summer of 1985. Cash payable at the closing, Applicant estimates, will be $75,000,000. To the extent that the proceeds of the 1985 Offering are not utilized in connection with this transaction, Applicant expects that the balance of the proceeds will be expended in connection with other acquisitions not later than August 31, 1986.

Applicant requests that in the alternative to an order under section 3(b)(2) of the Act, the Commission issue an order pursuant to section 6(c) of the Act, exempting Applicant until March 31, 1986, from all provisions of the Act. In support of this request, Applicant represents that it will take all actions necessary to ensure that on or before March 31, 1986, the aggregate value of the assets held by Applicant that represent investment securities, as defined by the Act, will not exceed 40% of the value of Applicant's total assets (exclusive of U.S. Government Securities and cash items) on an unconsolidated basis. Applicant maintains that its contemplated operations are not susceptible to abuses of the sort that the Act was designed to remedy, and that requested relief is both necessary and appropriate in the public interest and is consistent with the protection of investors and the purposes and policies underlying the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than July 19, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85–15907 Filed 7–2–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–14597; 812–6120]

Merrill Lynch Natural Resources Trust; Application for an Order Exempting Applicant From Provisions

June 24, 1985.

Notice is hereby given that Merrill Lynch Natural Resources Trust ("Applicant"), 633 Third Avenue, New York, New York 10017, registered under the Investment Company Act of 1940 ("Act") as an open-end, nondiversified management investment company, filed an application on May 23, 1985, and an amendment thereto on June 19, 1985, for an order of the Commission, pursuant to section 6(c) of the Act, exempting Applicant from the provisions of sections 2(a)(32), 2(a)(35), 22(c), and 22(d) of the Act and Rule 22c–1 thereunder to the extent necessary to permit Applicant to assess a contingent deferred sales load on certain redemptions of its shares and to permit a waiver of the contingent deferred sales load with respect to certain types of redemptions. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for the complete text of the applicable provisions.

Applicant, organized as a Massachusetts business trust with investment objectives of long-term growth of capital and preservation of shareholders' purchasing power, states that it proposes to offer its shares without a sales load being deducted at the time of purchase but subject to a contingent deferred sales charge upon certain redemptions. Applicant represents that the proceeds from the contingent deferred sales charge will be paid to Merrill Lynch Funds Distributor, Inc. ("Distributor") and will be used in whole or in part by the Distributor to defray the cost of paying sales commissions to account executives on the sale of Applicant's shares. Applicant further states that payments by Applicant to the Distributor under a plan of distribution ("Plan"), adopted by Applicant, pursuant to Rule 12b–1 under the Act, may also be used in whole or in part by the Distributor for this purpose. Applicant's distribution fee is calculated on the basis of 1.0% per annum of its average daily net assets, so that, according to the application, the combination of the contingent deferred sales charge and the Plan facilities Applicant's ability to sell its shares without a sales load being deducted at the time of purchase.

Applicant states that the contingent deferred sales charge will not be imposed on redemptions of shares which were purchased more than four years prior to redemption or on shares derived from reinvestment of distributions. Applicant states further that no contingent deferred sales charge will be imposed on an amount which represents an increase in the value of the shareholder's account resulting from capital appreciation, so that, with respect to the redemption of shares purchased during the preceding four years, capital appreciation on the particular shares being redeemed will not be subject to a deferred sales

charge. Such a charge will be imposed, however, on the amount paid for such shares by the redeeming shareholder. Applicant represents that in determining whether a contingent deferred sales charge is applicable it will be assumed that a redemption is made first of shares derived from reinvestment of distributions, second of shares purchased more than four years prior to the redemption, and third of shares purchased during the preceding four years.

Applicant states that it intends to waive the contingent deferred sales charge on the following redemptions: (1) Redemptions following the death or disability, as defined in section 72(m)(7) of the Internal Revenue Code ("Code"), of a shareholder, and (2) redemptions in connection with certain distributions from IRA's or other qualified retirement plans.

Applicant represents that where a contingent deferred sales charge is imposed, the amount of the charge will depend on the number of years since the investor made the purchase payment from which an amount is being redeemed, according to the following table:

Year since purchase payment made	Contingent deferred sales charge as a percentage of amount redeemed
First	4.0
Second	3.0
Third	2.0
Fourth	1.0
Fifth and thereafter	(1)

[1] None.

Applicant states that, in determing the rate of any applicable contingent deferred sales charge, it will be assumed that a redemption is made of shares held by the investor for the longest period of time within the applicable four year period.

Applicant represents that the contingent deferred sales charge in no way restricts a shareholder from receiving his proportionate share of the current net assets of Applicant, but merely defers the deduction of a sales charge and makes it contingent upon an event which may never occur. Nevertheless, to avoid any uncertainty with respect to the interpretation of section 2(a)(32) of the act, Applicant requests an exemption from the provisions of that section to the extent necessary to permit Applicant to qualify as an open-end company under section 5(a)(1) of the Act.

Applicant contends that the contingent deferred sales charge is functionally a sales charge because it is paid to the Distributor to reimburse it for expenses related to offering Applicant's shares for sale to the public. Applicant asserts that the contingent nature of the proposed charge makes the purchaser better off than if a sales load were imposed at time of sale, since, in the case of the contingent charge, the shareholder enjoys the possibility that he will have to pay only a reduced sales charge, or no sales charge at all. Applicant further asserts that because the contingent charge will never be imposed on an amount in excess of the market value of the shares being redeemed, an investor whose account declines in value may ultimately pay a lower sales charge than if a conventional sales charge were imposed at the time of purchase. Moreover, because the charge is imposted only on amounts representing purchase payments (not on increases in value of the shares or on shares purchased through reinvestment) the purchaser can be no worse off with a contingent deferred sales charge of the nature proposed than if, instead, a conventional sales load were charged at the time of purchase. Applicant states that the deferral of the sales charge, and its contingency upon the occurrence of an event which might not occur, does not change the nature of the charge, which is in every other respect a sales charge. Accordingly, Applicant requests an exemption from the provisions of section 2(a)(35) of the Act to the extent necessary to implement the proposed charge.

Applicant states that when a redemption of its shares is effected, the price of the shares on redemption will be based on current net asset value; the contingent deferred sales charge will merely be deducted at the time of redemption in arriving at the shareholder's proportionate redemption proceeds. Accordingly, Applicant requests an exemption from the provisions of section 22(c) of the Act and Rule 22c-1 thereunder, to the extent necessary to permit Applicant to implement the proposed contingent deferred sales charge.

Applicant states that an exemption from the provisions section 22(d) is required to permit the contingent deferred sales charge to be waived in certain circumstances because the waiver provision could result in Applicant's shares being sold at other than a uniform offering price, under circumstances not specifically exempted from section 22(d) of the Act by virtue of Rule 22d-1 thereunder. Accordingly, Applicant requests an exemption from the provisions of section 22(d) of the Act to the extent necessary to permit Applicant to waive the contingent deferred sales charge under the circumstances specified above.

Applicant contends that the imposition of the contingent deferred sales charge is fair and is in the best interests of its shareholders. Applicant asserts that the proposed charge permits shareholders to have the advantages of greater investment dollars working for them from the time of their purchase of Applicant's shares than if a sales load were imposed at the time of purchase. Applicant asserts that the imposition of the contingent deferred sales charge under the circumstances described above is appropriate in light of the relationship between the deferred sales charge and the Plan adopted by Applicant. Applicant further contends that, where amounts attributable to shares purchased less than four years ago are redeemed and thus no longer contribute to the annual distribution charge, it is fair (1) to impose on the withdrawing shareholder a lump sum payment reflecting approximately the amount of distribution expense which has not been recovered through payments by Applicant and (2) to remove the assets on which the contingent deferred sales charge was imposed from the base amount on which Applicant's distribution fee is calculated.

Applicant asserts that the waiver of the contingent deferred sales charge in the extraordinary circumstance of death or total disability of the investor is justified on considerations of fairness; in addition, with respect to waivers effected in connection with certain distributions from IRA's or other qualified retirement plans, such distributions are those which are permitted to be made without penalty, pursuant to the Code.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than July 15, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-15906 Filed 7-2-85; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

OMB Circular No. A-76; Performance of Commercial Activities

ACTION: Notice of A-76 Review and Schedule.

SUMMARY: In compliance with the Office of Management and Budget (OMB) Circular Number A-76, subject, "Performance of Commercial Activities, the Federal Aviation Administration hereby publishes its A-76 review and schedule of functions pertaining to the Aviation Standards National Field Office which is headquartered at the Mike Monroney Aeronautical Center, Oklahoma City, Oklahoma, with offices throughout the United States and internationally.

Organization	Function	Review start date
Aviation Standards National Field Office.	Evaluation, Currency and Transportation.	June 1985.
	Flight Inspection/ Logistics.	Do.
	Aircraft Maintenance	July 1985.

This review will be conducted under a Department of Transportation contract awarded in May 1985 to perfrom required OMB Circular A-76 reviews of commercial activities. The designated contractor for this review is Arthur Young, 1025 Connecticut Avenue, NW., Washington, D.C. 20036. This announcement is an advance notification to alert interested persons and businesses of our plans.

FOR FURTHER INFORMATION CONTACT: Michael L. Evans, (202) 426-3070, FAA, Office of Aviation Policy and Plans, 800 Independence Avenue, SW., Washington, D.C. 20591 or John M. Howard, (405) 686-2306, FAA, Deputy Director, Aviation Standards National Field Office, Mike Monroney Aeronautical Center, P.O. Box 25082, Oklahoma City, Oklahoma 73125.

Issued in Washington, D.C. on June 14, 1985.

Harvey B. Safeer,

Director of Aviation Policy and Plans.

[FR Doc. 85-15856 Filed 7-2-85; 8:45 am]

BILLING CODE 4910-13-M

FAA Approval of Noise Compatibility Program; Los Angeles International Airport

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by Los Angeles International Airport (LAX) under the provisions of Title I of the Aviation Safety and Noise Abatement (ASNA) Act of 1979 (Pub. L. 96-193) and 14 CFR Part 150. These findings are made in recognition of the description of federal and nonfederal responsibilities in Senate Report No. 96-52 (1980). The FAA accepted the noise exposure maps for LAX submitted under Part 150 on October 15, 1984. The LAX noise compatibility program received partial approval by the Administrator effective April 13, 1985. A majority of noise mitigation actions proposed in the program were approved. Other program elements were either disapproved outright or disapproved pending submission of details sufficient to permit an informed analysis under section 104(b) of the ASNA Act. In addition, two program elements relating to flight procedures were neither approved nor disapproved, but will receive further study by the FAA, as permitted by the ASNA Act.

DATE: The effective date of the FAA's approval of the LAX noise compatibility program is April 13, 1985.

FOR FURTHER INFORMATION CONTACT: Ellis A. Ohnstad, Airport Planning Officer, AWP-611, Federal Aviation Administration, Western-Pacific Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009, (213) 536-6250. Documents reflecting this FAA action may be obtained from the same individual.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program for Los Angeles International Airport, effective April 13, 1985.

Under section 104(a) of the Aviation Safety and Noise Abatement (ASNA) Act of 1979, an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the noise exposure maps. The ASNA Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and the FAA.

Los Angeles International Airport submitted to the FAA on May 26, 1983, the noise exposure maps, descriptions, and other documentation produced during an airport noise control and land use compatibility (ANCLUC) study conducted at LAX from October 1980 through June 1984. the LAX noise exposure maps were accepted by the FAA on October 15, 1984. Notice of that acceptance was published in the **Federal Register** on November 20, 1984.

The Phase Three Report, Volume I of the LAX ANCLUC study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to beyond the year 1990. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in section 104(b) of the ASNA Act and in Part 150. The FAA began its review of the program on October 15, 1984, and was required by a provision of the ASNA Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such a program within the 180-day period shall be deemed to be an approval of such a program.

The submitted program contained 40 proposed actions for noise mitigation, both on and off the airport. The FAA has completed its review and determined that the procedural and substantive requirements of the ASNA Act and Part 150 have been satisfied. The overall program, therefore, was approved by the Administrator and became effective on April 13, 1985. The overall approval includes approval, disapproval or deferral of determination with respect to each of the 40 proposed actions.

Outright approval was granted for 28 specific program elements. On-airport actions include an airport noise monitoring and management program, pilot awareness programs, airport noise limits and use restrictions. Off-airport elements include noise insulation, navigation and easements, a neighborhood improvement program and preventive land use planning. FAA's approval of these noise compatibility measures involves the determination that the program actions to be implemented do not create an undue burden on interstate or foreign

commerce, are reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses, provide for revision when appropriate, and are consistent with the requirements of Part 150, Appendix B. Such approval does not constitute FAA environmental approval of specific projects, nor does it represent a commitment to fund or implement elements of the program.

Three specific program elements were disapproved pending submission to the FAA of additional details to permit an informed analysis under section 104(b) of the ASNA Act. These disapprovals do not reflect FAA opposition of the noise mitigation objectives of the proposals or of the concepts on which they are based. Rather, as described above, the ASNA Act contemplates approval or disapproval within the 180-day review period. Lacking adequate detail for a proper evaluation, the FAA has disapproved these actions. This does not foreclose additional FAA review if additional information is submitted by the airport operator.

The FAA has disapproved outright three noise mitigation measures proposed in the LAX Noise Compatibility Program for the following reasons. One was disapproved because it relates to facilities used exclusively for helicopters which are not covered under Part 150. The second recommends a passenger facility charge which is currently prohibited by federal law. The third measure would establish a commitment by FAA to fund projects in the program, an obligation which is specifically denied in Part 150.

The FAA has deferred judgement on two program elements addressing revisions to flight procedures for noise mitigation. These will receive further FAA review and technical evaluation before approval or disapproval. Finally, there is no action required on four action elements since they are informational statements rather than program recommendations.

Each airport noise compatibility program developed in accordance with the Part 150 is a local program, not a federal program. The FAA does not substitute its judgement for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of Part 150 program recommendations is measured according to the standards expressed in Part 150 and the Aviation Safety and Noise Abatement Act of 1979, and is limited to the following determinations:

The noise compatibility program was developed in accordance with the provisions and procedures of Part 150;

Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the Navigable Airspace and Air Traffic Control Systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in Part 150, § 150.5. Approval is not a determination concerning the acceptability of land uses under federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA under the Airport and Airway Improvement Act 1982. Where federal funding is sought, requests for project grants must be submitted to the FAA Western-Pacific Region, Airports Division.

These determinations are set forth in detail in a Record of Approval endorsed by the Administrator and effective as of April 13, 1985. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative offices of Los Angeles International Airport.

Issued in Hawthorne, California, on June 10, 1985.

Wayne C. Newcomb,

Acting Director, Western-Pacific Region.

[FR Doc. 85-15857 Filed 7-2-85; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Debt Management Advisory Committee; Meeting

Notice is hereby given, pursuant to section 10 of Pub. L. 92-463, that a meeting will be held at the U.S. Treasury Department in Washington, D.C. on July 10, 1985, of the following debt management advisory committee: Public Securities Association, U.S. Government and Federal Agencies, Securities Committee.

The agenda for the Public Securities Association U.S. Government and Federal Agencies Securities Committee meeting provides for a working session on July 10 and the preparation of a written report to the Security of the Treasury on July 22, 1985. The immediate needs of the Treasury require that the meeting be held as soon as possible.

Pursuant to the authority placed in Heads of Departments by section 10(d) of Pub. L. 92-463, and vested in me by Treasury Department Order 101-5, I hereby determine that this meeting is concerned with information exempt from disclosure under section 552b (c)(4) and (9)(A) of Title 5 of the United States Code, and that the public interest requires that such meetings be closed to the public.

My reasons for this determination are as follows. The Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community, which committees have been utilized by the Department at meetings called by representatives of the Secretary. When so utilized, such a committee is recognized to be an advisory committee under Pub. L. 92-463. The advice provided consists of commercial and financial information given and received in confidence. As such debt management advisory committee activities concern matters which fall within the exemption covered by section 552b(c)(4) of Title 5 of the United States Code for matters which are "trade secrets and commercial or financial information obtained from a person and privileged or confidential."

Although the Treasury's final announcement of financing plans may not reflect the recommendations provided in reports of an advisory

committee, premature disclosure of these reports would lead to significant financial speculation in the securities market. Thus, these meetings also fall within the exemption covered by section 552b(c)(9)(A) of Title 5 of the United States Code.

The Assistant Secretary (Domestic Finance) shall be responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth a summary of committee activities and such other matters as may be informative to the public consistent with the policy of section 552b of Title 5 of the United States Code.

Dated: June 28, 1985.

John J. Niehenke,

Acting Assistant Secretary (Domestic Finance).

[FR Doc. 85-15954 Filed 7-2-85; 8:45 am]

BILLING CODE 4810-25-M

Fiscal Service

Renegotiation Board Interest Rate; Prompt Payment Interest Rate

The Renegotiation Board previously published the rate of interest determined by the Secretary of the Treasury pursuant to section 105(b)(2) of the Renegotiation Act of 1951, as amended. Since the Renegotiation Board is no longer in existence, the Department of the Treasury is publishing the current rate of interest. Also, pursuant to section 2(b)(1) of Pub. L. 97-177, dated May 21, 1982, the Secretary of the Treasury is responsible for computing and publishing the interest rate to be used in cases under the Prompt Payment Act.

Therefore, notice is hereby given that, pursuant to the above-mentioned sections, the Secretary of the Treasury has determined that the rate of interest applicable for the purpose of said sections, for the period beginning July 1, 1985 and ending on December 31, 1985, is 10-⅜ percent per annum.

Dated: June 28, 1985.

Carole Jones Dineen,

Fiscal Assistant Secretary.

[FR Doc. 85-15915 Filed 7-2-85; 8:45 am]

BILLING CODE 4810-35-M

Internal Revenue Service

Establishment of Office; District Counsel; Anchorage, AK

AGENCY: Chief Counsel, Internal Revenue Service, Treasury.

ACTION: Establishment of office.

SUMMARY: As a result of the increasing legal casework in the State of Alaska, the Chief Counsel of the Internal Revenue Service will open a new office in Anchorage, to be known as the District Counsel, Anchorage, effective July 8, 1985.

Jean Owens,

Deputy Chief Counsel.

[FR Doc. 85-15951 Filed 7-2-85; 8:45 am]

BILLING CODE 4830-01-M

UNITED STATES INFORMATION AGENCY

U.S. Advisory Commission on Public Diplomacy; Meeting

The United States Advisory Commission on Public Diplomacy will conduct a meeting in Room 600, 301 4th Street SW. on July 10 from 9:30 AM to 12:30 PM.

The meeting will be closed to the public from 11:00 AM-12:30 PM, because it wil involve a discussion of classified information relating to USIA's security policies and the Inman report on "Combating Terrorism." (5 U.S.C. 552b(c)(1)) Premature disclosure of this information is likely to significantly frustrate implementation of proposed Agency action, because there will be a discussion of future Agency policy and programs. (5 U.S.C. 522b(c)(9)(B))

The Commission will meet from 10:00 AM-10:15 AM with Mr. William Anderson, Director of USIA's Office of Pubic Liaison, and from 10:15 AM to 11:00 AM with Dr. Guy Brown, Director of USIA's Office of Cultural Centers and Resources, for a discussion of USIA's book programs. These portions of the meeting are open to the public. Please call Gloria Kalamets, (202) 485-2468, if you plan to attend because entrance to the building is controlled.

Dated: June 28, 1985.

Charles Z. Wick,

Director.

[FR Doc. 85-15942 Filed 7-2-85; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 128
Wednesday, July 3, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

FEDERAL COMMUNICATIONS COMMISSION

The Federal Communications Commission will hold a Special Open Meeting on the subject listed below on Monday, July 8, 1985, which is scheduled to commence at 10:00 A.M., in Room 856, at 1919 M Street, N.W., Washington, D.C.

Agenda, Item No., and Subject

Mass Media—1—Title: Notice of Inquiry on tender offers and proxy contests involving publicly traded corporate licensees. SUMMARY: The Commission will consider adopting a Notice of Inquiry as to policies and procedures to be used in connection with tender offers and proxy contests, in light of the requirements of section 310(d) of the Act requiring prior Commission approval of assignments of licenses or tranfers of control of corporations holding FCC licenses.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Judith Kurtich, FCC Office of Congressional and Public Affairs, telephone number (202) 254-7674.

William J. Tricarico,
Secretary, Federal Communications Commission.
July 1, 1985.

[FR Doc. 85-16033 Filed 7-1-85; 2:43 pm]
BILLING CODE 6712-01-M

2

INTERNATIONAL TRADE COMMISSION

[USITC SE-85-26]

TIME AND DATE: Wednesday, July 3, 1985, at 10:00 a.m.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratification List.
4. Petitions and Complaints.
5. Investigation 731-TA-202 [Final] (Tubular steel framed stacking chairs from Italy)—briefing and vote.
6. Investigation 731-TA-206 [Final] (Fabric and expanded neoprene laminate from Japan)—briefing and vote.
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

Kenneth R. Mason,
Secretary.
[FR Doc. 85-15955 Filed 6-28-85; 5:14 pm]
BILLING CODE 7020-02-M

federal register

Wednesday
July 3, 1985

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 71

Proposed Establishment of Airport Radar Service Areas; Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 85-AWA-1]

Proposed Establishment of Airport Radar Service Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Airport Radar Service Areas (ARSA) at 14 locations. Each location is a public or military airport at which a nonregulatory Terminal Radar Service Area (TRSA) is currently in effect. Establishment of each ARSA would require that pilots maintain two-way radio communication with air traffic control (ATC) while in the ARSA. Implementation of ARSA procedures at each of the affected locations would promote the efficient control of air traffic and reduce the risk of midair collision in terminal areas.

DATES: Comments must be received on or before October 1, 1985.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket [AGC-204, Airspace Docket No. 85-AWA-1, 800 Independence Avenue, SW., Washington, D.C. 20591.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Paul C. Smith, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information, Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 85-AWA-1." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

Meeting Procedures

In addition to seeking written comments on this proposal, the FAA will hold informal airspace meetings for all proposed ARSA locations in order to receive additional input with respect to the proposal. The schedule of times and places of the hearings is listed in Appendix A. In some instances, meetings on adjacent ARSA locations are combined in one proceeding for the convenience of the public. Also, an effort has been made not to schedule meetings at the same time on separate locations in the same region, so that commenters will be able to attend all meetings in which they may have an interest. Persons who plan to attend any of the meetings should be aware of the following procedures to be followed:

(a) The meetings will be informal in nature and will be conducted by the designated representative of the Administrator. Each participant will be given an opportunity to make a presentation.

(b) The dates, times, and places for each meeting are listed in Appendix A. There will be no admission fee or other charge to attend and particpate. The meetings will be open to all persons on a space-available basis. The FAA representative may accelerate the agenda to enable early adjournment if the progress of any meeting is more expeditious than planned.

(c) The meetings will not be recorded. A summary of the comments made at each meeting will be filed in the docket.

(d) Position papers or other handout material relating to the substance of the meetings may be accepted at the discretion of the FAA representative. Participants submitting handout materials should present an original and two copies to the presiding officer for approval before distribution. If approved by the presiding officer, there should be an adequate number of copies provided for further distribution to all participants.

(e) Statements made by FAA participants at the meetings should not be taken as expressing a final FAA position.

Agenda

Presentation of Meeting Procedures
FAA Presentation of Proposal
Public Presentations and Discussion

Background

On April 22, 1982, the National Airspace Review (NAR) plan was published in the **Federal Register** (47 FR 17448). The plan encompassed a review of airspace use and procedural aspects of the ATC system. Among the main objectives of the NAR were the improvement of the ATC system by increasing efficiency and reducing complexity. In its review of terminal airspace, NAR Task Group 1-2 concluded that TRSA's should be replaced. Four types of airspace configurations were considered as replacement candidates, of which Model B, since redesignated ARSA, was the consensus recommendation.

In response, the FAA published NAR Recommendation 1-2.2.1, "Replace Terminal Radar Service Areas with Model B Airspace and Service" in Notice 83-9 (July 28, 1983; 48 FR 34286) proposing the establishment of ARSA's at the Robert Mueller Municipal Airport, Austin, TX, and the Port of Columbus International Airport, Columbus, OH.

ARSA's were designated at these airports on a temporary basis by SFAR No. 45 (October 28, 1983; 48 FR 50038) in order to provide an operational confirmation of the ARSA concept for potential application on a national basis.

Following a confirmation period of more than a year, the FAA adopted the NAR recommendation and, on February 27, 1985, issued a final rule (50 FR 9252; March 6, 1985) defining an ARSA and establishing air traffic rules for operation within such an area. Concurrently, by separate rulemaking action, ARSA's were permanently established at the Austin, TX, and Columbus, OH, airports and also at the Baltimore/Washington International Airport, Baltimore, MD, (50 FR 9250; March 6, 1985). The FAA has stated that future notices would propose ARSA's for other airports at which TRSA procedures were in effect. This is the first such notice.

Related rulemaking

This notice proposes ARSA designation at 14 of the locations identified as candidates for an ARSA in the preamble to Amendment No. 71-10 (50 FR 9252). Other candidate locations will be proposed in future notices published in the **Federal Register.**

The Current Situation at the Proposed ARSA Locations

A TRSA is currently in effect at each of the locations at which ARSA's are proposed in this notice. A TRSA consists of the airspace surrounding a designated airport where ATC provides radar vectoring, sequencing, and separation for all aircraft operating under instrument flight rules (IFR) and for participating aircraft operating under visual flight rules (VFR). TRSA airspace and operating rules are not established by regulation, and participation by pilots operating under VFR is voluntary, although pilots are urged to participate. This level of service is known as Stage III and is provided at all locations identified as TRSA's. The NAR task group recommended the replacement of most TRSA's with ARSA's.

A number of problems with the TRSA program were identified by the task group. The task group stated that because there are different levels of service offered within the TRSA, users are not always sure of what restrictions or privileges exist, or how to cope with them. According to the task group, there is a feeling shared among users that TRSA's are often poorly defined, are generally dissimilar in dimensions, and encompass more area than is necessary or desirable. There are other users who believe that the voluntary nature of the TRSA does not adequately address the problems associated with nonparticipating aircraft operating in relative proximity to the airport and associated approach and departure courses. There is strong advocacy among user organizations that terminal radar facilities should provide all pilots the same service, in the same way, and, to the extent feasible, within standard size airspace designations.

Certain provisions of FAR section 91.87 add to the problem identified by the task group. For example, aircraft operating under VFR to or from a satellite airport and within the airport traffic area (ATA) of the satellite are excluded from the two-way radio communications requirement of section 91.87. This condition is acceptable until the volume and density of traffic at the primary airport dictates further action.

The Proposal

The FAA is considering an amendment to § 71.501 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish ARSA's at the following 14 locations:

Albany County Airport, NY
Anchorage International Airport, AK
Bradley International Airport, Windsor Locks, CT
Capital City Airport, Harrisburg, PA
Corpus Christi International Airport, TX
Harrisburg International Airport, PA
Long Island MacArthur Airport, Islip, NY
Pensacola Naval Air Station, FL
Pensacola Regional Airport, FL
San Antonio International Airport, TX
Syracuse Hancock International Airport, NY
Theodore Francis Green State Airport, Providence, RI
Tulsa International Airport, OK
Whiting Naval Air Station, FL

Each of the above locations is a public or military airport at which a nonregulatory TRSA is currently in effect. The proposed locations are depicted on charts in Appendix B to this notice.

The FAA has published a final rule (50 FR 9252; March 6, 1985) which defines ARSA and prescribes operating rules for aircraft, ultralight vehicles, and parachute jump operations in airspace designated as an ARSA.

The final rule provides in part that any aircraft arriving at any airport in an ARSA or flying through an ARSA, prior to entering the ARSA must: (1) Establish two-way radio communications with the ATC facility having jurisdiction over the area, and (2) while in the ARSA, maintain two-way radio communications with that ATC facility. For aircraft departing from the primary airport within the ARSA, two-way radio communications must be maintained with the ATC facility having jurisdiction over the area. For aircraft departing a satellite airport within the ARSA, two-way radio communications must be established as soon as practicable after takeoff with the ATC facility having jurisdiction over the area, and thereafter maintained while operating within the ARSA.

All aircraft operating within an ARSA are required to comply with all ATC clearances and instructions and any FAA arrival or departure traffic pattern for the airport of intended operation. However, the rule permits ATC to authorize appropriate deviations to any of the operating requirements of the rule when safety considerations justify the deviation or more efficient utilization of the airspace can be attained. Ultralight vehicle operations and parachute jumps in an ARSA may only be conducted under the terms of an ATC authorization.

The FAA adopted the NAR task group recommendation that each ARSA be of the same airspace configuration insofar as practicable. The standard ARSA consists of airspace within 5 nautical miles of the primary airport extending from the surface to an altitude of 4,000 feet above that airport's elevation, and that airspace between 5 and 10 nautical miles from the primary airport from 1,200 feet above the surface to an altitude of 4,000 feet above that airport's elevation. Proposed deviation from the standard has been necessary at some airports due to adjacent regulatory airspace, international boundaries, topography, or unusual operational requirements.

Definitions, operating requirements, and specific airspace designations applicable to ARSA may be found in 14 CFR Part 71, §§ 71.14 and 71.501, and Part 91, §§ 91.1 and 91.88.

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

Regulatory Evaluation

The FAA has conducted a detailed Regulatory Evaluation of the proposed ARSA implementation program which is included in the regulatory docket. The methodology and major findings of that evaluation are presented below.

a. Costs

Costs which potentially may result from the ARSA program fall into the following categories:

(1) Air traffic controller staffing, controller training, and facility equipment costs incurred by the FAA.

(2) Costs associated with the revision of charts, notification of the public, and pilot education.

(3) Additional operating costs for circumnavigating or flying over the ARSA.

(4) Potential delay costs resulting from operations within an ARSA rather than a TRSA.

(5) The need for some operators to purchase radio transceivers.

(6) Miscellaneous costs.

Each of these cost factors is discussed further below:

(1) *Air traffic controller staffing, controller training, and facility equipment costs incurred by the FAA.* The FAA does not expect to incur any additional air traffic controller staffing costs, controller training costs, or facility equipment costs. FAA believes that the additional traffic which will participate in radar services at ARSA's can be accommodated through more efficient use of personnel at current authorized staffing levels. Participation in TRSA's is already quite high, and the greater flexibility afforded controllers through the reduced separation standards will enable them to handle the additional traffic without requiring additional personnel beyond present authorizations. FAA expects to train its controller force in ARSA procedures during regularly scheduled briefing sessions. Airports where TRSA's are currently in operation already have automated terminal radar systems installed. Therefore, FAA does not expect to incur any additional training or equipment procurement costs. Essentially, the FAA is modifying its terminal radar procedures in the ARSA program in a manner which will make more efficient use of existing resources, and consequently does not expect to incur any appreciable implementation costs.

(2) *Costs associated with the revision of charts, notification of the public, and pilot education.* Chart revisions of the type required to depict an ARSA are made routinely during charting cycles, and are considered an ordinary cost of doing business. Therefore, the FAA does not expect to incur any additional charting costs as a result of the ARSA program. Further, pilots will obtain charts depicting ARSA's as they are published during these charting cycles. Because pilots are required to use current charts, they also will not incur any additional costs.

Much of the need to provide public notification and pilot education about ARSA procedures will be met as a part of this rulemaking proceeding during the informal public meetings which will be held for each proposed ARSA location. However, once the decision has been made to establish an ARSA through a final rule issued in this proceeding, the FAA will distribute a Letter to Airmen to all pilots residing in the vicinity of ARSA sites explaining the operation and configuration of the ARSA finally adopted. The FAA will also issue an Advisory Circular explaining ARSA's. The total one-time cost of distributing Letters to Airmen and the Advisory Circular is estimated to be approximately $50,000 for the entire ARSA program. The prorated one-time cost for those airports being considered in this rulemaking is approximately $5,000.

(3) *Additional operating costs for circumnavigating or overflying an ARSA.* FAA anticipates that some pilots who currently transit a TRSA without establishing radio communications or participating in radar services will choose to avoid the mandatory participation airspace of an ARSA rather than participate. Delay costs will be incurred by these pilots equal to the additional aircraft variable operating cost and the value of lost crew and passenger time resulting from the deviation. Many pilots will elect to overfly the ARSA, and although this will not result in any appreciable delay, an additional fuel burn will result from the need to temporarily climb above the 4,000 feet AGL ceiling of the ARSA (which will be offset somewhat by the descent).

The unit delay costs used throughout this regulatory evaluation to develop total annual costs are presented in Table 1. For those aircraft expected to overfly the ARSA rather than deviate around it, FAA estimates that a single-engine piston airplane will burn about an additional half gallon of fuel, a multi-engine piston airplane will burn about one additional gallon, and that the price of aviation gasoline is approximately $2.00 per gallon.

TABLE 1.—AVERAGE AIRCRAFT VARIABLE OPERATING COSTS AND VALUE OF PASSENGER TIME USED TO ESTIMATE ANNUAL DELAY COSTS [1]

[1984 dollars]

Aircraft type (abbreviation)	Aircraft hourly variable operating cost [2]	Avg. No. passengers (pax)/total hourly value of time [3]	Total hourly delay costs
Single-engine piston (SEP)	$39.22	2 pax/$44.42	$83.64
Multi-engine piston (MEP)	118.07	3 pax/$66.63	184.70
Multi-engine turboprop (METP)	354.32	3 pax/$66.63	420.95
Executive jet (EXJ)	1036.64	4 pax/$88.84	1125.48
Air Carrier (AC)	2586.77	90 pax/$1998.90	4587.67
Helicopter (HELI)	138.27	3 pax/$66.63	204.90
Military jet (MILJ)	1853.87		1853.87
Military helicopter (MILH)	195.14		195.14
Military transport (MILTRP) [4]	1994.79		1994.79

[1] One minute average delay per day=6.083 hours delay per year. Delay time estimates for aircraft which alter flight paths to avoid the ARSA are based upon average cruising speeds of 120 KTS for single-engine piston, 190 KTS for multi-engine piston, and 110 KTS for helicopters.

[2] Aircraft variable operating costs include crew salaries for all aircraft except single and multi-engine piston.

[3] Based upon $22.21 per hour average value of passenger time.

[4] Variable operating cost of air carrier 4-engine turboprop transport used as proxy for military transport.

Source: *Economic Values for Evaluation of Federal Aviation Administration Investment and Regulatory Programs*, FAA Office of Aviation Policy and Plans, September 1981 (Report #FAA-APO-81-3 and revision #APO-84-3). Values have been adjusted for inflation and are expressed in 1984 dollars.

The Office of Aviation Policy and Plans (APO) requested ATC personnel at each of the proposed ARSA sites to eliminate, based upon their familiarity with local traffic patterns, the number of daily flights which might circumnavigate or overfly the ARSA. Air Traffic Operations Service personnel also provided input on these estimates. The estimated number of daily flights affected, extent of deviation, and type of aircraft, are presented for each site in Table 2, which follows at the end of this section and summarizes the various potential impacts of establishing an ARSA for each site. FAA estimates that the total annual circumnavigation and overflight costs for the candidate ARSA sites proposed in this notice will be approximately $73 thousand.

(4) *Delay costs resulting from operations within an ARSA rather than*

a TRSA. FAA recognizes that the potential exists for delay to develop at some locations following establishment of an ARSA because of the additional traffic which the radar facilities will be handling. However, FAA believes that the greater flexibility afforded controllers in handling traffic as a result of the reduced separation standards will keep delay problems to a minimum. Those that do occur will be transitional in nature, diminishing as facilities gain operating experience with ARSA's and learn how to tailor procedures and resources to take fullest advantage of the efficiencies which an ARSA will permit. Followup studies of the Austin and Columbus lead sites, completed by the FAA Office of Aviation Policy and Plans (APO) and by Engineering & Economics Research Inc. (EER), both indicated that delay was not a significant problem (the clearance delivery delay attributable to the ARSA at Austin was later alleviated through procedural changes and a redistribution of personnel).[1] Nevertheless, the FAA has attempted to estimate delay costs which might temporarily result from establishing ARSA's at the airports being considered in this proposal. These delay estimates should be regarded as the worst case situation which might follow the initial establishment of an ARSA. ATC personnel at each of the proposed sites, as well as Air Traffic Operations Service personnel, provided estimates of three categories of delay, *in comparison to the existing TRSA*, which might result from the ARSA: Clearance delivery and/or departure delay for aircraft departures, sequencing delay during peak periods for arriving aircraft, and delay in establishing radar contact before entering the ARSA might result from frequency congestion, controller overload, or greater participation of nontransponder equipped aircraft.

The estimated number of daily flights affected, duration of delay, and type of aircraft, are presented for each site in Table 2. FAA estimates that the total annual delay costs for the candidate ARSA sites proposed in this notice will be approximately $152 thousand.

(5) *The need for some operators to purchase communications avionics.* Because of the requirement that radio communications be maintained in the mandatory participation airspace of the ARSA, some operators who previously could operate without radios from satellite airports located within that portion of the proposed ARSA which will extend down to the surface will find it necessary to install two-way radios. FAA expects that the costs resulting from these aircraft will be minimal because in most instances the proposed ARSA provides airspace exclusions and cutouts for satellite airports within 5 nautical miles of the ARSA center. However, in a few instances, operators of nonradio equipped (NORDO) aircraft will need to install radios. FAA estimates that the average total cost of equipping a NORDO aircraft with an inexpensive 720 channel transceiver, including installation, is approximately $2,300. The annual expense to an aircraft operator who financed the cost over a four-year period at a 15 percent interest rate would be $751. NORDO aircraft are shown in the "Miscellaneous" column of Table 2 for those proposed sites where ATC personnel have identified locally based aircraft which might be affected. FAA estimates that the total annual radio installation costs for affected aircraft at the candidate ARSA sites will be approximately $4,500 (only San Antonio identified possible NORDO aircraft).

(6) *Miscellaneous costs.* At some proposed ARSA locations, special situations might exist where establishment of an ARSA could impose certain costs on users of that airspace. The exclusions in most cases will alleviate adverse impacts on local fixed-based operators and airport operators, but ATC personnel at the proposed ARSA sites have attempted to identify where such potential problems may exist. For example, at some locations replacing a TRSA with an ARSA may necessitate relocating a student practice area further away from the flight school airport, and additional operating costs will be incurred travelling the greater distance to and from the practice area. Other miscellaneous operations which might be affected include glider and ultralight operations.

[1] *An Analysis of the Impact of the Airport Radar Service Area (ARSA)*, FAA Office of Aviation Policy and Plans, November 1984 (Report #FAA-APO-85-1); and *National Airspace Review–Airport Radar Service Area Operational Confirmation Report*, Engineering & Economics Research, Inc. (EER), Report No. DOT/FAA/AT-84/2, October 1984.

TABLE 2.—Docket 85-AWA-1, Estimated Average Daily Flight Deviations, Overflights, Delay and Miscellaneous Impacts for Proposed ARSA Sites

Site name	Daily flight deviations (NM) or overflights (OV)	Daily clearance delivery and/or departure delay	Daily arrival sequencing delay	Daily radar contact delay	Miscellaneous
Albany	0	0	0	3 SEP/1 MEP.1 min	0
Anchorage	10 SEP—OV	6 SEP/2 MEP—2 min	0	0	0
Bradley	15 SEP/5 MEP—5NM	0	0	0	0
Capital City Airport, Harrisburg			See Harrisburg		
Corpus Christi	0	0	0	0	0
Harrisburg (includes Harrisburg Int'l./ Capital City).	0	0	0	0	0
Long Island Mac Arthur	10 SEP/5 MEP—7NM	0	0	0	0
Pensacola Naval Air Station			See Pensacola Regional		
Pensacola Regional (also includes Pensacola NAS and Whiting NAS).	0	0	0	0	0
San Antonio	2SEP—7 NM	15 SEP/10 MEP/5 METP—4 min. (260 days per year).	0	0	6 NORDO
Syracuse	0	0	0	5 SEP—0.5 min.	0
Theo. F. Green (Providence)	675 SEP/675 MEP—7 NM (annual count).	10 SEP/10 MEP—2 min	7 SEP/3 MEP—1 min	15 SEP—1 min	0
Tulsa	0	0	0	0	0
Whiting Naval Air Station		See Pensacola Regional			

These impacts would be indicated in the "Miscellaneous" column of Table 2 for sites where they have been identified. However, no such impacts are anticipated at any of the candidate ARSA sites proposed in this notice. Respondents are requested to comment upon any special local operations which might be affected by an ARSA either during the public meetings or through written comments submitted to the docket.

Overall total annual costs, by cost category, of establishing ARSA's at the airports proposed in this notice are

summarized in Table 3 below. The maximum total annual cost of establishing ARSA's at these sites, if an ARSA is established at each site proposed, is estimated to be approximately $235 thousand. However, this maximum is expected to diminish significantly as controllers and pilots gain experience in ARSA operations. Delay will be reduced, and in many cases, traffic will ultimately flow more smoothly and expeditiously than in existing TRSA's.

Table 3.—Maximum Annual Costs of Establishing ARSA's at Proposed Sites

[1984 dollars]

1. FAA controller and equipment costs	$0
2. Chart revision, pilot education (one time)	5,000
3. Circumnavigation and overflight..	73,000
4. Departure, sequencing, and radar contract delay	152,000
5. Radio transceivers/miscellaneous	4,500
Total costs	234,500

b. Benefits

Much of the benefit which will result from the ARSA program is nonquantifiable, and will result from simplifying and standardizing ARSA configurations and operating procedures. The standardization and simplicity of the ARSA concept is expected to alleviate many of the problems identified by the NAR task group. In addition, once experience has been gained in ARSA operations, traffic is expected to move more efficiently and expeditiously than it currently does within a TRSA.

Although many of the benefits of the ARSA program are nonquantifiable, FAA has attempted to make some preliminary estimates of the savings in time and money which might be realized as a result of the greater flexibility allowed air traffic controllers in handling traffic within an ARSA. These estimated savings may or may not offset the delay which some sites anticipate after the initial establishment of an ARSA, but are expected to eventually provide overall time savings which exceed delay as controllers gain experience with ARSA operating procedures. ATC personnel at Columbus, OH, where an ARSA has been in operation for approximately a year and a half, report that this has been their experience.

To develop these estimates of savings, FAA used procedures similar to those discussed in the previous section for estimating delay costs. Local ATC personnel, together with the Air Traffic Operations Service, estimated for each candidate ARSA site the number of daily operations and the types of aircraft involved which might save time, *in comparison to operations within a TRSA*, as a result of the reduced separation standards of the ARSA. Time savings estimates were made for both arrivals and departures, and are presented for each site in Table 4.

TABLE 4.—ESTIMATED AVERAGE DAILY TIME SAVINGS FOR PROPOSED ARSA SITES

Site name	Daily departure time savings	Daily arrival time savings
Albany	0	7 SEP/4 MEP—1 min.
Anchorage	0	0
Bradley	0	0
Capital City Airport, Harrisburg	See Harrisburg	
Corpus Christi	33 SEP/17 MEP—1 min	33 SEP/17 MEP—1 min.
Harrisburg	38 SEP—1 min	5 SEP—2.5 min.
Long Island Mac Arthur	0	10 SEP/5 MEP—1 min.
Pensacola Naval Air Station	See Pensacola Regional	
Pensacola Regional (also includes Pensacola NAS and Whiting NAS)..	0	0
San Antonio	150 SEP—4 min./50 MEP—2 min./15 EXJ/5 AC—1 min. (260 days per year).	60 SEP/30 MEP/10 METP—4 min. (260 days per year).
Syracuse	0	0
Theo. F. Green (Providence)	0	0
Tulsa	0	300 SEP/200 MEP—1.5 min.
Whiting Naval Air Station	See Pensacola Regional	

NOTE.—Aircraft abbreviations from Table 1.

FAA estimates that the total annual value of time savings for the candidate ARSA sites proposed in this notice will be approximately $525 thousand for departures and $883 thousand for arrivals, yielding about $1.4 million in overall savings. (The unit costs used to estimate the value of time savings are the same as those used to estimate delay costs presented in Table 1.)

Some of the benefits of the ARSA program cannot be specifically attributed to individual candidate airports, but rather will result from the overall improvements in terminal area ATC procedures realized as ARSA's are implemented throughout the country. Establishment of ARSA's at the sites proposed in this notice will contribute to these overall improvements.

ARSA's have the potential for reducing the number of near midair collisions (NMAC's). In its 1984 study of midair and near midair collison data, the Office of Aviation Safety found that approximately 15 percent of reported NMAC's occurred in TRSA airspace.[3] The study found that about half of all NMAC's occurred at altitudes between 1,000 and 5,000 feet, that over 85 percent of NMAC's occurred when visibility was 5 miles or greater, and that the largest number of NMAC reports are associated with IFR operators under radar control conflicting with VFR traffic during VFR flight conditions below 12,500 feet. Further, the majority of reported NMAC's occurring within or in the near vicinity of TRSA's involve either an air carrier or military aircraft as one of the aircraft (which partially reflects the practice of air carrier and military pilots to report NMAC incidents, when they do occur, more frequently than general aviation pilots). The mandatory participation requirements of the ARSA may help alleviate such conflicts where they currently are occurring in TRSA airspace. Further, the EER and APO studies of the ARSA confirmation sites (see note 1) indicate that NMAC's may be reduced by approximately 35 to 40 percent.

Although no quantifiable benefits can be attributed to a reduction in near midair collisions, near midair and actual midair collisions result from similar causal factors, and a reduction in near midair collisions suggests that a reduction in actual midair collisions, which can involve substantial losses, may also be expected as a result of the ARSA program.

The APO study of the ARSA confirmation sites (note 1) included a detailed analysis to determine if a reduction in midair collision risk might result from replacing a TRSA with an ARSA. The collision risk analysis was based upon the experience at the Columbus confirmation site, where recorded radar data were available, and focused on conditions of fairly heavy

[3] *Selected Statistics Concerning Near Midair and Midair Collisions*, FAA Office of Aviation Safety—Safety Analysis Division (ASF-200), August 31, 1984. The data base used in this study is currently under revision to correct problems in reporting procedures which have recently been identified. Although the total numbers of reported NMAC's have been revised upward, the relative distribution of incidents which occur in various operating environments has not changed significantly.

VFR activity because the ARSA will affect procedures used to handle VFR traffic in the terminal radar area. The analysis determined that there was no compression of traffic in the airspace immediately around, under, and over the ARSA, and in the absence of compression, the mandatory participation requirement for all aircraft operating within the ARSA resulted in a 75 percent reduction in midair collision risk. Further, even under the pessimistic assumption that the changes in separation standards would completely eliminate the effectiveness of controller-initiated avoidance maneuvers, and the pilot would only have the benefit of radar traffic advisories, the study found that the mandatory pilot participation required in the ARSA still provided a 63 percent reduction in midair collision risk in comparison to the TRSA.

FAA has examined National Transportation Safety Board midair collision accident records for the period between January 1978 and October 1984. This review indicated that approximately one to two midair collisions occurred per year throughout the United States which either could have been prevented, or the probability of their occurrence would have been greatly reduced, had an ARSA, rather than a TRSA, been in effect where these accidents occurred. Because the circumstances observed at the Columbus confirmation site may not necessarily be found at other TRSA locations, the 75 percent reduction in midair collision risk measured at Columbus may not be achieved at other ARSA sites. Therefore, the FAA conservatively estimates that implementation of the ARSA program nationally may result in an average reduction in midair collision risk of only 50 percent at TRSA locations that are replaced with ARSA's.

Reducing by 50 percent the one to two midair collisions per year where an ARSA could have made a difference would result in the prevention of one midair collision nationally every 1 to 2 years. The quantifiable benefits of preventing a midair collision can range from less than $100 thousand, resulting from the prevention of a minor accident between general aviation aircraft, to quantifiable benefits of as much as $100 million to $300 million, resulting from the prevention of a midair collision involving an air carrier aircraft and numerous fatalities. Establishment of ARSA's at the sites proposed in this notice will contribute to this improvement in safety.

c. Comparison of Costs and Benefits

A direct comparison of the costs and benefits of this proposal is difficult for a number of reasons. Many of the benefits of the proposal are nonquantifiable, especially those associated with simplification and standardization of terminal airspace procedures. Further, it is difficult to specifically attribute the standardization benefits, as well as the safety benefits, to individual candidate ARSA sites. Finally, until more experience has been gained with ARSA operations, estimates of both the efficiency improvements resulting in time savings to aircraft operators, and the potential delays resulting from mandatory participation, will be quite preliminary.

ATC personnel at some facilities anticipate that the process will go very smoothly, delays will be minimal, and that efficiency gains will be realized from the start. Other sites anticipate that delay problems will dominate the initial adjustment period. Nevertheless, to the extent that these costs and benefits have been quantified, the overall total annual time savings benefit of $1.4 million is approximately six times greater than the estimated $235 thousand in overall annual costs for the candidate ARSA sites proposed in this notice. Further, both the Austin and Columbus confirmation sites went through initial adjustment periods, but now experience almost no delay as a result of ARSA procedures. Baltimore-Washington is currently progressing along a similar learning curve.

FAA believes these adjustment problems will only be temporary, and that once established, the ARSA program will result in an overall improvement in efficiency in terminal area operations at those airports where ARSA's are established. These overall gains which FAA expects for the group of candidate ARSA sites proposed in this notice typify the beneifts which FAA expects to achieve nationally from the ARSA program. These benefits will be achieved without any additional controller staffing or radar equipment costs of the FAA.

In addition to these operational efficiency improvements, establishment of the proposed ARSA sites will contribute to a reduction in midair collisions. The quantifiable benefits of this safety improvement could range from less than $100 thousand, to as much as $300 million, for each accident prevented.

For these reasons, FAA expects the ARSA program to produce long term, ongoing benefits which will far exceed its costs, which are essentially transitional in nature.

International Trade Impact Analysis

This proposed regulation will only affect terminal airspace operating procedures at selected airports within the United States. As such, it will have no affect on the sale of foreign aviation products or services in the United States, nor will it affect the sale of United States aviation products or services in foreign countries.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. The RFA requires agencies to review rules which may have "a significant economic impact on a substantial number of small entities."

The small entities which could be potentially affected by implementation of the ARSA program are the fixed-base operators, flight schools, agricultural operators and other small aviation businesses located at satellite airports within 5 nautical miles of the ARSA center. If the mandatory participation requirement were to extend down to the surface at these airports, where under current regulations participation in the TRSA and radio communication with ATC is voluntary, operations at these airports might be altered, and some business could be lost to airports outside of the ARSA core. FAA has proposed to exclude almost every satellite airport located within the 5-nautical-mile ring to avoid adversely impacting their operations, and to simplify coordinating ATC responsibilities between the primary and satellite airports. In some cases, the same purposes will be achieved through Letters of Agreement between ATC and the affected airports which establish special procedures for operating to and from these airports. In this manner, FAA expects to virtually eliminate any adverse impact on the operations of small satellite airports which potentially could result from the ARSA program.

Further, because the FAA expects that any delay problems which may initially develop following implementation of an ARSA will be transitory, and because the airports which will be affected by the ARSA program represent only a small proportion of all the public use airports in operation within the United States, small entities of any type which use aircraft in the course of their business will not be adversely impacted.

For these reasons, the FAA certifies that the proposed regulation will not result in a significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis in not required under the terms of the RFA.

ICAO Considerations

As part of this proposal relates to navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Operations Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of, and Annex 11 to, the Convention on International Civil Aviation, which pertains to the establishment of air navigational facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is the ensure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived for ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator is consulting with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

List of Subjects in 14 CFR Part 71

Airport radar service areas, Aviation safety.

The Proposed Amendment

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

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

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

2. Section 71.501 is amended as follows:

Albany County Airport, NY [New]

That airspace extending upward from the surface to and including 4,300 feet MSL within a 5-mile radius of the Albany County Airport (lat. 42°44'53" N., long. 73°48' 12" W.), and that airspace extending upward from 2,400 feet MSL to 4,300 feet MSL within a 10-mile radius of the Albany County Airport from the 046°T(060°M) bearing from the airport clockwise to the 096°T(110°M) bearing from the airport and that airspace extending upward from 2,000 feet MSL to 4,300 feet MSL within a 10-mile radius of the airport from 096°T(110°M) bearing from the airport clockwise to the 046°T(060°M) bearing from the airport.

Anchorage International Airport, AK [New]

That airspace extending upward from the surface to and including 4,100 feet MSL within a 5 mile radius of the Anchorage International Airport (lat. 61°10'39" N., long. 149°59'38" W.) excluding that airspace below 3,000 feet MSL in a quadrant beginning at the airport to a point where the 350°T(325°M) bearing from the airport intersects the 5-mile arc, clockwise to the 090°T(065°M) bearing from the airport to the point of origin, and excluding that airspace below 700 feet MSL in a quadrant beginning at a point where the 116°T(093°M) bearing from the airport intersects the 5-mile arc, clockwise to the 243°T(218°M) bearing from the airport to the point of origin; and that airspace extending upward from 1,400 feet MSL to 4,100 feet MSL within a 10-mile radius of the Anchorage International Airport from the 141°T(116°M) bearing from the airport clockwise to the 350°T(325°M) bearing from the airport and that airspace extending upward from 3,000 feet MXL to 4,100 feet MSL within a 10-mile radius of the airport from the 350°T(325°M) bearing from the airport clockwise to the 141°T(116°M) bearing from the airport.

Bradley International Airport, Windsor Locks, CT [New]

That airspace extending upward from the surface to and including 4,200 feet MSL within a 5-mile radius of Bradley International Airport (lat. 41°56'20" N., long. 72°41'01" W.) excluding Skylark Airport (lat. 41°55'45" N., long. 72°34'30" W.) and Simsbury Airport (lat. 41°55'00" N., long. 72°46'40" W.) and Bancroft Airport (lat. 41°52'00" N., long. 72°37'00" W.); and that airspace extending upward from 2,100 feet MSL to 4,200 feet MSL within a 10-mile radius of Bradley International Airport.

Capital City Airport, Harrisburg, PA [New]

That airspace extending upward from the surface to and including 4,300 feet MSL within a 5-mile radius of the Capital City Airport (lat. 40°13'01" N., long. 76°51'06" W.) to the points where the 5-mile arc joins a 5-mile arc from the Harrisburg International Airport, PA (lat. 40°11'36" N., long. 76°45'49" W.) Airport Radar Service Area (ARSA), and that airspace extending upward from 2,600 feet MSL to and including 4,300 feet MSL within a 10-mile radius of the Capital City Airport to the lines extending from the points where the 5-mile arc and the 10-mile arc of the Capital City Airport and the Harrisburg International Airport ARSA's join.

Corpus Christi International Airport, TX [New]

That airspace extending upward from the surface to and including 4,000 feet MSL within a 5-mile radius of the Corpus Christi International Airport (lat. 27°46'12" N., long. 97°30'03" W.), and that airspace extending upward from 1,200 feet MSL to 4,000 feet MSL within a 10-mile radius of the Corpus Christi International Airport. This airport radar service area is effective during the specific days and times established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

Harrisburg International Airport, PA [New]

That airspace extending upward from the surface to 4,300 feet MSL within a 5-mile radius of the Harrisburg International Airport (lat. 40°11'36" N., long. 76°45'49" W.) to the points where the 5-mile arc joins a 5-mile arc from the Capital City Airport, PA (lat. 40°13'01" N., long. 76°51'06 W.) Airport Radar Service Area (ARSA), and that airspace extending upward from 2,100 feet MSL to and including 4,300 feet MSL to the lines extending from the points where the 5-mile and 10-mile arcs from the Harrisburg International Airport and Capital City Airport ARSA's join.

Long Island MacArthur Airport, Islip, NY [New]

That airspace extending upward from the surface to and including 4,100 feet MSL within a 5-mile radius of the Long Island MacArthur Airport (lat. 40°47'44" N., long. 73°06'00" W.), and that airspace extending upward from 1,300 feet MSL to 4,100 feet MSL within a 10-mile radius of the airport; excluding that airspace from the surface to and including 600 feet MSL within 1 mile west of Bayport Aerodrome (lat. 40°45'30" N., long. 73°03'15" W.) and parallel to Runway 18-36 from south of the Sunrise Highway southbound to the 5-mile radius of the Long Island MacArthur Airport, counterclockwise to south of Nichols Road thence northbound along Nichols Road to south of and parallel to the Sunrise Highway westbound to the beginning point.

Pensacola NAS, FL [New]

That airspace extending upward from the surface to and including 4,200 feet MSL within a 5-mile radius of the Navy Pensacola Airport (lat. 30°21'12" N., long. 87°19'12" W.) excluding that airspace extending upward from the surface to and including 700 feet MSL within a 1-mile radius of the Ferguson Airport (lat. 30°23'55" N., long. 87°20'55" W.) and 1 mile either side of the 330°T(328°M) bearing from the Ferguson Airport, and that airspace extending upward from 1,200 feet MSL to and including 4,200 feet MSL within a 10-mile radius of the Navy Pensacola Airport, excluding that Airspace within the Pensacola Regional Airport, FL, Airport Radar Service Area.

Pensacola Regional Airport, FL [New]

That airspace extending upward from the surface to and including 4,200 feet MSL within a 5-mile radius of the Pensacola Regional Airport (lat. 30°28'23" N., long. 87°11'15" W.), and that airspace extending upward from 1,300 feet MSL to and including 4,200 feet MSL within a 10-mile radius of the Pensacola Regional Airport, excluding that airspace within the inner circle of the Pensacola NAS, FL, Airport Radar Service Area.

San Antonio International Airport, TX [New]

That airspace extending upward from the surface to and including 4,800 feet MSL within a 5-mile radius of the San Antonio International Airport (lat. 29°32'00" N., long. 98°28'10" W.), and that airspace extending upward from 2,200 feet MSL to 4,800 feet MSL within a 10-mile radius of the San Antonio International Airport from the 278°T(271°M) bearing from the airport clockwise to the 008°T(001°M) bearing from the airport and that airspace extending upward from 2,000 feet MSL to 4,800 feet MSL within a 10-mile radius of the airport from the 008°T(001°M) bearing from the airport clockwise to the 278°T(271°M) bearing from the airport.

Syracuse Hancock International Airport, NY [New]

That airspace extending upward from the surface to and including 4,400 feet MSL within a 5-mile radius of the Syracuse Hancock International Airport (lat. 43°06'44" N., long. 76°06'32" W.) excluding that airspace within a 0.75-mile radius of the center (lat. 43°10'45" N., long. 76°07'30" W.) of Michael Field, Cicero, NY, and that airspace extending upward from 1,600 feet MSL to and including 4,400 feet MSL within a 10-mile radius of the Syracuse Hancock International Airport from the 245°T(257°M) bearing from the airport clockwise to the 120°T(132°M) bearing from the airport and that airspace extending upward from 2,700 feet MSL to and including 4,400 feet MSL within a 10-mile radius from the 120°T(132°M) bearing from the airport clockwise to the 178°T(190°M) bearing from the airport and that airspace extending upward from 2,300 feet MSL within a 10-mile radius of the airport from the 178°T(190°M) bearing from the airport clockwise to the 245°T(257°M) bearing from the airport.

Theodore Francis Green State Airport, Providence, RI [New]

That airspace extending upward from the surface to and including 4,100 feet MSL within a 5-mile radius of the Theodore Francis Green State Airport (lat. 71°25'41" N., long. 41°43'27" W.), and that airspace extending upward from 1,300 feet MSL to 4,100 feet MSL within a 10-mile radius of Theodore Francis Green State Airport from 015°T(030°M) bearing from the airport clockwise to the 195°T(210°M) bearing from the airport, and that airspace extending upward from 1,700 feet MSL to 4,100 feet MSL within a 10-mile radius of the airport from 195°T(210°M) bearing from the airport clockwise to the 015°T(030°M) bearing from the airport.

Tulsa International Airport, OK [New]

That airspace extending upward from the surface to and including 4,700 feet MSL within a 5-mile radius of the Tulsa International Airport (lat. 36°11'54" N., long. 95°53'16" W.) excluding that airspace within a 1-mile radius of Harvey Young Airport (lat. 36°08'12" N., long. 95°49'08" W.) and that airspace extending upward from 2,100 feet MSL to and including 4,700 feet MSL within a 10-mile radius of Tulsa International Airport.

Whiting NAS, FL [New]

That airspace extending upward from the surface to and including 4,200 feet MSL within a 5-mile radius of the center of the Navy Whiting Complex (lat. 30°42'40" N., long 87°01'30" W.), and that airspace extending upward from 1,400 feet MSL to and including 4,200 feet MSL within a 10-mile radius of the Navy Whiting Complex, excluding that airspace within the boundary of Restricted Area R-2915 and that airspace within the Pensacola Regional Airport, FL, Airport Radar Service Area and excluding that airspace within a 1-mile radius of the Milton "T" Airport (lat. 30°38'15" N., long. 86°59'40" W.) extending upward from the surface to and including 700 feet MSL.

Issued in Washington, D.C., on June 25, 1985.

James Burns, Jr.

Acting Manager, Airspace-Rules and Aeronautical Information Division.

Appendix 1.—Public Meeting Schedule

The schedule for the informal airspace meetings is as follows:

Albany County Airport, NY, ARSA
Date: July 24, 1985
Time: 7:00 p.m.
Location: Stonehedge B.C. Room, Turf Inn, 205 Wolf Road, Albany, NY

Anchorage International Airport, AK, ARSA
Date: August 17, 1985
Time: 2:00 p.m.
Location: Performing Arts Center, Anchorage Community College, 2533 Providence Drive, Anchorage, AK

Bradley International Airport, Windsor Locks, CT, ARSA
Date: August 15, 1985
Time: 7:00 p.m.
Location: Connecticut Air National Guard Auditorium, Bradley Air National Guard Base, East Grandby, CT

Capital City Airport, Harrisburg, PA, ARSA
Date: July 18, 1985
Time: 7:00 p.m.
Location: Central Penn Business School, C.P. Theatre, College Hill Road, Summerdale, PA

Corpus Christi International Airport, TX, ARSA
Date: September 11, 1985
Time: 7:00 p.m.
Location: Holiday Inn—Airport, 5549 Leopard Street, Corpus Christi, TX

Harrisburg International Airport, PA, ARSA
Date: July 18, 1985
Time: 7:00 p.m.
Location: Central Penn Business School, D.P. Theatre, College Hill Road, Summerdale, PA

Long Island MacArthur Airport, Islip, NY, ARSA
Date: August 10, 1985
Time: 9:00 a.m. to 1:00 p.m.
Location: Quality Inn, 3845 Veteran's Memorial Highway, Ronkonkoma, NY

Pensacola NAS, FL, ARSA
Date: August 14, 1985
Time: 7:30 p.m.
Location: Pensacola Junior College, Auditorium Building, Room 250 Pensacola, FL

Pensacola Regional Airport, FL, ARSA
Date: August 14, 1985
Time: 7:30 p.m.
Location: Pensacola Junior College, Auditorium Building, Room 250 Pensacola, FL

San Antonio International Airport, TX, ARSA
Date: July 17, 1985
Time: 7:30 p.m.
Location: Holiday Inn, 77 Loop 410 NE, San Antonio, TX

Syracuse Hancock International Airport, NY, ARSA
Date: September 18, 1985
Time: 7:00 p.m. to 10:00 p.m.
Location: Airport Inn, Walnut Room, Syracuse Hancock International Airport, North Syracuse, NY

Theodore Francis Green State Airport, Providence, RI, ARSA
Date: August 7, 1985
Time: 7:00 p.m.
Location: 243rd Army Guard Battalion, Airport Road, T.F. Green Airport Warwick, RI

Tulsa International Airport, OK, ARSA
Date: August 20, 1985
Time: 7:30 p.m.
Location: Holiday Inn—East, I-244 and Garnett Road, Tulsa, OK

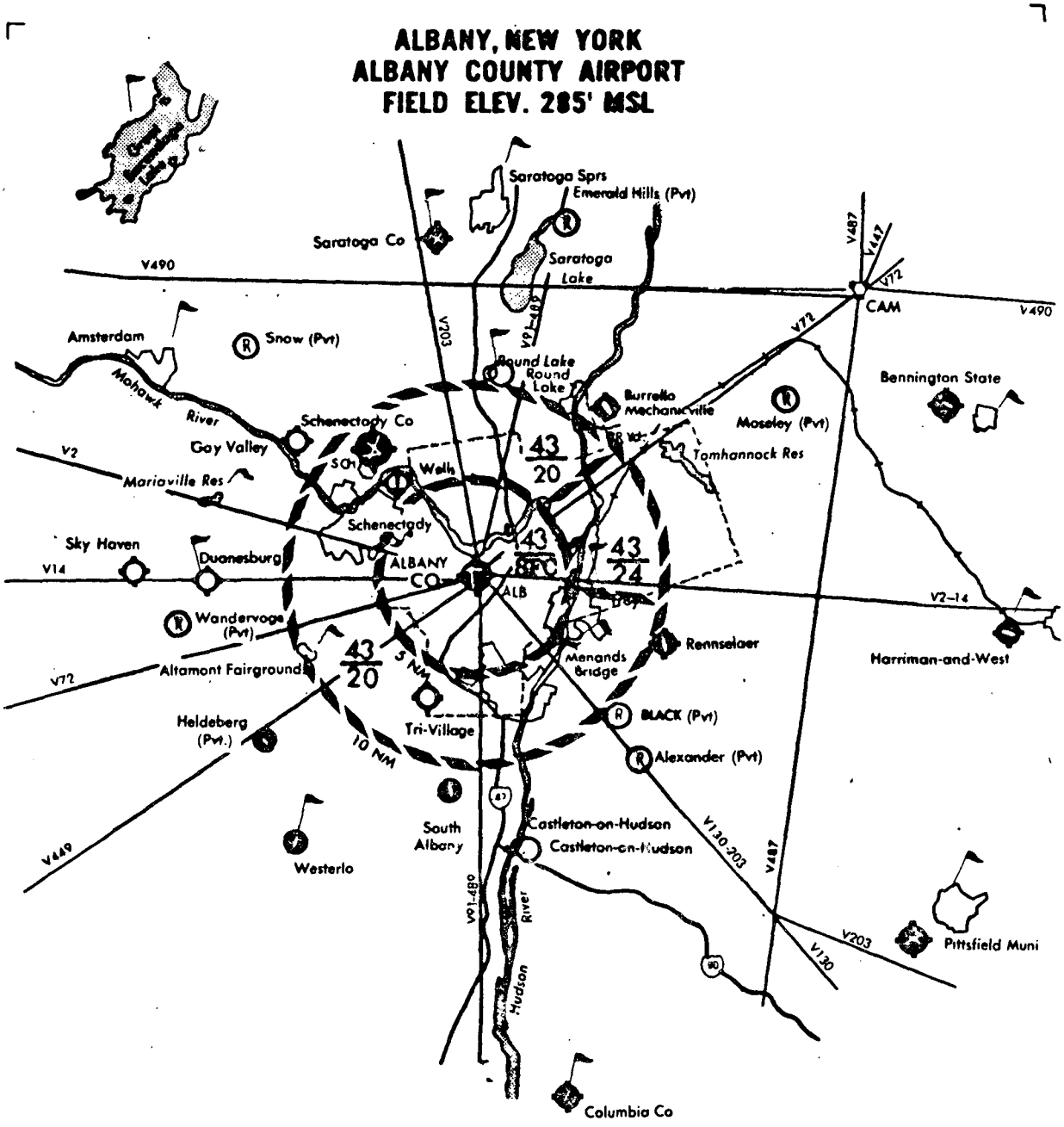
Whiting NAS, FL, ARSA
Date: August 14, 1985
Time: 7:30 p.m.
Location: Pensacola Junior College, Auditorium Building, Room 250 Pensacola, FL.

BILLING CODE 4910-13-M

Appendix 2

AIRPORT RADAR SERVICE AREA

(NOT TO BE USED FOR NAVIGATION)



LEGEND

VFR CHECKPOINT

ARSA

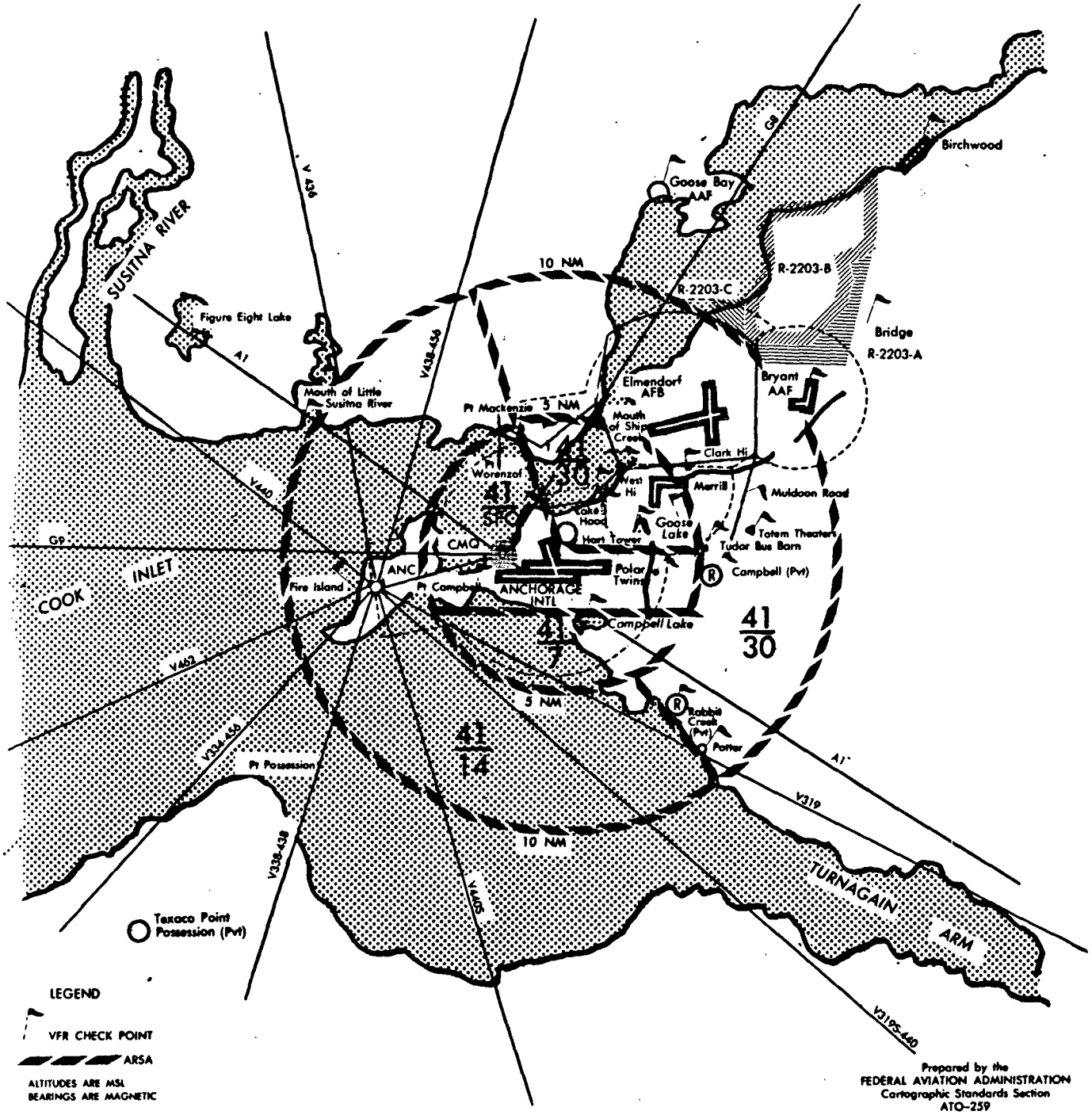
ALTITUDES ARE MSL
BEARINGS ARE MAGNETIC

Prepared by the
FEDERAL AVIATION ADMINISTRATION
Cartographic Standards Section
ATO-259

2

AIRPORT RADAR SERVICE AREA
(NOT TO BE USED FOR NAVIGATION)

ANCHORAGE, ALASKA
ANCHORAGE INTERNATIONAL AIRPORT
FIELD ELEV. 144' MSL



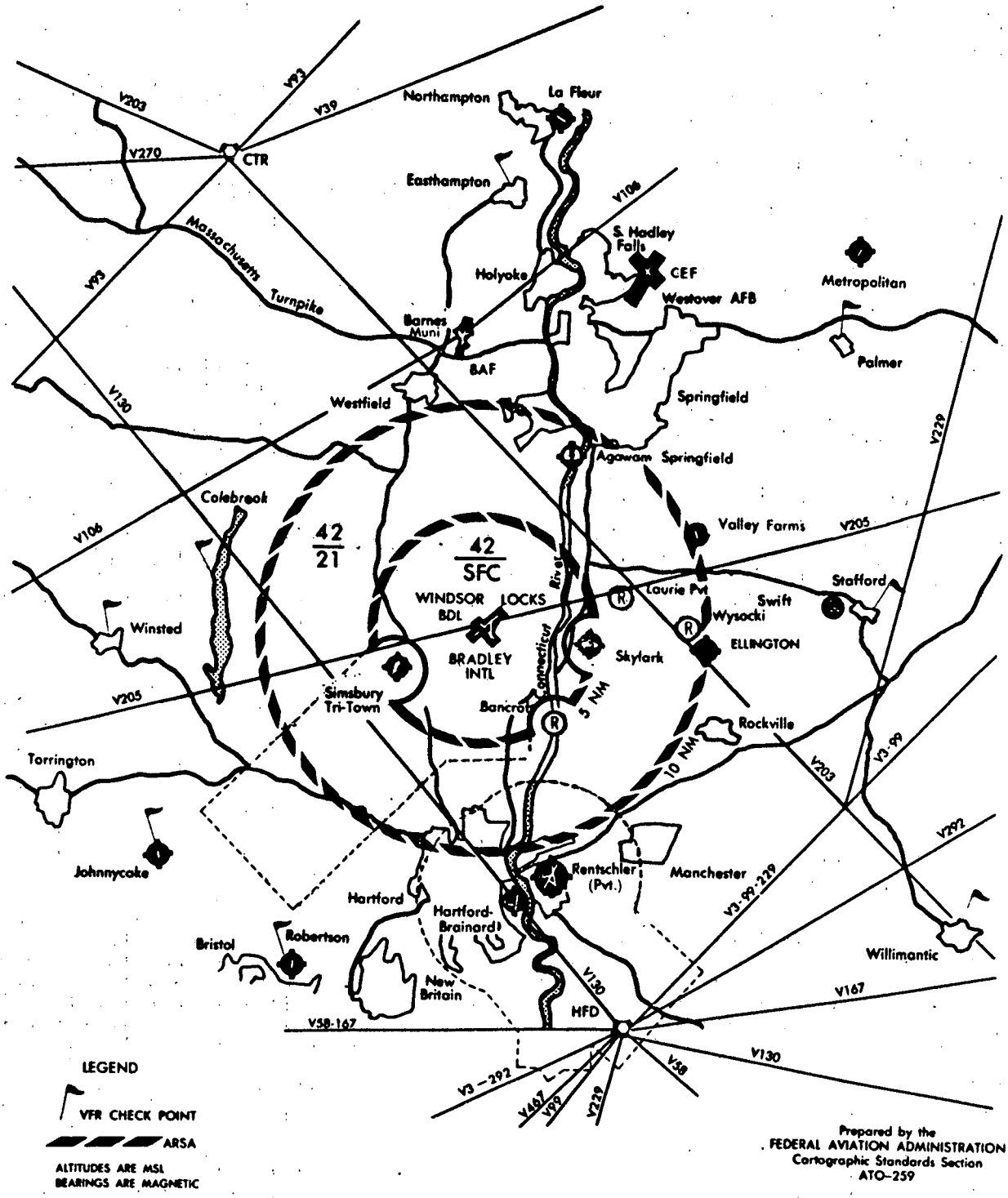
Prepared by the
FEDERAL AVIATION ADMINISTRATION
Cartographic Standards Section
ATO-259

3

AIRPORT RADAR SERVICE AREA

(NOT TO BE USED FOR NAVIGATION)

WINDSOR LOCKS, CONNECTICUT
BRADLEY INTERNATIONAL AIRPORT
FIELD ELEV. 174' MSL



LEGEND

VFR CHECK POINT

ARSA

ALTITUDES ARE MSL
BEARINGS ARE MAGNETIC

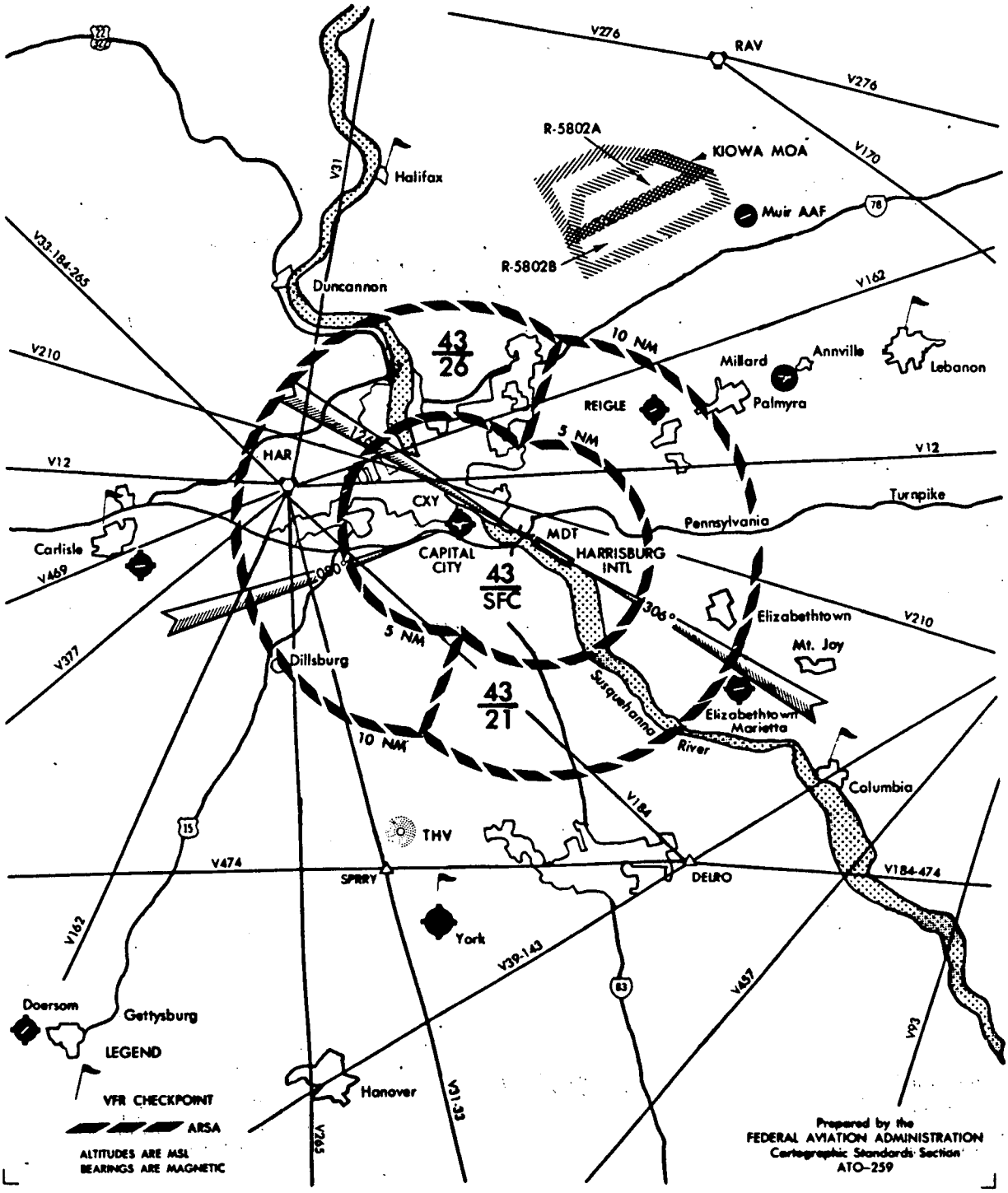
Prepared by the
FEDERAL AVIATION ADMINISTRATION
Cartographic Standards Section
ATO-259

4

AIRPORT RADAR SERVICE AREA

(NOT TO BE USED FOR NAVIGATION)

HARRISBURG, PENNSYLVANIA
CAPITAL CITY AIRPORT
FIELD ELEV. 347' MSL

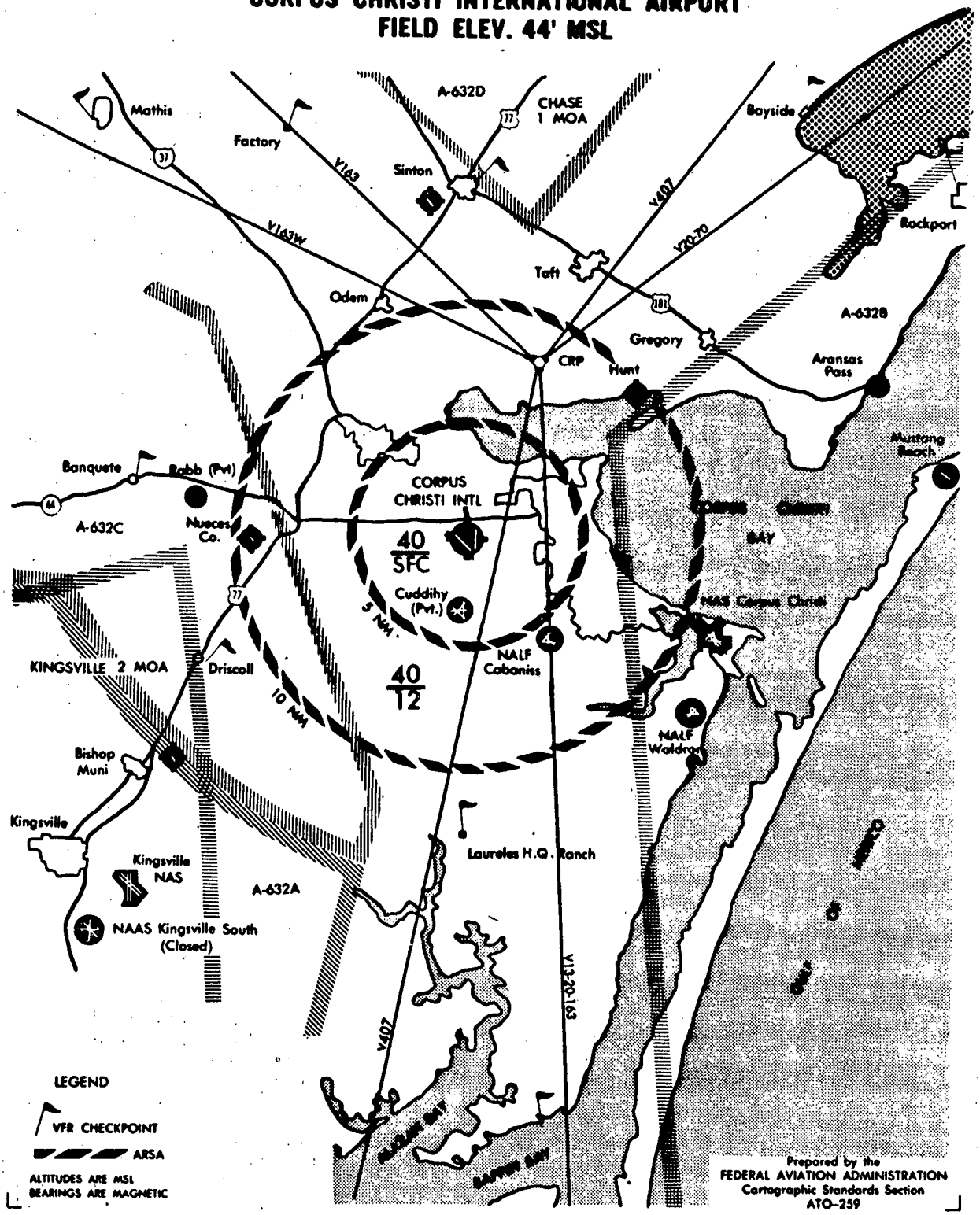


5

AIRPORT RADAR SERVICE AREA

(NOT TO BE USED FOR NAVIGATION)

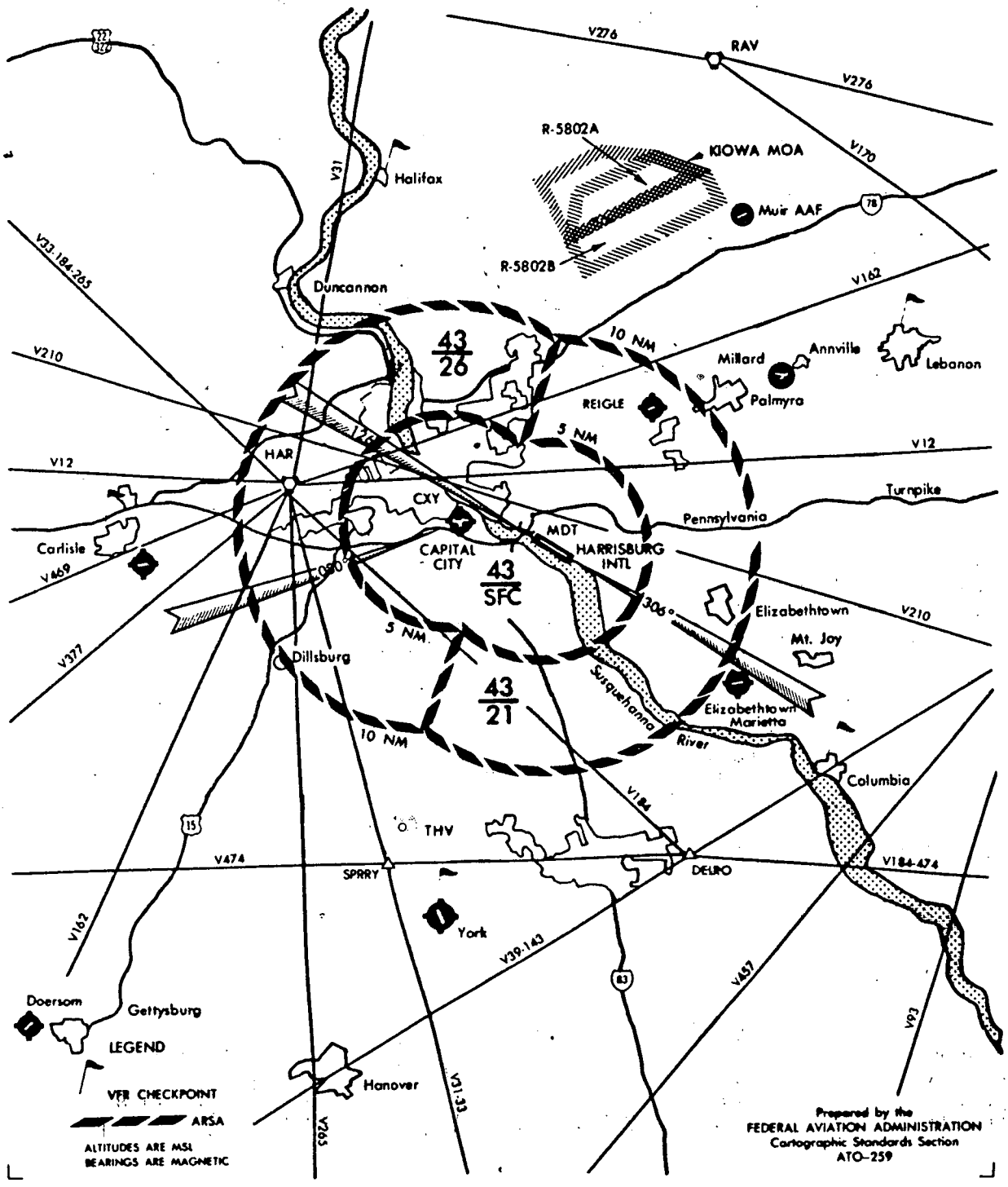
CORPUS CHRISTI, TEXAS
CORPUS CHRISTI INTERNATIONAL AIRPORT
FIELD ELEV. 44' MSL



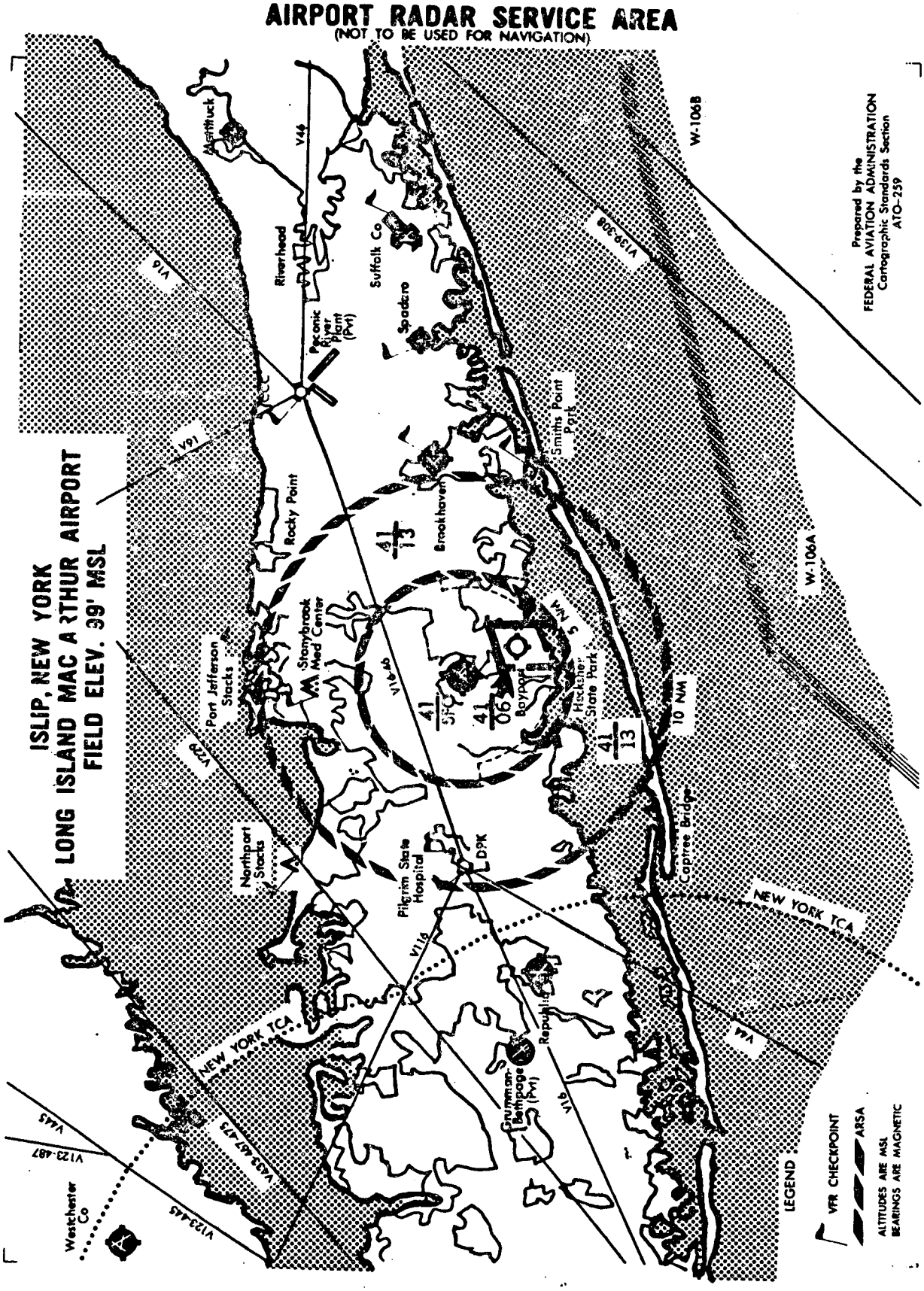
6

AIRPORT RADAR SERVICE AREA
(NOT TO BE USED FOR NAVIGATION)

MIDDLETOWN, PENNSYLVANIA
HARRISBURG INTL. - OLMSTEAD FIELD
FIELD ELEV. 310' MSL



7

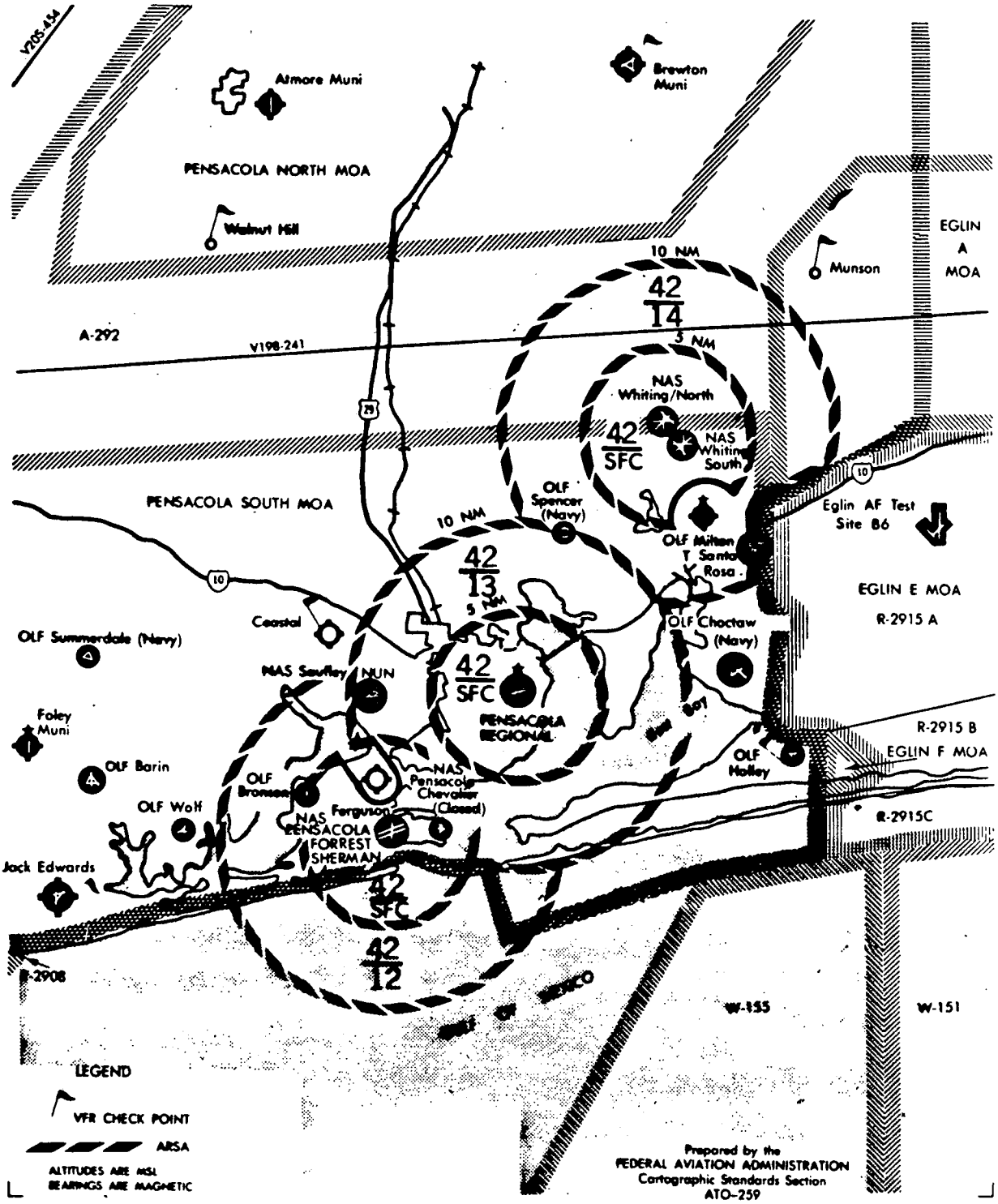

AIRPORT RADAR SERVICE AREA
(NOT TO BE USED FOR NAVIGATION)
ISLIP, NEW YORK
LONG ISLAND MAC ARTHUR AIRPORT
FIELD ELEV. 39' MSL
Prepared by the
FEDERAL AVIATION ADMINISTRATION
Cartographic Standards Section
ATO-259
W-106B
W-106A
10 NM
NEW YORK TCA
NEW YORK TCA
Riverhead
Suffolk Co
Brookhaven
Smiths Point Park
Rocky Point
Stonybrook Med Center
Port Jefferson Stacks
Northport Stacks
Pilgrim State Hospital
Captree Bridge
Hacklebr State Park
Republic
Grumman Bethpage (Pvt)
Westchester
LEGEND
VFR CHECKPOINT
ARSA
ALTITUDES ARE MSL
BEARINGS ARE MAGNETIC

8

AIRPORT RADAR SERVICE AREA

(NOT TO BE USED FOR NAVIGATION)

PENSACOLA, FLORIDA
NAS PENSACOLA
FIELD ELEV. 30' MSL

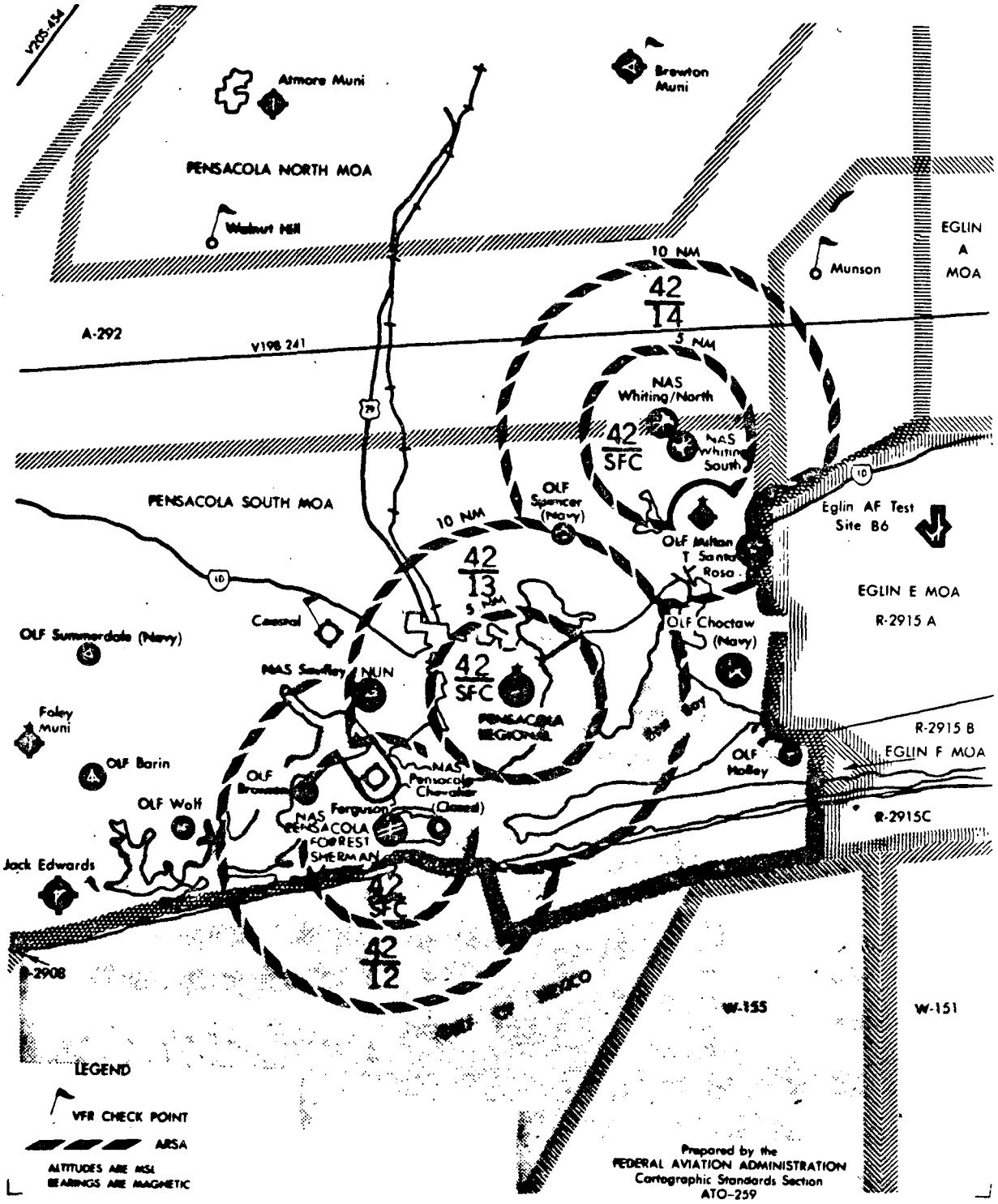


9

AIRPORT RADAR SERVICE AREA

(NOT TO BE USED FOR NAVIGATION)

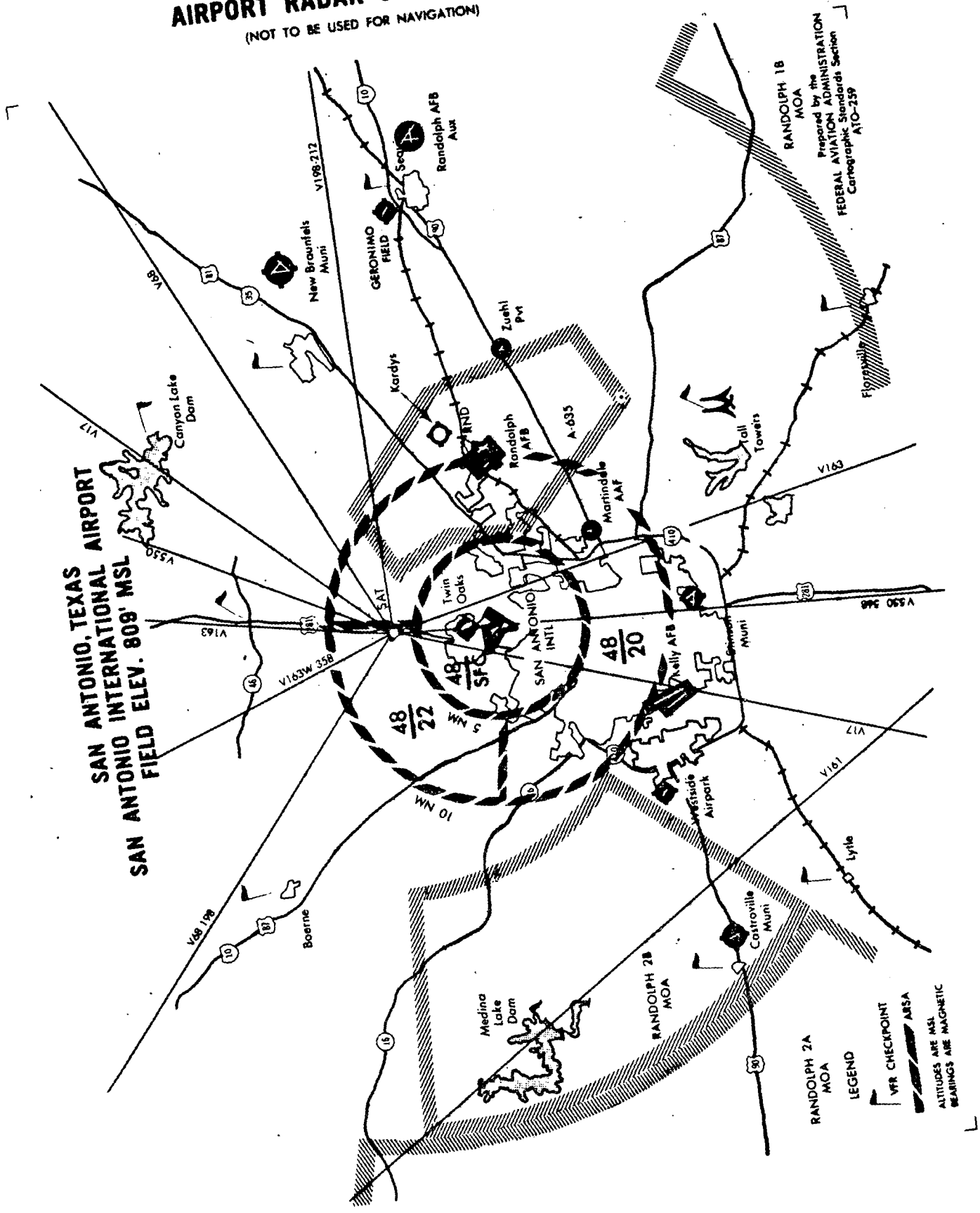
PENSACOLA, FLORIDA
PENSACOLA REGIONAL AIRPORT
FIELD ELEV. 121' MSL



10

AIRPORT RADAR SERVICE AREA

(NOT TO BE USED FOR NAVIGATION)

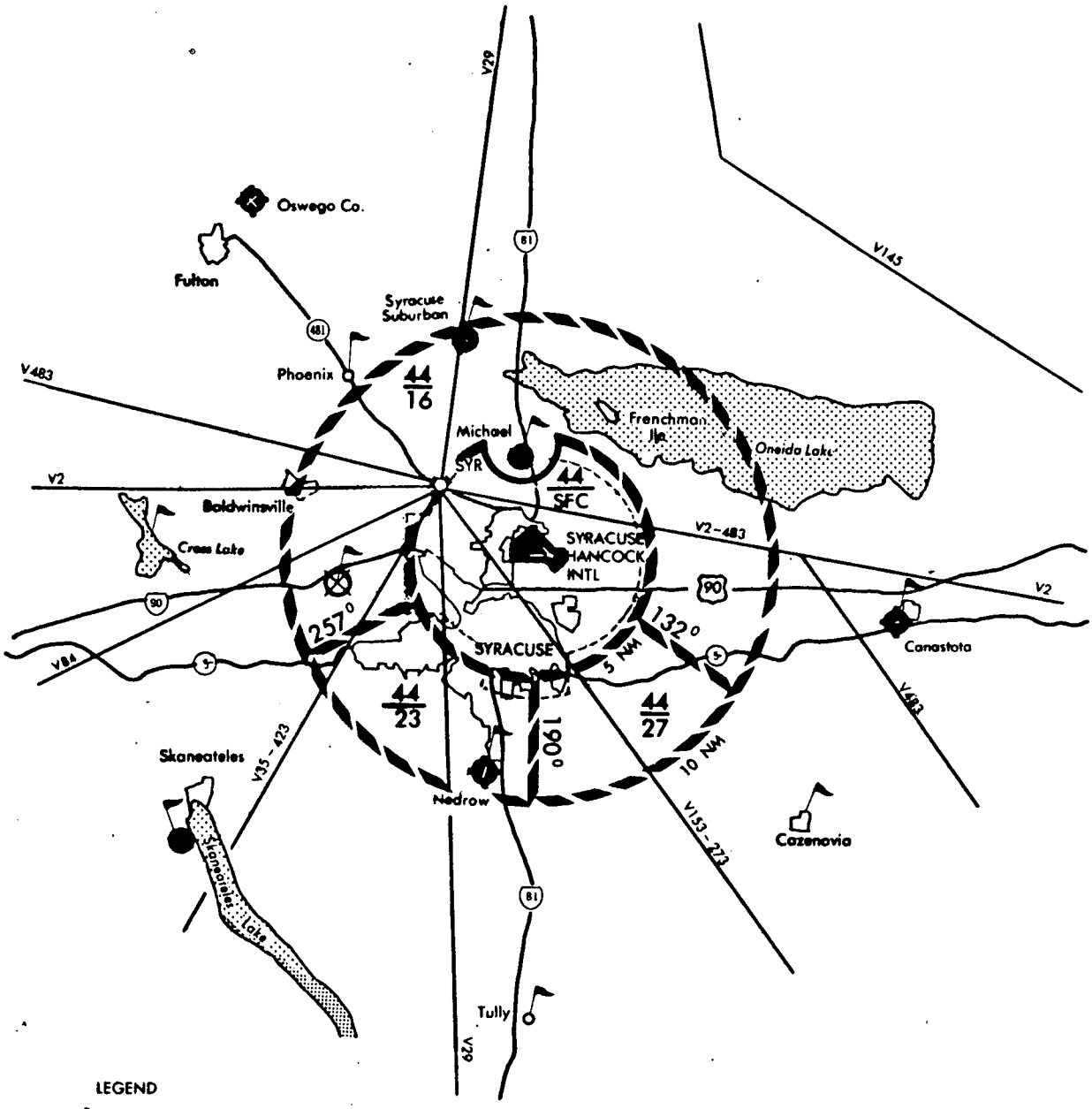


11

AIRPORT RADAR SERVICE AREA

(NOT TO BE USED FOR NAVIGATION)

SYRACUSE, NEW YORK
SYRACUSE HANCOCK INTERNATIONAL AIRPORT
FIELD ELEV. 421' MSL



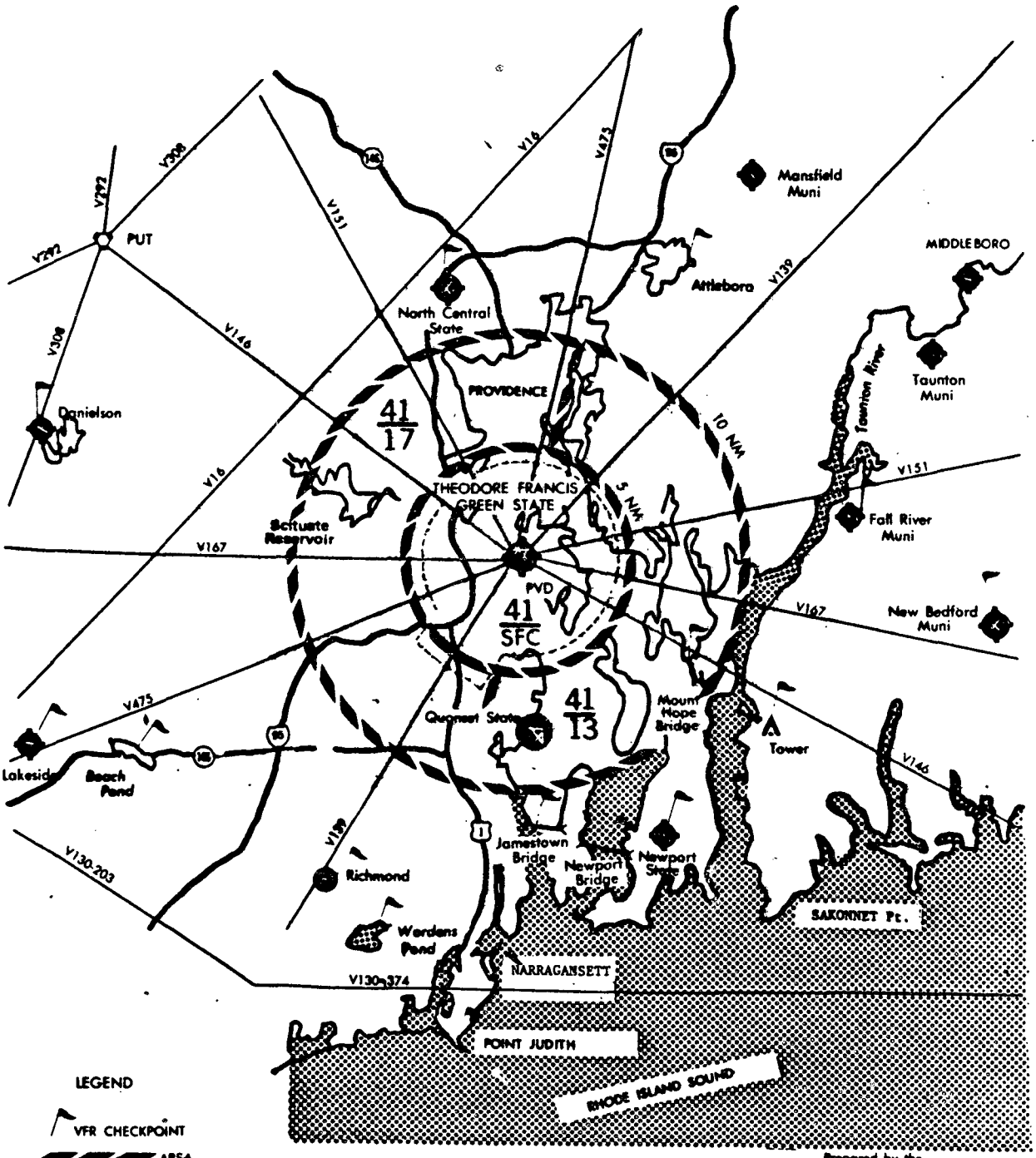
Prepared by the
FEDERAL AVIATION ADMINISTRATION
Cartographic Standards Section
ATO-259

12

AIRPORT RADAR SERVICE AREA

(NOT TO BE USED FOR NAVIGATION)

PROVIDENCE, RHODE ISLAND
THEODORE FRANCIS GREEN STATE AIRPORT
FIELD ELEV. 56' MSL

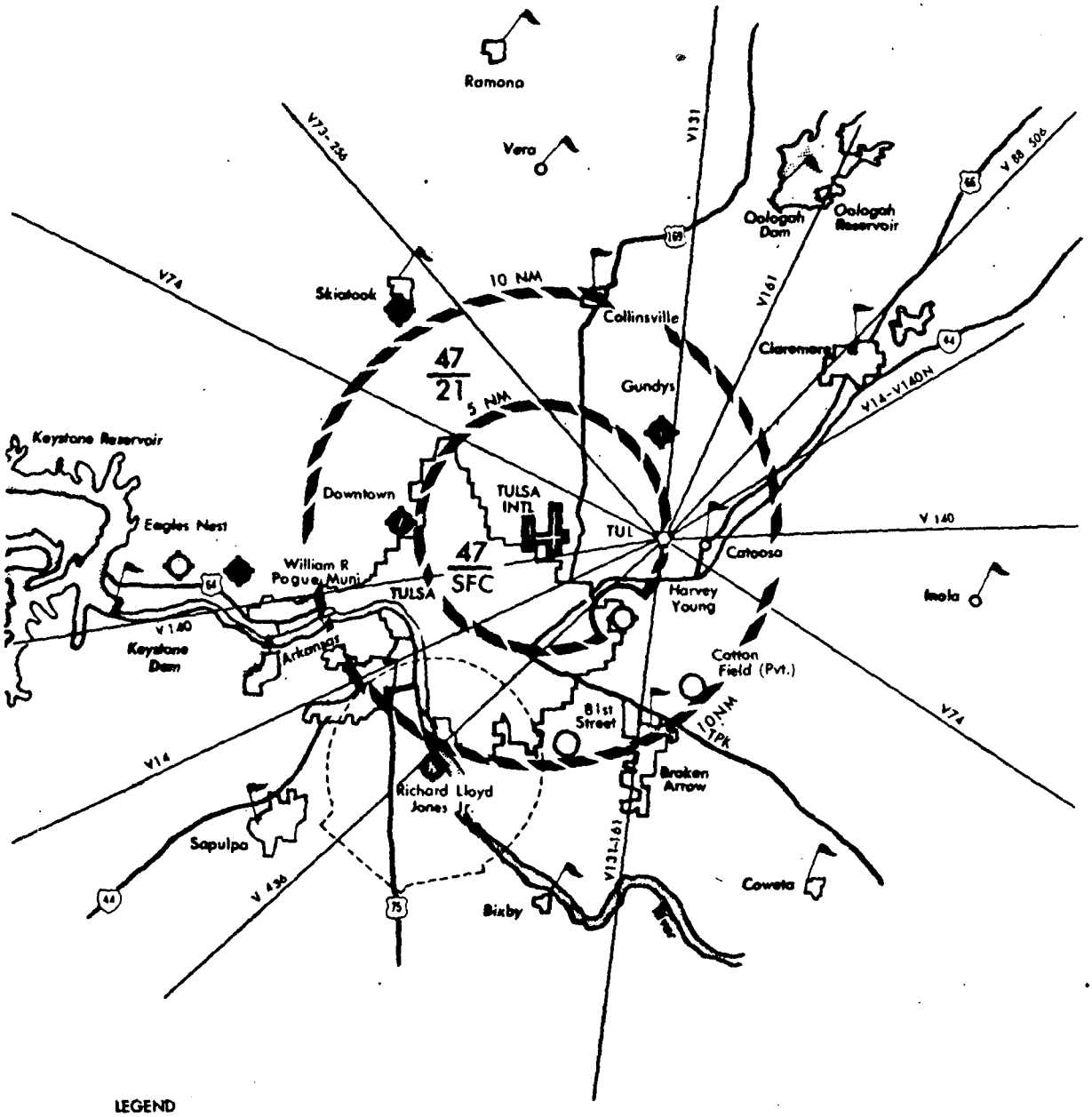


13

AIRPORT RADAR SERVICE AREA

(NOT TO BE USED FOR NAVIGATION)

TULSA, OKLAHOMA
TULSA INTERNATIONAL AIRPORT
FIELD ELEV. 676' MSL



LEGEND

VFR CHECKPOINT

ARSA

ALTITUDES ARE MSL
BEARINGS ARE MAGNETIC

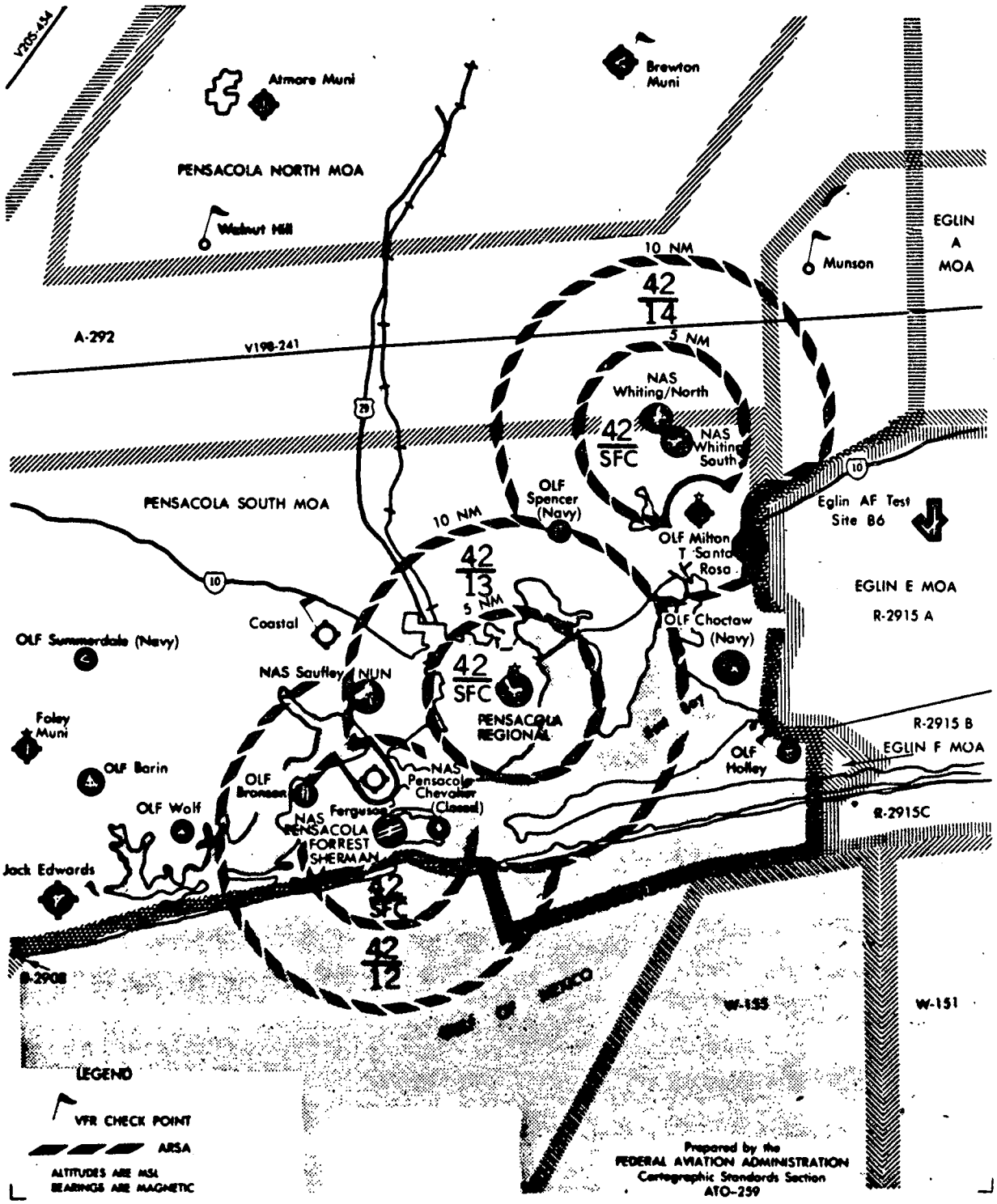
Prepared by the
FEDERAL AVIATION ADMINISTRATION
Cartographic Standards Section
ATO-259

14

AIRPORT RADAR SERVICE AREA

(NOT TO BE USED FOR NAVIGATION)

NAS WHITING
FIELD ELEV. 178' MSL



[FR Doc. 85-15668 Filed 7-2-85; 8:45 am]
BILLING CODE 4910-13-C

Federal Register

Wednesday
July 3, 1985

Part III

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 357

Smoking Deterrent Drug Products for Over-the-Counter Human Use; Tentative Final Monologue; Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 357

[Docket No. 81N-0027]

Smoking Deterrent Drug Products for Over-the-Counter Human Use; Tentative Final Monograph

AGENCY: Food and Drug Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is issuing a notice of proposed rulemaking in the form of a tentative final monograph that would establish conditions under which over-the-counter (OTC) smoking deterrent drug products are generally recognized as safe and effective and not misbranded. FDA is issuing this notice of proposed rulemaking after considering the report and recommendations of the Advisory Review Panel on OTC Miscellaneous Internal Drug Products and public comments on an advance notice of proposed rulemaking that was based on those recommendations. This proposal in part of the ongoing review of OTC drug products conducted by FDA.

DATES: Written comments, objections, or requests for oral hearing on the proposed regulation before the Commissioner of Food and Drugs by September 3, 1985. New data by July 3, 1986. Comments on the new data by September 3, 1986. These dates are consistent with the time periods specified in the agency's revised procedural regulations for reviewing and classifying OTC drugs (21 CFR 330.10). Written comments on the agency's economic impact determination by October 31, 1985.

ADDRESS: Written comments, objections, new data, or requests for oral hearing to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drugs and Biologics (HFN-210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 5, 1982 (47 FR 490) FDA published, under §330.10(a)(6) (21 CFR 330.10(a)(6)), an advance notice of proposed rulemaking to establish a monograph for OTC smoking deterrent drug products, together with the recommendations of the Advisory Review Panel on OTC Miscellaneous Internal Drug Products, which was the advisory review panel responsible for evaluating data on the active ingredients in this drug class. Interested persons were invited to submit comments by April 5, 1982. Reply comments in response to comments filed in the initial comment period could be submitted by May 5, 1982.

In accordance with § 330.10(a)(10), the data and information considered by the Panel were put on public display in the Dockets Management Branch (HFA-305), Food and Drug Administration (address above), after deletion of a small amount of trade secret information. In response to the advance notice of proposed rulemaking, two drug manufacturers and one consumer submitted comments. Copies of the comments received are on public display in the Dockets Management Branch.

In order to conform to terminology used in the OTC drug review regulations (21 CFR 330.10), the present document is designated as a "tentative final monograph." Its legal status, however, is that of a proposed rule. In this tentative final monograph (proposed rule) to establish Part 357 (21 CFR Part 357), FDA states for the first time its position on the establishment of a monograph for OTC smoking deterrent drug products. Final agency action on this matter will occur with the publication at a future date of a final rule for OTC smoking deterrent drug products.

This proposal constitutes FDA's tentative adoption of the Panel's conclusions and recommendations on OTC smoking deterrent drug products as modified on the basis of the comments received and the agency's independent evaluation of the Panel's report. Modifications have been made for clarity and regulatory accuracy and to reflect new information. Such new information has been placed on file in the Dockets Management Branch (address above). These modifications are reflected in the following summary of the comments and FDA's responses to them.

The OTC procedural regulations (21 CFR 330.10) have been revised to conform to the decision in *Cutler* v. *Kennedy*, 475 F. Supp. 838 (D.D.C. 1979). (See the **Federal Register** of September 29, 1981; 46 FR 47730.) The Court in *Cutler* held that the OTC drug review regulations were unlawful to the extent that they authorized the marketing of Category III drugs after a final monograph had been established. Accordingly, this provision has been deleted from the regulations, which now provide that any testing necessary to resolve the safety or effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking process before the establishment of a final monograph.

Although it was not required to do so under *Cutler*, FDA will no longer use the terms "Category I" (generally recognized as safe and effective and not misbranded), "Category II" (not generally recognized as safe and effective or misbranded), and "Category III" (available data are insufficient to classify as safe and effective, and further testing is required) at the final monograph stage, but will use instead the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (Old Categories II and III). This document retains the concepts of Categories I, II, and III at the tentative final monograph stage.

The agency advises that the conditions under which the drug products that are subject to this monograph would be generally recognized as safe and effective and not misbranded (monograph conditions) will be effective 12 months after the date of publication of the final monograph in the **Federal Register**. On or after that date, no OTC drug products that are subject to the monograph and that contain nonmonograph conditions, i.e., conditions that would cause the drug to be not generally recognized as safe and effective or to be misbranded, may be initially introduced or initially delivered for introduction into interstate commerce unless they are the subject of an approved new drug application (NDA). Further, any OTC drug products subject to this monograph that are repackaged or relabeled after the effective date of the monograph must be in compliance with the monograph regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with the monograph at the earliest possible date.

In the advance notice of proposed rulemaking for OTC smoking deterrent drug products (published in the **Federal Register** of January 5, 1982; 47 FR 490), the agency suggested that the conditions included in the monograph (Category I) be effective 6 months after the date of publication of the final monograph in the **Federal Register**. Experience has shown that relabeling of products covered by the monograph is necessary in order for manufacturers to comply with the monograph. New labels containing the monograph labeling have to be written,

ordered, received, and incorporated into the manufacturing process. The agency has determined that it is impractical to expect new labeling to be in effect 6 months after the date of publication of the final monograph. Experience has shown also that if the deadline for relabeling is too short, the agency is burdened with extension requests and related paperwork.

In addition, some products may have to be reformulated to comply with the monograph. Reformulation often involves the need to do stability testing on the new product. An accelerated aging process may be used to test a new formulation; however, if the stability testing is not successful, and if further reformulation is required, there could be a further delay in having a new product available for manufacture.

The agency wishes to establish a reasonable period of time for relabeling and reformulation in order to avoid an unnecessary disruption of the marketplace that could not only result in economic loss, but also interfere with consumers' access to safe and effective drug products. Therefore, the agency is proposing that the final monograph be effective 12 months after the date of its publication in the **Federal Register**. The agency believes that within 12 months after the date of publication most manufacturers can order new labeling and reformulate their products and have them in compliance in the marketplace. However, if the agency determines that any labeling for a condition included in the final monograph should be implemented sooner, a shorter deadline may be established. Similarly, if a safety problem is identified for a particular nonmonograph condition, a shorter deadline may be set for removal of that condition from OTC drug products.

In the event that new data submitted to the agency during the alloted 12-month comment and new data period are not sufficient to establish "monograph conditions" for OTC smoking deterrent drug products, the final rule will declare these products to be new drugs under section 201(p) of the Federal Food, Drug, and Cosmetic Act, for which new drug applications approved under section 505 of the act and 21 CFR Part 314 are required for marketing. Such rule will also declare that in the absence of an approved new drug application, these products would be misbranded under section 502 of the act. The rule will then be incorporated into 21 CFR Part 310, Subpart E—Requirements for Specific New Drugs or Devices, instead of into an OTC drug monograph in Part 357.

I. The Agency's Tentative Conclusions on the Comments

1. One comment cited an apparent inconsistency between the Panel's recommended objective of a clinical study and the indications recommended by the Panel for smoking deterrent drug products. Under the Panel's proposed testing guidelines, effectiveness is measured only in terms of the number of subjects who "stopped smoking," yet the allowable label claims are couched in such terms as "a temporary aid" and "helps stop temporarily." The comment stated that if the protocol is designed to measure only such absolutes as "stops smoking" then labeling claims that are consistent with those results should also be allowed.

Several comments objected to the position taken by the Panel that "reduction of the number of cigarettes smoked or limited cessation of smoking" is not an aid to stopping smoking and is of little value. The comments argued that a reduction in smoking has not been scientifically demonstrated to be of no help in aiding one to stop smoking. The comment stated that a significant reduction in the number of cigarettes smoked indicates that an aversion to cigarettes has been established and that a substance that could do this, with supplemental motivation, would fulfill its function as a "temporary aid."

The agency recognizes that the Panel's recommended primary objective of a clinical study, i.e., to determine the effectiveness of the drug under study in aiding one to stop smoking, may appear to be inconsistent with the recommended indications for use and with the definition of smoking deterrents where terms such as, "a temporary aid," "helps stop temporarily," etc. are used. Although the desired effect of the drug is to stop the user of the drug from smoking by altering the tobacco taste so that smoking becomes unpleasant and undesirable or by producing tobacco satiety without smoking, the Panel believed that the labeling should reflect and emphasize to the consumer that the product is only for temporary use. However, the agency recognizes that there may be confusion with respect to two of the Panel's recommended Category I labeling indications, i.e., "Helps you stop the cigarette urge temporarily," and "Helps you stop smoking cigarettes temporarily," because the placement of the word "temporarily" does not adequately reflect the intended use and effect of the drug. For this reason the agency is not including these two indications in the tentative final monograph. The agency believes that recommended §§ 357.650(b)(1) and (4), i.e., "A temporary aid to those who want to stop smoking cigarettes," and "A temporary aid to breaking the cigarette habit," more accurately reflect the intended use of the product. The agency has also revised the definition of smoking deterrent to read as follows: *"Smoking deterrent.* A substance that is used temporarily to help those individuals who want to stop smoking (become cigarette free) or to break the cigarette habit."

The agency is aware that recent reports in the literature have indicated that reduction in smoking, or controlled smoking, should be considered as an alternative to abstinence, because of the generally disappointing outcomes of traditional abstinence-oriented smoking-treatment studies (Refs. 1, 2, and 3). One such report analyzed a number of subjects throughout the period of follow-up that were either abstinent or nonabstinent after undergoing treatment. The authors concluded that abstinence and reduction are not necessarily different points on the same continuum, but rather that abstinence and smoking reduction should be treated as two potentially discrete treatment outcomes (Ref. 4). Reduction in smoking may be achieved by decreasing the number of cigarettes smoked or by switching to a low nicotine-low tar (LN/LT) cigarette. However, evidence on the effects of controlled smoking on the health of the individual smoker has been contradictory. Some studies indicate that although smokers may reduce the number of cigarettes smoked or progressively switch to LN/LT cigarettes, they inadvertently increase their puff volume, puff frequency, or depth of inhalation and thereby increase smoke-related health risks (Refs. 5 through 8). Other studies suggest that smokers who reduce the numbers of cigarettes or switch to LN/LT cigarettes do not compensate by increasing puff volume, frequency, or depth of inhalation (Refs. 1, 2, 3, 9, 10, and 11). Even so, there is insufficient evidence to show that a significant reduction in smoking will lead to cessation or that reduction will lower the health risks associated with smoking (Ref. 8). If sufficient evidence becomes available demonstrating that a reduction in smoking results in a significant health benefit to consumers, then well-controlled studies to establish the safety and efficacy of smoking deterrent drug products in reducing smoking will be needed. These studies should include appropriate objective measurements that account for compensatory behavior

in smoking and should be of sufficient length so that the results are meaningful.

Because of a lack of adequate data, the agency is not including smoking reduction claims in this tentative final monograph. Should sufficient data regarding reduction claims become available before the publication of the final monograph, the agency will consider including reducing in smoking claims in the final monograph.

References

(1) Prue, D. M., et al., "Carbon Monoxide Levels and Rates of Consumption After Changing to Low Tar and Nicotine Cigarettes," *Behaviour Research and Therapy*, 21:201–207, 1983.

(2) Prue, D. M., et al., "Brand Fading: The Effects of Gradual Changes to Low Tar and Nicotine Cigarettes on Smoking Rate, Carbon Monoxide, and Thiocyanate Levels," *Behavior Therapy*, 12:400–416, 1981.

(3) Foxx, R. M., and R. A. Brown, "Nicotine Fading and Self-Monitoring for Cigarette Abstinence or Controlled Smoking," *Journal of Applied Behavior Analysis*, 12:111–125, 1979.

(4) Poole, A. D., et al., "The Rapid-Smoking Technique: Subject Characteristics and Treatment Outcome," *Behavior Research and Therapy*, 20:1–7, 1982.

(5) Herning, R. I., et al., "How a Cigarette is Smoked Determines Blood Nicotine Levels," *Clinical Pharmacology and Therapeutics*, 33:84–90, 1983.

(6) Ho-Yen, D. O., et al., "Why Smoke Fewer Cigarettes?" *Pharmacology Biochemistry and Behavior*, 17:1905–1907, 1982.

(7) Russell, M. A. H., "Realistic Goals for Smoking and Health—A Case for Safer Smoking," *Lancet*, 1:254–257, 1974.

(8) "The Changing Cigarette. A Report of the Surgeon General," U.S. Department of Health and Human Services, DHHS Publication No. (PHS) 81–50156., U.S. Government Printing Office, Washington, DC, 1981.

(9) Foxx, R. M., and E. Axelroth, "Nicotine Fading, Self-Monitoring and Cigarette Fading to Produce Abstinence or Controlled Smoking," *Behavior Research and Therapy*, 21:17–27, 1983.

(10) Stitzer, M. L. and G. E. Bigelow, "Contingent Reinforcement for Reduced Carbon Monoxide Levels in Cigarette Smokers," *Addictive Behaviors*, 7:403–412, 1982.

(11) Bernard, H.S., and J.S. Efran, "Case Histories and Shorter Communications: Eliminating Versus Reducing Smoking Using Pocket Timers," *Behavior Research and Therapy*, 10:399–401, 1972.

2. Several comments objected to the Panel's recommended guidelines for developing protocols for evaluating OTC smoking deterrents. The comments gave the following reasons: (1) The recommended guidelines are unduly detailed and demanding and impose costly drug testing; (2) the guidelines require that all smoking deterrents meet the same criteria and do not allow for differences in mechanism of action and length of use time; (3) the guidelines do not include a parameter for assessing the subjects compliance to therapeutic regimen or control for the significant variability of tar, nicotine, and other ingredients found in different types of cigarettes; (4) the guidelines fail to establish the meaning of the terms "clinically significant," as they do "statistically significant;" (5) the measurements of thiocyanate and cotinine should be preferred because measurements for carbon monoxide are not a reliable indication of smoking; and (6) the requirement that two separate clinical trials should be conducted by different investigators at different geographical sites is excessive for old drugs not subject to an NDA.

The agency has not addressed specific testing guidelines in this document. In revising the OTC drug review procedures relating to Category III, published in the **Federal Register** of September 29, 1981 (46 FR 47730), the agency advised that tentative final and final monographs will not include recommended testing guidelines for conditions that industry wishes to upgrade to monograph status. Instead, the agency will meet with industry representatives at their request to discuss testing protocols. On the same date, the agency also published in the **Federal Register** a policy statement relating to a number of matters involving the testing of Category III ingredients (46 FR 47740) including meetings with industry or other interested persons. (See also part II. paragraph 2 below—Testing of Category II and Category III conditions.)

3. One comment stated that the labeling of a lobeline sulfate-containing product did not include warnings or cautions against the use of the product while taking other medications. The individual submitting the comment reported personally experiencing the symptoms of vomiting, faintness, blurred vision, stomach cramping, and dehydration after taking a lobeline sulfate-containing product for a week while also taking Dyazide(®) and Valium(®). The comment urged the agency to establish rules requiring manufacturers and distributors to label the products clearly as to identity, contraindications or precautions, and particularly to include warnings concerning interactions with other medications.

The agency agrees with the comment that the labeling of OTC drug products should contain the necessary information needed to use the drug safely. Under current regulations, all OTC drug products are required to list the active ingredients on the label. The agency has fully evaluated the case report submitted in the comment. However, the facts in the case are such that a clear association between concomitant use of the drugs and the symptoms that occurred cannot be established. The agency is aware, however, that lobeline sulfate can cause gastrointestinal side effects and notes that for this reason some marketed products include buffering ingredients. In addition, in its discussion on the safety of lobeline sulfate (47 FR 496) the Panel noted that the symptoms of stomach ache, severe heartburn, nausea, vomiting, and faintness have been reported from a single dose of 8 milligrams (mg) lobeline sulfate. Because lobeline sulfate can cause side effects, the agency believes that a warning may be appropriate.

However, because lobeline sulfate is not Category I at this time, the agency is not proposing a warning statement in this tentative final monograph. In the event that lobeline sulfate reaches monograph status the agency will consider including a warning statement in a final monograph at that time.

4. One comment objected to the Panel's Category II classification of silver nitrate on the basis that it was not able to locate any significant body of data demonstrating the safety and effectiveness of silver nitrate when used as an OTC smoking deterrent. The firm submitting the comment stated that it has been active in developing a mouthrinse utilizing silver nitrate as an active ingredient for use as an OTC smoking deterrent. The comment submitted two studies that it contends clearly demonstrate the efficacy of silver nitrate as a smoking deterrent (Ref. 1). The comment also asserted that the Panel failed to discuss smoking deterrents in aqueous mouthrinse form, which it contended is more appropriate and more effective in treating the problem of smoking. Additionally, the comment stated that because silver appears to have a low systemic toxicity and because the Panel did not list any potential safety problem with respect to the use of silver nitrate in a smoking deterrent drug product, the findings of safety with respect to silver acetate should be also applied to silver nitrate. The comment requested that silver nitrate be reclassified from Category II to the same Category as that for silver acetate so that testing already begun may be completed.

The agency notes that the Panel's report does not discuss nor does the recommended monograph require that

smoking deterrent active ingredients be administered in any specified oral form. The only requirement for form of administration of an OTC drug is that the vehicle of administration be safe and that it not interfere with the safety and effectiveness of the active ingredient.

The agency further notes that although the studies submitted were intended as support for the safety and efficacy of silver nitrate, the drug used in the studies was described as a povidone-silver nitrate preparation (Ref. 1). Therefore, the studies cannot be used in support of silver nitrate as an OTC smoking deterrent. Because no data were submitted to the Panel and no data have been submitted to the agency to support the use of silver nitrate as a single active ingredient for use as an OTC smoking deterrent, the agency concurs with the Panel that silver nitrate should be Category II. Additionally, the agency is not aware of the marketing in the United States of any OTC smoking deterrent drug product containing povidone-silver nitrate as an active ingredient. Accordingly, the agency is unable to determine at this time that the ingredient is generally recognized as safe and effective as an OTC smoking deterrent. Morever, povidone-silver nitrate has not been marketed to a material extent or for a material time in the United States for use OTC smoking deterrent drug products. Therefore, the agency considers this ingredient to be a new drug within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(p)). The ingredient may not be marketed as a smoking deterrent until FDA has approved an NDA for such use.

Reference

(1) Comment No. C00001, Docket No. 81N-0027, Dockets Management Branch.

II. The Agency's Tentative Adoption of the Panel's Report

A. Summary of Ingredient Categories and Testing of Category II and Category III Conditions.

1. *Summary of ingredient categories.* The agency has reviewed all claimed active ingredients submitted to the Panel, as well as other data and information available at this time, and concurs with the Panel's classification of these ingredients. For the convenience of the reader the following table is included as a summary of the categorization of OTC smoking deterrent active ingredients.

Smoking deterrent active ingredients	Panel	Agency
Cloves, ground	II	II
Coriander, ground	II	II
Eucalyptus oil	II	II
Ginger, ground Jamaica	II	II
Lemon oil, terpeneless	II	II
Licorice root extract	II	II
Lobeline (in the form of lobeline sulfate or its pharmocological equivalent as natural lobelia alkaloids or *Lobelia inflata* herb.	III	III
Menthol	II	II
Methyl salicylate	II	II
Povidone-silver nitrate		New drug.
Quinine ascorbate	II	II
Silver acetate	III	III
Silver nitrate	II	II
Thymol	II	II

The agency is not aware of any data demonstrating the safety and effectiveness of any ingredient not listed above for OTC use as a smoking deterrent drug product including those listed in the Panel's report at 47 FR 492, part I, paragraph C.2. Therefore, the agency classifies all other ingredients as Category II for this use.

2. *Testing of Category II and Category III conditions.* The Panel recommended testing guidelines for OTC smoking deterrent drug products (47 FR 498). The agency is offering these guidelines as the Panel's recommendations without adopting them or making any formal comment on them. Interested persons may communicate with the agency about the submission of data and information to demonstrate the safety or effectiveness of any smoking deterrent ingredient or condition included in the review by following the procedures outlined in the agency's policy statement published in the **Federal Register** of September 29, 1981 (46 FR 47740) and clarified April 1, 1983 (48 FR 14050). This policy statement includes procedures for the submission and review of proposed protocols, agency meetings with industry or other interested persons, and agency communications on submitted test data and other information.

B. Summary of the Agency Changes.

FDA has considered the comments and other relevant information and concludes that it will tentatively adopt the Panel's report and recommended monograph with the changes described in FDA's responses to the comments above and with other changes described in the summary below. A summary of the changes made by the agency follows.

1. The indications "Helps you stop the cigarette urge temporarily" and "Helps you stop smoking cigarettes temporarily" have not been included in the monograph. (See comment 1 above.)

2. The definition of smoking deterrent has been changed. (See comment 1 above.)

3. Because there are no Category I ingredients and because the purpose of an OTC drug monograph is to set forth those specific conditions under which OTC drugs are generally recognized as safe and effective and not misbranded, the agency is not proposing in this tentative final monograph the labeling recommended by the Panel in § 357.650(b)(6) (mechanism of action labeling). Should data establishing the safety and effectiveness of any smoking deterrent active ingredient be submitted during the allotted 12-month comment and new data period, the agency will consider appropriate mechanism of action claims for inclusion in the final monograph.

4. The statement "This product's effectiveness is directly related to the user's motivation to stop smoking cigarettes" has not been included in the tentative final monograph. The agency believes the statement is unnecessary because it is similar to information already contained in the indications.

During the course of the OTC drug review, the agency has maintained that the terms that may be used in an OTC drug product's labeling are limited to those terms included in a final OTC drug monograph. (This policy has become known as the "exclusivity rule.") The agency's position has been that it is necessary to limit the acceptable labeling language to that developed and approved through the OTC drug review process in order to ensure the proper and safe use of OTC drugs. The agency has never contended, however, that any list of terms developed during the course of the review exhausts all the possibilities of terms that appropriately can be used in OTC drug labeling. Suggestions for additional terms or for other labeling changes may be submitted as comments to proposed or tentative final monographs within the specified time periods or through petitions to amend monographs under § 330.10(a)(12).

During the course of the review, FDA's position on the "exclusivity rule" has been questioned many times in comments and objections filed in response to paticular proceedings and in correspondence with the agency. The agency has also been asked by The Proprietary Association to reconsider its position. In a notice published in the **Federal Register** of July 2, 1982 (47 FR 29002), FDA announced that a hearing would be held to assist the agency in resolving this issue. On September 29, 1982, FDA conducted an open public forum at which interested parties presented their views. The forum was a legislative type administrative hearing

under 21 CFR Part 15 that was held in response to a request for a hearing on the tentative final monographs for nighttime sleep-aids and stimulants (published in the **Federal Register** of June 13, 1978; 43 FR 25544).

After considering the testimony presentd at the hearing and the written comments submitted to the record, in the **Federal Register** of April 22, 1985 (50 FR 15810), FDA proposed to change its exclusivity policy for the labeling of OTC drug products. As proposed, manufacturers may select one of the following options:

(1) The label and labeling would contain within a boxed area designated "APPROVED USES" the specific wording on indications for use established under an OTC drug monograph. The boxed area would be required to be displayed in a prominent and conspicuous location. As under the present policy, the labeling in the boxed area would be required to be stated in the exact language of the monograph. However, with this option a statement that the information in the box was published by the Food and Drug Administration would appear either in the box or reasonably close by. At the manufacturer's option, the designation of the boxed area and the statement that the labeling was established by FDA could be combined.

(2) As a complete alternative to using the boxed area designated "APPROVED USES," the proposal would for the first time allow manufacturers an option to use other truthful and nondeceptive statements relating only to the indications established in an applicable monograph subject to the prohibitions in section 502(a) of the act against misbranding by the use of false or misleading labeling. If this alternative is selected, the manufacturer would not be able to use a boxed area or include a statement that the indications are endorsed by the Food and Drug Administration.

(3) As third alternative, manufacturers could use both a boxed area with the monograph language and also, elsewhere in the labeling, use other non-monograph language that meets the statutory standards of truthfulness and accuracy.

Regardless, other aspects of OTC drug labeling, such as the statement of identity, warnings, and directions, would continue to be required to comply with the monograph, including following any exact language established in the monograph.

The proposal to change the exclusivity policy provides for 90 days of public comment. After considering all comments submitted, the agency will announce its final decision on this matter, in a future issue of the **Federal Register.**

The agency has examined the economic consequences of this proposed rulemaking in conjunction with other rules resulting from the OTC drug review. In a notice published in the **Federal Register** of February 8, 1983 (48 FR 5806), the agency announced the availability of an assessment of these economic impacts. The assessment determined that the combined impacts of all the rules resulting from the OTC drug review do not constitute a major rule according to the criteria established by Executive Order 12291. The agency therefore concludes that none of these rules, including this proposed rule for OTC smoking deterrent drug products, is a major rule.

For purposes of the Regulatory Flexibility Act, Public Law 96-354, the economic assessment concluded that, while the average economic impact of the overall OTC drug review on small entities will not be significant, the possibility of larger-than-average impacts on some small firms in some years might exist. Therefore, the assessment included a discretionary regulatory flexibility analysis in the event that an individual rule might impose a significant impact on a substantial number of small entities. The analysis identified the possibilities of reducing burdens on small firms through the use of (a) relaxed safety and efficacy standards or (b) labels acknowledging unproven safety or efficacy. However, the analysis concluded that there is no legal basis for any preferential waiver, exemption, or tiering strategy for small firms compatible with the public health requirements of the Federal Food, Drug, and Cosmetic Act. Nevertheless, to avoid overlooking any problems or feasible possibilities of relief peculiar to this group of products, the agency invites public comment regarding any substantial or significant economic impact that this rulemaking would have on OTC smoking deterrent drug products. Comments regarding the economic impact of this rulemaking should be accompanied by appropriate documentation. The agency previously invited public comment in the advance notice of proposed rulemaking regarding any impact that this rulemaking would have on OTC smoking deterrent drug products. No comments on economic impacts were received.

Any comments on the agency's initial determination of the economic consequences of this proposed rulemaking should be submitted by October 31, 1985. The agency will evaluate any comments and supporting data that are received and will reassess the economic impact of this rulemaking in the preamble to the final rule.

The agency has determined that under 21 CFR 25.24(c)(6) (April 26, 1985; 50 FR 16636) 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.

Interested persons may, on or before September 3, 1985 submit to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written comments, objections, or requests for oral hearing before the Commissioner on the proposed regulation. A request for an oral hearing must specify points to be covered and time requested. Written comments on the agency's economic impact determination may be submitted on or before October 31, 1985. Three copies of all comments, objections, and requests are to be submitted, except that individuals may submit one copy. Comments, objections, and requests are to be identified with the docket number found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Comments, objections, and requests may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. Any scheduled oral hearing will be announced in the **Federal Register.**

Interested persons, on or before July 3, 1986 may also submit in writing new data demonstrating the safety and effectiveness of those conditions not classified in Category I. Written comments on the new data may be submitted on or before September 3, 1986. These dates are consistent with the time periods specified in the agency's final rule revising the procedural regulations for reviewing and classifying OTC drugs, published in the **Federal Register** of September 29, 1981 (46 FR 47730). Three copies of all data and comments on the data are to be submitted, except that individuals may submit one copy, and all data and comments are to be identified with the docket number found in brackets in the heading of this document. Data and comments should be addressed to the Dockets Management Branch (HFA-305) (address above). Received data and comments may also be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

In establishing a final rule, the agency will ordinarily consider only data submitted prior to the closing of the

administrative record on September 3, 1986. Data submitted after the closing of the administrative record will be reviewed by the agency only after a final rule is published in the **Federal Register**, unless the Commissioner finds good cause has been shown that warrants earlier consideration.

List of Subjects in 21 CFR Part 357

OTC drugs, Anthelmintic drug products, Cholecystokinetic drug products, Deodorant drug products for internal use, Orally administered drug products for fever blisters, Poison treatment drug products, Smoking deterrent drug products.

Therefore, under the Federal Food, Drug, and Cosmetic Act and the Administrative Procedure Act it is proposed that Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations be amended in Part 357 by adding new Subpart G to read as follows:

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

* * * * *

Subart G—Smoking Deterrent Drug Products

Sec.
357.601 Scope.
357.603 Definition.
357.610 Smoking deterrent active ingredients. [Reserved]
357.650 Labeling of smoking deterrent drug products.

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

Subpart G—Smoking Deterrent Drug Products

§ 357.601 Scope.

(a) An over-the-counter smoking deterrent drug product in a form suitable for oral administration is generally recognized as safe and effective and is not misbranded if it meets each of the conditions in this subpart and each general condition established in § 330.1.

(b) References in this subpart to regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21 unless otherwise noted.

§ 357.603 Definition.

As used in this subpart:

Smoking deterrent. A substance that is used temporarily to help those individuals who want to stop smoking (become cigarette free) or to break the cigarette habit.

§ 357.610 Smoking deterrent active ingredients. [Reserved]

§ 357.650 Labeling of smoking deterrent drugs products.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as a "smoking deterrent."

(b) *Indications.* The labeling of the product states, under the heading "Indications," the following: "A temporary aid to those who want to" (select one or both of the following: "stop smoking cigarettes" or "break the cigarette habit"). Other truthful and nonmisleading statements describing only the indications for use that have been established and listed above, may also be used, as provided in § 330.1(c)(2) of this chapter, subject to the prohibitions in section 502(a) of the act against false or misleading labeling and the prohibition in section 301(d) of the act against the introduction into interstate commerce or unapproved new drugs.

(c) *Warnings.* [Reserved]

(d) *Directions.* [Reserved]

Interested persons may, on or before September 3, 1985 submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments, objections, or requests for oral hearing before the Commissioner on the proposed regulation. A request for an oral hearing must specify points to be covered and time requested. Written comments on the agency's economic impact determination may be submitted on or before October 31, 1985. Three copies of all comments, objections, and requests are to be submitted, except that individuals may submit one copy. Comments, objections, and requests are to be identified with the docket number found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Comments, objections, and requests may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. Any scheduled oral hearing will be announced in the **Federal Register.**

Interested persons, on or before July 3, 1986 may also submit in writing new data demonstrating the safety and effectiveness of those conditions not classified in Category I. Written comments on the new data may be submitted on or before September 3, 1986. These dates are consistent with the time periods specified in the agency's final rule revising the procedural regulations for reviewing and classifying OTC drugs, published in the **Federal Register** of September 29, 1981 (46 FR 47730). Three copies of all data and comments on the data are to be submitted, except that individuals may submit one copy, and all data and comments are to be identified with the docket number found in brackets in the heading of this document. Data and comments should be addressed to the Dockets Management Branch (HFA–305) (address above). Received data and comments may also be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

In establishing a final rule, the agency will ordinarily consider only data submitted prior to the closing of the administrative record on September 3, 1986. Data submitted after the closing of the administrative record will be reviewed by the agency only after a final rule is published in the **Federal Register,** unless the Commissioner finds good cause has been shown that warrants earlier consideration.

Dated: February 8, 1985.

Frank E. Young,

Commissioner of Food and Drugs.

Margaret M. Heckler,

Secretary of Health and Human Services.

[FR Doc. 85–15789 Filed 7–2–85; 8:45 am]

BILLING CODE 4160–01–M

Federal Register

Wednesday
July 3, 1985

Part IV

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 7, 15, 19, 34, and 52
Federal Acquisition Regulation; Interim Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 7, 15, 19, 34, and 52

[Federal Acquisition Circular 84-10]

Federal Acquisition Regulation

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule and request for comment.

SUMMARY: Federal Acquisition Circular (FAC) 84-10 amends the Federal Acquisition Regulation (FAR) with respect to the following: Planning for Future Competition, Integrity of Unit Prices, Certification of Commercial Pricing, Small Business Subcontracting Policy, and Definition of Major System.

DATES: *Effective Date:* July 3, 1985. Comments must be received on or before August 2, 1985. Please cite FAC 84-10 in all correspondence on this subject.

ADDRESS: Interested parties should submit written comments to: General Services Administration, ATTN: FAR Secretariat (VR), 18th & F Streets, NW., Room 4041, Washington, D.C. 20405.

FOR FURTHER INFORMATION CONTACT: FAR Secretariat, Room 4041, GS Building, Washington, D.C. 20405, Telephone (202) 523-4755.

SUPPLEMENTARY INFORMATION:

A. Background

The FAR revisions in FAC 84-10 are required by the Defense Procurement Reform Act of 1984 (Title XII of the Department of Defense Authorization Act, 1985, Pub. L. 98-525), and the Small Business and Federal Procurement Competition Enhancement Act of 1984, (Pub. L. 98-577).

B. Determination To Issue a Temporary Regulation

A determination has been made under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator of the National Aeronautics and Space Administration that the regulations in FAC 84-10 must be issued as temporary regulations in compliance with section 22 of the Office of Federal Procurement Policy Act, as amended.

C. Regulatory Flexibility Act

Pursuant to the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), it has been determined that this temporary rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act and, therefore, no regulatory flexibility analysis has been prepared.

List of Subjects in 48 CFR Parts 7, 15, 19, 34, and 52

Government procurement.

Dated: July 1, 1985.

Lawrence J. Rizzi,

Director, Office of Federal Acquisition and Regulatory Policy.

Federal Acquisition Circular

[Number 84-10]

The material contained in FAC 84-10 is effective immediately.

S.J. Evans,

Assistant Administrator for Procurement, NASA.

Mary Ann Gilleece,

Deputy Under Secretary (Acquisition Management).

Dwight Ink,

Acting Administrator.

Federal Acquisition Circular (FAC) 84-10 amends the Federal Acquisition Regulation (FAR) as specified below.

Item I—Planning for Future Competition

FAR Part 7, Acquisition Planning, is amended to implement section 1213 of Pub. L. 98-525 and section 201 of Pub. L. 98-577.

The revisions (a) require that the contracting officer, prior to contracting, review the acquisition history of the supplies or services and the description of the supplies, and (b) specify new requirements applicable to planning for the solicitation of a major system development contract or a major system production contract.

Item II—Integrity of Unit Prices

FAR Part 15, Contracting by Negotiation, and Part 52, Solicitation Provisions and Contract Clauses, are amended to implement section 1245 of Pub. L. 98-525 and section 501 of Pub. L. 98-577.

Under the new coverage, offerors/contractors (a) are required to distribute costs within contracts on a basis that ensures that unit prices of supplies are in proportion to the item's base cost, (b) may be required to identify supplies that they will not manufacture or to which they will not contribute significant value, and (c) are required to flow the requirements down to subcontractors.

Item III—Certification of Commercial Pricing

FAR Part 15, Contracting By Negotiation, and Part 52, Solicitation Provisions and Contract Clauses, are amended to implement section 1216 of Pub. L. 98-525 and section 204 of Pub. L. 98-577 regarding commercial pricing for supplies.

Under the new coverage offerors/contractors in certain acquisitions are required to certify that the prices offered for those items of supply that the contractor offers for sale to the public are no higher than any lower price charged to any other customer during the preceding 60 days, or submit a written justification for any differences.

Item IV—Small Business Subcontracting Policy

FAR Part 19, Small Business and Small Disadvantaged Business Concerns, and Part 52, Solicitation Provisions and Contract Clauses, are amended to implement section 402 of Pub. L. 98-577.

The revision will affect the subcontracting programs of firms doing business with the Government. It widens the area where subcontracting possibilities are considered to exist, further specifies the types of acquisitions that are to be considered for contracting and subcontracting with small and small disadvantaged business concerns, and states the policy of the United States that its prime contractors establish procedures to ensure timely payments to small and small disadvantaged subcontractors.

Item V—Definition of Major System

FAR Part 34, Major System Acquisition, is amended to include in the FAR the definition of "major system" that is specified in Sec. 1211 of the Defense Procurement Reform Act of 1984 (Title XII of the Department of Defense Authorization Act, 1985, Pub. L. 98-525), which is essentially the same as the definition specified in section 102 of the Small Business and Federal Procurement Competition Enhancement Act of 1984 (Pub. L. 98-577).

1. Therefore, 48 CFR Parts 7, 15, 19, 34, and 52 are amended as set forth below. The authority citation for 48 CFR Parts 7, 15, 19, 34, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137, and 42 U.S.C. 2453(c).

PART 7—ACQUISITION PLANNING

2. Section 7.103 is amended by adding paragraph (k) to read as follows:

7.103 Agency-head responsibilities.

* * * * *

(k) Assuring that the contracting officer, prior to contracting, reviews:

(1) The acquisition history of the supplies and services; and

(2) A description of the supplies, including, when necessary for adequate description, a picture, drawing, diagram, or other graphic representation.

3. Section 7.106 is added to read as follows:

7.106 Additional requirements for major systems.

(a) In planning for the solicitation of a major system (see Part 34) development contract, planners shall consider requiring offerors to include, in their offers, proposals to incorporate in the design of a major system—

(1) Items which are currently available within the supply system of the agency responsible for the major system, available elsewhere in the national supply system, or commercially available from more than one source; and

(2) Items which the Government will be able to acquire competitively in the future if they are likely to be needed in substantial quantities during the system's service life.

(b) In planning for the solicitation of a major system (see Part 34) production contract, planners shall consider requiring offerors to include, in their offers, proposals identifying opportunities to assure that the Government will be able to obtain, on a competitive basis, items acquired in connection with the system that are likely to be acquired in substantial quantities during the service life of the system. Proposals submitted in response to such requirements may include the following:

(1) Proposals to provide the Government the right to use technical data to be provided under the contract for competitive future acquisitions, together with the cost to the Government, if any, of acquiring such technical data and the right to use such data.

(2) Proposals for the qualification or development of multiple sources of supply for competitive future acquisitions.

(c) In determining whether to apply paragraphs (a) and (b) above, planners shall consider the purposes for which the system is being acquired and the technology necessary to meet the system's required capabilities. If such proposals are required, the contracting officer shall consider them in evaluating competing offers. In noncompetitive awards, the factors in paragraphs (a) and (b), above may be considered by the contracting officer as objectives in negotiating the contract.

PART 15—CONTRACTING BY NEGOTIATION

4. Sections 15.812, 15.812–1, and 15.812–2, are added to read as follows:

15.812 Unit prices.

15.812–1 General.

(a) Although direct and indirect costs are generally allocated to contracts in accordance with the Cost Accounting Standards of Part 30 (when applicable) and the Contract Cost Principles and Procedures of Part 31, for the purpose of pricing all items of supplies, distribution of those costs within contracts shall be on a basis that ensures that unit prices are in proportion to the item's base cost (manufacturing or acquisition costs). Any method of distributing costs to line items that distorts the unit prices shall not be used. For example, distributing costs equally among line items is not acceptable except when there is little or no variation in base cost.

(b) When contracting by negotiation, without full and open competition, contracting officers shall require that offerors identify in their proposals those items of supply which they will not manufacture or to which they will not contribute significant value. The contracting officer shall require similar information when contracting by negotiation with full and open competition if adequate price competition is not expected (see 15.804–3(b)). The information need not be requested in connection with the award of contracts under the General Services Administration's competitive multiple award schedule program. Such information shall be used to determine whether the intrinsic value of an item has been distorted through application of overhead and whether such items shall be considered for breakout. The contracting officer may require such information in any other negotiated contracts when appropriate.

15.812–2 Contract clause.

The contracting officer shall insert the clause at 52.215–26, Integrity of Unit Prices, in all solicitations and contracts other than small purchases under Part 13 or involving construction or architect-engineer services under Part 36 or utility services under Subpart 8.3. The contracting officer shall insert the clause with its *Alternate I* when contracting without full and open competition or when prescribed by agency regulations.

5. Sections 15.813, 15.813–1, 15.813–2, 15.813–3, 15.813–4, and 15.813–5 are added to read as follows:

15.813 Commercial pricing certificates.

15.813–1 Policy.

The Government should not purchase items of supply offered for sale to the public at a price that exceeds the lowest price at which such items are sold by the contractor unless the price difference is clearly justified by the seller or unless exempt under 15.813–3. To this end, 10 U.S.C. 2323 and 41 U.S.C. 253e require an offeror to certify that the price offered is not more than its lowest difference and providing justification for that difference.

15.813–2 Applicability.

(a) Except as provided in 15.813–3, commercial pricing certificates are required to be submitted with any offer/proposal covering any item or items that are offered for sale to the public which is submitted in connection with any of the following:

(1) Contracts not awarded on the basis of full and open competition.

(2) Contract modifications including contract modifications for additional items but not including contract modifications that are within the scope and under the terms of the contract, such as contract modifications issued pursuant to the Changes clause, or funding and other administrative changes.

(3) Orders under the provisioning line item of a contract or under a Basic Ordering Agreement or under a similar arrangement.

(b) If the contract, modification or order is awarded without a definitive price, such as a letter contract or an unpriced order, the commercial pricing certificate is not required prior to award but rather will be submitted with the offer or proposal furnished to definitize the price.

(c) Notwithstanding any limitations contained in (a) above, the contracting officer may require a commercial pricing certificate whenever it is necessary to protect the interests of the Government. Examples could be where adequate price competition does not exist despite full and open competition or where a modification issued pursuant to the Changes clause results in a substitution of commercial items for non-commercial items.

15.813–3 Exemptions from commercial pricing certificates.

(a) For civilian agencies, not including NASA, a certificate of commercial pricing is not required in connection

with the acquisition of items unless the items being acquired are individual parts, components, subassemblies, assemblies or subsystems integral to a major system, and other property which may be replaced during the service life of the system, including spare parts and replenishment spare parts, but not including packaging or labeling associated with shipment or identification of an item.

(b) The contracting officer shall not ordinarily require a certificate of commercial pricing when—

(1) The simplified small purchase prodedures of Part 13 are being used;

(2) An order is placed under an indefinite delivery type contract (a certificate is required in connection with the award without full and open competition of an indefinite delivery type contract);

(3) The contracting officer determines that obtaining the commercial pricing certificate is not appropriate because of (i) national security considerations; or (ii) differences in quantities, quality, delivery, or other terms and conditions of the contract from commercial contract terms; or

(4) The contracting officer determines that no commercial items are included in the contract, modification or order.

15.813-4 Procedures.

(a) When commercial pricing certificates are required in accordance with 15.813-2 above, the contracting officer shall require the contractor to submit the certificate as set forth in the clause at 52.215-32, Certification of Commercial Pricing. The contracting officer should assess market conditions for the items expected to be covered by the certificate to determine whether the standard 60-day time period specified in the certificate is appropriate. If the frequency of price fluctuations or other circumstances persuade the contracting officer that a shorter or longer period is appropriate, the time period should be modified accordingly.

(b) The contracting officer shall request submission of a new certificate when the validity of the certificate originally submitted with an offer/proposal becomes doubtful prior to award due to submission of a new or revised proposal or as a result of discussions.

(c) If, before agreement on price, the contracting officer learns that the certificate is inaccurate, incomplete, or misleading, the contracting officer shall immediately bring the matter to the attention of the offeror/contractor, request a new certificate, and negotiate accordingly.

(d) If, after award, the contracting officer learns or suspects that commercial prices offered were defective, the contracting officer shall request, as appropriate, an audit to evaluate the commercial prices under authority of paragraph (b) of the clause at 52.215-32. If the contracting officer determines that a certificate is inaccurate, incomplete or misleading, the Government is entitled to a price adjustment for the overcharge (see paragraph (c) of the clause at 52.215-32).

(e) Individual or class determinations made under 15.813-3(b)(3) or (b)(4) will be documented in the contract file.

(f) Possession of a contractor's Certificate of Commercial Pricing is not a substitute for examining and analyzing a contractor's proposal.

15.813-5 Contract clause.

The contracting officer shall insert the clause at 52.215-32, Certification of Commercial Pricing, in all solicitations and contracts unless exempted under 15.813-3(a) or (b)(1).

PART 19—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

6. Section 19.201 is amended by revising the first sentence of paragraph (a) to read as follows:

19.201 General policy.

(a) It is the policy of the Government to place a fair proportion of its acquisitions, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems, with small business concerns and small disadvantaged business concerns. * * *

* * * * *

7. Section 19.702 is amended by adding a second sentence to the introductory text to read as follows:

19.702 Statutory requirements.

* * * * *

It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals.

* * * * *

PART 34—MAJOR SYSTEM ACQUISITION

8. Section 34.001 is added to read as follows:

34.001 Definition.

"Major system" means that combination of elements that will function together to produce the capabilities required to fulfill a mission need. The elements may include hardware, equipment, software or any combination thereof, but exclude construction or other improvements to real property. A system shall be considered a major system if—

(a) The Department of Defense is responsible for the system and the total expenditures for research, development, test, and evaluation for the system are estimated to be more than $75,000,000 (based on fiscal year 1980 constant dollars) or the eventual total expenditure for the acquisition exceeds $300,000,000 (based on fiscal year 1980 constant dollars);

(b) A civilian agency is responsible for the system and total expenditures for the system are estimated to exceed $750,000 (based on fiscal year 1980 constant dollars) or the dollar threshold for a "major system" established by the agency pursuant to Office of Management and Budget (OMB) Circular A-109, entitled "Major Systems Acquisition", whichever is greater; or

(c) The system is designated a "major system" by the head of the agency responsible for the system.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

9. Section 52.215-26 is added to read as follows:

52.215-26 Integrity of Unit Prices.

As prescribed in 15.812-2, insert the following clause:

Integrity of Unit Prices (June 1985)

(a) Any proposal submitted for the negotiations of prices for items of supplies shall distribute costs within contracts on a basis that ensures that unit prices are in proportion to the items' base cost (e.g., manufacturing or acquisition costs). Any method of distributing costs to line items that distorts unit prices shall not be used. For example, distributing costs equally among line items is not acceptable except when there is little or no variation in base cost.

(b) The Offeror/Contractor shall also identify those supplies which it will not manufacture or to which it will not contribute significant value when requested by the Contracting Officer.

(c) The Contractor shall insert the substance of this clause in all subcontracts.

(End of clause)

Alternate I (JUN 1985). As prescribed in 15.812-2, substitute the following paragraph (b) for paragraph (b) of the basic clause:

(b) The Offeror/Contractor shall also identify those supplies which it will not manufacture or to which it will not contribute significant value.

10. Section 52.215-32 is added to read as follows:

52.215-32 Certification of Commercial Pricing.

As prescribed in 15.813-5, insert the following clause: The 60-day period may be changed by the contracting officer in accordance with 15.813-4(a):

Certification of Commercial Pricing (Jun 1985)

(a) The Offeror/Contractor shall execute and submit to the Contracting Officer the following certificate with any offer/proposal as required by section 15.813-2 of the Federal Acquisition Regulation (FAR) or as requested by the Contracting Officer:

Certificate of Commercial Pricing

(1) Unless justified in (2) below, by submission of this offer/proposal, the Offeror /Contractor certifies that the prices offered for those items of supply (whether or not separately identified) that the Contractor offers for sale to the public are no higher than any lower price charged to any other customer, including any governmental instrumentality, during the preceding 60 days.

(2) All items for which prices offered are higher than any lower price charged to any other customer during the preceding 60 days are identified below (including the amount(s) by which such offered prices are higher) and a written justification for the differences is attached.

Items	Price Differences

(List as necessary)

Offer/Proposal No. _____
Firm _____
Name _____
Title _____
Date _____

(End of certificate)

(b) The Contracting Officer or representatives of the Contracting Officer who are employees of the Government shall have the right to examine and audit all books, records, documents and other data of the Contractor related to the pricing of the commercial items covered by this offer/ proposal. The contractor shall make these books, records, documents and other data available for examination, audit, or reproduction until three years after final payment under this contract.

(c) If any price, including profit or fee negotiated in connection with this contract, or any cost reimbursable under this contract has increased because the certification in paragraph (1) of the Certificate or the information provided as justification in paragraph (2) of the Certificate was inaccurate, incomplete, or misleading, the price or cost shall be reduced accordingly and the contract shall be modified to reflect the reduction.

(End of clause)

11. Section 52.219-8 is amended by inserting a colon in the introductory text following the word "clause", and removing the remainder of the sentence; by removing paragraphs (a) and (b); by removing in the title of the clause the date "(APR 1984)" and inserting in its place "(JUN 85)"; by revising paragraph (a) of the clause; and by removing the three derivation lines following "(End of clause)" to read as follows:

52.219-8 Utilization of Small Business Concerns and Small Disadvantaged Business Concerns.

As prescribed in 19.708(a), insert the following clause:

Utilization of Small Business Concerns and Small Disadvantaged Business Concerns (Jun 1985)

(a) It is the policy of the United States that small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in performing contracts let by any Federal agency, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals.

* * * * *

[FR Doc. 85-15989 Filed 7-2-85; 8:45 am]
BILLING CODE 6820-61-M

federal register

Wednesday
July 3, 1985

Part V

Department of Labor

Mine Safety and Health Administration

30 CFR Parts 56 and 57

Metal and Nonmetal Mines; Public Hearings

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 56 and 57

Metal and Nonmetal Mining; Public Hearings

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of public hearings.

SUMMARY: The Mine Safety and Health Administration (MSHA) will hold public hearings on its proposal to revise existing safety standards for loading, hauling and dumping at metal and nonmetal mines. The hearings will be held in St. Paul, Minnesota; Phoenix, Arizona; and Birmingham, Alabama; and are in response to requests received from the public. Each hearing will cover the major issues raised by commenters in response to the proposed rule.

DATES: All requests to make oral presentations for the record should be submitted at least five days prior to each hearing date. However, immediately before each hearing begins, any unalloted time will be made available to persons making late requests.

The public hearings will be held at the following locations on the dates indicated, beginning at 9:00 a.m.:

August 5, 1985: St. Paul, Minnesota
August 7, 1985: Phoenix, Arizona
August 9, 1985: Birmingham, Alabama

ADDRESSES: The hearings will be held at the following locations:

1. August 5, 1985—Bishop Henry Whipple Federal Building, Room 196, Ft. Snelling, St. Paul, Minnesota 55111.

2. August 7, 1985—Federal Building and Courthouse, 7th Floor Hearing Room, 230 North First Avenue, Phoenix, Arizona 85025.

August 9, 1985—Birmingham-Jefferson Civic Center, North Meeting Room B, Number One Civic Center Plaza, 21st Street and 10th Avenue, North, Birmingham, Alabama 35203.

Send requests to make oral presentations to: Mine Safety and Health Administration, Office of Standards, Regulations and Variances, Room 631, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, MSHA, phone (703) 235-1910.

SUPPLEMENTARY INFORMATION: On December 18, 1984, MSHA published proposed revisions to its existing safety standards in 30 CFR Parts 55, 56, and 57 for loading, hauling and dumping at metal and nonmetal mines (49 FR 49202). All of the metal and nonmetal standards, including those for loading, hauling and dumping, were recordified as Parts 56 and 57 on January 29, 1985 (50 FR 4048). The comment period for the proposed rule on loading, hauling and dumping closed on March 22, 1985. In the comments filed to the proposed rule, MSHA received requests to hold public hearings.

The purpose of the public hearings is to receive relevant comment and to answer questions concerning the proposal. The hearings will be conducted in an informal manner by a panel of MSHA officials. Although formal rules of evidence will not apply, the presiding official may exercise discretion in excluding irrelevant or unduly repetitious material and questions.

Each hearing will begin with an opening statement from MSHA. The public will then be given an opportunity to make oral presentations. During these presentations, the hearing panel will be available to answer relevant questions. At the discretion of the presiding official, speakers may be limited to a maximum of 20 minutes for their presentations. Time will be made available at the end of each hearing for rebuttal statements. A verbatim transcript of each proceeding will be taken and made part of the rulemaking record. Copies of the hearing transcript will be available for review by the public.

MSHA will also accept additional written comments and other appropriate data from any interested party, including those not presenting oral statements. Written comments and data submitted to MSHA will be included in the rulemaking record. To allow for the submission of any post-hearing comments, the record will remain open until August 23, 1985.

Issues

Commenters requested clarification or revision of many specific provisions of the proposed rule. Some of the provisions of the rule received extensive comment. These issues are outlined in this notice and MSHA specifically solicits additional comment on them, in addition to any other aspects of the proposal.

Scope of Subpart H

Several comments concerned the scope of proposed Subpart H. Some commenters wanted to limit the scope of this Subpart to mobile equipment that is specifically used for loading, hauling and dumping. Other commenters believed that MSHA needed to clarify and emphasize the applicability of these standards to all types of mobile equipment.

MSHA notes that while many of the loading, hauling and dumping standards address hazards which are directly related to various types of mobile equipment, others are less directly related. Some of the standards within this Subpart address hazards which may exist independently from mobile equipment. For example, standards directly related to mobile equipment include those requiring the correction of defects affecting safety (56/57.9100) and effective brakes on self-propelled equipment (56/57.9202). Standards less directly related to mobile equipment would include the provisions relating to shelter holes (57.9363) and suspended loads (56/57.9208). Examples of standards involving hazards which may exist independently of mobile equipment include those relating to stockpile faces (56/57.9405) and chute hazards (56/57.9501).

MSHA is aware of the concern of commenters who believe that the standards would be clarified if the scope of the subparts were limited to certain types of mining equipment. This concern was also expressed in the rulemaking for Machinery and Equipment (Subpart M). Since the existing standards in Subparts H and M do not have these limitations upon their scope, the approach of limiting the scope of individual standards based on the nature of the mining equipment would necessitate the repetition of many standards. MSHA's approach to the standards review project has been to address standards on a hazard-oriented basis.

MSHA agrees with the commenters that the standards should be organized to facilitate their understanding and use. After the rulemaking for all the subparts contained in the metal and nonmetal standards review project has been completed, MSHA will examine the standards to assure that the subparts are organized in the most meaningful and effective way. This overview of the organization of the standards may result in the rearrangement of standards among the subparts.

Deletion of Standards

Some commenters objected to the proposed deletion of existing standards 56/57.9053 which require the removal of water, debris, or spilled material that present hazards to moving equipment. These commenters did not believe that existing standards 56/57.4104, combustible waste, and 56/57.200003,

housekeeping, fully addressed these hazards.

Travelways

The proposal included a new standard for Subpart J, Travelways and Escapeways, which would address restricted clearance hazards for persons walking along travelways. MSHA proposed to add this standard to Subpart J and limit the restricted clearance requirement in Subpart H to hazards associated with mobile equipment.

Commenters suggested that restricted areas be marked with reflectorized spray paint. Other commenters believed that the standard should be limited to usual and frequently used travelways and that it should not apply to obstructions above 6'6".

Definitions

Commenters suggested alternative language to the proposed definitions for mobile and self-propelled equipment. For example, to clarify the scope of the mobile equipment standards, one commenter suggested that the definition for self-propelled equipment be: "mobile equipment capable of moving itself." MSHA solicits further comment on these proposed terms.

Mobile Equipment

Safety defects. Proposed standards 56/57.9100(a) require that mobile equipment defects which affect safety be corrected in a timely manner to prevent the creation of a hazard to persons. Section 56/57.9100(b) requires defective equipment to be tagged or marked and removed from service if continued operation would be hazardous to persons.

Some commenters believed paragraph (a) was vague and that a more definite procedure for correcting defects should be specified. Commenters also recommended that MSHA allow operators to isolate defective equipment in a designated maintenance area in lieu of tagging or marking. MSHA solicits comments as to how equipment would be identified as defective if this recommendation were adopted.

Traffic control. Proposed standards 56/57.9101 require mine operators to establish and post rules governing speed, right-of-way, and direction of movement. Visible warning signs or signals must be placed at appropriate locations on roadways.

Commenters believed that more specific language or examples were needed to clarify the phrases "appropriate locations" and "visible signs or signals." Other commenters believed that the more approriate term for equipment covered by this standard was "self-propelled" rather than "mobile." Commenters also questioned MSHA's application of the word "roadway" because they were concerned that the standard could be applied in underground areas. MSHA notes that the existing standards (56/57.9071) apply to underground as well as surface locations. Commenters also suggested adding a paragraph to specifically exclude rail equipment from the scope of this standard.

Transporting persons. Proposed standards 56/57.9102 list restrictions on transporting persons in equipment.

Commenters believed work platforms and shaft buckets should be excluded from the prohibition against transporting persons in or on dippers, forks, clamshells, or buckets. Several commenters objected to the requirement that prohibits persons from riding in beds of mobile equipment or railcars unless they are seated and provisions are made for their secure travel. They believed that this requirement was unclear and that the proposed wording did not allow for alternative compliance.

Commenters suggested that MSHA consider excluding brakemen from the requirement which restricts certain riding locations on trains and allow car droppers to ride between cars if restraining belts are used for their safety. Commenters were also concerned that the requirement which prohibits transporting persons in mobile equipment with tools, materials or equipment unless the items are secured would not allow persons to carry small hand tools while they were being transported. They believed that by permitting small materials, tools, and equipment to be hand-carried, these items would be sufficiently secured. MSHA agrees that this suggestion has merit.

Loading, hauling and unloading of equipment or supplies. Proposed standards 56/57.9104 require that equipment or supplies be loaded, secured and unloaded to prevent falling or shifting.

Commenters were concerned about the word "secured," and stated that in situations where supplies are transported separately from persons, no hazard would exist from unsecured loads. Other commenters believed that the proposed requirement would restrict the methods permitted for unloading equipment or supplies. These commenters believed that the standard should allow unloading to be performed in a manner which would not "create a hazard to persons," noting that some supplies are unloaded by "dropping" the load after all persons are in the clear. MSHA notes that the standard is not intended to restrict customary unloading techniques. The standard is directed toward improper unloading techniques which could result in unplanned shifting or falling of equipment or supplies.

Minimizing spillage. Proposed standards 56/57.9106 require mined material to be loaded to minimize spillage.

Commenters stated that the standard should also require loads to be centered to ensure vehicle stability.

Securing movable parts. Proposed standards 56/57.9108(a) require that booms, buckets, forks, and similar movable parts on mobile equipment be secured in a safe travel position when moving between work places. Paragraph (b) requires that these parts be secured or lowered to the ground when mobile equipment is unattended or not in use.

Commenters suggested that MSHA use the word "positioned" instead of "secured" to more accurately describe the requirements of the standard. They also suggested that the method of securing be consistent with the type of equipment involved.

Parking procedure for unattended equipment. Proposed standards 56/57.9109 require certain procedures to be followed to secure mobile equipment when it is left unattended.

Commenters believed that because of the diverse methods for securing mobile equipment, this standard should contain performance language to prevent inadvertent movement rather than specific procedures. They believed that such an approach would ensure that equipment would be parked safely while allowing flexibility for different types of equipment. Commenters also questioned whether the additional securing procedure for equipment parked on a grade applies to slight or minimal grades.

Blocking equipment in a raised position. Proposed standards 56/57.9110 require mobile equipment and its raised components to be blocked or mechanically secured prior to working on, under, or from it. It also requires that the equipment be blocked to prevent rolling. Special provisions apply to equipment which is specifically designed as an elevated mobile work platform.

Commenters believed that the provisions relating to raised components would prohibit the use of forklifts equipped with work baskets and the use of front-end loader buckets as work stations. MSHA notes that the proposed standard would allow work to be performed from such equipment as long as the raised portion has been blocked

or mechanically secured to prevent accidental lowering. Commenters also believed blocking to prevent rolling should not be required if the equipment is on a level surface, and the brakes has been applied. Some commenters also urged that the term "load-locking devices" be defined. Additionally, several commenters favored excluding cranes from the scope of this standard until MSHA reviews its hoisting standards. MSHA agrees and did not intend to include cranes within the scope of this proposed standard.

Tire repair. Proposed standard 56/57.9111 set forth safety procedures and devices to be used during tire repair.

Many commenters questioned the need to deflate both tires on a dual wheel if only one tire is in need of repair, stating that such a requirement would increase the degree of hazard. Other commenters suggested that MSHA follow OSHA's tire repair standards contained in 29 CFR Part 1910 and 29 CFR Part 1926. MSHA intends to further review the applicability of the OSHA tire repair standards.

Warning devices. Proposed standards 56/57.9112 require warning devices where hazards to persons on mobile equipment may be created.

Some commenters believed that the standard should allow persons to walk behind or beside vehicles for short distances as an alternative to attaching warning flags to extended loads. Other commenters believed the requirement for marking restricted clearance areas should only pertain to roadways having these hazards. Commenters also suggested that this standard exclude rail equipment on the basis that it is adequately covered in 56.9330, clearance for surface rail equipment.

Self-Propelled Equipment

Inspection of self-propelled equipment. Proposed standards 56/57.9200 require inspection of self-propelled equipment and recording of defects that affect safety.

Commenters believed there should be no obligation to record defects if those defects are corrected immediately. Other commenters believed that all defects should be recorded and that the records should be maintained for 30 to 90 days to provide a source of information concerning equipment repair, and for use in accident investigations.

Operators stations on self-propelled equipment. Proposed standards 56/57.9201 address safety hazards associated with operator's stations on self-propelled equipment.

The proposal provides, in part, that if damaged windows "obscure operating visibility" or expose the equipment operator to "hazardous environmental conditions" certain actions must be taken. Commenters requested that MSHA define these phrases. MSHA solicits suggestions regarding these terms.

Brakes. Proposed standards 56/57.9202 set forth minimum brake performance requirements for self-propelled equipment and provide for testing in certain instances.

Many comments were directed toward MSHA's proposal to test some types of vehicles when there is cause to believe that the service brakes are not capable of stopping the equipment. Several commenters requested that the scope of this standard be limited to vehicles manufactured in 1976 or after. Other commenters believed the testing requirements should only apply to haulage vehicles, or vehicles manufactured after the effective date of the final rule. Additionally, some commenters believed the standard should exclude vehicles which normally operate at low speeds, as well as fork-lifts and air or battery-powered equipment. Commenters believed agricultural tractors should be tested under different criteria. Commenters also believed that underground vehicles should be exempt from the testing procedure. Commenters believed that the proposed testing conditions were unsafe, too rigorous and would create controversy. Several commenters also believed that some types of vehicles should be tested without any load, and that the term "fully loaded" was vague.

Commenters recommended that the distance table be extended for vehicles weighing more than 600,000 pounds, and others believed the instances in which testing would be conducted should be more specifically set forth. Commenters also believed the performance requirement for parking brakes should be limited to holding vehicles on a 15% grade.

At this point in the rulemaking, MSHA agrees that underground equipment should not be tested. As discussed in the proposal, MSHA has conducted field studies and additional brake tests. The results of these tests, including video tapes, will be made available for viewing during the public hearings. Additional comment on the issues of brake performance, testing and scope is specifically solicited.

Berms. Proposed standards 56/57.9203 require berms or guards on the banks of elevated roadways.

Commenters suggested that alternatives be allowed for infrequently traveled roads which are only used by small service or maintenance vehicles. Based on these comments, MSHA is considering permitting alternative compliance on these types of roads if additional safety precautions are taken. For example, such precautions could include: (1) Locked gates at the entrance points to the road; (2) signs warning that the road is not bermed; (3) reflectors installed at 25-foot intervals along the perimeter of the elevated locations; (4) a maximum posted speed of 15 mph; (5) using vehicles equipped with two-way radios together with a check-in/check-out system; and (6) periodic updating of road hazards for drivers who use these roads. MSHA solicits additional comment on these alternatives, or other measures needed to assure equivalent safety.

Some commenters requested that the required berm height be further clarified and stated that berms of mid-axle height was an excessive requirement. Additionally, several commenters believed that the scope of the berm standard should be limited to only those roadways which are used for ore haulage.

Dust control. Proposed standards 56/57.9204 address hazards which may be created where dust impairs visibility.

Commenters believed that the standard should only require dust control measures to be taken when impairments to visibility are present, stating that the reference to situations where hazards to persons "may be created" was too speculative and subjective.

Falling object protective structures (FOPS). Proposed standards 56/57.9209 require FOPS for certain types of self-propelled equipment.

Several commenters believed that this standard should incorporate by reference ANSI standard B 56.6–1978, which addresses FOPS for rough terrain forklift trucks, in addition to the proposal's incorporation of ANSI 56.1, Section 420 (1975) and SAE J 231 (January, 1981). Other commenters believed the existing standard's reference to "substantial canopies" was adequate, and that the standard should allow either approach for compliance. Some commenters also favored excluding undergound equipment from the scope, while others believed it should be expanded to include many other types of equipment such as loaders and drill rigs. A few commenters believed that FOPS identification information should be filed at the mine office as an alternative to the proposed labeling requirement.

Roll-over protective structures (ROPS). Proposed standards 56/57.9230

require ROPS and seat belts for certain types of self-propelled equipment.

Commenters requested that the scope be expanded to include various types of underground equipment. Commenters also believed that repaired ROPS should only be recertified by the manufacturer, and that only the manufacturer should specify the proper nuts and bolts to be used to attach ROPS. As an alternative to labeling, commenters requested that the standard permit ROPS information to be kept at the mine office.

Commenters stated that the seat belt requirement should be expanded to include haulage trucks. Commenters also requested that grader operators be exempt from the seat belt requirement since they often stand while performing their work. Many commenters believed that while the requirement to wear seat belts is laudable, it would be difficult to enforce.

Horns and Back-up Alarms. Proposed standards 56/57.9231 set forth requirements for horns and back-up alarms on surface equipment.

Commenters believed that back-up alarms were not necessary for some types of equipment, such as track-type bulldozers, and excavators with 360° rotation capability. Several commenters also believed that horns are unnecessary for slow moving equipment, such as dozers, graders, skid-steer loaders, bobcats, or small personnel carriers. Other commenters believed the horn requirement should only apply to wheel-mounted equipment that has an obstructed view to the front.

In its preamble, MSHA asked for comment on the merit of using wheel-mounted bell alarms for highway-use vehicles. Commenters expressed support for this alternative.

Rail Equipment

Brakes. Proposed standards 56/57.9300 require braking systems on railroad cars to be maintained in functional condition. MSHA wishes to clarify that locomotives are intended to be included within the scope of this standard.

Some commenters suggested that the standard permit alternative means of stopping and holding railroad cars. MHSA solicits comments on these alternative means. Other commenters believed the standard should only apply to railroad cars that are used for braking.

Railroad crossings. Proposed standards 56/57.9313 require permanent railroad crossings to be posted with warning signs or be guarded when trains pass. The crossings must also be planked or filled between the rails.

Commenters questioned the applicability of planking and filling crossings in underground operations.

Train movement during shift changes underground. Proposed standard 57.9362 addresses train movement while persons are changing shifts.

Commenters believed the standard should also apply to open pit operations for both rail and truck haulage traffic.

Shelter holes. Proposed standard 57.9363 requires shelter holes at adequate intervals, specifies the minimum width and depth clearances, and prohibits storage in shelter holes.

Commenters believed that shelter holes could be used for storage if 40 inches of clearance were maintained, and that MSHA's exclusion of their use for storage would require numerous new shelter holes to be constructed. MSHA notes that the proposed standard would not require more shelter holes than the existing standard. However, because the proposal does not allow storage in shelter holes, new storage facilities may have to be constructed in some operations. MSHA solicits specific comment on the impact of this standard, including the number of new facilities and any associated costs of construction.

Dumping Locations and Facilities

Restraining devices. Proposed standards 56/57.9402 require restraining devices, such as berms and bumper blocks, to be provided at dumping locations to prevent overtravel.

Some commenters believed that the requirement to prevent overtravel would be inconsistent with MSHA's proposed berm definition, which requires that berms be capable of moderating or limiting the force of a vehicle to impede its passage over the bank of a roadway.

Unstable ground. Proposed standards 56/57.9404 address the hazards of unstable ground for mobile equipment operating at dumping locations.

Some commenters believed that this standard should expressly include a requirement for periodic inspection of ground stability at dumping locations.

Trimming of stockpile and muckpile faces. Proposed standards 56/57.9405 address hazardous overhangs on stockpile and muckpile faces.

Commenters raised an issue of whether the standard should also require barricading or guarding of stockpile and muckpile overhangs until they have been trimmed.

Safety Devices and Procedures

Air valves for pneumatic equipment. Proposed standards 56/57.9700 require that a manually operated quick-close master air valve be installed on all types of pneumatic-powered equipment.

Some commenters believed this standard should be limited to self-propelled equipment used for loading, hauling and dumping.

Warnings prior to starting or moving equipment. Proposed standards 56/57.9701 require equipment operators to sound a warning prior to starting or moving equipment.

Commenters requested clarification of the types of equipment covered by this standard, and suggested that the scope be limited to self-propelled equipment.

Dated: June 28, 1985.

Daivd A. Zegeer,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 85-16002 Filed 7-2-85; 8:45 am]

BILLING CODE 4510-43-M

Reader Aids

Federal Register

Vol. 50. No. 128

Wednesday, July 3, 1985

INFORMATION AND ASSISTANCE

SUBSCRIPTIONS AND ORDERS

Subscriptions (public)	202-783-3238
Problems with subscriptions	275-3054
Subscriptions (Federal agencies)	523-5240
Single copies, back copies of FR	783-3238
Magnetic tapes of FR, CFR volumes	275-2867
Public laws (Slip laws)	275-3030

PUBLICATIONS AND SERVICES

Daily Federal Register

General information, index, and finding aids	523-5227
Public inspection desk	523-5215
Corrections	523-5237
Document drafting information	523-5237
Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws

Indexes	523-5282
Law numbers and dates	523-5282
	523-5266

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual 523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, JULY

26961-27212.....1
27213-27408.....2
27409-27570.....3

CFR PARTS AFFECTED DURING JULY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
11888 (Amended by EO 12524).....27409
12523.....26963
12524.....27409
Proclamations:
5356.....26961

5 CFR

771.....26965

7 CFR

52.....26965
226.....26972
400.....26976
908.....27411
921.....27411
930.....27213
979.....26976
991.....26977
1040.....27412
1427.....26978
1435.....27413
1941.....27414
1944.....27415
1945.....27414, 27416
Proposed Rules:
Ch. X.....27003
29.....27288
51.....27004
920.....27288

8 CFR

Proposed Rules:
103.....27289

10 CFR

9.....27214
Proposed Rules:
50.....27006

12 CFR

403.....27215
723.....27417

Proposed Rules:

561.....27290
563.....27290
571.....27290

13 CFR

121.....27418
302.....27419

14 CFR

39.....26979
71.....26980

Proposed Rules:

39.....27009, 27012
71.....27013, 27014, 27528
75.....27014

15 CFR

376.....27420
399.....27420

16 CFR

13.....26981

17 CFR

288.....26981

19 CFR

4.....26981

20 CFR

200.....27222

21 CFR

101.....26984
558.....27421, 27422
Proposal Rules:
170.....27294
201.....27016
211.....27016
357.....27552
514.....27016
559.....27016
561.....27452
1002.....27024

22 CFR

501.....27422

25 CFR

Proposed Rules:
61.....27456

26 CFR

1.....27222, 27231, 27427
602.....27222, 27231

Proposed Rules:

1.....27297, 27456, 27457

28 CFR

32.....27428

29 CFR

1952.....27233

Proposed Rules:

33.....27298
1910.....27307

30 CFR

Proposed Rules:
56.....27566
57.....27566
913.....27025

936.....27461

31 CFR

51.....26987
500.....27435
505.....27435
515.....27435
520.....27435
535.....27435
540.....27435

32 CFR

Parts 1-39.....26987
199.....26988

33 CFR

110.....26988
117.....26989
150.....26989
166.....26989

Proposed Rules:

117.....27026, 27029

35 CFR

101.....26990
103.....26990
121.....26990

36 CFR

1200.....27196
1202.....27196
1250.....27196

37 CFR

Proposed Rules:

1.....27030

39 CFR

Proposed Rules:

3001.....27308

40 CFR

52.....26991, 27244-27247
60.....27248
61.....27248
86.....27250
600.....27172

Proposed Rules:

52.....27030, 27462
180.....27463
202.....27321
205.....27321
600.....27188

41 CFR

Chs. 1-49.....26987
105-63.....26992
201-1.....27142
201-2.....27142
201-8.....27142
201-11.....27142
201-16.....27142
201-20.....27142
201-21.....27142
201-23.....27142
201-24.....27142
201-26.....27142
201-30.....27142
201-31.....27142
201-32.....27142
201-38.....27142
201-39.....27142
201-40.....27142

42 CFR

412.....27208

Proposed Rules:

23.....27465
405.....27469
412.....27469

43 CFR

Proposed Rules:

2800.....27322

44 CFR

64.....26993, 26994

Proposed Rules:

67.....27322

45 CFR

Proposed Rules:

405.....27406
412.....27406
1620.....27326

46 CFR

153.....26996

47 CFR

68.....27250
73.....27287, 27438
76.....27438

48 CFR

7.....27560
15.....27560
19.....27560
34.....27560
52.....27560
504.....26996
533.....26998

49 CFR

571.....27451

Proposed Rules:

Ch. X.....27031
571.....27032

50 CFR

17.....26999

Proposed Rules:

630.....27470
662.....27470

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List July 2, 1985