
Monday
December 30, 1985

FEDERAL REGISTER

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

Selected Subjects

- Aviation Safety**
Federal Aviation Administration
- Black Lung Benefits**
Public Health Service
- Chemicals**
Environmental Protection Agency
- Customs Duties and Inspection**
Customs Service
- Exports**
International Trade Administration
- Flood Insurance**
Federal Emergency Management Agency
- Hazardous Substances**
Environmental Protection Agency
- Maritime Carriers**
Federal Maritime Commission
- Meat Inspection**
Food Safety and Inspection Service



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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.

WASHINGTON, DC

WHEN: January 17; at 9 am.

WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.

RESERVATIONS: Howard Landon 202-523-5227 (Voice)
Melanie Williams 202-523-5229 (TDD)

FUTURE WORKSHOPS: Additional workshops are scheduled bimonthly in Washington and on an annual basis in Federal regional cities. Dates and locations will be announced later.

NOTE: There will be a sign language interpreter for hearing impaired persons at this briefing.

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Rules and Regulations

Federal Register

Vol. 50, No. 250

Monday, December 30, 1985

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 309

[Docket No. 84-023]

Biological Residues; Rescission of Obsolete Regulatory Provision Concerning Cattle Which Had Been Treated With DES

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is rescinding an obsolete regulatory provision concerning cattle which had been treated, or were suspected of having been treated, with diethylstilbestrol (DES) on or after November 1, 1979. The program which was the subject of that provision has been terminated and the provision is, therefore, obsolete. A proposed rule was published in the Federal Register of September 5, 1985 which solicited public comments on this rescission. (50 FR 36094) No comments were received.

EFFECTIVE DATE: January 29, 1986.

FOR FURTHER INFORMATION CONTACT: Dr. John E. Spaulding, Director, Residue Evaluation and Planning Division, Food Safety and Inspection Service, Department of Agriculture, 14th and Independence SW., Washington, DC 20250, (202) 447-2807.

SUPPLEMENTARY INFORMATION:

Executive Order 12291/Effect on Small Entities

The Administrator has determined that this final rule is not a major rule under Executive Order 12291. 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, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Additionally, the Administrator has determined that this rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601 *et seq.*)

These determinations have been made because this amendment will simply rescind an obsolete regulatory provision without affecting current Agency policies or impacting upon industry or the consuming public.

Background

In 1979 the FDA withdrew approvals for use of diethylstilbestrol (DES) as a feed additive and as a subcutaneous implant. During March of 1980, it came to the attention of FDA and USDA that some cattle producers were continuing to treat cattle with DES implants under the mistaken impression that DES supplies on hand could be used until exhausted. This finding prompted a joint USDA/FDA program to identify violators or suspected violators of the ban, and provide for pre-slaughter segregation of treated and untreated cattle.

In the Federal Register of April 22, 1980, USDA took "emergency action . . . in order to protect the public health from animals exposed to DES." (45 FR 26947) This rule was codified at 9 CFR 309.16(c).

The new rule announced a special program requiring that cattle which had been treated with DES on or after November 1, 1979 would be processed for slaughter separately from untreated cattle. This program permitted the slaughter of treated cattle provided that the implant was surgically removed by or under the supervision of a USDA-accredited veterinarian, and imposed certain other procedural requirements to ensure meat safety. That program was brought to a successful conclusion. Paragraph 309.16(c) has since remained in the regulations, but is now considered obsolete and no longer needed to ensure meat safety.

On September 5, 1985, the Food Safety and Inspection Service (FSIS) published a proposed rule which would rescind this provision. (50 FR 36094) No public comments were received on this proposal, and FSIS is now proceeding with a final rule to remove that provision from the Federal Meat Inspection regulations.

Indexing Terms

Following are the indexing terms for this regulation:

List of Subjects in 9 CFR Part 309

Meat inspection, Livestock.

For reasons explained in the preamble, Part 309, Subchapter A, Chapter III of Title 9, Code of Federal Regulations, is amended as set forth below.

PART 309—ANTE-MORTEM INSPECTION

9 CFR Part 309 is amended as follows:

1. The authority citation for Part 309 continues to read as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C., 601 *et seq.*, 33 U.S.C. 1254(b), unless otherwise noted.

§ 309.16 [Amended]

2. In Part 309, § 309.16 is amended to remove the reference to paragraph (c) in the first sentence of paragraph (a).

3. In Part 309, § 309.16(c) is removed and reserved for future use.

Dated: December 11, 1985.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 85-30840 Filed 12-27-85; 8:45 am].

BILLING CODE 3410-DM-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-NM-90-AD; Amdt. 39-5201]

Airworthiness Directives; Boeing Model 757 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) that requires inspection of the cargo compartment blowout panel assemblies on certain Boeing Model 757 airplanes for adhesive bonding and subsequent rework, if necessary, and reinstallation. Several blowout panels have been detected that were glued to the retainer. Gluing may prevent proper separation during a sudden decompression which could result in overloading of the main deck floor.

DATE: Effective February 3, 1986.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Stanton R. Wood, Airframe Branch, ANM-120S; telephone (206) 431-2924. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive that would require inspection of the cargo compartment blowout panel assemblies on certain Boeing Model 757 airplanes for adhesive bonding was published in the *Federal Register* on September 5, 1985 (50 FR 36098). The comment period for the proposal closed on October 27, 1985.

Interested parties have been afforded an opportunity to participate in the making of this amendment. Only one comment was received, the commenter had no objections to the contents of the proposed rule.

After a careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 29 airplanes of U.S. registry will be affected by this AD, that it will take approximately 10 manhours per airplane to accomplish the required actions, and that the average labor cost will be \$40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be \$11,600.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and

Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because few, if any, Boeing Model 757 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

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

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

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

2. By adding the following new airworthiness directive:

Boeing: Applies to Model 757 airplanes listed in Boeing Service Bulletin Number 757-25-0047, Revision 1, certificated in any category. To prevent the overloading of the main deck floor as the result of a sudden decompression, accomplish the following within 120 days after the effective date of this AD, unless already accomplished:

A. Inspect and, if necessary, rework and reinstall the cargo compartment blowout panel assemblies in accordance with Paragraph III of Boeing Service Bulletin 757-25-0047, Revision 1, or later FAA-approved revision.

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

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

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective February 3, 1986.

Issued in Seattle, Washington, on December 18, 1985.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 85-30729 Filed 12-27-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 85-NM-67-AD; Amdt. 39-5205]

Airworthiness Directives; Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends an existing airworthiness directive (AD) applicable to certain Boeing Model 737 airplanes. The existing AD requires repetitive inspection and repair, as necessary, of the wing to body drag angles and provides for a terminating modification. However, the terminating action did not include acceptable modifications as specified in previous versions of the manufacturer's service bulletin. This action would allow those modifications as a terminating action.

DATE: Effective February 3, 1986.

ADDRESSES: The applicable service documents may be obtained upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Carlton Holmes, Airframe Branch, ANM-120S; telephone (206) 431-2926. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an amendment to an existing AD which requires inspection and repair, as necessary, of the wing to body drag angles at Body Station 540 on certain Boeing Model 737 airplanes, was published in the *Federal Register* on October 7, 1985 (50 FR 40866). The comment period for the proposal closed on November 28, 1985.

The existing rule, Amendment 39-4998 (50 FR 5569; February 11, 1985), AD 85-03-06, was prompted by numerous reports of cracking and allows as terminating action, modification in

accordance with Boeing Service Bulletin 737-53-1031, Revision 3, or later FAA-approved revisions. The terminating action consists of replacing the aluminum angles with titanium parts. The FAA has determined that replacement of the angles in accordance with Revision 1 or Revision 2 of Boeing Service Bulletin 737-53-1031 is also acceptable terminating action.

This amendment was prompted by several requests from operators who had modified airplanes in accordance with earlier versions of the service bulletin.

Interested persons have been afforded an opportunity to participate in the making of this AD and due consideration has been given to all comments received.

Only one comment was received in response to the NPRM. The Air Transport Association of America (ATA), on behalf of its operator members, supports the amendment.

After careful review of all available data and the comment received, the FAA has determined that air safety and the public interest require adoption of the amendment as proposed.

This amendment will allow as terminating action to AD 85-03-06, modification in accordance with Boeing Service Bulletin 737-53-1031, Revision 1 or Revision 2. Since the amendment provides clarifying information that expands terminating action for an existing AD, there is no significant economic or regulatory impact on affected operators.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact on a substantial number of small entities because few, if any, Boeing Model 737 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

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

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.85.

2. By amending Airworthiness Directive 85-03-06, Amendment 39-3998 (50 FR 5569; February 11, 1985), by revising paragraphs B. and C. to read as follows:

"B. If cracks are found, replace cracked parts with new aluminum parts and continue the inspections of paragraph A., above, or modify in accordance with the Accomplishment Instructions in Boeing Service Bulletin 737-53-1031, Revision 1, or later FAA-approved revisions.

C. Modification of airplanes in accordance with Accomplishment Instructions of Boeing Service Bulletin 737-53-1031, Revision 1, or later FAA-approved revisions, constitutes terminating action for this AD."

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective February 3, 1986.

Issued in Seattle, Washington, on December 20, 1985.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 85-30726 Filed 12-27-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 84-NM-133-AD; Amdt. 39-5204]

Airworthiness Directives; British Aerospace Viscount Model 700 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) that requires modification of the aircraft hydraulic system cut out valve on British Aerospace (BAe) Viscount Model 700 series airplanes. This action is prompted by a report of an inadvertent withdrawal of the mechanical nose landing gear downlock, which caused the nose landing gear to collapse.

DATE: Effective February 3, 1986.

ADDRESSES: The service information specified in this AD may be obtained upon request to British Aerospace Inc., Box 17414, Dulles International Airport, Washington, D.C. 20041, or may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Harold N. Wantiez, Standardization Branch, ANM-113; telephone (206) 431-2977. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation regulations to include an airworthiness directive which requires modification to the hydraulic system cut out valve on British Aerospace Viscount Model 700 series airplanes was published in the *Federal Register* on June 20, 1985 (50 FR 25584).

Interested parties have been afforded an opportunity to participate in the making of this amendment. A comment was received from the manufacturer which stated that an AD was not necessary since monitoring of the system cycle times and gauge readings provide adequate warning of developing conditions. The FAA does not concur with the commenter since one failure has already occurred and since the conditions which initiated that failure are likely to exist or develop on other airplanes of the same type design.

Paragraph A. of the final rule has been clarified to reflect the correct hydraulic system cut out valve part number, to correct a typographical error in the Automotive Products Modification Standard number, and to add a reference to a British Aerospace Technical News Sheet.

After careful review of available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed, with minor clarifying editorial changes mentioned above.

It is estimated that 14 airplanes of U.S. registry will be affected by this AD, that it will take approximately 10 manhours per airplane to accomplish the required actions, and that the average labor cost will be \$40 per manhour. Repair parts are estimated at \$600 per airplane. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be \$14,000.

For the reasons discussed above, the FAA has determined that this regulation

is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because of the minimal cost of compliance per airplane (\$1,000.). A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

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

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

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

2. By adding the following new airworthiness directive:

British Aerospace: Applies to Vickers Viscount Model 700 series airplanes certificated in any category. Compliance is required as follows, unless previously accomplished. To prevent nose landing gear collapse as a result of a faulty hydraulic cut out valve, accomplish the following:

A. Within the next 1000 hours time-in-service or nine months after the effective date of this AD, whichever occurs first, modify the aircraft hydraulic system cut out valve, Part Number AIR 41916, in accordance with Automotive Products Modification Standard SA 3490, dated December 16, 1959 (reference BAe Technical News Sheet No. 369, Issue 1, dated August 5, 1985).

B. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

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

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to British Aerospace Inc., Box 17414, Dulles International Airport, Washington, DC 20041. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office,

9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective February 3, 1986.

Issued in Seattle, Washington, on December 20, 1985.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 85-30727 Filed 12-27-85; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 370, 372, 387 and 388

[Docket No. 51201-5201]

Revision of Enforcement and Administrative Proceedings Provisions of the Export Administration Regulations

AGENCY: International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: The agency is revising Part 387 (Enforcement) and Part 388 (Administrative Proceedings) of the Export Administration Regulations (Parts 387 and 388, Title 15, Code of Federal Regulations). These revisions are limited to those changes mandated by the Export Administration Amendments Act of 1985 (Pub. L. 99-64, 99 Stat. 120), which amended and extended the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401-2420 ((1982)) (Act)). These changes implement both new and revised statutory provisions concerning violations and set forth revised procedures governing the imposition of administrative sanctions for violation of any regulation relating to export control, or any license, order or other authorization under the Act. Procedures governing the imposition of administrative sanctions for violations of the antiboycott provisions remain unchanged.

EFFECTIVE DATE: These rules are effective December 30, 1985.

FOR FURTHER INFORMATION CONTACT: Daniel C. Hurley, Jr., Office of the Assistant General Counsel for Export Administration, 202/377-5311.

SUPPLEMENTARY INFORMATION: This rule revises the Export Administration Regulations to incorporate changes in the Export Administration Act (for example, changes establishing as distinct violations conspiracy to violate or attempt to violate, possession with intent to export illegally and evasion), to conform specific violation provisions to

the Export Administration Act, and to reflect organizational changes within the International Trade Administration. This rule also revises procedures for imposing administrative sanctions for violation of the export control provisions of the Act or Regulations, or any order, license, or other authorization issued under the Act.

The revisions provide that an administrative law judge will preside over proceedings charging violations of the export control provisions of the Act.

The regulations use common procedures in proceedings charging violations of the antiboycott and the export control provisions, except as otherwise set forth. One notable difference concerns the type of decision rendered by the administrative law judge. As required by section 13(c) of the Act, the administrative law judge issues a *recommended* decision in proceedings charging violations of the export control provisions. The recommended decision is immediately referred to the Assistant Secretary for Trade Administration who must issue a written order affirming, modifying or vacating the recommended decision within 30 days of its receipt. Another difference required by the Act concerns the time available for decision. Proceedings involving export control violations, as opposed to antiboycott violations, shall be concluded, including the review by the Assistant Secretary, within one year after the charging letter is submitted to the administrative law judge, unless the administrative law judge extends the period for good cause shown.

Regulations governing procedures applicable to temporary denial orders issued on or after July 12, 1985, which were originally promulgated on October 18, 1985 (50 FR 42666, October 21, 1985), are republished here so that Part 388 may appear in the **Federal Register** as one complete document for easier reference and citation purposes.

The regulations add new provisions to Parts 370 (Export Licensing General Policy and Related Information) and 372 (Individual Validated Licenses and Amendments) to implement new statutory authority under section 11(h) of the Act to deny export privileges to any person convicted of certain offenses. Administrative actions taken by the Director, Office of Export Licensing, under these new provisions are separate and distinct from any sanctions imposed under Part 388 for violations of the Act.

These regulations are published in final form because they are limited solely to changes required by the 1985

Amendments to the Act and because they are exempted from the provisions of the Administrative Procedure Act requiring notice of proposed rulemaking.

Rulemaking Requirements

In connection with various rulemaking requirements, the Department has determined that:

1. This rule is exempt from the provisions of the Administrative Procedure Act requiring notice of proposed rulemaking, an opportunity for public participation, and a delay in effective date (5 U.S.C. 553) pursuant to section 13(a) of the Act and will become effective immediately. This rule also involves military and foreign affairs functions of the United States.

2. This rule contains collections of information subject to the Paperwork Reduction Act of 1980, 44 U.S.C. 3501, *et seq.* The recordkeeping requirements contained in this rule have been approved by the Office of Management and Budget under control numbers 0625-0036, 0625-0052 and 0625-0104.

3. Because a notice of proposed rulemaking is not required 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 military and foreign affairs functions 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. Therefore, no preliminary or final Regulatory Impact Analysis has been or will be prepared.

List of Subjects

15 CFR Part 387

Exports, Enforcement, Criminal and administrative sanctions, Penalties, Violations, Reporting and recordkeeping requirements.

15 CFR Part 388

Administrative practice and procedure, Denial of export privileges, Exports, Temporary denial of export privileges.

Accordingly, the regulations governing export licensing general policy, individual validated licenses, enforcement and administrative proceedings, 15 CFR Parts 370, 372, 387 and 388, are amended as set forth below.

1. The authority citations for 15 CFR Parts 370 and 372 are revised to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503, 50 U.S.C. App. 2401 *et seq.*, as amended by Pub. L. 97-145 of December 29, 1981 and by Pub. L. 99-64 of July 12, 1985; E. O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985).

PART 370—[AMENDED]

2. 15 CFR Part 370 is amended by adding a new § 370.15 to read as follows:

§ 370.15 Administrative action denying permission to apply for or use export licenses.

(a) *General.* The Director, Office of Export Licensing, in consultation with the Director, Office of Export Enforcement, may deny permission to apply for or use any export license to any person convicted of a violation of 18 U.S.C. 793, 794 or 798, section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778).

(b) *Procedure.* Upon notification that a person has been convicted of a violation of one or more of the provisions specified in paragraph (a) of this section, the Director, Office of Export Licensing, in consultation with the Director, Office of Export Enforcement, shall determine whether to deny permission to apply for or use any export license; including a general license, to any such person. The Director, Office of Export Licensing, shall notify each person denied under this section by letter stating that permission to apply for or use export licenses has been denied.

(c) *Duration.* Any denial of permission to apply for or use licenses under this section shall not exceed 10 years.

(d) *Effect.* Any person denied permission to apply for and use licenses under this section shall be considered a "person denied export privileges" for purposes of § 387.12.

(e) *Publication.* The name and address(es) of any person denied permission to apply for or use export licenses under this section shall be published in Supplements 1 and 2, Part 388, noting that such action was taken pursuant to this section and section 11(h) of the Act.

(f) *Appeal.* An appeal of an action under this section shall be pursuant to Part 389.

PART 372—[AMENDED]

3. 15 CFR Part 372 is amended by adding a new paragraph (h) to § 372.1 to read as follows:

§ 372.1 General provisions.

* * * * *

(h) *Administrative action revoking validated export licenses.*—(1) *General.* The Director, Office of Export Licensing, in consultation with the Director, Office of Export Enforcement, may revoke any export license, including a general license, issued or otherwise available to any person convicted of a violation of 18 U.S.C. 793, 794 or 798, section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)) or section 38 of the Arms Export Control Act (22 U.S.C. 2778).

(2) *Procedure.* Upon notification that a person has been convicted of a violation of one or more of the provisions specified in paragraph (h)(1) of this section, the Director, Office of Export Licensing, in consultation with the Director, Office of Export Enforcement, shall determine whether to revoke any validated export license issued to such person. The Director, Office of Export Licensing, shall notify each person whose validated export license is revoked under this section by letter specifying each license revoked.

(3) *Appeal.* Any appeal of an action under this section shall be pursuant to Part 389.

4. 15 CFR Part 387 is revised to read as follows:

PART 387—ENFORCEMENT

Sec.

- 387.1 Sanctions.
- 387.2 Causing, aiding, and abetting a violation.
- 387.3 Solicitation, attempt, and conspiracy.
- 387.4 Acting with knowledge of a violation; possession with intent to export illegally.
- 387.5 Misrepresentation and concealment of facts; evasion.
- 387.6 Export, diversion, reexport, transshipment.
- 387.7 Failure to comply with reporting requirements.
- 387.8 Failure to answer interrogatories or respond to requests for admission or to produce documents.
- 387.9 Licensee accountable for use of license.
- 387.10 Unauthorized use and alterations of export control documents.
- 387.11 Trafficking and advertising export control documents.
- 387.12 Transactions with persons subject to denial orders.
- 387.13 Recordkeeping.
- 387.14 Where to report violations.

Authority: Secs. 4, 5, 6, 7, 8, 11, 12, 13, 15 and 21 of the Export Administration Act of 1979, 50 U.S.C. app. 2401-2420 (1982), as amended by the Export Administration Amendments Act of 1985, Pub. L. 99-64, 99 Stat. 120; E.O. 12525 (50 FR 28757, July 16, 1985), E.O. 12214 (3 CFR 256 (1981)), E.O. 12002 (3 CFR 133 (1978)); Department Organization Order 10-3, effective September 6, 1984, and International Trade Administration Organization and Function Orders 41-1 (48 FR 26854, June 10, 1983) and 48

FR 46831, October 14, 1983), as amended September 14, 1984, and 41-4 (47 FR 29582, July 7, 1982), as amended February 9, 1984.

§ 387.1 Sanctions.

(a) Criminal—(1) *Violations of Export Administration Act.*—(i) *General.*

Except as provided in paragraph (a)(1)(ii) of this section, whoever knowingly violates or conspires to or attempts to violate the Export Administration Act ("the Act") or any regulation, order, or license issued under the Act is punishable for each violation by a fine of not more than five times the value of the exports involved or \$50,000, whichever is greater, or by imprisonment for not more than five years, or both.

(ii) *Willful violations.* (A) Whoever willfully violates or conspires to or attempts to violate any provision of this Act or any regulation, order, license issued thereunder, with knowledge that the exports involved will be used for the benefit of or that the destination or intended destination of the goods or technology involved is any controlled country or any country to which exports are controlled for foreign policy purposes, except in the case of an individual, shall be fined not more than five times the value of the export involved or \$1,000,000 whichever is greater; and in the case of an individual, shall be fined not more than \$250,000, or imprisoned not more than 10 years, or both.

(B) Any person who is issued a validated license under this Act for the export of any goods or technology to a controlled country and who, with the knowledge that such export is being used by such controlled country for military or intelligence gathering purposes contrary to the conditions under which the license was issued, willfully fails to report such use to the Secretary of Defense, except in the case of an individual, shall be fined not more than five times the value of the exports involved or \$1,000,000, whichever is greater; and in the case of an individual, shall be fined not more than \$250,000, or imprisoned not more than five years, or both.

(C) Any person who possesses any goods or technology with the intent to export such goods or technology in violation of an export control imposed under section 5 or 6 of the Act or any regulation, order, or license issued with respect to such control, or knowing or having reason to believe that the goods or technology would be so exported, shall, in the case of a violation of an export control imposed under section 5 of the Act (or any regulation, order, or license issued with respect to such

control), be subject to the penalties set forth in paragraph (a)(1)(ii)(A) of this section and shall, in the case of a violation of an export control imposed under section 6 of the Act (or any regulation, order, or license issued with respect to such control), be subject to the penalties set forth in paragraph (a)(1)(i) of this section.

(D) Any person who takes any action with the intent to evade the provisions of this Act or any regulation, order, or license issued under this Act shall be subject to the penalties set forth in paragraph (a)(1)(i) of this section, except that in the case of an evasion of an export control imposed under section 5 or 6 of the Act (or any regulation, order, or license issued with respect to such control), such person shall be subject to the penalties set forth in paragraph (a)(1)(ii)(A) of this section.

(2) *Violations of False Statements Act.* The submission of false or misleading information or the concealment of material facts, whether in connection with license applications, boycott reports, Shipper's Export Declarations, investigations, compliance proceedings, appeals, or otherwise, is also punishable by a fine of not more than \$10,000 or by imprisonment for not more than five years, or both, for each violation (18 U.S.C. 1001).

(b) *Administrative*¹—(1) *Denial of export privileges.* Whoever violates any law, regulation, order, or license relating to export controls or restrictive trade practices and boycotts is also subject to administrative action which may result in suspension, revocation, or denial of export privileges conferred under the Export Administration Act (*see* § 388.3 *et seq.*).

(2) *Exclusion from practice.* Whoever violates any law, regulation, order, or license relating to export controls or restrictive trade practices and boycotts is further subject to administrative action which may result in exclusion from practice before the International Trade Administration (*see* § 390.2(a)).

(3) *Civil penalty.* A civil penalty may be imposed for each violation of the Export Administration Act or any regulation, order or license issued under the Act either in addition to, or instead of, any other liability or penalty which may be imposed. The civil penalty may

¹ Violations of the Act or regulations, or any order or license issued under the Act, may result in the imposition of administrative sanctions, and also or alternatively of a fine or imprisonment as described in paragraph (a) of this section, seizure or forfeiture of property under section 11(g) of this Act or 22 U.S.C. 401, or any other liability or penalty imposed by law. The U.S. Department of Commerce may compromise and settle any administrative proceeding brought with respect to such violations.

not exceed \$10,000 for each violation except that the civil penalty for each violation involving national security controls imposed under Section 5 of the Act may not exceed \$100,000. The payment of such penalty may be deferred or suspended, in whole or in part, for a period of time that may exceed one year. Deferral or suspension shall not operate as a bar in the collection of the penalty in the event that the conditions of the suspension or deferral are not fulfilled. When any person fails to pay a penalty imposed under this § 387.1(b)(3), civil action for the recovery of the penalty may be brought in the name of the United States, in which action the court shall determine *de novo* all issues necessary to establish liability. Once a penalty has been paid, no action for its refund may be maintained in any court.²

(4) *Seizure.* Commodities or technical data which have been, are being, or are intended to be, exported or shipped from or taken out of the United States in violation of the Export Administration Act or of any regulation, order, or license issued under the Act are subject to being seized and detained, as are the vessels, vehicles, and aircraft carrying such commodities or technical data. Seized commodities or technical data are subject to forfeiture (50 U.S.C. app. 2411(g)) (22 U.S.C. 401, *see* § 386.8(b)(6)).

§ 387.2 Causing, aiding, and abetting a violation.

No person may cause, or aid, abet, counsel, command, induce, procure, or permit the doing of any act prohibited, or the omission of any act required, by the Export Administration Act or any regulation, order, or license issued under the Act.

§ 387.3 Solicitation, attempt, and conspiracy.

(a) *Solicitation and attempt.* No person may do any act that solicits the commission of, or that constitutes an attempt to bring about, a violation of the Export Administration Act or any regulation, order, or license issued under the Act.

(b) *Conspiracy.* No person may conspire or act in concert with one or more persons in any manner or for any purpose to bring about or to do any act that constitutes a violation of the Export Administration Act or any regulation, order, or license issued under the Act.

² The U.S. Department of Commerce may refund the penalty at any time within two years of payment if it is found that there was a material error of fact or of law.

§ 387.4 Acting with knowledge of a violation; possession with intent to export illegally.

(a) No person may order, buy, receive, conceal, store, use, sell, loan, dispose of, transfer, transport, finance, forward, or otherwise service, in whole or in part, any commodity or technical data exported or to be exported from the United States or which is otherwise subject to the Export Administration Regulations, with knowledge or reason to know that a violation of the Export Administration Act or any regulation, order, or license has occurred, is about to occur, or is intended to occur with respect to any transaction.

(b) No person may possess any commodities or technical data, controlled for national security or foreign policy reasons under section 5 or 6 of the Act: (1) With the intent to export such commodities or technical data in violation of the Export Administration Act or any regulation, order, license or other authorization under the Act, or (2) knowing or having reason to believe that the commodities or technical data would be so exported.

§ 387.5 Misrepresentation and concealment of facts; evasion.

(a)(1) *Misrepresentation and concealment.* No person may make any false or misleading representation, statement, or certification, or falsify or conceal any material fact, whether directly to the Office of Export Licensing, the Office of Export Enforcement,³ the Office of Antiboycott Compliance, any customs office, or an official of any other United States agency, or indirectly to any of the foregoing through any other person or foreign government agency or official:

(i) In the course of an investigation or other action instituted under the authority of the Export Administration Act;

(ii) In connection with the preparation, submission, issuance, use, or maintenance of any export control document, as defined in § 370.2; or restrictive trade practice or boycott request report, as defined in § 369.6;

(iii) For the purpose of or in connection with effecting an export from the United States, or the reexport, transshipment, or diversion of any such export.

(2) *Scope.* Paragraph (a)(1) of this section applies to all representations, statements, and certifications made to,

and material facts concealed from, the Office of Export Licensing, the Office of Export Enforcement, the Office of Antiboycott Compliance, and the U.S. Customs Service, or other agencies with respect to matters within the jurisdiction of these agencies under the statutes, Executive Orders, and regulations relating to export control, restrictive trade practices or boycotts, and orders or licenses issued or established under the Act.

(3) *Representations to be continuing in effect; notification.* All representations, statements, and certifications made by any person are deemed to be continuing in effect. Every person who has made any representation, statement, or certification must notify, in writing, the Office of Export Licensing, the Office of Export Enforcement, or the Office of Antiboycott Compliance, as well as any other cognizant agency(ies), of any change of any material fact or intention from that previously represented, stated, or certified. Such notification shall be made immediately upon receipt of any information which would lead a reasonably prudent person to believe that a change of material fact or intention has occurred or may occur in the future.

(b) *Evasion.* No person may engage in any transaction or take any other action, either independently or through any other person, with intent to evade the provisions of the Act, or any regulation, order, license or other authorization issued under the Act.

§ 387.6 Export, diversion, reexport, transshipment.

Except as specifically authorized by the Office of Export Licensing, in consultation with the Office of Export Enforcement, no person may export, dispose of, divert, direct, mail or otherwise ship, transship, or reexport commodities or technical data to any person or destination or for any use in violation of or contrary to the terms, provisions, or conditions of any export control document, any prior representation, any form of notification of prohibition against such action, or any provision of the Export Administration Act or any regulation, order, or license issued under the Act.

§ 387.7 Failure to comply with reporting requirements.

No person may fail or refuse to comply with reporting requirements in violation of the Export Administration Act or of any order, regulation or license issued under the Act. See, for example, §§ 369.6, 372.9(e) and 379.6(b).

§ 387.8 Failure to answer interrogatories, or respond to requests for admission or to produce documents.

(a) *Interrogatories and requests for admission or to produce documents.* Whenever the Office of Export Enforcement or the Office of Antiboycott Compliance finds it impracticable, during the course of an investigation, other proceeding or action, to subpoena a person, or books, writings, records, or other tangible things bearing upon the matter being investigated, the Office of Export Enforcement or the Office of Antiboycott Compliance may serve upon such person interrogatories, requests for admission of facts, requests for the production of books, records and other writings, or requests to produce or make available other tangible things for inspection, including commodities or technical data exported from the United States, as therein specifically set forth. If a person, within 20 days after receiving interrogatories or requests, fails or refuses to:

(1) Furnish responsive answers to such interrogatories or requests for admissions;

(2) Produce the requested books, records and other writings; or

(3) Produce or make available for inspection other tangible things requested, including commodities or technical data exported from the United States, which are in that person's possession, custody or control, without good cause being shown, an order may be issued as provided in § 388.3(a)(2), denying export privileges to such person. This order shall remain in effect for five years or until such person responds to the interrogatories or requests or gives adequate reasons for failure or refusal to so respond.

(b) *Service.* Interrogatories or requests shall be served in the same manner as provided in § 388.4 (b) and (c) for service of a charging letter.

(c) *Enforcement Procedures.* The procedure regarding applications for denial orders under § 387.8(a) and motions to vacate or modify such orders shall conform substantially to that provided for temporary denial orders by § 388.19.

§ 387.9 Licensee accountable for use of license.

The person to whom a license is issued becomes the licensee and will be held strictly accountable for use of the license. The licensee may not, without prior written approval of the Office of Export Licensing, in consultation with the Office of Export Enforcement, permit any other person to facilitate or effect

³ For purposes of Part 387, the Office of Export Enforcement enforces the Export Administration Regulations relating to short supply controls imposed under section 7 of the Act. Such controls are otherwise the responsibility of the Office of Industrial Resource Administration.

the export of any commodity or technical data described in the license, except under this direction and responsibility as his true agent in fact. No term of sale or export or other agreement between the licensee or the order party and the purchaser or ultimate consignee of such commodity or technical data may provide otherwise.

§ 387.10 Unauthorized use and alterations of export control documents.

Except as otherwise specifically authorized in the Export Administration Regulations or in writing by the Office of Export Licensing, in consultation with the Office of Export Enforcement, no licensee or other person, may obtain, use, alter, or assist in or permit the use or alteration of, any export control document, for the purpose of or in connection with facilitating or effecting any export or reexport other than that set forth in such document and in accordance with all the terms, provisions, and conditions thereof.

§ 387.11 Trafficking and advertising export control documents.

(a) *Unlawful practices.* Without prior written approval of the Office of Export Licensing, in consultation with the Office of Export Enforcement, no person may do any of the following with respect to any export or reexport under any export control document:

(1) *Transfers or changes of authority.* Effect any transfer of, or other change of the authority granted in such document, whether by sale, grant, gift, loan or otherwise, to any person; or permit any person to use the same other than for the true account of and as true agent in fact for the licensee; or, if that person is not the licensee, to receive or accept a transfer or other change of the authority granted in, or otherwise use an export control document except for the true account of and as true agent in fact for the licensee.

(2) *Change in named parties.* Effect any change of, substitution for, or addition to, the parties named in an export control document; or transfer, obtain, purchase, or create any interest or participation in the transaction described in any export control document.

(3) *Unlawful advertising or soliciting.* Offer or solicit by advertisement, circular, or other communication any transfer or change of an export control document or any interest therein prohibited above. Such communication shall be deemed unlawful:

(i) Even though coupled with a condition requiring approval by the Office of Export Licensing of a new

consignor or consignee or other change in the export license, by way of transfer, amendment or otherwise;

(ii) Where, in offering or soliciting the sale for export of any commodities or technical data, the communication indicates that the proposed seller of such commodities or technical data holds or will furnish a license or other export control document for the export of such commodities or technical data;

(iii) Where, in offering or soliciting the purchase for export of any commodities or technical data, that communication is addressed by the proposed buyer directly or indirectly to any person on the condition that such person as a seller then holds or will furnish a license or other export control document for the export of those commodities or technical data.

(4) *Other unlawful practices.* Sections 387.10, 387.11, and 387.12, among other things, make it unlawful:

(i) For a licensee or other person holding an export control document to sell or offer to sell, or for any person to purchase or to offer to purchase, the commodities or technical data described in such document with the understanding that the document may be used by or for the benefit of the purchaser to effect export of those commodities or technical data;

(ii) For any person to effect the export of the commodities referred to in § 387.11(a)(4)(i) for the benefit of or "for the account" of any person other than the licensee, regardless of the device, means, or fiction employed;

(iii) For the licensee to act fictitiously as principal or agent of another person who actually is effecting the export, or for such other person to act fictitiously as the licensee's principal or agent for the same purpose;

(iv) For the named consignee to act "for the account" of a new unlicensed consignee; or

(v) For any person to use a license, originally issued for a specified transaction which was not effected, for any other transaction without the specific written authorization of the Office of Export Licensing.

(b) *Transfer of dock receipts, bills of lading, or liens.*—(1) *Use of certain export control documents.* Section 387.12(a) is not to be construed as affecting the transfer and other use of dock receipts, bills of lading, or other commercial documents necessary to complete a transaction authorized by the export license, or impairing the validity of liens or other security titles or interests created in good faith with respect to commodities or technical data or documents in the course of financing, warehousing, forwarding, or

transporting commodities or technical data.

(2) *Disposition of export.* A person who is entitled to foreclose on any lien or other security title or interest, or who may exercise any rights as holder of the lien or other security title or interest, or who contemplates an export under the license by someone other than the licensee or to someone other than the purchaser or ultimate consignee designated in the license, must apply for a new license in accordance with the provisions of Part 372.

§ 387.12 Transactions with persons subject to denial orders.

(a) *Prohibited activities.* Without prior disclosure of the facts to and specific authorization of the Office of Export Licensing, in consultation with the Office of Export Enforcement, no person may directly or indirectly, in any manner or capacity:

(1) Apply for, obtain, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to an export or reexport of commodities or technical data by, to, or for another person then subject to an order revoking or denying his export privileges or then excluded from practice before the International Trade Administration; or

(2) Order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate:

(i) In any transaction which may involve any commodity or technical data exported or to be exported from the United States;

(ii) In any reexport thereof; or

(iii) In any other transaction which is subject to the Export Administration Regulations, if the person denied export privileges may obtain any benefit or have any interest in, directly or indirectly, any of these transactions.

(b) *Definition of "Person Denied Export Privileges".* For the purpose of this section the term "person denied export privileges" means:

(1) Any person, firm, corporation, or other business organization whose export privileges are revoked or denied by any order or who is excluded by such order from practice before the International Trade Administration; and

(2) Any other person, firm, corporation, or other business organization also denied export privileges or excluded from practice before the International Trade Administration because of a relationship to any person denied export privileges through affiliation, ownership, control, position of responsibility, or

other connection in the conduct of trade or related services during the period of such order.

(c) *Applicability of orders.* Orders which revoke or deny the export privileges of any person or which exclude any person from practice before the International Trade Administration may provide that the terms and prohibitions of such orders apply not only to the persons expressly named therein but also, for the purpose of preventing evasion, to any other person, firm corporation, or other business organization with which that person may then or thereafter (during the term of the order) be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or related services. The Table of Denial Orders (See Supplement No. 1 to Part 388 and § 388.3 and 390.2) contains all orders which currently deny export privileges in whole or in part. The table also lists the names and addresses of such persons, the effective and expiration dates of the orders, a brief summary of the export privileges affected, and the citations to the volumes and pages of the **Federal Register** where complete texts of the orders are published. The publication of such orders in the **Federal Register** constitutes legal notice of the terms thereof to all persons.

§ 387.13 Recordkeeping.

(a) *Transactions subject to this regulation.* This section applies to—(1) transactions involving restrictive trade practice or boycott requirements or requests, (2) exports of commodities or technical data from the United States and any known reexports, transshipments, or diversions of commodities or technical data originally exported from the United States, or (3) any other transactions subject to these Regulations, regardless of whether the export or reexport is made, or proposed to be made, by any person with or without authorization by a validated license, a general license, or any other export authorization. This section also applies to all negotiations connected with those transactions, except that for export control matters a mere preliminary inquiry or offer to do business and negative response thereto shall not constitute negotiations, unless the inquiry or offer to do business proposes a transaction which a reasonably prudent exporter would believe likely to lead to a violation of export orders or regulations. It also applies to any exports to Canada, if, at any stage in the transaction, it appears that a person in a country other than the United States or Canada has an interest

therein or that the commodity or technical data involved is to be reexported, transshipped, or diverted from Canada to another foreign country.

(b) *Persons subject to this regulation.* Any person subject to the jurisdiction of the United States who, as principal or agent (including a forwarding agent), participates in any transaction described in § 387.13(a), and any person in the United States or abroad who is required to make and keep records under any provisions of the Export Administration Regulations, shall keep all the records described in § 387.13(c), which are made or obtained by that person, and shall produce them in the manner provided in paragraph (f) of this section.

(c) *Records to be kept.* The records to be kept under this § 387.13 shall include export control documents, as defined in § 370.2, memoranda, notes, correspondence, contracts, invitations to bid, books of account, financial records, restrictive trade practice or boycott documents and reports, and other written matter pertaining to the transactions described in § 387.13(a), which are made or obtained by a person described in § 387.13(b). In addition to the records required to be kept by this section, other sections of the Regulations require the retention of records, including but not limited to § 368.2, 369.6, 371.9, 371.10, 371.12, 371.17, 371.19, 371.22, 372.1, 372.5, 372.6, 372.7, 372.8, 372.10, 372.11, 372.13, 373.2, 373.3, 373.7, 373.8, 374.7, 375.2, 375.3, 375.4, 375.5, 375.7, 376.4, 376.6, 376.7, 376.8, 376.9, 376.10, 376.11, 376.12, 378.6, 378.7, 379.4, 379.8, 379.9, 386.2, 386.5, 386.3, 386.6 and 391.2. The revocation or revision of any provision of the Export Administration Regulations which requires the making and keeping of records shall not be retroactive in effect unless specifically provided and shall not affect the original requirement to keep these records for the prescribed period.

(d) *Reproduction of records—(1) Definition.* "Reproduction" for the purpose of this § 387.13(d) is defined to include any photographic, photostatic, micrographic, miniature photographic or other process which completely, accurately and durably reproduces the original record.

(2) *Use of reproductions.* Reproductions may not be substituted for original documents with respect to all categories of records required to be retained under any provisions of the Export Administration Regulations or of any order, until all of the following conditions are met:

(i) The original documents have been retained for twelve months after the beginning of the retention period set forth in § 387.13(e) or an exception has been granted under the provisions of § 387.13(g).

(ii) All significant information, marks and/or other characteristics on the original document must be clearly visible and legibly reproduced.

(iii) Appropriate facilities must be provided and maintained for the preservation of the reproduced records during the retention period and for the ready location and inspection of the records, including a projector for viewing films, if needed.

(e) *Period of retention.* (1) Except for records relating to restrictive trade practice or boycott requests, which must be kept for three years (see § 369.6(b)(8)), records required under this section shall be kept for a period of two years from the latest of the following times:

(i) The export from the United States; or

(ii) Any known reexport, transshipment, or diversion; or

(iii) Any other termination of the transaction, whether formally in writing or by any other means. It may be advisable to maintain records longer than the mandatory two-year retention period because the statute of limitations for criminal actions brought under the Export Administration Act of 1979 and its predecessor Acts is five years (18 U.S.C. 3282). The statute for administrative compliance proceedings is also five years (28 U.S.C. 2462).

(2) If the Department of Commerce or any other Government agency makes a formal or informal request for a certain record or records, such record or records may not be destroyed or disposed of without the written authorization of the agency concerned.

(f) *Producing and inspecting records.* (1) Persons within the United States may be requested to produce records which are required to be kept by any provision of the Export Administration Regulations or by any order, and to make them available for inspection and copying by any authorized agent, official or employee of the International Trade Administration, the U.S. Customs Service, or the U.S. Government, without any charge or expense to such agent, official or employee. The Office of Export Enforcement and the Office of Antiboycott Compliance encourage voluntary cooperation with such requests. When voluntary cooperation is not forthcoming, the Office of Export Enforcement and the Office of Antiboycott Compliance are authorized

to issue subpoenas for books, records, and other writings. In instances where a person does not comply with a subpoena, the Department of Commerce may petition a district court to have the subpoena enforced.

(2) Every person abroad, required to keep records by any provision of the Export Administration Regulations or by any order, shall produce all records or reproductions of records required to be kept, and make them available for inspection and copying upon request by an authorized agent, official, or employee of the International Trade Administration, the U.S. Customs Service, or a U.S. Foreign Service post, or by any other accredited representative of the U.S. Government, without any charge or expense to such agent, official or employee. Persons located outside the United States who fail to comply with certain requests, including requests to produce documents, may be subject to orders denying export privileges. (See § 387.8.)

(g) *Requests for exceptions to recordkeeping requirements.* (1) *Effect of exception.* Recordkeeping entities (as defined in § 387.13(b)) wishing to maintain records on micrographic systems prior to the second year of the retention period may request an exception to the recordkeeping requirements. An exception, if granted, permits the recordkeeping entity or substitute micrographic records for original documents for the full retention period.

(2) *Basis for consideration.* When reviewing requests for exceptions, the Office of Export Licensing, in consultation with the Office of Export Enforcement or the Office of Antiboycott Compliance, will take into consideration the requester's previous performance with respect to general export control matters and antiboycott matters, respectively.

(3) *Guidelines for micrographic systems.* To maintain records under this exception, a micrographic system shall have the following minimum requirements:

(i) The system shall provide commercial permanence of all records.

(ii) The system shall provide for frequent quality control inspection to ensure readability of all records.

(iii) Micrographed records must have a degree of legibility and readability, when displayed on a viewer and when reproduced on paper, equal to that of the original records. (See section 5 of IRS Revenue Procedure No. 81-46, 1981-40 C.B. 6 concerning technical standards of micrographed records.)

(iv) A detailed index of all micrographic data shall be maintained,

and arranged in such a manner as to permit the immediate location of any particular record, location of all documents relating to a given transaction, and determination of disposition of corresponding original documents.

(4) *Submission of requests for exception.* (i) The recordkeeping entity shall submit requests for exceptions involving general export matters to: Office of Export Licensing, International Trade Administration, U.S. Department of Commerce, P.O. Box 273, Washington, DC 20044.

(ii) The recordkeeping entity shall submit requests for exceptions involving antiboycott matters to: Office of Antiboycott Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW., Room H3886, Washington, DC 20230.

(iii) The requesting firm shall include in the request:

(A) Data on the proposed micrographic system, including specific information as to how the system conforms to requirements set forth in § 387.13(g)(3);

(B) A statement concerning intended disposition of corresponding original documents; and

(C) Samples of records to be kept on the system.

(5) *Micrographing records under an exception.* Upon receiving written notice that an exception has been granted under this § 387.13(g), the recordkeeping entity may substitute micrographic reproductions for only those records already in the retention period and approved under the exception. Originals of records that have not entered the retention period must be kept until the retention period begins (as set forth in §§ 369.6(b)(8) and 387.13(e)) and micrographed records may then be substituted for the originals.

(6) *Disposition of original documents.* The recordkeeping entity shall include with micrographed records a signed document indicating final disposition of original documents, and the date of final disposition.

(7) *Revocation of exception.* The Department of Commerce may revoke an individual exception at any time if it determines that the firm has acted improperly, or for other good cause. A decision to revoke this exception may be appealed under the provisions of Part 389 of these Regulations.

(h) *Records exempt from recordkeeping requirements.* The following kinds of records have been determined to be exempt from recordkeeping requirements:

- Export Information Page
- Special Export Price List
- Vessel Log from Freight Forwarder
- Inspection Certificate
- Warranty Certificate
- Guarantee Certificate
- Packing Material Certificate
- Goods Quality Certificate
- Notification to Customer of Advance Mailings
- Letter of Indemnity
- Financial Release Form
- Financial Hold Form
- Export Parts Shipment Problem Form
- Draft Number Log
- Expense Invoice Mailing Log
- Financial Status Report
- Bank Release of Guarantees
- Cash Sheet
- Commission Payment Back-up
- Commissions Payable Worksheet
- Commissions Payable Control
- Check Request Forms
- Accounts Receivable Correction Form
- Check Request Register
- Commission Payment Printout
- Engineering Fees Invoice
- Foreign Tax Receipt
- Individual Customer Credit Status
- Request for Export Customers Code Forms
- Acknowledgement for Receipt of Funds
- Escalation Development Form
- Summary Quote
- Purchase Order Review Form
- Proposal Extensions
- Financial Proposal to Export Customers
- Sales Summaries

Information collection requirements in paragraph (a)(1) of this section approved under OMB Control No. 0625-0036; information collection requirements in paragraph (a) (2) of this section approved under OMB Control Nos. 0625-0052 and 0625-0104)

§ 387.14 Where to report violations.

(a) *Notification.* The Office of Export Enforcement has the primary responsibility for enforcing these Regulations except that the Office of Antiboycott Compliance has the responsibility for enforcing the Restrictive Trade Practices or Boycott Regulations in particular.

(1) If a person obtains knowledge that a violation of these Regulations has occurred or will occur, that person may notify:

Office of Export Enforcement,
International Trade Administration,
U.S. Department of Commerce, P.O.
Box 7138, Washington, DC 20044,
Telephone (202) 377-4608, or
Office of Antiboycott Compliance, U.S.
Department of Commerce,
International Trade Administration,
14th Street and Constitution Avenue,
NW., Room H3886, Washington, DC
(202) 377-2381,

as appropriate

(2) Any Federal, State, or local government agency obtaining

knowledge of a potential violation under these Regulations should immediately report such potential violation to:

Office of Export Enforcement, P.O. Box 7138, Washington, DC 20044,
Telephone (202) 377-4608, and
Office of Antiboycott Compliance, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Room 3886, Washington, DC 20230,
Telephone (202) 377-2381.

Failure to report such potential violations may result in the unwarranted issuance of validated export licenses or unlicensed exports to the detriment of national security, foreign policy or short supply interests of the United States.

(b) *Reporting requirement distinguished.* The notification provisions set forth in paragraph (a) of this section are not "reporting requirements" within the meaning of § 387.7.

5. 15 CFR Part 388, except for Supplement No. 1 which is unchanged and Supp No. 3 which is removed, is revised to read as follows:

PART 388—ADMINISTRATIVE PROCEEDINGS

- Sec.
- 388.1 Purpose and limitations.
 - 388.2 Definitions.
 - 388.3 Denial of export privileges and imposition of civil penalties.
 - 388.4 Institution of administrative proceedings.
 - 388.5 Representation.
 - 388.6 Filing and service of papers other than charging letter.
 - 388.7 Answer and demand for hearing.
 - 388.8 Default.
 - 388.9 Discovery.
 - 388.10 Subpoenas.
 - 388.11 Matter protected against disclosure.
 - 388.12 Prehearing conference.
 - 388.13 Hearings.
 - 388.14 Proceeding without a hearing.
 - 388.15 Procedural stipulations extension of time.
 - 388.16 Decision of the administrative law judge.
 - 388.17 Consent proceedings.
 - 388.18 Reopening.
 - 388.19 Temporary denials.
 - 388.20 Record for decision and availability of documents.
 - 388.21 Consolidation of proceedings.
 - 388.22 Appeals.
 - 388.23 Review by Assistant Secretary.
- Supplement No. 1—Table of Denial Orders Currently in Effect.
- Supplement No. 2—Geographical Listing of Parties Subject to Denial Order.
- Authority: Secs. 4, 5, 6, 7, 8, 11, 12, 13, 15 and 21 of the Export Administration Act of 1979, 50 U.S.C. app. 2401-2420 (1982), as amended by the Export Administration Amendments Act of 1985, Pub. L. 99-64, 99 Stat. 120; E.O. 12525 (50 FR 28757, July 16, 1985), E.O. 12214 (3 CFR 256 (1981)) E.O. 12002

(CFR 133 (1978)); Department Organization Order 10-3, effective September 6, 1984, and International Trade Administration Organization and Function Orders 41-1 (48 FR 26854, June 10, 1983 and 48 FR 46831, October 14, 1983), as amended September 14, 1984, and 41-4 (47 FR 29582, July 7, 1982), as amended February 9, 1984.

§ 388.1 Purpose and limitations.

The regulations in this part set forth the procedures for imposing administrative sanctions for violation of the Export Administration Act of 1979 (50 U.S.C. app. 2401-2420 (1982), as amended by the Export Administration Amendments Act of 1985 (Pub. L. 99-64, 99 Stat. 120)) (Act), the regulations, or any order, license or other authorization issued under the Act. An administrative law judge shall conduct the proceedings, except for purposes of appeals under § 388.22 or reviews by the Assistant Secretary under § 388.23. Nothing in this part shall be construed as applying to or limiting other administrative or enforcement action relating to the Act, including any exercise of the investigative authorities conferred by sections 8 and 12(a) of the Act. These regulations implement the requirements of section 11(c)(2) of the Act, with respect to violations of the antiboycott provisions of the Act and regulations, that administrative sanctions be determined only after notice and opportunity for an agency hearing on the record in accordance with the applicable provisions of the Administrative Procedure Act (5 U.S.C. 554-557). These regulations also implement the requirements of section 13(c)a) of the Act, with respect to violations of the export control provisions of the Act and the regulations, that administrative sanctions be determined only after notice and opportunity for an agency hearing on the record in accordance with the applicable provisions of the Administrative Procedure Act (5 U.S.C. 556-557). These regulations do not confer any procedural rights or requirements based upon the Administrative Procedure Act to proceedings charging violations under the Act, except as expressly provided for in this part.

388.2 Definitions.

As used in this part:

Administrative Law Judge. The person authorized to conduct hearings in administrative proceedings brought under the Export Administration Act. The administrative law judge may impose sanctions only after notice and opportunity for an agency hearing on the record.

Department. The Office of Antiboycott Compliance, the Office of Export Enforcement, the Office of Export Licensing, or the Office of Technology and Policy Analysis, International Trade Administration, United States Department of Commerce.

Party. The Department and any person named as a respondent in a charging letter or order proposed or issued under this part.

Regulations. The Export Administration Regulations [15 CFR Parts 368-399], including the regulations concerning Restrictive Trade Practices or Boycotts (15 CFR Part 369).

Respondent. Any person named in a charging letter, temporary denial order, or order to show cause proposed or issued under this part.

§ 388.3 Denial of export privileges and imposition of civil penalties.

(a) *Administrative sanctions.*¹ A respondent who is found to have violated the Act, the Regulations, or any order, license or other authorization issued under the Act, is subject to any or all of the following sanctions under this part:

(1) *Suspension or revocation of validated export licenses.* Any outstanding validated export license affecting any transaction in which the respondent may have any interest, direct or indirect, may be suspended or revoked² and ordered returned immediately to the Office of Export Licensing;

(2) *General denial of export privileges.* The respondent may be denied³ the privilege of participating,

¹ Violations of the Act of regulations may result in: (a) the imposition of administrative sanctions, either in addition to or instead of a fine or imprisonment as described in § 387.1(a) of the regulations; (b) forfeiture of any property interest in and/or proceeds from goods or tangible items involved in an export or attempted export in violation of controls imposed for national security reasons under section 5 of the Act; (c) seizure or forfeiture of property under 22 U.S.C. 401; (d) any other liability or penalty imposed by law; or (e) any combination of these penalties.

² Revocation of outstanding validated licenses and general denial of export privileges, authorized here as sanctions in administrative proceedings, are separate and distinct from administrative actions that the Director, Office of Export Licensing, in consultation with the Director, Office of Export Enforcement, may take under section 11(h) of the Act to deny permission to apply for or use any export license (see § 370.15) or to revoke validated export licenses (see § 372.1(h)) to a person convicted of a violation of sections 793, 794, or 798 of Title 18, United States Code, section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)), or section 38 of the Arms Export Control Act (22 U.S.C. 2778).

³ See footnote 2.

directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported or to be exported from the United States, or produced abroad by persons subject to the jurisdiction of the United States, or which are otherwise subject to the Act or the Regulations. Such participation may include:

(i) Participation as a party or as a representative of a party to any validated exported license application;

(ii) Participation in the preparing or filing of an application for, or the obtaining or using of, any validated or general export license, reexport authorization, or other export control document;

(iii) Participation in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data; and

(iv) Participation in the financing, forwarding, transporting, or other servicing of such commodities or technical data. Such denial of export privileges may be partial or entire, may be by commodity or geographical area, and may be for any specified period of time.

(3) *Exclusion from practice.* Any respondent acting as attorney, accountant, consultant, freight forwarder, or in any other representative capacity with regard to any export license application or other matter before the Department may be excluded from any or all such activities before the Department.

(4) *Civil penalty.* In addition to or instead of any or all of the administrative sanctions described in paragraphs (a)(1), (2) and (3) of this section, a civil penalty not to exceed \$10,000 for each violation may be imposed, except that a civil penalty not to exceed \$100,000 may be imposed for each violation involving national security controls imposed under section 5 of the Act.

(b) *Suspension of sanctions.* The imposition of any of these sanctions may be suspended under § 388.16(c).

(c) *Applicability to related persons.* In order to prevent evasion, certain types of orders under this part may, after notice and opportunity for comment such as through an order to show cause, be made applicable not only to the respondent, but also, to other persons then or thereafter related to the respondent by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or related services. Orders applicable to related persons include: those that deny or affect export privileges, those that exclude a respondent from practice

before the International Trade Administration and those that contain provisions implementing § 387.12 of the Regulations.

§ 388.4 Institution of administrative proceedings.

(a) *Charging letters.* The Director of the Office of Export Enforcement⁴ or the Director of the Office of Antiboycott Compliance, as appropriate, may begin administrative proceedings under this part by issuing a charging letter in the name of the Department. The charging letter shall constitute the formal complaint and will state that there is reason to believe that a violation of the Act, the regulations, or any order, license or other authorization issued under the Act, has occurred. It will set forth the essential facts about the alleged violation, refer to the specific regulatory or other provisions involved, and give notice that the respondent, if found to have committed the alleged violation, will be subject to sanctions under § 388.3(a). The charging letter will inform the respondent that failure to answer as provided in § 388.7 may be treated as a default under § 388.8; that he is entitled to a hearing if he files a written demand for one with his answer, and that if he so desires he may be represented by counsel. A copy of the charging letter shall be filed with the administrative law judge. Charging letters may be amended, supplemented or withdrawn at any time before an answer is filed, or, with permission of the administrative law judge afterwards.

(b) *Service of charging letter on resident.* A charging letter, or any amendment or supplement thereto, shall be served upon a respondent:

(1) By mailing a copy by registered or certified mail addressed to the respondent at his last known address;

(2) By leaving a copy with the respondent or with an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service for respondent; or

(3) By leaving a copy with a person of suitable age and discretion who resides at the respondent's last known dwelling. Service made in the manner described in paragraph (b)(2) or (3) of this section shall be evidenced by a certificate of service signed by the person making such service, stating the method of service and the identity of the person with whom the charging letter was left and shall be filed with the administrative law judge.

⁴By agreement with the Director of the Office of Industrial Resource Administration, the Director of the Office of Export Enforcement enforces short supply controls imposed under section 7 of the Export Administration Act.

(c) *Service of charging letter on non-resident.* If applicable laws or intergovernmental agreements or understandings make the methods of service set forth in paragraph (b) of this section inappropriate or ineffective, service of the charging letter on a respondent not a resident of the United States may be made by any method that is permitted by the country in which the respondent resides and satisfies the due process requirements under United States law with respect to notice in administrative proceedings.

(d) *Date.* The date of service of a charging letter shall be the date of its delivery, or of its attempted delivery if delivery is refused.

§ 388.5 Representation.

A respondent individual may appear and participate in person, a corporation by a duly authorized officer or employee thereof, and a partnership by a member thereof. Any respondent may appear by counsel, who shall be a member in good standing of the bar of any State, Commonwealth or Territory of the United States, or of the District of Columbia. A respondent personally or through counsel shall file notice of appearance with the administrative law judge. The Department shall be represented by the Office of Assistant General Counsel for Export Administration, U.S. Department of Commerce.

§ 388.6 Filing and service of papers other than charging letter.

(a) *Filing.* All papers to be filed shall be delivered or mailed, to "EAR Administrative Proceedings," U.S. Department of Commerce, Room H-6716, 14th Street and Constitution Avenue, NW., Washington, DC, 20230, or such other place as the administrative law judge may designate. Filing by United States mail, first class postage prepaid, or by express or equivalent parcel delivery service, is acceptable. Filing by mail from a foreign country shall be by airmail. A copy of each paper filed shall be simultaneously served on each party.

(b) *Service.* Service shall be made by personal delivery or by mailing one copy of each paper to each party in the proceeding. Service by delivery service in the manner set forth in paragraph (a) is acceptable. Service on the Department shall be addressed to the Assistant General Counsel for Export Administration, Room H-3845, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Service on a respondent shall be to the address to

which the charging letter was sent or to such other address as respondent may be provided. When a party has appeared by counsel, service on such counsel shall constitute service on that party.

(c) *Date.* The date of service or filing shall be the day when the papers are deposited in the mail or are delivered in person, or by delivery service.

(d) *Certificate of service.* The original of every paper filed and served upon parties other than the charging letter shall be endorsed with a certificate of service signed by the party making service, stating the date and manner of service.

§ 388.7 Answer and demand for hearing.

(a) *When to answer.* The respondent must answer the charging letter within 30 days after service unless time is extended under § 388.15.

(b) *Contents of answer.* An answer must be responsive to the charging letter and must fully set forth the nature of the respondent's defense or defenses. The answer must admit or deny specifically each separate allegation of the charging letter; if the respondent is without knowledge, the answer shall so state and shall operate as a denial. Failure to deny or controvert a particular allegation will be deemed admission of that allegation. The answer must also set forth any additional or new matter the respondent believes supports a defense or claim of mitigation. Any defense or partial defense not specifically set forth in the answer shall be deemed waived, and evidence thereon may be refused, except upon good cause shown.

(c) *Demand for hearing.* If the respondent desires a hearing, a written demand for one must be submitted with the answer. Any demand by the Department for a hearing must be filed with the presiding official within 14 days after service of the answer. Failure to make a timely written demand for a hearing shall be deemed a waiver of the party's right to a hearing, except for good cause shown.

(d) *Documentary evidence.* If the respondent does not demand a hearing, he must file with the answer originals or photocopies of all correspondence, papers, records, and other documentary evidence that support his position.

(e) *English language required.* The answer, and all other documentary evidence, must be submitted in English or translations into English must be filed at the same time.

§ 388.8 Default.

(a) *General.* If a timely answer is not filed, the Department shall file with the

administrative law judge a proposed order together with supporting evidence for the allegations in the charging letter. The administrative law judge may require further submissions and shall issue any order he deems justified by the evidence of record. Any order so issued shall have the same force and effect as an order issued following the disposition of contested charges.

(b) *Petition to set aside default.*—(1) *Procedure.* Upon petition filed by a respondent against whom a default order has been issued, which petition is accompanied by an answer meeting the requirements of § 388.7(b), the administrative law judge may, after giving all parties opportunity to comment, and for good cause shown, set aside the default and vacate the order entered thereon and resume the proceedings.

(2) *Time limits.* A petition under this section must be made either within one year of the date of entry of the order which the petition seeks to have vacated, or before the expiration of any administrative sanctions imposed thereunder, whichever is later.

§ 388.9 Discovery.

(a) *General.* The parties are encouraged to engage in voluntary discovery procedures regarding any matter, not privileged, which is relevant to the subject matter of the pending proceeding. The provisions of the Federal Rules of Civil Procedure relating to discovery shall apply to the extent consistent with these regulations and except as otherwise directed by the administrative law judge or by waiver or agreement of the parties. The administrative law judge may make any order which justice may require to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense. These orders may include limitations on the scope, method, time and place of discovery, and provisions for protecting the confidentiality of classified or otherwise sensitive information.

(b) *Interrogatories and requests for admission or production of documents.* A party may serve upon any party interrogatories, requests for admission, or requests for production of documents for inspection and copying, and a party concerned may then apply to the administrative law judge for such enforcement or protective order as that party deems warranted with respect to such discovery. The service of a discovery request shall be made at least 20 days before the scheduled date of hearing unless the administrative law judge specifies a shorter time period.

Copies of interrogatories, requests for admission and requests for production of documents and responses thereto shall be served on all parties. Matters of fact or law of which admission is requested shall be deemed admitted unless, within a period designated in the request (at least 10 days after service, or within such further time as the administrative law judge may allow), the party to whom the request is directed serves upon the requesting party a sworn statement either denying specifically the matters of which admission is requested or setting forth in detail the reasons why he cannot truthfully either admit or deny such matters.

(c) *Depositions.* Upon application of a party and for good cause shown, the administrative law judge may order the taking of the testimony of any person by deposition and the production of specified documents or materials by the person at the deposition. The application shall state the purpose of the deposition and shall set forth the facts sought to be established through the deposition.

(d) *Enforcement.* The administrative law judge may order a party to answer designated questions, to produce specified documents or things or to take any other action in response to a proper discovery request. If a party does not comply with such an order, the administrative law judge may make any determination or enter any order in the proceeding as he deems reasonable and appropriate. He may strike related charges or defenses in whole or in part, or he may take particular facts relating to the discovery request to which the party failed or refused to respond as being established for purposes of the proceeding in accordance with the contentions of the party seeking discovery. In addition, enforcement by a district court of the United States may be sought under section 12(a) of the Act.

§ 388.10 Subpoenas.

At the request of any party, the administrative law judge may issue subpoenas requiring the attendance of witnesses at any hearing and the production of such books, records or other documentary or physical evidence as he deems relevant and material to the proceedings, and reasonable in scope.

§ 388.11 Matter protected against disclosure.

(a) *General.* The public availability of documentary evidence is subject to § 388.20.

(b) *Protective measures.* In administering the Act, it is necessary for

the Department of Commerce to receive and consider information and documents that are sensitive from the standpoint of national security or business confidentiality and are to be protected against disclosure. Accordingly, and without limiting the discretion of the administrative law judge to give effect to any other applicable privilege, it shall be proper for the administrative law judge to limit discovery or introduction of evidence or to issue such protective or other orders as in his judgment may be consistent with the objective of preventing undue disclosure of such sensitive documents or information. Where the administrative law judge determines that documents containing such sensitive matter need to be made available to a respondent to avoid prejudice, he may direct the Department to prepare an unclassified and non-sensitive summary or extract of such documents. The administrative law judge may compare such extract or summary with the original to ensure that it is supported by the source document and that it omits only so much as must remain classified or undisclosed. The summary or extract may be admitted as evidence in the record.

(c) *Arrangements for access.* If the administrative law judge determines that this procedure is unsatisfactory and that classified or otherwise sensitive matter must form part of the record in order to avoid prejudice to a party, he may provide the parties opportunity to make arrangements that permit a party or a representative to have access to such matter without compromising the confidentiality of the national security or business information. Such arrangements may include obtaining security clearances, obtaining a national interest determination under section 12(c) of the Act, or giving counsel for a party access to sensitive information and documents subject to assurances against further disclosure, including a protective order, if necessary.

(d) *In camera proceedings.* With the approval of the administrative law judge, the Department may present information and documents in camera in the presence of the respondent or respondent's counsel.

§ 388.12 Prehearing conference.

(a) The administrative law judge, on his own motion or on request of a party, may direct the parties to attend a prehearing conference to consider: (1) Simplification of issues; (2) the necessity or desirability of amendments to pleadings; (3) obtaining stipulations of fact and of documents to avoid unnecessary proof; or (4) such other

matters as may expedite the disposition of the proceedings. The administrative law judge may order the conference proceedings to be recorded electronically or taken by a reporter, transcribed and filed with the administrative law judge. For all conference proceedings, the administrative law judge will prepare a summary of any actions agreed upon or taken at the conference, and will incorporate therein any written stipulations or agreements made by the parties.

(b) If a prehearing conference is impracticable, the administrative law judge may direct the parties to correspond with him to achieve the purposes of such a conference. The administrative law judge, as in paragraph (a) of this section, will prepare a summary of such correspondence and any actions taken or agreed upon and will incorporate into it any written stipulations or agreements made by the parties.

§ 388.13 Hearings.

(a) *Scheduling.* The administrative law judge, by agreement with the parties or upon notice to all parties of not less than 30 days, will schedule a hearing. All hearings will be held in Washington, DC unless the administrative law judge determines, based upon good cause shown, that another location would better serve the interests of justice.

(b) *Hearing procedure.* Hearings shall be conducted in a fair and impartial manner by the administrative law judge who may limit attendance at any hearing or portion thereof to the parties, their representatives and witnesses if he deems this necessary or advisable in order to protect sensitive matter (see § 388.11) from improper disclosure. The rules of evidence prevailing in courts of law shall not apply, and all evidentiary material deemed by the administrative law judge to be relevant and material to the proceeding and not unduly repetitious will be received and given appropriate weight.

(c) *Testimony and record.* Witnesses will testify under oath or affirmation. A verbatim record of the hearing and of any other oral proceedings will be taken by reporter or by electronic recording, transcribed and filed with the administrative law judge. A respondent may examine the transcript and may obtain a copy upon payment of proper costs. Upon such terms as the administrative law judge deems just, he may direct that the testimony of any person be taken by deposition and may admit an affidavit as evidence, provided that affidavits shall have been filed and served on the parties sufficiently in

advance of the hearing to permit a party to file and serve an objection thereto on the grounds that it is necessary that the affiant testify at the hearing and be subject to cross examination.

(d) *Failure to appear.* If a party fails to appear in person or by counsel at a scheduled hearing, the hearing may nevertheless proceed, and that party's failure to appear will not affect the validity of the hearing or any proceedings or action taken thereafter.

§ 388.14 Proceeding without a hearing.

If the parties have waived a hearing, the case shall be decided on the record by the administrative law judge. Proceeding without a hearing does not relieve the parties from the necessity of proving the facts supporting their charges or defenses. Affidavits, depositions, admissions, answers to interrogatories and stipulations may supplement other documentary evidence in the record. The administrative law judge shall give each party reasonable opportunity to file rebuttal evidence.

§ 388.15 Procedural stipulations; extension of time.

(a) *Procedural stipulations.* Unless otherwise ordered, a written stipulation agreed to by all parties and filed with the administrative law judge may modify any discovery procedures or other procedures established by this part, except as set forth in paragraph (b) of this section.

(b) *Extension of time.*—(1) *Before expiration of the applicable time limitation,* parties may stipulate to its extension as set forth in paragraph (a) of this section.

(2) The administrative law judge may, on his own initiative or upon application by any party, either *before* or *after* expiration of the applicable time limitation, extend the time within which to prepare and submit an answer to a charging letter or do any other act required by this part.

§ 388.16 Decision of the administrative law judge.

(a) *Predecisional matters.* Except insofar as the default procedures of § 388.8 may be applicable, the administrative law judge shall give the parties reasonable opportunity to submit:

(1) Exceptions to any ruling by him or the admissibility of evidence preferred at the hearing; (2) Proposed findings of fact and conclusions of law; (3) Supporting legal arguments for the exceptions and proposed findings and conclusions submitted; and (4) A proposed order. Such exceptions, proposed findings and conclusions,

arguments in support thereof, and proposed order shall be made a part of the record, together with the administrative law judge's ruling on each.

(b) *Decision and order.* After considering the entire record in the proceeding, the administrative law judge shall issue a written decision. (1) *Initial decision.* For proceedings charging violations relating to section 8 of the Act, the decision rendered shall be an initial decision. The decision shall include findings of fact, conclusions of law, and findings as to whether there has been a violation of the Act, the regulations, or any order, license or other authorization issued under the Act. If the administrative law judge finds that the evidence of record is insufficient to sustain a finding that a violation has occurred with respect to one or more charges, he shall order dismissal of the charges in whole or in part as appropriate. If the administrative law judge finds that one or more violations have been committed, he shall order appropriate disposition of the case. He may issue an order imposing administrative sanctions, including civil penalties as provided in § 388.3, or take such other action as he deems appropriate. A copy of the decision and order shall be served on each party.

(2) *Recommended decision.* For proceedings not involving violations relating to section 8 of the Act, the decision rendered shall be a recommended decision. The decision shall include recommended findings of fact, conclusions of law, and findings as to whether there has been a violation of the Act, the regulations or any order, license or other authorization issued under the Act. If the administrative law judge finds that the evidence of record is insufficient to sustain a recommended finding that a violation has occurred with respect to one or more charges, he shall recommend dismissal of the charges in whole or in part as appropriate. If the administrative law judge finds that one or more violations have been committed, he shall recommend appropriate disposition of the case. He may recommend an order imposing administrative sanctions, including civil penalties as provided in § 388.3, or recommend such other action as he deems appropriate. The administrative law judge shall immediately refer a copy of the recommended decision and order to the Assistant Secretary of Commerce for Trade Administration ("Assistant Secretary") for review in accordance with § 388.23. The administrative law

judge shall also immediately serve a copy of the recommended decision upon all parties. Because of the time limits, service upon parties shall be by personal delivery, express mail or other overnight carrier.

(c) *Suspension of sanctions.* Any order providing administrative sanctions may provide that the imposition of any sanction shall be suspended in whole or in part upon such terms of probation or other conditions as the administrative law judge may specify. Any final decision may be modified or revoked by the administrative law judge or by the Assistant Secretary, upon application of the Department showing a violation of the probationary terms or other conditions, after service upon the respondent of notice of the application in accordance with the service provisions of § 388.4 and with such opportunity for response as the responsible official in his discretion may allow. A copy of any order modifying or revoking suspension shall also be served on the respondent in accordance with the provisions of § 388.4.

(d) *Effect of decision.* For proceedings charging violations relating to section 8 of the Act, the initial decision and implementing order shall become final upon expiration of the time for filing an appeal unless an appeal shall have been filed under § 388.22.

(e) *Time for decision.* As required by section 13(c) of the Act, proceedings not involving violations relating to section 8 of the Act shall be concluded, including the review of the Assistant Secretary under § 388.23, within one year of submission of a charging letter, unless the administrative law judge, for good cause shown, extends such period. The charging letter shall be deemed to have been submitted to the administrative law judge on the date of filing of an answer or on the date of filing by the Department of a proposed default order pursuant to § 388.8(a), whichever shall first occur.

§ 388.17 Consent proceedings.

(a) The parties may submit a consent proposal to the administrative law judge at any time after the service of a charging letter but before issuance of an initial or recommended decision by the administrative law judge. The consent proposal shall include the proposed consent agreement and a proposed order. If the administrative law judge does not approve the proposal, he will notify the parties and the case will proceed as though no consent proposal had been made. If the administrative law judge approves the proposal, he will: (1) With respect to proceedings charging violations relating to section 8

of the Act, issue a decision and order on the basis of the proposal or such modification thereof as the parties may have agreed to in writing and the order shall immediately become final, and (2) with respect to proceedings not involving violations relating to section 8 of the Act, issue a recommended order approving the consent agreement which shall be referred to the Assistant Secretary under § 388.23.

(b) Cases may also be settled before service of a charging letter. In such event, a proposed charging letter shall be prepared, and a consent agreement and order shall be submitted for approval and signature to the Deputy Assistant Secretary of Commerce for Export Enforcement (Deputy Assistant Secretary). The consent proposal shall include a consent agreement and a proposed order. If the Deputy Assistant Secretary does not approve the proposal, he will notify the parties and the case will proceed as though no consent proposal had been made. If the Deputy Assistant Secretary approves the proposal he will issue an order, and no action by the administrative law judge shall be required. The Deputy Assistant Secretary may order that any administrative sanction imposed shall be suspended in whole or in part upon such terms of probation or other conditions as he deems appropriate. Any such suspension may be modified or revoked by the Deputy Assistant Secretary, as provided in § 388.16(c).

(c) Cases which are settled may not be reopened or appealed.

§ 388.18 Reopening.

Procedures. A party may petition the administrative law judge within one year of the date of the final decision to reopen proceedings to receive any relevant and material evidence which was unknown or unobtainable at the time the proceedings were held. The petition shall include a summary of such evidence, the reasons why it is deemed relevant and material, and the reasons why it could not have been presented at the time the proceedings were held. The administrative law judge shall grant or deny the petition after providing other parties reasonable opportunity to comment. If proceedings are reopened, the administrative law judge may make such arrangements as he deems appropriate for receiving the new evidence and completing the record. Where proceedings have been reopened, the administrative law judge shall issue a new decision and order, reaffirming, vacating or modifying the prior decision and order in accordance with § 388.16.

§ 388.19 Temporary denials.

(a) *General Denial of Export Privileges.* The following procedures apply to temporary denial orders issued on or after July 12, 1985. For temporary denial orders issued on or before July 11, 1985, the proceedings will be governed by the applicable regulations in effect at the time the temporary denial orders were issued.

(1) Without limiting any other action the Department may take under the regulations (including §§ 370.2(b), 372.1(e) and 388.4) with respect to any application, license or other authorization issued under the Act, the Department may ask the Deputy Assistant Secretary to issue a temporary denial order on an *ex parte* basis to prevent an imminent violation, as defined below, of the Act, the regulations, or any order, license or other authorization issued under the Act. Such temporary denial order shall summarily deny any or all of the export privileges specified in § 388.3(a) (1) and (2) to any person named in the order.

(2) In order to prevent evasion or circumvention of the temporary denial order, the order or any renewal thereof can name and deny export privileges to, in addition to any person designated as a respondent, any other person who is then related to the respondent by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business. The Department may seek to add to a temporary denial order, at a time other than initial issuance or renewal, any person who the Department then has reason to believe is related to a respondent by following the procedures in § 388.3(c) for issuance of an order to show cause.

(b) *Issuance.* (1) The Deputy Assistant Secretary may issue a temporary denial order upon a showing by the Department that the order is necessary in the public interest to prevent an imminent violation of the Act, the regulations, or any order, license or other authorization issued under the Act.

(2) The temporary denial order shall define the imminent violation and state why it was issued without a hearing. Because all denial orders are public, the description of the imminent violation and the reasons for proceeding on an *ex parte* basis set forth therein shall be stated in a manner that is consistent with national security, foreign policy and investigative concerns.

(3) A violation may be "imminent" either in time or in degree of likelihood. To establish grounds for the temporary denial order, the Department may show

either that a violation is about to occur, or that the general circumstances of the matter under investigation or case under criminal or administrative charges demonstrate a likelihood of future violations. In support of its position concerning the likelihood of future violations, the Department may show that the violations under investigation or charges were significant, deliberate, covert and/or likely to occur again, rather than technical or negligent, and that it is appropriate to give notice to companies in the United States and abroad to cease dealing with the person in U.S.-origin goods and technology in order to reduce the likelihood that a person under investigation or charges continues to export or acquire abroad such goods and technology, risking subsequent disposition contrary to export control requirements. Lack of information establishing the precise time a violation may occur does not preclude a finding that a violation is imminent, so long as there is sufficient reason to believe the likelihood of a violation.

(4) The temporary denial order shall be issued for a period not exceeding 60 days.

(c) *Non-resident respondents.* To facilitate timely notice of renewal requests, a respondent not a resident of the United States may designate a local agent for this purpose and provide written notification of such designation to the Department in the manner set forth in § 388.6(b).

(d) *Renewal.* (1) If, no later than 20 days before the expiration date of a temporary denial order, the Department believes that renewal of the denial order is necessary in the public interest to prevent an imminent violation, the Department may file a written request setting forth the basis for its belief, including any additional or changed circumstances, asking that the Deputy Assistant Secretary renew the temporary denial order for an additional period not exceeding 60 days, with modifications if any are appropriate. The Department's request shall be delivered to the respondent, or any agent designated for this purpose, in accordance with § 388.6(b) which shall constitute notice of the renewal application.

(2) *Hearing.* (i) A respondent may oppose renewal of a temporary denial order by filing with the Deputy Assistant Secretary a written submission, supported by appropriate evidence, to be received not later than seven days before the expiration date of such order. For good cause shown, the Deputy Assistant Secretary may consider submissions received not later than five days before the expiration date. The

Deputy Assistant Secretary ordinarily will not allow discovery; however, for good cause shown in respondent's submission, he may allow the parties to take limited discovery, consisting of a request for production of documents. If requested by the respondent in the written submission, the Deputy Assistant Secretary shall hold a hearing on the renewal application. The hearing shall be on the record and ordinarily shall consist only of oral argument. The only issue to be considered on the Department's request for renewal is whether the temporary denial order should be continued to prevent an imminent violation as defined herein. (ii) Any person designated as a related party may not oppose issuance or renewal of the temporary denial order but may file an appeal in accordance with § 388.19(e). (iii) If no written opposition to the Department's renewal request is received within the specified time, the Deputy Assistant Secretary may issue the order renewing the temporary denial order without a hearing.

(3) A temporary denial order may be renewed more than once.

(e) *Appeals.*—(1) *Filing.* (i) A respondent may, at any time, file an appeal of the initial or renewed temporary denial order with the Administrative Law Judge. (ii) The filing of an appeal shall stay neither the effectiveness of the temporary denial order nor any application for renewal, nor shall it operate to bar the Deputy Assistant Secretary's consideration of any renewal application.

(2) *Grounds.* Grounds shall be specified. (i) A respondent may appeal to the Administrative Law Judge from an order issuing or renewing a temporary denial order on the ground that a finding of an imminent violation is unsupported. (ii) Any related party may appeal any finding that he is related to a respondent but may not appeal the underlying issuance or renewal of the temporary denial order.

(3) *Appeal Procedure.* A full written statement in support of the appeal must be filed with the appeal and be simultaneously served on the Department which shall have seven working days to file a reply. Service on the Administrative Law Judge shall be addressed to the Office of the Administrative Law Judges, U.S. Department of Commerce, Room H6716, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Service on the Department shall be as set forth in § 388.6(b). The Administrative Law Judge normally will not hold hearings or entertain oral argument on appeals.

(4) *Recommended Decision.* Within 10 working days after an appeal is filed, the Administrative Law Judge shall submit a recommended decision to the Assistant Secretary, stating whether the issuance or the renewal of the temporary denial order should be affirmed, modified or vacated.

(5) *Final Decision.* Within five working days after receipt of the recommended decision, the Assistant Secretary shall issue a written order accepting, rejecting or modifying the recommended decision. Because of the time constraints, the Assistant Secretary's review shall ordinarily be limited to the written record for decision, including the transcript of any hearing. The issuance or renewal of the temporary denial order shall be affirmed only if there is reason to believe that the temporary denial order is required in the public interest to prevent an imminent violation of the Act, the regulations, or any order, license or other authorization issued under the Act. The Assistant Secretary's written order shall be final and is not subject to judicial review.

(f) *Delivery.* A copy of any temporary denial order issued or renewed and any final decision on appeal shall be published in the **Federal Register** and shall be delivered to the respondent, or any agent designated for this purpose, and to any related party in the same manner as provided in § 388.6 for filing for papers other than a charging letter.

§ 388.20 Record for decision and availability of documents.

(a) *General.* The transcript of hearings, exhibits, rulings, orders, all papers and requests filed in the proceedings and, for purposes of any appeal under § 388.22 or review under § 388.23, the decision of the administrative law judge and such submissions as are provided for by §§ 388.22 and 388.23, shall constitute the record and the exclusive basis for decision. When a matter is settled before service of a charging letter, the record shall consist of the proposed charging letter, the consent agreement and the order.

(b) *Restricted access.* On his own motion, or on the motion of any party, the administrative law judge may direct that there be a restricted access portion of the record for any material in the record to which public access is restricted by law or by the terms of a protective order entered in the proceedings. A party seeking to restrict access to any portion of the record under § 388.20(b) is responsible for submitting at the time the claim of confidentiality is asserted, a version of the document proposed for public

availability that reflects the requested deletion. The restricted access portion of the record shall be placed in a separate file and the file shall be clearly marked to avoid improper disclosure and to identify it as a portion of the official record in the proceedings. The administrative law judge may act at any time to permit material that becomes declassified or unrestricted through passage of time to be transferred to the unrestricted portion of the record.

(c) *Availability of documents—(1) Scope.*—(i) For proceedings started on or after October 12, 1979, all charging letters, answers, decisions, and orders disposing of a case shall be made available for public inspection in the International Trade Administration Freedom of Information Records Inspection Facility, Room H-4104, U.S. Department of Commerce, Washington, D.C. 20230, 202/377-3031. The complete record for decision, as defined in § 388.20 (a) and (b), shall be made available on request. In addition, all decisions on appeal and those final orders providing for denial, suspension or revocation of export licensing privileges shall be published in the **Federal Register**.

(ii) For proceedings started before October 12, 1979, the public availability of the record for decision will be governed by the applicable regulations in effect when the proceedings were begun.

(2) *Timing.*—(i) *Antiboycott cases.* For matters brought under section 8 of the Act, documents are available immediately upon filing, except for any portion of the record for which a request for segregation is made. Parties that seek to segregate any portion of the record under § 388.20(b) must make such a request, together with the reasons supporting the claim of confidentiality, simultaneously with the submission of material for the record.

(ii) *Other cases.* In all other cases brought under the Export Administration Act, the availability of documents shall begin after the final administrative disposition of the case. In these cases, parties desiring to segregate a portion of the record under § 388.20(b) shall assert their claim of confidentiality, together with the reasons for supporting the claim, before the close of the proceeding.

§ 388.21 Consolidation of proceedings.

On his own motion or on motion of any party, and with reasonable notice to all parties affected, the administrative law judge may consolidate two or more proceedings under this part involving different respondents, if all parties to the proceedings agree in writing to

consolidation and if the administrative law judge, in his discretion, determines that consolidation would serve more efficiently to resolve common questions of law or fact raised in such proceedings.

§ 388.22 Appeals.

(a) *Grounds.* For proceedings charging violations relating to section 8 of the Act, a party may appeal to the Assistant Secretary from an order disposing of a proceeding, granting or denying a request for a proceeding, denying a petition to set aside a default or denying a petition for reopening, or from refusal to approve a proposed consent agreement, on the grounds:

(1) That a necessary finding of fact is omitted, erroneous or unsupported by substantial evidence of record; (2) that a necessary legal conclusion or finding is contrary to law; (3) that prejudicial procedural error occurred, or (4) that the decision or the extent of sanctions is arbitrary, capricious or an abuse of discretion. The appeal must specify the grounds upon which the appeal is based and the provisions of the order from which the appeal is taken.

(b) *Filing of appeal.* An appeal of an order must be filed with the Office of the Assistant Secretary for Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Room H-3898B, Washington, DC 20230, within 30 days after service of the order appealed from. If the Assistant Secretary cannot act on an appeal for any reason, the Under Secretary for International Trade may designate another Department of Commerce official to receive and act on the appeal.

(c) *Effect of appeal.* The filing of an appeal shall not stay the operation of any order, unless the order by its express terms so provides or unless the Assistant Secretary, upon application by a party and with opportunity for response, shall grant a stay.

(d) *Appeal procedure.* The Assistant Secretary normally will not hold hearings or entertain oral argument on appeals. A full written statement in support of the appeal must be filed with the appeal and be simultaneously served on all parties, who shall have 30 days from service to file a reply. At his discretion, the Assistant Secretary may accept new submissions but will not ordinarily accept those submissions filed more than 30 days after the filing of the reply to the appellant's first submission.

(e) *Decisions.* The decision shall be in writing and shall be accompanied by an order signed by the Assistant Secretary

giving effect to the decision. The order may either dispose of the case by affirming, modifying or reversing the order of the administrative law judge or may refer the case back to the administrative law judge for further proceedings.

§ 388.23 Review by Assistant Secretary.

(a) *Recommended decision.* For proceedings not involving violations relating to section 8 of the Act, the administrative law judge shall immediately refer the recommended decision and proposed order to the Assistant Secretary of Commerce for Trade Administration ("Assistant Secretary"). Because of the time limits provided under the Act for review by the Assistant Secretary, service upon parties shall be by personal delivery, express mail or other overnight carrier. If the Assistant Secretary cannot act on a recommended decision for any reason, the Under Secretary for International Trade shall designate another Department of Commerce official to receive and act on the recommendation.

(b) *Submissions by parties.* Parties shall have 12 days from receipt of the recommended decision in which to submit simultaneous responses. Parties thereafter shall have 8 days from receipt of any response(s) in which to submit simultaneous replies. Any response or reply must be received within the times specified by the Office of the Assistant Secretary for Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Room 3898-B, Washington, DC 20230. Service upon the Assistant Secretary and upon parties shall be as described in paragraph (a) of this section.

(c) *Final decision.* Within 30 days after receipt of the recommended decision, the Assistant Secretary shall issue a written order affirming, modifying or vacating the recommended decision of the administrative law judge. Because of the time limits, the Assistant Secretary's review shall ordinarily be limited to the written record for decision, including the transcript of any hearing plus any submissions by the parties concerning the recommended decision. The Assistant Secretary's written order shall be final and is not subject to judicial review.

(d) *Delivery.* A copy of the final decision and implementing order shall be delivered to the parties and shall be publicly available in accordance with § 388.20.

Supplement No. 1—Table of Denial Orders Currently in Effect

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Supplement No. 2—Geographical Listing of Parties Subject to Denial Orders

Note: The Geographical Listing of Parties Subject to Denial Orders issued under this supplement does not appear in the Code of Federal Regulations. This listing is based on the Table of Denial Orders (Supplement No. 1 to 15 CFR Part 388) which is compiled from orders denying export privileges published in full in the *Federal Register* and is frequently amended. Readers are cautioned that orders denying export privileges and any modifications to such orders are effective upon signature. All persons affected are deemed to have notice of the provisions of the orders upon publication in the *Federal Register*. A copy of the Geographical Listing of Parties Subject to Denial Orders, which is revised semiannually, is available from the Office of Technology and Policy Analysis, P.O. Box 273, Washington, DC 20044. Addenda subsequent to the semiannual revisions are published in Export Administration Bulletins.

Issued in Washington, DC, on December 23, 1985.

William T. Archey,
Deputy Assistant Secretary for Trade Administration.

[FR Doc. 85-30836 Filed 12-26-85; 12:36 pm]

BILLING CODE 3510-DT-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 4

[TD 86-1]

Amendment to the Customs Regulations Concerning the Coastwise Transportation of Certain Articles by Vessels of Guatemala or the Bahamas

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to add Guatemala and The Bahamas to the lists of nations which permit vessels of the U.S. to transport certain articles specified in section 27, Merchant Marine Act of 1920, as amended, between their ports.

Customs has been furnished satisfactory evidence that neither Guatemala nor The Bahamas place any restrictions on the transportation of certain specified articles by vessels of the U.S. between ports in that country. This amendment provides reciprocal privileges for vessels registered in either Guatemala or The Bahamas.

EFFECTIVE DATE: The reciprocal privileges for vessels registered in Guatemala became effective on October 11, 1985. The privileges extended to vessels registered in The Bahamas became effective on November 29, 1985.

FOR FURTHER INFORMATION CONTACT: Paul Hegland, Carriers, Drawback, and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229, (202-566-5706).

SUPPLEMENTARY INFORMATION:

Background

Section 27, Merchant Marine Act of 1920, as amended (46 U.S.C. 883) (the "Act"), provides generally that no merchandise shall be transported by water, or by land and water, between points in the U.S. except in vessels built in and documented under the laws of the U.S. and owned by U.S. citizens. However, the 6th proviso of the Act, as amended, Pub. L. 89-194 (79 Stat. 823, T.D. 68-176) and Pub. L. 90-474 (82 Stat. 700, T.D. 68-227), provides that upon a finding by the Secretary of the Treasury, pursuant to information obtained and furnished by the Secretary of State, that a foreign nation does not restrict the transportation of certain articles between its ports by vessels of the U.S., reciprocal privileges will be accorded to vessels of that nation, and the prohibition against the transportation of those articles between points in the U.S. will not apply to its vessels.

Section 4.93(b)(1), Customs Regulations (19 CFR 4.93(b)(1)), lists those nations found to extend reciprocal privileges to vessels of the U.S. for the transportation of empty cargo vans, empty lift vans, and empty shipping tanks. Section 4.93(b)(2), Customs Regulations (19 CFR 4.93(b)(2)), lists those nations found to extend reciprocal privileges to vessels of the U.S. for the transportation of equipment for use with cargo vans, lift vans, or shipping tanks; empty barges specifically designed for carriage aboard a vessel and certain equipment for use with these barges; certain empty instruments of international traffic; and certain stevedoring equipment and material.

On October 9, 1985, the Department of State advised the Director, Carriers, Drawback and Bonds Division, of the Customs Service Headquarters that Guatemala places no restrictions on the transportation of the articles listed in the Act by vessels of the U.S. between ports in Guatemala. The effective date of such notification was October 11, 1985.

On November 19, 1985, the Embassy of the Commonwealth of The Bahamas

advised the Commissioner of Customs that The Bahamas place no restrictions on the transportation of the articles listed in the Act by vessels of the U.S. between ports in The Bahamas. The effective date of such notification was November 29, 1985.

The Carriers, Drawback and Bonds Division of Customs is of the opinion that satisfactory evidence has been furnished to establish the reciprocity required in § 4.93(b). Therefore, the Director of the Division has determined that, effective retroactively to the dates of notification stated above, Guatemala and The Bahamas should be added to the lists of nations set forth in § 4.93(b)(1) and (2).

By Treasury Department Order 165-25 the Secretary of the Treasury has delegated authority to the Commissioner of Customs to prescribe regulations relating to §§ 422, 4.81a(b), 4.93 (b)(1) and (b)(2), 4.94(b) and 10.59(f), Customs Regulations (19 CFR 4.22, 4.81a(b), 4.93 (b)(1) and (b)(2), 4.94(b), and 10.59(f)). These sections relate to lists of nations entitled to preferential treatment in Customs matters because of reciprocal privileges accorded to vessels and aircraft of the U.S. Subsequently, by Customs Delegation Order No. 66 (T.D. 82-201), dated October 13, 1982, the Commissioner delegated this authority to the Assistant Commissioner (Commercial Operations), who re-delegated this authority to the Director, Office of Regulations and Rulings, who then re-delegated it to the Director, Regulations Control and Disclosure Law Division.

Finding

On the basis of the information received from the Secretary of State, and the Embassy of the Commonwealth of The Bahamas, as described above, it is determined that neither the Government of Guatemala nor The Bahamas places any restrictions on the transportation of the articles specified in the 6th proviso of section 27 of the Merchant Marine Act of 1920, as amended, by vessels of the U.S. between ports in either Guatemala or The Bahamas, respectively. Therefore, reciprocal privileges are accorded as of October 11, 1985, to vessels registered in Guatemala, and as of November 29, 1985, to vessels registered in The Bahamas.

List of Subjects in 19 CFR Part 4

Customs duties and inspection, Cargo vessels, Maritime carriers, Vessels.

Regulations Amendments

To reflect the reciprocal privileges granted to vessels registered in either

Guatemala or The Bahamas, Part 4, Customs Regulations (19 CFR Part 4), is amended in the following manner:

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

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

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1624; 46 U.S.C. 3, 2103;

Section 4.93 also issued under 19 U.S.C. 1322(a); 46 U.S.C. 883.

§ 4.93 [Amended]

2. Sections 4.93 (b)(1) and (b)(2), Customs Regulations (19 CFR 4.93 (b)(1), (b)(2)), are amended by adding "Guatemala" and Bahamas. The, in appropriate alphabetical order to the list of nations entitled to reciprocal privileges.

Inapplicability of Public Notice and Delayed Effective Date Requirements

Because this is a minor amendment in which the public is not particularly interested and there is a statutory basis for the described extension of reciprocal privileges, notice and public procedure pursuant to 5 U.S.C. 553(b)(B) are unnecessary. In accordance with 5 U.S.C. 553(d)(1), a delayed effective date is not required because this amendment grants an exemption.

Inapplicability of Regulatory Flexibility Act

This document is not subject to the provisions of 5 U.S.C. 603, 604, as added by section 3 of Pub. L. 96-354, the "Regulatory Flexibility Act." That Act does not apply to any regulations such as this for which a notice of proposed rulemaking is not required by the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) or any other statute.

Executive Order 12291

This amendment does not meet the criteria for a major regulation as defined in section 1(b) of E.O. 12291. Accordingly, a regulatory impact analysis is not required.

Drafting Information

The principal author of this document was John E. Doyle, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices in the Customs Service participated in its development.

Dated: December 20, 1985.

B. James Fritz,
Director, Regulations Control and Disclosure
Law Division.

[FR Doc. 85-30725 Filed 12-27-85; 8:45 am]

BILLING CODE 4820-02-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 799

[OPTS-42048B; FRL-2944-9]

Hydroquinone; Testing Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On January 4, 1984, the EPA proposed, under section 4 (a) of the Toxic Substances Control Act (TSCA), that manufacturers and processors of hydroquinone (CAS No. 123-31-9) conduct health and environmental effects testing of that chemical (49 FR 438). EPA has reviewed the comments on the proposal as well as new testing results and additional data that have become available since the publication of the proposed rule. Based on these reviews the Agency is today promulgating a final test rule that requires manufacturers and processors of hydroquinone to evaluate hydroquinone's toxicokinetics and to determine its potential to produce nervous system, reproductive and teratogenic effects.

DATES: In accordance with 40 CFR 23.5 (50 FR 7271; February 21, 1985), this rule shall be promulgated for purposes of judicial review at 1 p.m. eastern ["daylight" or "standard" as appropriate] time on January 13, 1986. This rule shall become effective on February 12, 1986.

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

SUPPLEMENTARY INFORMATION: EPA is requiring health effects testing of hydroquinone as stated in this final rule.

I. Introduction

This notice is part of the overall implementation of section 4 of the Toxic Substances Control Act (TSCA, Pub. L. 94-469; 90 Stat. 2006 *et seq.*; 15 U.S.C. 2603 *et seq.*) which contains authority for EPA to require development of data relevant to assessing the risks to health and the environment posed by exposure to particular chemical substances or mixtures.

Under section 4(a)(1) of TSCA, EPA must require testing of a chemical substance to develop health or

environmental data if the Administrator finds that:

(A)(i) the manufacture, distribution in commerce, processing, use, or disposal of a chemical substance or mixture, or that any combination of such activities, may present an unreasonable risk of injury to health or the environment.

(ii) there are insufficient data and experience upon which the effects of such manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data; or

(B)(i) a chemical substance or mixture is or will be produced in substantial quantities, and (1) it enters or may reasonably be anticipated to enter the environment in substantial quantities or (II) there is or may be significant or substantial human exposure to such substance or mixture.

(ii) there are insufficient data and experience upon which the effects of the manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data.

For a more complete understanding of the statutory section 4 findings, the reader is directed to the Agency's first proposed test rule package (chloromethane and chlorinated benzenes, published in the *Federal Register* of July 18, 1980 (45 FR 48510)) and to the second package (dichloromethane, nitrobenzene and 1,1,1-trichloroethane, published in the *Federal Register* of June 5, 1981; (46 FR 30300)) for in-depth discussions of the general issues applicable to this action.

On January 4, 1984, EPA proposed, under section 4(a) of TSCA, that manufacturers and processors of hydroquinone conduct health and environmental effects testing of that chemical (49 FR 438). EPA, in response to requests by Goodyear Tire and Rubber Company and the Chemical Manufacturer's Association for additional time to comment, published a notice in the *Federal Register* of March 9, 1984 (49 FR 8969) extending the 60-day comment period an additional 30-days to April 3, 1984. On April 18, 1984, EPA also held a public meeting to allow interested persons to present oral comments on the proposed rule.

II. Background

A. Profile

Hydroquinone ($C_6H_4(OH)_2$, CAS No. 123-31-9) is a white crystalline solid at room temperature and is very soluble in water, ethanol, and acetone. It acts chemically as a reducing agent, being oxidized to quinone.

Hydroquinone is produced in a photographic grade for use as a developing agent and in a technical grade which is primarily used as a chemical intermediate in the production of rubber chemicals. Most of the technical grade hydroquinone is converted into chemical for use in polymers. Smaller amounts of the technical grade are used as polymerization inhibitors during the manufacture of vinyl monomers, as

inhibitors for stabilizing unsaturated polyester resins and as a chemical intermediate to prepare other derivatives such as dyes and pigments. Hydroquinone is also used in dermatologic preparations designed to bleach hyperpigmented skin, and as such is regulated by the Food and Drug Administration.

The annual U.S. production volume of photograde, technical, and other grades of hydroquinone is estimated to be as high as 27 million pounds (Ref. 37). U.S. imports of technical grade hydroquinone in 1981 totaled 50 thousand pounds (Ref. 32). The U.S. imports of photographic grade are negligible. The manufacturers of hydroquinone have commented that 26 million pounds of the chemical are manufactured and imported annually (Ref. 1).

B. ITC Recommendations

Section 4(e) of TSCA established an Interagency Testing Committee (ITC) to recommend to EPA a list of chemicals to be considered for testing under section 4(a) of the Act. The ITC designated hydroquinone for priority consideration in its Fifth Report published in the *Federal Register* on December 7, 1979 (44 FR 70684). The ITC recommended that hydroquinone be considered for testing for carcinogenicity and teratogenicity and that epidemiology, human metabolism and environmental fate studies also be considered.

The ITC's recommendations were based on the widespread use of the chemical substance by people having little knowledge of its health and environmental effects. The ITC estimated that the U.S. production of hydroquinone in 1977 was about 11 million pounds. The carcinogenicity and teratogenicity recommendations were also based on suggestive evidence derived from animal studies.

C. Proposed Rule

EPA published a proposed rule in the *Federal Register* of January 4, 1984 (49 FR 438) which would require health effects, chemical fate and environmental effects testing for hydroquinone.

In evaluating the ITC's testing recommendations for hydroquinone, EPA considered all available relevant information including information presented in the ITC's report recommending testing consideration; production volume, use, exposure, and release information reported by manufacturers of hydroquinone under TSCA section 8(a) (40 CFR Part 712—Chemical Information Rule, Subpart B—Manufacturers Reporting—Preliminary Assessment Information); unpublished

health and safety studies submitted by manufacturers, processors and distributors of hydroquinone under the TSCA section 8(d) Health and Safety Data Reporting Rule (40 CFR Part 716); and other published and unpublished data available to the Agency. On the basis of the evaluation, as described in the proposed rule and the accompanying technical support document, EPA proposed metabolism (toxicokinetics), nervous system effects, reproductive effects, teratogenicity (developmental toxicity), and mutagenicity testing requirements, as well as epidemiologic studies, for hydroquinone under both sections 4(a)(1)(A) and 4(a)(1)(B) of TSCA. EPA also proposed chemical fate and environmental effects testing requirements for hydroquinone under section 4(a)(1)(A) of TSCA. By these actions, EPA responded to the ITC's designation of hydroquinone.

In basing its proposed hydroquinone health effects testing on the authority of section 4(a)(1) (A) and (B) of TSCA:

1. EPA found that hydroquinone is produced in substantial quantities, and that the manufacture, processing and use of hydroquinone may result in substantial human exposure to the chemical. Furthermore, EPA found that there are insufficient data available to reasonably determine or predict either the result of this exposure in the areas of carcinogenic, mutagenic, teratogenic, nervous system, and reproductive health effects or the incidence of hydroquinone-related effects among humans. Finally, EPA found that testing of hydroquinone for these health effects and epidemiologic parameters is necessary to develop data needed to evaluate the health risks posed by exposure to hydroquinone.

The findings were based on the following information:

a. There are substantial amounts of hydroquinone produced in the United States each year. The annual U.S. production volume of hydroquinone is estimated to be as high as 27 million pounds (Ref. 37).

b. In 1980 the National Institute for Occupational Safety and Health estimated that approximately 470,000 U.S. workers, in 137 occupations, are potentially exposed to hydroquinone annually. Of major concern to the Agency was the estimated 2.2 million photohobbyists who develop their own film and prints, because much of this involves the development of black and white film using solutions containing hydroquinone. The Agency believed that both workers and hobbyists would receive inhalation and dermal exposure.

2. In addition, EPA found that the manufacture, processing and use of hydroquinone may present an unreasonable risk of injury to human health. There was evidence of potential human health risks from nervous system, mutagenic, teratogenic, reproductive, and carcinogenic effects resulting from the manufacture, processing, and use activities associated with hydroquinone. Exposure to hydroquinone may be sufficient to result in such effects. The existing data were inadequate to reasonably predict or determine the effects of these exposures to hydroquinone and testing was necessary for these effects. Therefore, EPA believed that requiring epidemiologic studies and testing of hydroquinone for nervous system effects, mutagenicity, teratogenicity, reproductive effects, and carcinogenicity could also be based upon section 4(a)(1)(A) of TSCA.

EPA did not propose oncogenicity testing of hydroquinone, since the National Toxicology Program (NTP) is currently conducting a 2-year bioassay on hydroquinone. However, the Agency did propose some metabolism (toxicokinetic) studies of hydroquinone via dermal and oral routes of exposure. These studies would provide a reliable means by which the internal dose administered in the NTP bioassay could be related to doses expected to be received by workers and hobbyists.

In addition, the Agency concluded that the acute toxicity (lethality) and the subchronic toxicity of hydroquinone were adequately characterized and, therefore, no further testing would be required at this time.

The Agency based its chemical fate and environmental effects testing on the authority of section 4(a)(1)(A) of TSCA. (1) EPA found that there was evidence of potential environmental risks to aquatic organisms resulting from the processing and use activities associated with hydroquinone. (2) While there were existing data to support this belief with respect to these effects, the data were inadequate to reasonably predict or determine the effects of these exposures to hydroquinone. (3) Testing was necessary to develop data with respect to these effects.

Although the ITC did not recommend environmental effects testing for hydroquinone, the Agency was concerned with effluents from photoprocessing facilities and proposed a series of environmental effects tests. Based on existing aquatic toxicity data and the limited data on photoprocessing effluents, the Agency believed that the levels of hydroquinone in these effluents, although not so substantial as

to dictate a section 4(a)(1)(B) finding, may present an unreasonable risk (section 4(a)(1)(A)) to aquatic organisms. Testing was needed to provide data to establish whether an unreasonable risk to freshwater and saltwater aquatic species existed.

The Agency also proposed chemical fate testing for hydroquinone. EPA believed that this testing was essential, because the existing chemical fate data are limited and more data are needed to assess the magnitude of the possible risks to aquatic organisms. EPA needed information to establish biodegradation rates in order to assess the levels of hydroquinone exposure to aquatic organisms.

TABLE 1—TESTING RECOMMENDATIONS FOR HYDROQUINONE

Effect or study	ITC recommendation	EPA proposal
Mutagenicity	x	x
Carcinogenicity	x	x
Teratogenicity	x	x
Nervous system effects.....	-	x
Reproductive effects.....	-	x
Epidemiology	x	x
Metabolism (Toxicokinetics)	x	x
Environmental fate.....	x	x
Environmental effects.....	-	x

*Not proposed since NTP is conducting a 2-year bioassay.

III. Response to Public Comments

The comments received by the Agency in response to the proposed rule for hydroquinone were from individual companies, the National Association of Photographic Manufacturers, and the Chemical Manufacturers' Association. The Agency did not receive any comments which, in the Agency's judgment, rebutted the substantial production and substantial human exposure findings for hydroquinone. However, new information concerning the environmental release of hydroquinone has become available since publication of the proposed rule and has led EPA to reconsider its chemical fate and environmental effects testing requirement. Major issues identified during the comment period are discussed below.

A. Human Exposure

EPA cited the NOHS (1980) survey that estimated that approximately 470,000 U.S. workers, in 137 occupations, are potentially exposed to hydroquinone annually. Also of concern were the estimated 2.2 million photohobbyists who develop their own film and prints, because much of this involves the development of black and white film and the process utilizes hydroquinone. Workers and hobbyists may receive inhalation and dermal exposures.

EPA also found that the manufacture, processing and use of hydroquinone may present an unreasonable risk of injury to human health.

The industry has commented that there are two major uses for hydroquinone, photographic uses and rubber chemical uses. Regarding the photographic uses, they report that only four percent of still pictures taken by amateurs are in black and white (Ref. 2) and that only 30,000 kg (66,000 lbs) (Ref. 2) of hydroquinone are used by home darkroom hobbyists each year and this use is in dilute solutions (0.2-0.3 percent) (Refs. 3, 5, and 27).

The industry estimates that about 800,000 people use black and white developers in home darkrooms (Ref. 1). Each person averages eight sessions per year, with the average exposure time of 5 to 10 minutes each of these developing and printing sessions (Refs. 1 and 5). As a result of these limited periods and label warnings on containers, commenters believe dermal absorption of hydroquinone is extremely minimal and that inhalation exposure is also unlikely because of hydroquinone's low vapor pressure (Ref. 5).

The Agency believes that in many instances the industry's conclusion, that consequential exposure of photohobbyists to hydroquinone is unlikely, may be accurate. It also appears that both the number of photohobbyists potentially exposed to hydroquinone and the levels of exposure are much lower than the Agency's earlier estimates. However, EPA still believes there are a substantial number of photohobbyists that are intensively involved in black and white photography much more frequently than the "average" photohobbyist profiled by the industry. This would result in longer and more frequent exposure periods for these individuals.

Regarding exposure of individuals employed at photoprocessing plants, the industry reports that at least 90 percent of the photofinishing dollar volume is color negative films and prints, where no hydroquinone is used (Refs. 1 and 5). The industry, estimating there are 2,000 photofinishing labs in the U.S. (Refs. 1 and 5) versus the Agency's estimate of 10,000, states that only some of these facilities process black and white negative film and paper using developers containing hydroquinone. Additionally, since most labs use automatic processing equipment, any exposure would be likely to involve only one-half hour for one worker mixing chemicals once a week (Refs. 1 and 5). The industry cites both a NIOSH report concerning a photofinishing lab and an

industry study of airborne hydroquinone in a darkroom that showed no hydroquinone detected at a 0.02 mg/m³ limit of detection (Refs. 4 and 6).

While automated labs may result in minimal worker exposure to hydroquinone, the Agency believes there are varying amounts of automation found in the photoprocessing labs in the U.S. that develop black and white films and papers. Older, less sophisticated operations will involve more direct worker involvement with hydroquinone and greater exposure, especially dermal, will result. Moreover, the monitoring data provided to the Agency are extremely limited; thus, the Agency cannot be assured that the data are truly representative of all photoprocessing labs.

The industry has defined the group of hydroquinone manufacturing workers as 80 individuals at two plants (Ref. 1). They claim minimal worker inhalation exposure due to the closed production processes, with one facility reporting "an arithmetical average concentration of 0.79 mg/m³ (± 0.52 standard deviation)" and the other reporting the "highest average concentration as 0.2 mg/m³" (Ref. 1). One production facility reported the arithmetic average air concentration in the unloading area as 0.13 mg/m³ (standard deviation ± 0.15 mg/m³) (Ref. 1). These summary data were supplied by the industry; EPA is unable to interpret these further since frequency, averaging time and other supporting documentation were not provided.

The Agency agrees that exposure of certain manufacturing workers to hydroquinone may be limited. However, while the industry has described its production workforce as essentially 80 workers, the NIOSH NOHS Survey has estimated that, overall, approximately 470,000 U.S. workers in 137 occupations are potentially exposed to hydroquinone. Workers involved in distributing and processing hydroquinone as it is incorporated into rubber chemicals and other uses and the actual potential for exposures through these activities have not been characterized by the industry. While the Agency believes the 470,000 figure may overestimate the number of workers actually exposed to hydroquinone, the Agency believes that the available information indicates that substantial numbers of persons in the workplace are or may be receiving dermal and inhalation exposure to hydroquinone.

B. Human Health Effects

1. *Metabolism (Toxicokinetics)*. EPA stated in the support document to the proposed rule that although 92 to 97

percent of hydroquinone administered to rats is excreted in the urine, studies in man, dog and rabbit show considerably lower percentages of hydroquinone absorption/excretion. These studies were incomplete and deficient in several areas. The Agency believed that the currently available data were not sufficient for purposes of reasonably predicting the toxicokinetic of hydroquinone. Toxicokinetic studies via dermal and oral routes were proposed because: (1) The primary route of human exposure to hydroquinone is expected to be direct dermal contact, although the potential exists for some direct ocular contact and inhalation of dust or vapors; and (2) the NTP is currently performing a 2-year bioassay on hydroquinone via an oral exposure route (gavage).

The industry has supplied the Agency with numerous comments on the toxicokinetics of hydroquinone based on new data and ongoing test programs. Also, they have discussed (1) the dermal uptake of hydroquinone, based on a study by Marty *et al.* (Ref. 7), where the chemical was applied to rodent and human skin and (2) a dermal absorption study in dogs by Kodak (Ref. 8). Based on the Marty study and the preliminary results of the Kodak study, the industry concludes that hydroquinone is poorly absorbed through the skin.

With regard to the Marty study, the Agency believes the hydroquinone formulation used, and to a lesser extent the methodology, render the use of this study questionable as an accurate characterization of actual hydroquinone penetration of human skin in the workplace. A major concern with this study is the use of a preparation of hydroquinone which contained 75 percent water. Hydroquinone is water soluble and when administered to the skin in a predominately aqueous form, it may have a tendency to stay in the solvent rather than penetrate the lipid membrane of the skin. Because of the expected low diffusional driving force of an aqueous solution of hydroquinone as compared to the expected higher diffusional driving force of hydroquinone itself, the Marty study may underestimate actual hydroquinone penetration that persons would experience when exposed to non-aqueous (e.g. powdered) forms of the chemical.

Limitations to the study are also imposed by the use of rats for the parenteral dosing while mice were used for *in vivo* topical administration. While both species are equally sensitive to the toxic effects of orally administered hydroquinone, usually the excretion kinetics of parenteral dosing are developed utilizing the same species;

there may be significant species differences with respect to biotransformation and excretion of hydroquinone.

The industry has informed the Agency of an ongoing testing program that will explore the area of metabolic fate of hydroquinone, percutaneous absorption and blood elimination kinetics. Although the data from these studies may provide adequate information to relate dose levels of hydroquinone from expected human exposures to doses administered in a bioassay being conducted by the National Toxicology Program, the Agency does not currently have the complete industry studies in hand for evaluation. Therefore, the Agency is requiring the metabolism testing delineated in the proposed rule.

2. *Developmental toxicity and reproductive effects*. At oral doses of 50 mg/kg/day and higher, Racz reported that hydroquinone prolonged the diestrus period of the sexual cycle in female albino rats (Ref. 9). Skalka (Ref. 10), subcutaneously injecting male rats at a dose of 100 mg/kg/day for 51 days, reported decreased weights in testes, epididymides, seminal vesicles and adrenal glands; histological changes in testes indicating disrupted spermiogenesis; and diminished DNA content of sperm heads. Telford *et al.* reported that at a dose level of 0.5g of hydroquinone in the diet administered to female rats during pregnancy, fetal resorptions resulted (Ref. 11). Because of the aforementioned reproductive system effects, the Agency proposed reproductive effects testing for hydroquinone.

There were no reports in the literature of hydroquinone studies explicitly dealing with teratogenic or developmentally toxic effects; however because of the evidence of fetal resorptions, the Agency determined that testing of hydroquinone for developmental toxicity is warranted.

The industry, commenting on EPA's basing hydroquinone's teratogenic activity on the Telford *et al.* study (Ref. 11), stated that the increased fetal resorptions are not necessarily indicative of terata formation and moreover, the study is incompletely described. The industry commented that the poor quality of the study and the low human exposure do not justify teratology testing.

Concerning reproductive effects, the industry stated that in a study by Ames *et al.* (Ref. 12), feeding hydroquinone at a level of 0.3 percent in the diet of female rats for 10 days prior to insemination caused no impairment. They also commented that the results of

the Racz study do not suggest a female reproductive problem. They expressed no surprise at reproductive effects in male rats in the Skalka study (Ref. 10) because 51 subcutaneous injections of 100 mg/kg were used while the subcutaneous LD₅₀ in rats has been reported to be between 300 and 350 mg/kg.

The industry has pointed out that the Agency's questions raised by these papers are being addressed by a dominant lethal assay and a teratology study, both being conducted by Kodak. Industry argues that preliminary evidence indicates the absence of adverse effects in these studies and refutes any suggestion of reproductive toxicity by the data of Skalka and Telford.

While the industry's comments relative to teratogenicity and reproductive effects are valid in some respects, they do not alleviate the Agency's concerns. The Agency considers the Telford *et al.* study (Ref. 11) showing resorptions very meaningful. Although the industry's comment that resorptions do not necessarily indicate terata is valid, resorptions do indicate some type of developmental toxicity of which terata are but one aspect. The Agency's concern, therefore, is over the potential of hydroquinone to be a developmental toxicant. The four manifestations of developmental toxicity are death (which includes resorptions), malformations (terata), growth retardation, and functional deficits.

It is true that the Ames *et al.* reproductive study (Ref. 12) was negative; however, dose levels may not have been high enough; no toxic effects of any kind were reported. This study may be a false negative.

EPA and CMA disagree on the dosing regimen and levels in the Racz *et al.* study (Ref. 9). If the industry's contention that the animals first received a high dose, which was lowered later, is correct, then this study is of questionable value.

The Skalka study (Ref. 10) showed clear testicular toxicity via the subcutaneous route. Although subcutaneous dosing is not representative of expected routes of human exposure to hydroquinone, the results of this study suggest that if hydroquinone is absorbed as a result of dermal or inhalation exposures it could produce testicular toxicity. The industry is correct in pointing out that the testicular effects were noted at about 0.3 LD₅₀, a high dose. However, EPA cannot ignore the positive effects noted and cannot predict the effects of other dose levels and other routes of exposure. The

Agency needs further data before this effect can be assessed.

Because EPA's concerns in the areas of developmental toxicity and reproductive effects have not been allayed, the Agency is requiring testing in these areas as described in the proposed rule.

3. *Oncogenicity.* EPA reported that several long-term animal bioassays (mice) were negative although they did not meet current testing standards. In one study (Ref. 13) bladder carcinomas were produced in mice implanted with cholesterol pellets containing hydroquinone. This test is not recognized as a valid measure of carcinogenic potential. However, because of this positive result and the positive result in a *in vitro* cell transformation assay (Ref. 14), further oncogenicity testing is warranted. Because the NTP is conducting a 2-year bioassay with hydroquinone, no additional oncogenicity studies were proposed in the rule.

Industry has commented that although the Agency has asserted that hydroquinone is a suspected carcinogen, EPA has provided no support and industry is unaware of any studies in any animal species that demonstrate this assertion.

While the two studies cited are viewed by EPA as suggestive that the compound may be carcinogenic, the NTP bioassay is needed to confirm or refute the suspicions. This study is planned to be completed by mid-1986.

4. *Mutagenicity and Cytotoxicity.* The Agency concluded in the proposed rule published in the Federal Register of January 4, 1984 (49 FR 438), that the mutagenicity studies involving hydroquinone showed equivocal results. Hydroquinone had been reported: (a) to be mutagenic in one *Salmonella* test (Ref. 33), (b) to be mutagenic in a bacterial DNA repair assay (Ref. 34), and (c) by the National Toxicology Program, to induce sister chromatid exchanges and chromosomal aberrations in Chinese hamster ovary cells (Ref. 35). Prior to issuance of the proposed rule, Goodyear (Ref. 36) submitted data including: (i) DNA damage in *E. coli*, (ii) sex-linked recessive lethal (SLRL) assay in *Drosophila m.*, (by Serva and Murphy) (iii) *Salmonella* microbial assay (Ames), and (iv) *in vitro* cell transformation assay. The DNA damage assay and the cell transformation assay were reported as positive, while the *Salmonella* microbial assay was negative. The SLRL assay was reported negative but there were inadequacies in the protocol and reporting. With positive results in cytogenetics and sister chromatid

exchange in tests by the NTP, EPA considered a dominant lethal test in mice to be the appropriate next step in testing for chromosomal effects.

Hydroquinone had not been adequately tested for its ability to induce gene mutations. Because of equivocal result in the *Salmonella typhimurium*/mammalian microsomal assay, EPA proposed that hydroquinone be tested for its ability to induce gene mutations in mammalian cells in culture. Positive results in this test would dictate a SLRL assay in *Drosophila*, and, if the latter test was positive, a mouse specific locus assay.

With regard to the proposed gene mutation test requirement, Goodyear Tire and Rubber Company has now submitted a complete report of the *Drosophila* SLRL test by Serva and Murphy (Ref. 15). The Agency has reviewed the data and agrees that this test adequately demonstrates that hydroquinone does not increase recessive lethal mutations under the test conditions. A second *Drosophila* test was part of a battery of three assays reported by Gocke *et al.* (Ref. 16) which included the *Salmonella*/mammalian liver microsome test (Ames test), the Basc test on *Drosophila* detecting sex-linked recessive lethal mutations, and the micronucleus test detecting chromosome aberrations in mouse bone marrow cells. This second *Drosophila* test also provides sufficient information to indicate no increase in recessive lethal mutations under the test conditions. Therefore, EPA finds no further gene mutation testing of hydroquinone to be necessary at this time.

With regard to the proposed chromosomal aberration tests, positive results were reported in the mouse bone marrow micronucleus test by Gocke (Ref. 16). Because hydroquinone caused a dose-dependent increase in the number of micronuclei found in mouse bone marrow, a dominant lethal test in rodents was indicated.

Kodak has submitted a dominant lethal assay of hydroquinone in rats (Ref. 17) and the Agency has reviewed this study. This assay showed no lethality up to a dose causing signs of clinical toxicity and some spontaneous death.

Since negative results have been reported in two SLRL tests and the dominant lethal assay in rats submitted by Kodak is also negative, EPA concludes that no further testing for gene mutations or chromosomal aberrations is necessary at this time.

5. *Nervous System Effects.* The Agency concluded that the test data

identified did not adequately characterize the possible neurotoxic effects of hydroquinone. Proposed testing included a functional observational battery, neuropathology and motor activity or operant behavior.

The industry has commented that the information requested by the Agency is either already available or may be readily available from ongoing testing programs. They state that only acute tests conducted in intact animals provide any meaningful data because they account for the blood-brain barrier; research type neuropharmacologic and neurophysiologic studies are inapplicable.

The commenters state that the NTP hydroquinone oncogenicity and chronic toxicity studies will generate data similar to those developed in a functional observational battery. The neuropathology data can similarly be obtained from modified NTP studies. Finally, they believe that motor activity data have already been reported by Christian *et al.* (Ref. 18). EPA agrees that the motor activity data derived from this study satisfy the motor-activity or operant behavior testing endpoint. EPA, however, disagrees that ongoing and planned NTP testing could generate data similar to a functional observational battery because the NTP protocols, developed for the purposes of oncogenicity testing, severely limit the quality and extent of clinical observation. Therefore, a functional observational battery is required as proposed.

The industry has also stated that the NTP studies could be readily modified to adequately screen for neuropathology. While this may be true, the two-year bioassay for hydroquinone has already progressed to the stage of sacrificing of test animals and this option is no longer available. Therefore, neuropathology testing for hydroquinone is required.

6. *Epidemiology.* The ITC recommended epidemiologic studies for hydroquinone if an appropriate cohort could be identified.

Limited epidemiologic studies involving exposure to hydroquinone have been identified by the Agency. The existing literature includes occupational cross-sectional studies and case reports of exposure of populations through dermal application and accidental ingestion, as well as experimental exposure to hydroquinone by either ingestion or topical application. To date, the most reliable reported human effects attributed to hydroquinone exposure have been restricted to the eye and skin. A positive correlation between the degree of eye injury and duration of

occupational exposure to hydroquinone has been reported (Refs. 19 through 22).

Additional concern for potential human risk comes from two studies of Kodak employees. First, a case-control study of brain cancers by Greenwald *et al.* (Ref. 24) observed elevated odds ratio with black and white developer exposure. Hydroquinone is known to be a component of black and white developer mixes. Secondly, a cohort study of photographic processors in nine Eastman Kodak Color Print and processing laboratories also reports an excess of brain cancer mortality. Individual exposures were not examined in this study, but hydroquinone and quinone were identified among the many possible exposures (Ref. 23).

EPA proposed that a cohort study be conducted, designed to detect a 50 percent increase in total cancer incidence with at least 80 percent probability when both random and nonrandom sources of error have been considered. Incidence and mortality from a full spectrum of endpoints were to be examined (e.g., specific forms of cancer, and a variety of ocular effects including loss of visual acuity and conjunctival or corneal changes). Additionally, to address the Agency's concerns regarding the possibility of teratogenic effects and adverse reproductive effects, the Agency believed a study of these areas would be appropriate. Such a study, preferably prospective and including both spouses, would complement the Agency's request for animal teratology and reproductive studies.

The industry commenters believe a suitable study population does not exist. Commenters identified two populations for possible study, manufacturing workers and photohobbyists, and stated that a study of either population is not feasible (Ref. 5). A small number of employees work in the manufacturing of hydroquinone, totaling 100 workers between two different plants. Industry stated that epidemiologic study of this population would have low power to detect small relative risks for cancer or reproductive endpoints. The Agency agrees with this comment. EPA also agrees with the comment that photohobbyists may not be a feasible population for study due to potentially lower exposure levels and multiple chemical exposures (Ref. 1).

The Agency has been unable to identify another group, aside from the aforementioned, that may prove to be a suitable population for epidemiologic study. Therefore, the Agency is not requiring epidemiologic studies at this time.

C. Chemical Fate and Environmental Effects

The ITC, in its Fifth Report, stated that there is substantial opportunity for human and environmental exposure to hydroquinone and possibly to its oxidation products, semiquinone and quinone, and recommended environmental fate testing.

The Agency based its chemical fate and environmental effects testing for hydroquinone on the authority of section 4(a)(1)(A) of TSCA.

Although the ITC did not recommend environmental effects testing for hydroquinone, the Agency was concerned with effluents from photoprocessing facilities and proposed a series of environmental effects tests. Based on existing aquatic toxicity data and the limited data on photoprocessing effluents, the Agency believed that the levels of hydroquinone in those effluents, although not so substantial as to indicate a section 4(a)(1)(B) finding, could present an unreasonable risk to aquatic organisms.

The Agency proposed chemical fate testing for hydroquinone because the existing chemical fate data were limited and more data were needed to assess the magnitude of the possible risks to aquatic organisms. EPA needed information to establish biodegradation rates in order to assess the levels of hydroquinone exposure to aquatic organisms.

In the "Environmental Release" section of its technical support document for the proposed rule, EPA reported that concentrations of hydroquinone in photographic processing effluents range from 10 to 390 ppm and noted that there was no information regarding the total volume of release. A pilot plant study of photographic effluents by Eastman Kodak reported hydroquinone concentrations to be less than 0.04 mg/L (0.04 ppm) after biodegradation by treatment with an activated sludge (Ref. 25). However, although natural aquatic ecosystems may contain acclimated organisms, the ability of these ecosystems to degrade various concentrations of hydroquinone and quinone is unknown.

The Agency proposed chemical fate testing of hydroquinone that would establish the rate of biodegradation in order to assess possible risks to aquatic organisms.

EPA was concerned with the levels of hydroquinone remaining in effluents from photoprocessing activities (after treatment) because at levels approaching 0.04mg/L, hydroquinone

could present an unreasonable risk of injury to aquatic organisms. The Agency proposed aquatic testing to provide data regarding no-effect levels, LC₅₀'s and dose-response relationships. These tests would involve both freshwater and saltwater organisms and included acute tests, acute-chronic ratios in aquatic animals, tests with algae or chronic testing with vascular plants, and bioconcentration tests in aquatic animal species. This variety of tests would provide sufficient data to support regulatory action under the Clean Water Act.

The comments the Agency has received from the industry adequately support their contention that manufacturing processes and darkroom hobbyists do not provide consequential environmental releases of hydroquinone.

With regard to possible releases of hydroquinone from photoprocessors, the results of a Kodak survey by Ambrose *et al.* (Ref. 26) suggest that the majority of 34 plants sampled discharged effluents containing 30 µg/L to mg/L of hydroquinone. Irrespective of dilution, the concentration of hydroquinone will be reduced to 50 µg/L from mg/L if 95 percent removal occurs as in typical POTW (Ref. 28). Further, the combined effects of dilution with domestic and other wastes entering the POTW and dilution after discharge to the river will normally lead to at least an additional 10 to 100 fold reduction in hydroquinone concentration (0.5–5 µg/L) (Ref. 28). Therefore, since it appears that the sample is representative of the industry, EPA considers it is reasonable to estimate that maximum in-stream hydroquinone concentrations should not exceed 5 µg/L.

Additionally, the industry has provided information that indicates hydroquinone and quinone will be released from photoprocessing plants as hydroquinone monosulfonate which is less toxic to aquatic life (Ref. 1).

The Agency also was concerned with the possible direct discharge of hydroquinone and hydroquinone monosulfonate from photoprocessing plants to receiving waters. The study by Ambrose *et al.* (Ref. 26) suggests that motion picture photofinishers represent a category that may deserve more attention. Only five labs were sampled, but two of those discharged effluents containing 3–6.9 mg/L of hydroquinone and 16.4–41.2 mg/L of hydroquinone monosulfonate. All four samples from these two labs contain hydroquinone and hydroquinone monosulfonate.

The industry, however, has provided information on the use of hydroquinone for motion picture processing. According

to Kodak (Refs. 29 and 30), this use has substantially decreased in the last 5 years from 14,000 kg/yr to less than 4,000 kg/yr. Furthermore, Kodak states that "all" large photoprocessors are located in urban areas and are, therefore, likely to discharge to POTW's and that any direct dischargers would be subject to the NPDES permit program and effluent limitations and guidelines of 40 CFR Part 459. Kodak also has provided statistics to show that currently there are 500 motion picture processors in the U.S. (Ref. 30).

The industry's comments do not completely support their statement that "no consequential environmental release occurs from photoprocessing operations" (Ref. 1). The commenters state that 99 percent of the plants discharge into POTW's; the remaining 1 percent must be assumed to be discharging directly to receiving waters (Ref. 1). The Agency has only been able to identify limited information regarding the actual number of plants that would comprise this 1 percent, and has no information regarding the volume of discharges or the flow of the receiving waters. However, in conducting a search through EPA's Water Permit Compliance Systems records (Ref. 31), the indication was that this segment (approximately 40 dischargers) is a very minor segment of the entire hydroquinone/hydroquinone monosulfonate discharge in terms of total releases. Additionally, the decline in use of hydroquinone and the switching to new products should lower risk from direct discharges of hydroquinone. In summary, given that most of the releases of hydroquinone and hydroquinone monosulfonate are processed through POTW's and should not be released into receiving waters at concentrations likely to pose any unreasonable risk, and that the 40 processors who may be direct dischargers do not appear to represent a major or significant portion of the total discharge, the Agency is not requiring chemical fate and environmental effects testing as part of the hydroquinone final rule.

D. Ongoing Testing

On June 15, 1983, industry representatives notified EPA that they were planning to conduct various health effects tests in the near future. Eastman Kodak Company provides EPA with protocols for testing in the areas of: metabolic fate, percutaneous absorption, blood elimination kinetics, mutagenicity, teratology and reproductive effects and requested EPA's comments on the adequacy of these protocols. Having received the Agency's comments, the industry embarked on many of these

studies and EPA anticipates that many of these will meet the testing requirements established by the Agency in the hydroquinone final rule. However, since many of these studies have only recently reached completion or are still underway, EPA currently has received in many cases only summary or interim reports. Because EPA has not yet received sufficient raw data and other backup materials relating to the already completed studies and only progress reports in the case of ongoing studies, the Agency presently has insufficient data to reasonably predict or determine the human health effects resulting from exposure to hydroquinone.

IV. Final Test Rule for Hydroquinone

A. Findings

EPA is basing its hydroquinone health effects testing requirements on the authority of sections 4(a)(1) (A) and (B) of TSCA.

1. EPA finds that hydroquinone is produced in substantial quantities, and that the processing, distribution and use of hydroquinone may result in substantial human exposure to this chemical.

These findings are based on the following information:

a. There are substantial amounts of hydroquinone produced in the United States each year. The annual U.S. production volume of hydroquinone is estimated to be as high as 27 million pounds.

b. In 1980, the National Institute for Occupational Safety and Health estimated that approximately 470,000 U.S. workers, in 137 occupations, are potentially exposed to hydroquinone annually. Although this figure may overestimate the number of workers actually exposed to hydroquinone, even a few percent of the estimate would be substantial.

The Agency believes there are substantial numbers of people in the workplace involved in distributing and processing hydroquinone as it is incorporated into rubber chemicals and other uses.

EPA also believes that there are varying amounts of automation found in the 2,000 photofinishing labs reported by the industry; older operations, and specifically those dealing with large volumes of black and white developing, may result in significant worker exposure.

By industry estimates, there are 800,000 people who use photographic developers in home darkrooms. The Agency believes that included in this group are some hobbyists and

individuals involved in specialty work who, because they are intensively involved in black and white photography, will have more frequent exposures for longer periods to hydroquinone than the "average" photohobbyist.

The Agency believes that these workers and hobbyists may receive both inhalation and dermal exposure to hydroquinone.

2. In addition, EPA has found that the processing and use of hydroquinone may present an unreasonable risk of injury to human health from nervous system, developmentally toxic, reproductive, and carcinogenic effects. The Agency's basis for these findings is presented in the technical support document for the proposed rule and in Unit III.B. of this preamble.

3. EPA finds that existing data and experience are inadequate to reasonably predict or determine the developmental toxicity and nervous system, reproductive and carcinogenic effects of exposures to hydroquinone. The Agency's basis for these findings is presented in the technical support document for the proposed rule and in Unit III.B. of this preamble.

4. EPA also finds that, except in the case of carcinogenicity where adequate testing by NTP is ongoing, testing is necessary for these effects.

Toxicokinetic testing is also necessary for the purpose of reasonably predicting the toxicokinetic behavior of hydroquinone and to help interpret the other testing being required by EPA and performed by NTP. The Agency is requiring limited metabolism (toxicokinetic) studies of hydroquinone via dermal and oral routes of exposure. These studies will provide a reliable means by which the internal dose administered in the NTP bioassay and EPA-required studies can be related to doses expected to be received by workers and hobbyists.

EPA does not believe that this rule will result in a loss to society of the benefits of hydroquinone because the Agency's economic evaluation has shown that the economic impact of the testing being required for this substance will be minimal.

B. Required Testing

EPA is requiring that hydroquinone be tested for reproductive, teratogenic and nervous system effects and that its toxicokinetics be evaluated.

TABLE 2—TESTING REQUIREMENTS FOR HYDROQUINONE

Effect or study	ITC recommendation	EPA proposal	Final rule
Mutagenicity	-	x	1 -
Carcinogenicity.....	x	² x	-
Teratogenicity/developmental toxicity.....	x	x	x
Nervous system effects.....	-	x	³ x
Reproductive effects.....	-	x	³ x
Epidemiology.....	x	x	⁴ -
Metabolism (toxicokinetics).....	x	x	x
Environmental fate	x	x	⁵ -
Environmental effects.....	-	x	⁶ -

¹ Data received by EPA since proposal indicates negative results in appropriate tests.

² Not proposed because NTP is conducting a 2-year bioassay.

³ Adequate data on motor activity have been reported but neuropathology and testing in a functional observational battery are still needed.

⁴ EPA agrees with commenters that suitable cohorts cannot be identified at this time.

⁵ Data provided in response to proposed rule show lack of sufficient environmental concentrations to support testing.

C. Test Substance

EPA is requiring that hydroquinone of at least 99 percent purity, available commercially, be used as the test substance. EPA has specified a relatively pure substance for testing because the Agency is interested in evaluating the effects attributed to hydroquinone itself. This requirement will increase the likelihood that any toxic effects observed are related to hydroquinone and not to any impurities.

D. Persons Required To Test

Section 4(b)(3)(B) of TSCA specifies that the activities for which the Agency makes section 4(a) findings (manufacture, processing, distribution, use and/or disposal) determine who bears the responsibilities for testing. Manufacturers are required to test if the findings are based on manufacturing ("manufacture" is defined in section 3(7) of TSCA to include "import"). Processors are required to test if the findings are based on processing. Both manufacturers and processors are required to test if the exposures giving rise to the potential risk occur during use, distribution, or disposal. Because EPA has found that the processing, distribution in commerce, and use of hydroquinone gives rise to substantial human exposure to the chemical and that such activities may present unreasonable risks to human health, EPA is requiring that persons who manufacture or process, or who intend to manufacture or process this chemical, at any time from the effective date of this test rule to the end of the reimbursement period, be subject to the rule. The end of the reimbursement period will be 5 years after the final hydroquinone reproductive effects report is submitted. As discussed in the

Agency's test rule and exemption procedures (40 CFR Part 790), EPA expects that manufacturers will conduct testing and that processors will ordinarily be exempted from testing.

EPA is, however, exempting from these testing requirements those manufacturers and processors which produce and process hydroquinone only as an impurity. "Impurity" is defined in 40 CFR 790.3 to mean "a chemical substance which is unintentionally present with another chemical substance." The Agency is exempting those manufacturers and processors because the EPA's findings under sections 4(a)(1)(A) and 4(a)(1)(B) are based on exposures to hydroquinone which are a result of intentional processing, distribution in commerce and use and which represent a potential unreasonable risk. The Agency would find it difficult to apply both the exemption and reimbursement processes to those who manufacture and/or process hydroquinone solely as an impurity. In fact, the Agency's reimbursement regulations issued pursuant to section 4(c) state that those manufacture or process chemical substances as impurities will not be subject to test requirements unless the rule specifically states otherwise (40 CFR 791.48b).

Because TSCA contains provisions to avoid duplicative testing, not every person subject to this rule must individually conduct testing. Section 4(b)(3)(A) of TSCA provides that EPA may permit two or more manufacturers or processors who are subject to a test rule to designate one such person or a qualified third person to conduct the tests and submit data on their behalf. Section 4(c) provides that any person required to test may apply to EPA for an exemption from that requirement. The Agency anticipates that the current manufacturers of hydroquinone will form the reimbursement pool and sponsor the testing required. Manufacturers and processors who are subject to the testing requirements of this rule must comply with the test rule and exemption procedures in 40 CFR Part 790. EPA is not requiring the submission of equivalence data as a condition for exemption from the required testing. As noted in Unit IV. B, EPA is interested in evaluating the effects attributable to hydroquinone itself and has specified a relatively pure substance for testing.

E. Test Rule Development and Exemptions

Elsewhere in today's Federal Register, the Agency is proposing that certain

OTS test guidelines and EPA-approved industry protocols be utilized as test standards for the development of data under this rule for hydroquinone. As discussed in that notice and in previous notices (50 FR 20652), EPA has reviewed the method for development of test rules and has decided that for most section 4 rulemakings, the Agency will utilize single-phase rulemaking. In light of this decision, EPA has reevaluated the process for developing test standards for section 4 rulemakings initiated under a two-phase process and has determined that for certain of these two-phase rules, OTS test guidelines are available for promulgation as relevant test standards. EPA has decided that where OTS or other appropriate test guidelines are available, the Agency in most cases will propose the relevant guidelines as the test standards for those rules.

EPA believes that, in line with its commitment to expedite the section 4 rulemaking process, it is appropriate to propose the applicable OTS test guidelines as test standards at the same as a Phase I final test rule is issued. With regard to the rulemaking for hydroquinone, OTS test guidelines and EPA-approved industry protocols are available for all the testing requirements included in this Phase I final rule. Thus, in the accompanying notice, the Agency is proposing these OTS test guidelines and industry protocols as test standards.

The public, including the manufacturers and processors subject to the Phase I rule, will have an opportunity to comment on the use of the OTS test guidelines and industry protocols. The Agency will review the submitted comments and will modify the OTS guidelines, where appropriate, when the test standards are promulgated.

During the development of a test rule under the two-phase process, persons subject to the Phase I final rule are normally required to submit proposed study plans within 90 days after the effective date of the Phase I rulemaking. See 40 CFR 790.30(a)(2). However, because EPA is proposing applicable OTS test guidelines as the test standards for the studies required by this Phase I final rule, persons subject to the rule, i.e., manufacturers and processors of hydroquinone, are not required to submit proposed study plans for the required testing at this time. Persons subject to this rule, however, are still required to submit notices of intent to test or exemption applications in accordance with 40 CFR 790.25. For the rule, once the test standards are promulgated, persons who have notified EPA of their intent to test must submit

study plans (which adhere to the promulgated test standards) no later than 30 days before the initiation of each required test.

Processors of hydroquinone subject to this rule, unless they are also manufacturers, will not be required to submit letters of intent, exemption applications or study plans (before testing is initiated) unless manufacturers fail to sponsor the required tests. The basis for this decision is that manufacturers are expected to pass an appropriate portion of the tests costs on to processors through the pricing of products containing hydroquinone.

EPA's final regulations for the issuance of exemptions from testing requirements are in 40 CFR Part 790. In accordance with those regulations, any manufacturer or processor subject to this Phase I test rule may submit an application to EPA for an exemption from conducting any or all of the tests required under this rule. If manufacturers perform all the required testing, processors will be granted exemptions automatically without having to file applications.

Because persons subject to this rule for hydroquinone are not required to submit proposed study plans for approval, EPA will grant conditional exemptions under this rule. These exemptions will be granted following EPA's receipt of a letter of intent to conduct the required tests rather than after receipt and approval of a study plan. Notice of EPA's adoption of the proposed test standards and deadlines will be announced in a final Phase II test rule.

In the accompanying *Federal Register* notice, EPA is proposing deadlines for the submission of test data. Such deadlines are required under section 4(b)(1)(C) of TSCA. These proposed data submission deadlines are open for public comment and may be modified, where appropriate, when the final Phase II test rule is promulgated.

F. Reporting Requirements

EPA is requiring that all data developed under this rule be reported in accordance with the EPA Good Laboratory Practice (GLP) standards pursuant to 40 CFR Part 792, published in the *Federal Register* of November 29, 1983 (48 FR 53922).

EPA is required by TSCA section 4(b)(1)(C) to specify the time period during which persons subject to a test rule must submit test data. The Agency is proposing these deadlines elsewhere in today's *Federal Register*.

TSCA section 12(b) requires that persons who export or intend to export to a foreign country any hydroquinone

subject to the testing requirements of this rule notify EPA of such exportation or intent to export. While the results of required testing may not be available for some time, a notice to the foreign government that these exported substances are subject to test rules serves to alert them to the Agency's concern about the substances. It gives these governments the opportunity to request such data that the Agency may currently possess plus whatever data may become available as a result of testing activities. Thus, upon the effective date of this rule, persons who export or intend to export hydroquinone must submit notices to the Agency pursuant to TSCA section 12(b)(1) and 40 CFR Part 707. For additional information, see the *Federal Register* of November 19, 1984 (49 FR 45581).

TSCA section 14(b) governs Agency disclosure of all test data submitted pursuant to section 4 of TSCA. Upon receipt of data required by this rule, the Agency will announce the receipt within 15 days in the *Federal Register* as required by section 4(d). Test data received pursuant to this rule will be made available for public inspection by any person except in those cases where the Agency determines that confidential treatment must be accorded pursuant to section 14(b) of TSCA.

G. Enforcement Provisions

The Agency considers failure to comply with any aspect of a section 4 rule to be a violation of section 15 of TSCA. Section 15(1) of TSCA makes it unlawful for any person to fail or refuse to comply with any rule or order issued under section 4. Section 15(3) of TSCA makes it unlawful for any person to fail or refuse to: (1) Establish or maintain records, (2) submit reports, notices, or other information, or (3) permit access to or copying of records required by the Act or any regulation issued under TSCA.

Additionally, TSCA section 15(4) makes it unlawful for any person to fail or refuse to permit entry or inspection as required by section 11. Section 11 applies to any "establishment, facility, or other premises in which chemical substances or mixtures are manufactured, processed, stored, or held before or after their distribution in commerce. . . ." The Agency considers a testing facility to be a place where the chemical is held or stored and, therefore, subject to inspection. Laboratory audits/inspections will be conducted periodically in accordance with the procedures outlined in TSCA section 11 by designated representatives of the EPA for the purpose of

determining compliance with the final rule for hydroquinone. These inspections may be conducted for purposes which include verification that testing has begun, that schedules are being met, that reports accurately reflect the underlying raw data and interpretations and evaluations thereof, and that the studies are being conducted according to the TSCA GLP standards and in the test standards proposed rule of this rulemaking.

EPA's authority to inspect a testing facility also derives from section 4(b)(1) of TSCA, which directs EPA to promulgate standards for the development of test data.

These standards are defined in section 3(12)(B) of TSCA to include those requirements necessary to assure that data developed under testing rules are reliable and adequate, and such other requirements as are necessary to provide such assurance. The Agency maintains that laboratory inspections are necessary to provide this assurance.

Violators of TSCA are subject to criminal and civil liability. Persons who submit materially misleading or false information in connection with the requirement of any provision of this rule may be subject to penalties calculated as if they had never submitted their data. Under the penalty provision of section 16 of TSCA, any person who violates section 15 could be subject to a civil penalty of up to \$25,000 per day for each violation. Intentional violations could lead to the imposition of criminal penalties of up to \$25,000 for each day of violation and imprisonment of up to 1 year. Other remedies are available to EPA under sections 7 and 17 of TSCA such as seeking an injunction to restrain violations of TSCA section 4.

Individuals as well as corporations could be subject to enforcement actions. Sections 15 and 16 of TSCA apply to "any person" who violates various provisions of TSCA.

EPA may, at its discretion, proceed against individuals as well as companies themselves. In particular, this includes individuals who report false information or who cause it to be reported. In addition, the submission of false, fictitious, or fraudulent statements is a violation under 18 U.S.C. 1001.

V. Economic Analysis of Rule

To assess the potential economic impact of this proposed rule, EPA has prepared an economic impact analysis that examines the cost of the required testing and analyzes four market characteristics of the chemical substance: (1) Demand sensitivity, (2) cost characteristics, (3) industry structure, and (4) market expectations.

The economic analysis of this final hydroquinone test rule, which estimates the total testing costs to range from \$202,200 to \$607,700, indicates that the potential for adverse economic effects due to the estimated testing costs is low. This conclusion is based on the following observations:

1. The relative magnitude of the test cost is minor. On an annualized unit cost basis, the hydroquinone test costs are estimated to range from 0.19 to 0.57 cents per pound. The unit costs represent 0.10 to 0.29 percent of the current price of technical grade hydroquinone.

2. Market growth for hydroquinone is expected to remain stable.

3. The price elasticity of demand for hydroquinone in its primary uses is relatively inelastic.

For a detailed discussion of hydroquinone markets and the criteria for evaluating the potential for economic impact, see the Economic Impact Analysis of the Final Test Rule for Hydroquinone (Ref. 37).

VI. Availability of Test Facilities and Personnel

Section 4(b)(1) of TSCA requires EPA to consider "the reasonably foreseeable availability of the facilities and personnel needed to perform the testing required under the rule." Therefore, EPA conducted a study to assess the availability of test facilities and personnel to handle the additional demand for testing services created by section 4 test rules. Copies of the study, "Chemical Testing Industry: Profile of Toxicological Testing," October, 1981, can be obtained through the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161 (PB 82-140773).

On the basis of this study, the Agency believes that there will be available test facilities and personnel to perform the testing required in this test rule.

VII. Public Record

EPA has established a record for this rulemaking (docket number OPTS-42048B). This record includes the basic information the Agency considered in developing this rule, and appropriate Federal Register notices. The Agency will supplement the record with additional information as it is received.

This record includes the following information:

A. Supporting Documentation

(1) Federal Register notices pertaining to this rule consisting of:

- (a) Notice of final rule on hydroquinone.
- (b) Notice of proposed rule on hydroquinone (January 4, 1984, 49 FR 438).

(c) Notice containing the ITC designation of hydroquinone to the Priority List (December 7, 1979, 44 FR 70684).

(d) Notice of final rule on EPA's TSCA Good Laboratory Practice Standards (November 29, 1983, 48 FR 53922).

(e) Notice of final rule on test rule development and exemption procedures (October 10, 1984, 49 FR 39774).

(f) Interim final rule for Test Rule Development and Exemption Procedures (May 17, 1985, 50 FR 20652).

(g) Notice of final rule concerning data reimbursement (July 11, 1983, 48 FR 31786).

(2) Support documents consisting of:

(a) Hydroquinone technical support document for proposed test rule.

(b) Economic impact analysis of final test rule for hydroquinone.

(3) Communications consisting of:

- (a) Written public comments.
- (b) Summaries of telephone conversations.
- (c) Meeting summaries including transcript of public meeting on proposed test rule.
- (d) Reports—published and unpublished factual materials, including contractors' reports.

B. References

(1) Comments on EPA Proposed Test Rule for Hydroquinone. Chemical Manufacturer's Association. April 10, 1984.

(2) Testimony of the National Association of Photographic Manufacturers, Inc.: Proposed Test Rules for Hydroquinone/Quinone; Thomas J. Dufficy, Esq., April 18, 1984.

(3) Eastman Kodak. "Comments by Eastman Kodak Company on EPA's Proposed Test Rules, Hydroquinone 49 FR 438 and Quinone 49 FR 456, April 10, 1984. Appendix B.

(4) Eastman Kodak. "Comments by Eastman Kodak Company on EPA's Proposed Test Rules, Hydroquinone 49 FR 438 and Quinone 49 FR 456, April 10, 1984. Appendix I.

(5) Eastman Kodak. "Comments by Eastman Kodak Company on EPA's Proposed Test Rules, Hydroquinone 49 FR 438 and Quinone 49 FR 456, April 10, 1984.

(6) Chrostek, W.J., Health Hazard Evaluation/Toxicity Determination Report: Instant Copy Service, Philadelphia, PA: NIOSH-TR-11HE-75 84-235, 1975.

(7) Marty, *et al.* "Pharmacocinetique Percutanees De L'Hydroquinone ¹⁴C." *Cong. Eur. Biopharm. Pharmacocinet.* 2:221-228, 1981. Translation provided by CMA) Marty, *et al.* "Rate of percutaneous absorption of ¹⁴C-hydroquinone." *C.R. European Congress of Biokinetic Pharmacology* 1Y, 1981. 2 221-8, 1981.

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(9) Racz, G., *et al.* "Effect of hydroquinone and phlorizin on the ovarian cycle of rats." *Rev. Med. (Tirgu-Mures, Rom.)* 1959.

(10) Skalka, P. "The influence of hydroquinone on the fertility of male rats."

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(12) Ames, S.R. *et al.* "Effects of DPPD, methylene blue, BHT, and hydroquinone on reproductive process in the rat." *Proc. Soc. Exp. Biol. Med.* 93:39-42. 1956.

(13) Boyland, E. *et al.* "Further experiments on implantation of materials into the urinary bladder of mice." *Br. J. Cancer* 18:575-581. 1964.

(14) Litton, "Evaluation of hydroquinone in the *in vitro* transformation of BALB/3T3 cells assay." 1981. (Submitted by W.D. Davis of Goodyear Tire and Rubber Co. on May 27, 1983).

(15) Serva, R.J., Murphy, S.J. "Evaluation of hydroquinone using the *Drosophila melanogaster*/sex-linked recessive lethal test." Submitted as complete study (incomplete version submitted May 27, 1983 by Goodyear) by Goodyear Tire and Rubber Company as part of April 2, 1984 comments to the hydroquinone proposed test rule. 1981.

(16) Gocke, *et al.* "Mutagenicity of cosmetic ingredients licensed by the European communities." *Mutation Research* 90:91-109. 1981.

(17) Krasavage, W.J. "Hydroquinone: A dominant lethal assay in male rats." 1984. Submitted by Eastman Kodak Company on August 24, 1984.

(18) Christian, R.T., *et al.* "The development of a test for the potability of water treated by a direct reuse system." U.S. Army Medical Research and Development Command. Wash. D.C. 20314. Contract No. DADA-17-73-C-3013. University of Cincinnati. 1980.

(19) Anderson, B. "Observation on corneal and conjunctival pigmentation occurring among workers engaged in the manufacture of hydroquinone." *Trans. Am. Ophthalmol. Soc.* 44:345-394. 1946.

(20) Sterner, J.H., Oglesby, F.L., and Anderson, B. "Quinone vapors and their harmful effects. Corneal and conjunctival injuries." *J. Ind. Hyg. Toxicol.* 29:60-73. 1947.

(21) Anderson, B. "Corneal and conjunctival pigmentation among workers engaged in manufacture of hydroquinone." *Arch. Ophthalmol.* 38:812-826. 1947.

(22) Anderson, B., Oglesby, F. "Corneal changes from quinone hydroquinone exposure." *Arch. Ophthalmol.* 59:495-501. 1958.

(23) Friedlander, B.R., Hearne, F.T., and Newman, B.J. "Mortality cancer incidence, and sickness-absence in photographic processors: an epidemiologic study." *JOM* 24 (8), 605-613. 1982.

(24) Greenwald, P. *et al.* "Diagnostic sensitivity bias—An epidemiologic explanation for an apparent brain tumor excess." *JOM* 24 (6), 690-694. 1981.

(25) Harbison, K.G., Belly, R.T. "The biodegradation of hydroquinone." Rochester, NY: Eastman Kodak Company Technical Report. March 10, 1975.

(26) Ambrose, R.T. *et al.* "A survey of photographic processing effluents." Technical

Memorandum. Kodak Research Laboratories, Rochester, N.Y. August 1, 1977.

(27) National Association of Photographic Manufacturers. Letter to David Price, Test Rules Development Branch, Office of Toxic Substances, EPA. August 23, 1984.

(28) USEPA. Memorandum from Exposure Evaluation Division to Test Rules Development Branch. July 30, 1984.

(29) USEPA. Conference call between EPA and CMA. Kodak and Goodyear. Discussion of various issues. August 20, 1984.

(30) Eastman Kodak Company. Letter to David Price, Test Rules Development Branch, Office of Toxic Substance. Follow-up discussion of points covered in August 20, 1984 conference call (Ref. 29). Includes appendices A-E and 1983-84 Wolfman Report as appendix B. August 27, 1984.

(31) USEPA. Memorandum from Health and Environmental Review Division to Test Rules Development Branch. September 7, 1984.

(32) Mathtech Inc. Economic impact analysis of proposed test rule for quinone and hydroquinone. Washington, D.C. Office of Pesticides and Toxic Substances, U.S. Environmental Protection Agency. Contract 68-01-6630. December 5, 1983.

(33) Cotruvo, J.A., *et al.* Investigation of mutagenic effects of products of ozonation reactions in water. *Ann. N.Y. Acad. Sci.* 298:124-140. 1977.

(34) Bilimoria, M.H. The detection of mutagenic activity of chemicals and tobacco smoke in a bacterial system. *Mutat. Res.* 31:328. 1975.

(35) EMTDP. Environmental Mutagenesis. Testing Development Program. Computer Printout. National Toxicology Program. December 3, 1982.

(36) Davis, W.D. The Goodyear Tire and Rubber Company, Akron, Ohio 44316-0001. Letter to D. Price, Office of Toxic Substances, U.S. Environmental Protection Agency, Washington, D.C. 20460. 1983.

(37) Mathtech, Inc. Economic impact analysis of final test rule for quinone and hydroquinone. Final Report. Washington, D.C.: Office of Pesticides and Toxic Substances, U.S. Environmental Protection Agency. Contract 68-01-6630. 1985.

Confidential Business Information (CBI), while part of the record, is not available for public review. A public version of the record, from which CBI has been deleted, is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays, in Rm. E-107, 401 M Street, SW, Washington, D.C.

VIII. Other Regulatory Requirements

A. Classification of Rule

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. The regulation for this chemical substance is not major because it does not meet any of the criteria set forth in section 1(b) of the order. First, the annual costs of testing are expected

to range from \$52,000 to \$158,000 over the expected market life of hydroquinone (Ref. 37). Second, because the cost of the required testing will be distributed over a large production volume, the rule will have only very minor effects on producers' costs of users' prices for this chemical substance. Finally, taking into account the nature of the market for this substance, the low level of costs involved, and the expected nature of the mechanisms for sharing the costs of the required testing, EPA concludes that there will be no significant adverse economic impact of any type as a result of this rule.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any comments from OMB to EPA, and EPA response to those comments, are included in the public record.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (15 U.S.C. 601 *et seq.*, Pub. L. 96-354, September 19, 1980), EPA certifies that this test rule will not have a significant impact on a substantial number of small businesses for the following reasons:

1. There are no small manufacturers of hydroquinone.
2. Small processors are not expected to perform testing themselves, or to participate in the organization of the testing effort.
3. Small processors will experience only minor costs if any in securing exemption from testing requirements.
4. Small processors are unlikely to be affected by reimbursement requirements.

EPA concludes that there will be no significant adverse economic impact of any type as a result of this rule.

C. Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and have been assigned OMB control number 2070-0033.

List of Subjects in 40 CFR Part 799

Testing; Environmental protection, Hazardous substances, Chemicals; Recordkeeping and reporting requirements.

Dated: December 20, 1985.

J. A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

PART 799—[AMENDED]

Therefore, 40 CFR Part 799 is amended as follows:

1. The authority citation for Part 799 continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

2. Section 799.2200 is added, to read as follows:

§ 799.2200 Hydroquinone.

(a) *Identification of test substance.* (1) Hydroquinone (CAS No. 123-31-9) shall be tested in accordance with this section.

(2) Hydroquinone of at least 99 percent purity shall be used as the test substance.

(b) *Persons required to submit study plans, conduct tests and submit data.* (1) All persons who manufacture or process hydroquinone, other than as an impurity, from January 13, 1986 to the end of the reimbursement period shall submit letters of intent to test, exemption applications, and shall conduct tests and submit data as specified in this section. Subpart A of this Part and Part 790 of this chapter for two-phase rulemaking.

(2) Persons subject to this section are not subject to the requirements of § 790.30(a) (2), (5), (6), and (b), and § 790.87(a)(1)(ii) of this chapter.

(3) Persons who notify EPA of their intent of conduct tests in compliance with the requirements of this section must submit plans for those tests no later than 30 days before the initiation of each of those tests.

(4) In addition to the requirements of § 790.87(a) (2) and (3) of this chapter, EPA will conditionally approve exemption applications for this rule if EPA has received a letter of intent to conduct the testing from which exemption is sought and EPA has adopted test standards and schedules in a final Phase II test rule.

(c) *Health effects testing*—(1) *Toxicokinetic studies*—(i) *Required testing.* Skin and oral dosing studies, which will provide data regarding both rate and extent of absorption, shall be conducted with hydroquinone.

(ii) *Test standards.* [Reserved]

(iii) *Reporting requirements.*

[Reserved]

(2) *Developmental Toxicity*—(i) *Required testing.* Developmental toxicity studies in both a rodent and nonrodent species shall be conducted with hydroquinone. These tests must be conducted using the oral route of exposure.

(ii) *Test standards.* [Reserved]

(iii) *Reporting requirements.*

[Reserved]

(3) *Reproductive Effects*—(i) *Required testing.* A two-generation reproductive effects study in a rodent species shall be conducted with hydroquinone. This test must be conducted using the oral route of exposure.

(ii) *Test standard.* [Reserved]

(iii) *Reporting requirements.*

[Reserved]

(4) *Neurotoxicity*—(i) *Required testing.* The following neurotoxicity testing shall be conducted for hydroquinone using oral exposure of a rodent species:

(A) A functional observational battery.

(B) A neuropathology test.

(ii) *Test standards.* [Reserved]

(iii) *Reporting requirements.*

[Reserved]

(Information collection requirements have been approved by the Office of Management and Budget under control number 2070-0033)

[FR Doc. 85-30722 Filed 12-27-85; 8:45 am]

BILLING CODE 5560-20-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 55a

Program Grants for Black Lung Clinics; Office of Management and Budget Approval of Information Collection Requirements

AGENCY: Public Health Service, HHS.

ACTION: Final rule.

SUMMARY: The Public Health Service (PHS) announces that the Office of Management and Budget (OMB) has approved the information collection requirements in §§ 55a.201 and 55a.301 of the Black Lung Clinics regulation as published on February 27, 1985 at 50 FR 7912. The Department is amending the regulation to reflect OMB's approval under OMB control number 0915-0081. Upon publication, §§ 55a.201 and 55a.301 as amended below will become effective.

EFFECTIVE DATE: 42 CFR 55a.201 and 55a.301 will become effective on December 30, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. James J. Corrigan, Associate Bureau Director for Legislation and Policy, Bureau of Health Care Delivery and Assistance, Room 7-05, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-2380.

SUPPLEMENTARY INFORMATION: Because this amendment is a technical change merely reflecting OMB's approval of information collection requirements, notice and public comment and delayed effective date are unnecessary.

List of Subjects in 42 CFR Part 55a

Black Lung benefits, Grant programs; Health care, Health facilities, Miners, Occupational safety and health.

Accordingly, Part 55a of Title 42, Code of Federal Regulations is amended as set forth below.

(Catalog of Federal Domestic Assistance Program No. 13.965, Coal Miners Respiratory Impairment Treatment Clinics and Services (Black Lung Clinics))

Dated: September 30, 1985.

James O. Mason,

Acting Assistant Secretary for Health.

Approved: December 12, 1985.

Margaret M. Heckler,

Secretary.

PART 55a—PROGRAM GRANTS FOR BLACK LUNG CLINICS

42 CFR 55a.201 and 55a.301 are amended by adding at the end of both of these sections the parenthetical statement.

(Approved by the Office of Management and Budget under control number 0915-0081)

[FR Doc. 85-30656 Filed 12-27-85; 8:45 am]

BILLING CODE 4160-16-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[CC Docket No. 83-1096; FCC 85-602]

Cellular Applications Using Random Selection or Lotteries Instead of Comparative Hearings

Correction

In FR Doc. 85-29419, beginning on page 51522, in the issue of Wednesday, December 18, 1985, make the following corrections.

1. On page 51527, in the third column, in amendatory language instruction 6, "22.6(b)" should read "22.6(d)".

2. On the same page, in the third column, amendatory language instruction 9 is corrected to read as follows:

9. Section 22.913 is amended by revising paragraph (b)(2), redesignating paragraph (b)(4) as (b)(5), revising and redesignating paragraph (b)(3) as (b)(4) and by adding a new paragraph (b)(3) to read as follows:

BILLING CODE 1501-01-M

Proposed Rules

Federal Register

Vol. 50, No. 250

Monday, December 30, 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.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-NM-123-AD]

Airworthiness Directives; Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD) which would require structural inspections and repair, as necessary, of the forward lower cargo doorway frames. The AD is prompted by numerous reports of cracking in both vertical frame members at the lower cargo doorway. Continued operation with undetected frames could result in skin cracks and eventual rapid decompression.

DATES: Comments must be received on or before February 17, 1986.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of Regional Counsel, Attention: Airworthiness Rules Docket No. 85-NM-123-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. It may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Carlton Holmes, Airframe Branch, ANM-120S; telephone (206) 431-2926. Mailing address: Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 17900 Pacific Highway

South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the rules docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the rules docket.

Availability of NPRMS

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85-NM-123-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The Boeing Company issued a Service Bulletin 737-53-1051 on July 16, 1978, which specifies inspection and repair procedures for the forward lower cargo doorway frames, following reports by six different operators of 14 instances of cracking. The cracking was found on airplanes with 9,550 to 36,550 flight cycles, and typically occurred near door stop fittings. Since the original issue of this service bulletin, there have been 61 additional reports by 13 operators of cracking on 39 airplanes.

Based on a structural reassessment of the Model 737 airplane, it has been determined that the structure affected is structurally significant and should be inspected in accordance with a flight safety inspection program. Continued operation with cracks in the doorway frames could result in rapid

decompression, possible blowout of the forward lower cargo door, or the inability to carry fail-safe loads required by FAR 25.571(b).

Since this condition is likely to exist on other airplanes of the same type design, the FAA proposes to adopt an airworthiness directive which would establish repetitive inspections of the forward lower cargo door frames on certain Boeing Model 737 airplanes in accordance with a Flight Safety Addendum in Boeing Service Bulletin 737-53-1051, Revision 3, dated July 12, 1985.

It is estimated that 186 airplanes of U.S. registry would be affected by this AD, that approximately one manhour per airplane would be required to perform the necessary inspections, and that the average labor cost would be \$40 per manhour. Based on these figures, the total cost impact of this AD on U.S. operators would be \$7,440 per inspection cycle.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Boeing Model 737 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

Lists of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

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

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised) Pub. L. 97-499, January 12, 1983; and 14 CFR 11.89.

2. By adding the following new airworthiness directive:

Boeing: Applies to all Model 737 series airplanes listed in Boeing Service Bulletin 737-53-1051, Revision 3, dated July 12, 1985, certificated in any category. To prevent rapid loss of cabin pressure resulting from undetected frame cracking, accomplish the following upon the accumulation of 6,000 landings or within 90 days aft the effective date of this AD, whichever occurs later, unless previously accomplished:

A. Visually inspect the forward and after body frames adjacent to the forward lower cargo door for cracks, in accordance with the Flight Safety Inspection Program in Boeing Service Bulletin 737-53-1051, Revision 3, or later FAA-approved revisions. Repeat the inspection at intervals not to exceed 4,000 landings.

B. If cracks are found, prior to further flight, repair in accordance with Part III. A. or Part III. B., as applicable, of Boeing Service Bulletin 737-53-1051, Revision 3, or later FAA-approved revisions.

C. For airplanes that have had cracks repaired in accordance with Part III. A. of Boeing Service Bulletin 737-53-1051, initial release, or later FAA-approved revisions, visually inspect the frames for cracks in the area of repair upon the accumulation of 25,000 landings after the repair, and repeat at intervals not to exceed 17,000 landings thereafter. Parts found cracked must be repaired prior to further flight in accordance with an FAA-approved repair method.

D. For airplanes that have had cracks repaired in accordance with Part III. B. of Boeing Service Bulletin 737-53-1051, Revision 3, or later FAA-approved revisions, visually inspect the frames for cracks in the area of the repair upon the accumulation of 6,000 landings after the repair and repeat at intervals not to exceed 4,000 landings thereafter. Parts found cracked must be repaired prior to further flight in accordance with an FAA-approved repair method.

E. Modification of uncracked frames in accordance with the Preventative Modification of Boeing Service Bulletin 737-53-1051, Revision 3, or later FAA-approved revisions, constitutes terminating action for the requirements of the AD.

F. Airplanes with cracked frames may be flown in accordance with FAR 21.197 and 21.199 to a maintenance base for repairs or replacement required by this AD.

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

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

I. Alternative means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Seattle

Aircraft Certification Office, FAA, Northwest Mountain Region, Seattle, Washington.

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on December 18, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85-30728 Filed 12-27-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 85-ACE-08]

Proposed Alteration of Transition Area—Abilene, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental Notice of Proposed Rulemaking (NPRM).

SUMMARY: This Notice proposes to alter the 700-foot transition area at Abilene, Kansas, by adding a new instrument approach procedure to the south of the Abilene Municipal Airport. This alteration will provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Abilene, Kansas, Municipal Airport utilizing the Salina, Kansas, VORTAC as a navigational aid.

DATES: Comments must be received on or before February 3, 1986.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Manager, Traffic Management and Airspace Branch, Air Traffic Division, ACE-540, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3408

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Manager, Traffic Management and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Dale E. Carnine, Airspace Specialist, Traffic Management and Airspace Branch, Air Traffic Division, ACE-540, FAA, Central Region, 601 East 12th

Street, Kansas City, Missouri 64106, Telephone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the supplemental proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Traffic Management and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before the closing date for comments will be considered before action is taken on the proposed amendment. The proposal contained in this supplemental notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this supplemental NPRM by submitting a request to the Federal Aviation Administration, Traffic Management and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106, or by calling (816) 374-3408.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRM's should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

Discussion

In an NPRM published in the *Federal Register* on September 17, 1985 (50 FR 37685), the FAA proposed an amendment to Subpart G, § 71.181, of the Federal Aviation Regulations (14 CFR 71.181) by altering the 700-foot transition area at Abilene, Kansas. The need for the proposal resulted from the establishment of an additional instrument approach procedure from the north to the Abilene, Kansas, Municipal Airport utilizing the Salina, Kansas, VORTAC as a navigational aid.

Subsequent to the publication of the NPRM, the FAA determined that an instrument approach procedure from the south to the Abilene Municipal Airport would provide lower minimums than the original proposal of an approach from the north. Accordingly, action is taken herein to modify the transition area description in this regard by the issuance of a Supplemental NPRM. The

establishment of this new instrument approach procedure, based on the Salina, Kansas, VORTAC, entails alteration of the transition area at Abilene, Kansas, at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.64 dated January 2, 1985.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposes to amend Part 71 of the FAR (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.

§ 71.181 [Amended]

2. By amending § 71.181 as follows:

Abilene, Kansas

That airspace extending upward from 700 feet above the surface within a 5 mile radius of the Abilene Municipal Airport (Latitude 38°54'20" N; Longitude 97°14'08" W); within 3 miles either side of the 360° bearing from the ADELA waypoint (Latitude 38°47'05"; Longitude 97°14'06" W); extending from 8 miles south of the airport to the 5 mile radius area and within 2 miles either side of the 086° bearing from the Salina VORTAC extending

from 5.75 miles west of the Airport to the 5 mile radius area.

Issued in Kansas City, Missouri on December 18, 1985.

Edwin S. Harris,

Director, Central Region.

[FR Doc. 85-30546 Filed 12-27-85; 8:45 am]

BILLING CODE 4910-13-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[A-4-FRL-2919-3]

[GA-009]

Designation of Areas for Air Quality Planning Purposes; Redesignation of Ozone Nonattainment Areas in Alabama and Georgia

Correction

In FR Doc. 85-26527 beginning on page 46089 in the issue of Wednesday, November 6, 1985, make the following corrections:

1. On page 46093, in the third column, in the twentieth line of the first complete paragraph, "38" should read "28";

2. On page 46095, in the second column:

a. In the fourth line of the first complete paragraph, "Tier ??" should read "Tier I";

b. In the fifth line of the third complete paragraph, "lowest" was misspelled; and

c. In the fifteenth and sixteenth lines of the same paragraph, "¶ 797.1600" and "¶ 799.500(d)(3)(i)(B)" should read "§ 799.1600" and "§ 799.500(d)(3)(i)(B)", respectively.

BILLING CODE 1505-01-M

40 CFR Part 271

[SW-4-FRL-2946-6]

North Carolina; Intent To Approve Revision of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to approve a substantial program revision to the North Carolina Hazardous Waste Program, comment period, and opportunity for public hearing.

SUMMARY: EPA intends to approve a substantial program revision to the North Carolina hazardous waste program. This action is based upon North Carolina's modification of its regulatory authority in July 1985 by adopting the new definition of solid waste and resource recovery provisions

which were promulgated by EPA on January 4, 1985. Subsequent technical corrections were promulgated April 11, 1985, and August 20, 1985. In accordance with 40 CFR 271.21(e), modification of approved State programs is required when EPA changes Parts 124, 260-266, and 270. States must adopt these changes if the changes expand the scope of the Federal program or make the Federal program more stringent. EPA reviewed North Carolina's adopted rules, considers them to be substantial modification in accordance with § 271.21(b)(2), and intends to approve North Carolina's revision.

North Carolina's rules and the certification by the Attorney General are available for public review and comment, and a public hearing will be held to solicit comments on the program revision if significant public interest is expressed.

DATES: If significant public interest is expressed in holding a hearing, a public hearing if scheduled for 7:00 p.m.,

Wednesday, January 29, 1986, in Raleigh, NC. EPA reserves the right to cancel the public hearing if significant public interest in holding a hearing is not communicated to EPA either by telephone or in writing by January 27, 1986. EPA will determine on January 27, 1986, whether there is significant interest to hold the public hearing. North Carolina will participate in the public hearing if a hearing is to be held. All written comments on the North Carolina program revision must be received by the close of business January 27, 1986.

ADDRESSES: Copies of North Carolina's solid waste rules are available from 8:00 a.m. to 4:30 p.m. at the following addresses for inspection and copying.

Solid and Hazardous Waste

Management Branch, Environmental Health Section, Department of Human Resources, Division of Health Services, 306 N. Wilmington, Raleigh, North Carolina 27602, Contact: William L. Myer, (919) 733-2178

Environmental Protection Agency, Residuals Management Branch, Waste Management Division, 345 Courtland Street, NE., Atlanta, Georgia 30365, Contact: Tricia Herbert, (404) 347-3016.

Written comments on the application and written or telephoned communication of interest in EPA's holding a public hearing on North Carolina's program revision must be communicated to: Otis Johnson, Jr., Chief, Waste Planning Section, U.S. EPA, 345 Courtland Street, Atlanta, Georgia 30365, (404) 347-3016.

If you wish to find out whether a public hearing will be held on the North

Carolina program revision, you may either write or telephone the EPA contact person listed above, after January 27, 1986. Local callers may prefer calling Mr. William L. Meyer, Head, Solid and Hazardous Waste Management Branch, Environmental Health Section, Department of Human Resources, Division of Health Services, P.O. Box 2091, Raleigh, North Carolina 27602, (919) 733-2178.

If significant public interest is expressed, EPA will hold a public hearing on North Carolina's program revision on Wednesday, January 29, 1986 at 7:00 p.m., at the Cooper Building, J.W. Norton Boardroom, 215 McDowell St., Room 614, Raleigh, North Carolina.

FOR FURTHER INFORMATION CONTACT: Susan Absher, (202) 382-2229.

SUPPLEMENTARY INFORMATION:

A. Background

Section 3006 of the Resource, Conservation and Recovery Act (RCRA) allows EPA to authorize State hazardous waste programs to operate in the State in lieu of the Federal hazardous waste program. Under EPA's current regulations, changes to the Federal program can have a profound impact on States that either are applying for or have received Final Authorization. Program revision may be necessary when the controlling Federal or State statutory or regulatory authority is modified or supplemented. States must adopt these changes if the changes expand the scope of the Federal program or make the Federal program more stringent. The "moving target" regulation (40 CFR 271.21(e)) requires modification of approved State programs when EPA changes Parts 124, 260-266, and 270. Modification must be made within one year of the date of promulgation of each new regulation.

On January 4, 1985, EPA promulgated the new definition of solid waste at 50 FR 614. This rule deals with the question of which materials being recycled (or held for recycling) are solid and hazardous wastes. This rule also provides general and specific standards for various types of hazardous waste recycling activities, explains EPA's jurisdiction over hazardous waste recycling activities, and sets forth the regulator regime for recycling subject to the Agency's jurisdiction. Technical corrections to the new definition were made on April 11, 1985, at 50 FR 14216 and on August 20, 1985, at 50 FR 33541.

A State with final authorization must either adopt regulatory analogues equivalent to and no less stringent than this new rule in its entirety or show through a revised Attorney General's

Statement that its current regulations are equivalent to and no less stringent than EPA's new regulations.

B. North Carolina

The State received Final Authorization for RCRA on December 31, 1984. On August 30, 1985, the North Carolina Department of Human Resources, notified EPA of its intent to modify its program to include the new definition of solid waste. The State adopted the redefinition of solid waste on May 3, 1985, and it became effective under State law on July 1, 1985. North Carolina submitted a copy of the newly-adopted rules and a certification from the Attorney General that the State's new regulations were equivalent and no less stringent than the Federal regulation.

EPA has reviewed North Carolina's regulation and the Attorney General's certification and believes that it is equivalent to EPA's regulation. Consequently, EPA intends to approve this modification to North Carolina's program.

EPA will consider all comments on its intent to approve the revision. Issues raised by those comments may be the basis for a decision to disapprove North Carolina's program modification. EPA expects to make a final decision on whether or not to approve North Carolina's program modification and will give notice of it in the **Federal Register**. The notice will include a summary of the reasons for the final determination and a response to all significant comments.

Compliance With Executive Order 12291

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

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(B), I hereby certify that this authorization will not have a significant economic impact on a substantial number of entities. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental Relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

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

Dated: December 16, 1985.

Jack E. Ravan,

Regional Administrator.

[FR Doc. 85-30804 Filed 12-27-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 798 and 799

[OPTS-42048C; FRL-2945-1]

Hydroquinone; Proposed Testing Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that certain Toxic Substances Control Act (TSCA) test guidelines and industry-submitted guidelines be utilized as the test standards for the required studies for hydroquinone (CAS No. 123-31-9) and that test data be submitted within specified time frames. In a related document appearing elsewhere in this issue of the **Federal Register**, EPA is issuing a final test rule establishing testing requirements under section 4(a) of the Toxic Substances Control Act (TSCA) for manufacturers and processors of hydroquinone.

DATES: Submit written comments on or before February 13, 1986. If persons request time for oral comment by January 29, 1986, EPA will hold a public meeting on this proposed rule in Washington, DC. For further information on arranging to speak at the meeting, see Unit VI of this preamble.

ADDRESS: Submit written comments identified by the document control number (OPTS-42048C), in triplicate to: TSCA Public Information Office (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-108, 401 M St., SW., Washington, DC. 20460.

A public version of the administrative record supporting this action (with any confidential business information deleted) is available for inspection at the above address from 8 a.m. to 4 p.m. Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Rm. E-543, 401 M St., SW., Washington, DC., 20460. Toll Free: (800-424-9065). In Washington, DC., (5545-1404). Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION:**I. Background**

Elsewhere in this issue of the *Federal Register*, EPA is promulgating a Phase I final rule pursuant to TSCA section 4 that establishes testing requirements for manufacturers and processors of hydroquinone. That Phase I rule specifies the following testing requirements for hydroquinone: (1) Metabolism (Toxicokinetics), (2) developmental toxicity studies in both a rodent and a non-rodent species, (3) a 2-generation reproductive effects test in rodents, and (4) nervous system effects testing including both a functional observational battery and neuropathology.

Once the Phase I test rule becomes effective, manufacturers and processors of hydroquinone would normally be required, under the existing two-phase process, to submit proposed study plans and schedules for both the initiation of testing and the submission of study data in accordance with 40 CFR 790.30. EPA would review the submitted study plans and schedules and would thereafter issue them (with any necessary modifications) in a Phase II test rule proposal. That proposal would request comment on the ability of the proposed study plans to ensure that the resulting data would be reliable and adequate. After evaluating and responding to public comment, EPA would adopt, with any necessary modifications, the study plans and reporting schedules, in a Phase II final rule as the required test standards and data submission deadlines in 40 CFR 790.32.

However, in the case of the hydroquinone test rule which was initiated under the two-phase process, EPA has now decided to propose the relevant TSCA test guidelines in this document as the test standards, Unit III, and at the same time issue the hydroquinone final rule. In addition, EPA is proposing that the data from the required studies be submitted within certain time periods. These time periods will serve as the data submission deadlines required by TSCA section 4(b)(1), Unit IV. The reasons for this change in the test rule process for hydroquinone are discussed below.

II. Change in the Test Rule Development Process**A. Test Standards and Data Submission Deadlines**

TSCA section 4(b)(1) specifies that test rules shall include standards for the development of test data ("test standards") and deadlines for submission of test data. Under a two-phase process utilized by EPA since 1982 (March 26, 1982; 47 FR 13012) and

formally adopted in the Fall of 1984 (Oct. 10, 1984; 49 FR 39774), test standards and data submission deadlines were to be adopted during the second phase of the rulemaking process. Upon issuance of the Phase I final rule, which established the effects and characteristics for which a given chemical substance must be tested, persons subject to the rule would be required by a specified date to submit study plans detailing the methodologies and protocols they intended to use to perform the required tests. Such study plans were to include proposed schedules for the initiation and completion of testing and submission of test data in accordance with 40 CFR 790.30 (a) and (c). The Agency would then publish these study plans and solicit public comment. In the second phase, after consideration of public comment, the Agency would promulgate the Phase II final rule adopting the study plans (with any necessary modifications) as the test standards for the development of test data and deadlines for submission of test data.

In December 1983, the Natural Resources Defense Council (NRDC) and the Industrial Union Department of the American Federation of Labor-Congress of Industrial Organizations (AFL-CIO) filed an action under TSCA section 20 challenging, among other things, the use of the two-phase process. In an August 23, 1984 Opinion and Order, the U.S. District Court for the Southern District of New York found that utilization of the two-phase rulemaking process was permissible. However, the Court also held that the Agency was subject to a standard of promulgation test rules within a reasonable time frame (*NRDC v. EPA*, 595 F Supp. 1255 (S.D.N.Y. 1984)).

Subsequent to the issuance of that Opinion, the Agency decided that in order to expedite the development of section 4 test rules, EPA would utilize a single-phase rulemaking process for most test rules. In the Notice announcing this decision, EPA stated that the single-phase approach offers a number of advantages over the two-phase process published in the *Federal Register* of May 17, 1985, (50 FR 20652). In this single-phase approach, the Agency proposes (in one notice) not only the effects for which testing will be required but also proposes pertinent TSCA or other appropriate guidelines as the test standards and time frames for the submission of test data. After receiving and evaluating public comment on the proposed testing requirements, test guidelines, and data submission deadlines, EPA promulgates a final rule.

This single-phase approach shortens the rulemaking period and expedites the initiation of required testing relative to the two-phase rulemaking process. The single-phase process also eliminates the requirement under the two-phase approach for industry to submit test protocols for approval. Moreover, by allowing comments or to submit alternative testing methodologies during the comment period, the single-phase approach preserves the flexibility of the two-phase process.

These same advantages, i.e., expedited initiation of testing and the elimination of study plan submission requirements for persons subject to a Phase I rule, are factors EPA considered in deciding to modify the rulemaking process for hydroquinone. By proposing both pertinent TSCA test guidelines as the test standards and data submission deadlines at the time of issuance of the Phase I rule, EPA expects that the Phase II final rule will be issued 6 months sooner than would occur if the usual two-phase process was followed. Thus, required testing will be initiated on an expedited basis. In addition, for each of the required tests for hydroquinone, appropriate TSCA test guidelines or Agency-reviewed industry protocols are available, Unit III. Thus, EPA believes that there is no need for manufacturers and processors of hydroquinone to develop proposed study plans for EPA and public review during the rulemaking process.

B. Modifications to Requirements Under a Phase I Final Rule for Hydroquinone

As indicated above, persons subject to the hydroquinone Phase I final rule and who have notified EPA of their intent to test would normally be required to submit proposed study plans and proposed data submission deadlines within a specified time of the final rule's effective date in accordance with 40 CFR 790.30 (a) and (c). However, because EPA is proposing certain TSCA guidelines and Agency-reviewed industry protocols as the test standards, and data submission deadlines, persons subject to the Phase I final rule are not required at this time to submit study plans for the required testing or proposed dates for the initiation and completion of that testing. Manufacturers and processors of hydroquinone are invited to comment on both the proposed test standards and the data submission deadlines. The Agency will consider these comments in issuing the phase II final rule.

However, persons subject to the Phase I final rule for hydroquinone are still required to submit notices of intent

to test or exemption applications in accordance with 40 CFR 790.25. Moreover, once the test standards and reporting deadlines are promulgated in the Phase II final rule, those persons who have notified EPA of their intent to test must submit specific study plans (which adhere to the promulgated test standards) no later than 30 days before the initiation of each required test, 40 CFR 790.39(a)(1).

III. Proposed Test Standards

In the final test rule for hydroquinone, the required testing includes toxicokinetics, developmental toxicity, reproductive effects and nervous system effects.

EPA is proposing that the toxicokinetic testing be conducted according to the toxicokinetic guideline under 40 CFR 798.7650, which is contained in this proposed test standard. The required toxicokinetic studies, via dermal and oral routes of exposure, will allow the Agency to reasonably predict the toxicokinetic behavior of hydroquinone. In addition, the National Toxicology Program (NTP) is currently performing a two-year bioassay on hydroquinone via an oral exposure route. Since gavage studies are generally not designed to provide information on either the rate or extent of absorption of a test material, the toxicokinetic studies will provide data relevant to comparing the doses of hydroquinone received by workers and hobbyists through dermal contact with those administered internally in the ongoing NTP bioassay.

The required developmental toxicity studies that were in two species, are designed to determine the potential of hydroquinone to induce structural and/or other abnormalities in the fetus which may arise from exposure of the mother during pregnancy. These developmental effects include permanent structural or functional abnormalities that occur during the period of embryonic development. EPA is proposing that the two developmental toxicity studies be conducted according to the protocols that were submitted by Eastman Kodak (Ref. 1) and reviewed by the Agency.

The required two-generation reproductive effects testing is designed to provide general information concerning the effects of hydroquinone on gonadal function, conception, parturition, and the growth and development of the offspring. The study may also provide information about effects of hydroquinone on neonatal morbidity, mortality, and preliminary data on teratogenesis. EPA is proposing that the reproductive effects testing be conducted according to the protocols

that were submitted by Eastman Kodak (Ref. 1) and reviewed by the Agency.

The required nervous system effects testing falls into two categories. The functional observational battery is a non-invasive procedure designed to detect gross functional deficits in young adult rodents resulting from exposure to chemicals and to better quantify neurotoxic effects detected in other studies. While this battery of tests is not intended to provide a detailed evaluation of neurotoxicity, it is designed to be used in conjunction with neuropathologic evaluation and/or general toxicity testing.

The data from the neuropathology testing will detect and characterize morphologic changes in the nervous system, if and when they occur, and determine a no-effect level for such changes. EPA is proposing that the functional observational battery and the neuropathology testing be conducted according to 40 CFR 798.6050 and 798.6400, respectively.

IV. Reporting Requirements

EPA is proposing that all data developed under this rule be reported in accordance with its final TSCA Good Laboratory Practice (GLP) standards, which appear in 40 CFR Part 792, published in the *Federal Register* of November 29, 1983 (48 FR 53922).

EPA is required by TSCA section 4(b)(1)(C) to specify the time period during which persons subject to a test rule must submit test data. Specific reporting requirements for each of the proposed test standards follow:

1. The toxicokinetic tests shall be completed and the final results submitted to the Agency within 1 year of the effective date of the final Phase II test rule. Interim progress reports shall be provided quarterly.

2. The developmental toxicity tests shall be completed and the final results submitted to the Agency within 18 months of the effective date of the final Phase II test rule. Interim progress reports shall be provided quarterly.

3. The two-generation reproductive effects toxicity test shall be completed and final results submitted to the Agency within 29 months of the effective date of the final Phase II test rule. Interim progress reports shall be provided quarterly.

4. The neurotoxicity tests shall be completed and final results submitted to the Agency within 1 year of the effective date of the final Phase II test rule. Interim progress reports shall be provided quarterly.

TSCA section 14(b) governs Agency disclosure of all test data submitted pursuant to section 4 of TSCA. Upon

receipt of data required by this rule, the Agency will announce the receipt within 15 days in the *Federal Register* as required by section 4(d). Test data received pursuant to this rule will be made available for public inspection by any person except in those cases where the Agency determines that confidential treatment must be accorded pursuant to section 14(b) of TSCA.

V. Issues for Comment

EPA invites comment on the use of the proposed TSCA test guidelines and Agency-reviewed industry protocols as the test standards for the required testing of hydroquinone. EPA also invites comment on the proposed schedule for the required testing.

VI. Public Meetings

If persons indicate to EPA that they wish to present oral comments on this proposed rule to EPA officials who are directly responsible for developing the rule and supporting analyses, EPA will hold a public meeting subsequent to the close of the public comment period in Washington, D.C. Persons who wish to attend or to present comments at the meeting should call the TSCA Assistance Office (TAO): Toll Free: (800-424-9065); In Washington, D.C.: (554-1404); Outside the U.S.A. (Operator-202-554-1404), by January 29, 1986. A meeting will not be held if members of the public do not indicate that they wish to make oral presentations. While the meeting will be open to the public, active participation will be limited to those persons who arranged to present comments and to designated EPA participants. Attendees should call the TAO before making travel plans to verify whether a meeting will be held.

Should a meeting be held, the Agency would transcribe the meeting and include the written transcript in the public record. Participants are invited, but not required, to submit copies of their statements prior to or on the day of the meeting. All such written materials will become part of EPA's record for this rulemaking.

VII. Public Record

EPA has established a record for this rulemaking, [docket number (OPTS-42048C)]. This record includes basic information considered by the Agency in developing this proposal, and appropriate *Federal Register* notices. The Agency will supplement the record with additional information as it is received.

This record includes the following information:

A. Supporting Documentation

The supporting document for this rulemaking consist of proposal and final Phase I test rules on hydroquinone.

B. References

(1) Eastman Kodak Company, 1983. Protocols for a Voluntary Test Program on Hydroquinone. Submitted to Steven Newburg-Rinn, Chief, Test Rules Development Branch, June 15, 1983.

(2) USEPA, 1983. Letter to C.J. Terhaar, Eastman Kodak, Office of Toxic Substance's review of Kodak protocols for reproductive effects and teratology testing. September 14, 1983.

The record is open for inspection from 8 a.m. to 4 p.m. Monday through Friday except legal holidays, in Rm. E-107, 401 M Street, SW, Washington, D.C. 20640.

VIII. Other Regulatory Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirements of a Regulatory Impact Analysis. This test rule is not major because it does not meet any of the criteria set forth in section 1(b) of the Order. The economic analysis of the testing of hydroquinone is discussed in the Phase I test rule appearing elsewhere in this issue of the Federal Register.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, (15 U.S.C. 601 *et seq.*, Pub. L. 96-354, September 19, 1980), EPA is certifying that this rule, if promulgated, will not have a significant impact on a substantial number of small businesses for the following reasons:

(1) There are not a significant number of small businesses manufacturing hydroquinone.

(2) Small processors are not expected to perform testing themselves, or to participate in the organization of the testing efforts.

(3) Small processors will experience only very minor costs if any in securing exemption from testing requirements.

(4) Small processors are unlikely to be affected by reimbursement requirements, and any testing costs passed on to small processors through price increases will be small.

C. Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in this proposed rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control number 2070-0033. Comments on these requirements should

be submitted to the Office of Information and Regulatory Affairs of OMB, marked "Attention" Desk Officer of EPA". The final rule package will respond to any OMB or public comments on the information collection requirements.

List of Subjects in 40 CFR Parts 798 and 799

Testing, Environmental protection, Hazardous substances, Chemicals, Record Keeping and Reporting Requirements.

Dated: December 20, 1985.

J.A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

PART 798—[AMENDED]

Therefore, it is proposed that 40 CFR Chapter I be amended as follows:

1. Part 798 is amended as follows:

a. The authority citation for Part 798 40 CFR Chapter I, continues to read as follows

Authority: 15 U.S.C. 2603, 2611, 2625.

b. Section 798.7650 is added, to read as follows:

§ 798.7650 Toxicokinetic test.

(a) *Purpose.* These studies are designed to:

(1) Determine the bioavailability after dermal or oral treatment.

(2) Ascertain whether the metabolites of hydroquinone are similar after dermal (assuming significant penetration) and oral administration, and

(3) Examine the effects of a multiple dosing regimen on the metabolism of hydroquinone after *per os* administration.

(b) *Definition of Scope of Study.*

Absorption toxicokinetics refers to the bioavailability, i.e. the rate and extent of absorption of the test chemical, and metabolism and excretion rates of the test chemical after absorption.

(c) *Test Procedures—(1) Animal Selection—(i) Species.* The rat is the animal species of choice since it has been used extensively for absorption, metabolism, and toxicological studies.

(ii) *Rat strain.* Adult male and female Fischer-344 rats shall be used. At seven to nine weeks of age, the males should weigh 125 to 175 g and the females 110 to 150 g. The rats should be purchased from a reputable dealer and identified with ear tags upon arrival. The animals shall be randomly selected for the testing groups and no sick animal is to be used for experimentation.

(iii) *Animal care.* (A) Animal care and housing shall be in accordance with DHEW Publication No. (NIH)-78-23,

1978. "Guidelines for the Care and Use of Laboratory Animals."

(B) The animals shall be housed in environmentally controlled rooms with 10 to 15 air changes per hour. The rooms shall be maintained at temperature of 25 ± 2 °C and humidity of 50 ± 10 percent with a 12 hour light/dark cycle per day. The rats shall be kept in a quarantine facility for at least 7 days prior to use.

(C) During the acclimatization period, the rats shall be housed in polycarbonate cages on hardwood chip bedding. All animals shall be provided with certified feed and tap water *ad libitum*.

(iv) *Number of animals.* There shall be at least four animals of each sex in each experimental group.

(2) *Administration of Hydroquinone—*

(i) *Test Compound.* Hydroquinone of at least 99 percent purity, commercially available, should be used as the test substance. Since both nonradioactive and radioactive (^{14}C -uniformly-labelled) hydroquinone are to be used, they should be chromatographed, separately and together, to ascertain purity and identity. The use of ^{14}C -labelled hydroquinone, diluted with unlabelled hydroquinone, is recommended for all of the studies outlined in paragraph (a) as it would greatly increase the reliability and sensitivity of the quantitative assays and facilitate the identification of metabolites.

(ii) *Dosage and treatment.* (A) Two doses shall be used in the study, a "low" dose and a "high" dose. When administered orally, the "high" dose level should ideally induce some overt toxicity, such as weight loss. The "low" dose level should not induce observable effects attributable to the test substance. If feasible, the same "high" and "low" doses should be administered orally and dermally.

(B) Oral dosing shall be accomplished by gavage after dissolving the hydroquinone in a suitable vehicle. For dermal treatment, the doses shall be administered in a suitable solvent and applied at a volume adequate to deliver the prescribed doses. The backs of the rats should be shaved with an electric clipper one day before treatment. The dose should be applied with a disposable micropipette on a specific area (2 cm^2 for rats) on the shaven skin. The dosed areas shall be occluded with an aluminum foil patch which is secured in place with adhesive tape.

(iii) *Determination of hydroquinone kinetics.* Each experimental group shall contain at least four (4) rats of each sex for a total of eight (8) rats.

(A) *Oral Studies.* (1) *Group A* shall be dosed once *per os* with the low dose of

Hydroquinone. (2) *Group B* shall be dosed one *per os* with the high dose of hydroquinone. For the oral studies, the rats shall be placed in individual metabolic cages to facilitate collection of urine and feces at 8, 24, 48, 72, 96 hours following administration. The cages shall be cleaned at each time period to collect any metabolites that might adhere to the metabolic cages.

(B) *Dermal Studies. (1) Group C* shall be dosed once dermally with the low dose of hydroquinone.

(2) *Group D* shall be dosed once dermally with the high dose of hydroquinone. (i) for the dermal studies, the hydroquinone is to be applied for 24 hours. Immediately after application, each animal shall be placed in a separate metabolic cage for excreta collection. At the time of removal of the aluminum foil, the occluded area is to be washed, with an appropriate solvent (see below), to remove any hydroquinone that may be on the skin surface. At the termination of the experiments, each animal is to be sacrificed and the exposed skin area removed. The skin (or an appropriate section) will be solubilized and assayed for radioactivity to ascertain if the skin acts as a reservoir for hydroquinone or its metabolites.

(ii) Before initiation of the dermal studies, an initial washing efficiency experiment shall be conducted to assess the removal of the applied hydroquinone by washing the exposed skin area with soap and water or organic solvents. Four rats, two of each sex, shall be lightly anesthetized and then hydroquinone applied to a specific area. After application (five to ten minutes), the areas shall be washed with soap and water (two rats) or ethanol and water (two rats). The amount recovered shall be determined to assess efficacy of hydroquinone removal by washing of the skin.

(C) *Repeated Dosing Study Group E.* Four rats (two of each sex) shall receive a series of single daily oral doses of nonradioactive hydroquinone over a period of at least 14 days, followed at 24 hours after the last dose by a single oral dose of ¹⁴C-hydroquinone. Each dose shall be at the low dose level.

(3) *Observation of Animals.—(i) Bioavailability. (A) Blood Levels.* The levels of ¹⁴C shall be determined in whole blood, blood plasma or blood serum at appropriate intervals from 1 to 96 hours after dosing rats in Groups A through E. Four rats (two of each sex) of each group shall be used for this purpose.

(B) *Urinary and Fecal Excretion.* The quantities of ¹⁴C-excreted in the urine and feces by rats in groups A through E

shall be determined at eight hours, 24 hours, 48 hours, 72 hours and 96 hours after dosing, and if necessary, daily thereafter until at least 90 percent of the applied dose has been excreted or until seven days after dosing (whichever occurs first). Four animals (two of each sex) shall be used for these analyses.

(ii) *Biotransformation after Oral and Dermal Dosing.* Appropriate qualitative and quantitative methods shall be used to assay hydroquinone and metabolites in the urine and fecal specimens collected from rat Groups A through D.

(iii) *Changes in Biotransformation.* Appropriate qualitative and quantitative assay methodology shall be used to compare the composition of ¹⁴C-labelled compounds in excreta collected at 24 and 48 hours after dosing rate Group A with those in the excreta collected at 24 and 48 hour after the ¹⁴C-hydroquinone dose in the repeated dose study (Group E).

(d) *Data and Reporting—(1) Treatment of Results.* Data should be summarized in tabular form.

(2) *Evaluation of Results.** All observed results, quantitative or incidental, should be evaluated by an appropriate statistical method.

(3) *Test Report.* In addition to the reporting requirements specified in the EPA Good Laboratory Practice Standards under 40 CFR Part 792, Subpart J the following specific information shall be reported:

(i) *Species(s) and strain(s)* of laboratory animals.

(ii) *Information on the degree (i.e., specific activity for a radiolabel) and site(s) of labeling of the test substance;*

(iii) *A full description of the sensitivity and precision of all procedures used to produce the data.*

(iv) *Percentage absorption by oral and dermal routes of rats administered ¹⁴C-hydroquinone.*

(v) *Quantity of isotope, together with percent recovery of administered dose in feces, urine, blood and skin and skin washings (dermal study only for last portions).*

(vi) *Quantity and distribution of ¹⁴C-hydroquinone in various tissues, including bone, brain, fat, gonads, heart, kidney, liver, lung, muscle, spleen, and in residual carcass.*

(vii) *Counting efficacy data shall be made available to the Agency upon request.*

(4) *Reporting requirements.* The toxicokinetic tests shall be completed and the final results submitted to the Agency within 1 year of the effective date of the final test rule. Interim progress reports shall be provided quarterly.

PART 799—[AMENDED]

2. Part 799 is amended as follows:

a. The authority citation continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

b. By amending § 799.2200 by adding paragraphs (c)(1)(ii), (iii), (2)(ii), (iii), (3)(ii), (iii), (4)(ii), and (iii) to read as follows:

§ 799.2200 Hydroquinone.

* * * * *

(c) * * *

(1) * * *

(ii) *Test standards.* The toxicokinetic testing shall be conducted in accordance with § 798.7650.

(iii) *Reporting requirements. (A)* The toxicokinetic tests shall be completed and the final results submitted to the Agency within 1 year of the effective date of the Phase II final test rule.

(B) *Interim progress reports* shall be provided quarterly, beginning with the start of the toxicokinetic testing and ending with the submission of the Final Test Report.

(2) * * *

(ii) *Testing standards.* The development toxicity testing shall be conducted according to the protocols entitled "Protocol for a Teratology Study of Hydroquinone in Rats" and "Protocol for a Teratology Study of Hydroquinone in Rabbits", submitted for the EPA on June 15, 1983 (Eastman Kodak Company, 1983) and reviewed by the Agency. Copies of these study plans are located in the public record for this rule (Docket No. OPTS-42048C) and are available for inspection in the OPTS Reading Rm., E-107, 401 M St., SW., Washington, D.C. 20460, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. These study plans are hereby incorporated by reference. These incorporations by reference were approved by the Director of the Federal Register on [date]. These materials are incorporated as they exist on the date of the approval and a notice of any change in these materials will be published in the Federal Register.

(iii) *Reporting requirements. (A)* The developmental toxicity tests shall be completed and the final results submitted to the Agency within 18 months of the effective date of the final Phase II test rule.

(B) *Interim progress reports* shall be provided quarterly beginning with the start of the development toxicity testing and ending with submission of the Final Test Reports.

(3) * * *

(ii) *Test standard.* The reproductive effects testing shall be conducted

according to the protocol entitled "Protocol for a Two-Generation Reproduction Study in the Rat" submitted to the EPA on June 15, 1983. A copy of this study plan is located in the public record for this rule (docket no. OPTS-42048C) and is available for inspection in the OPTS Reading Rm., E-107, 401 M St., SW., Washington, D.C. 20460, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. This study plan is hereby incorporated by reference. This incorporation by reference was approved by the Director of the Federal Register on [date]. These materials are incorporated as they exist on the date of the approval and a notice of any change in these materials will be published in the Federal Register.

(iii) *Reporting requirements.* (A) The two-generation reproductive effects toxicity test shall be completed and final results submitted to the Agency within 29 months of the effective date of the final test rule.

(B) Interim progress reports shall be provided quarterly beginning with the start of the reproductive effects testing and ending with the submission of the Final Test Report.

(4) * * *

(ii) *Test standard.* The neurotoxicity testing of hydroquinone, consisting of a functional observational battery and neuropathology shall be conducted in accordance with § 798.6050 and 798.6400, respectively.

(iii) *Reporting requirements.* (A) The neurotoxicity tests shall be completed and final results submitted to the Agency within one year of the effective date of the final rule.

(B) Interim progress reports shall be provided quarterly beginning with the start of the neurotoxicity testing and ending with the submissions of the Final Test Reports.

(Information collection requirements have been approved by the Office of Management and Budget under control number 2070-0033). [FR Doc. 85-30721 Filed 12-27-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 799

[OPTS-42047B; FRL-2945-2]

Quinone; Withdrawal of Proposed Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of proposed rule.

SUMMARY: This document withdraws a proposed rulemaking to test quinone (*p*-Benzoquinone, CAS No. 106-51-4) for certain health and environmental effects under the Toxic Substances Control Act. Comments and data received in

response to the proposal indicate that human and environmental exposure to quinone are so small as to be unlikely to present an unreasonable risk to humans or to the environment.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: EPA has decided to withdraw the proposed rulemaking for health and environmental effects testing of quinone.

I. Background

Section 4(a) of the Toxic Substances Control Act (TSCA) (Pub. L. 94-469, 90 Stat. 2006 *et seq.*; 15 U.S.C. 2603 *et seq.*) authorizes the Administrator of EPA to promulgate rules which require manufacturers and processors to test chemical substances and mixtures. Data developed through these test programs are used by EPA in assessing the risks that the chemicals may present to health and the environment.

Section 4(e) of TSCA established the Interagency Testing Committee (ITC) to recommend chemical substances or mixtures for priority testing consideration by EPA under section 4(a) of the Act. The ITC designated quinone (CAS No. 106-51-4) for priority consideration in its fifth Report, published in the Federal Register on December 7, 1979 (44 FR 70664). The ITC based its recommendation for carcinogenicity and teratogenicity testing on its belief that there was potentially high exposure of humans to quinone in manufacturing and processing operations.

The ITC also recommended environmental fate testing for quinone because, if released to the environment, it would possibly form a potentially stable oxidation/reduction system involving hydroquinone and a theoretical intermediate, semiquinone.

EPA's response to this designation was published in the Federal Register on January 4, 1984 (49 FR 456) as a proposed rule on quinone. EPA proposed that the following tests be performed on quinone by industry.

PROPOSED TESTING

	ITC recommendation	EPA proposal
Health effects:		
Teratology.....	x.....	x.....
Carcinogenicity.....	x.....	x.....

PROPOSED TESTING—Continued

	ITC recommendation	EPA proposal
Environmental fate.....	x.....	x.....
Environmental effects.....	x.....	x.....

EPA did not propose teratogenicity testing of quinone; there were no data providing evidence under TSCA section 4(a)(1)(A) for the potential unreasonable risk of teratogenic effects.

II. EPA's Response to Public Comments

The Agency received comments from the Eastman Kodak Company; the National Association of Photographic Manufacturers, and from the Chemical Manufacturer's Association (CMA). The Tennessee Eastman Company, a subsidiary of Eastman Kodak, is the sole producer of quinone in the U.S.

EPA reported in the proposed rule, based on the EPA Toxic Substances Inventory, that from 100,000 to 1,000,000 pounds of quinone were produced in the United States in 1977. Kodak has reported that in 1983 they produced 170,000 pounds of isolated quinone as a water-wet, crystalline solid product (Refs. 1 and 3). The bulk of the quinone produced, greater than 98 percent, is not part of this portion that is isolated. It remains nonisolated in the process equipment for quinone's primary use, which is as an intermediate in the production of hydroquinone.

The major comments from the industry focused on the small number of people (less than 50) involved in the production of quinone and the low exposure levels. Kodak reports that "in the last 15 years, the highest average airborne concentration of hydroquinone and quinone ever monitored in the manufacturing workplace was 0.2 mg/m³". They added that, because the method measures total hydroquinone and quinone, the average concentration of quinone is actually lower (Ref. 1). These are summary data provided by industry; EPA is unable to interpret these further since frequency, averaging time and other supporting documentation were not provided.

Eastman Kodak also commented that they have developed a new manufacturing process for hydroquinone which does not involve the production of quinone as an intermediate (Ref. 4). Because the production of hydroquinone will no longer involve quinone in an intermediate step, the overall production of quinone is expected to decline.

Exposure to quinone through its minor uses is expected to be negligible. As an in-process polymerization inhibitor, it is

added during vinyl monomer manufacture at levels of 500 to 2,000 ppm; after distillations to produce the purified vinyl monomer, quinone and its decomposition products remain in the still bottoms (Ref. 1). Quinone is also used to stabilize unsaturated polyester resins against undesired crosslinking during manufacture, shipment and storage. Formulations, typically containing about 500 ppm quinone, are sold to fabricators who add other chemicals to form plastic products. Although low levels of quinone are incorporated into the fabricated articles (Ref. 1), EPA does not expect migration and release of quinone. Kodak's 1983 isolated quinone production volume was 170,000 pounds, of which approximately one-third was for a company-limited use (Ref. 1).

Quinone is not currently used in the photographic developing trade (Refs. 1 and 2).

III. Decision Not To Require Testing

EPA has decided not to promulgate a rule to require the testing proposed for this substance, for the reasons stated below.

A. Health Effects

Oncogenicity was the only health effect for which testing was proposed in the January 4, 1984 notice. Kodak commented that their scientific analysis, provided by Dr. Robert Squire, indicates that EPA based its proposed testing on two flawed studies. Dr. Squire commented that the papers by Takizawa and Kanizawa (Ref. 5) and Otsu (Ref. 6) were flawed by improper methodologies; they do not provide for an accurate assessment of the effects, by current standards, or even when applying standards typical when the papers were published (Ref. 7). While EPA does believe the two studies in question provide some suggestive evidence, the Agency agrees with the commenters that the flawed nature of the studies detracts from their credibility.

Kodak also points out that there is little potential for human exposure, with the highest air sample recorded as 0.2 mg/m³ and the fact that there are less than 50 workers employed by Kodak who manufacture of process quinone.

Given the small number of people exposed, the low levels of exposure and the lack of credible data, EPA has determined that a section 4(a)(1)(A) finding cannot be supported.

Therefore, EPA is withdrawing the rule for carcinogenicity testing of quinone.

B. Chemical Fate and Environmental Effects

EPA is withdrawing the proposal to require chemical fate and environmental effects studies for quinone. After considering the comments and new data, the Agency has decided that a section 4(a)(1)(A) finding for this substance cannot be supported.

In the proposed rule the Agency stated that it believed that hydroquinone is released to surface waters from photoprocessing operations and that a substantial portion of this material is converted to quinone. These levels were believed to possibly pose an unreasonable risk to freshwater and saltwater aquatic species.

After review of the comments provided by CMA, Kodak, and Goodyear and examination of additional monitoring data, EPA now believes that any releases of hydroquinone are very limited (<5µg/L) and, accordingly, any quinone formed from the oxidation of hydroquinone would also be extremely low levels. A more complete discussion of this issue appears elsewhere in this issue of the *Federal Register* in the final test rule for hydroquinone [OPTS-42048B].

IV. Public Record

EPA has established a public record for this decision not to pursue section 4 testing [docket number OPTS-42047]. This record includes:

A. Supporting Documentation

(1) Federal Register notice of the ITC designation of quinone to the priority list (44 FR 70684).

(2) Communications consisting of:

(a) Written public comments.

(b) Summaries of telephone conversations.

(c) Meeting summaries.

(d) Reports—published and unpublished factual materials, including contractors reports.

(3) Federal Register notice of the proposed test rule on quinone, (49 FR 456, January 4, 1984).

(4) Federal Register notice on quinone announcing the final decision not to require testing.

B. References

(1) Chemical Manufacturer's Association. Comments on EPA's proposed rule for quinone. April 10, 1984.

(2) National Association of Photographic Manufacturer's, Inc. Comments of NAPM on Hydroquinone/Quinone Proposed Test Rules. April 6, 1984.

(3) Eastman Kodak Company. "Comments by Eastman Kodak Company on EPA's Proposed Test Rules: Hydroquinone, 49 FR 438 and Quinone, 49 FR 456." April 10, 1984.

(4) Eastman Kodak. Letter to Gary Timm. Test Rules Development Branch. August 21, 1984.

(5) Takizawa, E., Kanizawa S. "Experimental induction of pulmonary carcinoma." *Jpn. J. Cancer Clin.* 9:172-173. 1963.

(6) Otsu H. "The study of the malignant changes of bronchial epithelial cells in mice induced by the innalation of parabenzoquinone." *J. Chiba Med. Soc.* 46:461-472. 1970.

(7) Chemical Manufacturer's Association. Testimony of the Program Panel on Hydroquinone/Quinone before the Environmental Protection Agency. Washington, DC. April 18, 1984.

This record, which includes the basic information considered by the Agency in developing this decision, is available for inspection from 8 a.m. to 4 p.m. Monday through Friday except legal holidays in Rm. E-107, 401 M St., SW., Washington, DC 20460. The Agency will supplement the record with additional relevant information as it is received.

PART 779—[AMENDED]

Therefore, the proposal to add § 779.3600 to 40 CFR Part 799 is hereby withdrawn.

Authority: 15 U.S.C. 2603.

Dated: December 20, 1985.

J.A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 85-30720 Filed 12-27-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 799

[OPTS-42028C; FRL 2931-3]

Propylene Oxide; Proposed Testing Standard

Correction

In FR Doc. 85-28299 beginning on page 48803 in this issue of Wednesday, November 27, 1985, make the following corrections:

1. On page 48804, in the second column, in the twelfth line from the bottom of the page, "could" should read "would".

2. On the same page, in the third column, in the first line of the third

paragraph under the heading "IV. Reporting Requirements", "development" should read "developmental".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 1600

Planning, Programming, Budgeting: Planning Guidance; Availability of Draft Supplemental Program Guidance

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability for Public Review and Comment on Draft Supplemental Program Guidance.

SUMMARY: This notice is to advise the public of the availability of planning guidance setting forth proposed program specific requirements and standards for use in resource management planning. This guidance, when adopted, will supplement procedural and plan content requirements established in the Bureau of Land Management's planning regulations (43 CFR Part 1600) and related Manual Sections. The draft guidance now available for review includes the following program activities: air resources, coal resources, cultural resources, engineering, fluid minerals, locatable minerals, mineral materials, natural history, recreation, social and economic, soil and water resources, visual resources, and wilderness. The supplemental program guidance for resource management planning is being developed in two phases. The first phase guidance was available for a 45-day public review period beginning on March 13, 1985. It has been revised considering comments and adopted into the Bureau of Land Management directives for planning.

DATES: Comments are due by February 14, 1986.

ADDRESS: Copies of the draft supplemental program guidance may be obtained by writing: Director (202), Bureau of Land Management, 1800 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Gordon Knight 202-653-8824, Christopher Muller 202-653-8830.

Robert F. Burford,
Director.

December 10, 1985.

[FR Doc. 85-30575 Filed 12-27-85; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA 6665]

Proposed Flood Elevation Determinations; Maine

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations previously published at 50 FR 27324 on July 2, 1985. This correction notice provides a more accurate representation of the Flood Insurance Study and Flood Insurance Rate Map for the Town of Phippsburg, Sagadahoc County, Maine.

FOR FURTHER INFORMATION CONTACT: John L. Matticks, Acting Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2767.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the Town of Phippsburg, previously published at 50 FR 27324 on July 2, 1985, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

The proposed base (100-year) flood elevations for selected locations are:

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

Source of flooding and location	# Depth in feet above ground. Elevation in feet (NGVD)
MAINE	
PHIPPSBURG, TOWN SAGADAHOC COUNTY	
<i>Kennebec River:</i>	
East shoreline at Fort Popham State Park.....	16
Entire shoreline of Dix Island.....	10
Entire shoreline of Mill Pond.....	10

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	# Depth in feet above ground. Elevation in feet (NGVD)
Entire western shoreline of Drummore Bay.....	10
Entire shoreline of Fiddler Reach within community.....	9

Issued: December 17, 1985.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 85-30750 Filed 12-27-85; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL MARITIME COMMISSION

46 CFR Parts 550 and 580

[Docket No. 85-19]

Tariff Publication of Free Time and Detention Charges Applicable to Carrier Equipment Interchanged With Shippers and Their Agents

AGENCY: Federal Maritime Commission.

ACTION: Amended Notice of Proposed Rulemaking; Referral to Administrative Law Judge for Hearing.

SUMMARY: The Federal Maritime Commission has determined that significant issues of law and fact remain unresolved in the subject rulemaking after notice and comment procedures have been utilized. The proposed rule is amended to include an alternative exemption from tariff filing requirements. This matter is referred to an Administrative Law Judge for legal briefing and evidentiary hearing.

ADDRESS: Office of Administrative Law Judges, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573 (202) 523-5750.

FOR FURTHER INFORMATION CONTACT: Bruce A. Dombrowski, Acting Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: This proceeding was instituted by a Notice of Proposed Rulemaking published in the Federal Register on August 8, 1985 (50 FR 32097). In that Notice the Commission proposed amendments to regulations governing the contents of tariffs filed by common carriers in the foreign and domestic offshore commerce of the United States (46 CFR Parts 580 and 550, respectively). Those amendments in essence would require

(1) carriers to include in their tariffs the terms and conditions, including free time and detention, for the use of carrier-provided equipment, and (2) standard form equipment interchange agreements to be published in tariffs.

These amendments were initially proposed in a Petition For Rulemaking (Petition) filed by American President Lines (APL) (50 FR 9904). APL's Petition was essentially based upon a legal interpretation of the tariff filing requirements of the Shipping Act of 1984 (46 U.S.C. app. 1701 *et seq.*) (1984 Act), the Shipping Act, 1916 (46 U.S.C. app. 801 *et seq.*) (1916 Act) and the Intercoastal Shipping Act, 1933 (46 U.S.C. 843 *et seq.*) (ISA). Replies to the Petition opposing the requirements generally did not challenge APL's legal analysis but raised significant policy issues concerning their effect on contractual relationships between ocean carriers and inland carriers.

Although more parties have come forward in response to the Notice of Proposed Rulemaking to support and oppose the amendments, the Commission is not satisfied that an adequate record has been developed to resolve the legal and policy issues raised in the proceeding. Therefore, the Commission has determined that this matter should be referred to an Administrative Law Judge to conduct a formal hearing on the issues presented and issue an Initial Decision recommending a disposition based upon the entire record developed herein.¹ Specifically, the hearing should address the following issues:

(1) Whether the 1984 Act, the 1916 Act and the ISA require the filing and publication in tariffs of equipment interchange agreements between ocean common carriers and shippers² and

¹ APL also filed a request to file a reply to certain of the comments received pursuant to the Notice of Proposed Rulemaking. APL's reply was also forwarded as a separate pleading. Certain commenters replied to APL's request. Given the determination to refer this proceeding to an Administrative Law Judge for hearing, it is not necessary to consider APL's reply, and the Acting Secretary is directed to return it to APL. All parties will be free to submit information for the record in accordance with the presiding officer's procedural schedule.

² There appears to be no dispute that equipment interchange terms and conditions directly applicable to shippers must be reflected in tariffs. However, it is anticipated that a full analysis of the legal status of intercarrier agreements will also require an analysis of the status of carrier/shipper agreements. The presiding Administrative Law Judge is granted full discretion to fashion the hearing to adequately address the arguments of the commenting parties on this issue.

between ocean common carriers and inland carriers; and,

(2) If so, whether there exist sufficient policy reasons to exempt such agreements from the Commission's tariff filing requirements, pursuant to section 16 of the 1984 Act (46 U.S.C. app. 1715) and section 35 of the 1916 Act (46 U.S.C. app. 833a).³

All entities that have filed comments in response to the August 8, 1985 Notice of Proposed Rulemaking are made parties to the proceeding. APL and those commenters urging adoption of the proposed rule bear the burden of proof therefor in accordance with section 7 of the Administrative Procedure Act (APA) (5 U.S.C. 556). Those parties opposing the rule on the basis of policy considerations are deemed to be proponents of an exemption and bear the burden of proof therefor.⁴ *Id.*

The Administrative Law Judge shall have full discretion to conduct the proceeding so as to develop a complete record on the issues noted.

Therefore, It Is Ordered, That the Notice of Proposed Rulemaking issued in the Proceeding is amended as follows:

"Alternatively, pursuant to sections 7 and 8 of the Administrative Procedure Act (5 U.S.C. 556 and 557), section 16 of the Shipping Act of 1984 (46 U.S.C. app. 1715) and section 35 of the Shipping Act, 1916 (46 U.S.C. App 833a), the Federal Maritime Commission proposes to amend Parts 550 and 580 of Title 46 of the Code of Federal Regulations as follows:

PART 550—[AMENDED]

1. The authority citation for Part 550 is revised to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 812, 814, 815, 817(a), 820, 833a, 841a, 843, 844, 845, 845a and 847.

2. In § 550.1 add a new paragraph (h) to read as follows:

§ 550.1 Exemptions.

(h) Equipment interchange agreements between common carriers subject to this Part and inland motor and rail carriers.

³ Under both the 1984 Act and the 1916 Act proponents of an exemption must show that such exemption "will not substantially impair effective regulation by the Commission," "be unjustly discriminatory," "or be detrimental to commerce." The 1984 Act also requires a showing that the exemption will not "result in a substantial reduction in competition."

⁴ This is not to be construed as preventing parties opposed to the proposed rule from challenging the legal basis therefor.

PART 580—[AMENDED]

3. The authority citation for Part 580 continues to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 1702-1705, 1707, 1709, 1712, 1714-1716 and 1718.

4. In § 580.1 add a new paragraph (c)(8) to read as follows:

§ 580. Exemptions and exclusions.

(c) * * *
(8) Equipment interchange agreements between common carriers subject to this Part and inland motor and rail carriers.

It Is Further Ordered, That this proceeding is referred to the Commission's Office of Administrative Law Judges for the purpose of conducting a hearing and issuing an Initial Decision in accordance with this Amended Notice of Proposed Rulemaking; and,

It Is Further Ordered, That all parties that filed comments in response to the original Notice of Proposed Rulemaking in this proceeding shall be permitted to participate in the hearing ordered above; and

It Is Further Ordered, That the Commission's Bureau of Hearing Counsel is also made a party to this proceeding; and

It Is Further Ordered, That additional interested parties may be granted intervention in this proceeding in accordance with Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72).

By the Commission,
Bruce A Dombrowski,

Acting Secretary.

[FR Doc. 85-30650 Filed 12-27-85; 8:45 am]

BILLING CODE 6730-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1312

[Ex Parte No. MC-176]

Short Notice Effectiveness for Independently Filed Motor Passenger Carrier Rates

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Pursuant to applications filed by several motor passenger carriers, the Commission, under 49 U.S.C. 10762(d)(1), proposes to amend the regulations at 49 CFR Part 1312 to reduce the notice period required for independent rate

filings by motor carriers of passengers, including express and special and charter operations. Rate reductions, rate increases, and new rates for motor passenger carrier fares would be permitted to become effective on 1-day's notice, rather than the 30-day notice period currently required by 49 CFR 1312.4(e)(ii)(A).

DATES: Comments are due January 29, 1986.

ADDRESS: Send comments (original and 15 copies) to: Ex Parte No. MC-176, Case Control Branch, Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Robin Williams Denick, (202) 275-7711 or Howell I. Sporn, (202) 275-7691.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. Infosystems, Inc., Room 2229, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (DC Metropolitan Area) or toll free (800) 424-5403.

Adoption of the proposals in this notice will not have a significant economic impact on a substantial number of small entities because we are only affecting the notice period required for motor passenger carrier rate filings. Reduction of the notice period is consistent with the National Transportation Policy, 49 U.S.C. 10101,

which encourages the Commission to reduce regulatory burdens and promote an economic and efficient transportation system.

List of Subjects in 49 CFR Part 1312

Buses, Tariffs, Motor carriers.

Authority: 5 U.S.C. 533 and 49 U.S.C. 10321 and 10762(d)(1).

Decided: November 22, 1985.

By the Commission, Chairman Taylor, Vice Chairman Gradison, Commissioners Sterrett, Andre, Simmons, Lambolely, and Strenio.

James H. Bayne,
Secretary.

Appendix

PART 1312—[AMENDED]

Proposed Revisions to the Code of Federal Regulations, Title 49 Part 1312

Title 49 CFR Part 1312, would be amended as follows:

1. Section 1312.4(e)(ii) would be amended by deleting language from subparagraph (A) and by adding a new subparagraph (C) to read as follows:

§ 1312.4 Filing tariffs.

(e) *Period of notice required.* * * *

(ii) For all other carriers.

(A) 30 days notice is required.

* * * * *

(C) For independently set rates of motor carriers of passengers, including package express and special and charter operations, the rule generally is 1-day's

notice for reductions and increases of passenger rates. See § 1312.39(i) for details.

2. Section 1312.39 would be amended by deleting language in paragraph (f) and by adding a new paragraph (i) to read as follows:

§ 1312.39 Miscellaneous provisions that may be filed on less than statutory notice.

* * * * *

(f) *Roundtrip excursion fares.* Fares for a roundtrip excursion limited to a designated period may be established upon posting and filing the tariff on 1 workday's notice.

* * * * *

(i) *Motor Passenger Tariffs—Notice for Independent Rate Changes—New, Reduced and Increased Rates.* Except as otherwise provided in paragraph (h)(5) above, each independently established new or changed rate, charge, rule, or other provision must be filed with the Commission in Washington, DC at least 1 day before the date upon which it is to become effective. Similarly, each independently established increased rate or charge and each independently established change in a rule or other provision that effects a reduction in the value of service or increase in a rate or charge must be filed with the Commission in Washington, DC, at least 1 day before the date upon which it is to become effective.

[FR Doc. 85-30768 Filed 12-27-85; 8:45 am]

BILLING CODE 7035-10-M

Notices

Federal Register

Vol. 50, No. 250

Monday, December 30, 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

Office of the Secretary

Joint Nutrition Monitoring Evaluation Committee; Re-Establishment

The Joint Nutrition Monitoring Evaluation Committee is being re-established to continue evaluation of the findings of the Nationwide Food Consumption Survey (NFCS), the National Health and Nutrition Examination Survey (NHANES), and other Federal nutrition monitoring efforts and development of reports on the nutritional status of the U.S. population. The Advisory Committee is composed of four members, two selected by the Department of Agriculture (USDA) and two by the Department of Health and Human Services (DHHS). The Committee is chaired by an official of the Office of the Secretary of Agriculture and/or the Assistant Secretary for Health, DDHS. The Human Nutrition Information Service and units of the Office of the Assistant Secretary of Health, DDHS, will be responsible for processing, publishing, and distributing reports.

It has been determined that the establishment of the Committee is in the public interest in connection with the work of the U.S. Department of Agriculture and the Department of Health and Human Services.

Interested persons may send comments to Dr. Susan Welsh, Nutrition Education Division, Human Nutrition Information Service, USDA, Room 363 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, on or before January 14, 1986.

Done at Washington, DC, this 18th day of December 1985.

John J. Franke, Jr.,

Assistant Secretary for Administration.

[FR Doc. 85-30765 Filed 12-27-85; 8:45 am]

BILLING CODE 3410-48-M

National Arboretum Advisory Council; Renewal of Advisory Council

Notice is hereby given that the Secretary of Agriculture has renewed the National Arboretum Advisory Council. The purpose of the Council is to provide the Secretary of Agriculture with an independent overview of the work of the Arboretum by a body of qualified individuals who represent national organizations. The National Arboretum was created by an Act of Congress (Pub. L. 799, 89th Congress, 20 U.S.C. 191-194) on March 4, 1927, for purposes of research and education concerning tree and plant life.

The Council meets annually at the National Arboretum in Washington, DC, to receive reports from the Arboretum staff on research progress with trees and environmental plants, educational activities, site development, and long-range goals. The Council's findings are reported in writing to the Secretary of Agriculture.

It was determined that the renewal of this Council would be in the public interest in connection with the work of the U.S. Department of Agriculture.

Done at Washington, DC, this 19th day of December 1985.

John J. Franke, Jr.,

Assistant Secretary of Agriculture for Administration.

[FR Doc. 85-30841 Filed 12-27-85; 8:45 am]

BILLING CODE 3410-01-M

Food and Nutrition Service

Food Stamp Program; Electronic Benefit Transfer Alternative Issuance Demonstration Project

AGENCY: Food and Nutrition Service, Department of Agriculture.

ACTION: Amended General Notice.

SUMMARY: The Department is hereby amending its General Notice for the Electronic Benefit Transfer (EBT) Alternative Issuance Demonstration Project in Reading, Pennsylvania to extend the project for 15 additional months. During this time the Pennsylvania State Agency will assume responsibility for administering the EBT system and begin the process of transferring the system onto their own hardware. The continuing project is being conducted under the authority of

section 17 of the 1977 Food Stamp Act, as amended.

EFFECTIVE DATE: December 30, 1985.

FOR FURTHER INFORMATION CONTACT: M. Patricia Warner, Chief, Legislative Policy, Planning and Demonstration Branch, Program Planning, Development and Support Division; Family Nutrition Programs; Food and Nutrition Service, USDA; Alexandria, Virginia 22302, telephone (703) 756-3383.

SUPPLEMENTARY INFORMATION:

Classification

Executive Order 12291

This notice has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1521-1, and has been classified "not major". The notice will not have an annual effect on the economy of \$100 million or more, nor is it likely to result in a major increase in costs or prices for consumers; individual industries; Federal, State or local government agencies; or geographic regions. Because this notice will not have a major effect on the business community, it will not result in significant adverse effects on competition, employment, investment, productivity, or innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Executive Order 12372

The Food Stamp Act Program is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the final rule related Notice to 7 CFR 3015, Subpart V (48 FR 29115), this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Regulatory Flexibility Act

This notice has also been reviewed with regard to the requirements of the Regulatory Flexibility Act, Pub. L. 96-354. Mr. Robert E. Leard, Administrator of the Food and Nutrition Service (FNS), has certified that this action will not have a significant economic impact on a substantial number of small entities because it will be conducted in a limited area. The State and local welfare agencies will be affected to the extent that they are involved in administering

this alternative system. Food retailers and banks will be affected to the extent that they agree to participate in the test. Individuals participating in the Food Stamp Program and living within a four-zip code area of Reading, Pennsylvania, will be affected to the extent that they will continue using a new benefit issuance instrument and continue to be subject to the new issuance procedures.

Paperwork Reduction Act

This notice does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget under the Paperwork Reduction Act of 1980.

Comments

This notice provides for an extension of a current demonstration project and does not provide any significant changes to the demonstration's current operating procedures. Consequently, comments are not being requested and the provisions of this notice will be effective upon publication.

Background

On July 8, 1983, the Department of Agriculture published a General Notice in the **Federal Register** (48 FR 31431) which, in accordance with 7 CFR 282.5, established the specific operational procedures and explained the basis and purpose for the Alternative Issuance Demonstration Projects, including the EBT demonstration. On August 21, 1984, the Department published an Amended General Notice in the **Federal Register** (49 FR 33152) which provided additional details on the operational procedures of the project.

Implementation of the EBT system began in October 1984. Following the phase-in of participating recipients, the system became fully operational in January 1985. The contract with Planning Research Corporation (PRC) of McLean, Virginia was for the administration of operations through December 1985.

Preliminary reaction to the system by the different groups participating in the demonstration has been favorable. Recipients have not shown any problems using the system. Retailers and banks have expressed their pleasure regarding the time and effort saved by not having to process coupons. While there have been some system problems during the test which have raised concern by all parties, system improvements have been implemented to minimize the chance for problem recurrence and to satisfy the retailers and recipients. Further enhancements

were not viewed as appropriate by the Department during this phase of the demonstration because of the limited time available. The final evaluation report for this period of operations is expected to be completed by Fall 1986.

Current Action

In consultation with the State of Pennsylvania, the Department has decided to extend demonstration operations for 15 additional months. For the first three months, the current contractor will continue administering the EBT system. Subsequent to this period, Pennsylvania will administer the EBT system by moving the EBT equipment and EBT Center operations to their own offices in Harrisburg, Pennsylvania. During this period, all operations will be coordinated by the State personnel in Harrisburg. In addition, the State will begin the process of moving the system onto their own hardware. The Department believes that these actions will enhance the system operations and make the system more cost effective.

During this extension, the operating procedures will remain as published in the August 1984 Amended General Notice except that the EBT center will be operations 24 hours per day instead of the 18 hours stated in the Notice. Consequently, manual transactions will be processed, if necessary, 24 hours per day. An evaluation of the EBT demonstration will continue through the extension period.

Robert E. Leard,

Administrator, Food and Nutrition Service.

[FR Doc. 85-30772 Filed 12-27-85; 8:45 am]

BILLING CODE 3410-30-M

COMMISSION ON CIVIL RIGHTS

Iowa Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Iowa Advisory Committee to the Commission will convene at 8:45 p.m. and adjourn at 5:00 p.m., on January 27, 1986 and convene at 9:00 a.m. and adjourn at 12:00 noon on January 28, 1986; at the Phillips House Hotel, 12th and Baltimore, Kansas City, Missouri. The purpose of the meeting is to discuss a regional project on Bigotry and Violence and to make plans for a series of civil rights forums in the Central States Region.

Persons desiring additional information, or planning a presentation

to the Committee, should contact Committee Chairperson, Ralph S. Scott, or Melvin Jenkins, Director of the Central States Regional Office at (816) 374-5253, (TDD 816/374-5009). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, December 20, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85-30755 Filed 12-27-85; 8:45 am]

BILLING CODE 6335-01-M

Maryland Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Maryland Education Subcommittee to the Commission will convene at 3:00 p.m. and adjourn at 6:00 p.m., on January 8, 1986, at the Anne Arundel County Board of Education, 2644 Riva Road, Conference Room #2, Annapolis, Maryland. The Education Subcommittee will receive reports of special assignments and plan the community forum on Special Education and programs for the gifted and talented.

Persons desiring additional information, or planning a presentation to the Subcommittee should contact Committee Chairperson, Lorretta Johnson or John I. Binkley, Director of the Mid-Atlantic Regional Office at (202) 254-6717, (TDD 202/254-5461). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, December 20, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85-30756 Filed 12-27-85; 8:45 am]

BILLING CODE 6335-01-M

Nevada Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Nevada Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 1:00 p.m., on January 18, 1986, at the Alexis Park, 345 Harmon Avenue, Las Vegas, Nevada. The purpose of the meeting is to review a draft proposal on the Casino Employment Study and engage in other program planning activity.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Elizabeth Nozero or Philip Montez, Director of the Western Regional Office at (213) 688-3437, (TDD 213/894-0508). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five(5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, December 20, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85-30757 Filed 12-27-85; 8:45 am]

BILLING CODE 6335-01-M

Rhode Island Advisory Committee; Meeting Date Change

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Rhode Island Advisory Committee to the Commission originally scheduled for January 8, 1986, convening at 12:00 noon and adjourning at 1:30 p.m., at the Girl Scouts of Rhode Island, 125 Charles Street, Council Room, Providence, RI (FR Doc. 85-28759, page 49739) has a new meeting date.

The meeting times and location will remain the same. The meeting date will change to January 7, 1986.

Dated at Washington, DC, December 19, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85-30758 Filed 12-27-85; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

(C-122-505)

Preliminary Affirmative Countervailing Duty Determination; Oil Country Tubular Goods from Canada

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters of oil country tubular goods (OCTG) in Canada. The estimated net subsidy is 0.72 percent *ad valorem*.

We have notified the United States International Trade Commission (ITC) of our determination. We are directing the U.S. Customs Service to suspend liquidation of all entries of oil country tubular goods from Canada that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice, except for companies that have been excluded from this determination, and to require a cash deposit or bond on entries of this product in an amount equal to the estimated net subsidy as described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make our final determination by March 4, 1986.

EFFECTIVE DATE: December 30, 1985.

FOR FURTHER INFORMATION CONTACT: Steven Morrison, or Barbara Tillman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-1248 (Morrison) or (202) 377-2438 (Tillman).

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine that there is reason to believe or suspect that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers or exporters of oil country tubular goods (OCTG) in Canada. For purposes of this investigation, the following programs are found to confer subsidies to manufacturers, producers, and exporters of OCTG in Canada:

- Investment Tax Credits for machinery and equipment.
- Regional Development Incentives Program.
- General Development Agreement/Canada-Saskatchewan Subsidiary Agreement on Iron, Steel and Other Related Metal Industries.

We preliminarily determine the estimated net subsidy for OCTG to be 0.72 percent *ad valorem*.

Case History

On July 22, 1985, we received a petition filed in proper form by the Lone Star Steel Company and CF&I Steel Corporation, producers of oil country tubular goods. In compliance with the filing requirements of § 355.26 of our regulations (19 CFR 355.26) the petition alleges that manufacturers, producers or exporters of oil country tubular goods in Canada directly or indirectly receive benefits which constitute subsidies within the meaning of section 701 of the Act, and that these imports materially injure, or threaten material injury to, a U.S. industry. In addition, the petition alleges that "critical circumstances" exist within the meaning of section 703(e)(1) of the Act.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on August 12, 1985, we initiated the investigation (50 FR 33383).

Since Canada is a "country under the Agreement" within the meaning of section 701(b) of the Act, the International Trade Commission (ITC) is required to determine whether imports of the subject merchandise from Canada materially injure, or threaten material injury to, a U.S. industry. Therefore, we notified the ITC of our initiation. On September 5, 1985, the ITC determined that there is a reasonable indication that these imports materially injure a U.S. industry (50 FR 37066).

On August 21, 1985, we presented a questionnaire concerning the petitioners' allegations to the government of Canada. Responses to the questionnaire were received on September 23, 1985 and September 24, 1985.

There are eleven known producers and/or exporters of oil country tubular goods to the United States from Canada. These are Siegfried Kreiser Pipe and Tube, IPSCO, Inc., Stelco Inc., Sonco Steel Tube (a division of Ferrum, Inc.), Algoma Steel Corp. Ltd., Welded Tube of Canada, Ltd., Prudential Steel, Ltd., Frank Pipe Co., Christianson Pipe, Ltd., Dominion Steel Export Co., Ltd., and Matthew Tube & Pipe Supply Inc.

We received timely requests for exclusion from these eleven producers

and/or exporters to which we sent copies of the detailed questionnaire. Eight respondents indicated that they received no benefits. Algoma Steel Corporation received benefits which we preliminarily determine are *de minimis*. Therefore, these nine companies are excluded from this preliminary determination. IPSCO receives countervailable benefits above the *de minimis* rate of 0.50 percent and Siegfried Kreiser Pipe and Tube did not respond to our questionnaire.

On September 23, 1985, we received a timely request by petitioners for an extension of the deadline date for the preliminary determination. An extension was granted on September 26, 1985 (50 FR 40209). We stated that we expected to issue our preliminary determination by December 19, 1985.

Because of the extension of the preliminary determination, we were able to verify the responses to the questionnaires. Verification was conducted in Canada from October 23, 1985 to November 14, 1985.

Scope of Investigation

The products covered by this investigation are "oil country tubular goods," which are hollow steel products of circular cross-section intended for use in drilling for oil or gas. These products include oil well casings, tubing and drill pipe of carbon or alloy steel, whether welded or seamless, manufactured to either American Petroleum Institute (API) or non-API (such as proprietary) specifications as currently provided for in the *Tariff Schedules of the United States, Annotated (TSUSA)*, under items 610.3216, 610.3219, 610.3233, 610.3234, 610.3242, 610.3243, 610.3249, 610.3252, 610.3254, 610.3256, 610.3258, 610.3262, 610.3264, 610.3721, 610.3722, 610.3751, 610.3925, 610.3935, 610.4025, 610.4035, 610.4225, 610.4235, 610.4325, 610.4335, 610.4942, 610.4944, 610.4946, 610.4954, 610.4955, 610.4956, 610.4957, 610.4966, 610.4967, 610.4968, 610.4969, 610.4970, 610.5221, 610.5222, 610.5226, 610.5234, 610.5240, 610.5242, 610.5243, 610.5244. This investigation includes oil country tubular goods that are in both finished and unfinished condition.

Analysis of Programs

Throughout this notice, we refer to certain general principles applied to the facts of the current investigation. These principles are described in the "Subsidies Appendix" attached to the notice of "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina; Final Affirmative Countervailing Duty Determination and Countervailing Duty Order," which was published in the

April 26, 1984, issue of the *Federal Register* (49 FR 18006).

For purposes of this preliminary determination, the period for which we are measuring subsidies (the review period) is calendar year 1984. Based upon our analysis of the petition, the responses to our questionnaires submitted by the federal and provincial governments as well as those of the ten responding companies, and amendments to the responses submitted after verification, we preliminarily determine the following:

I. Programs Preliminarily Determined To Confer Subsidies

We preliminarily determine that subsidies are being provided to manufacturers, producers and/or exporters of oil country tubular goods under the following programs:

A. Certain Investment Tax Credits for Machinery and Equipment

Under the Canadian Income Tax Act, an investment tax credit (ITC) for machinery and equipment is available to businesses. The credit is based on a percentage of a company's investment in certain assets. The tax provision allows the business to subtract a percentage of its applicable investments directly from business income taxes owed. All companies throughout Canada are eligible for at least a seven percent investment tax credit. Companies are automatically eligible for a ten percent or higher investment tax credit (for investment in machinery and equipment) if the investment is made in designated regions of the country. Of the respondents, only two producers or exporters of OCTG have facilities in these designated regions, Algoma and IPSCO, and both received ten percent investment tax credits for machinery and equipment. In addition to ITCs for machinery and equipment, there is also an ITC benefit for research and development which, at the time, was at uniform rates for businesses throughout Canada. IPSCO claimed this research and development ITC, in addition to machinery and equipment ITCs.

Canadian tax law provides that ITCs may be subtracted from taxes owed, but if no taxes are owed (either because a company is initially in a tax loss position or because some of the ITCs have been used to satisfy all tax liability), excess ITCs earned after April 19, 1983, have a one time cash value of twenty percent of the remaining ITC value. Algoma did redeem some post-April 19, 1983 machinery and equipment ITCs for cash on tax returns filed in 1984.

We preliminarily determine that ITCs at 7 percent and research and development ITCs are not countervailable because they are not limited to a specific enterprise, industry or group of enterprises or industries. The ITCs for machinery and equipment in excess of seven percent are countervailable because they are limited to companies in specific regions. Therefore, because all industries throughout Canada can claim at least seven percent (machinery and equipment) ITCs, only that portion of these ITCs in excess of 7 percent is countervailable.

Under the Department's tax methodology, we allocate an income tax benefit to the year in which the tax return was filed. Thus, we looked at the tax return filed in 1984, covering fiscal year 1983. We examined the tax return filed during the review period and found that portion of machinery and equipment ITCs in excess of the seven percent threshold. We then divided this amount by each company's total sales to calculate an estimated net subsidy of 0.01 percent *ad valorem* for Algoma and 0.01 percent *ad valorem* for IPSCO.

B. Regional Development Incentive program (RDIP)

The RDIP was administered by the former Department for Regional Economic Expansion (DREE) for the purpose of creating stable employment opportunities in areas of Canada where employment and economic opportunities are chronically low. The program provided development incentives (grants) to manufacturers whose capital investment projects for establishing new facilities or expanding or modernizing existing facilities would create jobs and economic opportunities in areas designated as economically disadvantaged.

The prime creation for DREE approval of a proposed project was the likelihood that the project would provide needed economic opportunities and social adjustment. Projects which could proceed without RDIP assistance were ineligible. Although the program was terminated in 1983, several RDIP grants were provided to two producers of the product under investigation prior to that termination. We determine that grants provided through the RDIP program of DREE confer subsidies because the benefits are limited to companies located within specific regions.

Two grants reported in the responses were for products other than oil country tubular goods: one for a spiral pipe facility and one for a slab facility which would not be used in the production of

oil country tubular goods. Consistent with our methodology, when a grant is tied specifically to a product not under investigation, we do not include it in our calculation of benefits.

Additionally, two other grants were used for several facilities, not all of them involved in the production of oil country tubular goods. We preliminarily determine that these grants are not specifically tied to products not under investigation. Therefore, we included the full amount of these grants in our calculation of benefits.

Because RDIP grants are not provided automatically every year, we allocate the benefits received over time. To calculate the benefits from RDIP, we used the methodology for grants outlined in the Subsidies Appendix. The average useful life of equipment in the steel industry is 15 years. Thus, for all grants received by each company in the past 15 years, we aggregated all grants received by each company in each year and divided by the company's total sales in that year.

If the resulting benefit was less than 0.50 percent (*de minimis*), we expensed that benefit to the year of receipt. If the resulting benefit was 0.50 percent or greater, we spread the grant over the average useful life of equipment using our declining balance methodology. We used the average long-term lending rate from data supplied by Statistics Canada for Algoma because the firm had no commercial loans in the relevant year. We had information to calculate IPSCO's weighted cost of capital and used that as our discount rate. Using this method, we preliminarily determine the estimated net subsidy to be 0.71 percent *ad valorem* for IPSCO and 0.04 percent *ad valorem* for Algoma.

C. Grant Provided Under the General Development Agreement and the Canada-Saskatchewan Iron, Steel and Other Related Metal Industries Subsidiary Agreement

As part of its activities to spur development in Canada, the former Department of Regional Economic Expansion entered into a General Development Agreement (GDA) with Saskatchewan. Among the considerations of the GDA were the creation and maintenance of employment, economic opportunities, and income levels; the improvement of the well-being of the disadvantaged, the environment, and the quality of life; and the need for the continuing subsidization of industrial and commercial activity. Under the GDA, there was a provision for subsidiary agreements. The Government of Canada (GOC) and Saskatchewan entered into a subsidiary

agreement of the GDA in 1974. It was intended to enhance the viability of the existing iron and steel industry in Saskatchewan, to expand and diversify iron and steel production, and to increase employment opportunities in the iron, steel and related metal industries in Saskatchewan. IPSCO was and is the only steel manufacturer in Saskatchewan.

We preliminarily determine that the grants through the GDA and the Iron, Steel and Related Metal Industries Subsidiary Agreement confer subsidies because the benefits are limited to companies in specific regions. Further, we also preliminarily determine that grants through the subsidiary agreement on steel also confer subsidies because they are limited to a specific enterprise or industry.

IPSCO received two grants under the GDA and the Subsidiary Agreement. One grant under GDA was paid to IPSCO in 1976 and 1978. The funds received under this grant were less than one-half percent of total IPSCO sales in each of those years and therefore the benefit would have been allocated to the year of receipt. Funds under the other grant were received in 1980, 1981, 1982 and 1983. The grant was jointly approved and funded under RDIP, and GDA and the Subsidiary Agreement. We have included benefits from this second grant in our calculation of benefits under RDIP.

II. Programs Preliminarily Determined Not To Confer Subsidies

We preliminarily determine the following programs do not confer subsidies on manufacturers, producers or exporters of oil country tubular goods from Canada.

A. Grant Under the Enterprise Development Program (EDP)

The EDP was established to provide loans, loan guarantees and contributions to those engaged in manufacturing or processing. In the "Final Negative Countervailing Duty Determinations: Certain Softwood Products from Canada" (48 Fed. Reg. 24159 (1983)), we found EDP grants not countervailable and EDP loan programs not used. Based on that determination, we initiated only on EDP loan programs and not EDP grants. However, IPSCO's 1984 annual report stated that the company was being assisted by an EDP grant for research on a new alloy while the government of Canada response said the EDP program was terminated in 1983. Because of this inconsistency in the information provided on the two responses we asked for additional

information in order to check whether a new EDP program had been established.

Based on information obtained after the initial responses, we learned that companies could continue to receive funds for projects approved prior to the termination of the EDP program and that there was no new EDP program. In addition, although project funding for the grant has been approved, IPSCO has not yet received any funds under this program. Accordingly, we are not re-examining the EDP grant program nor changing our determination that EDP grants are not limited to a specific enterprise or industry, or group of enterprises or industries, or to companies in specific regions.

B. Employment Development Fund (EDF)

The Employment Development Fund (EDF), which was terminated in 1982, was an Ontario provincial grant program intended to increase long-term investment and employment in the province. In its response, one OCTG manufacturer reported receipt of an EDF grant. As part of the application procedure, applicants are required to predict the growth of production and exports, although information on the record indicates that there are no default provisions if the projected export goals are not met.

We preliminarily determine that EDF was not an export subsidy because these grants were not provided only to exporters nor was receipt of EDF grants contingent on export performance. Based on our examination of a report on recipients of EDF, funding was provided to a wide range of industries in Ontario. We also preliminarily determine that EDF grants were not domestic subsidies because they were not limited to a specific enterprise or industry, a group of enterprises or industries, or to companies in specific regions.

C. Alberta Opportunity Company

The Alberta Opportunity Company (AOC), a crown corporation, issues loans and loan guarantees to companies in Alberta in order to stimulate new businesses and assist expansion of existing enterprises when financing from other sources is unavailable. In the "Final Negative Countervailing Duty Determinations: Certain Softwood Products from Canada," (48 FR 24159 (1983)), we determined that AOC loans were not limited to a specific enterprise or industry or group of enterprises or industries, or to companies in specific regions. However, we initiated on this program because we had information that AOC loans may be intended for

export promotion. According to the responses, IPSCO had a loan outstanding from the AOC during the review period.

IPSCO's AOC loan is not a part of normal AOC loan program. It is part of a settlement reached in court for IPSCO's purchase of the physical assets of Ram Steel, a company placed into receivership by one of its creditors. The court assigned an officer of Peat Marwick, Ltd. as the receiver to negotiate the best deal possible on behalf of Ram Steel's creditors and stockholders. AOC had two loans outstanding with Ram, but was not the primary secured creditor. According to the receiver, the company could not be operated by the receiver or Ram Steel at a profit and the price offered by IPSCO was the highest price they could obtain. IPSCO made its offer to buy contingent upon receiving a loan from AOC to cover part of the purchase price. By granting that loan, AOC was able to recover most of the money owed it by Ram and to receive the full principal and interest on deferred terms, as was a condition of IPSCO's offer.

Given the above information, we preliminarily determine that AOC's loan to IPSCO was not inconsistent with commercial considerations because of the commercial advantages to both the seller and the purchaser in this transaction, and because of the apparent lack of interest by any other party to purchase Ram's assets.

III. Programs Preliminarily Determined Not To Be Used

We preliminarily determine that the following programs are not used by manufacturers, producers, and/or exporters of oil country tubular goods in Canada.

A. Loans Under Subsidiary Agreements

Petitioners allege that under the General Development Agreement and federal-provincial subsidiary agreements, loans were provided on terms inconsistent with commercial considerations. The responses indicate that none of the companies had outstanding loans under the GDA or subsidiary agreements during the review period. Therefore, we preliminarily determine this program not to be used.

B. Defense Industry Productivity Program (DIPP)

The DIPP, administered by the Department of Regional and Industrial Expansion (DRIE) has several purposes. Among these purposes is the stimulation of exports of military hardware and the provision of assistance to upgrade equipment, processes and facilities to

make companies more competitive in bidding for military hardware contracts.

According to the responses, only Algoma received DIPP benefits. The grant was for a facility to desulfurize steel. Desulfurized steel is used in producing OCTG and other steel products. DIPP funds were paid to Algoma in 1980 and 1981. Although the Department may determine that DIPP grants serve as exports subsidies in other cases, there were no conditions in the Algoma DIPP grant which were tied to export performance or which made the grant contingent on exporting. Algoma has a large home market for desulfurized steel and products made from desulfurized steel. This DIPP grant benefits Algoma's entire production, and not exports alone. Thus, we preliminarily determine that this grant was not an export subsidy.

Although we have preliminarily determined that this program is not an export subsidy, we must still determine whether any benefits were received during the review period and if so whether this program is limited to a specific enterprise or industry or group of enterprises or industries. Consistent with the Subsidies Appendix, we divide the sum of all grants received in each year by the total sales of the company in the same year. Algoma received no other grants in the two years DIPP benefits were received.

The calculated benefits were *de minimis*; therefore we expensed them in the year of receipt. Because the DIPP grants received by Algoma were expensed prior to the review period and because no DIPP grants were received the Algoma during the review period, we preliminarily determine this program was not used.

C. Community-Based Industrial Adjustment Program of the Industry and Labor Adjustment Program (CIAP/ILAP)

This program, now terminated, provided loans and grants to firms in designated communities affected by high unemployment. The response and subsequently furnished information from the government of Canada stated that during the life of the program, twelve communities were eligible for CIAP. None of the OCTG respondents were located in these communities. Therefore, we preliminarily determine that this program was not used.

D. Promotional Projects Program (PPP)

The PPP is run by the Department of External Affairs. At selected foreign trade shows the government of Canada rents space, furniture, and facilities which it subleases at minimal charge to Canadian exhibitors. The government of

Canada reported that one OCTG respondent, Stelco, used PPP in 1983 at one trade show in the United States where it exhibited pictures of its industrial park locations and technologies. This benefit was received outside the period of review and according to the responses no benefit was received during the review period. Therefore, we preliminarily determine that this program was not used during the review period (1984) by any manufacturer, producer or exporter of OCTG.

E. Program for Export Market Development (PEMD)

The PEMD program is also run by the Department of External Affairs. One PEMD subprogram was reportedly used by Stelco, by Algoma and by IPSCO to recover certain transportation expenses to sell specific products in potential markets. None of these trips were for selling OCTG in the United States. Therefore, we preliminarily determine that this program was not used.

F. Industrial And Regional Development Program (IRDP)

In 1983 DRIE was created, incorporating the activities of DREE and the Department of Industry, Trade, and Commerce. At this time RDIP and some other programs of DREE were modified and incorporated in a new program, the IRDP. IRDP's purpose is to improve industrial development and the overall economic climate by providing funds for new facilities or for the expansion or modernization of existing facilities. All regions of Canada are divided into four tiers based on the level of economic development of the region. The amount of eligibility differs for each tier with the greatest amount going to the most economically disadvantaged tier. The petitioners alleged that DRIE provides discretionary grants, interest-free loans and loan guarantees under IRDP. No IRDP loans or loan guarantees were reported. IPSCO and Siegfried Kreiser have been approved for IRPD grants, but have not yet received any funds. Therefore, we preliminarily determine that this program was not used. Should these firms receive any money in the future under IRDP, the program will be considered in any administrative review that may occur.

G. Saskatchewan Economic Development Commission (SEDCO)

SEDCO issues loans, loan guarantees and in some cases invests in Saskatchewan industries and commerce. None of the OCTG respondents has received assistance from SEDCO.

Therefore, we preliminarily determine that SEDCO programs were not used.

H. Ontario Development Corporation (ODC) Export Support Loans, Other Loans, and Loan Guarantees

The Ontario Development Corporation controls, approves and administers loan and loan guarantee programs in addition to administering, but not approving, grant programs (such as the Employment Development Fund, discussed earlier in this notice). According to the responses, no OCTG producer has received assistance under these programs. Therefore, we preliminarily determine that ODC loans and loan guarantees were not used.

I. Enterprise Development Program (EDP) Loans

Petitioners alleged that loans were provided on terms inconsistent with commercial considerations under EDP. Based on information in the responses, none of the manufacturers, producers and/or exporters of OCTG had EDP loans outstanding during the review period.

J. Interest-Free Loans and Below-Commercial Rate Loans

Petitioners alleged that loans have been provided on terms inconsistent with commercial considerations by the government or at the direction of the government. Based on the responses, we have no information that any government-funded or directed loan programs were used by manufacturers, producers and/or exporters of OCTG other than those programs already addressed in this notice.

K. Government Grants for Purchase of Fixed Assets

Petitioners alleged that government grants have been provided to IPSCO for purchase of fixed assets. Based on information in the responses, IPSCO and Algoma received grants for acquisition of fixed assets under the RDIP and DIPP. These grant programs are addressed elsewhere in this notice. The responses indicate that there are no other government grant programs, not specifically cited by petitioners, for acquisition of fixed assets which have been used by respondents.

Preliminary Negative Determination of Critical Circumstances

Petitioners alleged that imports of oil country tubular goods from Canada present "critical circumstances." Under section 703(e)(1) of the Act, critical circumstances exist when the Department has a reasonable basis to believe or suspect that (1) the alleged

subsidy is inconsistent with the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement of Tariffs and Trade ("the Subsidies Code"), and (2) there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period. Based upon our analysis, there were no export subsidies bestowed upon oil country tubular goods in Canada during the review period. Accordingly, we preliminarily determine that the subsidies received are not inconsistent with the Subsidies Code.

Since we have determined that the subsidies are not inconsistent with Code commitments, we need not determine whether there have been massive imports. Accordingly, we preliminarily determine that "critical circumstances" do not exist with respect to oil country tubular goods from Canada.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all unliquidated entries of OCTG from Canada which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**, and to require a cash deposit or bond for each such entry of this merchandise equal to 0.72 percent *ad valorem* except for OCTG from Stelco Inc., Sonco Steel Tube (a division of Ferrum Inc.), Algoma Steel Corp., Ltd., Welded Tube of Canada, Ltd., Prudential Steel Ltd., Frank Pipe Co., Christianson Pipe, Ltd., Dominion Steel Export Co., Ltd., and Matthew Tube & Pipe Supply Inc.

Verification

In accordance with 776(a) of the Act, we conducted a verification of the information provided in the questionnaire response. Our final determination will be based on verified information.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-confidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the

Deputy Assistant Secretary for Import Administration.

If our final determination is affirmative, the ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry within 45 days after publication of our notice in the **Federal Register**.

Public Comment

In accordance with section 355.35 of our regulations, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on January 14, 1986 at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B-099, at the above address within 10 days of the publication of this notice.

Requests for a hearing should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, at least 10 copies of the pre-hearing briefs must be submitted to the Deputy Assistant Secretary by January 8, 1985. Oral presentations will be limited to issues raised in the briefs.

In accordance with 19 CFR 355.33(d) and 19 CFR 355.34, written views will be considered if received not less than 30 days before the final determination or, if a hearing is held, within 10 days after the hearing transcript is available.

This notice is published pursuant to section 703(f) of the Act (19 U.S.C. 1671b(f)).

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

December 19, 1985.

[FR Doc. 85-30770 Filed 12-27-85; 8:45 am]

BILLING CODE 3510-DS-M

[A-583-502]

Welded Carbon Steel API Line Pipe from Taiwan; Preliminary Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION Notice.

SUMMARY: We have preliminarily determined that welded carbon steel API line pipe (line pipe) from Taiwan is being, or is likely to be, sold in the

United States at less than fair value and that critical circumstances exist, and have notified the U.S. International Trade Commission (ITC) of our determination. We have also directed the U.S. Customs Service to suspend the liquidation of all entries of line pipe from Taiwan that are entered, or withdrawn from warehouse, for consumption, on or after the date which is 90 days before the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make a final determination by March 10, 1986.

EFFECTIVE DATE: December 30, 1985.

FOR FURTHER INFORMATION CONTACT:

John J. Kenkel or Charles Wilson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-5404 or (202) 377-5288.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that line pipe from Taiwan is being, or is likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). The estimated margins were based on the best information available as explained below in the section of this notice which describes our fair value comparisons. We also preliminarily found that critical circumstances exist. The margins preliminarily found for the companies investigated are listed in the "Suspension of Liquidation" section of this notice. If this investigation proceeds normally, we will make our final determination by March 10, 1986.

Case History

On July 16, 1985, we received a petition filed in proper form from the Line Pipe Subcommittee of the Committee on Pipe and Tube Imports and by each of the member companies who produce line pipe on behalf of the U.S. industry producing line pipe. 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 Taiwan 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 Act (19 U.S.C. 1673), and that these imports are materially injuring, or

threatening material injury to, a U.S. industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping investigation. We initiated the investigation on August 5, 1985 (50 FR 32245), and notified the ITC of our action.

On August 16, 1985, questionnaires were presented to counsel for the respondents. On August 30, 1985, the ITC found that there is a reasonable indication that imports of line pipe from Taiwan are threatening material injury to a U.S. industry (U.S. ITC Pub. No. 1742, August 1985).

On October 31, 1985, counsel for the respondents notified us that they would not be responding to our questionnaire.

Scope of Investigation

The product covered under this investigation is welded carbon steel line pipe with an outside diameter of 0.375 inch or more but not over 16 inches, and with a wall thickness of not less than .065 inch, currently classifiable in the Tariff Schedules of the United States, Annotated (TSUSA), under items 610.3208 and 610.3209. This product is produced to various API specifications for line pipe, most notably API-5L or API-5LX.

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price, based on the best information available, with the foreign market value, also based on the best information available. We used the best information available as required by section 776(b) of the Act because the respondents did not submit a response.

United States Price

We calculated the purchase price of welded carbon steel API line pipe as provided in section 772 of the Act, on the basis of the average f.o.b. packed values for the six month period of investigation as provided in the IM146 statistics compiled by the Bureau of the Census. We used these data as the best information available instead of the average FAS values for a 17 month period which were provided in the petition.

Foreign Market Value

In accordance with section 773 of the Act, we used the best information available, in the absence of a response, to calculate foreign market value. The best information available for calculating foreign market value was

statistics provided in the petition. These statistics were published by the Taiwan Department of Statistics for the fourth quarter of 1984. These statistics encompass all pipe and tube production in Taiwan.

Preliminary Affirmative Determination of Critical Circumstances

The petitioners alleged that imports of line pipe from Taiwan present "critical circumstances." Under section 733(e) of the Act, critical circumstances exist if we have a reasonable basis to believe or suspect that (1) there is a history of dumping in the United States or elsewhere of the class or kind of the merchandise which is the subject of the investigation; or the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value; and (2) there have been massive imports of the class or kind of merchandise that is the subject of the investigation over a relatively short period.

In determining whether the importer knew, or should have known that the exporter was dumping the merchandise, we normally consider margins of 25 percent or more to constitute knowledge of dumping. Since the margins in this case exceed this level, we find that knowledge of dumping can be imputed to the importers. Because we believe that the importers knew or should have known that the exporter was dumping the merchandise, we do not have to determine whether there is a history of dumping.

We generally consider the following concerning massive imports: (1) Whether imports have surged recently; (2) recent trends in import penetration level; (3) whether recent imports are significantly above the average calculated over the last three years; and (4) whether the pattern of imports over that three year period may be explained by seasonal swings.

In considering this question, we analyzed recent trade statistics on import levels and import penetration ratios for line pipe from Taiwan for equal periods immediately preceding and following the filing of the petition. We also took into consideration seasonal factors. Based on this analysis, we find that imports of the subject merchandise from Taiwan during the period subsequent to receipt of the petition have been massive when compared to recent import levels and import penetration ratios.

Therefore, for the reasons described above, we preliminarily determine that

"critical circumstances" exist with respect to line pipe from Taiwan.

Verification

As provided in section 776(a) of the Act, if a timely response is received, we will verify all information used in reaching our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of all entries of line pipe from Taiwan that are entered, or withdrawn from warehouse, for consumption, on or after the date which is 90 days before the date of publication of this notice in the **Federal Register**. The United States Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amounts by which the foreign market value of the merchandise subject to this investigation exceeds the United States price as shown in the table below. This suspension of liquidation will remain in effect until further notice.

Article VI.5 of the General Agreement on Tariffs and Trade provides that "[n]o product . . . shall be subject to both antidumping and countervailing duties to compensate for the same situation of dumping or export subsidization." This provision is implemented by section 772(d)(1)(D) of the Act, which prohibits assessing dumping duties on the portion of the margin attributable to export subsidies. In the final countervailing duty determination on line pipe from Taiwan, we found that the export subsidies were *de minimis*. Therefore, the bonding rate will not be reduced by the amount of any export subsidies.

Manufacturer/producer/exporter	Weighted-average margin percentage
Far East Machinery Company, Ltd.....	27.98
Kao Hsing Chang Iron & Steel Corp.....	27.98
All others.....	27.98

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine

whether these imports materially injure, or threaten material injury to, a U.S. industry before the later of 120 days after we make our preliminary affirmative determination or 45 days after we make our final affirmative determination.

Public Comment

In accordance with § 353.47 of our regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on February 12, 1986, at the United States Department of Commerce, Room 1851, 14th Street and Constitution Avenue NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary of Import Administration, Room B-099, within 10 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed.

In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by February 5, 1986. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of this notice's publication, at the above address and in at least 10 copies.

Gilbert B. Kaplan,
Deputy Assistant Secretary for Import Administration.
December 23, 1985.

[FR Doc. 85-30769 Filed 12-27-85; 8:45 am]
BILLING CODE 3510-DS-M

[C-507-501]

Preliminary Affirmative Countervailing Duty Determination: In-Shell Pistachios From Iran

AGENCY: Import Administration, International Trade Administration, Commerce.
ACTION: Notice.

SUMMARY: We preliminarily determine that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to growers, processors or exporters in Iran of in-shell pistachios. The estimated net bounty or grant is 56.86 percent *ad valorem*.

We are directing the U.S. Customs Service to suspend liquidation of all entries of in-shell pistachios from Iran

that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice, and to require a cash deposit or bond on entries of these products in the amount equal to the estimated net bounty or grant.

If this investigation proceeds normally, we will make our final determination on or before March 5, 1986.

EFFECTIVE DATE: December 30, 1985.

FOR FURTHER INFORMATION CONTACT: Thomas Bombelles or Barbara Tillman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-3174 or 377-2438.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine that there is reason to believe or suspect that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to growers, processors or exporters in Iran of in-shell pistachios. For purposes of this investigation, the following programs are found to confer bounties or grants:

- Preferential Exchange Rate
- Foreign Exchange Retention Scheme

We preliminarily determine the estimated net bounty to grant for in-shell pistachios to be 56.86 percent *ad valorem*.

Case History

On September 26, 1985, we received a petition in proper form filed by the California Pistachio Commission, Blackwell Land Company, California Pistachio Orchards, Keenan Farms Inc., Kern Pistachio Hulling and Drying Co-op, Los Rachos de Poco Pedro, Pistachio Producers of California, and T.M. Duche Nut Company, Inc. on behalf of growers and processors in the U.S. pistachio nuts industry. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that growers, processors and exporters in Iran of pistachios receive bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act).

Since Iran is not a "country under the Agreement" within the meaning of section 701(b) of the Act, sections 303(a)(1) and (b) of the Act apply to this investigation. Accordingly, the petitioners are not required to allege that, and the U.S. International Trade

Commission is not required to determine whether, imports of this product materially injure, or threaten material injury to, a U.S. industry.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on October 16, 1985, we initiated such an investigation (50 FR 42980). We stated that we expected to issue a preliminary determination on or before December 20, 1985.

We presented detailed questionnaires to the government of Algeria in Washington, DC on October 25, 1985, and requested that they forward the questionnaire to the Iranian authorities in their capacity as the protecting power for Iran in the United States. We requested a response to our questionnaire by November 25, 1985. On November 27, 1985, the government of Algeria forwarded to the Department a message from the Iranian authorities requesting that the deadline for submitting a response be extended by two months. On December 6, 1985, we informed the Iranian authorities, through the government of Algeria, that if we did not receive a response to our questionnaire by December 9, 1985, we may have to use the best information available for our preliminary determination as required by § 355.39 of our regulations (19 CFR 355.39). We did not receive a response on December 9, either from the government of Iran or the growers, processors or exporters of the subject merchandise in Iran.

Scope of Investigation

The product covered by this investigation is in-shell pistachio nuts from which the hull has been removed, leaving the inner hard shells and the edible meat, currently specifically provided for under item 145.26 of the *Tariff Schedules of the United States* (TSUS).

Analysis of Programs

Because we did not receive a response to our questionnaire, we are using the best information available as required under § 355.39 of our regulations (19 CFR 355.39), adversely inferring countervailability and receipt of benefits based on the absence of a response. The Department has no record of past countervailing duty investigations or administrative reviews involving Iran and, therefore, we are unable to include our own information in estimating the benefit from programs alleged to be bounties or grants in the petition. In addition, we have been unable to obtain information from independent sources regarding the alleged subsidies that would supplement

or replace that supplied by the petitioners. If we do not receive a complete response in time to verify the information submitted, we will continue to seek information from our own sources to determine the countervailability and level of benefits of the programs under investigation. As best information available, we are using the estimates of benefits included in the petition. For those programs on which the petitioners provided no estimates of benefits, we are seeking additional information to determine whether a bounty or grant has been conferred.

I. Programs Preliminarily Determined to Confer Bounties or Grants

We preliminarily determine that bounties or grants are being provided to growers, processors or exporters in Iran of in-shell pistachios under the following programs.

A. Preferential Exchange Rate

Petitioners allege that exporters of pistachios in Iran are entitled to exchange foreign currency earned from export sales at a premium of 10 percent above the official rate and that this preferential rate is limited to exporters.

As best information available, we preliminarily determine that the companies under investigation received an additional 10 percent above the official exchange rate on repatriated foreign exchange earned from export sales. On this basis, we preliminarily determine an estimated net bounty or grant of 10.00 percent *ad valorem*.

B. Foreign Currency Retention Scheme

Petitioners allege that exporters of pistachios in Iran may benefit from retained foreign exchange earned from export sales. According to information submitted in the petition, exporters of pistachios in Iran may benefit from retained foreign currency in two ways.

First, the exporter can use the extra foreign exchange gained as a result of the preferential exchange rate to import goods for resale in Iran at whatever price the market will bear. According to the petition, the free market price of imported goods is often five to six times higher than the price set by the government of Iran.

Second, a pistachio exporter may sell retained foreign exchange at the free market rate to any person in Iran with a need for foreign currency. According to the most recent International Monetary Fund statistics provided by the petitioners, the difference between the official and free market dollar/rial exchange rate is 537.5 rials.

Because we have not received a response to our questionnaire in this

investigation, we have no information beyond that in the petition to use in analyzing this program. We have no way of knowing whether pistachio exporters in Iran do, in fact, have the ability to import goods and sell them or foreign currency at a premium over official prices or exchange rates, and whether this right would confer a countervailable benefit. Therefore, as best information available, we preliminarily determine that this program confers a bounty or grant. To calculate the benefit, we assume that the exporters use both methods of foreign exchange retention, and we averaged the two estimates of benefits provided by the petitioners. On this basis, we preliminarily determine an estimated net bounty or grant of 46.86 percent *ad valorem*. If we receive a timely and complete response in this investigation, we will verify any information relating to currency retention for our final determination.

II. Programs for Which We Need Additional Information

Information regarding the level of benefits received under the following programs was not supplied by petitioners. We have also been unable to discover any information on the level of benefits or potential countervailability of these programs from any sources other than the petition. Therefore, we preliminarily determine that we need additional information on the following programs.

A. Price Supports and/or Guaranteed Purchase of All Production

Petitioners allege that pistachio growers in Iran may benefit from a government policy of guaranteeing purchase of, and subsidizing prices for, certain major food commodities. Petitioners state that the government of Iran gave the Rafsanjan Cooperative, the country's principal pistachio cooperative, a \$100 million loan on terms inconsistent with commercial considerations to purchase and stockpile pistachios.

Since the respondents did not provide a response in this investigation, and neither the petitioners nor the Department was able to find information upon which to determine the countervailability of this loan, we cannot quantify the amount of any bounty or grant that may have been received.

B. Preferential Provision of Fertilizer and Machinery

Petitioners allege that agricultural cooperatives, such as the Rafsanjan

Cooperative, can obtain fertilizer and machinery from the government at preferential prices.

According to the petition, the extent of the benefit varies with the crop produced. Petitioners further allege that these cooperatives, in turn, provide both fertilizer and machinery to their members on terms inconsistent with commercial considerations.

Because the respondents did not provide a response in this case and the petitioners were unable to provide information as to whether and to what degree the pistachio industry receives countervailable benefits under this program, we cannot determine whether this program provides a bounty or grant or quantify any estimated bounty or grant.

C. Preferential Credit

Petitioners allege that agricultural cooperatives in Iran make preferential credit available from funds provided by the government to their members. Petitioners argue that the Rafsanjan Cooperative is the principal cooperative for pistachios in Iran and that this organization may provide loans on terms inconsistent with commercial considerations to its members. He did not receive a response to our questionnaire in this case, and neither the Department nor the petitioners was able to develop any information on which to make a preliminary determination.

D. Tax Exemptions

Petitioners allege that pistachio farmers may benefit from legislation exempting farmers and livestock breeders from paying taxes, provided they follow government agricultural guidelines.

The respondents have not provided any information about any tax exemptions available to farmers in Iran. Neither the Department nor the petitioners were able to find any information regarding the potential countervailability or level of benefit under this program.

E. Provision of Water and Irrigation

Petitioners allege that pistachio growers in Iran may benefit from construction of soil dams, flood barriers, canals and other irrigation projects undertaken by the government to increase agricultural production.

Because we have not received a response in this case, we do not have any information on which to base a determination. Petitioners did not provide any information on the amount of benefit conferred by this program.

Therefore, we are unable to quantify an estimated net bounty or grant.

F. Technical Support

Petitioners allege that pistachio growers in Iran may receive technical support as part of the government's program to support agricultural development. Petitioners argue that technical support has included research projects to improve cultivation techniques, and assistance in harvesting, marketing and use of fertilizer. The respondents have not provided any information about any benefits available under this program to pistachio growers. Neither the petitioners nor the Department was able to find any information regarding the level of benefits or potential countervailability of this program.

Verification

In accordance with section 776(a) of the Act, if we receive complete responses in a timely manner, we will verify the data used in making our final determination. We will not accept any statement in a response that cannot be verified for our final determination.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of in-shell pistachios from Iran which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register* and to require a cash deposit or bond for each entry in the amount of 56.86 percent *ad valorem*. This suspension will remain in effect until further notice.

Public Comment

In accordance with § 355.35 of our regulations, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on January 29, 1986, at the U.S. Department of Commerce, room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, room B-099, at the above address within 10 days of the publication of this notice.

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, at least 10 copies of the pre-hearing briefs must be submitted to the Deputy Assistant Secretary by January

22, 1986. Oral presentations will be limited to issues raised in the briefs. In accordance with 19 CFR 355.33(d) and 19 CFR 355.34, written views will be considered if received not less than 30 days before the final determination or, if a hearing is held, within 10 days after the hearing transcript is available.

This notice is published pursuant to section 703(f) of the Act (19 U.S.C. 1671b(f)).

Dated: December 20, 1985.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 85-30773 Filed 12-27-85; 8:45 am]

BILLING CODE 3510-DS-M

U.S. Department of Agriculture; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 85-197.

Applicant: U.S. Department of Agriculture, Albany, CA 94710.

Instrument: Thermal Ionization Mass Spectrometer System, Model 261 and Accessories.

Manufacturer: Finnigan MAT, West Germany.

Intended use: See notice at 50 FR 26394.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides (1) automatic sample feed and computer-controlled thermal ionization for large sample analysis, and (2) a total transmission (ratio of ions leaving the filament to ions collected) of more than 45 percent. The National Institutes of Health advises in its memorandum dated September 25, 1985 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff,

[FR Doc. 85-30774 Filed 12-27-85; 8:45 am]

BILLING CODE 3510-DS-M

U.S. Department of Commerce; for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 85-189.

Applicant: U.S. Department of Commerce, Gaithersburg, MD 20899.

Instrument: Accessories for an Ion Microanalyzer.

Manufacturer: Cameca, France.

Intended use: See notice at 50 FR 26395.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: This is a compatible accessory for an instrument previously imported for the use of the applicant. The instrument and accessory were made by the same manufacturer. The National Institutes of Health advises in its memorandum dated September 24, 1985 that the accessory is pertinent to the intended uses and that it knows of no comparable domestic accessory.

We know of no domestic accessory which can be readily adapted to the instrument.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff,

[FR Doc. 85-30775 Filed 12-27-85; 8:45 am]

BILLING CODE 3510-DS-M

National Institute on Aging; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 AM

and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 85-097.

Applicant: National Institute on Aging, Baltimore, MD 21224.

Instrument: NMR Spectrometer, Model TMR-32A with Accessories.

Manufacturer: Oxford Research Systems, United Kingdom.

Intended use: See notice at 50 FR 11232.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, was being manufactured in the United States at the time the instrument was ordered (September 6, 1983).

Reasons: The foreign instrument provides a magnet bore diameter sufficient for whole-body, horizontal imaging of the the animals under study and for the required probe configurations. The National Institutes of Health advises in its memorandum dated September 10, 1985 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use being manufactured at the time the foreign instrument was ordered.

We know of no other domestic instrument or apparatus of equivalent scientific value to the foreign instrument being manufactured at the time the foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff,

[FR Doc. 85-30776 Filed 12-27-85; 8:45 am]

BILLING CODE 3510-DS-M

Oakland University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 85-248.

Applicant: Oakland University, Rochester, MI 48063.

Instrument: Electron Microscope, Model LEM-2000 with Accessories.

Manufacturer: Akashi-Seisakusho, Ltd., Japan.

Intended use: See notice at 50 FR 33992.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides examination of the identical area of a specimen by light and electron microscopy. The National Institutes of Health advises in its memorandum dated September 10, 1985 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff,

[FR Doc. 85-30777 Filed 12-27-85; 8:45 am]

BILLING CODE 3510-DS-M

The Rockefeller University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No. 85-178, Applicant: The Rockefeller University, New York, NY 10021; Instrument: Micromanipulators, Model 520137 and 520138. Manufacturer: Leitz, West Germany. Intended Use: See notice at 50 FR 24552.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument can control the movement of microinstruments in the X-Y plane with a single lever having a range of gear ratios from 1:1/8 to 1:1/100. The National Institutes of Health advises in its memorandum dated September 10, 1985

that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff,

[FR Doc. 85-30778 Filed 12-27-85; 8:45 am]

BILLING CODE 3510-DS-M

University of Georgia; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No. 85-175. Applicant: University of Georgia, Athens, GA 30602. Instrument: Picosecond Fluorescence Spectrometer, Model PS 60 with Accessories. Manufacturer: Applied Photophysics Ltd., United Kingdom. Intended Use: See notice at 50 FR 23754.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides time-resolved lifetime fluorometry in the picosecond range with single photon counting. The National Institutes of Health advises in its memorandum dated September 10, 1985 that (1) this capability is pertinent to applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.

Frank W. Creel,

Director, Statutory Import Programs Staff,

[FR Doc. 85-30779 Filed 12-27-85; 8:45 am]

BILLING CODE 3510-DS-M

University of Minnesota; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No.: 85-204. Applicant: University of Minnesota, St. Paul, MN 55105. Instrument: Mass Spectrometer, Model VG 7070EQ with Accessories. Manufacturer: V.G. Instruments, Inc., United Kingdom. Intended Use: See notice at 50 FR 26394.

Comments: None received.

Decision: Approved. No domestic manufacturer was both "able and willing" to manufacture an instrument or apparatus of equivalent scientific value to the foreign instrument for such purposes as the instrument was intended to be used, and have it available to the applicant without unreasonable delay in accordance with § 301.5(d)(2) of the regulations, at the time the foreign instrument was ordered (March 15, 1985).

Reasons: The foreign instrument provides high resolution tandem mass spectrometry in parent, daughter, and neutral loss scanning models and mass range of 1 to 12,000 atomic mass units at an accelerating potential of 1,000 volts. This capability is pertinent to the applicant's intended purposes. We know of no domestic manufacturer both able and willing to provide an instrument with the required features at the time the foreign instrument was ordered.

As to the domestic availability of instruments, § 301.5(d)(2) of the regulations provides that, in determining whether a U.S. manufacturer is able and willing to produce an instrument, and have it available without unreasonable delay, "the normal commercial practices applicable to the production and delivery of instruments of the same general category shall be taken into account, as well as other factors which in the Director's judgment are reasonable to take into account under the circumstances of a particular case."

This subsection also provides that, if "a domestic manufacturer was formally requested to bid an instrument, without reference to cost limitations and within a leadtime considered reasonable for the category of instrument involved, and the domestic manufacturer failed formally to respond to the request, for the purposes of this section the domestic manufacturer would not be considered willing to have supplied the instrument."

The regulations require that domestic manufacturers be both "able and willing" to produce an instrument for the purposes of comparison with the foreign instrument. Where an applicant, as in this case, received no response to a formal request for quotation sent to it, it is apparent that the domestic manufacturer was either not able or not willing to produce an instrument of equivalent scientific value to the foreign instrument for such purposes as the foreign instrument was intended to be used at the time the foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff,

[FR Doc. 85-30780 Filed 12-27-85; 8:45 am]

BILLING CODE 3510-DS-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the People's Republic of China Effective on January 1, 1986

December 24, 1985.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on January 1, 1986. For further information contact Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, as amended, between the Government of the United States and the People's Republic of China establishes specific limits for Categories 313, 314, 315, 317, 320pt. (only T.S.U.S. items 320.— through 322.— and 326.—

through 328.— with statistical suffixes 21, 22, 24, 31, 38, 49, 57, 74, 80 and 98), 331, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 345, 347/348, 350, 351, 352, 359pt., (only T.S.U.S.A. numbers 381.0822, 381.6510, 384.0928, and 384.5227), 363, 438, 443, 444, 445/446, 447, 448, 613pt. (only T.S.U.S.A. numbers 338.5039, 338.5042, 338.5043, 338.5047, 338.5048, 338.5053, 338.5054, 338.5058, and 338.5059), 631, 634, 635, 636, 639, 640, 641, 645/646, 647, 648, 649, and 669pt. (only T.S.U.S.A. number 385.5300), produced or manufactured in China and exported during the twelve-month period which begins on January 1, 1986 and extends through December 31, 1986.

The agreement also provides a consultation mechanism for categories of textile products which are not subject to specific ceilings and for which levels may be established during the year. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, in accordance with the terms of the bilateral agreement, to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of textile products in the designated categories, produced or manufactured in the People's Republic of China and exported during the twelve-month period beginning on January 1, 1986 and extending through December 31, 1986 in excess of the indicated restraint limits.

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the *Federal Register* on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the *Tariff Schedules of the United States Annotated* (1985).

Leonard A. Mobley,
Acting Chairman, Committee for the
Implementation of Textile Agreements,
Commissioner of Customs,
Department of the Treasury,
Washington, DC 20229.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20,

1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, as amended, between the Governments of the United States and the People's Republic of China; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1986, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in China and exported during the twelve-month period beginning on January 1, 1986 and extending through December 31, 1986 in excess of the indicated restraint limits:

Category	12-month restraint limit
313.....	51,940,934 square yards.
314.....	16,390,905 square yards.
315.....	165,000,000 square yards.
317pt.....	16,224,000 square yards of which not more than 3,244,800 square yards shall be in T.S.U.S. items 320.—through 331.—with statistical suffixes 50, 87 and 93.
320pt. ¹	14,331,200 square yards.
331.....	3,837,207 dozen pairs.
333.....	60,197 dozen.
334.....	225,314 dozen.
335.....	304,094 dozen.
336.....	122,004 dozen.
337.....	960,134 dozen.
338.....	651,462 dozen of which not more than 609,795 dozen shall be in T.S.U.S.A. numbers 381.0240 and 381.4130.
339.....	992,929 dozen.
340.....	625,458 dozen.
341.....	499,114 dozen.
342.....	184,607 dozen.
345.....	89,989 dozen.
347/348.....	1,947,761 dozen.
350.....	103,029 dozen.
351.....	335,711 dozen.
352.....	1,310,430 dozen.
359pt. ²	744,188 pounds.
363.....	21,136,345 numbers.
438.....	22,220 dozen.
443.....	10,045 dozen.
444.....	15,302 dozen.
445/446.....	262,753 dozen.
447.....	71,312 dozen.
448.....	19,060 dozen.
613pt. ³	24,931,150 square yards.
631.....	753,401 dozen pairs.
634.....	429,350 dozen.
635.....	446,563 dozen.
636.....	351,350 dozen.
639.....	982,334 dozen.
640.....	1,169,218 dozen.
641.....	973,007 dozen.
645/646.....	656,729 dozen.
647.....	844,722 dozen.
648.....	1,087,145 dozen.
649.....	627,328 dozen.
669pt. ⁴	2,640,460 pounds.

¹ In Category 320, only T.S.U.S. items 320.—through 322.—and 326.—through 328.—with statistical suffixes: 21, 22, 24, 31, 38, 49, 57, 74, 80 and 98.

² In Category 359pt. only T.S.U.S.A. numbers 381.0822, 381.6510, 384.0928 and 384.5227.

³ In Category 613, only T.S.U.S.A. numbers 338.5039, 338.5042, 338.5043, 338.5047, 338.5048, 338.5053, 338.5054, 338.5058, 338.5059.

⁴ In Category 669, only T.S.U.S.A. number 385.5300.

In carrying out this directive entries of textile products in the foregoing categories, produced or manufactured in China, which have been exported to the United States on and after January 1, 1985 and extending through December 31, 1985, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the twelve-month period

beginning on January 1, 1985 and extending through December 31, 1985. In the event the levels of restraint established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter with the exceptions noted below.

Merchandise exported during the twelve-month period which began on January 1, 1985 and extends through December 31, 1985 in Categories 314, 320pt.⁵, 331 and 340, shall be permitted entry into the United States for consumption, or withdrawal from warehouse for consumption, in the following amounts during each month of the January through May 1986 period:

Category	Amount to be entered per month
314.....	3,278,181 square yards.
320pt. ¹	2,866,240 square yards.
331.....	767,441 dozen pairs.
340.....	125,092 dozen.

⁵ In Category 320, only those T.S.U.S. items shown in footnote 1 on page 1.

Merchandise entered in 1986 in the foregoing categories, exported during the twelve-month period which began on January 1, 1985 and extends through December 31, 1985, plus goods exported during the twelve-month period which begins on January 1, 1986 and extends through December 31, 1986, shall not together exceed the 1986 limits established for such goods in this directive.

The limits set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of August 19, 1983 as amended, which provide, in part, that: (1) With the exception of Category 315, certain specific limits may be exceeded by not more than 5 or 7 percent of its square yard equivalent total; provided that the amount of the increase is compensated for by an equivalent square yard decrease in one or more other specific limits in that agreement year; (2) subject to consultations, specific limits may be increased for carryover and carryforward up to 10 percent of the applicable category limit in any agreement year according to the terms specified in the agreement; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement, referred to above, will be made to you by letter.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the *Federal Register* on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the *Tariff Schedules of the United States Annotated* (1985).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 533(a)(1).

Sincerely,

Leonard A. Mobley,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-30873 Filed 12-27-85; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Closed Meeting

December 20, 1985.

The USAF Scientific Advisory Board Ad Hoc Committee on Close Air Support will meet January 16, 1986 from 9:00 a.m. to 4:30 p.m. at HQ Army Training and Doctrine Command, Ft. Monroe, VA, and on January 17, 1986 at AF Armament Division Headquarters, Eglin AFB, FL, from 9:00 a.m. to 4:00 p.m.

The purpose of this meeting is to review Army doctrine on the employment of close air support, review Air Force initiatives to upgrade close air support aircraft, and review weapon development programs.

This meeting will involve discussions of classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 85-30819 Filed 12-27-85; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Publication of Approved Systems of Need Analysis for the National Direct Student Loan, College Work-Study, and Supplemental Educational Opportunity Grant Programs

AGENCY: Department of Education.

ACTION: Notice of approved systems of need analysis for academic year 1986-87.

SUMMARY: The Secretary of Education announces approved need analysis systems that institutions of higher education must use in calculating a student's financial need during

academic year 1986-87 under the National Direct Student Loan (NDSL), College Work-Study (CWS), and Supplemental Educational Opportunity Grant (SEOG) Programs. These programs are known collectively as the campus-based programs. The Secretary takes this action under the authority of the Student Financial Assistance Technical Amendments Act of 1982 (Pub. L. 97-301) as amended and 34 CFR 674.13, 675.13, and 676.13 of the NDSL, CWS, and SEOG program regulations, respectively.

FOR FURTHER INFORMATION CONTACT: Margaret O. Henry or Anna S. Borlaug, Division of Policy and Program Development, Office of Student Financial Assistance, Department of Education, 400 Maryland Avenue, SW., Room 4018, ROB-3, Washington, DC 20202, Telephone (202) 245-9720.

SUPPLEMENTARY INFORMATION:

Program Information

The campus-based programs are "need based" student financial aid programs. Under each program, an institution must determine whether a student has financial need. It determines need by subtracting from the student's educational costs, his or her expected family contribution, i.e., the amount the student and his or her parents may reasonably be expected to contribute toward his or her educational costs. Institutions determine a student's expected family contribution by using a need analysis system.

The systems listed below qualified as approved systems of need analysis under the above cited regulations for each program, or are approved under the Notice of publication of sample cases and expected parental contributions for the National Direct Student Loan, College Work-Study and Supplemental Educational Opportunity Grant Programs published in the *Federal Register* of July 22, 1985 (50 FR 29720-29721), and the correction notice published in the *Federal Register* of September 9, 1985 (50 FR 36651). To determine a student's expected family contribution under the National Direct Student Loan, College Work-Study, and Supplemental Educational Opportunity Grant Programs for academic year 1986-1987, an institution must use one of the following organizations' and agencies' systems of need analysis:

1. Advanced Process Laboratories, Omaha, Nebraska.
2. The American College Testing Program, Iowa City, Iowa.
3. Calculator Systems Associates, Corona, California.

4. The College Board, The College Scholarship Service, New York, New York.

5. Compugrant, Inc., Hiram, Ohio.

6. Diversified Financial Aid Services, Inc., Albuquerque, New Mexico.

7. Financial Analysis Service, Hiram, Ohio.

8. G.E. White Needs Analysis System, Lake Forest, Illinois.

9. Graduate and Professional School Financial Aid Service, (For graduate and professional students only), Princeton, New Jersey.

10. Illinois State Scholarship Commission, Springfield, Illinois.

11. Information and Communications, Inc., SAFE System, San Diego, California.

12. M-Data, Big Rapids, Michigan.

13. National Education Corporation, Irvine, California.

14. Pan American University, Edinburg, Texas.

15. Pennsylvania Higher Education Assistance Agency, Harrisburg, Pennsylvania.

16. Sigma Systems, Inc., Los Angeles, California.

17. Family Contribution (FC) printed on the Student Aid Report, United States Department of Education.

18. The method of calculating student aid indices used in the Pell Grant Program (34 CFR Part 690), United States Department of Education.

19. The Income Tax System (dependent students only), United States Department of Education.

(Sec. 4 of Pub. L. 97-301)

(Catalog of Federal Domestic Assistance No. 84.038, National Direct Student Loan Program; 84.033, College Work-Study Program; and 84.007, Supplemental Educational Opportunity Grant Program)

Dated: December 23, 1985.

C. Ronald Kimberling,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 85-30734 Filed 12-27-85; 8:45 am]

BILLING CODE 4000-01-M

National Advisory Council on Indian Education; Cancellation of Closed Meeting

AGENCY: National Advisory Council on Indian Education.

ACTION: Cancellation of Closed Meeting.

SUMMARY: Notice is hereby given of the cancellation of the National Advisory Council on Indian Education meeting, January 7-10, 1986, in Washington, D.C., as published in the *Federal Register* on Monday, December 16, 1985, Volume 50, No. 241, Page 51283.

Dated: December 23, 1985. Signed at Washington, D.C.

Lincoln C. White,

Executive Director, National Advisory Council on Indian Education.

[FR Doc. 85-30753 Filed 12-27-85; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

National Energy Extension Service Advisory Board; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: National Energy Extension Service Advisory Board Subcommittee.

Date and Time: Thursday, January 23, 1986—8:00 a.m.—5:00 p.m. Friday, January 24, 1986—8:00 a.m.—5:00 p.m.

Place: The Henley Park Hotel, 926 Massachusetts Avenue, NW, Washington, DC 20001.

Contact: Susan D. Heard, Department of Energy, Forrestal Building—6A081, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone: 202-252-8292.

Purpose of the Board: The Board was established to carry on a continuing review of the National Energy Extension Service and the plans and activities of each State in implementing Energy Extension Service programs. Additionally, the Board is responsible for reporting on an annual basis to the Congress, the Secretary of Energy, and the Director of the Energy Extension Service.

Tentative Agenda

Thursday, January 23, 1986

- Preparation of a draft of the Board's Seventh Annual Report.
- Public comment (10 minute rule).

Friday, January 24, 1986

- Preparation of a draft of the Board's Seventh Annual Report.
- Public comment (10 minute rule).

Public Participation: The meeting is open to the public. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Susan D. Heard at 202-252-8292. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9:00 a.m. and 4:00 p.m., Monday thru Friday, except Federal holidays.

Issued at Washington, DC, on December 24, 1985.

K. Dean Helms,

Advisory Committee Management Officer.

[FR Doc. 85-30845 Filed 12-27-85; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. TA86-1-48-004]

ANR Pipeline Co.; Notice of Rate Change Filing

December 23, 1985.

Take notice that on December 16, 1985, ANR Pipeline Company ("ANR"), pursuant to ordering paragraph (B) of the Commission's October 28, 1985 Order at Docket No. TA 86-1-48-000, tendered for filing with the Federal Energy Regulatory Commission ("Commission") the following tariff sheets to Original Volume No. 1 of its F.E.R.C. Gas Tariff:

Second Substitute Third Revised Sheet No. 18. Effective Date: November 1, 1985

Substitute Fourth Revised Sheet No. 18. Effective Date: January 1, 1986

Second Substitute Third Revised Sheet No. 18 reflects the elimination of the effect of concurrent exchange imbalances from the Account No. 191 balances as filed in ANR's November 1, 1985 PGA filing.

Substitute Fourth Revised Sheet No. 18 reflects the cumulative effect of the adjustment of the exchange imbalances described above and the GRI adjustment to be effective January 1, 1986. Such GRI adjustment is in compliance with the Commission's Opinion No. 243.

ANR has also tendered for filing Substitute First Revised Sheet No. 41 to be effective August 1, 1985. This tariff sheet reflects the correction of an inadvertent statement of a rate on ANR's Rate Schedule EUT-1 and corrects the 74.63¢ rate reflected on such sheet to 74.59¢.

ANR states that copies of the filing were served upon all of its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or to protest with the Federal Energy Regulatory Commission, 825

North Capitol St., NE., Washington, DC 20426, in accordance with Rule 211 or Rule 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 January 3, 1986. 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 to the proceeding 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. 85-30786 Filed 12-27-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-30-000]

Alabama-Tennessee Natural Gas Co.; Petition of Authority to Institute Direct Billing Procedure for Retroactive Order No. 94 Payments

December 23, 1985.

Take notice that on December 16, 1985, Alabama-Tennessee Natural Gas Company (ATNG) filed a Petition for Authority to Implement A Direct Billing Mechanism To Recover Retroactive Order No. 94 Production-Related Costs. ATNG states that it seeks authorization to bill customers directly for retroactive Order No. 94 costs (1) to match Order No. 94 cost responsibility with customer purchases and (2) to avoid distortions inherent in recovering such costs through purchased gas adjustment filings. As is more fully explained in the filing, ATNG proposes to allocate retroactive Order No. 94 costs based upon each customer's share of ATNG's total sales for the production period over which the Order No. 94 obligation arose and to directly bill the resulting amounts, including carrying charges and accrued interest.

ATNG requests waiver of Commission regulations, rules and orders to the extent necessary to permit the proposed direct billing mechanism.

ATNG states that it has served a copy of the Petition on its customers, interested state Commissions and others. ATNG also requests expeditious consideration of the Petition and a shortened period for the filing of interventions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211

and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 3, 1986. 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. 85-30783 Filed 12-27-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-4-20-000 & 001]

**Algonquin Gas Transmission Co.,
Tariff Filing Under Purchased
Feedstock Adjustment Clause**

December 20, 1985.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on December 11, 1985, tendered for filing Substitute Ninth Revised Sheet No. 202 and Substitute Tenth Revised Sheet No. 202 pursuant to its Rate Schedule SNG-1 Purchased Feedstock Adjustment Clause, as contained in its FERC Gas Tariff, Second Revised Volume No. 1, decreasing the feedstock reimbursement rate by \$1.31 per MMBtu to reflect a lower cost of feedstock for the 1985-86 season. The sheets are filed to be effective on November 1, 1985 and January 1, 1986.

Algonquin Gas notes that a copy of this filing is being served upon all affected parties 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 December 31, 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. 85-30784 Filed 12-27-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-28-000]

**Algonquin Gas Transmission Co.; Rate
Schedule SNG-1 Revision for
Increased Operating Flexibility**

December 23, 1985.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on December 11, 1985, tendered for filing four (4) tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1, all related to its Rate Schedule SNG-1.

Algonquin Gas states that such revised tariff sheets reflect revisions to Rate Schedule SNG-1, made at the request of its Rate Schedule SNG-1 customers ("Customers"), to increase the presently effective operating flexibility by permitting a further reduction in SNG deliveries for the 1985-86 delivery season. This expansion of operating flexibility reflects a continuation of the evolution of such operating adjustments to meet, more closely, the needs of Algonquin Gas' Customers under changing operating, supply, and economic conditions. Algonquin Gas states. Algonquin Gas has requested special permissions and waivers, as necessary, of the Commission's Regulations to allow the tendered tariff sheets to become effective November 1, 1985 since negotiations with and among Customers to develop the tariff changes were lengthier than anticipated.

Algonquin Gas states that its filing is being posted in accordance with § 154.16 of the Commission's Regulations under the Natural Gas Act by mailing a copy of its filing to each of Algonquin Gas' affected Customers and interested State Commissions and by making it available for public inspection at Algonquin Gas' general office in Boston, Massachusetts.

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 December 31, 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

currently on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-30785 Filed 12-27-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST86-637-000]

**Arkansas Oklahoma Gas Corp.; Notice
of Application**

December 23, 1985.

Take notice that on December 9, 1985, Arkansas Oklahoma Gas Corporation (Applicant), P.O. Box 2406, Fort Smith, Arkansas 72902, filed, pursuant to §§ 284.224(e)(1) and 284.123(b)(2) of the Commission's regulations, 18 CFR 284.224 and 284.123(b)(2), and pursuant to Ordering Paragraph (D)(1) of the order issued November 13, 1985 in Docket No. CP85-535-000, a petition for approval of a proposed maximum, system-wide rate of \$.3182 per MMBtu, plus an allowance of \$1.461 per MMBtu for lost and unaccounted for gas, applicable to all transportation service rendered by AOG pursuant to its Order No. 63 blanket certificate, all as more fully described in the petition and exhibits filed therewith which are on file with the Commission and open to public inspection.

Applicant states that it is Applicant's understanding that, the proposed rate, if approved by the Commission, will be a maximum rate only, and that the approval thereof will not preclude Applicant from charging any lower rate which may be negotiated by AOG.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before January 7, 1986. 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 application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-30787 Filed 12-27-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP86-240-000]

**Columbia Gas Transmission Corp.;
Application**

December 20, 1985.

Take notice that on December 13, 1985, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP86-240-000 an application pursuant to section 7(c) of the Natural Gas Act and Section 285.221 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing Applicant to transport natural gas on behalf of others, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it intends to transport natural gas on behalf of shippers and elects to become a transporter under the terms and conditions of the Commission's Order No. 436, issued October 9, 1985, in Docket No. RM85-1-000. Applicant states further that it accepts and would comply with the conditions in paragraph (c) of § 284.221 of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 31, 1985, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if

the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,*Secretary.*

[FR Doc. 85-30788 Filed 12-27-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP86-239-000]

**Columbia Gulf Transmission Co.;
Application**

December 20, 1985.

Take notice that on December 13, 1985, Columbia Gulf Transmission Company (Columbia Gulf), 3805 West Alabama, Houston, Texas 77027, filed in Docket No. CP86-239-000 an application pursuant to section 7(c) of the Natural Gas Act and § 284.221 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing Columbia Gulf to transport natural gas on behalf of others, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Columbia Gulf states that it intends to transport natural gas on behalf of shippers and elects to become a transporter under the terms and conditions of the Commission's Order No. 436, issued October 9, 1985 in Docket No. RM85-1-000. Columbia Gulf states that it accepts and will comply with the conditions in paragraph (c) of § 284.221, which paragraph references Subpart A of Part 284 of the Commission's Regulations. Columbia Gulf notes that its currently effective rates for transportation (Rate Schedules GTS-1 and GTS-2) are on file with the Commission for transportation under Part 284 which conforms, it states, with the requirements for "interim rates" prescribed at § 284.7(b)(1) of the Commission's Regulations. Columbia Gulf further states that it intends to file new transportation rates to be effective no later than July 1, 1986, in compliance with the provisions of § 284.7(b)(2) of the Commission's Regulations.

Any persons desiring to be heard or to make any protest with reference to said application should on or before December 31, 1985, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211)

and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Columbia Gulf to appear or be represented at the hearing.

Kenneth F. Plumb,*Secretary.*

[FR Doc. 85-30789 Filed 12-27-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-2-51-000, 001]

**Great Lakes Gas Transmission Co.;
Proposed Changes in FERC Gas
Tariff Under Purchased Gas
Adjustment Clause Provisions**

December 23, 1985.

Take notice that Great Lakes Gas Transmission Company (Great Lakes), on December 13, 1985, tendered for filing Fifty-Sixth Revised Sheet No. 57 and First Revised Sheet No. 56-B to its FERC Gas Tariff, First Revised Volume No. 1, proposed to be effective January 1, 1986.

Fifty-Sixth Revised Sheet No. 57 reflects the GRI adjustment related to the Gas Research Institute's 1986 Research and Development Program as approved by Commission Opinion No. 243 (RP85-154-000) issued September 26, 1985.

First Revised Sheet No. 56-B reflects a change in the GRI remittance period from 30 days to 15 days.

Great Lakes has requested various waivers of the Commission's Regulations so as to permit the GRI adjustment to become effective January 1, 1986.

Great Lakes states that copies of this filing have been served upon its customers and the Public Service Commissions of Minnesota, Wisconsin and Michigan.

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 December 31, 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. 85-30790 Filed 12-27-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-13-009]

Northwest Pipeline Corp.; Notice of Proposed Change in FERC Gas Tariff

December 23, 1985.

Take notice that on December 13, 1985 Northwest Pipeline Corporation ("Northwest") submitted for filing, to be a part of its FERC Gas Tariff, Original Volume No. 1-A, the following tariff sheets.

Original Sheet Nos. 1 through 200
Substitute Original Sheet No. 409
Substitute Original Sheet No. 410
Substitute Original Sheet No. 415
Substitute Original Sheet No. 417
Substitute Original Sheet No. 504
Substitute Original Sheet No. 512

On July 12, 1985 Northwest tendered for filing and acceptance Original Volume No. 1-A pursuant to Northwest's Offer of Settlement in the above referenced docket which was approved by Commission order dated May 31, 1985.

On November 6, 1985, Northwest, in response to a Staff request for additional information, agreed to make specific revisions to the above referenced filing. The tariff sheets listed above constitute those revisions.

Northwest requests and effective date on May 1, 1985, for the above tariff sheets which is the effective date of the rates approved by a Commission order dated May 31, 1985.

Any persons desiring to be heard or protested 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 or 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before January 3, 1986. 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. 85-30795 Filed 12-27-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP86-16-001 and RP86-17-001]

Northwest Pipeline Corp.; Change in FERC Gas Tariff

December 23, 1985.

Take notice that on December 11, 1985, Northwest Pipeline Corporation ("Northwest") submitted for filing, to be a part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets:

Sixth Revised Sheet No. 127
Fourth Revised Sheet No. 127-A

On November 4, 1985 and November 7, 1985, respectively, Northwest filed amendments at the above referenced dockets for Rate Schedules X-36 and X-46 to allow Northwest to charge the "posted off-system price(s)" for those volumes offered by Westcoast Transmission Company Ltd. ("Westcoast") and posted with the National Energy Board of Canada. By Commission order Dated December 4, 1985 the Commission approved the amendments to Rate Schedules X-36 and X-46. In connection with sales made under this agreement, Westcoast has offered to credit Northwest's monthly demand charge by 13.7 cents per Mcf for each Mcf sold under the off system sales agreement. By this filing, Northwest seeks to revise the General Terms and Conditions of its FERC Gas Tariff, First Revised Volume No. 1, to allow for the flow through to its jurisdictional customers of the demand credits received from Westcoast.

Northwest has requested an effective date of November 4, 1985 for all tendered tariff sheets. A copy of this filing has been mailed to Pacific Interstate Transmission Company, all jurisdictional customers and interested state commissions.

Any persons desiring to be heard or 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 or 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before December 31, 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.

[Docket No. ER85-398-002]

Northern States Power Co.; Notice of Refund Report

December 23, 1985.

Take notice that on October 31, 1985, Northern States Power Company (NSP) tendered for filing a report of refunds made to wholesale customers affiliated with Docket No. ER85-398-000 in compliance with a Commission letter dated September 27, 1985.

Any person desiring to be heard or to protest said filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, on or before December 31, 1985. Comment will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 85-30794 Filed 12-27-85; 8:45 am]

BILLING CODE 6717-01-M

Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 85-30796 Filed 12-27-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP86-29-000]

Northwest Pipeline Corp.; Filing of Annual Compliance Report

December 23, 1985.

Take notice that on December 16, 1985, Northwest Pipeline Corporation ("Northwest") tendered for filing its Annual Compliance Report and Cost-of-Service Study pursuant to sections 13 and 14 of its Rate Schedule T-1 as contained in its FERC Gas First Revised Volume No. 1 Tariff.

Northwest proposes a change in its Rate Schedule T-1 Facility Charge effective February 1, 1986, in accordance with Section 13 of Rate Schedule T-1, as supported by its Cost-of-Service Study and to implement an Amortizing Adjustment effective February 1, 1986, in accordance with Section 14 of Rate Schedule T-1.

Copies of this filing have been served on Pacific Interstate Transmission Company and all jurisdictional customers and affected state agencies.

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 December 31, 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. 85-30797 Filed 12-27-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP85-194-003]

Panhandle Eastern Pipe Line Co.; Proposed Changes in FERC Gas Tariff

December 23, 1985.

Take notice that on December 13, 1985

Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Second Substitute Fifty-Third Revised Sheet No. 3-A
Second Substitute Thirtieth Revised Sheet No. 3-B
Twenty-Third Revised Sheet No. 22
Fifteenth Revised Sheet No. 24-A
Twenty-Sixth Revised Sheet No. 25
Seventeenth Revised Sheet No. 26-B
Seventeenth Revised Sheet No. 26-E

The proposed effective date of these revised tariff sheets is October 1, 1985. Therefore, Panhandle respectfully requests waiver of Section 154.22 of the Commission's Regulations.

On October 30, 1985, Panhandle Eastern Pipe Line Company (Panhandle) filed a request for rehearing and for stay of Ordering Paragraph (C) of the Commission's Order issued September 30, 1985 in the above-referenced proceeding which required Panhandle to file revised tariff sheets eliminating variable costs from its minimum bill. On November 29, 1985, the Commission issued an Order "Denying Request for Rehearing and Stay". Therefore, pursuant to Ordering Paragraph C of the Commission Order issued September 30, 1985, Panhandle submits herewith the attached revised tariff sheets.

Copies of this letter and enclosures are being served on all intervenors, jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, and 385.214). All such motions or protests should be filed on or before January 3, 1986. 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. 85-30793 Filed 12-27-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA86-1-28-003]

Panhandle Eastern Pipe Line Co.; Proposed Changes in FERC Gas Tariff

December 23, 1985.

Take notice that on December 13, 1985 Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

First Substitute Fifty-Fourth Revised Sheet No. 3-A
First Substitute Thirty-First Revised Sheet No. 3-B

The proposed effective date of these revised tariff sheets is January 1, 1986.

On November 19, 1985 Panhandle filed revised tariff sheets in the above-referenced proceeding which adjusted the GRI funding unit pursuant to Opinion No. 243 in Docket No. RP85-154-000 and in accordance with Section 19 of the General Terms and Conditions of Panhandle's FERC Gas Tariff, Original Volume No. 1. The GRI funding unit filing adjusted those rates in Docket No. RP85-194-000 approved pursuant to Commission Orders dated September 30, 1985 and November 12, 1985.

Concurrently herewith, Panhandle is filing revised tariff sheets in compliance with Ordering Paragraph C of the Commission's Order dated September 30, 1985 in Docket No. RP85-194-000. Accordingly, the revised tariff sheets submitted herewith by Panhandle are being filed to reflect the compliance filing made in Docket No. RP85-194-000.

Copies of this letter and enclosures are being served on all jurisdictional customers and applicable state regulatory agencies.

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 and 385.214). All such motions or protests should be filed on or before December 31, 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 proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 85-30792 Filed 12-27-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER85-738-005]

Pacific Gas and Electric Co.; Compliance Filing

December 23, 1985

Take notice that on November 27, 1985, Pacific Gas and Electric Company (PGE) submitted for filing its compliance filing in accordance with the Commission's order of October 30, 1985.

Any person desiring to be heard or to protest said filing should file comments with the Federal Energy Regulatory Commission 825 North Capitol Street, NE., Washington, DC 20426, on or before December 31, 1985. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-30791 Filed 12-27-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-9-000]

Southwest Gas Corp.; Informal Technical Conference

December 23, 1985

Pursuant to the Commission's Order Accepting Filing Subject To Refund And Conditions, And Convening Informal Technical Conference issued on November 27, 1985, in the above-captioned docket, an informal technical conference will be convened on Thursday, January 9, 1986 at 10:00 a.m. in a room to be designated at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

All interested persons and Staff will be permitted to attend.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-30799 Filed 12-27-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-9-001]

Southwest Gas Corp.; Change in FERC Gas Tariff

December 23, 1985

Take notice that on December 12, 1985, Southwest Gas Corporation (Southwest) submitted for filing, to be a part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets: Substitute Twenty-ninth Revised Sheet No. 10

Substitute Third Revised Sheet No. 30
Substitute Fifth Revised Sheet No. 31

The tendered tariff sheets provide for revisions to Southwest's purchased gas adjustment provisions to reflect the inclusion of storage injections and withdrawals in the calculation of the Account No. 191 balances to be reflected in the PGA surcharge adjustment, as required in Ordering Paragraph (B) of the Commission's order in Docket No. RP86-9-000 issued November 27, 1985. In addition, Southwest states that the proposed tariff sheets reflect the deletion of language referencing Southwest's authority under Docket No. RP82-96 to track transportation and gathering costs. Further, Southwest indicates that the proposed tariff sheets provide for a revised Base Tariff Rate from that set forth in Southwest's October 31, 1985 filing in Docket No. RP86-9-000 in order to reflect a subsequent rate increase from Southwest's supplier, Northwest Pipeline Corporation. Southwest also states that the proposed tariff sheets clarify that the storage injections and withdrawals to be included in the calculations of Southwest's cost of gas pertain to Southwest's liquefied natural gas storage facility near Lovelock, Nevada.

Southwest requests an effective date of December 1, 1985 for the tendered tariff sheets, reflecting the effective date provided in the Commission's November 27, 1985 order.

Any persons desiring to be heard or 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 or 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before January 3, 1986. 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. 85-30798 Filed 12-27-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL85-41-000]

Indexes of Essential Power Site Withdrawals; Request for Public Comment

December 20, 1985.

Summary

The Federal Energy Regulatory Commission (Commission) is proposing Form FERC-587 for the indexing of essential power site withdrawals. The Commission is required to review power site land withdrawals pursuant to section 24 of the Federal Power Act which states that lands owned by the United States are automatically withdrawn from sale or other disposal upon the filing of applications for preliminary permit or license under Part I of the Act. In order to eliminate unnecessary withdrawals, thereby unlocking Federal lands for mineral exploration and other uses the Federal Land Policy and Management Act of 1976 (FLPMA) requires the Secretary of the Interior to review and where possible vacate certain withdrawals in 11 western states by October 21, 1991. The Commission has been asked by the Secretary of the Interior to assist in this clean-up by reviewing the several thousand withdrawals effectuated by the filing of hydropower applications. Identification of essential withdrawals in an index and vacation of all nonessential withdrawals will ensure that the rights and protection afforded hydropower license and permit holders and applicants under section 24 are not jeopardized.

Background

Under section 24 of the Federal Power Act, all lands currently withdrawn for waterpower purposes may not be disposed of without Commission approval. These lands consist of: (a) Approximately 13.4 million acres of United States lands reserved for waterpower purposes pursuant to orders issued by the President and the Secretary of the Interior, and (b) several million acres withdrawn under section 24 by the filing of applications for preliminary permit or license. Withdrawals placed in effect under section 24 frequently overlap the power withdrawals effectuated by the President and the Secretary of the Interior.

The Federal Land Policy and Management Act of 1976 (FLPMA), 90 Stat. 2743, requires the Secretary of the Interior to review by October 21, 1991

certain withdrawals in 11 western states. The goal of the withdrawal review is to eliminate unnecessary withdrawals, thereby unlocking Federal lands to mineral exploration, development, and other uses. To help accomplish this goal, the Secretary of the Interior, by letter dated October 5, 1981, requested FERC support in identifying and eliminating non-essential withdrawals effectuated by the filing of hydropower applications.

BLM files numerous applications asking FERC to determine whether use of withdrawn power sites would be accepted for mining, mineral leases, geothermal steam leases, and other non-hydro purposes. Over 300 of these applications are expected to be filed in FY-1986. In addition, over 60 applications will be filed by BLM asking FERC to vacate individuals withdrawals. Many of these applications would not be filed if unnecessary withdrawals were vacated.

On September 11, 1985, the Commission approved a plan to identify the essential withdrawals in an index and vacate non-essential withdrawals. This would be accomplished by directing applicants, permittees, and licensees to prepare indexes documenting withdrawals effectuated by pending hydropower applications and effective permits, licenses, or amendments. Copies of the indexes, consisting of completed land description forms and aperture cards, will be sent by the applicants, permittees, and licensees to FERC and the appropriate BLM state offices. The completed indexes will contain pertinent data necessary to quickly identify the geographical area involved: thus, facilitating our response to future BLM requests for vacation of withdrawn power site lands and for secondary uses of project lands. Additionally, the indexes will serve as the key source of information necessary to vacate power site lands when they become non-essential because of termination of permits or licenses.

Request for Comments

FERC invites the public to comment on the new form within 30 days of the publication of this notice. A copy of Form FERC-587 is reproduced following this notice. The following general guidelines are provided to assist in the preparation of responses.

(As a potential respondent):

- Are the instructions and definitions clear and sufficient?
- Can the data be submitted using the definitions included in the instructions?
- Can the data be submitted within 60 days of receipts, i.e., the response time

specified in the letter to permittees and licensees.

d. How many hours, including time for preparation and administrative review will your firm require to complete and submit a form?

e. What is the estimated cost of completing this form including the direct and indirect costs associated with the data collection? Direct costs should include all costs, such as administrative costs, directly attributable to providing this information.

f. How can the form be improved?

g. Do you know of other Federal, State, or local agencies that collect similar data? If you do, specify the agency and the means of collection.

h. Would your company collect and organize the data required in the proposed form if the form were not required?

Comments submitted in response to this notice will be included in the request for Office of Management and Budget approval of this data collection and will become a matter of public record.

Issued in Washington, D.C. December 20, 1985.

Don Garber,

Acting Deputy Director, Office of Hydropower Licensing, Federal Energy Regulatory Commission.

General Information

[Form FERC-587].

I. Purpose

Form FERC-587 is designed to obtain information, locate, and identify Federal lands withdrawn for power sites.

II. Who Must Submit

Every firm municipality, state and local government, or individual that receives a form must complete it and submit it to the Federal Energy Regulatory Commission.

III. When to Submit

Submit this form within 60 days of receipt.

IV. Where to Submit

Send the completed form to Office of the Secretary, Federal Energy Regulatory Commission, Washington, DC 20426.

If you have any question concerning this form call Ernest Sligh (202) 376-9294.

V. Sanctions

The timely submission of Form FERC-587 by a firm municipality state and local government or individual is required under the Federal Land Policy & Management Act of 1976. 90 Stat. 2743. Late filing failure to file or failure

otherwise to comply with these instructions may result in the vacation of Federal land essential for a power site.

VI. Provision for Confidentiality of Information

Information on this form is public information, therefore not confidential.

General Instructions

A. Public Lands States

1. Identify the project boundary maps in the license or preliminary permit or in the application for license amendment of license or preliminary.

2. Identify the Federal tracts that are located within the project boundaries as shown on the maps.

3. Complete a copy of the land description form for each township identified. All entries should be typed.

4. Project boundary map(s) are identified by sheet numbers. Exhibit G (or Exhibit K or F in older licenses) identifies boundaries for licenses.

Exhibit 4 identifies the boundaries for preliminary permits. These sheet numbers should be entered on the lines provided under "EXHIBIT SHEET NUMBERS." If there are any questions, please contact FERC at 202-376-1733.

5. Microfilm aperture cards of each exhibit sheet should be included with the land description form. Two copies of each map in Exhibit G, K, or F for licensees or Exhibit 4 for permittees must be reproduced on silver or gelatin 35 mm microfilm mounted on type D (3/4" x 7/8") aperture cards. The project number exhibit designation and sheet number must be typed on the upper right corner of each card.

6. Mail 2 copies of the completed land description forms and aperture cards to Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, DC 20426.

Another copy should be mailed to the BLM office(s) in which the project is located. The completed forms and aperture cards should be mailed within 60 days from the date of this request.

7. Keep the land description forms and aperture cards up-to-date. If the project boundaries change revised Land Description forms and aperture cards should be provided immediately Mail up-dates in accordance with instruction 6.

B. Non-Public Lands States

1. Identify the project boundary maps in the license or preliminary permit or in the application for license amendment of license, or preliminary permit.

2. Identify the Federal tracts that are located within the project boundaries as shown on the maps.

3. Complete a copy of the land description form for each county with United States owned project lands. If more than one land description form is required to list the Federal tracts in a county page numbers must be shown in the upper right corner of the form, e.g., page 1 of 2. Do not list more than one county or one project number on each form. All entries should be typed.

4. Project boundary map(s) are identified by sheet numbers. Exhibit G (or Exhibit K or F in older licenses) identifies boundaries for licenses. Exhibit 4 identifies the boundaries for preliminary permits. These sheet numbers should be entered on the lines provided under "EXHIBIT SHEET NUMBERS." If there are any questions, please contact FERC at 202-376-1733.

5. Microfilm aperture cards of each exhibit sheet should be included with the land description form. Two copies of each map in Exhibit G, K, or F for licensees or Exhibit 4 for permittees must be reproduced on silver or gelatin 35 mm microfilm mounted on type D (3¼" x 7⅞") aperture cards. The project number exhibit designation and sheet number must be typed on the upper right corner of each card.

6. Mail 2 copies of the completed land description forms and aperture cards to Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, DC 20426.

Another copy should be mailed to the BLM office for eastern States. The completed forms and aperture cards should be mailed within 60 days from the date of this request.

7. Keep the land description forms and aperture cards up-to-date. If the project boundaries change, revised Land Description forms and aperture cards should be provided immediately. Mail up-dates in accordance with instruction 6.

FERC-387, Approved
OMB No. 1902-00
(Expires _____)

LAND DESCRIPTION

Non-Public Land States

State _____, FERC Project No. _____

Check one:

License _____

Preliminary Permit _____

Pending _____

Issued _____

If permit is issued, give expiration date _____

County _____

Federal land holding agency _____

Name of Federal reservation	Federal tract(s) identification	Exhibit sheet number(s) or sheet letter(s)

Contact _____

Telephone _____

Date Submitted _____

Under provision of the Federal Power Act Sec. 24 Lands that are not identified and indexed could be vacated.

Instructions

Non-Public Land States

1. Identify the project boundary maps in the license or preliminary permit, or in the application for license, amendment of license, or preliminary permit.

2. Identify the Federal tracts that are located within the project boundaries as shown on the maps.

3. Complete a copy of the land description form for each county with United States owned project lands. If more than one land description form is required to list the Federal tracts in a county, page numbers must be shown in the upper right corner of the form, e.g., page 1 or 2. Do not list more than one county or one project on each form. All entries should be typed.

4. Each project boundary map filed with an acceptable application for license is given a Federal Energy Regulatory Commission (FERC) map

number (Federal Power Commission (FPC) numbers are considered FERC numbers) consisting of the project number followed by a hyphen and a sheet number assigned by the Commission. If FERC sheet numbers have been assigned, they must be used on the Land Description Forms. In those cases where FERC has not assigned sheet numbers, it is your responsibility to assign letter designations A, B, C, etc., in lieu of FERC sheet numbers.

Permittees and permit applicants must assign letter designations since FERC does not assign sheet numbers for permits or permit applications. These sheet numbers or letters should be entered on the lines provided under "Exhibit Sheet Numbers." If there are any questions, please contact FERC at 202-376-1733.

5. Microfilm aperture cards of each exhibit sheet should be included with the Land Description Form. Two copies of each map in Exhibit G, K, or F for licensees or Exhibit 4 for permittees must be reproduced on silver or gelatin 35 mm microfilm mounted on type D (3¼" x 7⅞") aperture cards. The project number, exhibit designation, and sheet number must be typed on the front of each card in the upper right corner.

6. Mail a copy of the completed Land Description Forms and aperture cards to: Secretary, Federal Energy Regulatory Commission, Room 3110, 825 North Capitol Street, Washington, DC 20426.

Another copy should be mailed to: Director, Bureau of Land Management, 350 S. Pickett Street, Alexandria, VA 22304.

7. Keep the Land Description Forms and aperture cards up-to-date. If the project boundary changes, revised Land Description Forms and aperture cards should be provided immediately. Mail up-dates in accordance with instruction 6.

BILLING CODE 6717-01-M

FERC-587, Approved
 OMB No. 1902-00
 (Expires

LAND DESCRIPTION
Public Land States

STATE _____ FERC PROJECT NO. _____

TOWNSHIP _____ RANGE _____ MERIDIAN _____

CHECK ONE:
 License _____
 Preliminary Permit _____

CHECK ONE:
 Pending _____
 Issued _____

If permit is issued, give expiration date _____

EXHIBIT SHEET NUMBERS OR SHEET LETTERS

Section 6	5	4	3	2	1
7	8	9	10	11	12
18	17	16	15	14	13
19	20	21	22	23	24
30	29	28	27	26	25
31	32	33	34	35	36

Contact _____

Telephone No. _____

Date Submitted _____

Under provision of the Federal Power Act Sec. 24 Lands that are not identified and indexed could be vacated.

Instructions*Public Land States*

1. Identify the project boundary maps in the license or preliminary permit, or in the application for license, amendment of license, or preliminary permit.
2. Identify the townships of the public land surveys (official protractors thereof if unsurveyed) located within the project boundary as shown on the maps. A Land Description Form is to be completed for each township identified. All entries should be typed. Only one project number should appear on each form.
3. Each project boundary map filed with an acceptable application for license is given a Federal Energy Regulatory Commission (FERC) map number (Federal Power Commission (FPC) numbers are considered FERC numbers) consisting of the project number followed by a hyphen and a sheet number assigned by the Commission. If FERC sheet numbers have been assigned, they must be used on the Land Description Forms. In those cases where FERC has not assigned sheet numbers, it is your responsibility to assign letter designations A, B, C, etc., in lieu of FERC sheet numbers. Permittees and permit applicants must assign letter designations since FERC does not assign sheet numbers for permits or permit applications. The sheet numbers or letters are to be entered in the appropriate place on the Land Description Forms to provide references to the maps. For example, if sheets 38 and 44 show the project boundary in section 32 of a township, the numbers 38 and 44 would be inserted in the box on the Land Description Form representing section 32. The completed Land Description Form will identify the sections of the township affected by the project and provide references to the maps that show the project boundary in those sections.
4. Microfilm copies of the project boundary maps must be submitted with the Land Description Forms. Two copies of each map involved must be reproduced on silver or oelatin 35 mm microfilm mounted on type D (3/4" x 3/8") aperture cards. The project number followed by a hyphen and the sheet number or letter must be typed on the front of each card in the upper right corner.
5. Mail a copy of the completed Land Description Forms and aperture cards to: Secretary, Federal Energy Regulatory Commission, Room 3110, 825 North Capitol Street, Washington, DC 20426.

Another copy must be mailed to the Bureau of Land Management (BLM) State Office(s) involved.

6. Keep the Land Description Forms and aperture cards up-to-date. If the project boundary changes, revised Land Description Forms and aperture cards should be provided immediately. Mail up-dates in accordance with instruction 5.

If there are any questions, please contact FERC at 202-376-1733. [FR Doc. 85-30622 Filed 12-27-85; 8:45 am] BILLING CODE 6717-01-M

Office of Hearings and Appeals**Objection to Proposed Remedial Orders Filed; Office of Hearings and Appeals; Week of December 2 Through December 6, 1985**

During the week of December 2 through December 6, 1985, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

December 20, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

Atlantic Richfield Co., Los Angeles, California; KRO-0170

On December 6, 1985, Atlantic Richfield Company, 515 South Flower Street, Los Angeles, California 90071 filed a Notice of Objection to a Proposed Remedial Order which the DOE Office of Enforcement Programs, Economic Regulatory Administration issued to the firm on November 13, 1985. In the PRO the Office of Enforcement Program found that during August 1, 1977 to January 28, 1981, Arco sold domestic price controlled crude oil and conditioned the sales on its receipt of price

concessions from the purchaser on linked transactions involving uncontrolled crude oil. According to the PRO, the price concessions took the form of discounts on Arco's purchases of exempt foreign or domestic crude oil or premiums on its sales of exempt foreign crude oil.

According to the PRO during the period March 1, 1978 through January 27, 1981 Arco unlawfully received a total excess consideration of \$239,948,207.00.

Lea Exploration, Inc., Shreveport, Louisiana; KRO-0160

On December 5, 1985, Lea Explorations, Inc., P.O. Box 127, Shreveport, LA 71161 filed a Notice of Objection to a Proposed Remedial Order which the DOE Houston District Office of Enforcement issued to the firm on 11/12/85. In the PRO the Houston District found that during June 1979 to December 1980, Lea has charged prices in excess of ceiling prices in first sales of domestically produced crude oil.

According to the PRO the pricing violation resulted in \$339,179.94 of overcharges.

Port Petroleum Inc., Shreveport, Louisiana; KRO-0150

On December 5, 1985, the Controller of the State of California filed a Notice of Objection to an amended Proposed Remedial Order which the DOE Office of Field Operations in Dallas, Texas issued to the firm on August 13, 1985. In the PRO the Dallas Office found that during the period October 1978 to December 1980, Port committed pricing violations in connection with its purchase and resale of crude oil.

According to the PRO the violation resulted in \$6,292,351 plus interest of overcharges.

[FR Doc. 85-30842 Filed 12-27-85; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51603; FRL-2946-3]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the *Federal Register* of May 13, 1983 (48 FR 21722). This notice announces receipt of twenty-seven PMNs and provides a summary of each.

DATES: Close of Review Period:

P 86-286 and 86-287 Mar. 12, 1986.
 P 86-288, 86-289, 86-290, Mar. 15, 1986.
 86-291, 86-292 and 86-293.
 P 86-294, 86-295, 86-296, Mar. 16, 1986.
 86-297, 86-298, 86-299,
 86-300, 86-301, 86-302
 and 86-303.
 P 86-305, 86-306, 86-307, Mar. 17, 1986.
 86-308, 86-309 and 86-310.
 P 86-311, 86-312, and 86- Mar. 18, 1986.
 313.

Written comments by:

P 86-286 and 86-287 Feb. 10, 1986.
 P 86-288, 86-289, 86-290, Feb. 13, 1986.
 86-291, 86-292 and 86-293.
 P 86-294, 86-295, 86-296, Feb. 14, 1986.
 86-297, 86-298, 86-299,
 86-300, 86-301, 86-302
 and 86-303.
 P 86-305, 86-306, 86-307, Feb. 15, 1986.
 86-308, 86-309, and 86-
 310.
 P 86-311, 86-312, and 86- Feb. 16, 1986.
 313.

ADDRESS: Written comments, identified by the document control number "[OPTS-51603]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Confidential Data Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-210, 401 M St., SW., Washington, DC 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M St., SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address.

P 86-286

Manufacturer. Confidential.
Chemical. (S) Polymer of 1,4-butanediol, adipic acid and 1,12-dodecanedioic acid.
Use/Production. (G) Open use. Prod. range. 1000-1500 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 6 workers, up to 2 hrs/da, up to 12 da/yr.

Environmental Release/Disposal. Minimal release to air. Disposal by biological treatment, lagoons and a licensed landfill.

P 86-287

Importer. Confidential.
Chemical. (G) Aliphatic, aromatic saturated polyester.
Use/Import. (G) Paint polymer with an open use. Import range. 33,000-130,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-288

Importer. Confidential
Chemical. (G) Quaternary ammonium compound.
Use/Import. (G) Lubricant on intermediate products in textile manufacturing, dispersive use. Import range. Confidential.
Toxicity Data. Irritation: Skin—Non-irritant, Eye—Non-irritant; Ames test: negative.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

P 86-289

Manufacturer. Reichhold Chemicals, Inc.
Chemical. (G) Unsaturated polyester resin.
Use/Production. (S) Industrial and commercial automotive body patch. Prod. range. Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 8 workers/site.
Environmental Release/Disposal. 1 kg released to landfill. Disposal by approved landfill.

P 86-290

Manufacturer. Ethyl Corporation.
Chemical. (S) Sodium aluminum tetrafluoride.
Use/Production. (S) Industrial electrolyte. Prod. range. Confidential.
Toxicity Data. No data on the PMN substance submitter.
Exposure. Confidential.
Environmental Release/Disposal. Release to air.

P 86-291

Manufacturer. Confidential.
Chemical. (G) Substituted phenyl azo phenyl azo substituted carbopolycyclicsulfonic acid salt.
Use/Production. (S) Site-limited intermediate. Prod. range. Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal.

Environmental Release/Disposal. Confidential. Disposal by publicly owned treatment works (POTW).

P 86-292

Manufacturer. Confidential.
Chemical. (G) Trisubstituted benzenesulfonic acid.
Use/Production. (S) Site-limited intermediate. Prod. range. Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal.
Environmental Release/Disposal. Confidential. Disposal by POTW.

P 86-293

Manufacturer. Confidential.
Chemical. (G) Alkyl oligoglycoside.
Use/Production. (S) Surface active agents for cleaning compounds and dispersants for water insoluble organic chemicals. Prod. range. Confidential.
Toxicity Data. Acute oral: 5 g/kg; Irritation: Skin—Slight; Eye—Moderate.
Exposure. Manufacture: dermal, a total of 15 workers, up to 8 hrs/da, up to 100 da/yr.
Environmental Release/Disposal. Confidential.

P 86-294

Importer. Pacific Anchor Chemical Corporation.
Chemical. (G) Polymeric aliphatic polyol methacrylate ester.
Use/Import. (S) Industrial anaerobic adhesives and sealants and electron beam cured printing inks. Import range. Confidential.
Toxicity Data. No data submitted.
Exposure. Processing: dermal, a total of 20 workers, up to 4 hrs/da, up to 20 da/yr.
Environmental Release/Disposal. Less than 100 kg/year released. Disposal by landfill.

P 86-295

Importer. Pacific Anchor Chemical Corporation.
Chemical. (G) Polymeric aliphatic polyol methacrylate ester.
Use/Import. (S) Industrial anaerobic adhesive and sealants and electron beam cured printing inks. Import range. Confidential.
Toxicity Data. No data submitted.
Exposure. Processing: dermal, a total of 20 workers, up to 4 hrs/da, up to 20 da/yr.
Environmental Release/Disposal. Less than 100 kg/year released. Disposal by landfill.

P 86-296

Manufacturer. Synthron, Inc.
Chemical. (G) 2-propylimidazole salt of an organic acid.

Use/Production. (S) Industrial catalyst and latent co-hardener for epoxy resins molding powder, powder coatings and latent co-hardener for epoxy sealants and adhesives. Prod. range. Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 2 workers, up to 2 hrs/da, up to 12 da/yr.

Environmental Release/Disposal. 3 kg/batch released to water. Disposal by biological holding pond and POTW.

P 86-297

Manufacturer. E.I. du Pont de Nemours & Company, Inc.

Chemical. (G) Crosslinked ethylene interpolymer/polyolefin polymer.

Use/Production. (S) Reinforced hose, tubing, wire and cable jackets, convoluted bellows for automobiles, seals and gaskets, weather stripping, fuel line hose connectors, and mechanical goods. Prod. range. Confidential.

Toxicity Data. Acute Oral: >11,000 mg/kg; Irritation: Skin—Non-irritant.

Exposure. Confidential.

Environmental Release/Disposal. No release.

P 86-298

Manufacturer. Confidential.

Chemical. (G) Polyester polyurethane polymer.

Use/Production. (G) Polymeric industrial coating component. Prod. range. 50,000–505,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: Dermal, a total of 38 workers, up to 8 hrs/da, up to 191 da/yr.

Environmental Release/Disposal. 2 to 42 kg/batch released to land.

P 86-299

Importer. Confidential.

Chemical. (G) 1-H-pyrazole-3-carboxylic acid, 4,5-dihydro-5-oxo-1-(4-sulfophenyl)-4-[(4-sulfophenyl)azo]-, mixed salt.

Use/Production. (S) Paper dye. Import range. Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

P 86-300

Manufacturer. Capital City Products Company.

Chemical. (S) Complete ester derived from trimethylolthane and palm kernel derived from fatty acid.

Use/Production. (S) Industrial and consumer lubricant finish on nylon tire yarn, polyester tire yarn, and nylon carpet yarn. Prod. range. 500,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 6 workers, up to 4 hrs/da, up to .068 da/yr.

Environmental Release/Disposal. 398 to 996 kg/batch released to water with 1.5 to 250 kg/batch to land. Disposal by POTW.

P 86-301

Importer. The Minnesota Mining and Manufacturing Company.

Chemical. (G) Ammonium carboxylate containing fluorochemical urethane.

Use/Import. (G) Surface treatment, non-dispersive use. Import range. Confidential.

Toxicity Data. Acute oral: >5.0 g/kg; Acute dermal: >2.0 g/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Ames test: Negative; Skin sensitization: Non-sensitizer.

Exposure. Processing: dermal.

Environmental Release/Disposal. No release.

P 86-302

Importer. Confidential.

Chemical. (S) Silica, [(dimethylhydrogensilyl)oxy] and [(trimethylsilyl)oxy], modified.

Use/Import. (S) Crosslinker for silicone polymers. Import range. 1,200–2500 kg/yr.

Toxicity Data. Acute oral: >5.0 g/kg; Irritation: Skin—Non-irritant, Eye—Very slight; Ames test: Non-mutagenic.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

P 86-303

Importer. Confidential.

Chemical. (S) Silica, [(dimethylhydrogensilyl)oxy], modified.

Use/Import. (S) Industrial crosslinker for silicone polymers. Import range. 1,200–2,500 kg/yr.

Toxicity Data. Acute oral: >5.0 g/kg; Irritation: Skin—Non-irritant, Eye—Slight; Ames test: Non-mutagenic.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

P 86-305

Manufacturer. Confidential.

Chemical. (G) Styrenated acrylic copolymer.

Use/Production. (G) Polymer used in product formulation having a partially contained use. Prod. range. 5,000–13,500 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 27 workers, up to 8 hrs/da, up to 12 da/yr.

Environmental Release/Disposal. 0.1 to 75 kg/batch released to air. Disposal by incineration and approved landfill.

P 86-306

Manufacturer. Confidential.

Chemical. (G) Styrenated drying oil alkyd resin.

Use/Production. (S) Industrial and consumer fast dry primers and topcoats for metal, wood, and paper. Prod. range. Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 5 workers.

Environmental Release/Disposal. Confidential.

P 86-307

Manufacturer. Confidential.

Chemical. (G) Epoxy resin adduct.

Use/Production. (G) Reactive binder. Prod. range. Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. 20 kg/batch released. Disposal by incineration.

P 86-308

Importer. Confidential.

Chemical. (G) Triazolium azo dye.

Use/Import. (G) Textile dye. Import range. Confidential.

Toxicity Data. Acute oral: 2,289 mg/kg; Irritation: Skin—Irritant, Eye—Corrosive; Ames test: Negative; LC₅₀: 96 hr (Zebra fish); 11.5 mg/l; BOD₅: 0 mg/gO₂; COD: 1,440 mg/10_g; COD/TOC: 1.10.

Exposure. Processing: dermal and inhalation, a total of 17 workers, up to 0.5 hr/da, up to 77 da/yr.

Environmental Release/Disposal. .002 to .6 released to water. Disposal by navigable waterway.

P 86-309

Importer. American Hoechst Corporation.

Chemical. (S) Hydroxymethoxyacetic acid, methyl ester.

Use/Import. (S) Industrial comonomer/modifier for formaldehyde based polymers and starting materials for polymer additives. Import range. Confidential.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

P 86-310

Manufacturer. Venture Chemicals, Inc.

Chemical. (G) Organophilic ester/humic acid derivative.

Use/Production. (S) Industrial fluid loss additive for invert oil emulsion

drilling fluids used in oil and gas well drilling and shale control additive for water base drilling fluids. Prod. range. Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 8 workers, up to 8 hrs/da, up to 250 da/yr.

Environmental Release/Disposal. 4.25 to 16.35 kg/batch released to air.

P 86-311

Manufacturer. Confidential.

Chemical. (G) Alkyl oligoglycoside.

Use/Production. (S) Surface active agents for cleaning compounds and dispersants for water insoluble organic chemicals. Prod. range. Confidential.

Toxicity Data. Acute oral: 5.0g/kg; Irritation: Skin—Slight, Eye—Non-irritant.

Exposure. Manufacture: dermal, a total of 15 workers, up to 8 hrs/da, up to 20 da/yr.

Environmental Release/Disposal. Confidential. Disposal by POTW after in-plant treatment.

86-312

Importer. Confidential.

Chemical. (G) Amine salt of partial ester of phosphoric acid.

Use/Import. (S) Industrial antiwear and extreme pressure additive for lubricating oils. Import range. Confidential.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

P 86-313

Importer. Urethane Concepts, Inc.

Chemical. (G) Sucrose based polyol.

Use/Import. (S) Industrial polyol component in rigid polyurethane foam. Import range. Confidential.

Toxicity Data. No data submitted.

Exposure. Processing: a total of 50 workers, up to 8 hrs/da, up to 240 da/yr/
Environmental Release/Disposal. No data submitted.

Dated: December 23, 1985.

Linda A. Travers,

Acting Director, Information Management Division.

[FR Doc. 85-30800 Filed 12-27-85; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59745]; FRL 2946-2

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the *Federal Register* of May 13, 1983 (48 FR 21722). In the *Federal Register* of November 11, 1984, (49 FR 46066)(40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. PMNs for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of one such PMN and provides a summary.

DATES: Close of Review Period: Y 86-46, January 8, 1986.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-811, 401 M St., SW., Washington, DC 20460 (202-382-3725).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission by the manufacturer on the exemption received by EPA. The complete non-confidential document is available in the public Reading Room E-107 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 86-46

Importer. Urethane Concepts, Inc.

Chemical. (G) Polyether diol.

Use/Import. (S) Industrial polyol component in the manufacture of polyurethane elastomers. Import range. Confidential.

Toxicity Data. No data submitted.

Exposure. Processing: dermal, a total of 10-50 workers.

Environmental Release/Disposal. No data submitted.

Dated: December 23, 1985.

Linda A. Travers,

Acting Director, Information Management Division.

[FR Doc. 85-30801 Filed 12-27-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-756-DR]

Amendment to Notice of a Major-Disaster Declaration; Florida

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Florida (FEMA-756-DR), dated December 3, 1985, and related determinations.

DATED: December 23, 1985.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3616.

Notice

The notice of a major disaster for the State of Florida, dated December 3, 1985, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of December 3, 1985: Jefferson County for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Samuel W. Speck,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 85-30746 Filed 12-27-85; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-752-DR]

Amendment to Notice of a Major-Disaster Declaration; Louisiana

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Louisiana (FEMA-752-DR), dated November 1, 1985, and related determinations.

DATE: December 20, 1985.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3616.

Notice

The notice of a major disaster for the State of Louisiana dated November 1,

1985, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of November 1, 1985: Cameron and Iberia Parishes for Public Assistance limited to facilities of the State Department of Natural Resources and the State Department of Wildlife and Fisheries.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Samuel W. Speck,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 85-30747 Filed 12-27-85; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-751-DR]

Amendment to Notice of a Major-Disaster Declaration; Massachusetts

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Massachusetts (FEMA-751-DR), dated October 28, 1985, and related determinations.

DATED: December 18, 1985.

FOR FURTHER INFORMATION CONTACT:

Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 646-3616.

Notice

The notice of a major disaster for the Commonwealth of Massachusetts, dated October 28, 1985, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 28, 1985: The Towns of Edgartown and West Tisbury in Dukes County for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Samuel W. Speck,

Associate Director, State and Local Programs and Support.

[FR Doc. 85-30748 Filed 12-27-85; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-745-DR]

Amendment to Notice of a Major-Disaster Declaration; Pennsylvania

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the Commonwealth of Pennsylvania (FEMA-745-DR), dated October 8, 1985, and related determinations.

DATE: December 20, 1985.

FOR FURTHER INFORMATION CONTACT:

Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3616.

Notice

The notice of a major disaster for the Commonwealth of Pennsylvania, dated October 8, 1985, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 8, 1985: Falls Township in Wyoming County for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Samuel W. Speck,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 85-30749 Filed 12-27-85; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No. 224-003130-005.

Title: Anchorage Terminal Agreement.

Parties: Municipality of Anchorage (Anchorage), Totem Ocean Trailer Express, Inc. (TOTE).

Synopsis: This agreement amends the basic agreement between the parties which provided for the lease by Anchorage to TOTE of a preferential

berthing area and transit area at Anchorage City Dock to be used in a roll-on/roll-off trailer-ship service. The amendment provides for the adjustment of rates for the coming five-year period, and it grants TOTE use of newly developed property in Transit Area D. TOTE will relinquish control and use of an equal sized parcel in Transit Area B.

Agreement No. 224-010864.

Title: St. Thomas, VI Terminal Agreement.

Parties: The Virgin Islands Port Authority (Authority), The West Indian Co., Ltd. (WICO).

Synopsis: This is a settlement agreement between the Authority and WICO which provides for specified minimum rates for passenger wharfage and dockage representing minimum compensatory levels for the passenger terminal facilities operated by the parties. The settlement resulted from the proceeding under FMC Docket No. 85-23. This is a one time agreement and does not provide for any continuing rate making discussions or agreements.

By Order of the Federal Maritime Commission.

Dated: December 24, 1985.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85-30809 Filed 12-27-85; 8:45 am]

BILLING CODE 6730-01-M

Agreements Filed; Request for Additional Information

Agreement No: 203-010852.

Title: Three Lines' Discussion Agreement.

Parties: Nippon Yusen Kaisha, Mitsui O.S.K. Lines, Ltd., Yamashita-Shinnihon Steamship Co., Ltd.

Synopsis: Notice is hereby given that the Federal Maritime Commission, pursuant to section 6(d) of the Shipping Act of 1984 (46 U.S.C app. 1701-1720), has requested additional information from the parties to the agreement in order to complete the statutory review of Agreement No. 203-010852 as required by the Act. This action extends the review period as provided in section 6(c) of the Act.

By Order of the Federal Maritime Commission.

Dated: December 24, 1985.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85-30810 Filed 12-27-85; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM**Anderson Bancshares, Inc., et al.;
Formations of; Acquisitions by; and
Mergers of Bank Holding Companies**

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than January 20, 1986.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Anderson Bancshares, Inc.*, Hemingway, South Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of Anderson State Bank, Inc., Hemingway, South Carolina.

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois, 60690:

1. *Iron Horse Bancshares, Inc.*, Mazomanie, Wisconsin; to become a bank holding company by acquiring 80 percent of the voting shares of The Peoples State Bank, Mazomanie, Wis., Mazomanie, Wisconsin. Comments on this application must be received not later than January 14, 1986.

C. Federal Reserve Bank of Cleveland (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *First American Bancorp*, Athens, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of First American Bank and Trust Company, Athens, Georgia.

D. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Towner Bancorporation, Ltd.*, Towner, North Dakota; to become a bank holding company by acquiring 99.369 percent of the voting shares of State Bank of Towner, Towner, North Dakota. Comments on this application must be received not later than January 17, 1986.

E. Federal Reserve Bank of Dallas (Anthony J. Montelaro, vice president) 400 South Akard Street, Dallas, Texas 75222:

1. *CBN Bancshares, Inc.*, Murdock, Kansas; to merge with Mayfield Bancshares, Inc., Mayfield, Kansas, thereby indirectly acquiring Mayfield State Bank, Mayfield, Kansas.

F. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Stratford Bancshares, Inc.*, Stratford, Texas; to become a bank holding company by acquiring 87 percent of the voting shares of The First State Bank of Stratford, Stratford, Texas. Comments on this application must be received not later than January 17, 1986.

Board of Governors of the Federal Reserve System, December 23, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-30743 Filed 12-27-85; 8:45 am]

BILLING CODE 6120-01-M

**DEPARTMENT OF HEALTH AND
HUMAN SERVICES****Centers for Disease Control****Dust Control for Falling Solids; 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: January 22, 1986.

Time: 9:00 a.m.-4:30 p.m.

Place: Conference Room C, National Institute for Occupational Safety and Health, 5555 Ridge Avenue, Cincinnati, Ohio 45213.

Purpose: To review a project entitled "Dust Control for Falling Solids." The study objective is to improve understanding of the manner in which free-falling powders create airborne dust; specifically, how the mass flux of a falling powder, the drop height, and the bulk density of the powder affect dust generation. Viewpoints and suggestions from industry, organized labor, academia, other

government agencies, and the public are invited.

Additional information may be obtained from: William A. Heitbrink, Division of Physical Sciences and Engineering, NIOSH, CDC, 4676 Columbia Parkway, Cincinnati, Ohio 45226. Telephones: FTS: 684-4389, Commercial: 513/841-4389.

Dated: December 23, 1985.

Elvin Hilyer,

*Associate Director for Policy Coordination,
Centers for Disease Control.*

[FR Doc. 85-29400 Filed 12-27-85; 8:45 am]

BILLING CODE 4160-19-M

**Health Resources and Services
Administration****Application Announcement for Nurse
Anesthetist Traineeship Grants and
Professional Nurse Traineeship Grants**

The Bureau of Health Professions, Health Resources and Services Administration, announces that applications for Nurse Anesthetist Traineeship and Professional Nurse Traineeship grants will be accepted in 1986.

Applicants should be advised that this application announcement is a contingency action being taken to ensure that should funds become available for this purpose, they can be awarded in a timely fashion consistent with the needs of the programs as well as to provide for even distribution of funds throughout the fiscal year. The Administration's budget request for Fiscal Year 1986 did not include funding for these programs. This notice regarding applications does not reflect any change in this policy.

Nurse Anesthetist Traineeships

Section 831 of the Public Health Service Act, 42 U.S.C. 297-1(a)(1), as amended by Pub. L. 99-92, the Nurse Education Amendments of 1985, authorizes grants for traineeships to prepare licensed, registered nurses to be nurse anesthetists in eligible nurse anesthetist programs.

Eligible Applicants

To be eligible to receive support, an applicant must be a public or private nonprofit institution which provides registered nurses with fulltime nurse anesthetist training. The training program must be accredited by the Council on Accreditation of Nurse Anesthesia Educational Programs/Schools and must currently have full-time students who are registered nurses who are beyond the 12th month of study.

In determining the amount of the grant award, the Department will use a

formula based on the number of approved applications and the number of full-time registered nurses who are beyond the 12th month of study.

This program is listed at 13.124 in the *Catalog of Federal Domestic Assistance*.

Professional Nurse Traineeships

Section 830 of the Public Health Service Act, 42 U.S.C. 297, as amended by Pub. L. 99-92, the Nurse Education Amendments of 1985, authorizes grants for: (1) Traineeships to prepare registered nurses in masters' degree and doctoral degree programs which educate such nurses to serve as nurse administrators, nurse educators, nurse researchers, nurse practitioners or in other professional nursing specialties determined by the Secretary to require advanced education; and (2) traineeships to educate nurses as nurse midwives.

Eligible Applicants

To be eligible to receive support, an applicant must be a public or nonprofit private institution providing registered nurses with full-time advanced education leading to a graduate degree in eligible professional nursing specialties, or a public or nonprofit private school of nursing or entity which prepares registered nurses to practice as nurse midwives. The nurse midwife program must be approved by the American College of Nurse Midwives.

This program is listed at 13.358 in the *Catalog of Federal Domestic Assistance*.

Application Deadlines

Nurse Anesthetist Traineeships—2/24/86.

Professional Nurse Traineeships—2/24/86.

Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date, or

2. Postmarked on or before the deadline date and received in time for submission for review. A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing.

For specific guidelines and information regarding the program aspects, contact: Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 5C-26, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443-6333.

Questions regarding grants policy should be directed to: Grants Management Officer, Bureau of Health Professions, Health Resources and

Services Administration, Parklawn Building, Room 8C-22, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443-6915.

These programs are not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs or 42 CFR Part 100.

Dated: December 23, 1985.

John H. Kelso,

Acting Administrator.

[FR Doc. 85-30735 Filed 12-27-85; 8:45 am]

BILLING CODE 4160-16-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974—Revision of Notice of System of Records

Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), notice is hereby given that the Department of the Interior is revising a notice describing a system of records maintained by the Minerals Management Service. Except as noted below, all changes being published are editorial in nature, and reflect organization, address, and other minor administrative revisions which have occurred since the previous publication of the material in the *Federal Register* on June 2, 1983 (48 FR 24793). The notice being revised, which is published in its entirety below, is titled "Security—Interior, MMS-4."

The portions of the system notice describing the categories of individuals and records have been revised to provide a more accurate and precise description of the individuals and information included in the records system. In addition, the existing routine disclosure statement for litigation purposes is revised to incorporate the clarification on such disclosures prescribed by the Office of Management and Budget (OMB) in its supplementary guidelines dated May 24, 1985, for implementing the Privacy Act. Also, the retention and disposal statement is amended to conform to guidelines issued by the Assistant Archivist for Records Administration, National Archives and Records Administration, in his memorandum to Agency Records Officers dated June 11, 1985.

Since these changes do not involve any new or intended use of the information in the system of records, the notice shall be effective on or before December 30, 1985. Additional information regarding these revisions may be obtained from the Department Privacy Act Officer, Office of the Secretary (PIR), Room 7357, Main

Interior Building, U.S. Department of the Interior, Washington, D.C. 20240.

Dated: December 17, 1985.

Oscar W. Mueller, Jr.,

Director, Office of Information Resources Management.

INTERIOR/MMS-4

SYSTEM NAME:

Security—Interior, MMS-4.

SYSTEM LOCATION:

Department of the Interior, Minerals Management Service, Office of Administration, Procurement and General Services Division, Security Office, Mail Stop 635, 12203 Sunrise Valley Drive, Reston, Virginia 22091.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Minerals Management Service (MMS) employees who have been subject to personnel security investigations to determine suitability for placement in sensitive positions and those granted access to classified information on MMS computer systems.

CATEGORIES OF RECORDS IN THE SYSTEM:

Security files for MMS personnel include: name, grade, organization, place and date of birth, social security number, the type of security clearance, ADP Access Authorization or suitability certification granted, and the investigative basis.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10501.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES.

The primary use of the records is to ensure that investigative requirements of Federal Personnel Manual 731 are satisfied and to provide a current record of MMS employees with clearance and ADP access authorizations. Disclosure outside of the Department may be made: (1) To the U.S. Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States, Department of the Interior, a component of the Department, or, when represented by the Government, an employee of the Department is a party to litigation, and (b) the Department of the Interior determines that the disclosure is relevant or necessary to the litigation and is compatible with the purpose for which the records were compiled; (2) of information indicating a violation or potential violation of a statute, regulation, rule, order, or license

to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order or license; (3) to a Congressional office from the record of an individual in response to an inquiry the individual has made to the Congressional office; (4) to a Federal agency which has requested information relevant or necessary to its hiring or retention of an employee or issuance of a security clearance, license, contract, grant, or other benefit; and (5) to Federal, State, or local agencies where necessary to obtain information relevant to the hiring or retention of an employee or the issuance of a security clearance, license, contract, grant, or other benefit.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual systems maintained in locked GSA approved security containers.

RETRIEVABILITY:

Indexed by individual name.

SAFEGUARDS:

Maintained with security meeting the requirements of 43 CFR 2.51.

RETENTION AND DISPOSAL:

These records are maintained in accordance with the General Records Schedule Number 18, Item Number 23.

SYSTEM MANAGER(S) AND ADDRESS:

Security Officer, Procurement and General Services Division, Minerals Management Service, Mail Stop 635, 12203 Sunrise Valley Drive, Reston, Virginia 22091.

NOTIFICATION PROCEDURE:

Inquiries regarding the existence of records should be addressed to the System Manager. A written signed request stating that the requester seeks information concerning records pertaining to him or her is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed to the System Manager. The request must be in writing and be signed by the requester. The request must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment should be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Individual on whom record is maintained.

[FR Doc. 85-30822 Filed 12-27-85; 8:45 am]

BILLING CODE 4310-MR-M

Determination Regarding Right-of-Way Reservation on Lands Held in Trust for the Cocopah Indian Tribe of Arizona

AGENCY: Office of the Secretary, Interior.

ACTION: Notice of Determination.

SUMMARY: An engineering study has determined that there is no need for the United States to utilize its reserved right-of-way for the disposal of sludge from the Yuma Desalting Plant on lands held in trust for the Cocopah Indian Tribe of Arizona with respect to the following described lands:

San Bernardino Meridian, Arizona

T. 16 S., R. 21 E.,

Secs. 24 and 25 (excluding lots 5 and 6);

T. 16 S., R. 22 E.,

Sec. 19 and 30.

DATED: November 1, 1985.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Wilborn, Chief, Lands Branch, Lower Colorado Regional Office, Bureau of Reclamation, Nevada Highway at Park Street, Boulder City, Nevada 89007, Telephone (702) 293-8427.

SUPPLEMENTARY INFORMATION: Section 4(a)(6) of the Act of April 15, 1985, (99 Stat. 47), reserves to the United States of America (United States) the option for a right-of-way for sludge disposal from the Yuma Desalting Plant authorized under section 101(b)(1) of the Colorado River Basin Salinity Control Act of June 24, 1974 (88 Stat. 266). As a result of engineering studies, it had been determined that the United States will have no further need for utilization of the reserved lands for the sludge disposal site. Section 4(a)(6) of the Act of April 15, 1985 (*Supra*), further provides that any determination by the Secretary of the Interior shall be published in the **Federal Register**. Accordingly, public notice is hereby given that the United States will not exercise this reserved option for a right-of-way on the land described.

Dated: December 23, 1985.

Ann McLaughlin,

Acting Secretary of the Interior.

[FR Doc. 85-30763 Filed 12-27-85; 8:45 am]

BILLING CODE 4310-10-M

Bureau of Indian Affairs

Program Announcement; FY 86 Indian Child Welfare Act Grant Program

December 23, 1985.

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Announcement of availability of funds to improve child welfare services to Indian children and their families.

SUMMARY: This is an announcement of grant funds available from the Bureau of Indian Affairs, Department of the Interior.

FOR FURTHER INFORMATION CONTACT:

For further information concerning the Bureau of Indian Affairs' Indian Child Welfare Act Title Grant Program contact the nearest area office to the applicant. See listing at the end of this announcement, or contact: BIA/Division of Social Services, 1951 Constitution Avenue, NW., Washington, DC 20245, Code 450, Room 312-S, Dr. Eddie F. Brown, Chief, Telephone: (202) 343-6434.

DATED: The closing date for receipt of applications for this program is February 14, 1986.

SUPPLEMENTARY INFORMATION:

Part I. General Information

A. Background

This announcement provides information on opportunities to apply for Indian Child Welfare Act grant funds for FY 86. The policies established by the Indian Child Welfare Act of 1978 (ICWA Pub. L. 95-608, 25 U.S.C. 1902, 25 U.S.C. 1931 and 1982), for which these grant funds may be used are:

—To prevent separation of Indian children from their families when possible;

—When separation is necessary, to reunite Indian children with their families as soon as possible;

—When reunification is not possible, to find permanent families through permanent placement with extended families or through adoption; and

—To carry out work with Indian children and their families in accordance with the preferences of the ICWA, following procedures and practices which reflect the unique values of Indian culture. An applicant for an Indian Child Welfare Act Grant (BIA) may submit only *one* grant application for this program during this application period (refer to 25 CFR 23.21(b)).

B. BIA Indian Child Welfare Grant Program Purpose

The purposes of Bureau of Indian Affairs' Indian Child Welfare grants as specifically stated in the law are:

(1) the establishment and operation of Indian child and family service programs which promote the stability of Indian families, and

(2) the provision of non-Federal matching shares for other Federal financial assistance programs for "on or near" reservation programs which contribute to that same purpose.

These purposes are further defined in Pub. L. 95-608 sections 201 and 202 or 25 U.S.C. 1931 and 1932, or 25 CFR 23.22.

The objective of every Indian child and family service program shall be to prevent the breakup of Indian families, and insure that the permanent removal of an Indian child from the custody of his/her parent or Indian custodian shall be a last resort.

C. Eligible Applicants

The governing body of any tribe or tribes, or any nonprofit off-reservation Indian organization or multi-service Indian center, may apply individually or as a consortium for a grant.

A consortium is an agreement or association of two or more eligible applicants.

Applicants for projects of one year or three years duration may be submitted. Regulations published December 16, 1985, in the *Federal Register* allow multi-year projects, in accordance with 25 CFR 23.37. Applicants who are proposing projects for multi-year project must submit full applications on all program activities for the entire project period, that is, for three years. This includes budget information. The budget period for each grant award will be for twelve (12) months. Funding after the first year of a multi-year project will depend upon the grantee's progress in achieving the objectives of the project according to the approved work plan, the availability of funds, and compliance with appropriate program regulations.

II. Available Funds

This announcement is being published in anticipation of an appropriation for these programs. When an appropriation is approved, grant awards will be made using the following guidelines. Grants will be awarded to individual tribes, organizations, or to consortia of tribes and organizations within the following categories:

A. A maximum of up to \$50,000 for eligible applicants with a total service area population of 2,500 or less;

B. A maximum of up to \$75,000 for eligible applicants with a total service area population greater than 2,500 but less than 5,000;

C. A maximum of up to \$100,000 for eligible applicants with a total service area population greater than 5,000 but less than 7,500;

D. A maximum of up to \$150,000 for eligible applicants with a total service area population of 7,500 but less than 15,000;

E. A maximum of \$300,000 for eligible applicants with a total service area of greater than 15,000.

Applicants in the State of Alaska will be allowed a 25 percent cost of living adjustment to the total maximum amount for which they may apply. Notwithstanding the above grant guidelines, consortia having a total service area population of 5,000 or less, may apply for a maximum grant of up to \$100,000 because of the greater administrative costs associated with operating a small consortium. Consortia with service area populations greater than 5,000 must comply with the grant guidelines set above.

Service area population means the total number of Indians eligible for service under 25 CFR 23.2(d)(2) and/or (3) in the geographical area to which the tribe, or organization, or multi-service center can realistically provide the services proposed in the application. The service area population is used only to determine maximum grant allocations that a tribe, multi-service center, or organization may be eligible to receive. These population figures must be based on identifiable statistical resources.

In lieu of an indirect cost rate, all costs associated with the administration of proposed projects shall be line itemed. Due to the limited amount of program funds, administrative costs will be carefully scrutinized in relation to funds used for direct services. In accordance with 25 CFR 23.25(a)(8), the reasonableness and relevance of the estimated costs for the project are considered in the rating of all project applications. These administrative costs are only allowable within the funding specified by the grant formula, and limitations specified in this announcement.

Applicants will not be funded for more than their demonstrated need, as specifically addressed in 25 CFR 23.24 and 23.25. The statistical requirements established in these regulations, as well as the tribe's multi-service center's, or organization's prior service record will be used in determining need. Examples of necessary data include the number of actual or estimated Indian family breakups, and the number of

persons who will receive direct services from any portion of the proposed program, by program area.

In accordance with 25 CFR 23.27(c)(3), if an applicant has been a grantee during the preceding fiscal year and proposes to continue essentially the same service program, the applicant, at the time of application, must provide satisfactory evaluations from the area office along with the other materials required in this subsection. At no time may any Indian tribe, organization, or multi-service center which is either an eligible individual applicant in accordance with 25 CFR 23.21 or a member of a consortium receive Indian Child Welfare Act grant funds greater than a maximum grant of \$300,000 through a direct grant or through subgranting procedures with approved applicants.

III. Application and Selection Criteria

A. Fiscal Year 1986 Review Process

The BIA's Assistant Secretary or his/her designated representative shall select for grants under the Indian Child Welfare Act those proposals which will in his/her judgement best promote the purposes of the Act. Such selection will be made through a review process in which each application will be scored competitively using the BIA review criteria listed below at the appropriate Bureau Social Service Office referred to in 25 CFR 23.30, 23.31, or 23.33. Grant applications will be reviewed by a panel of reviewers qualified by training and/or experience in human services to Indian populations. These recommendations will be used by the Assistant Secretary's designated representative to preliminarily approve or disapprove all grant applications, and make funding recommendations to the Central Office. The Assistant Secretary has final funding authority.

B. The Closing Date for Receipt of Applications

The closing date for receipt of all applications under this Program Announcement is February 14, 1986.

Applications for Indian Child Welfare Act Grants must be received in the appropriate Bureau of Indian Affairs' Social Services Area/Agency Office, as specified in 25 CFR 23.28, on or before 4:15 p.m., or the applicable close of business for that office on the closing date of the application period. The names and addresses of Bureau Social Service Area Offices and staff are listed at the end of this announcement. Hand delivered applications are accepted during the normal working hours

Monday through Friday. Applications mailed through the U.S. Postal Service shall be considered as meeting the deadline if they are either:

(1) Received on or before the deadline date; or

(2) Sent by first class mail, postmarked on or before the deadline date.

Applicants are cautioned to request a legible U.S. Postal Service postmark or to use express, certified or registered mail and obtain a legibly dated mailing receipt from the U.S. Postal Service. Private metered postmarks are not acceptable as proof of timely mailing.

(3) Applications submitted by other means. Applications submitted by any means except through U.S. Postal Service shall be considered as meeting the deadline only if they are physically received before close of business on or before the deadline date.

(4) Late applications. Applications which do not meet these criteria are considered late applications and will not be considered in the current competition.

C. Statutory Authority

The Indian Child Welfare Program from the Bureau of Indian Affairs is authorized by Title II of Pub. L. 95-608, The Indian Child Welfare Act (25 U.S.C. 1901 et seq., 25 CFR Part 23). The anticipated appropriation for the grant program is \$8,800,000. A minimum of twenty-five percent of these funds will be utilized for one-year projects and the remainder for multi-year projects. The central office will retain 15 percent of the total funds to assure funding for any applicant who may appeal a denial at the area office level. If these funds are not utilized for appeals they will be redistributed to the area offices.

D. Program Priorities

Indian Child Welfare Act grants are for the purpose of:

(1) Establishment and operation of Indian children and family service programs. In accordance with the policy in 25 CFR 23.2 to emphasize the design and funding of programs to promote the stability of Indian families, program priorities have been established to be utilized by area offices in the competitive review process when more than one application obtains the same competitive score. These priorities re-emphasize the programmatic interest in maintaining the family and preventing out-of-home placements. Program priorities are listed below in descending order:

(a) Operation and maintenance of facilities for the counseling and

treatment of Indian families and for the temporary custody of Indian children.

(b) Family assistance (including homemaker and home counselors), day care, after school care, recreational activities, respite care, and employment.

(c) A system for tribes or Indian organizations to license or otherwise regulate Indian foster and adoptive homes or the preparation and implementation of child welfare codes within their legal jurisdictional authority, or pursuant to a state-tribal and/or Indian organization agreement.

(d) Guidance, legal representation, and advice to Indian families involved in tribal, state or federal child custody proceedings.

(e) Employment of professional and other trained personnel to assist the tribal court in the disposition of domestic relations and child welfare matters.

(f) Education and training of Indians (including tribal court judges and staff) in skills relating to child and family assistance and service programs.

(g) Subsidy programs under which Indian adoptive children may be provided support comparable to that for which they would be eligible as foster children, taking into account the appropriate state standards of support for maintenance and medical needs.

(h) Home improvement programs.

(i) Other programs designed to meet the purpose of the Act. Planning or feasibility grants may be undertaken for any one of the above listed program purposes. These applications will be ranked according to the priority of the program under consideration.

(2) Providing non-Federal matching shares for other Federal financial assistance programs as prescribed in 25 CFR 23.43. The order of priority of matching share grants will correlate with the purpose of the program receiving the match.

E. Content of the Application

The application shall be no longer than 40 pages, double spaced (excluding appendices) and shall include standard form 424 and the following information:

- (1) Name and address of Indian tribal governing body(s) or Indian organization applying for a grant,
- (2) Descriptive name of project,
- (3) Grant funds requested,
- (4) The unduplicated client service population directly benefiting from the project,
- (5) Length of project,
- (6) Beginning date,
- (7) Project budget categories or items,
- (8) Program narrative statement including second and third year plans if appropriate,

(9) Certification or evidence of request by Indian tribe or board of Indian organization (preferably covering the duration of the proposed project).

(10) Evidence of substantial community support for the proposed program. This request may be in the form of a tribal resolution, an endorsement included in the grant application or such other forms as the tribal constitution or current practice requires;

(11) Name and address of the Bureau office to which an application is submitted.

(12) Date application is submitted to the Bureau, and

(13) Additional information pertaining to grant applications for funds to be used as matching shares.

F. Evaluation Criteria

The content of the application and the following factors are considered in the competitive review of these grant applications:

(1) The degree to which an applicant demonstrates in the program narrative an understanding of the social service problems or issues impacting the client population which the applicant proposes to serve.

(2) The degree to which and the methods by which the applicant intends to fulfill the purpose of the grant, specifically relating to goals and the objectives of the program to the issues and problems impacting the client population.

(3) Whether the applicant presents narrative, quantitative data, and demographics of the client population to be served. Examples of such data include:

(a) The number of actual or estimated Indian child placements outside the home;

(b) The number of actual or estimated Indian family breakups; and

(c) The need for a directly related preventive program.

(4) The relative accessibility which the Indian population to be served under a specific proposal already has to existing child and family service programs emphasizing prevention of Indian family breakup. Factors to be considered in determining accessibility include:

(a) Cultural barriers;

(b) Discrimination against Indians;

(c) Inability of potential Indian clientele to pay for services;

(d) Lack of programs which provide free service to indigent families;

(e) Technical barriers created by existing public or private programs;

(f) Availability of transportation to existing programs;

(g) Distance between the Indian community to be served under the proposal and the nearest existing programs;

(h) Quality of service provided to Indian clientele; and

(i) Relevance of service provided to specific needs of Indian clientele.

(5) The proper justification of the extent to which the proposed program would duplicate any existing child and family service program emphasizing prevention of Indian family breakup, taking into consideration all of the factors listed in paragraphs (1), (2), (3), and (4) of this section. Proper justification must be given for any duplication of services.

(6) Evidence of substantial community support for the proposed program from the Indian community or communities to be served. Such support may be evidenced by:

(a) Letters of support from individuals and families to be served;

(b) Local Indian community representation in and control over the Indian entity requesting the grant;

(c) Letters from local and social service or social service related agencies familiar with the applicant's past work experience.

(7) The explanation of proposed facilities and of the structure of the tribal or Indian organization including the structure of the particular unit within the organization requesting grant funds, and the position description of any position to be funded with grant funds, identifying qualifications, responsibilities, and lines of supervision.

(8) The reasonableness and relevance of the estimated costs of the proposed program or service. An application shall not receive a preliminary approval unless a review of the application determines that it:

(a) Contains all the information required in "E. Content of an application";

(b) Receives at least the minimum score of 85 in a competitive review under the scoring process using the selection criteria established in regulation,

(c) If an applicant has been a grantee during the year immediately preceding the year for which an application is being made, and has made an application to continue essentially the same service program, satisfactory evaluation(s) from the Area office review of the program must be provided in addition to the other materials required in this subsection.

Part IV. List of BIA Area Offices

BIA Area Offices; Area Social Workers

Aberdeen—Dean Krähulec, 115 4th Avenue, SE, Aberdeen, SD 57401, 605-225-0250.

Albuquerque—Robert C. Carr, P.O. Box 8327, Albuquerque, NM 87198, 505-225-3321.

Anadarko—Jerry Bridges, P.O. Box 368, Anadarko, OK 73005, 405-247-6673, extension 257.

Billings—Bill Webber, 316 N. 26th Street, Billings, MT 59101, 406-657-6651.

Juneau—Bill Petillo, P.O. Box 3-8000, Juneau, AK 99802-1219, 907-586-7209.

Minneapolis—Karen Grey Eyes, Chamber of Commerce Building, 15 South Fifth Street, 6th Floor, Minneapolis, MN 55402, 612-349-3809.

Muskogee—James Clemmons, Old Federal Building, Mushogee, OK 74401, 918-687-2507.

Navajo—Nancy Evans, P.O. Box M, Window Rock, AZ 86515, 602-871-5151.

Phoenix—James B. Graves, P.O. Box 7007, Phoenix, AZ 85011, 602-241-2261.

Portland—June McKellar, 1425 NE Irving St., Portland, OR 97208, 503-231-6781.

Sacramento—Charles Toyebo, Community Service Officer, 2800 Cottage Way, Sacramento, CA 95825, 916-978-4691.

Eastern—Linda Guy, Division of Social Services, 1951 Constitution Avenue, NW., Code 1000, Washington, D.C. 20245, 703-235-3179.

Hazel E. Elbert,

Acting Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 85-30730 Filed 12-27-85; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Salmon District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: The Salmon District of the Bureau of Land Management (BLM) announces a forthcoming meeting of the Salmon District Advisory Council.

DATE: The meeting will be held Wednesday, February 12, 1986, at 9:00 a.m.

ADDRESS: The meeting will be held at the Salmon District Office, Bureau of Land Management, Conference Room, South Highway 93, Salmon, Idaho 83467.

SUPPLEMENTARY INFORMATION: This meeting is held in accordance with Pub. L. 92-463 and 94-579. The main purpose for the meeting is the review of the

Proposed Resource Management Plan and Final Environmental Impact Statement for the Lemhi Resource Area. The agenda will also include an update and discussion of current resource programs on the Salmon District.

The meeting is open to the public. Interested persons may make oral statements to the Council between 10:00 a.m. and 10:30 a.m. or file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager at the Salmon District Office by February 10, 1986.

Summary minutes of the meeting will be maintained in the District Office and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting. Notification of oral statements and requests for summary minutes should be sent to: Kenneth G. Walker, District Manager, Salmon District BLM, P.O. Box 430, Salmon, Idaho 83467.

Dated: December 20, 1985.

Kenneth G. Walker,

District Manager.

[FR Doc. 85-30813 Filed 12-27-85; 8:45 am]

BILLING CODE 4310-GG-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 290 (sub-2)]

Railroad Cost Recovery Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Notice of approval of rail cost adjustment factor and decision.

SUMMARY: The Commission had decided to approve a modified version of the cost index filed by the Association of American Railroads (AAR) under the procedures of Ex Parte No. 290 (Sub-No. 2), *Railroad Cost Recovery Procedures*.

Application of the index provides for a first quarter 1986 RCAF of 1.069 and a maximum rate increase of 1.1 percent above the levels authorized in our decision served June 20, 1984. No rate actions have been ordered since that time because, until now, the index declined from the third quarter 1984 level which was 1.058.

EFFECTIVE DATE: January 1, 1986.

FOR FURTHER INFORMATION CONTACT:

Robert C. Hasek, (202) 275-0938;

Douglas Galloway, (202) 275-7278.

SUPPLEMENTARY INFORMATION: By decision served January 2, 1985 (50 FR 87, January 2, 1985) we outlined the procedures for the calculation of the all

inclusive index of railroad input costs and the methodology for the computation of the RCAF. These procedures replaced an interim methodology which was formerly used. AAR is required to calculate the forecasted index on a quarterly basis and submit it on the fifth day of the last month of each calendar quarter.

We have reviewed AAR's calculations of the index for the first quarter of 1986 and find that, with the exceptions of the lease rental portion of the equipment rents component and the handling of a one-time only lump sum payment due to certain United Transportation Union (UTU) members, these calculations comply with the rules contained in our decision served January 2, 1985. AAR's handling of lease rentals is acceptable on an interim basis. We have restated the lump sum payment calculations to conform to our rules.

The indexing rules call for the lease rental portion of the equipment rents component of the index to be calculated using actual data. On November 15, 1985, AAR filed a petition to reopen this proceeding for the purpose of modifying our rule concerning this component. Replies from shipper parties have been received as late as December 5, 1985. AAR's petition is currently under consideration. At this time we will continue to accept use of the Producer Price Index for Industrial Commodities, less Fuel, Power and Related Products as a surrogate for the lease rental portion of the equipment rents component of the index. We have previously observed that the lease rental portion of the index is only 2.4 percent of the total and is not likely to have a major effect on the RCAF.

We believe that the lump sum payment to certain railroad employees covered under the new UTU contract should have been amortized over the life of that contract with interest at the three-month Treasury Bill interest rate rather than included on a one-time basis. This one-time lump sum payment was due to be made to eligible employees in a single separate check no later than December 20, 1985. Amortizing the one-time payment over the life of the contract serves to smooth out its effect, while including it on a one-time basis serves only to artificially inflate the index.

We have applied our rules for the calculation of the opportunity cost of funds collected in anticipation of the settlement of labor contracts to this

lump sum payment situation. AAR's estimate of an average payment of \$482.60 per UTU employee has been amortized over the remaining period of the UTU contract (30 months or 10 quarters) using the three-month Treasury Bill interest rate (7.42 percent) in effect on December 5, 1985, the date of the most recent submission. This calculation yields an annuity payment of \$53.32 for each of the ten quarters based on interest rate of 7.42 percent. The \$53.32 amount is predicated on the 7.42 percent Treasury Bill interest rate remaining constant over the remaining life of the UTU contract. If, as expected, interest rates change throughout the remaining life of the UTU contract, AAR is directed to recalculate a new annuity payment schedule for each quarterly index submission based on the three-month Treasury Bill interest rates available seven days prior to the submission date of the quarterly index. For example, if interest rates are 8 percent on February 26, 1986 AAR must recalculate a new annuity payment schedule based on the 8 percent rate for the nine remaining quarters and a principal balance of \$438.23.¹

We find the RCAF for the first quarter of 1986 to be 1.069. This is an increase of 0.057 from the fourth quarter of 1985 and 0.011 above the highest previous RCAF of 1.058 for the third quarter of 1984. Additionally, a 0.001 reduction ordered in our decision served June 20, 1984 has been in effect since that time. We have considered the 0.001 reduction in calculating the maximum increase permitted under these provisions at this time. Since the maximum allowable increase is calculated by dividing the current RCAF by the highest prior RCAF we have divided 1.069 by 1.057 (the effective rate ceiling under these provisions) to produce a maximum increase of 1.1 percent. The first quarter 1986 RCAF provides for a maximum increase of 1.1 percent above the levels

¹ The \$438.23 amount was calculated as follows. We divided the three-month Treasury Bill interest rate of 7.42 percent by 4 (the number of quarters in a year) to arrive at a quarterly rate of 1.855 percent. AAR's estimate of the average payment to each UTU employee (\$482.60) was multiplied by the quarterly interest rate of 1.855 to produce a quarterly interest payment of \$8.95. The quarterly interest payment of \$8.95 was subtracted from the first quarter annuity payment of \$53.32 to produce a first quarter 1986 principal payment of \$44.37. This principal payment was subtracted from the beginning principal balance to produce an outstanding principal balance of \$438.23 at the end of the first quarter.

authorized in our decision served June 20, 1984.

The indices and the RCAF derived from AAR's first quarter calculations are shown in Table A (see Appendix). Table B (see Appendix) shows the third quarter 1985 index calculated on both an actual basis and a forecasted basis for comparative purposes.

This decision will not significantly affect the quality of the human environment or the conservation of energy resources. This proceeding will not have a significant adverse impact on a substantial number of small entities because these procedures simplify a formerly complex and burdensome rate increase procedure.

Authority: 49 U.S.C. 10321, 10707a, 5 U.S.C. 553.

Dated: December 20, 1985.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Taylor, Sterrett, Andre, Lamboley and Strenio. Commissioners Taylor and Strenio did not participate.

James H. Bayne,
Secretary.

Appendix

TABLE A.—EX PARTE 290 (SUB-NO. 2)

(All inclusive index of railroad input costs)

Line No. and index component	1984 weights (pct)	Fourth quarter 1985 forecast	First quarter 1986 forecast
1. Labor.....	50.5	139.0	150.4
2. Fuel.....	10.8	87.1	101.8
3. Materials and supplies.....	7.8	107.7	107.1
4. Equipment rents.....	9.4	151.8	151.5
5. Depreciation.....	7.4	116.0	116.5
6. Other items ¹	14.1	120.0	120.3
7. Weighted average.....	100.0	127.8	135.1
8. Linked index ²		122.3	129.3
9. Rail cost adjustment factor ³ (10/1/82=100).....		1.012	1.069

¹ Other items are a combination of Purchased Services, Casualties and Insurance, General and Administrative, Other Taxes and Loss and Damage, all of which are measured by the Producer Price Index for Industrial Commodities, less Fuel, Power and Related Products.

² Linking is necessitated by a change to 1984 weights beginning with the fourth quarter 1985. The following formula was used for the first quarter 1986 index:

$$\frac{1st\ Quarter\ 1986\ Index\ (1984\ Weights)}{4th\ Quarter\ 1985\ Index\ (1984\ Weights)} \times \frac{4th\ Quarter\ 1985\ Index\ (1985\ Index\ (Linked\ Index))}{122.3} = \text{Linked Index (1980 Weights to 1984 Weights)}$$

$$\frac{135.1}{127.8} \times 122.3 = 129.3$$

³ The denominator was rebased to an October 1, 1982 level in accordance with the requirements of the Staggers Rail Act of 1980.

TABLE B.—Ex PARTE 290 (SUB-NO. 2)
Comparison of Third Quarter 1985 Index

(Calculated on both a forecasted and an actual basis)

Line No. and index component	1983 weights (pct)	Third quarter 1985 forecast	Third quarter 1985 actual
1. Labor.....	50.4	144.9	144.9
2. Fuel.....	10.8	91.4	86.6
3. Materials and supplies.....	7.5	108.5	108.5
4. Equipment rents.....	9.6	151.7	151.8
5. Depreciation.....	7.7	117.4	116.2
6. Other items.....	14.0	119.8	119.5
7. Weighted average.....	100.0	131.4	130.8
8. Linked index.....		125.7	125.1
9. Rail cost adjustment factor.....		1.040	* 1.035

* For comparative purposes only, an RCAF for the third quarter 1985 has been calculated using actual data. The published RCAF for the third quarter 1985 was computed using forecasted data.

[FR Doc. 85-30616 Filed 12-27-85; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30663]

Chicago, Central & Pacific Railroad Company; Purchase (Portion), Trackage Rights, and Securities Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: Under 49 U.S.C. 10505, the Commission exempts from (1) 49 U.S.C. 10901, the acquisition by Chicago, Central & Pacific Railroad Company (CCP) of (a) a 679-mile line of the Illinois Central Gulf Railroad Company (ICG) between Chicago, IL and Omaha, NE, and (b) trackage rights over ICG from Hawthorne yard to Plaines Station and to Markham Yard and IMX Yard, in the Chicago, IL, switching district; and (2) 49 U.S.C. 11301, the issuance by CCP of not more than \$90 million in debt and equity securities.

DATES: The exemptions are effective on December 24, 1985. Petitions to reopen are due on January 13, 1986.

ADDRESSES: Send pleadings referring to Finance Docket No. 30663 to:

- (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
- (2) Petitioner's representative: Peter A. Gilbertson, Wiener, McCaffrey, Brodsky & Kaplan, P.C., 1350 New York Ave., NW., Suite 800, Washington, DC 20005-4797.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: December 20, 1985.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Taylor, Sterrett, Andre, Lamboley, and Strenio.

James H. Bayne,
Secretary.

[FR Doc. 85-30767 Filed 12-27-85; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of a Consent Decree Pursuant To the Clean Water Act; Corsicana, TX

In accordance with Department policy, 28 CFR 50.7c notice is hereby given that on December 18, 1985 a proposed Consent Decree in *United States v. City of Corsicana, et al.*, Civil Action No. 3-84-2193-D, was lodged with the United States District Court for the Northern District of Texas. The proposed decree concerns the discharge of pollutants from the City of Corsicana's wastewater treatment plant. The proposed decree requires the defendant to comply with the effluent limitations, and pretreatment and operation and maintenance requirements of its National Pollutant Discharge Elimination System permit upon lodging of the decree. In addition, the City will pay a civil penalty of \$20,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. City of Corsicana* D.J. Ref. 90-5-1-1-2271.

The proposed Consent Decree may be examined at the office of the United States Attorney, 16G28 U.S. Federal Building & Courthouse, 1100 Commerce

Street, Dallas, Texas 75242 and at the Region VI Office of the Environmental Protection Agency, 1201 Elm Street, Dallas Texas 75270. Copies of the proposed Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 85-30820 Filed 12-27-85; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Agreed Order Concerning Waste Management Pursuant to 1982 Consent Decree Under Resource Conservation and Recovery Act; Vertac Chemical Corp.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on December 9, 1985 a proposed Agreed Order Concerning Waste Management in *United States et al. v. Vertac Chemical Corporation, et al.*, Civil Action No. LR-C-80-109 (Consol.) was lodged with the United States District Court for the Eastern District of Arkansas. The United States in 1980 had filed a complaint against defendant Vertac alleging *inter alia* that hazardous waste handling, storage and disposal practices at its Jacksonville, Arkansas plant site had created an imminent and substantial endangerment to human health and the environment, and seeking relief under the Resource Conservation and Recovery Act, 42 U.S.C. 6973. The parties in 1982 agreed to a Consent Decree which mandated a comprehensive program to address conditions at the Vertac site. The Agreed Order implements the provisions of Paragraph XI of the 1982 Consent Decree, which required defendant Vertac to develop a waste management plan for disposition of certain containerized waste materials stored on its plant site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Agreed Order. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to *United States et al. v. Vertac Chemical Corporation, et al.*, D.J. Ref. 90-7-1-18.

The proposed Agreed Order may be examined at the Office of the United States Attorney, Courthouse and Federal Building, Little Rock, Arkansas and at the Region VI Office of the Environmental Protection Agency, InterFirst Two Building, 1201 Elm Street, Dallas, Texas 75270. Copies of the Agreed Order may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed Agreed Order may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of \$5.00 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 85-30821 Filed 12-27-85; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extension, or

reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202 523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue NW., Room N-1301, Washington, DC 20210. Comments should also be sent to the OMB reviewer, Nancy Wentzler, Telephone 202 395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, Washington, DC 20503.

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Revision

Employment and Training Administration

Job Order

205-0005

Recordkeeping

State or local governments

52 recordkeepers; 208 hours; 0 forms

The Job order is used to obtain basic job information to provide assistance to employers in need of workers and jobseekers in need of employment. The information describes job requirements and must be maintained for 1 year. ETA proposes to eliminate the Federally required Form ETA 514.

Extension

Employment Standards Administration
Notice of Final Payment of
Compensation Payments

1215-0024; LS-208

On occasion

Business or other for-profit
34,000 respondents; 8,500 hours; 1 form

This report is used by insurance carriers and self-insured employers to report the payment of benefits under the Act.

Employment Standards Administration
Request for Employment Information
1215-0105; CA-1027

Businesses or other for-profit; Small
businesses or organizations
1,000 responses; 250 hours; 1 form

The report is used to collect information regarding Federal employees' wage earning capacities. Information is necessary for determination of continued eligibility for compensation payments under the FECA.

Employment Standards Administration
Economics Survey Schedule
1215-0028, WH-1 and WH-1

Instructions

Biennially

State or local governments; Businesses
or other for-profit; Small businesses or
organizations
100 responses; 100 hours; 1 form

Form WH-1 is used by the Wage-Hour Division to prepare an economic report used by an industry committee to set industry wage rates in American Samoa.

Mine Safety and Health Administration
Rock Bolt Test Procedures and Rock
Bolt Anchorage Capacity Tests
1219-0086

On occasion

Businesses or other for-profit; small
businesses or organizations
450 respondents; 7,200 hours

Requires metal and nonmetal mine operators that use rock bolting to perform anchorage method tests and anchorage capacity tests. Records are required to be kept of the test results. The purpose of the records are to establish that tests have been made and that adequate anchorage is achieved.

Reinstatement

Occupational Safety and Health
Administration
Acrylonitrile

1218-0010; OSHA-250

On occasion, Monthly, Weekly,
Annually

Business or other for-profit
21 respondents; 9,302 hours; 0 forms

To provide protection for employee exposed to acrylonitrile.

Employers must monitor employee exposure, keep employee exposures within limits, and provide medical examination, training, and other information to employees.

Signed at Washington, DC, this 24th day of December 1985.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 85-30812 Filed 12-27-85; 8:45 am]

BILLING CODE 4510-27-M

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; A.B.S. Embroidery et al.

Petitions have been filed with the Secretary of Labor under section 221 (a)

of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the

Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 9, 1986.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 9, 1986.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213.

Signed at Washington, DC, this 16th day of December 1985.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
A.B.S. Embroidery (UTWA)	Cliffside Park, NJ	12/6/85	11/23/85	TA-W-16,762	Embroidered goods.
A. Joseph Schneider (UTWA)	Guttenberg, NJ	12/6/85	11/25/85	TA-W-16,763	Embroidered goods.
ACE Shiffli Emblem Co., Inc. (UTWA)	West New York, NJ	12/6/85	11/23/85	TA-W-16,764	Embroidered goods.
Admiration Embroidery Co./Nova Embroidery, Inc (UTWA)	Weehawken, NJ	12/6/85	11/23/85	TA-W-16,765	Embroidered goods.
Aids Lace & Embroidery Corp. (UTWA)	West New York, NJ	12/6/85	11/23/85	TA-W-16,766	Embroidered goods.
All American Emblem Corp. (UTWA)	Fairview, NJ	12/6/85	11/23/85	TA-W-16,767	Embroidered goods.
All Over Emb. Works, Inc. (UTWA)	North Bergen, NJ	12/6/85	11/23/85	TA-W-16,768	Embroidered goods.
Allied Embroidery Co. (UTWA)	Fairview, NJ	12/6/85	11/23/85	TA-W-16,769	Embroidered goods.
Ambassador Laces Embroidery Co. (UTWA)	Fairview, NJ	12/6/85	11/23/85	TA-W-16,770	Embroidered goods.
Ambassador Laces Emb. Co., Inc. (UTWA)	Union City, NJ	12/6/85	11/26/85	TA-W-16,771	Embroidered goods.
American Fabrics Co., Inc. (The) (UTWA)	Cliffside Park, NJ	12/6/85	11/23/85	TA-W-16,772	Embroidered goods.
American Thread & Scallop Cutting Co. (UTWA)	West New York, NJ	12/6/85	11/26/85	TA-W-16,773	Embroidered goods.
American Swiss Embroidery Co. (UTWA)	West New York, NJ	12/6/85	11/23/85	TA-W-16,774	Embroidered goods.
Am-Len Corp. (UTWA)	Guttenberg, NJ	12/6/85	11/23/85	TA-W-16,775	Embroidered goods.
Ann Del Embroidery Corp. (UTWA)	Cliffside Park, NJ	12/6/85	11/23/85	TA-W-16,776	Embroidered goods.
Ansonia Cutters, Inc. (UTWA)	Guttenberg, NJ	12/6/85	11/26/85	TA-W-16,777	Embroidered goods.
Arco Embroidery Inc. (UTWA)	Fairview, NJ	12/6/85	11/23/85	TA-W-16,778	Embroidered goods.
Arista Embroidery Co. (UTWA)	North Bergen, NJ	12/6/85	11/23/85	TA-W-16,779	Embroidered goods.
Aristocrat Embroidery (UTWA)	Guttenberg, NJ	12/6/85	11/23/85	TA-W-16,780	Embroidered goods.
Art Embroidery Corp (UTWA) (5 factories)	West New York, NJ	12/6/85	11/23/85	TA-W-16,781	Embroidered goods.
Artiste Laces (UTWA)	Guttenberg, NJ	12/6/85	11/23/85	TA-W-16,782	Embroidered goods.
Atlas Embroidery Work, Inc. (UTWA)	West New York, NJ	12/6/85	11/23/85	TA-W-16,783	Embroidered goods.
August Embroideries Inc. (UTWA)	Fairview, NJ	12/6/85	11/23/85	TA-W-16,784	Embroidered goods.
AZTEC Embroidery Co. (UTWA)	Fairview, NJ	12/6/85	11/23/85	TA-W-16,785	Embroidered goods.
B & D Embroidery Corp. (UTWA)	West New York, NJ	12/6/85	11/23/85	TA-W-16,786	Embroidered goods.
B.J. Novelties (UTWA)	North Bergen, NJ	12/6/85	11/23/85	TA-W-16,787	Embroidered goods.
Barbara Embroidery Co. (UTWA)	North Bergen, NJ	12/6/85	11/23/85	TA-W-16,788	Embroidered goods.
Barila Embroidery Co. (UTWA)	Fairview, NJ	12/6/85	11/23/85	TA-W-16,789	Embroidered goods.
Beau Emblem Corp. (UTWA)	North Bergen, NJ (2 shops)	12/6/85	11/23/85	TA-W-16,790	Embroidered goods
Beleve Thread & Scallop Cutting (UTWA)	Guttenberg, NJ	12/6/85	11/26/85	TA-W-16,791	Embroidered goods.
Berger Brothers Embroidery (UTWA)	West New York, NJ	11/6/85	12/23/85	TA-W-16,792	Embroidered goods.
Borden Thread & Scallop Cutting Corp. (UTWA)	West New York, NJ	12/6/85	11/26/85	TA-W-16,793	Embroidered goods.
Briamonte Embroidery Co. (UTWA)	Fairview, NJ	12/6/85	11/23/85	TA-W-16,794	Embroidered goods.
Broadway Thread & Scallop Cutting Inc. (UTWA)	Guttenberg, NJ	12/6/85	11/26/85	TA-W-16,795	Embroidered goods.
Brunner Bros. Embroidery Co. (UTWA)	Moonachie, NJ	12/6/85	11/23/85	TA-W-16,796	Embroidered goods.
Celta, Embroidery Co., Inc. (UTWA)	Union City, NJ	12/6/85	11/23/85	TA-W-16,797	Embroidered goods.
Castle Scallop Cutting Co., INC. (UTWA)	Fairview, NJ	12/6/85	11/26/85	TA-W-16,798	Embroidered goods.
Celway Corp. (UTWA)	Union City, NJ	12/6/85	11/23/85	TA-W-16,799	Embroidered goods.
Century Embroidery Co. (UTWA)	West New York, NJ	12/6/85	11/23/85	TA-W-16,800	Embroidered goods.
Charles Grunberg & Sons (UTWA)	Guttenberg, NJ	12/6/85	11/25/85	TA-W-16,801	Embroidered goods.
Cliffside Thread & Scallop (UTWA)	Fairview, NJ	12/6/85	11/26/85	TA-W-16,802	Embroidered goods.
Colby Embroidery Co. (UTWA)	West New York, NJ	12/6/85	11/23/85	TA-W-16,803	Embroidered goods.
Columbia Embroidery Works, Inc. (UTWA)	Union City, NJ	12/6/85	11/23/85	TA-W-16,804	Embroidered goods.
Complete Thread and Scallop (UTWA)	Fairview, NJ	12/6/85	11/26/85	TA-W-16,805	Embroidered goods.
Culver Textile Corp. (UTWA)	West New York, NJ	12/6/85	11/26/85	TA-W-16,806	Embroidered goods.
D. Haemmerle & Sons Inc. (UTWA)	West New York, NJ	12/6/85	11/25/85	TA-W-16,807	Embroidered goods.
D.F.S. Embroidery Corp. (UTWA)	Guttenberg, NJ	12/6/85	11/23/85	TA-W-16,808	Embroidered goods.
Dako Lace Corp. (UTWA)	Guttenberg, NJ	12/6/85	11/23/85	TA-W-16,809	Embroidered goods.
Danielle Embroidery Corp. (UTWA)	Jersey City, NJ	12/6/85	11/23/85	TA-W-16,810	Embroidered goods.
De Martin Embroidery Co. (UTWA)	West New York, NJ	12/6/85	11/23/85	TA-W-16,811	Embroidered goods.
Diamant Embroidery Co. (UTWA)	West New York, NJ	12/6/85	11/23/85	TA-W-16,812	Embroidered goods.
Distinctive Embroidery Co. (UTWA)	Guttenberg, NJ	12/6/85	11/23/85	TA-W-16,813	Embroidered goods.

APPENDIX—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Doerig Embroidery Co. (UTWA)	Fairview, NJ	12/6/85	11/23/85	TA-W-16,814	Embroidered goods.
Dom's Embroidery (UTWA)	Fairview, NJ	12/6/85	11/23/85	TA-W-16,815	Embroidered goods.
Don Rite Embroidery Co. (UTWA)	Fairview, NJ	12/6/85	11/25/85	TA-W-16,816	Embroidered goods.
Eastern Thread & Scallop Co., Inc. (UTWA)	North Bergen, NJ	12/6/85	11/26/85	TA-W-16,817	Embroidered goods.
Embassy Embroidery Corp. (UTWA)	North Bergen, NJ	12/6/85	11/25/85	TA-W-16,818	Embroidered goods.
Empact Div. of Artistic Ident. Systems (UTWA)	Guttenberg, NJ	12/6/85	11/25/85	TA-W-16,819	Embroidered goods.
Empact II Div. of Artistic Ident. Systems (UTWA)	Union City, NJ	12/6/85	11/25/85	TA-W-16,820	Embroidered goods.
Ess-Ell Embroidery Corp. (UTWA)	West New York, NJ	12/6/85	11/25/85	TA-W-16,821	Embroidered goods.
Eureka Cutting Service (UTWA)	North Bergen, NJ	12/6/85	11/26/85	TA-W-16,822	Embroidered goods.
Everready Embroidery Inc. (UTWA)	Jersey City, NJ	12/6/85	11/5/85	TA-W-16,823	Embroidered goods.
Excellent Thread & Scallop Cutting Corp. (UTWA)	Cliffside Park, NJ	12/6/85	11/26/85	TA-W-16,824	Embroidered goods.
Exclusive Embroidery Frame Work Co., Inc. (UTWA)	Union City, NJ	12/6/85	11/25/85	TA-W-16,825	Embroidered goods.
Eyelet Embroidery (UTWA)	Edgewater, NJ	12/6/85	11/25/85	TA-W-16,826	Embroidered goods.
Famax Embroidery (UTWA)	Guttenberg, NJ	12/6/85	11/25/85	TA-W-16,827	Embroidered goods.
Ferguson Embroidery Co. (UTWA)	Union City, NJ	12/6/85	11/25/85	TA-W-16,828	Embroidered goods.
Flair Embroidery (UTWA)	North Bergen, NJ	12/6/85	11/25/85	TA-W-16,829	Embroidered goods.
Forest Emblem Corp. (UTWA)	North Bergen, NJ	12/6/85	11/25/85	TA-W-16,830	Embroidered goods.
Frank Gaetano Cutting Co. (UTWA)	Fairview, NJ	12/6/85	11/26/85	TA-W-16,831	Embroidered goods.
Frank-Lin Embroidery Co., Inc. (UTWA)	Fairview, NJ	12/6/85	11/25/85	TA-W-16,832	Embroidered goods.
Fret & Co., Inc. (UTWA)	Union City, NJ	12/6/85	11/25/85	TA-W-16,833	Embroidered goods.
Garrett Embroidery (UTWA)	Fairview, NJ	12/6/85	11/25/85	TA-W-16,834	Embroidered goods.
Gehrig Embroideries (UTWA)	Union City, NJ	12-6-85	11-25-85	TA-W-16,835	Embroidered goods.
Gallender Embroidery, Co. (UTWA)	Union City, NJ	12-6-85	11-25-85	TA-W-16,836	Embroidered goods.
Geoffrey Embroidery, Corp. (UTWA)	Fairview, NJ	12-6-85	11-25-85	TA-W-16,837	Embroidered goods.
Gina Emb. Workers, Inc. (UTWA)	Fairview, NJ	12-6-85	11-25-85	TA-W-16,838	Embroidered goods.
Gold Star Emb. Corp. (UTWA)	West New York, NJ	12-6-85	11-25-85	TA-W-16,839	Embroidered goods.
Gonyou Embroidery (UTWA)	Union City, NJ	12-6-85	11-25-85	TA-W-16,840	Embroidered goods.
Great Lace & Emb. Co.	Fairview, NJ	12-6-85	11-25-85	TA-W-16,841	Embroidered goods.
Grove Embroidery, Co. Inc. (UTWA)	West New York, NJ	12-6-85	11-25-85	TA-W-16,842	Embroidered goods.
Guttenberg Embroidery (UTWA)	Guttenberg, NJ	12-6-85	11-25-85	TA-W-16,843	Embroidered goods.
H&G Thread & Scallop Cutting Co. Inc. (UTWA)	Fairview, NJ	12-6-85	11-26-85	TA-W-16,844	Embroidered goods.
H.M. Frank Emb. Co. (UTWA)	Fairview, NJ	12-6-85	11-25-85	TA-W-16,845	Embroidered goods.
Halle Cutting Co. (UTWA)	West New York, NJ	12-6-85	11-26-85	TA-W-16,846	Embroidered goods.
Hafler Embroidery, Inc. (UTWA)	Union City, NJ	12-6-85	11-25-85	TA-W-16,847	Embroidered goods.
Hamilton Embroidery, Inc. (UTWA)	Union City, NJ	12-6-85	11-25-85	TA-W-16,848	Embroidered goods.
Hampshire Embroidery, Corp. (UTWA)	West New York, NJ	12-6-85	11-25-85	TA-W-16,849	Embroidered goods.
Harry Gutschmidt & Co. (UTWA)	West New York, NJ	12-6-85	11-25-85	TA-W-16,850	Embroidered goods.
Herman Ott Emb. Corp. (UTWA)	Fairview, NJ	12-6-85	11-25-85	TA-W-16,851	Embroidered goods.
Herman Stern & Son, Corp. (UTWA)	West New York, NJ	12-6-85	11-25-85	TA-W-16,852	Embroidered goods.
Horizon Emb. (UTWA)	Fairview, NJ	12-6-85	11-25-85	TA-W-16,853	Embroidered goods.
Huber Embroidery Works (UTWA)	Fairview, NJ	12-6-85	11-25-85	TA-W-16,854	Embroidered goods.
Huff Embroidery (UTWA)	Union City, NJ	12-6-85	11-25-85	TA-W-16,855	Embroidered goods.
I&F Cutting Co. (UTWA)	West New York, NJ	12-6-85	11-26-85	TA-W-16,856	Embroidered goods.
I.S. Emb., Inc. (UTWA)	Fairview, NJ	12-6-85	11-25-85	TA-W-16,857	Embroidered goods.
Ima Embroidery, Inc. (UTWA)	Guttenberg, NJ	12-6-85	11-25-85	TA-W-16,858	Embroidered goods.
Immaculate Emb. Inc. (UTWA)	Guttenberg, NJ	12-6-85	11-25-85	TA-W-16,859	Embroidered goods.
Imperial Emb. Co. (UTWA)	Union City, NJ	12-6-85	11-25-85	TA-W-16,860	Embroidered goods.
J&H Embroidery (UTWA)	West New York, NJ	12-6-85	11-25-85	TA-W-16,861	Embroidered goods.
J. Schwarzwald & Sons Inc. (UTWA)	West New York, NJ	12-6-85	11-25-85	TA-W-16,862	Embroidered goods.
J.C. Emb. Co. (UTWA)	Fairview, NJ	12-6-85	11-25-85	TA-W-16,863	Embroidered goods.
J.O.S. Embroidery (UTWA)	Guttenberg, NJ	12-6-85	11-25-85	TA-W-16,864	Embroidered goods.
Jacney Emb. Inc. (UTWA)	West New York, NJ	12-6-85	11-25-85	TA-W-16,865	Embroidered goods.
Joan Emb. Co. (UTWA)	West New York, NJ	12-6-85	11-25-85	TA-W-16,866	Embroidered goods.
Jobro Lace & Emb. (UTWA)	Weehawken, NJ	12-6-85	11-25-85	TA-W-16,867	Embroidered goods.
Joel & Aronoff Inc. (UTWA)	Ridgefield, NJ	12-6-85	11-26-85	TA-W-16,868	Embroidered goods.
John Charles Emb. (UTWA)	Carlstadt, NJ	12-6-85	11-23-85	TA-W-16,869	Embroidered goods.
Jolie Embroidery Corp. (UTWA)	West New York, NJ	12-6-85	11-25-85	TA-W-16,870	Embroidered goods.
Jonic Embroidery, Corp. (UTWA)	North Bergen, NJ	12-6-85	11-25-85	TA-W-16,871	Embroidered goods.
Joseph E. Barnert Emb. Co. (UTWA)	Guttenberg, NJ	12-6-85	11-23-85	TA-W-16,872	Embroidered goods.
Joseph Rutz Emb. Corp. (UTWA)	Guttenberg, NJ	12-6-85	11-25-85	TA-W-16,873	Embroidered goods.
Joseph Shalhoub & Sons Inc. (UTWA)	West New York, NJ	12-6-85	11-25-85	TA-W-16,874	Embroidered goods.
Joseph Solar & Sons Inc. (UTWA)	West New York, NJ	12-6-85	11-26-85	TA-W-16,875	Embroidered goods.
Jubilee Emb. Corp. (UTWA)	Woodridge, NJ	12-6-85	11-25-85	TA-W-16,876	Embroidered goods.
June Embroidery Corp. (UTWA)	Union City, NJ	12-6-85	11-25-85	TA-W-16,877	Embroidered goods.
K.R. Embroidery (UTWA)	West New York, NJ	12-6-85	11-25-85	TA-W-16,878	Embroidered goods.
Koepfel Embroidery (UTWA)	West New York, NJ	12-6-85	11-25-85	TA-W-16,879	Embroidered goods.
L&R Emb. Co. Inc. (UTWA)	West New York, NJ	12-6-85	11-25-85	TA-W-16,880	Embroidered goods.
Lace & Other Things Inc. (UTWA)	Union City, NJ	12-6-85	11-25-85	TA-W-16,881	Embroidered goods.
Lanor Emb. Co. (UTWA)	North Bergen, NJ	12-6-85	11-25-85	TA-W-16,882	Embroidered goods.
Laurie Lace Corp. (UTWA)	West New York, NJ	12-6-85	11-25-85	TA-W-16,883	Embroidered goods.
Linmark Schiffler Emb.'s (UTWA)	Edgewater, NJ	12-6-85	11-25-85	TA-W-16,884	Embroidered goods.
London Yarn (UTWA)	West New York, NJ	12-6-85	11-26-85	TA-W-16,885	Embroidered goods.
Lorina Emb. (UTWA)	Guttenberg, NJ	12-6-85	11-23-85	TA-W-16,886	Embroidered goods.
Louis Felsen, Inc. (UTWA)	West New York, NJ	12-6-85	11-25-85	TA-W-16,887	Embroidered goods.
Lucky Novelty Corp. (UTWA)	West New York, NJ	12-6-85	11-23-85	TA-W-16,888	Embroidered goods.
Lucky Schiffler Fashions Inc. (UTWA)	West New York, NJ	12-6-85	11-25-85	TA-W-16,889	Embroidered goods.
M&J Emb. Co. Inc. (UTWA)	West New York, NJ	12-6-85	11-25-85	TA-W-16,890	Embroidered goods.
M&V Embroidery (UTWA)	Union City, NJ	12-6-85	11-25-85	TA-W-16,891	Embroidered goods.
Mahadeen Bros., Inc. (UTWA)	Jersey City, NJ	12-6-85	11-25-85	TA-W-16,892	Embroidered goods.
Majestic Emb. Co. (UTWA)	West New York, NJ	12-6-85	11-25-85	TA-W-16,893	Embroidered goods.
Mario DeLuca Emb. (UTWA)	Union City, NJ	12-6-85	11-23-85	TA-W-16,894	Embroidered goods.
Mark Emb. Co. (UTWA)	Fairview, NJ	12-6-85	11-25-85	TA-W-16,895	Embroidered goods.
Mark Roberts Emb. (UTWA)	North Bergen, NJ	12-6-85	11-25-85	TA-W-16,896	Embroidered goods.
Marlene Embroidery Inc. (UTWA)	West New York, NJ	12-6-85	11-25-85	TA-W-16,897	Embroidered goods.
Matthew Embroidery Corp. (UTWA)	Fairview, NJ	12-6-85	11-25-85	TA-W-16,898	Embroidered goods.
Maurice Ludmer & Co. Inc. (UTWA)	Fairview, NJ	12-6-85	11-25-85	TA-W-16,899	Embroidered goods.
Metropolitan Emb. Co. (UTWA)	North Bergen, NJ	12-6-85	11-25-85	TA-W-16,900	Embroidered goods.
Milaine Embroidery Co. (UTWA)	Fairview, NJ	12-6-85	11-25-85	TA-W-16,901	Embroidered goods.
Modern Thread & Scallop & Lace Cutting Co. (UTWA)	West New York, NJ	12-6-85	11-26-85	TA-W-16,902	Embroidered goods.
Mohawk Emb. Inc. (UTWA)	Fairview, NJ	12-6-85	11-25-85	TA-W-16,903	Embroidered goods.
Morris Dolkart Emb. Co. (UTWA)	Fairview, NJ	12-6-85	11-23-85	TA-W-16,904	Embroidered goods.

APPENDIX—Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Naglieri Emb. Corp. (UTWA)	North Bergen, NJ	12/6/85	11/25/85	TA-W-16,905	Embroidered goods.
National Embroidery Co. (UTWA)	Guttenberg, NJ	12/6/85	11/25/85	TA-W-16,906	Embroidered goods.
Navajo Embroidery Corp. (UTWA)	Fairview, NJ	12/6/85	11/25/85	TA-W-16,907	Embroidered goods.
Neil Embroidery Corp. (UTWA)	Cliffside Park, NJ	12/6/85	11/25/85	TA-W-16,908	Embroidered goods.
Nu Art Cutting Co. (UTWA)	Guttenberg, NJ	12/6/85	11/26/85	TA-W-16,909	Embroidered goods.
P&A Embroidery Co. (UTWA)	West New York, NJ	12/6/85	11/25/85	TA-W-16,910	Embroidered goods.
Paris Schiffl Fashions Corp. (UTWA)	Fairview, NJ	12/6/85	11/25/85	TA-W-16,911	Embroidered goods.
Paula Embroidery Co. (UTWA)	West New York, NJ	12/6/85	11/25/85	TA-W-16,912	Embroidered goods.
Philette Embroidery Corp. (UTWA)	Fairview, NJ	12/6/85	11/25/85	TA-W-16,913	Embroidered goods.
Prince Fairview Embroideries (UTWA)	Fairview, NJ	12/6/85	11/25/85	TA-W-16,914	Embroidered goods.
R&P Embroidery Co., Inc. (UTWA)	West New York, NJ	12/6/85	11/25/85	TA-W-16,915	Embroidered goods.
Rayo Embroidery Corp. (UTWA)	West New York, NJ	12/6/85	11/25/85	TA-W-16,916	Embroidered goods.
Ranaudo Embroidery Co., Inc. (UTWA)	West New York, NJ	12/6/85	11/25/85	TA-W-16,917	Embroidered goods.
Ro-Nat Embroidery Corp. (UTWA)	West New York, NJ	12/6/85	11/25/85	TA-W-16,918	Embroidered goods.
Rose Ann Embroidery Corp. (UTWA)	Fairview, NJ	12/6/85	11/25/85	TA-W-16,919	Embroidered goods.
Royal Thread & Scallop Cutting Co., Inc. (UTWA)	West New York, NJ	12/6/85	11/26/85	TA-W-16,920	Embroidered goods.
Riviera Embroidery Corp. (UTWA)	West New York, NJ	12/6/85	11/25/85	TA-W-16,921	Embroidered goods.
Rob E. Embroidery Corp. (UTWA)	Guttenberg, NJ	12/6/85	11/25/85	TA-W-16,922	Embroidered goods.
Robert Koch Inc. (UTWA)	Fairview, NJ	12/6/85	11/25/85	TA-W-16,923	Embroidered goods.
Robinson Anton Textile (UTWA)	Fairview, NJ	12/6/85	11/26/85	TA-W-16,924	Embroidered goods.
Roblyn Embroidery, Inc. (UTWA)	Cliffside Park, NJ	12/6/85	11/25/85	TA-W-16,925	Embroidered goods.
S.G. Embroidery Corp. (UTWA)	Fairview, NJ	12/6/85	11/25/85	TA-W-16,926	Embroidered goods.
S. Zinick Inc. (UTWA)	West New York, NJ	12/6/85	11/25/85	TA-W-16,927	Embroidered goods.
Schiffli Arts Corp. (UTWA)	North Bergen, NJ	12/6/85	11/25/85	TA-W-16,928	Embroidered goods.
Sequins International Corp. (UTWA)	Englewood, NJ	12/6/85	11/25/85	TA-W-16,929	Embroidered goods.
Sheffield Emb. Corp. (UTWA)	West New York, NJ	12/6/85	11/25/85	TA-W-16,930	Embroidered goods.
Silver Star Co. (UTWA)	Guttenberg, NJ	12/6/85	11/25/85	TA-W-16,931	Embroidered goods.
Simeron Textile, Inc. (UTWA)	West New York, NJ	12/6/85	11/25/85	TA-W-16,932	Embroidered goods.
Skill Craft Cutting Co. (UTWA)	North Bergen, NJ	12/6/85	11/26/85	TA-W-16,933	Embroidered goods.
Stein-Tobler Emb. (UTWA)	Union City, NJ	12/6/85	11/25/85	TA-W-16,934	Embroidered goods.
Stitch-O-Matic Inc. (UTWA)	Guttenberg, NJ	12/6/85	11/25/85	TA-W-16,935	Embroidered goods.
Stucki Embroidery Inc. (UTWA)	Fairview, NJ	12/6/85	11/25/85	TA-W-16,936	Embroidered goods.
Superior Thread & Scallop Cutting Co., Inc. (UTWA)	Guttenberg, NJ	12/6/85	11/26/85	TA-W-16,937	Embroidered goods.
Supreme Emb. (UTWA)	North Bergen, NJ	12/6/85	11/25/85	TA-W-16,938	Embroidered goods.
Swisscraft Novelty, Inc. (UTWA)	Fairview, NJ	12/6/85	11/25/85	TA-W-16,939	Embroidered goods.
Swissloom Emb. Works (UTWA)	West New York, NJ	12/6/85	11/25/85	TA-W-16,940	Embroidered goods.
T&R Embroidery Corp. (UTWA)	Guttenberg, NJ	12/6/85	11/25/85	TA-W-16,941	Embroidered goods.
Treadway Embroidery Inc. (UTWA)	Fort Lee, NJ	12/6/85	11/25/85	TA-W-16,942	Embroidered goods.
Tiger Emb. Works, Inc. (UTWA)	West New York, NJ	12/6/85	11/25/85	TA-W-16,943	Embroidered goods.
Tom & Cris Emb. Inc. (UTWA)	Guttenberg, NJ	12/6/85	11/25/85	TA-W-16,944	Embroidered goods.
Tonly Emb. Inc. (UTWA)	West New York, NJ	12/6/85	11/25/85	TA-W-16,945	Embroidered goods.
Top Stitch Emb. Corp. (UTWA)	Cliffside Park, NJ	12/6/85	11/25/85	TA-W-16,946	Embroidered goods.
Union City Emb. Co., Inc. (UTWA)	North Bergen, NJ	12/6/85	11/25/85	TA-W-16,947	Embroidered goods.
United Embroidery Inc. (UTWA)	North Bergen, NJ	12/6/85	11/25/85	TA-W-16,948	Embroidered goods.
United Embroidery Inc. (UTWA) (Cutting Div.)	North Bergen, NJ	12/6/85	11/26/85	TA-W-16,949	Embroidered goods.
United States Schiffli Corp. (UTWA)	Fairview, NJ	12/6/85	11/25/85	TA-W-16,950	Embroidered goods.
V&J Embroidery Corp. (UTWA)	West New York, NJ	12/6/85	11/25/85	TA-W-16,951	Embroidered goods.
Valor Company (UTWA)	Guttenberg, NJ	12/6/85	11/26/85	TA-W-16,952	Embroidered goods.
Vincent Emb. Co., Inc. (UTWA)	West New York, NJ	12/6/85	11/25/85	TA-W-16,953	Embroidered goods.
Vogue Cutting (UTWA)	West New York, NJ	12/6/85	11/26/85	TA-W-16,954	Embroidered goods.
Volteax Schiffli Corp. (UTWA)	West New York, NJ	12/6/85	11/25/85	TA-W-16,955	Embroidered goods.
W.R. Cutting Works (UTWA)	Union City, NJ	12/6/85	11/26/85	TA-W-16,956	Embroidered goods.
Walker Eight Corp. T/A Universal Thread & Scallop Cutting (UTWA)	North Bergen, NJ	12/6/85	11/26/85	TA-W-16,957	Embroidered goods.
Wartsky Embroidery Co. (UTWA)	West New York, NJ	12/6/85	11/25/85	TA-W-16,958	Embroidered goods.
Washington Embroidery Co. (UTWA)	West New York, NJ	12/6/85	11/25/85	TA-W-16,959	Embroidered goods.
Windsor Coverlet Co. (UTWA)	West New York, NJ	12/6/85	11/25/85	TA-W-16,960	Embroidered goods.
Zandonella Bros., Inc. (UTWA)	Guttenberg, NJ	12/6/85	11/25/85	TA-W-16,961	Embroidered goods.
Zembrow Embroidery Co. (UTWA)	West New York, NJ	12/6/85	11/25/85	TA-W-16,962	Embroidered goods.

[FR Doc. 85-30823 Filed 12-27-85; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-16,003]

**Wilson-Jones Co., Elizabeth, NJ;
Revised Determination**

On its own motion, the Department reopened an investigation on the basis of additional information provided by counsel and the company on behalf of former workers at Wilson-Jones Company, Elizabeth, New Jersey. The Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance was published in the Federal Register on September 18, 1985 (50 FR 37921).

According to the additional information, the worker group producing expanding wallets, envelopes and files—commonly referred to as "Cooke & Cobb" items—is separately identifiable. These workers were laid off on March 31, 1985 when production ceased. The "Cooke & Cobb" items were contracted to another firm and produced at a plant in Nogales, Mexico. The contract provides for specific controls—review, inspection and audit—by Wilson-Jones on the articles produced in Mexico. Further, raw materials are supplied by Wilson-Jones to the Mexican plant and all the finished articles are imported by Wilson-Jones. In April, 1985 the first shipment of Cooke & Cobb items was imported from Mexico where Wilson-Jones marketed

the articles for final sale to its customers.

Conclusion

After careful review of the facts obtained on reopening the investigation, it is concluded that increased imports of articles like or directly competitive with expanding wallets, envelopes and files produced at the Wilson-Jones Company of Elizabeth, New Jersey contributed importantly to the decline in production and to the total or partial separation of former workers at Wilson-Jones Company, Elizabeth, New Jersey. In accordance with the provisions of the Trade Act of 1974, I make the following revised determination:

All workers of the Elizabeth, New Jersey plant of Wilson-Jones Company who were

engaged in employment related to the production of expanding wallets, envelopes and files who became totally or partially separated from employment on or after February 1, 1985 and before May 1, 1985 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 17th day of December 1985.

Robert A. Schaerfl,

Director, Office of Program Management, UIS
[FR Doc. 85-30824 Filed 12-27-85; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

Summary of Decisions Granting in Whole or in Part Petitions for Modification; Utah International, Inc., et al.

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice of affirmative decisions issued by the Administrators for Coal Mine Safety and Health and Metal and Nonmetal Mine Safety and Health on petitions for modification of the application of mandatory safety standards.

SUMMARY: Under section 101(c) of the Federal Mine Safety and Health Act of 1977, the Secretary of Labor may modify the application of a mandatory safety standard to a mine if the Secretary determines either or both of the following: That an alternate method exists at the petitioner's mine that will guarantee no less protection for the miners affected than that provided by the standard, or that the application of the standard to the petitioner's mine will result in a diminution of safety to the affected miners.

Summaries of petitions received by the Secretary appear periodically in the **Federal Register**. Final decisions on these petitions are based upon the petitioner's statement, comments and information submitted by interested persons and a field investigation of the conditions at the petitioner's mine. The Secretary has granted or partially granted the requests for modification submitted by the petitioners listed below. In some instances the decisions are conditioned upon the petitioner's compliance with stipulations stated in the decision.

FOR FURTHER INFORMATION CONTACT: The petitions and copies of the final decisions are available for examination

by the public in the Office of Standards, Regulations and Variances, MSHA, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203.

Dated: December 17, 1985.

Patricia W. Silvey,

Director Office of Standards, Regulations and Variances.

AFFIRMATIVE DECISIONS ON PETITIONS FOR MODIFICATION

Docket No.	FR Notice	Petitioner	Regulations affected	Summary of findings
M-81-65-M	47 FR 2427.....	Utah International, Inc.	30 CFR 56.9022.....	Petitioner's proposal to fence the area surrounding the pond and restrict access to the embankment and dike roadways by means of a locked gate with specific conditions as outlined in the petition considered acceptable alternate method. Granted with conditions.
M-83-22-M	48 FR 48878.....	Latrobe Construction Co.	30 CFR 57.4053.....	Petitioner's proposal to use propane gas underground as the source of power for portable light plants installed on pickup trucks considered acceptable alternate method. Granted with conditions.
M-83-40-M	49 FR 15157.....	Franklin Consolidated Mines, Inc.	30 CFR 57.4043.....	Use of a sprinkler-type fire suppression device in the hoist building and installation of a fire hydrant and suitable fire hoses considered acceptable alternate method. Granted with conditions.
M-84-29-M	50 FR 7149.....	Texasgulf, Inc.....	30 CFR 55.9022.....	Use of a berms or guards on the elevated roadways of the mine's dikes would result in a diminution of safety. Granted with conditions.
M-85-4-M	50 FR 27074.....	Texasgulf Chemicals Co.	30 CFR 57.21046.....	Petitioner's proposal to make cross-cuts at intervals not in excess of 250 ft between entries and between rooms considered acceptable alternate method. Granted with conditions.
M-84-49-C	49 FR 13767.....	Sewell Coal Co.....	30 CFR 75.1103-4(a).....	Installation of an early-warning fire detection system using low-level carbon monoxide monitoring devices in all belt entries used as intake air courses considered acceptable alternate method. Granted with conditions.
M-84-84-97-C	49 FR 22577.....	Olga Coal Co.....	30 CFR 75.305.....	Petitioner's proposal to establish an air measurement station where the quantity, quality, and the direction of the air current will be measured by a certified person on a daily basis considered acceptable alternate method. Granted with conditions.
M-84-104-C	49 FR 21130.....	Bartley & Bartley Coal Co.	30 CFR 75.1710.....	Use of cabs or canopies in specified low mining heights would result in a diminution of safety. Granted in part.
M-84-172-C	49 FR 31178.....	Keystone Coal Mining Corp.	30 CFR 73.326.....	Use of belt air to ventilate the working faces and installation of low-level carbon monoxide devices in belt entries used as intake air courses considered acceptable alternate method. Granted with conditions.
M-84-173-C	49 FR 31179.....	Kitt Energy Corp.....	30 CFR 75.326.....	Use of belt air to ventilate the working faces and installation of low-level carbon monoxide devices in belt entries used as intake air courses considered acceptable alternate method. Granted with conditions.
M-84-198-C	49 FR 44332.....	H & T Coal Co.....	30 CFR 75.301.....	Proposed airflow reduction, which would maintain a safe and healthful atmosphere, considered acceptable alternate. Granted with conditions.
M-84-203-C	49 FR 40495.....	Bethlehem Mines Corp.	30 CFR 75.1700.....	Petitioner's proposal to plug and mine through abandoned oil and gas wells considered acceptable alternate method to leaving coal barriers around the wells. Granted with conditions.
M-84-204-C	49 FR 40497.....	Consol Pennsylvania Coal Co.	30 CFR 75.1103-4(a).....	Installation of an early-warning fire detection system using low-level carbon monoxide monitoring devices in all belt entries used as intake air courses considered acceptable alternate method. Granted with conditions.

AFFIRMATIVE DECISIONS ON PETITIONS FOR MODIFICATION—Continued

[Docket No. M-85-159-C]

Docket No.	FR Notice	Petitioner	Regulations affected	Summary of findings
M-84-205-C	49 FR 40497	do	30 CFR 75.326	Use of air in the belt entry to ventilate active working places and planned longwall panels considered acceptable alternate method. Granted with conditions.
M-84-208-C	50 FR 574	Omega Mining Co., Inc.	30 CFR 75.319	Petitioner's proposal that each producing section be on a separate split of intake air considered acceptable alternate method. Granted with conditions.
M-84-219-C	50 FR 572	Jim Walter Resources, Inc.	30 CFR 75.326	Petitioner's proposal to install haulage tracks in the same entries with the belts and to isolate the belt entries from other intake and return entries with the use of permanent-type stoppings considered acceptable alternate method. Granted with conditions.
M-84-220-C	49 FR 40507	Westmoreland Coal Co.	30 CFR 75.326	Use of belt air to ventilate the working faces and installation of low-level carbon monoxide devices in belt entries used as intake air courses considered acceptable alternate method. Granted with conditions.
M-84-221-C	49 FR 40507	do	30 CFR 75.1103-4(a)	Installation of an early-warning fire detection system using low-level carbon monoxide monitoring devices in all belt entries used as intake air courses considered acceptable alternate method. Granted with conditions.
M-84-222-C	49 FR 40507	do	30 CFR 75.1105	Use of air currents which are used to ventilate transformers, permanent pumps, and rectifiers to ventilate active working places and installation of a low-level carbon monoxide detection system in all belt entries used as intake air courses considered acceptable alternate method. Granted with conditions.
M-84-240-C	50 FR 574	Paramont Coal Co.	30 CFR 77.214(a)	The construction of a mine seal that will allow placement of refuse over the mine portals and prevent the contact of refuse with any exposed coal seam considered acceptable alternate method. Granted with conditions.
M-84-260-C	50 FR 7149	Westmoreland Coal Co.	30 CFR 77.214(a)	Petitioner's proposal to seal and backfill abandoned mine openings prior to use as refuse piles considered acceptable alternate method. Granted with conditions.
M-84-262-C	50 FR 7148	Peabody Coal Co.	30 CFR 75.503	Use of a metal spring-loaded locking device in lieu of a padlock for the purpose of locking battery plugs to machine-mounted battery receptacles on permissible, mobile, battery-powered machines considered acceptable alternate method. Granted with conditions.
M-85-6-C	50 FR 13891	Nowacki Coal Co.	30 CFR 75.301	Proposed airflow reduction in petitioner's mine which would maintain a safe and healthful atmosphere considered acceptable alternate method. Granted with conditions.
M-85-8-C	50 FR 13892	Pickhands Mather & Co.	30 CFR 75.503	Use of a metal locking device in lieu of a padlock for the purpose of locking battery plugs to machine-mounted battery receptacles on permissible, mobile, battery-powered machines considered acceptable alternate method. Granted with conditions.
M-85-10-C	50 FR 13887	Barnes & Tucker Co.	30 CFR 75.1100-3	Petitioner's proposal to use a dry waterline with an automatic actuating valve along the slope belt during the winter months considered acceptable alternate method. Granted with conditions.

Badger Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Badger Coal Company, 145 Sago Road, Buckhannon, West Virginia 26201 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its Grand Badger No. 1 Mine (I.D. No. 04819) located in Upshur County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that belt haulage air not be used to ventilate active working places.

2. As an alternate method, petitioner proposes to use belt haulage air to ventilate the active workings.

3. In support of this request petitioner states that:

a. An automatic fire detection system will be installed on the underground belt conveyors. Sensors will be capable of giving an early warning when a fire occurs in the belt entry. Visual and audible warning signals will be activated when the carbon monoxide concentration reaches 10 parts per million (ppm) above ambient. The fire detection system will be activated at an attended surface location where there is two-way communication. The fire detection system will be capable of identifying any activated sensor;

b. If the automatic fire detection system is de-energized, the belt conveyors will continue to function with a qualified person stationed to continuously monitor for carbon monoxide;

c. Each carbon monoxide monitor and sensor will be visually examined daily, the units will be checked weekly and the monitors will be checked monthly for operating accuracy with a known concentration of carbon monoxide gas and will be calibrated as necessary. A record of these tests will be kept and available for all interested persons; and

d. Stoppings separating the belt haulage entry from the intake escapeway will be constructed of concrete blocks, cinder blocks, brick or tile with mortared joints.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

[FR Doc. 85-30825 Filed 12-27-85; 8:45 am]

BILLING CODE 4510-43-M

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 29, 1986. Copies of the petition are available for inspection at that address.

Date: December 17, 1985.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 85-30826 Filed 12-27-85; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-85-160-C]

Badger Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Badger Coal Company, 145 Sago Road, Buckhannon, West Virginia 26201 has filed a petition to modify the application of 30 CFR 75.1103-4(a) (automatic fire sensor and warning device systems; installation; minimum requirements) to its Grand Badger No. 1 Mine (I.D. No. 46-04819) located in Upshur County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that automatic fire sensor and warning device systems provide identification of fire within each belt flight (each belt unit operated by a belt drive).

2. As an alternate method, petitioner proposes to use a fire sensor and automatic fire detection system that will be capable of identification of fire by activated sensors rather than identification of fire within each belt flight.

3. In support of this request petitioner states that:

a. An automatic fire detection system will be installed on the underground belt conveyors. Sensors will be capable of giving an early warning when a fire occurs in the belt entry. Visual and audible warning signals will be activated when the carbon monoxide concentration reaches 10 parts per million (ppm) above ambient. The fire detection system will be activated at an attended surface location where there is two-way communication. The fire

detection system will be capable of identifying any activated sensor;

b. If the automatic fire detection system is de-energized, the belt conveyors will continue to function with a qualified person stationed to continuously monitor for carbon monoxide;

c. Each carbon monoxide monitor and sensor will be visually examined daily, the units will be checked weekly and the monitors will be checked monthly for operating accuracy with a known concentration of carbon monoxide gas and will be calibrated as necessary. A record of these tests will be kept and available for all interested persons; and

d. Stoppings separating the belt haulage entry from the intake escapeway will be constructed of concrete blocks, cinder blocks, brick or tile with mortared joints.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 29, 1986. Copies of the petition are available for inspection at that address.

Dated: December 17, 1985.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 85-30827 Filed 12-27-85; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-85-145-C]

C & B Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

C & B Coal Company, Inc., Route 1, Box 507, Norton, Virginia 24273 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Colliers Creek No. 1 Mine (I.D. No. 15-15225) located in Letcher County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs and canopies be installed on the mine's electric face equipment.

2. Petitioner states that the use of a canopy on the mine's equipment would result in a diminution of safety for the miners affected because it could strike and dislodge roof support due to uneven roof and soft and uneven bottom. In addition, the canopy would limit the equipment operator's visibility.

3. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this amendment to the petition for modification may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 29, 1986. Copies of the amendment and the original petition for modification are available for inspection at that address.

Dated: December 17, 1985.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 85-30828 Filed 12-27-85; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-85-181-C]

C. & W. Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

C. & W. Coal Company, P.O. Box 569, Clarksburg, West Virginia 26301 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Redstone No. 8 Mine (I.D. No. 46-06241) located in Barbour County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the use of a locked padlock to secure battery plugs to machine-mounted battery receptacles on permissible, mobile, battery-powered machines.

2. As an alternate methods, petitioner proposes to use metal locking devices, each consisting of a fabricated metal bracket and a metal locking device in lieu of padlocks to secure battery plugs to machine-mounted battery receptacles on permissible, mobile, battery-powered machines. The metal locking devices will be designed, installed and used to prevent the threaded rings securing the battery plugs to the battery receptacles.

from unintentionally loosening. The fabricated metal brackets will be securely attached to the battery receptacles to prevent accidental loss of the brackets. The locking devices will be securely attached to the bracket to prevent accidental loss of the locking devices.

3. Petitioner states that the spring-loaded metal locking devices will be easier to maintain than padlocks because there are no keys to be lost and dirt cannot get into the workings as with a padlock.

4. Operators of permissible, mobile, battery-powered machines affected by this modification will be trained in the proper use of the locking device, trained in the hazards of breaking battery-plug connections under load, and trained in the hazards of breaking battery-plug connections in areas of the mine where electric equipment is required to be permissible.

5. For these reasons, petitioner requests a modification of the standard.

Requests for Comments

Persons interested in this amendment to the petition for modification may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 29, 1986. Copies of the amendment and the original petition for modification are available for inspection at that address.

Dated: December 17, 1985.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 85-30829 Filed 12-27-85; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-85-150-C]

Florence Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Florence Mining Company, 655 Church Street, Box 729, Indiana, Pennsylvania 15701 has filed a petition to modify the application of 30 CFR 75.1101 (deluge-type water sprays) to its Florence No. 1 Mine (Black Lick Portal) (I.D. No. 36-00924), its Florence No. 1 Mine (Robinson Portal) (I.D. No. 36-00925), and its Florence No. 2 Mine (I.D. No. 36-02448) all located in Indiana County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that deluge-type water sprays, foam generators actuated by rise in temperature, or other no less effective means of controlling fire, be installed at main and secondary belt-conveyor drives.

2. Petitioner states that placing water sprinklers over or near a belt starter box would result in a diminution of safety because the equipment is unattended and could get activated inadvertently creating a risk of electrical shock or possible electrocution to the miners.

3. As an alternate method, petitioner proposes to install either a foam generator system, single line closed head sprinkler system, closed head sprinkler system, or a dry chemical/water deluge system at specific remote head, belt starter and take-up units.

4. For these reasons, petitioner requests a modification of the standard.

Requests for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 29, 1986. Copies of the petition are available for inspection at that address.

Dated: December 17, 1985.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 85-30830 Filed 12-27-85; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-85-22-M]

The General Crushed Stone Co.; Petition for Modification of Application of Mandatory Safety Standard

The General Crushed Stone Company, P.O. Box 231, Easton, Pennsylvania 18044-0231 has filed a petition to modify the application of 30 CFR 56.9087 (audible warning back-up alarms) to its Rock Cut Mine (I.D. No. 30-00051) located in Onondaga County, New York. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that heavy duty mobile equipment be provided with audible warning devices or an observer to signal

safe backup when the operator of the equipment has an obstructed view to the rear.

2. As an alternate method, petitioner proposes to use high intensity blue strobe lights on front end loaders in lieu of audible back-up alarms after 6:00 p.m. In addition, the truck operator will be instructed to sound the horn when backing up a haul truck.

3. For these reasons petitioner requests a modification of the standard.

Request for Comments

Persons interested in this amendment to the petition for modification may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 29, 1986. Copies of the amendment and the original petition for modification are available for inspection at that address.

Dated: December 17, 1985.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 85-30831 Filed 12-27-85; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-85-161-C]

Martin County Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Martin County Coal Corporation, HC 69, Box 640, Inez, Kentucky 41224 has filed a petition to modify the application of 30 CFR 75.1103-4(a) (automatic fire sensor and warning device systems; installation; minimum requirements) to its No. 1-C Mine (I.D. No. 15-03752) located in Martin County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that automatic fire sensor and warning device systems provide identification of fire within each belt flight (each belt unit operated by a belt drive).

2. As an alternate method, petitioner proposes to use an automatic fire detection system which is based on carbon monoxide monitoring of the underground belt conveyors. The system would provide identification of a fire

within an area rather than in each belt flight.

3. In support of this request petitioner states that:

a. An automatic fire detection system will be installed on the underground belt conveyors. Sensors will be capable of giving an early warning when a fire occurs in the belt entry. Visual and audible warning signals will be activated when the carbon monoxide concentration reaches 10 parts per million (ppm) above ambient. The fire detection system will be activated at an attended surface location where there is two-way communication. The fire detection system will be capable of identifying any activated sensor;

b. If the automatic fire detection system is de-energized, the belt conveyors will continue to function with a qualified person stationed to continuously monitor for carbon monoxide;

c. Each carbon monoxide monitor and sensor will be visually examined daily, the units will be checked weekly and the monitors will be checked monthly for operating accuracy with a known concentration of carbon monoxide gas and will be calibrated as necessary. A record of these tests will be kept and available for all interested persons; and

d. The integrity of the primary intake escapeway will not be diminished. Permanent stoppings will continue to separate the primary intake from the belt conveyor entry.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 29, 1986. Copies of the petition are available for inspection at that address.

Dated: December 17, 1985.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 85-30832 Filed 12-27-85; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-85-116-C]

NotroCoal, Inc.; Petition for Modification of Application of Mandatory Safety Standard

NotroCoal, Inc., Rt. 1 Box 273, Airport Road, Elkins, West Virginia 26241 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Enviro Energy No. 5 Mine (I.D. No. 46-06866) located in Randolph County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the use of a locked padlock to secure battery plugs to machine-mounted battery receptacles on permissible, mobile battery-powered machines.

2. As an alternate method, petitioner proposes to use metal locking devices, each consisting of a fabricated metal bracket and a metal locking device in lieu of padlocks to secure battery plugs to machine-mounted battery receptacles on permissible, mobile, battery-powered machines. The metal locking devices will be designed, installed and used to prevent the threaded rings securing the battery plugs to the battery receptacles from unintentionally loosening. The fabricated metal brackets will be securely attached to the battery receptacles to prevent accidental loss of the brackets. The locking devices will be securely attached to the bracket to prevent accidental loss of the locking devices.

3. Petitioner states that the spring-loaded metal locking devices will be easier to maintain than padlocks because there are no keys to be lost and dirt cannot get into the workings as with a padlock.

4. Operators of permissible, mobile, battery-powered machines affected by this modification will be trained in the proper use of the locking device, trained in the hazards of breaking battery-plug connections under load, and trained in the hazards of breaking battery-plug connections in areas of the mine where electric equipment is required to be permissible.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this amendment to the petition for modification may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health

Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 29, 1986. Copies of the amendment and the original petition for modification are available for inspection at that address.

Dated: December 17, 1985.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 85-30833 Filed 12-27-85; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-85-173-C]

T. and H. Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

T. and H. Coal Company, HC 82 Box 1065, Jackhorn, Kentucky 41825 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 7 Mine (I.D. No. 15-13880) located in Floyd County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. Petitioner states that the use of canopies on its mining equipment would result in a diminution of safety for the miners affected because the canopy cuts or damages cables due to the height and uneven conditions of the bottom and roof, thus creating an electrical hazard to the operator. In addition, the canopies can strike and dislodge roof support, impair the operator's visibility, and create a cramped and uncomfortable seating position for the operator.

3. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 29, 1986. Copies of the petition are available for inspection at that address.

Dated: December 17, 1985.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 85-30834 Filed 12-27-85; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-85-178-C]

Trophy Coal Sales; Petition for Modification of Application of Mandatory Safety Standard

Trophy Coal Sales, HC 31 Box 485, Belcher, Kentucky 41513 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its No. 1 Mine (I.D. No. 15-11218) located in Pike County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.
2. The No. 1 Mine is in the No. 2 Elkhorn Seam ranging from 42 to 52 inches in height, with consistent ascending and descending grades creating dips in the coal bed.
3. Petitioner states that use of a canopy on the mine's equipment would result in a diminution of safety for the miners affected because the canopy will restrict the operator's visibility, increasing the chances of an accident. In addition the canopies could strike and destroy roof support and over hanging cables.
4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this amendment to the petition for modification may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before January 29, 1986. Copies of the amendment and the original petition for modification are available for inspection at that address.

Dated: December 17, 1985.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 85-30835 Filed 12-27-85; 8:45 am]

BILLING CODE 4510-43-M

Office of Pension and Welfare Benefit Programs

[Application No. D-4952 et al.]

Proposed Exemptions; Roland Land Investment Co., Inc., et al.

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Pension and Welfare Benefit Programs, Office of Regulations and Interpretations, Room N-5669, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section

408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Roland Land Investment Co., Inc. Money Purchase Pension Plan and Roland Land Investment Co., Inc. Profit Sharing Plan (the Plans) Located in Encino, California

[Application Nos. D-4952 and D-4953]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed sale of second deeds of trust to the Plans by Roland Land Company (the Employer), to the guarantee by the Employer to repurchase any second deeds of trust which are in default and the repurchase by the Employer of such second deeds of trust, provided that the terms of the transactions are not less favorable to the Plans than those obtainable in an arm's length transaction with an unrelated person.

Temporary Nature of Exemption

The proposed exemption is temporary and, if granted, will expire 5 years after the date of grant. Should the Employer wish to continue to sell second deeds of trust to the Plans beyond the 5 year period, the Employer may submit another application for exemption. Repurchase of second deeds of trust by the Employer may take place after the 5 year period provided the second deeds of trust were purchased by the Plans during the 5 year period.

Summary of Facts and Representations

1. The Plans are a money purchase pension and a profit sharing plan with each plan having 22 participants as of May 31, 1983. The Plans are administered by an administrative committee comprised of Anton G. Roland, Philips S. Vardi, Emanuel Robins and Susan B. Roland (Administrative Committee). The Plan's trustee is the Ahmanson Trust Company of Los Angeles, California (Trustee). Investment decisions are made on behalf of the Plans by the Administrative Committee subject to the review and approval of the Trustee. The money purchase plan and the profit sharing plan had combined net assets of \$4,727,448.52 as of October 31, 1984.

2. The Employer¹ is engaged in the business of buying, subdividing and reselling land in the suburban areas surrounding Los Angeles. In acquiring this land for development the Employer typically pays a part of the purchase price in cash and gives a note secured by a first deed of trust on the property for the balance. The term of the note is typically from 5 to 12 years.

Once acquired, the land is subdivided and sold as raw land to the general public. A typical purchaser makes a cash down payment of between 10% and 15% of the purchase price and executes a second deed of trust. The term of the second deed of trust ranges from 10 to 12 years.

3. In order to finance its operations, the Employer has from time to time sold the second deeds of trust (Notes). Prior to the effective date of the Act, a portion of the Plan's operations. The applicant represents that on the advice of legal counsel that a clean exemption² issued by the Department covered the sale to the Plan of such Notes, the Plans purchased \$188,887.23 worth of Notes from the Employer in September 1980 and \$240,094.31 in May 1982. The applicant recognizes that the prior sales of Notes were not covered by the class exemption and therefore constituted prohibited transactions. Accordingly, the applicant represents that it will pay such amounts of excise tax as the Internal Revenue Service may find due in connection with the prior sales within 60 days of the date of grant of the final exemption.

4. The applicant requests an exemption to sell Notes to the Plans over a period of 5 years. The Notes to be offered to the Plans will be aged for a minimum of 3 years. The applicant represents that through this aging process, Notes of purchasers who are not credit worthy will be excluded from sale to the Plans. Only Notes which are current and have a good payment history will be offered to the Plans. Each Note will be secured by a second deed of trust on the property and by the guarantee of repayment by the Employer and the members of the Plans' Administrative Committee. The Employer has net worth in excess of \$60 million and the members of the Administrative Committee have combined net worth exceeding \$18 million.

5. The applicant proposed that no more than 25% of the Plans' assets be invested in Notes purchased from the Employer. No more than 1% of each Plans' assets however, will be invested in any one Note and the Plans will not purchase more than one Note made by the same individual. The Plans will not purchase any Note where the loan to value ratio (considering both first and second deeds of trust) exceeds 80%. The Plans will not purchase any Notes which are made to parties in interest. The applicant represents that the Notes sold to the Plans will typically be discounted between 50 and 60%. The discount rate however, is subject to change by the independent fiduciary appointed by the Plans (see representation #7). The property securing the Notes will be appraised prior to the purchase and will be kept fully insured. The Employer has guaranteed that it will repurchase any Note sold to the Plans that is in default in excess of 30 days, at the higher of the Plans' cost or the current fair market value of the Notes. The Notes will be serviced by the Employer at no charge to the Plans.

6. The properties which will secure the Notes are located in the area of Southern California known as the Antelope Valley. The Antelope Valley, which covers approximately 2,500 square miles, occupies large portions of Los Angeles and Kern Counties.

7. The Plans have appointed Mr. Gerald Cogan (Mr. Cogan), president of Liden, Cogan & Associates of Los Angeles, California, to serve as independent fiduciary with respect to the proposed transactions. Mr. Cogan represents that his firm provides design, administration and consulting services to over 800 qualified plans and as a result of this experience is fully aware of his duties, responsibilities and

potential liabilities associated with serving as an independent fiduciary. Mr. Cogan represents that his firm has not provided any services to the Employer or the Plans.

Mr. Cogan represents that he has reviewed samples of the Notes and deeds of trust which the Plans propose to purchase, the history of the Plans and the Employer, the current and projected cash needs of the Plans and the terms of the proposed purchases. Based upon this review and particularly upon the historic performance of similar investments by the Plans and the guarantees, Mr. Cogan has concluded that the purchases of the Notes would be appropriate and suitable for the Plans. In connection with this review, he considered the formula used to discount the Notes and determined that under present market conditions the formula is appropriate. If at any time Mr. Cogan determines that the formula has become inappropriate for any reason, he has the power to and will change the formula to effect an appropriate result.

Prior to the purchase of any Notes by the Plans, Mr. Cogan will review the payment histories of the Notes offered for purchase to the Plans, and will make the final determination on behalf of the Plans to accept or reject each of the Notes offered. In arriving at this conclusion, he will review the Plans' overall investment portfolio, the cash flow needs of the Plans, the necessity for the sale of any of the Plans' assets and the diversification of the Plans' assets both before and after each purchase.

In reviewing the individual Notes offered for purchase, Mr. Cogan will use the following criteria:

a. The Notes accepted by the Plans will be at least three years old and have an established record of timely payments.

b. Each Note will be secured by a second deed of trust on real estate.

c. To the extent possible, the security for the Notes will be geographically disbursed throughout the Antelope Valley.

d. The Notes will be guaranteed by the Employer and members of the Administrative Committee.

In addition, Mr. Cogan represents that he will enforce the terms of the guarantee agreement between the Plans and the Employer and the members of the Administrative Committee.

8. In summary, the applicant represents that the proposed transactions meet the statutory criteria for an exemption under section 408(a) of the Act because:

¹ The applicant represents that the Employer is currently organized and operated through a number of corporations including Roland Land Investment Co., Inc., Roland Land Company, Roland Heights Development and California Resources Enterprises, Inc.

² See PTE 79-8, Customer Notes Class Exemption, 44 FR 17819, March 23, 1979.

(a) No more than 1% of the Plans' assets will be invested in any one Note nor will more than 25% of the Plans' assets be invested in Notes;

(b) The Employer has guaranteed to repurchase any Note which is in default in excess of 30 days;

(c) The exemption is temporary expiring 5 years from the date of grant; and

(d) Mr. Cogan will make an independent decision whether or not the Plans should purchase any Note and the appropriate discount rate for each Note purchased.

For Further Information Contact: Alan H. Levitas of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

UPS Company Defined Benefit Pension Plan and Trust (the Plan) Located in Torrance, California

[Application No. D-5413]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 405(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of sections 4975(c) (A) through (E) of the Code shall not apply to (1) the periodic purchases by the Plan of undivided interests in a parcel of property (the Property) located in Malibu, California from Mr. Hiram C. Sloan (Mr. Sloan), provided the Plan pays no more for such interests in the Property than their fair market value on the date of the purchase; and (2) the leasing of the Plan's interest in the Property by the Plan to Mr. Sloan, UPS Company (the Employer) or Malibu Paradigm (MP), under the terms set forth in this notice of proposed exemption, provided such terms are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party.

Summary of Facts and Representations

1. The Plan is a defined benefit plan with one participant, Mr. Sloan. Mr. Sloan, who is the president and treasurer of the Employer, is also the trustee of the Plan. As of October 7, 1985, the Plan had total assets of approximately \$302,000. The Employer is a non-profit corporation and therefore has no shareholders.

2. The Property consists of an 11.6 acre parcel of land located at 4004 Decker Road, Malibu, California. The

Property is currently owned by Mr. Sloan. Mr. Sloan wishes to sell undivided interests in the Property to the Plan on a periodic basis such that the fair market value of the Plan's interest in the Property will never exceed 25% of the assets of the Plan.

3. Mr. M.E. Morton (Mr. Morton) of Red Carpet Real Estate, Malibu, California, and independent real estate broker, has appraised the Property as having a fair market value of \$140,000 as of October 4, 1985. The Plan's initial purchase is to be for 25% of its current assets or \$75,500, which represents approximately a 54% interest in the Property. The Plan's interest in the Property will be recorded with the Los Angeles County Recorder, as will any subsequent interests purchased by the Plan from Mr. Sloan.

4. Mr. Sloan also proposes that the Plan will lease its interest in the Property. The lease will be a triple net lease for a five year duration, with a month-to-month extension thereafter at the option of both parties. Mr. Sloan intends to build a house on the Property which will be used as a residence. The Property may be leased to Mr. Sloan, the Employer, or MP, which is a California corporation in which Mr Sloan is the majority shareholder. The lease will not provide for reversion of title in the house to the Plan at the end of the term of the lease.

5. Mr. Morton has appraised the Property as having a fair market rental value of \$14,000 per year as of October 4, 1985. Thus, the initial annual rental for the Plan's interest in the Property will be \$7,550. The proposed lease provides that on the last day of each calendar year during the term of the lease, the annual rental will be adjusted by a percentage equal to the percentage increase from the base period of the Department's Consumer Price Index. The Index published for the calendar year in which the Property is initially leased shall be the base period. The annual rental for the Plan's interest in the Property will not fall below \$7,550. At the end of the five year period, the rental will be the fair market rental value for the Property. Mr. Sloan will then obtain an independent appraisal not less than once a year to determine the rent.

6. Before the Plan makes any subsequent purchases of interests in the Property which will be leased to Mr. Sloan, the Employer, or MP, Mr. Sloan will obtain appraisals of the fair market value and fair market rental value of such interests if the most recent appraisal is more than one year old. The appraisals will be performed by a qualified, independent appraiser. The Plan will pay no more than the fair

market value of such interests and receive no less in rent than the fair market rental value of such interest. The fair market value of the Plan's interest in the Property will never exceed 25% of the assets in the Plan.

7. In the event that the Employer subsequently hires any employees who become eligible to participate in the Plan, the Employer will establish a separate but identical plan for such employees, so that Mr. Sloan is the only participant who will ever be affected by the subject transactions.

8. In summary, the applicant represents that the proposed transactions satisfy the criteria of section 408(a) of the Act because: (1) The transactions will involve no more than 25% of the Plan's assets at all times; (2) the fair market value of the Property and the annual rental to be paid to the Plan for its interest in the Property have both been determined by a qualified, independent real estate broker; and (3) Mr. Sloan is the only participant in the Plan to be affected by the transactions, and he desires that the transactions be consummated.

Notice to Interested Persons: Since Mr. Sloan is the only participant in the Plan to be affected by the proposed transactions, it has been determined that there is no need to distribute the notice of pendency to interested persons. Comments and requests for a hearing are due 30 days from the date of publication of this proposed exemption in the **Federal Register**.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

H & E Electric Supply Company Employees Retirement Plan and Trust (the Plan) Located in Carlsbad, New Mexico

[Application No. D-5462]

Proposed exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the leasing of certain real property by the Plan to H&E Electric Supply Company (the Employer), provided that the terms and conditions of the leasing

are as favorable to the Plan as those obtainable in an arm's-length transaction with an unrelated party.

Effective Date: If the proposed exemption is granted, it will be effective on April 2, 1985.

Summary of Facts and Representations

1. The Plan is a defined benefit pension plan with 34 participants. The Plan had total assets of \$677,726 as of April 30, 1983. The trustees of the Plan are George E. Hartwell, Sr., George E. Hartwell, Jr., and Elizabeth L. Hartwell (the Hartwells). The Hartwells are employees, shareholders, officers and directors of the Employer. The Employer is a New Mexico corporation organized primarily to wholesale electric supplies and apparatus and was incorporated on May 1, 1956.

2. The Plan owns certain real property and a building located at 113 N. Main Street in Carlsbad, New Mexico (the Property). The Property represents 14 percent of the total assets of the Plan. The Plan constructed the building located on the Property in 1969, and leases it to the Employer pursuant to a lease agreement (the Lease) dated January 28, 1969. The Lease was renewed by the Employer on December 15, 1979.¹

3. The Plan and the Employer have executed a new lease which was effective on July 1, 1984 (the New Lease). The New Lease is for a 20-year period expiring June 30, 2004. The New Lease is a triple-net lease which provides for a rental adjustment every five years to reflect the then current fair market rental value of the Property as determined by an independent appraiser. At no time however, will the rental amount be lower than the initial rent.

4. Under the terms of the New Lease, the Employer will pay all expenses relating to the Property including maintenance, utilities, repair, taxes, insurance and common area expenses. The Employer will indemnify the Plan for any loss due to Employer's use of the Property. The New Lease provides that any expansion, improvements or renovations are to be made only by the Employer at the Employer's expense with any improvements belonging to the Plan at the termination of the Lease. In the event of default by the Employer in payment of the rentals, the New Lease provides that the Plan, at its discretion, could either sell the Property to a third party or relet it to another tenant.

5. The initial annual rental rate for the New Lease was determined by an independent appraiser, R.N. Robinson, of R.N. Robinson Enterprises (the Appraiser) located in Hobbs, New Mexico. The annual rent for the first year of the New Lease is \$14,400 which reflects the fair rental value of the Property as determined on May 17, 1984 by the Appraiser.

6. The Western Commerce Bank (the Bank) has been appointed as the Independent fiduciary for the New Lease and has been given exclusive authority to manage and control the Property. The Bank formally accepted its appointment on April 2, 1985. The application represents that although the Bank formally accepted its appointment as independent fiduciary on April 2, 1985, the Bank, as a fiduciary engaged in specified actions with respect to the New Lease beginning April 10, 1984. Notwithstanding the above and the fact that the Bank had an appraisal of the Property as of May 17, 1984, the Plan did not receive the fair market rent reflected by the appraisal until April 2, 1985. Accordingly, the Department has determined that the exemption be effective April 2, 1985.² The Bank represents that it has no relationship to the Employer, the Hartwells and the Plan except that they are depositors of the Bank. The total deposits for the Hartwells, the Employer and the Plan equal less than 1% of the Bank's deposit base.

7. The Bank represent that it has reviewed all of the terms of the New Lease and has determined that the New Lease would be in the Plan's best interest. The Bank further represents that it will determine the rental adjustments at the end of each five year periods under the terms of the New Lease and will obtain the necessary appraisal by an independent appraiser or determine the amount of the adjustment. In addition, the Bank will also collect all the rental payments on behalf of the Plan and have exclusive authority to insure compliance with the terms and conditions of the New Lease. The Bank represents that when it accepted its appointment as independent fiduciary on April 2, 1985, it collected \$12,500 from the Employer. This amount represented all rent due, plus interest, from the effective date of the New Lease.

8. In summary, the applicant represents that the proposed transaction

meets the statutory criteria of section 408(a) of the Act because:

(a) the Bank has reviewed the New Lease and has determined that it is in the Plan's best interest;

(b) the fair market rental value of the Property has been determined and will continue to be determined by an independent appraiser, and

(c) the Bank will have exclusive authority to monitor the New Lease and to insure compliance with its terms and conditions.

For Further Information Contact: Ms. Linda Hamilton of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

Security Pacific National Bank (the Bank) Located in Los Angeles, CA

[Application No. D-5942]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code shall not apply to: (1) effective June 1, 1979, the provision by the Bank of a line of credit (the Loan) to Desert Horizons, Inc. (DH), a wholly-owned subsidiary of the Alaska Teamsters-Employer Pension Plan (the Plan); (2) effective June 1, 1979, the guarantee (the Guarantee) of the Loan by the Plan; and (3) effective October 1, 1981, the purchase by the Bank in October, 1981, of a Class C membership (the Membership) in the Desert Horizons Country Club (DHCC), a wholly-owned subsidiary of DH.

Effective Date: If granted, the effective date of this exemption will be June 1, 1979 with respect to the Loan and the Guarantee, and October 1, 1981 with respect to the purchase of the Membership.

Summary of Facts and Representations

1. The Bank is a large national bank, based in Los Angeles, which is regulated by state and federal banking authorities.

2. The Plan is a multiemployer, collectively bargained plan, established and managed under section 302(a) of the Labor Management Relations Act of 1947 which had approximately 15,500 participants and \$314,628,000 in assets as of July 31, 1983. The Plan is administered by a board of trustees (the Trustees) made up of 4 union and 4

¹ The applicant represents that the Lease was covered by the provisions of section 414 of the Act. The Department expresses no opinion as to the applicability of section 414 in this instance.

² The applicant represents that any excise tax which may be due as a result of the New Lease will be paid within 60 days of the granting of a final exemption.

employer trustees. The applicant represents that neither the Bank nor any of its affiliates is a contributing employer under the Plan.

3. Beginning in the mid-1970's, increasing constraints on the investment of Plan assets in the State of Alaska led the Trustees to consider diversifying plan investments in other parts of the country, principally California. The Trustees had considerable experience in real estate development in Alaska and sought to apply that experience in California. After study, they concluded that a development located in Indian Wells, California, comprised of a golf course, club house, fairway lots and residential units would be an attractive investment opportunity for the Plan. The Trustees organized DH as a California corporation. Several Trustees serve as the officers of DH.

The Bank's involvement with DH began in January of 1978 when DH opened a checking account at a branch office of the Bank. The average balances in the account have ranged as high as \$300,000 and are currently in the range of \$100,000.

In January of 1979 the Bank agreed to provide DH with the Loan of up to \$22,000,000 to finance its ongoing operations. The Loan is evidenced by a revolving credit agreement dated as of June 1, 1979, is guaranteed by the Plan, and the Guarantee is secured by assignments of deeds of trust (the Mortgages) on Alaska real estate and money market instruments (the Securities, collectively, the Collateral) pledged to the Bank and held for the Bank by Merrill Lynch Pierce Fenner and Smith. The Loan provided for interest on the outstanding balance at a fluctuating rate equal to 2% above the Bank's prime rate in effect from time to time. The Loan has been amended on five occasions increasing the maximum outstanding loan balance to \$32,000,000 and reducing the interest rate to a fluctuating rate equal to ½% above the Bank's prime lending rate. The Collateral securing the Guarantee has also been increased, from a value of \$44,000,000 to a value of \$65,000,000.

4. In October, 1981, the Bank purchased the Membership for the benefit of its Palm Desert Branch Manager, Richard Landorf, for \$10,000, which the applicant represents was the introductory price for the first 10 such memberships. The membership was subsequently transferred to David Beal when Mr. Landorf was transferred from the Palm Desert Branch at a cost of \$3,500.

5. The applicant represents that the terms and conditions of the Loan to DH and the Guarantee by the Plan were

similar to those entered into between the Bank and unrelated third parties. Furthermore, the decision to enter into the transactions at such terms and conditions was made by the Trustees of the Plan, who are independent of the Bank.

6. The applicant further represents that the purchase of memberships in country clubs such as DHCC for Bank officers is a common practice of the Bank and are viewed as appropriate and necessary for business development.

7. In summary, the applicant represents that the transactions satisfy the criteria of section 408(a) because: (a) the decision to enter into the transactions was made by the Plan Trustees, who are independent of the Bank; and (b) the terms and conditions of the transactions were established on an arm's-length basis between the Plan and DH and the Bank.

For Further Information Contact: David Lurie of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

Robert P. Padousis, D.D.S., Constantine J. Kaminaris, D.D.S., P.A. Defined Benefit Pension Plan and Trust (the Plan) Located in Baltimore, Maryland

[Application No. D-6328]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the cash sale of a certain parcel of real property (the Property) by the Plan to Robert P. Padousis, D.D.S., a party in interest with respect to the Plan, provided that the sale price of the Property is not less than the higher of either the sum of \$82,000 of the fair market value on the date of the sale.

Summary of Facts and Representations

1. The Plan is a defined benefit plan, which, as of September 30, 1985, consisted of six participants and had assets of approximately \$413,976. It is in the process of being terminated and being replaced by a defined contribution plan. The assets of the Plan will be rolled over into individual accounts of the new plan. The sponsoring employer of the Plan is the Robert P. Padousis, D.D.S., Constantine Kaminaris, D.D.S.,

P.A. (the Employer), a professional association conducting a dental practice in Baltimore, Maryland. The Plan's fiduciaries are Drs. Padousis and Kaminaris.

2. During September 1983, the Plan acquired from an unrelated party a certain undeveloped parcel of land located at 1801-1803 Joppe Road and Oakleigh Road in Baltimore County, Maryland, consisting of 21,182 square feet (the Property). In acquiring the Property, the Plan paid \$62,000 as the purchase price plus \$3,500 in settlement costs. Since the acquisition of the Property, the Plan has expended \$1,242 for property taxes, \$500 for tree removal, and \$128 for insurance. A special zoning exemption, which will expire in 1988, permits the construction of an office building upon the Property. The Property was originally acquired by the Plan because the fiduciaries of the Plan mistakenly thought an office building could be constructed on the Property and space in the office building leased to the Employer without violating the liquidity and diversity requirements of the Act or its prohibited transaction provisions.

3. The Property was appraised on June 4, 1985, by Bernard A. Page, Jr. M.A.I., S.R.A. of The Page Appraisal Company, Bel Air, Maryland. The appraisal company is represented as being independent and having no relationship with the Plan or its fiduciaries or any party related to the Plan. The appraisal concluded that the estimated market value of the Property, as of June 4, 1985, was \$82,000.

4. Dr. Padousis, as an individual, proposes to purchase the Property from the Plan for the higher of either the cash sum of \$82,000 or the fair market value on the date of the sale. The Plan will incur no costs with respect to the proposed transaction.

5. In summary, the applicant represents that the proposed transaction satisfies the criteria of section 408(a) of the Act because (a) the proposed sale of the Property will be a one-time transaction for cash; (b) the Plan will be able to invest the proceeds from the sale in income producing assets; (c) the Plan will be able to avoid a decrease in the value of its assets before the expiration of the special zoning exemption in 1988; and (d) the Plan will receive the highest fair market price for the Property, as determined by a qualified independent appraiser.

For Further Information Contact: Mr. C.E. Beaver of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

John H. Ten Pas, M.D. Retirement Trust (the Plan) Located in Grand Haven, Michigan

[Application No. D-6418]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale of 10.04 acres of vacant land located in Robinson Township, Michigan, from the individual segregated account of John H. Ten Pas (Ten Pas) in the Plan to Ten Pas, provided the Plan receives no less than fair market value at the time of sale. Section 408(d)(3) of the Act provides that the Department does not have the authority to grant an exemption under section 408(a) of the Act for the sale of any property of a plan to an owner-employee. Therefore, the Department cannot grant an exemption under Title I for the subject sale. However, the Department can grant an exemption under Title II of the Act, pursuant to section 4975(c)(2) of the Code.

Summary of Facts and Representations

1. The Plan is a profit-sharing plan adopted by Ten Pas pursuant to the Old Kent Bank of Grand Haven, Michigan, Master Defined Contribution Plan. The Old Kent Bank of Grand Haven is the trustee (the Trustee) for the Plan. There are currently three participants in the Plan. As of July 31, 1985, the assets of the Plan totaled \$66,996. The Plan established an individual segregated account for each participant and provides that a participant may direct the investments in his or her account.

2. The applicant represents that Ten Pas is an owner-employee (as defined in section 401(c)(3) of the Code) with respect to the Plan as well as the administrator of the Plan and a Plan participant. The assets in Ten Pas' account equaled \$55,960 on July 31, 1985. In March 1979, the Trustee acquired for the account of Ten Pas 10.04 acres of vacant land situated in Robinson Township, Ottawa County, Michigan. The land was purchased for \$10,000 in cash from a party unrelated to Ten Pas. The Trustee has held title to the parcel of real property since that time. The property is a heavily wooded piece of land located approximately eight miles from Grand Haven, Michigan.

3. An appraisal was made on the parcel of real property on August 9, 1985, by Byron VanVelzen (VanVelzen), a realtor with the firm of RE/MAX in Grand Haven, Michigan. According to the applicant, VanVelzen is independent of Ten Pas. VanVelzen placed the fair market value of the property at \$11,044, or \$1,100 an acre. In appraising the property, VanVelzen considered the per-acre valuations in recent sales of similar pieces of property in nearby locations. Factors considered in the appraisal included the desirability of the land, the type of road access, utilities available, and neighboring properties.

4. Because the parcel of land is not producing income and the applicant feels that it is not reasonably appreciating in value, the Plan proposes to sell the property from Ten Pas' individual account in the Plan to Ten Pas. Ten Pas will pay the appraisal price stated in the application for the property as determined by VanVelzen or fair market value at the time of sale, whichever is higher. The transaction will be entirely for cash and no commissions will be paid in connection with the sale. The cash realized from the sale will be re-invested in the individual account at the direction of Ten Pas and should result in a faster rate of growth for the account.

5. In summary, the applicant represents that the proposed transaction will satisfy the statutory criteria of section 4975(c)(2) of the Code because: (1) The sale of the real property will be entirely for cash and the Plan will pay no commissions in regard to the sale; (2) Ten Pas will pay fair market value for the land based on a recent appraisal made by an independent realtor; (3) the transaction will involve only Ten Pas' individual segregated account in the Plan and will not affect the assets of other Plan participants; and (4) the cash realized from the sale will be re-invested and should result in more income and appreciation for Ten Pas' individual account.

For Further Information Contact: Paul Kelty of the Department, telephone (202) 523-8882. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does

not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 17th day of December 1985.

Elliot I. Daniel,

Assistant Administrator for Regulations and Interpretations, Office of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc. 85-30712 Filed 12-27-85; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 85-209; Exemption Application No. D-4328 et al.]

Grant of Individual Exemptions; Whataburger, Inc., et al.

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income

Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

- (a) The exemptions are administratively feasible;
- (b) They are in the interests of the plans and their participants and beneficiaries; and
- (c) They are protective of the rights of the participants and beneficiaries of the plans.

Whataburger, Inc. Profit Sharing Plan and Trust (the Plan) Located in Corpus Christi, Texas

[Prohibited Transaction Exemption 85-209; Exemption Application No. D-4328]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the

subordination by the Plan of its interest in three parcels of land (the Properties) in favor of the owners of the Whataburger franchised restaurants located thereon after the franchises were acquired by Whataburger, Inc. (Whataburger), the Plan sponsor, from the original third party franchisees (the Selling Franchisees), provided that no change occurred in the terms and conditions of the Plan's subordination of its interest in the Properties as a result of Whataburger's acquisition of the franchises from the Selling Franchisees.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on October 25, 1985 at 50 FR 43478.

Effective Dates: The effective dates of this proposed exemption are June 1, 1978 through September 30, 1983.

For Further Information Contact: David M. Cohen of the Department, telephone (202) 523-8671. (This is not a toll-free number.)

Schenley Industries, Inc. Employees Retirement and Benefit Plan (the Plan) Located in New York, New York

[Prohibited Transaction Exemption 85-210; Exemption Application No. D-5848]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the code, shall not apply to the cash sale by the Plan to John Hancock Mutual Life Insurance Company (the Company) of the Plan's interests in certain real property maintained by the Company in a non-pooled separate account, provided that the amount paid for the interests is not less than fair market value at the time the transaction is consummated.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on October 8, 1985 at 50 FR 41054.

For Further Information Contact: Ms. Linda Shore of the Department, telephone (202) 523-7901. (This is not a toll-free number.)

Central States, Southeast and Southwest Areas Pension Fund (the Plan) Located in Chicago, Illinois

[Prohibited Transaction Exemption 85-211; Exemption Application No. D-5901]

Exemption

The Department hereby extends, until January 21, 1990, certain portions of

Prohibited Transaction Exemption (PTE) 77-11 (42 FR 54041, October 7, 1977).

Accordingly, the restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the code, shall not apply, until January 21, 1990, to the arrangement by any investment manager for the Plan for the provision of supplemental services (as described in Part V of PTE 77-11 and PTE 84-114, (49 FR 30609, July 31, 1984)) on behalf of the Plan with respect to existing real estate-related assets.

In addition, the restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply until January 21, 1990 to the following:

(A) The adjustment and/or continuation by investment managers of any pre-existing loan, lease, service agreement, or other arrangement, or the holding by the Plan of any pre-existing employer security or real property (as described in Part VIII of PTE 77-11 and PTE 84-114), but only to the extent that PTE 84-14 (49 FR 9494, March 13, 1984) is not applicable with respect to such transaction by reason of either (1) the assets of the Plan represent more than 20 percent of the total client assets under the management of the investment manager at the time of the transaction, or (2) the investment manager does not satisfy the equity requirement of Part V(a)(4) of PTE 84-14; and

(B) New transactions between the Plan and certain non-fiduciary parties in interest and disqualified persons (as described in Part IX of PTE 77-11 and as extended by PTE 83-57 (48 FR 14091, April 1, 1983) and PTE 84-114), but only to the extent that PTE 84-14 is not applicable with respect to such transaction for either of the reasons cited in subparagraph (A).

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on October 25, 1985 at 50 FR 43479.

Effective Date: This exemption is effective January 1, 1985. It will expire on January 20, 1990.

Written Comments. The Department received one written comment to the notice of proposed exemption and no requests for a public hearing. The written comment was submitted by Morgan Stanley Group, Inc. (MSG) which was formerly known as Morgan Stanley, Inc. MSG said it wished to

correct a statement in the proposed exemption which appeared at page 43481 and which referred to McCowan Associates, Inc. (McCowan) as a current investment manager of the Plan. MSG explained that in the interim between the submission of the exemption application and the publication of the pendency notice in the **Federal Register**, McCowan had been terminated by MSG as an investment manager of the Plan.

In addition, MSG indicated it wished to amend the proposed exemption by requesting a change in the effective date from January 20, 1985 to January 1, 1985. MSG stated that on January 1, 1985, two new real estate investment managers (First Interstate Investment Services, Inc., acting through Thomas L. Karsten Associates, Inc., and Eastdil Advisers, Inc.), who had been appointed by MSG on behalf of the Fund, were given authority and responsibility to control, manage and supervise the operation of certain real estate-related assets of the Plan. Further, MSG explained that Victor Palmieri and Company Incorporated, which had previously been operating as a real estate investment manager for the Plan, began performing its services under a new contract with MSG which became effective January 1, 1985. Accordingly, MSG requested that the effective date of the exemption be changed to January 1, 1985 in order to give these real estate investment managers appropriate protection from the prohibited transaction provisions of the Act and the Code.

After consideration of the entire record, the Department has determined to grant the exemption.

For Further Information Contact: Ms. Jan D. Broady of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Union Oil Employees Profit Sharing Plan (the Profit Sharing Plan), the Employee Stock Ownership Plan for Employees of Union Oil Company of California and Participating Companies (the Union ESOP), and The PureGro Company Employee Stock Ownership Plan (the PureGro ESOP, collectively, the Plans) Located in Los Angeles, California

[Prohibited Transaction Exemption 85-212; Exemption Application No. D-8139]

Exemption

The restrictions of sections 406(a) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply to: (1) the acquisition by the Plans of certain Unocal Corporation (Unocal) debt securities which were not

qualifying employer securities on the date of acquisition, in exchange for Unocal stock held by the Plans; and (2) the holding of such non-qualifying employer securities until July 2, 1985.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on October 21, 1985 at 50 FR 42619.

Effective Dates: This exemption is effective from June 6, 1985 to July 2, 1985.

For Further Information Contact: David Lurie of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

Sacramento Plastic & Reconstructive Surgery Medical Group, Inc., Pension Plan (Pension Plan), Sacramento Plastic & Reconstructive Surgery Medical Group, Inc. Profit Sharing Plan (Profit Sharing Plan; collectively, the Plans) Located in Sacramento, California:

[Prohibited Transaction Exemption 85-213; Exemption Application Nos. D-6236 and D-6258]

Exemption

The restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed loan of \$300,000 by the Profit Sharing Plan and \$200,000 by the Pension Plan to Plastic Surgery Associates (the Partnership) and to the guarantee of repayment by the partners of the Partnership, provided that the terms of the transaction are not less favorable to the Plans than those obtainable in an arm's-length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on October 21, 1985 at 50 FR 42621.

For Further Information Contact: Alan H. Levitas of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

Bruce J. Coan, M.D., P.C. Pension Plan and Trust (the Plan) Located in Huntley, MT

[Prohibited Transaction Exemption 85-214; Exemption Application No. D-6317]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply

to the cash sale of unimproved real property (the Property) from the Plan to Bruce J. Coan, M.D. the sole owner of the Plan sponsor and the Plan's sole participant, for \$185,000, provided that the sale price is not less than the Property's fair market value as of the date of sale.*

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on November 6, 1985 at 50 FR 46205.

For Further Information Contact: David Lurie of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries:

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all

*Since Dr. Coan is the sole owner of the Plan sponsor and the sole participant in the Plan, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3-3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 17th day of December 1985.

Elliot I. Daniel,

Assistant Administrator for Regulations and Interpretations, Office of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc. 85-30713 Filed 12-27-85; 8:45 am]

BILLING CODE 4510-29-M

Advisory Council on Employee Welfare and Pension Benefit Plans: Termination Task Force; Meeting

Pursuant to section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans (Advisory Council) will be held at 9:30 A.M., Monday, January 13, 1986, at the U.S. Department of Labor, 200 Constitution Ave., NW., Room S-4215, Washington, DC 20210.

The Advisory Council has formed a 12-member task force to study issues relating to pension plan terminations in which excess assets revert to the sponsors of employee benefit pension plans covered by ERISA.

The purpose of the meeting is to take testimony from employee representatives, employer representatives, and other interested individuals and groups on the following subjects: (1) The effects on benefit security of plan terminations involving asset reversions; (2) Whether there are any adverse effects that cannot be dealt with satisfactorily within the context of existing law as interpreted in the guidelines promulgated by the Department of Labor, the Internal Revenue Service, and the Pension Benefit Guaranty Corporation in May 1984; (3) What criteria should be used to evaluate any proposed changes in the statute; and (4) What specific legislative or administrative recommendations should the Advisory Council make to the Secretary of Labor? Witnesses are encouraged to include quantitative data supporting their testimony or submission. Witnesses may also address such other matters relating to the issue as they deem relevant.

Individuals, or representatives of organizations, wishing to address the Advisory Council should submit written requests on or before January 6, 1986 to Edward F. Lyszczek, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N-5677, 200 Constitution Ave., NW., Washington, D.C. 20210. Oral presentations will be limited to ten minutes, but witnesses

may submit an extended statement for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before January 17, 1986.

Signed at Washington, D.C. this 24th day of December 1985.

T. Timothy Ryan, Jr.,

Chairman, ACEWPBP Task Force on Termination Reversions.

[FR Doc. 85-30782 Filed 12-27-85; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Qualifications Review Panel for the Position of Director, John Fitzgerald Kennedy Library; Meeting

Notice is hereby given that the Qualifications Review Panel for the Position of Director, John Fitzgerald Kennedy Library will meet on Friday, January 17, 1986, from 11:00 a.m. to 2:00 p.m. in Room 105 of the National Archives Building, Washington, DC.

The agenda for the meeting will be:

1. Discuss personnel procedures leading to the selection of the Director.
2. Propose individuals who might be solicited to apply for the position.
3. Discuss qualifications of those who have been suggested as possible candidates.

The meeting will be closed to the public in accordance with 5 U.S.C. 552b(6) in order to avoid unwarranted invasion of the personal privacy of the applicants.

Dated: December 17, 1985.

Frank G. Burke,

Acting Archivist of the United States.

[FR Doc. 85-30225 Filed 12-27-85; 8:45 am]

BILLING CODE 7515-01-M

NATIONAL CRITICAL MATERIALS COUNCIL

Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: National Critical Materials Council.
Date and Time: Tuesday, January 14, 1986; 9 a.m., to 1 p.m.

Place: Room 5160, Interior Building, 18th & C Streets, NW., Washington, DC.

Contact: Ms. Gully Walter, U.S. Department of the Interior, Room 6650, 18th and C Streets, NW., Washington, DC 20240, (202) 343-2136.

Purpose of the Council: The Council was established by the National Critical Materials Act of 1984 (Pub. L. 98-373; 98 Stat. 1248; 30 U.S.C. 1801) to coordinate critical materials policies, and to bring to the attention of appropriate government agencies and the public key critical materials issues.

Tentative Agenda:

- Opening remarks by Chairman.
- Comments, recommendations, and discussion by the public.
- Questions and comments from National Critical Materials Council.
- Adjournment.

Public Participation: The meeting is open to the public. The Chairman of the Council is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Council will be permitted to do so, either before or after the meeting. Members of the public may make oral statements at the meeting. Those wishing to do so are requested, but not required, to contact Gully Walter at the address or telephone listed above, at least five days prior to the meeting.

Transcripts: Available for public review at Natural Resources Library, Room 1140, Main Interior Building, 18th and C Streets, NW., Washington, DC. Reproductions will be available upon request.

Danny J. Boggs,

Chairman, National Critical Materials Council.

December 24, 1985.

[FR Doc. 85-30843 Filed 12-27-85; 8:45 am]

BILLING CODE 6450-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Dance Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Dance Advisory Panel (Dance/Film/Video Section) to the National Council on the Arts will be held on January 22, 1986, from 9:00 am-6:00 pm, January 23, 1986, from 9:00 am-8:00 pm and January 24, 1986, from 9:00 am-6:00 pm in Room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on January 24, 1986 from 2:00-6:00 pm to discuss Policy issues.

The remaining sessions of this meeting on January 22, 1986 from 9:00 am-6:00 pm, January 23, 1986 from 9:00 am-8:00 pm and January 24, 1986 from 9:00 am-1:00 pm are for the purpose of Panel review, discussion, evaluation,

and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections(c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

If you need accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.
December 23, 1985.

[FR Doc. 85-30816 Filed 12-27-85; 8:45 am]
BILLING CODE 7537-01-M

Music Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Recording Section) to the National Council on the Arts will be held on January 15, 1986, from 9:00 a.m.-6:00 p.m. and January 16, 1986, from 9:00 a.m.-6:00 p.m. in Room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on January 16, 1986, from 11:45 a.m.-1:00 p.m., to discuss Guidelines.

The remaining sessions of this meeting on January 15, 1986, from 9:00 a.m.-6:00 p.m., January 16, 1986, from 9:00 a.m.-11:30 a.m. and from 2:00-5:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be

closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

If you need accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment of the Arts.
December 23, 1985.

[FR Doc. 85-30817 Filed 12-27-85; 8:45 am]
BILLING CODE 7537-01-M

Office for Partnership Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Office for Partnership Advisory Panel (State Programs Section) to the National Council on the Arts will be held on January 22-23, 1986 from 9:00 a.m.-5:00 p.m. and January 24, 1986 from 9:00 a.m.-4:30 p.m. in Room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, DC 20506.

A portion of this meeting will be open to the public on January 22, 1986, from 9:00 a.m.-11:00 a.m., January 23, 1986, from 9:00 a.m.-5:00 p.m. and January 24, 1986, from 9:00 a.m.-4:30 p.m., to discuss Orientation, Application Review, Guidelines and Application Format Review and discussion of consultant analysis of 35 application narratives.

The remaining sessions of this meeting on January 22, 1986, from 11:00 a.m.-5:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

If you need accommodations due to a

disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

December 23, 1985.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.
[FR Doc. 85-30818 Filed 12-27-85; 8:45 am]

BILLING CODE 7537-01-M

Humanities Panel Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of Meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 1100 Pennsylvania Avenue, NW., Washington, DC 20506:

Date: January 13, 1986.

Time: 9:00 a.m. to 5:30 p.m.

Room: 415.

Program: This meeting will review applications submitted for Museums and Historical Organizations Humanities Projects, Division of General Programs, for projects beginning after July 1, 1986.

Date: January 16-17, 1986.

Time: 9:00 a.m. to 5:30 p.m.

Room: 415.

Program: This meeting will review applications submitted for Museums and Historical Organizations Humanities Projects, Division of General Programs, for projects beginning after July 1, 1986.

Date: January 23-24, 1986.

Time: 9:00 a.m. to 5:30 p.m.

Room: 415.

Program: This meeting will review applications submitted for Museums and Historical Organizations Humanities Projects, Division of General Programs, for projects beginning after July 1, 1986.

Date: January 30-31, 1986.

Time: 9:00 a.m. to 5:30 p.m.

Room: 415.

Program: This meeting will review applications submitted for Museums and Historical Organizations Humanities Projects, Division of General Programs, for projects beginning after July 1, 1986.

The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 786-0322.

Susan H. Metts,

Acting Director for Administration.

[FR Doc. 85-30811 Filed 12-27-85; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, FC 414-4 (which should be mentioned in all correspondence concerning this draft

guide), is entitled "Guide for the Preparation of Applications for Licenses for Medical Teletherapy Programs" and is intended for Division 10, "General." It is being developed to provide guidance in conformance with the revised NRC Form 313 for preparing applications for licenses for medical teletherapy programs.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Written comments may be submitted to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Copies of comments received may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC. Comments will be most helpful if received by February 21, 1986.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Silver Spring, Maryland, this 20th day of December 1985.

For the Nuclear Regulatory Commission,
Denwood F. Ross,
Deputy Director, Office of Nuclear Regulatory Research.
[FR Doc. 85-30838 Filed 12-27-85; 8:45 am]
BILLING CODE 7590-01-M

Bi-Weekly Notice; Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (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 include all amendments issued, or proposed to be issued, since the date of publication of the last bi-weekly notice which was published on December 18, 1985 (50 FR 51618), through December 20, 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 hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility 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 Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

By February 3, 1986 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 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 public 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, 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 (*Project Director*): 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 entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is 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.

Baltimore Gas and Electric Company, Docket Nos. 50-317 and 50-318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendment: April 26, 1985 and June 28, 1985.

Description of amendment request: The proposed amendments would change the Unit 1 and Unit 2 Technical Specifications (TS) 3/4.8.2.3, "D.C. Distribution-Operating" and TS 3.8.2.4, "D.C. Distribution-Shutdown" as follows: (1) The Limiting Condition for Operation (LCO) and associated Actions would be changed to reflect use of the station "Reserve Battery", (2) a modification would be made to the battery cell voltage and capacity test, and (3) a grammatical error would be corrected. Consideration of the above items would conclude our actions on the applications dated April 26, 1985 and June 28, 1985.

Basis for proposed no significant hazards consideration determination: With regard to use of the "Reserve Battery", on July 31, 1979, and November 2, 1981, the staff issued Amendments Nos. 40 and 22, and Amendments Nos. 58 and 40 to the Facility Operating Licenses for Calvert Cliffs Units 1 and 2. These license amendments provided TS for the use of a "Reserve Battery" as a replacement for any one of the site's four vital 125 v batteries if one is unavailable due to surveillance testing or is otherwise inoperable. The staff's safety evaluations in support of these amendments concluded that the reserve battery and associated interconnections are fully safety grade, the reserve battery installation provides protection for the battery that is equivalent to the existing 125 v battery installations at Calvert Cliffs and, because the same surveillance is required on the reserve battery as on the normal vital batteries, the reserve battery is an acceptable replacement for a vital battery.

The April 26, 1985, proposed TS change adds to the LCO of the DC Distribution System the option of utilizing the reserve battery in lieu of a vital battery. This option existed originally only in the action statements, which put in effect TS 3.0.4 that prohibited entry into other operational modes when using the reserve battery. The proposed change would therefore allow entry into other operating modes when using the reserve battery as a replacement for a vital battery.

The proposed change would also allow use of the reserve battery as a replacement for a vital battery in operational modes 5 and 6, as described in TS 3.8.2.4, as well as modes 1 through 4, as described in TS 3.8.2.3. The original specification only allowed its use in operational modes 1 through 4.

An additional proposed change to the LCO would add the word "associated" when discussing the battery and charger for each train in the LCO, in TS 3.8.2.3 and 3.8.2.4. This is to specify that the battery and charger must both be part of that respective train.

The proposed changes to the LCOs do not, in any way, reduce the reliability of the vital D.C. distribution system. The staff has already concluded that the "Reserve Battery" can be freely used on a vital 125 volt bus. For this reason, there are no changes to the probability or consequences of accidents which assume operation of the vital 125 volt DC system. Since the reliability of the 125 volt DC system is not changed by the proposed LCOs, no new or different types of accidents will be created. Finally, since no changes in battery design or operation are involved, no

reduction in safety margins will be created by the proposed changes to the LCOs. Accordingly, the Commission proposes to determine that the proposed changes to the LCOs for TS 3.8.2.3 and 3.8.2.4 involve no significant hazards considerations.

A final proposed change to the LCO for TS 3.8.2.3 would delete two Action statements and change a third Action statement. These Action statements allowed the reserve battery to replace the normal vital battery during the surveillance tests which render the tested battery inoperable. Because the LCO would now recognize the reserve battery as a replacement for a vital battery in any circumstances, the surveillance condition need not be accounted for in the Action statements. Accordingly, the deletion of the referenced Action statements and renumbering the remaining Action statements would provide consistency within the proposed LCO.

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 a significant hazards consideration. One example provided in 48 FR 14870 of amendments not likely to involve significant hazards considerations is example (i) which provides for "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." Since these proposed changes to the Action statements provide consistency within the TS, the Commission proposes to determine that the proposed changes involve no significant hazards considerations.

With regard to the battery capacity tests, the June 28, 1985, proposed TS would change the battery service test surveillance TS 4.8.2.3.2d.2 for the 125 v vital batteries 12 and 22 to reflect their updated design load cycle. The loads of the updated design load cycle are greater than the simulated or dummy loads currently used for batteries 12 and 22 during the battery service test performed every 18 months. The load cycle time periods remain unchanged (2 hours total endurance). BG&E states that a safety analysis has been completed which verifies that 125 v batteries 12 and 22 have ample capacity to supply power for the updated design load cycle. This proposal would also increase the battery minimum terminal voltage required to be maintained during the battery service test for the four vital 125 v batteries from 100 volts to 105 volts. A voltage of 105 volts is required for

operability of the emergency loads supplies by the batteries. BG&E states in their June 28, 1985 application that a safety analysis has been conducted which verifies that all the 125 v batteries have adequate capacity to supply the emergency loads for the design load cycle while maintaining battery terminal voltage of at least 105 volts.

Both the revised load cycle test and the increased terminal voltage represent more rigorous surveillance that increases the confidence that the 125 v DC vital batteries will perform as required.

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. One such example, (ii), involves "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 proposed change to the TS 4.8.2.3.2d.2 represents a more stringent surveillance requirement and thus the Commission proposes to determine that the proposed change involves no significant hazards considerations.

Finally, a change has been proposed TS 3.8.2.4 to correct a grammatical error. The word "bus" would be changed to "buses" to provide proper grammatical agreement with the remainder of the LCO requirements. As indicated previously, correction of these types of errors are administrative in nature and represent an example of a license amendment that is not likely to involve a significant hazards consideration. Accordingly, the Commission proposes to determine that the proposed change to TS 3.8.2.4, to correct a grammatical error, involves no significant hazards consideration.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Attorney for licensee: George F. Trowbridge, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, DC 20036.

NRC Project Director: Ashok C. Thadani.

Baltimore Gas and Electric Company, Docket Nos. 50-317 and 50-318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendment: September 9, 1985 as supplemented by letter dated October 29, 1985.

Description of amendment request: The proposed amendments would

change the Unit 1 and Unit 2 Technical Specifications (TS) to delete requirements for the post-accident sampling systems (PASS) in TS 3/4.7.13 and the post-accident main vent iodine and particulate monitors in TS Tables 3.3-6, "Radiation Monitoring Instrumentation," and Table 4.3-3, "Radiation Monitoring Instrumentation Surveillance Requirements." A new TS, 6.15.2, "Post-accident Sampling," would address the requirements for the PASS and the post-accident main vent iodine and particulate filters.

Basis for proposed no significant hazards consideration determination: On November 1, 1983, the NRC issued Generic Letter No. 83-37 (GL 83-37) to all pressurized water reactor licensees. This letter contained guidance concerning TS which the NRC believed to be appropriate as addressed in NUREG-0737, "Clarification of TMI Action Plan Requirements". The licensee responded, in part, to GL 83-37 via their applications for license amendments dated September 9, 1985 as supplemented by letter dated October 29, 1985 regarding the PASS and the post-accident main vent iodine and particulate monitors.

The proposed TS submitted by BG&E meets all NRC objectives for this requirement, as contained in GL 83-37, in that it requires the licensee to establish a program with the following elements for the PASS and post-accident main vent iodine and particulate monitors:

- (i) Training of personnel,
- (ii) Procedures for sampling and analysis,
- (iii) Provisions for maintenance of sampling and analysis equipment.

The existing requirements in TS 3/4.7.13 and TS Tables 3.3-6 and 4.3-3 would be deleted in that these requirements would be unnecessary.

Although TS 3.7.3 and TS Table 3.3-6 contain Limiting Conditions for Operation (LCO) for the subject equipment, these conditions were never intended nor were they ever restricting with regard to reactor operation. In the event that the subject equipment was inoperable, the LCOs required alternate sampling methods to be available. This requirement is retained and is implicit in the "program" requirements of proposed TS 6.15.2. The remaining LCO requirement of TS 3.7.13 and TS Table 3.3-6 required a special report to be submitted to the NRC when the subject equipment became inoperable for an extended period. This requirement has no direct impact on the availability of the subject equipment since it can be fulfilled without actually returning the equipment to operation. With regard to

the surveillance requirements of TS 4.7.13 and TS Table 4.3-3, an equivalent level of surveillance would be transferred to the "maintenance" provision of proposed TS 6.15.2.

Based upon the above, we conclude that the major provisions of TS 3/4.7.13 and TS Tables 3.3-6 and 4.3-3 would be incorporated in proposed TS 6.15.2. Moreover, TS 6.15.2 has additional requirements which are important with regard to the subject equipment. Proposed TS 6.15.2 requires "training of personnel" and "procedures for sampling and analysis" which provide the only periodic experience for use of this equipment since there is no function for this equipment during expected plant operating conditions.

Since, overall, no decrease in TS requirements would be associated with the proposed TS change, no change in the probability or consequences of accidents will occur where functioning of the subject post-accident equipment is required and, thus, no new or different type of accidents would be created. In addition, since no design changes or new modes of equipment operation are involved in the proposed TS change, no decrease in any safety margin will result. Accordingly, the Commission proposes to determine that the proposed deletion of TS 3/4.7.13 and TS Tables 3.3-6 and 4.3-3, and the adoption of new TS 6.15.2 involves no significant hazards considerations.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Attorney for licensee: George F. Trowbridge, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M. Street, NW., Washington, DC 20036.

NRC Project Director: Ashok C. Thadani.

Commonwealth Edison Company, Docket Nos. 50-373 and 50-374, La Salle County Station, Units 1 and 2, La Salle County, Illinois

Date of amendment request: December 3, 1985.

Description of amendment request: The proposed amendments to Operating License NPF-11 and Operating License NPF-18 would revise the La Salle Units 1 and 2 Technical Specifications to require issuance of a Radiation Work Permit for entrance to high radiation areas to prevent unauthorized entry to these areas. Presently, each high radiation area at La Salle Units 1 and 2 in which the intensity of radiation is greater than 100 mrem/hr but less than 5000 mrem/hr is controlled by a security computer system. The computer is programmed to permit entry by the use of security badge key cards and card

readers. High radiation areas not equipped with the computerized card readers are maintained locked in accordance with 10 CFR 20.203(c)(4). The revised Specification will control the high radiation area in which the intensity of radiation is greater than 100 mrem/hr but less than 1000 mrem/hr by requiring issuance of a Radiation Work Permit. These Areas will also be barricaded and conspicuously posted.

Basis for Proposed No Significant Hazards Consideration Determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). Example (ii) stated, "A change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications."

The proposed change is more restrictive because it requires a Radiation Work Permit to enter into a high radiation area in which the intensity of radiation is greater than 100 mrem/hr but less than 1000 mrem/hr. For areas of radiation of intensity greater than 1000 mrem/hr but less than 5000 mrem/hr, the controls will remain the same. The Commonwealth Edison Company (licensee) requested this request pursuant to 10 CFR 20.203(c)(5) which allows for a licensee to apply to the Commission for approval of an alternate method of controlling access to high radiation areas. In addition, this same type of control has been approved by the Commission for the Byron Station.

Accordingly, the Commission proposes that the changes would fall into the category of a no significant hazard consideration determination as it contains additional limitations or controls.

Local Public Document Room location: Public Library of Illinois Valley Community College, Rural Route No. 1, Ogelsby, Illinois 61348.

Attorney for licensee: Isham, Lincoln and Burke, Suite 840, 1120 Connecticut Avenue, NW., Washington, DC 20036.

NRC Project Director: Elinor G. Adensam.

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: May 10, 1985 as modified August 28, 1985 and November 5, 1985.

Description of amendment request: The proposed amendment would modify the Technical Specifications by adding

to the required suspension of fuel movement when water level decreases below the minimum level a provision permitting the return of fuel to the reactor core in accordance with the applicable emergency procedure.

Basis for proposed no significant hazards consideration determination: The current Technical Specifications require termination of fuel handling operations if the reactor cavity water level should decrease below the required limit. If a fuel assembly were being moved within the reactor vessel envelope the proposed technical specification change would permit the placement of the grappled fuel assembly into the core region of the reactor vessel.

The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (April 6, 1983, 48 FR 14870). An example of a proposed amendment not likely to involve significant hazards considerations is example (vi) which 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 acceptable criteria with respect to the system or component specified in the Standard Review Plan. We have reviewed the licensee's proposed amendment for movement within the reactor vessel and conclude that it falls within the envelope of example (vi).

Movement of a fuel assembly in the presence of decreasing reactor cavity water level would not be expected to increase the probability of a fuel handling accident inside containment because the required actions would be similar to those performed under normal circumstances. The radiological consequences of a fuel handling accident inside containment have been previously evaluated and described in a safety evaluation dated December 20, 1979. If a fuel assembly were being moved within the reactor vessel and the reactor cavity water level falls below the required minimum levels, the replacement of the grappled assembly into the core barrel region would provide radiological protection to plant personnel, would assure compliance with the staff's Regulatory Guide 1.25 assumption that 23 feet of water above the assembly would be maintained at all times and while the offsite radiological consequences may be increased, by this amendment, the calculated values will remain well within the acceptance criteria of Standard Review Plan Section 15.7.4. Based on the above, the staff

proposed to determine that the licensee amendment request involves no significant hazards considerations.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry and Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: Christopher I. Grimes.

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: April 30, 1985.

Description of amendment request: This proposed amendment involves a Technical Specification change to clarify the action statement when the primary coolant system leakage limit is exceeded and to delete a specification that only applied to cycle 2 operation which ended many years ago.

Basis for proposed no significant hazards consideration determination: The existing Technical Specification requires the plant to be in hot shutdown within 12 hours after the primary coolant leakage exceeds certain limits (1 gpm unidentified, 10 gpm identified). The proposed change requires the same, but clarifies that the shutdown need not commence immediately, allowing 6 hours for leakage identification and repair.

Since the proposed change continues to limit operation to the same time with excess leakage as the existing Technical Specification, it does not involve a significant increase in the probability or consequences of an accident previously evaluated or a significant reduction in a margin of safety. Since the same consideration, i.e., primary coolant system leakage, and the same limits are being addressed as in the existing Technical Specification, it does not create the possibility of a new or different kind of accident from any accident previously evaluated. Therefore, the staff proposes to determine that this change involves no 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 Project Director: Ashok C. Thadani.

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: October 22, 1985.

Description of amendment request: The amendment would change the method for performing the monthly operability test of the containment radiation channels required by the Technical Specifications.

Basis for proposed no significant hazards consideration determination: The licensee has concluded that the proposed Technical Specification Change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The containment high radiation isolation monitors are to be changed out with environmentally qualified monitors. The feature that allows verification of instrument operation using a remote-operated integral radiation check source will not be incorporated into the new monitors. However, the new monitors will have continuous circuit failure monitoring which is annunciated and an electronic circuit check of the circuit amplifier. Like the present monitors, calibration with a known external radiation source will be done at least once per 18 months for the purpose of verifying correct detector response. The daily comparison check of the four containment high radiation indicators coupled with the circuit failure monitoring feature along with the monthly electronic circuit check features provides a high level of assurance the new radiation monitoring system will be operating properly and provide the 2 out of 4 logic required for a containment isolation signal.

The new monitor system will not create the possibility of a new or different kind of accident from any accident previously evaluated, as the change in methods of conducting the surveillance does not affect any accident analysis. The new monitors will provide the same function as the old monitors and the change in surveillance methods has no effect on the margin of safety that is defined in the basis for any of the Technical Specifications.

The staff agrees with the licensee's discussion and, therefore, proposes to determine that the proposed change does not involve significant hazards considerations.

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 Project Director: Ashok C. Thadani.

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: October 28, 1985.

Description of amendment request: Consumers Power Company submitted on September 17, 1984 a proposed Technical Specification Change Request to reflect modifications to the Auxiliary Feedwater System. The requested change responded to Generic Letter 83-37 and Item II.E.1.1 of NUREG-0737, Long Term Auxiliary Feedwater System Evaluation and included a provision to extend the maximum period of inoperability of an auxiliary feedwater pump from 72 hours to 7 days. A preliminary determination of no significant hazards considerations was published in the **Federal Register** on October 24, 1984 (49 FR 42815). By letter dated May 31, 1985, Consumers Power Company requested a change to the Palisades Plant Technical Specifications to reduce the frequency of Auxiliary Feedwater (AFW) System flow testing. The purpose of the change was to reduce the thermal cycling of the AFW inlet nozzles on the steam generators.

On June 21, 1985, Consumers Power Company submitted two letters incorporating additional information. One letter utilized the Risk Ratio method specified in NUREG/CR-3082 to address NRC staff concerns regarding the Station Blackout Event to support the 7 day limiting condition for operation (LCO) for the steam driven auxiliary feedwater pump. The other letter included revisions to the May 31, 1985 submittal that established the ISI Code requirements for quarterly flow testing of the AFW system as optimum.

The October 28, 1985 submittal consolidates all previous submittals. The proposed Technical Specification pages supersede those previously submitted since they include minor revisions from those previously submitted to resolve concerns raised by the NRC Project Manager. However, the information supplied in the cover letters of the September 17, 1984, May 31, 1985 and June 21, 1985 submittals has been reproduced by this change request, and is therefore considered pertinent to this change request.

Basis for proposed no significant hazards consideration determination: The licensee's determination of a no significant hazards consideration is stated as follows:

This change request results from a modification that utilized a spare high-pressure safety injection pump to provide a third auxiliary feedwater pump with its own independent auxiliary feedwater train to both steam generators. In addition to the new auxiliary feedwater train, the system now has 2 secondary suction sources to the auxiliary feedwater pumps. The modification responded to Item II.E.1.1 of NUREG-0737, Long Term Auxiliary Feedwater System Evaluation. The modification improves the reliability and performance of the auxiliary feedwater system.

The requested specification changes reflect operability, action statements, surveillance requirements and basis for the new system. They are consistent with the format and content requirements of the Standard Technical Specifications within the constraints of the existing plant design and construction. The limiting conditions of operation (LCO) for the auxiliary feedwater pumps P-8A and P-8B however have been extended from 3 days to 7 days. The change request also reduces the existing flow testing of the system from monthly to quarterly in accordance with the ASME B&PV Code requirements. The LCO extension and the reduction in flow testing from existing Technical Specification requirements are consistent with the improved reliability and performance of the auxiliary feedwater system. Therefore this request does not involve an increase in the probability or consequences of previously evaluated accidents since system reliability has been improved. Based on engineering judgment and the partially completed Probabilistic Risk Assessment for Palisades Plant, it is concluded that quarterly flow testing of the AFW system is optimum in establishing operability yet providing for a reduction in the thermal cycling of the AFW inlet nozzles on the steam generators. Furthermore, the design of the new nozzles incorporates the results of our analysis of the previous failed sparger thermal liner and external piping to assure a different or new type of accident is not created. Therefore, this proposed change request does not create the possibility of a new or different kind of accident from any previously evaluated.

The changes proposed by this request involve an increase in the margin of safety as defined in the proposed Technical Specification Basis. The Auxiliary Feedwater System is designed so that an automatic start signal is generated to the auxiliary feedwater pumps upon low secondary side steam generator level. If pump P-8A fails to start or establish flow within a specified period of time, pump P-8C receives an automatic start signal. If both pumps P-8A and P-8C fail to start or establish flow within each pump's specified period of time, auxiliary feedwater pump P-8B receives an automatic start signal. The previous margin of safety was established via the operation of only two pumps. The service water makeup to the auxiliary feedwater pump suction in addition to the firewater suction source also contributes to an increase in the margin of safety.

The staff agrees with this assessment and, therefore, proposes to determine

that this requested action involves no significant hazards consideration.

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Attorney for licensee: Jedd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Project Director: Ashok C. Thadani.

Dairyland Power Cooperative, Docket No. 50-409, La Crosse Boiling Water Reactor, Vernon County, Wisconsin

Date of amendment request: July 11, 1984 as revised September 17, 1985.

Description of amendment request: The proposed amendment would revise the technical specifications (TS) for the containment ventilation isolation valves operability and isolation time, limiting conditions for operation, surveillance requirements, and periodic replacement of resilient valve seats and for the associated bases for these specifications. This amendment request was originally noted in the **Federal Register** on July 3, 1985 (50 FR 27505).

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 not likely to involve a significant hazards consideration relates to a change that constitutes an additional limitation, restriction, or control not presently included in the TS. The proposed changes fall within this example since they are all additional requirements not currently included in the TS. In addition, during the review, the staff determined that the July 11, 1984 application did not justify the 12 hours proposed to restore containment ventilation isolation valves to operability or isolate the affected penetration. The staff also found that the proposed TS, if read literally, would require the licensee to shut down if both valves in a penetration fail to open. In addition, the proposed TS contained an inconsistent instruction to simultaneously deactivate a containment ventilation valve and maintain it operable. By letter dated September 17, 1985 the licensee modified its application to reflect the staff's concerns. The new application reduced the time allowed for action when a containment ventilation isolation valve is inoperable and also revised the action statement to clarify the actions required when both containment ventilation isolation valves in a penetration are inoperable. On this

basis, the staff proposed 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. Hesitand, Jr., Esquire, Morgan, Lewis and Bockius, 1800 M Street, NW., Washington, DC 20036.

NRC Project Director: John A. Zwolinski.

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: September 6, 1985.

Description of amendment request: The proposed amendments would add limiting conditions for operation and surveillance requirements for existing engineered safety features actuation instrumentation which detects accumulation of water in the doghouse and provides a feedwater isolation signal if a high doghouse water level (indicative of a feedwater line break) is reached.

Technical Specification 3.3.2 requires, as a limiting condition for operation, that the engineered safety features actuation system instrumentation channels shown in Table 3.3-3 be operable, and that their trip setpoints be set consistent with values in Table 3.3-4. The proposed change would supplement Specification Table 3.3-4 to reflect the high doghouse water level trip setpoint (12") and associated allowable value (13"). Specification Table 3.3-3 would be supplemented to reflect the total number of channels (3/train/doghouse), channels to trip (2/train/doghouse), minimum channels operable (2/train/doghouse), and applicable modes (power operation and startup). The change to Table 3.3-3 would also add required action in the event of an inoperable train(s) (i.e., with one of the two trains of doghouse water level instrumentation inoperable (less than the minimum required number of channels operable), restore the inoperable train to operable status in 72 hours. After 72 hours with one train inoperable, or within one hour with 2 trains inoperable, monitor doghouse water level in the affected doghouse continuously until both trains are restored to operable status.) The change would also supplement the surveillance requirements of Table 4.3-2 to require a channel check once per shift and a trip actuating device operational check once per 18 months.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of its standards set forth in 10 CFR 50.92 for no significant hazards consideration by providing certain examples published in the **Federal Register** on April 6, 1983 (48 FR 14870). One of the examples of an amendment likely to involve no significant hazards consideration relates to changes (ii) that constitute additional limitations, restrictions, or controls not presently included in the Technical Specifications. The proposed amendments of the Technical Specifications match the example because they would impose additional limitations for operation and additional surveillance requirements for doghouse water level instrumentation. No requirements regarding this instrumentation are presently in the Technical Specifications. Therefore, the Commission proposes to determine that the proposed amendments do not involve a significant hazards consideration.

The licensee's letter of September 6, 1985, also proposes changes regarding the Containment pressure Control System. These changes are outside the scope of this notice.

Local Public Document Room locations: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

Attorney for licensee: Mr. Albert Carr, Duke Power Company, P.O. Box 33189, 422 South Church Street, Charlotte, North Carolina 28242.

NRC Project Director: B. J. Youngblood.

GPU Nuclear Corporation, et al., Docket No. 50-289, Three Mile Island Nuclear Station, Unit No. 1, Dauphin County, Pennsylvania

Date of amendment request: December 9, 1985.

Description of amendment request: Section 4.4.1.2.5 of the TMI-1 Technical Specifications requires that local leak detection tests shall be performed at a frequency of at least each refueling period. Section 1.2.8 defines a refueling interval as the time between normal refuelings of the reactor but not to exceed 24 months without prior approval of the NRC.

The proposed amendment would change Section 4.4.1.2.5 to require that local lead detection tests shall be performed at a frequency as required by 10 CFR 50 Appendix J. The proposed amendment also states that if an exemption from the frequency as specified by 10 CFR 50 Appendix J is granted by the NRC, the frequency as

specified by the exemption shall apply. Appendix J of 10 CFR 50 has a current maximum limitation of two years for local leak detection tests.

Basis for propose no significant hazards consideration determination: The present Technical Specifications provide specific test intervals for local leak detection tests which are in accordance with 10 CFR Part 50 Appendix J. The proposed amendment clarifies the Technical Specifications to state that frequency of local leak rate testing shall always be in accordance with the regulations. If Appendix J is amended in the future, the test frequency is automatically amended with the regulations change without a need for an administrative Technical Specification change.

The proposed amendment does not change the current physical test requirement or modify its frequency. The proposed amendment also does not affect the plant design or method of operation, does not involve modification of plant equipment, and therefore will not create the possibility of a new or different accident from any previously evaluated. It does not physically change the current test frequency and therefore does not involve an increase in the probability or consequences of any accident previously analyzed or reduce any margin of safety.

The application for amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated, does not create the possibility of a new or different kind of accident from any accident previously evaluated, and does not involve a significant reduction in a margin of safety. In accordance with 10 CFR 50.92, the Commission's staff proposes to determine that the application involves no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Attorney for licensee: G. F. Trowbridge, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, DC 20036.

NRC Project Director: John F. Stolz.

Mississippi Power & Light Company, Middle South Energy, Inc., South Mississippi Electric Power Association, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: September 13, 1985, October 24, 1985,

October 30, 1985, and December 11, 1985.

Description of amendment request: The amendment would make two changes in the Technical Specifications: (1) revise Specification 6.3.1 "Unit Staff Qualification" providing a one-time exception to the qualification requirements for the Chemistry/Radiation Control Superintendent and (2) in Table 3.3.7.4-1 "Remote Shutdown System Controls", delete the controls for a valve isolating the residual heat removal (RHR) system from the reactor head spray line.

Basis for proposed no significant hazards consideration determination: The Technical Specifications Section 6.3.1 "Unit Staff Qualifications" require, among other things, that the plant Chemistry/Radiation Control Superintendent meet or exceed the qualifications in Regulatory Guide 1.8 "Personnel Selection and Training", September 1975. Section C of this Regulatory Guide states that a radiation protection manager (designated Chemistry/Radiation Control Superintendent at Grand Gulf) should have at least five years of professional experience in applied radiation protection. In a September 13, 1985, submittal, licensee provided the work experience, training, and education of the Chemistry/Radiation Control (C/RC) Superintendent. Based on its preliminary evaluation, the NRC staff concluded that the five year experience requirement is not met by the present C/CR Superintendent. By letters dated October 24, 1985, and December 11, 1985, the licensee proposed that a Technical Assistant who is qualified to serve as radiation protection manager be assigned to the present C/RC Superintendent and that the C/RC Superintendent completed a training program to qualify as a radiation protection manager. The proposed Technical Assistant would act as radiation protection manager for Grand Gulf during the absence of the C/RC Superintendent from the site and assist the Superintendent in his radiation protection responsibilities until the Superintendent completes the training program or until an NRC approved individual is placed in that position. Because a qualified radiation protection manager meeting Technical Specification requirements will assist the superintendent until his training is completed, the staff concludes that the one-time exception to the qualification requirements or Regulatory Guide 1.8 for the Chemistry/Radiation Control Superintendent requested in change (1) does not involve a significant increase

in the probability or consequences of an accident previously evaluated, nor does it create the possibility of a new or different kind of accident from any accident previously evaluated. For the same reason and because change (1) does not involve any change to the plant equipment or limiting conditions for operation, the staff concludes change (1) does not involve a significant reduction in a margin of safety.

Change (2), the deletion from Table 3.3.7.4-1 of the control for a valve isolating the RHR system from the reactor head spray line, is described in a separate submittal dated September 13, 1985. This deletion is made because a design change eliminated the need for the valve control on the remote shutdown panel. The control for this valve was put on the remote shutdown panel when this line was used to inject water into the reactor from the reactor core isolation cooling system, (RCIC), a system used for safe shutdown following emergency evacuation of the control room. The design was changed to inject RCIC water through the feedwater line; therefore, this valve is no longer used for RCIC injection. By letter dated October 30, 1985, the licensee stated it would remove the hand switch for this valve from the remote shutdown panel thus preventing inadvertent opening of the valve and overpressurization of the RHR System. The valve serves as a containment isolation and pressure isolation valve and operability of the valve to perform these functions will continue to be maintained in accord with Technical Specifications 4.6.4 and 4.4.3.2.2. Change (2) does not involve a significant increase in 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 because the valve's primary function after the design change which has been made is containment and reactor pressure isolation. It is normally closed and its operability is not required for any safe shutdown or accident analysis. The proposed change does not involve a significant reduction in a margin of safety because remote shutdown operability of the valve is not required for safe shutdown.

Accordingly, the Commission proposes to determine that these two changes to the Technical Specifications do not involve significant hazards considerations.

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154.

Attorney for licensee: Nicholas S. Reynolds, Esquire, Bishop, Liberman, Cook, Purcell & Reynolds, 1200 17th Street, NW., Washington, DC 20036.

NRC Project Director: Walter R. Butler.

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, as supplemented October 1, 1985.

Description of amendment request: Northeast Nuclear Energy Company's proposed revision to Technical Specification Section 3/4.7.10, Penetration Fire Barrier, contained in their application dated May 28, 1985 has been modified per their October 1, 1985 submittal. The licensee proposes to retain the present requirement to protect safety-related system and equipment. They propose to revise the limiting condition for operation and surveillance requirements to be consistent with the wording of the Standard Technical Specifications.

The previous proposal to implement a fire watch patrol on a frequency of every 8 hours on either side of an inoperable barrier is revised to a frequency of 1 hour consistent with the Standard Technical Specifications. The previous proposal to provide the NRC a special report if a barrier is not permanently repaired within 30 days has been deleted. Instead, a continuous fire watch or hourly fire watch patrol will be implemented until the temporary or inoperable barrier is permanently repaired. The proposed change to Technical Specification 6.9.2, Special Reports, is also no longer needed consistent with the above discussion.

Basis for proposed no significant hazards consideration determination: The staff proposed to determine that the proposed changes as submitted in the May 28, 1985 application do not involve a significant hazard consideration. This proposed finding was published in the **Federal Register** on July 3, 1985 (50 FR 27507). Because the October 1, 1985 supplement made changes which are more restrictive than the initial May 28, 1985 application and no other changes are made to invalidate the previous determination, the no significant hazards determination made previously remains applicable. Therefore, the supplemental changes would not involve a significant increase in the probability or consequences of an accident previously evaluated, 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.

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 Project Director: Ashok C. Thadani.

Northern States Power Company,
Docket no. 50-263, Monticello Nuclear
Generating Plant, Wright County,
Minnesota

Date of application for amendment:
September 24, 1982, as supplemented by
submittals dated September 29, 1983 and
November 15, 1985.

Description of amendment request:
The original amendment request of
September 24, 1982 was initially noticed
on August 23, 1983 (49 FR 38414).
Supplemental information revises the
proposed changes to the Technical
Specifications to clarify the Limiting
Conditions for Operation and
Surveillance Requirements associated
with jet pump operability.

*Basis for proposed no significant
hazards consideration determination:*
The Commission has provided guidance
concerning the application of the
standards for determining whether a
significant hazards consideration exists
by providing certain examples (April 6,
1983, 48 FR 14870). One of these,
example (ii) of amendments not likely to
involve significant hazards
considerations is "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 proposed
changes in this application for
amendment are encompassed by this
example because the revisions to the
Technical Specifications would clarify
the Limiting Conditions for Operation
and Surveillance Requirements
associated with jet pump operability.
The license presents that the proposed
surveillance program would provide
additional assurance that jet pump
degradation will be detected before
actual jet pump failure. The proposed
changes would prescribe a program to
monitor various parameters, such as
core flow, core plate differential
pressure, recirculation pump flow and
speed, so the acceptability of jet pump
performance can be clearly determined.
The proposed Limiting Conditions for
Operation contain the minimum
acceptable standards for jet pump
operability and when they are not met,

the reactor would be shut down within
24 hours. In addition, the proposed
surveillance requirements will include
evaluation of the jet pump deviation
every 24 hours whenever the
recirculation pump speed is below 60%.
The proposed surveillance program
would provide additional assurance that
jet pump degradation will be detected
before actual jet pump failure. By being
a better diagnostic tool, the proposed
changes would add more control for
plant operations.

Therefore, since the application for
amendment involves proposed changes
similar to example (ii), the staff has
made a proposed determination that this
application involves no significant
hazards consideration.

Local Public Document Room

location: Environmental Conservation
Library, Minneapolis Public Library, 300
Nicollet Mall, Minneapolis, Minnesota.

Attorney for licensee: Gerald
Charnoff, Esq., Shaw, Pittman, Potts and
Trowbridge, 1800 M Street, NW.,
Washington, DC 20036.

Project Director: John A. Zwolinski.

Pennsylvania Power & Light Company,
Docket No. 50-366, Susquehanna Steam
Electric Station, Unit 2, Luzerne County,
Pennsylvania

Date of amendment request: October
10, 1985.

Description of amendment request: In
the proposed amendment the licensee
has requested that: (1) Technical
Specification 4.8.4.1.a.1 be modified to
achieve a greater level of clarity for this
surveillance, which was previously
ambiguous in cases where no trip
setpoint or response time was provided.
The difference between the current
Technical Specification and the
proposed revision is in specifying how
acceptance criteria shall be met for each
type of breaker, i.e., magnetic-only
(HFB-M) and thermal-magnetic (HFB-
TM, KB-TM). The degree of testing for a
given breaker remains unchanged due to
the proposed revision. (2) Technical
Specification Table 3.8.4.1-1 be revised
to reflect the replacement of magnetic-
only circuit breakers with thermal-
magnetic circuit breakers. Changing the
containment penetration overcurrent
protection from magnetic-only to
thermal-magnetic circuit breakers
allows detection of substantially lower
short circuit currents. (3) Additional
changes to Table 3.8.4.1-1 are deletion
of the following:

Frame Rating/UL: Control of breaker
frame size and UL rating is ensured by
the design change control process,
which is governed by 10 CFR 50-59, and
therefore the information need not be
included in the Technical Specifications.

Trip Setpoint: Due to the replacement
of magnetic-only with thermal-magnetic
circuit breakers, the number of
adjustable (Type HFB-M, magnetic-
only) breakers has decreased by
approximately two-thirds. Trip setpoints
are not applicable to non-adjustable
breakers. The setpoint control of the
adjustable breakers is ensured by the
setpoint change control process, which
is governed by 10 CFR 50.59, and
therefore the information need not be
included in the Technical Specifications.

Response Time: The response time
column is currently "NA" for all entries.
This is because, as described in FSAR
subsection 4.8.4.1.a.1, manufacturer's
data is used to determine acceptable
response time. Therefore, the column
has been deleted.

(4) Other changes to Table 3.8.4.1-1
are the following editorial changes:

a. "Circuit Breaker Location" has been
changed to "Circuit Breaker
Designation."

b. "Molded Case Circuit Breaker"
headings were deleted. The need for this
heading is tied, by the Standard
Technical Specifications, to a need to
differentiate test methods from those
used for metal case circuit breakers. The
surveillance is now tied to the types
listed in the proposed change, and no
metal case breakers are in use, so that
the information which the licensee
proposes to delete serves no useful
purpose.

c. Editorial descriptions of specific
equipment have been deleted. Systems
and equipment numbers is sufficient for
this purpose.

d. Footnotes referring to vendors have
been deleted since they are
unnecessary; the type definitions they
provided are covered by the revised
surveillance.

e. Footnote "#" was revised (new
footnote*) to drop the reference to series
arrangement, because this is not always
the correct designation. Furthermore,
such specific information is
unnecessary; the key information is that
two redundant breakers are to be
OPERABLE.

f. The entire listing has been
reorganized to be grouped by system,
rather than randomly.

*Basis for proposed no significant
hazards consideration determination:*

1. In Technical Specification 4.8.4.1.a.1
the degree of testing has not changed for
any given breaker but, the amount of
prescriptiveness required to clarify the
acceptance criteria applicable to any
given breaker has been increased.
Therefore, this change falls under
example (ii) "a change that constitutes
an additional limitation, restriction or

control not presently included in the Technical Specifications" of the Commission's guidance in (48 FR 14870) on types of amendments which are not likely to involve significant hazards considerations.

2. In Technical Specification Table 3.8.4.1-1 by replacing magnetic-only circuit breakers with thermal-magnetic circuit breakers safety has been improved by the addition of this equipment, which can detect lower short circuit currents. This design improvement provides additional control over penetration protection and it therefore falls under example (ii) "a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specification" of the Commission's guidance in (48 FR 14870) on types of amendments that are not likely to involve significant hazards considerations.

3. In Technical Specification Table 3.8.4.1-1 the licensee has proposed deletion of design information related to the overcurrent protection devices (Frame Rating-UL, Trip Setpoint and Response Time). This equipment is covered under the requirements of 10 CFR 50.59 which states that the licensee may make equipment changes without prior Commission approval, unless the proposed change involves a change to the Technical Specifications or an unreviewed safety question. Although the change would delete design information from the Technical Specifications this equipment would still be covered under 10 CFR 50.59 which does not permit any changes or replacement of equipment that is not the same as or equivalent to that currently installed. Therefore this deletion merely provides flexibility within the bounds of 10 CFR 50.59 without requiring changes to the Technical Specifications. The proposed changes therefore do not: (1) involve a significant increase in the probability or consequence of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated or (3) involve a significant reduction in the margin of safety.

4. In Technical Specification Table 3.8.4.1-1 other changes have been proposed which are purely administrative and clearly fall under example (i) of actions not likely to involve significant hazards considerations. "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.

On the basis of the above, the Commission proposes to conclude that all the proposed changes do not involve a significant hazards consideration.

Local Public Document Room
location: Osterhout Free Library
Reference Department, 71 South
Franklin Street, Wilkes-Barre,
Pennsylvania 18701.

Attorney for licensee: Jay Silberg,
Esquire, Shaw, Pittman, Potts &
Trowbridge, 1800 M Street NW.,
Washington, DC 20036.

NRC Project Director: E. Adensam.

**Philadelphia Electric Company, Docket
No. 50-352, Limerick Generating Station,
Unit 1, Montgomery County,
Pennsylvania**

Date of amendment request:
December 18, 1985.

Description of amendment request:
The amendment would revise Technical Specifications (TS) 4.6.1.2.d and g to allow a one-time-only extension of time to satisfy local leak rate testing requirements on primary containment isolation valves as listed in the amendment application. The tests are required by the Technical Specifications to be performed at intervals no greater than 24 months, except for valves in hydrostatically tested lines which shall be leak tested at least once per 18 months. The Commission's regulations in Section III.D.3 of Appendix J to 10 CFR Part 50 require that Type C local leak rate tests be performed during each reactor shutdown for refueling but in no case at intervals greater than two years. Accordingly, the licensee has also applied for a temporary exemption from these specific requirements of Appendix J.

Under the amendment the surveillances would be performed during a plant shutdown beginning no later than May 26, 1986 which will occur a maximum of 84 days beyond the time otherwise required by the Technical Specifications. The purpose of this amendment is to allow continued operation of the plant until other more extensive surveillance tests need to be performed, and for which plant shutdown is also required.

The testing for this specification is a Type C test as defined in Appendix J to measure containment isolation valve leakage rates. The tests cannot be performed during power operations since entry would be required by personnel into the primary containment which is at undesirable temperatures and radiation levels for routine personnel access. The end of the most limiting surveillance interval for these tests for Limerick Unit 1 is March 3, 1986.

The next shutdown is currently expected to start on or before May 26, 1986. The period of plant operation during the proposed extensions, therefore, is a maximum of 84 days. The need for the one-time extension in the surveillance interval is a consequence of the operation of Limerick, Unit 1 at less than five percent of rated power for an extended period of time.

Basis for proposed no significant hazards consideration determination:
The Commission has made a proposed determination that the proposed amendment involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee in its letter of December 18, 1985, has determined and the NRC staff agrees that the proposed amendment will not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated since allowances for leakage through isolation valves are included in the Final Safety Analysis Report safety analyses and information provided by the licensee suggests that any leakage through these valves would be well within the allowed valves and that based on the type of surveillances extended, no significant increase in the probability of degradation of the valves during the extension is postulated; (2) Create the possibility of a new or different kind of accident from any accident previously evaluated because this amendment neither removes or adds any equipment nor does it eliminate required tests; and (3) involve a significant reduction in the margin of safety because the increased surveillance interval (84-days) does not significantly increase the possibility that an undetected degradation will occur in any of the isolation valves covered by these Technical Specifications. Accordingly, the staff proposes to determine that the proposed changes to the Technical Specifications involve no significant hazards considerations.

Local Public Document room:
Pottstown Public Library, 500 High
Street, Pottstown Pennsylvania 19464.

Attorney for Licensee: Conner and
Wetterhahn, 1747 Pennsylvania Ave.,
NW., Washington, DC 20036.

NRC Project Director: Walter R. Butler.

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: June 20, 1985.

Description of amendment request: This application seeks to amend Section 6.2 "Plant Staff" of the IP-3 Technical Specifications in accordance with the requirements of NUREG-0737 Item I.A.1.3 and NRC letter of March 15, 1985. There are two revisions within Section 6.2 as part of this submittal. The first revision limits overtime for those individuals who perform safety-related functions in accordance with the requirements of Generic Letter No. 82-12, dated June 15, 1982. The second revision provides for the minimum shift crew composition (Table 6.2-1) as detailed in NUREG-0737 Item I.A.1.3.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for a no significant hazards determination 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 staff proposes to determine that the proposed change does not involve a significant hazards consideration since it consists of additional limitations on operation of the facility not currently in the Technical Specifications.

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 Project Director: Steven A. Varga.

Sacramento Municipal Utility District, Docket No. 50-312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of amendment request: November 25, 1985.

Description of amendment request: This submittal supersedes the request for amendment dated January 23, 1984, which was noticed in the **Federal Register** on May 23, 1984 (49 FR 21838).

The proposed Technical Specification amendment adds operational criteria for several hardware modifications which were incorporated in the facility as a

direct consequence of lessons learned from the Three Mile Island accident. The hardware modifications were required by the NRC and are described in NUREG-0737. The Technical Specification changes associated with the NUREG-0737 modifications are prescribed by Generic Letter 83-37. This submittal is the licensee's consolidated response to the recommendations in Generic Letter 83-37 and supersedes portions of any previous submittals which may have addressed Technical Specification changes associated with Generic Letter 83-37.

The proposed Technical Specification changes address operational criteria for the following components/systems: reactor coolant system vents, post accident sampling, auxiliary feedwater, noble gas effluent monitors, effluent sampling, containment high range radiation monitor, containment pressure monitor, containment water level monitor, containment hydrogen monitor, inadequate core cooling instrumentation, and control room habitability.

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 of actions likely to involve no significant hazards considerations is a change that constitutes an additional limitation, restriction or control not presently included in the Technical Specifications: for example, a more stringent surveillance requirement. All of the changes requested are additional limitations, restrictions and controls not presently included in the Technical Specifications. Accordingly, the Commission proposes to determine that these changes do not involve a significant hazards consideration.

Local Public Document Room location: Sacramento City-County Library, 828 I Street, Sacramento, California 95814.

Attorney for licensee: David S. Kaplan, Sacramento Municipal Utility District, 6201 S Street, P.O. Box 15830, Sacramento, California 95813.

NRC Project Director: John F. Stolz.

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of amendment request: October 23, 1985.

Description of amendment request: The proposed amendment would revise the Kewaunee Technical Specifications (TS), Section 4.2.b (Steam Generator Tubes), Table TS 4.2-2 and the Bases. In

all, there are ten changes being proposed. The key change is to TS 4.2.b.4, TS 4.2.b.5.a and Table TS 4.2-2. This key change would permit the licensee to either plug or repair defective steam generator tubes. The current TS permit only tube plugging. The remaining nine changes involve clarifications, gaining consistency between sections of TS 4.2.b, correction of a typographical error and providing consistency between the Kewaunee TS and our Rules in regards to reporting requirements.

Basis for proposed no significant hazards consideration determination: The key portion of the proposed changes are in Section 4.2.b.4, 4.2.b.5.a and Table TS 4.2-2 of the Technical Specifications. These sections would permit the licensee to either plug or repair a defective steam generator tube. Plugging or repair decisions can only be made after a tube inspection, while the reactor is in a cold shutdown (stable) condition. Prior to starting the repairs the licensee must first perform a safety analysis of the impact of the repairs on future reactor operation under our Rule 10 CFR 50.59. As a consequence we conclude that the proposed changes are consistent with the Commission's criteria for determining whether a proposed amendment to an operating license involves no significant hazards considerations, 10 CFR 50.92 (48 FR 14871). The proposed revisions to the Technical Specifications will not involve a significant increase in the probability or consequences of an accident previously evaluated; or create the possibility of a new or different kind of accident previously evaluated or involve a significant reduction in margin of safety as the reactor is in a cold shutdown condition during the repair operation and future impact of repairs was analyzed under our Rules.

In regard to the remaining nine proposed TS changes, the Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples of actions involving no significant hazards consideration include: (i) 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. These remaining nine changes concern items of clarity, consistency and correction of a typographical error and are clearly administrative changes as in example (i).

Therefore, since the application for amendment involved proposed changes that are similar to examples for which no significant hazards considerations exist, the Commission proposes to determine that the proposed 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 Project Director: George E. Lear.

Yankee Atomic Electric Company, Docket No. 50-29, Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of amendment request: October 15, 1985.

Description of amendment request: The proposed change would modify the Technical Specifications (TS) to add the following to the list of required instrumentation: (1) Containment High Range Radiation Monitor; (2) Core Exit and Reactor Vessel Head Thermocouples; (3) Containment Pressure Monitors; and (4) Containment Water Level Monitors. Additionally, the proposed change would add surveillance requirements for the listed instruments.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards for making a no significant hazards consideration determination by providing certain examples (April 6, 1983, 48 FR 14870). Example (ii) of actions not likely to involve a significant hazards consideration involves a change that constitutes an additional limitation, restriction, or control not presently included in the TS: For example, a more stringent surveillance requirement. USNRC Generic Letter No. 83-37, dated November 1, 1983, identified the need to establish TS for certain systems specified in the TM-Task Action Plan. The proposed change would add TS listings of required instrumentation, and surveillance requirements for that instrumentation, for these TMI/related TS. Since the instrumentation being added by the proposed change does not currently exist in the TS, the proposed changes fit the example.

Based on this discussion, the staff proposes to determine that the requested action would not involve a significant hazards consideration.

Local Public Document Room location: Greenfield Community College,

1 College Drive, Greenfield, Massachusetts 01301.

Attorney for licensee: Thomas Dignan, Esquire, Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02110.

NRC Project Director: George E. Lear.

Yankee Atomic Electric Company, No. 50-29, Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of Amendment Request: October 31, 1985.

Description of Amendment Request: The proposed change would modify the Technical Specification (TS) for the containment hydrogen monitors to: (1) increase the number of monitors from one to two; (2) add a new functional test surveillance requirement for each monitor; (3) require the performance of a channel calibration on each monitor; and (4) modify the action statement in the Limiting Condition for Operation (LCO) for the monitors.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards for making a no significant hazards consideration determination by providing certain examples (April 6, 1983, 48 FR 14870). Example (ii) of actions not likely to involve a significant hazards consideration involves 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 current TS only address one containment hydrogen monitor. The proposed change adds LCOs and surveillance requirements for a second containment monitor. The LCO action statements have been modified to add an action statement for the case where one of the monitors is out of service. In addition, the action statement for the case where no monitors are operable has been modified to require action within 72 hours, instead of the current TS requirement of seven (7) days.

A surveillance requirement for functional testing of both containment hydrogen monitors has been added. In addition, a channel calibration requirement has been added for the new containment hydrogen monitor, such that a channel calibration of both monitors is now required. All of the listed changes are either new TS T.S. On this basis, the staff proposes to determine that the requested action would not involve a significant hazards consideration.

Local Public Document Room Location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301.

Attorney for Licensee: Thomas Dignan, Esquire, Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02110.

NRC Project Director: George E. Lear.

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.

Baltimore Gas and Electric Company, Docket Nos. 50-317 and 50-318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of amendment request: November 1, 1985.

Brief description of amendment: The amendments would revise the Technical Specifications to reflect organizational changes.

Date of publication of individual notice in Federal Register: November 25, 1985 (50 FR 48501)

Expiration date of individual notice: December 26, 1985.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Mississippi Power & Light Company, Middle South Energy, Inc., South Mississippi Electric Power Association, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: November 14, 1985.

Brief description of amendment: The amendment would: (1) change Technical Specification Figure 6.2.1-1 "Offsite Organization" and make other changes in Section 6 "Administrative Controls" to reflect proposed changes in the Grand Gulf Nuclear Station (GGNS) Nuclear Production Department (NPD); and, (2) terminate the requirement in License Condition 2.C.(28) that an MP&L staff member (or members) who has substantial commercial nuclear power

plant operating management experience act as advisor to the vice president in charge of nuclear operations until the plant has operated for at least six months at power levels above 90% of full power.

Date of publication of individual notice in Federal Register: December 3, 1985 (50 FR 49633).

Expiration date of individual notice: January 1, 1985.

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154.

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, 1, 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 that 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, DC, 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, DC 20555, Attention: Director, Division of Licensing.

Commonwealth Edison Company, Docket Nos. 50-237/249, Dresden Nuclear Power Station, Unit Nos. 2 and 3, Grundy County, Illinois

Date of application for amendments: August 13, 1985.

Brief description of amendments: The amendments relocate certain license conditions into Appendix A Technical Specifications, change the criteria for limiting the K_{eff} Factor in the spent fuel pools from grams of U-235 per axial centimeter to a K-INF limit and add a limitation to the storage capacity of the new-fuel vault.

Date of issuance: December 12, 1985.

Effective date: December 12, 1985.

Amendment Nos. 91, 85.

Provisional Operating License No. DPR-19 and facility Operating License No. DPR-25. The amendments revise the Technical Specifications and the license.

Date of initial notice in Federal Register: October 23, 1985 (50 FR 43022). The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 12, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room Location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60450.

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut, Northeast Nuclear Energy Company, et al., Docket Nos. 50-245 and 50-336, Millstone Nuclear Power Station, Unit Nos. 1 and 2, New London County, Connecticut

Date of application for amendments: July 9, 1985.

Brief description of amendments: These amendments add subparagraph 6.2.2.g to the Technical Specifications. Subparagraph 6.2.2.g commits to develop and implement procedures governing use of overtime which will follow the general guidance of the NRC Policy Statement on working hours as stated Generic Letter no. 82-12.

Date of Issuance: December 10, 1985.

Effective date: December 10, 1985.

Amendment No.: 71, 108 and 106.

Facility Operating License Nos. DPR-61 and DPR-65 And Provisional Operating License No. DPR-21: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: August 28, 1985 (50 FR 34933 at 34936).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 10, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room locations: Russell Library, 123 Broad Street, Middletown, Connecticut 06457 (Haddam Neck) and Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385 (Millstone Units 1 and 2).

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: February 14, 1983.

Brief description of amendment: The amendment revises the Technical Specifications to conform more closely with the Standard Technical Specifications regarding boric acid addition capabilities by adding operability requirements for the boric acid transfer pump, boric acid storage system and refueling water storage tank to the existing specifications. A specification concerning operation with reactor coolant temperature below 295° F is also added. By letter dated August 1, 1985 Consolidated Edison provided a change to the original amendment request which was administrative in nature and in no way changed the meaning or technical content of the specification.

Date of issuance: December 5, 1985.

Effective date: Immediately to be implemented within 60 days.

Amendment No.: 105.

Facilities Operating License No. DPR-26: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: September 21, 1983 (48 FR 43134).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation date December 5, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: White Plains Public Library, 100 Marine Avenue, White Plains, New York, 10610.

Florida Power and Light Company, Docket No. 50-335, St. Lucie Plant, Unit No. 1, St. Lucie County, Florida

Date of application of amendment: October 17, 1985 as supplemented by letter dated December 2, 1985.

Brief description of amendment: This amendment changes the Linear Heat Generation Rate Limiting Condition for Operation, the associated figures and Bases and deletes the fuel densification and thermal expansion uncertainty factor. It requires the submittal of a supplemental report that covers the complete large break Loss-Of-Coolant Accident spectrum results.

Date of Issuance: December 12, 1985.

Effective Date: December 12, 1985.

Amendment No.: 70.

Facility Operating License No. DRP-67: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: October 31, 1985 (50 FR 45506). Since the initial notice, the licensee submitted a supplement dated December 2, 1985 that clarifies information concerning the actual axial linear heat rate that will be generated and actual numbers dealing with steam generator tubes that have been plugged to date. This information does not revise the proposed TSs, therefore, the Commission staff concluded that renoticing was not necessary. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 12, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Dockets Nos. 50-321 and 50-366, Edwin I. Hatch Nuclear Plant, Units Nos. 1 and 2, Appling County, Georgia

Date of application for amendments: June 15, 1983, as supplemented and modified by letters dated September 1, 1983, and August 20, 1985.

Brief description of amendments: The amendments revise the TSs for Hatch Units 1 and 2 to (1) eliminate the time restriction on opening the purge and vent isolation valves during operating Modes 1, 2 and 3 for the purpose of inerting, deinerting and pressure control; (2) add a Limiting Condition for Operation and surveillance requirements for fast acting dampers in the standby gas treatment system; and (3) require replacement of resilient seats on the purge and vent isolation valves.

Date of issuance: December 11, 1985.

Effective date: December 11, 1985.

Amendment Nos.: 118 and 58.

Facility Operating Licenses Nos. DPR-57 and NPF-5: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: February 24, 1984 (49 FR 7036) and October 9, 1985 (50 FR 41249).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 11, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia 31513.

GPU Nuclear Corporation, Docket No. 50-219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: February 11, 1985.

Brief description of amendment: This amendment authorizes changes to the Appendix A Technical Specifications (TS) pertaining to Section 3.13, Accident Monitoring Instrumentation. The limiting conditions for operation for the Relief Valve and Safety Valve Position Indicators are being revised to be the same as the TS in Generic Letter 83-36, NUREG-0737 Technical Specifications, dated November 1, 1983.

In the application dated February 11, 1985, GPU Nuclear (the licensee) also requested the following changes to Sections 3.13 and 3.14 of the TS: (1) clarification of TS Table 3.13.1 on Relief Valve Position Indicators; (2) addition of limiting conditions for operation and surveillance requirements on the Torus Water Level Monitors, the Drywell Pressure Monitors and the Drywell Hydrogen Monitors; and (3) Revision of TS 3.13.A.1 for Relief Valve Position Indicators. The requested changes (1) and (3) above were withdrawn by the licensee in the August Progress Review Meeting on Licensing Actions of September 18, 1985. The meeting minutes for this meeting are dated October 29, 1985. The requested change (2) above is the subject of a separate staff action on Generic Letter 83-36.

Date of issuance: December 9, 1985.

Effective date: December 9, 1985.

Amendment No.: 96.

Provisional Operating License No. DPR-16: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: April 23, 1985 (50 FR 16004) The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated December 9, 1985.

No significant hazards consideration comments received: No.

Local Public Document Room location: Ocean County Library, 101 Washington Street, Toms River, New Jersey 08753.

Iowa Electric Light and Power Company, Docket No. 50-331, Duane Arnold Energy Center, Linn County, Iowa

Date of application for amendment: July 18, 1985.

Brief description of amendment: The amendment revises the Technical specifications to incorporate an additional surveillance testing requirement for leak testing of the Automatic Depressurization System (ADS) nitrogen accumulator check valves, a description of ADS nitrogen supply system in the Bases, and a correction of a typographic error.

Effective date: December 5, 1985.

Amendment No.: 127.

Facility Operating License No. DPR-49: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: August 14, 1985 (50 FR 32795). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 5, 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.

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: February 19, 1985, as amended August 22, 1985.

Brief description of amendments: These amendments revise certain sections of the Radiological Effluent Technical Specifications which were issued on August 3, 1984.

Date of Issuance: December 10, 1985.

Effective date: December 10, 1985.

Amendments Nos.: 115 and 119.

Facility Operating Licenses Nos. DPR-44 and DPR-56: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: October 9, 1985 (50 FR 41254) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 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 Streets, Harrisburg,
 Pennsylvania 17126.

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

Dates of application for amendments:
 May 9, 1985.

Brief description of amendments: The amendment revises 3.10.1 "Special Test Exception—Shutdown Margin" to allow the surveillance requirements for Control Elements Assemblies to be performed within seven days rather than 24 hours.

Date of Issuance: December 12, 1985.

Effective date: December 12, 1985 and fully implemented within 30 days of the date of issuance.

Amendment Nos.: 40 and 29.

Facility Operating License Nos. NPF-10 and NPF-15: Amendments revised the Technical Specifications.

Dates of Initial notice in Federal Register: September 11, 1985 (50 FR 37090).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 12, 1985.

No significant hazards consideration comments were received.

Local Public Document Room
Location: San Clemente Library, 242
 Avenida Del Mar, San Clemente,
 California.

Virginia Electric and Power Company, Docket Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of application for amendments:
 March 16, 1982, as supplemented June 28, August 3, and August 9, 1982, June 30, and October 27, 1983, March 22, and November 2, 1984, and April 17, and August 30, 1985; and by letter dated November 30, 1984, as supplemented April 12 and August 30, 1985.

Brief description of amendments: Revises the Technical Specifications to reflect changes to the VEPCO offsite and the Surry Power Station organizations, and revises the immediate notification requirements and the Licensee Event Reports System to be consistent with §§50.72 and 50.73 of 10 CFR Part 50.

Date of issuance: December 11, 1985.

Effective date: December 11, 1985.

Amendment Nos.: 104 and 104.

Facility Operating License Nos. DPR-32 and DPR-37: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: July 20, 1983 (48 FR 33092); Renoticed June 20, 1984 (49 FR 25378), April 23, 1985 (50 FR 16019), and February 27, 1985 (50 FR 8011); Renoticed June 4, 1985 (50 FR 23555), and November 6, 1985 (50 FR 46208).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 11, 1985.

No significant hazards consideration comments received: No.

Local Public Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Dated at Bethesda, Maryland this 23rd day of December 1985.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Acting Director,

Division of PWR Licensing—A, NRR.

[FR Doc. 85-38839 Eiled 12-27-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-267]

Public Service Company of Colorado; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-34 issued to Public Service Company (the licensee) for operation of the Fort St. Vrain Nuclear Generating Station located in Platteville, Colorado.

The amendment would change the Fort St. Vrain Technical Specifications concerning shock suppressors (snubbers). Specifically, the change deletes the reference to the snubber type, i.e., mechanical or hydraulic, in LCO 4.3.10 and SR 5.3.8. This deletion allows the licensee to change or modify snubbers under 10 CFR 50.59. This change is in accordance with NRC policy as stated in Generic Letter 84-13 on Technical Specifications for Snubbers. These revisions to the Technical Specifications would be made in response to the licensee's application for amendment dated December 6, 1985.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment

request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance for the application of these criteria by providing examples of amendments that are considered not likely to involve significant hazards considerations (48 FR 14870). The proposed changes to the Fort St. Vrain Technical Specifications (LCO 4.3.10 and SR 5.3.8) pertain to deleting the distinction between hydraulic and mechanical snubbers. This change is administrative and will have no effect on the ability of a shock suppressor to provide structural integrity of a safety related system during and following a seismic or other event initiating dynamic loads. The proposed changes will not delete any requirement or the number of shock suppressors installed or safety related systems. The changes will allow an orderly transition from mechanical shock suppressors to hydraulic shock suppressors. The hydraulic shock suppressors are design equivalent and appropriately qualified to provide equivalent seismic protection.

This change is consistent with Commission's example (i) in 48 FR 14870 of examples of amendments that are considered not likely to involve significant hazards considerations.

Therefore, based on these considerations and the three criteria given above, the Commission has made a proposed determination that the amendment request involves no significant hazards consideration.

The Commission has determined that failure to act in a timely way would result in extending the shutdown at Fort St. Vrain to avoid violating the Technical Specifications. Therefore, the Commission has insufficient time to issue its usual 30-day notice of the proposed action for public comment.

If the proposed determination becomes final, an opportunity for a hearing will be published in the **Federal Register** at a later date and any hearing request will not delay the effective date of the amendment.

If the Commission decides in its final determination that the amendment does involve a significant hazards consideration, a notice of opportunity

for a prior hearing will be published in the **Federal Register** and, if a hearing is granted, it will be held before any amendment is issued.

The Commission is seeking public comments on this proposed determination of no significant hazards consideration. Comments on the proposed determination may be telephoned to Herbert N. Berkow, Director, Standardization and Special Projects Directorate, by collect call to 301-492-7564 or submitted in writing to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. All comments received by January 9, 1986 will be considered in reaching a final determination. A copy of the application may be examined at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC and at the Greely Public Library, Greely, Colorado.

Dated at Bethesda, Maryland, this 23rd day of December 1985.

For the Nuclear Regulatory Commission,
Herbert N. Berkow,

Director, Standardization and Special Projects Directorate, Division of PWR Licensing-B.

[FR Doc. 85-30837 Filed 12-27-85; 8:45 am]

BILLING CODE 7590-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Mainstem Passage Advisory Committee; Meeting Notice

AGENCY: The Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting.

STATUS: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of its Mainstem Passage Advisory Committee of the Mainstem Passage Advisory Committee to be held pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, 1-4. Activities will include:

- Federal hydro system requirements and constraints

- Additional studies
- Other
- Public comment

DATE: January 10, 1986. 1:00 p.m.

ADDRESS: The meeting will be held in the Council's Meeting Room, 850 S.W. Broadway, Suite 1100, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Peter Paquet, 503-222-5161.

Edward Sheets,
Executive Director.

[FR Doc. 85-30733 Filed 12-27-85; 8:45 am]

BILLING CODE 0000-00-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular on Qualification of Fuels, Lubricants, and Additives for Aircraft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Availability of Advisory Circular (AC) No. 20-24B.

SUMMARY: This notice is to notify the aviation public of the issuance of AC No. 20-24B, Qualification of Fuels, Lubricants, and Additives for Aircraft Engines. The AC provides acceptable procedures, but not the only procedures, by which fuels, lubricants, and additives may be qualified for use in certificated aircraft engines.

FOR FURTHER INFORMATION CONTACT: Locke Easton, Engine and Propeller Standards Staff, ANE-110, Aircraft Certification Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, MA 01803; telephone (617) 273-7088.

SUPPLEMENTARY INFORMATION: It is FAA practice to update and revise ACs to bring them in line with current policies and practices. AC No. 20-24B updates and replaces old AC No. 20-24A, Qualification of Fuels, Lubricants, and Additives, issued in April 1967.

Interested parties were given the opportunity to review and comment on the draft AC during the proposal and development phases. The notice to announce the availability of and request comments to the draft AC was

published in the **Federal Register** (49 FR 31027) on August 2, 1984. All comments were reviewed and appropriate comments were incorporated in the AC.

AC No. 20-24B was issued by the Engine and Propeller Certification Directorate in Burlington, Massachusetts, on December 20, 1985.

A copy of AC No. 20-24B may be obtained by writing to the U.S. Department of Transportation, Subsequent Distribution Section, M-494.3, 400 Seventh Street, SW, Washington, DC 20590.

Issued in Burlington, Massachusetts, on December 20, 1985.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 85-30766 Filed 12-27-85; 8:45 am]

BILLING CODE 4910-13-M

Maritime Administration

National Conference on Barge Fleeting; Meeting

The Maritime Administration and Inland Rivers Ports and Terminals Inc., are jointly sponsoring a National Conference on Barge Fleeting in Memphis, Tennessee on April 8-9, 1986. The workshop conference is being held to broaden awareness of the technical findings of a study on barge fleeting, conducted jointly by the Maritime Administration and the State of Louisiana. The study, "Lower Mississippi River Regional Barge Fleeting Assessment, Plan, and Handbook Guide," was completed last spring and covers the Mississippi River from Baton Rouge to the Gulf of Mexico. E.J. Bentz and Associates, Inc., of Springfield, Virginia was the principal investigator of the study. Further information on the conference is available from the Maritime Administration, Office of Port and Intermodal Development, 400 Seventh Street SW, Washington, DC 20590 (Attention: William Bristor; telephone (202) 426-4357).

Dated: December 24, 1985.

Georgia P. Stamas,

Secretary.

[FR Doc. 85-30808 Filed 12-27-85; 8:45 am]

BILLING CODE 4910-81-M

REGULATORY
COMMISSION
NOTICE

Monday
December 30, 1985

Part II

**Department of
Energy**

Economic Regulatory Administration

Electric and Gas Utilities; Notice

DEPARTMENT OF ENERGY**Economic Regulatory Administration
[Docket No. ERA-R-79-43B]****Electric and Gas Utilities Covered in 1986 by Titles I and III of the Public Utility Regulatory Policies Act of 1978 and Titles II and VII of the National Energy Conservation Policy Act of 1978 and Requirements for State Regulatory Authorities to Notify the Department of Energy****AGENCY:** Economic Regulatory Administration, DOE.**ACTION:** Notice.

SUMMARY: Sections 102(c) and 301(d) of the Public Utility Regulatory Policies Act of 1978 (PURPA) and section 211(b) of the National Energy Conservation Policy Act (NECPA) require the Secretary of Energy to publish a list before the beginning of each calendar year, identifying each electric utility and gas utility to which Titles I and III of PURPA and Titles II and VII of NECPA apply during such calendar year. The 1986 list is published here as two separate tabulations. Appendix A lists the covered utilities by State, and Appendix B lists them alphabetically.

Each State regulatory authority is, required, pursuant to sections 102(c) and 301(d) of PURPA and section 211(b) of NECPA, to notify the Secretary of Energy of each electric utility and gas utility on the list for which such State regulatory authority has ratemaking authority. In addition, written comments are requested on the accuracy of the list of electric utilities and gas utilities.

DATE: Notifications by State regulatory authorities and written comments must be received by no later than 4:30 p.m. on February 14, 1986.

ADDRESS: Notifications and written comments should be forwarded to: Department of Energy, Coal and Electricity Division, 1000 Independence Avenue, SW., (Room GA-045), Docket No. ERA-R-79-43B, Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Steven Mintz, Coal and Electricity Division, Economic Regulatory Administration, Department of Energy, 1000 Independence Avenue, SW., Room GA-045, Washington, DC 20585, 202/252-9506.

SUPPLEMENTARY INFORMATION:**I. Background**

Pursuant to sections 102(c) and 301(d) of the Public Utility Regulatory Policies Act of 1978 (PURPA), Pub. L. 95-617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*),

and section 211(b) of the National Energy Conservation Policy Act (NECPA), Pub. L. 95-619, 92 Stat. 3206 *et seq.*, (42 U.S.C. 8211 *et seq.*), hereinafter referred to as the "Acts," the Department of Energy (DOE) is required to publish a list of utilities to which Titles I and III of PURPA and Titles II and VII of NECPA apply in 1986.

State regulatory authorities are required by the above cited Acts to notify the Secretary of Energy as to their ratemaking authority over the listed utilities. The inclusion or exclusion of any utility on or from the list does not affect the legal obligations of such utility or the responsible authority under the Acts.

The term "State regulatory authority" means any State, including the District of Columbia and Puerto Rico, or a political subdivision thereof, and any agency or instrumentality, either of which has authority to fix, modify, approve, or disapprove rates with respect to the sale of electric energy or natural gas by any utility (other than such State agency) and in the case of a utility for which the Tennessee Valley Authority (TVA) has ratemaking authority, the term "State regulatory authority" means the TVA.

Title I of PURPA sets forth ratemaking and regulatory policy standards with respect to electric utilities. Section 102(c) requires the Secretary of Energy to publish a list, before the beginning of each calendar year, identifying each electric utility to which Title I applies during such calendar year. An electric utility is defined as any person, state agency or Federal agency, which sells electric energy. An electric utility is covered by Title I for any calendar year if it had total sales of electric energy for purposes other than resale in excess of 500 million kilowatt-hours during any calendar year beginning after December 31, 1975, and before the immediately preceding calendar year. An electric utility is covered in 1986 if it exceeded the threshold in 1976, 1977, 1978, 1979, 1980, 1981, 1982, 1983, or 1984.

Title III of PURPA addresses ratemaking and other regulatory policy standards with respect to natural gas utilities. Section 301(d) of Title III requires the Secretary of Energy to publish a list, before the beginning of each calendar year, identifying each gas utility to which Title III applies during such calendar year. A gas utility is defined as any person, State agency or Federal agency, engaged in the local distribution of natural gas and the sale of natural gas to any ultimate consumer of natural gas. A gas utility is covered by Title III if it had total sales of natural gas for purposes other than resale in

excess of 10 billion cubic feet during any calendar year beginning after December 31, 1975, and before the immediately preceding calendar year. A gas utility is covered in 1986 if it exceeded the threshold in 1976, 1977, 1978, 1979, 1980, 1981, 1982, 1983, or 1984.

Title II, Part 1, of NECPA, addresses residential conservation programs, and Title VII of NECPA, enacted as part of the Energy Security Act, Pub. L. 96-294, 94 Stat. 611 *et seq.* (42 U.S.C. 8701 *et seq.*), addresses commercial building and multi-family dwelling conservation programs. Section 211(b) contains a requirement, similar to that of PURPA, that the Secretary of Energy publish a list of electric and gas utilities to which Titles II and VII apply. The NECPA requirements for coverage of electric utilities and gas utilities differ from the PURPA requirements in only three respects:

- (1) The threshold for electric utilities is 750 million kilowatt-hours for purposes other than resale;
- (2) A utility is covered for any calendar year if it exceeded the threshold during the second preceding calendar year. A utility is covered in 1986 if it exceeded the threshold in 1984; and
- (3) Only utilities which have residential sales are covered by Title II and only utilities which have sales to commercial buildings or multi-family dwellings are covered by Title VII.

In compiling the list published today, DOE revised the 1985 list (49 FR 50957, December 31, 1984), upon the assumption that all entities included on the 1985 list are properly included on the 1986 list unless DOE has information to the contrary. In doing this, DOE took into account information which was received from the Rural Electrification Agency, or included in public documents, regarding entities which exceeded the PURPA and NECPA thresholds for the first time in 1984. DOE believes that it will become aware of any errors or omissions in the list published today by means of the comment process called for by this notice. DOE will, after consideration of any comment and other information available to DOE, provide written notice of any further additions or deletions to the list.

II. Notification and Comment Procedures

No later than 4:30 p.m. on February 14, 1986, each State regulatory authority must notify the Department of Energy in writing of each utility on the list over which it has ratemaking authority. Five copies of such notification should be

submitted to the address indicated in the "ADDRESS" section of this Notice and should be identified on the outside of the envelope and on the document with the designation "Docket No. ERA-R-79-43B." Such notification should include:

1. A complete list of electric utilities and gas utilities over which the State regulatory authority has ratemaking authority;

2. Legal citations pertaining to the ratemaking authority of the State regulatory authority; and

3. For any listed utility known to be subject to other ratemaking authorities within the State for portions of its service area, a precise description of the portion to which such notification applies.

All interested persons, including State regulatory authorities, are invited to comment in writing, no later than 4:30 p.m. on February 14, 1986, on any errors or omissions with respect to the list. Five copies of such comments should be sent to the address indicated in the "ADDRESS" section of this Notice and should be identified on the outside of the envelope and on the document with the designation "Docket No. ERA-R-79-43B." Written comments should include the commenter's name, address and telephone number.

All notifications and comments received by DOE will be available for public inspection in the Freedom of Information Reading Room, 1E-190, 1000 Independence Avenue, SW., Washington, DC 20585 between the hours of 9:00 a.m. and 4:00 p.m. Monday through Friday.

III. List of Electric Utilities and Gas Utilities

DOE is published in Appendix A and Appendix B, two different tabulations of the list of utilities which meet both PURPA and NECPA coverage requirements. In both appendices, the listed utilities not covered by NECPA are noted. As stated above, the inclusion or exclusion of any utility on or from the lists does not affect its legal obligations or those of the responsible State regulatory authority under PURPA and NECPA.

Appendix A is a tabulation of utilities which separately identifies, by State, and each State regulatory authority, the covered utilities it regulates, and other covered utilities in the State which are not regulated by the State regulatory authority. This tabulation, including explanatory notes, is based on information provided to DOE by State regulatory authorities in response to the December 31, 1984 Federal Register Notice (49 FR 50957) requiring each State regulatory authority to notify DOE

of each utility on the list over which it has ratemaking authority, comments received with respect to that notice, and information subsequently available to DOE.

The utilities classified in Appendix A are not regulated by the State regulatory authority may in fact be regulated by local municipal authorities. These municipal authorities would be State agencies as defined by PURPA, and thus have responsibilities under PURPA identical to those of the State regulatory authority. Therefore, each such municipality is to notify DOE of each utility on the list over which it has ratemaking authority.

In Appendix B, the utilities are listed alphabetically, subdivided into electric utilities and gas utilities, and further subdivided by type of ownership: investor-owned utilities, publicly-owned utilities, and rural cooperatives.

The changes to the 1985 list of electric and gas utilities are as follows:

Additions

- * Bluebonnet Electric Cooperative (TX)
- * Blue Ridge Electric Membership Corporation (NC)
- * CP National Corporation (OR)
- * Intermountain Rural Electric Association (CO)
- * Lea County Electric Cooperative, Inc. (NM)
- * Sumter Electric Cooperative, Inc. (FL)

Modifications:

- CHANGE—Arizona Public Service Company (gas division) (AZ) to—Southwest Gas Corporation (AZ)
- CHANGE—Chattanooga Gas Company (GA) to—Atlanta Gas Light Company (GA)

Asterisk (*) Removed:

- Cobb Electric Membership Corporation (GA)
- Florence Electric Department (AL, TN)
- Northern Virginia Electric Cooperative (VA)
- Northwestern Public Service Company (SD)
- Pennyrile Rural Electric Cooperative Corporation (KY, TN)
- Rural Electric System (AL)
- South Central Power Company (OH)
- Turlock Irrigation District (CA)
- Warren Rural Electric Cooperative Corporation (KY, TN)

Erroneously Listed in 1984 List:

- Citizens Utilities Company (CT)
 - Concord Natural Gas Company (NH)
- (Public Utility Regulatory Policies Act of 1978, Pub. L. 95-617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*); National Energy Conservation Policy Act, Pub. L. 95-619, 92 Stat. 3206 *et seq.* (42 U.S.C. 8211 *et seq.*))

Issued in Washington, D.C. on December 18, 1985.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

Appendix A

All gas utilities listed below had natural gas sales, for purposes other than resale, in excess of 10 billion cubic feet in 1976, 1977, 1978, 1979, 1980, 1981, 1982, 1983 or 1984. All except those marked (*) are covered by PURPA Title III, and NECPA Titles II and VII. Utilities marked (*) are not covered by NECPA Titles II and VII because they either did not exceed the NECPA threshold of 10 billion cubic feet in 1984 for purposes other than resale, or do not have residential or commercial sales.

All electric utilities listed below had electric energy sales, for purposes other than resale, in excess of 500 million kilowatt-hours in 1976, 1977, 1978, 1979, 1980, 1981, 1983 or 1984. All, except those marked (*) are covered by PURPA Title I and NECPA Titles II and VII. Utilities marked (*) are not covered by NECPA Titles II and VII because they either did not exceed the NECPA threshold of 750 million kilowatt-hours in 1984 for purposes other than resale, or do not have residential or commercial sales.

State: Alabama

Regulatory Authority: Alabama Public Service Commission.

Gas Utilities

Investor-Owned:

- Alabama Gas Corporation
- * Alabama-Tennessee Natural Gas Company
- Mobile Gas Service Corporation
- Northwest Alabama Gas Dist.

Electric Utilities

Investor-Owned:

Alabama Power Company

The following covered utilities within the State of Alabama are not regulated by the Alabama Public Service Commission:

Electric Utilities

Publicly-Owned:

- Decatur Electric Department
- * Dothan Electric Department
- Florence Electric Department
- Huntsville Utilities

Rural Electric Cooperatives:

Rural Electric System

State: Alaska

Regulatory Authority: Alaska Public Utilities Commission.

Gas Utilities

Investor-Owned:

Enstar Natural Gas Company

Electric Utilities

Rural Electric Cooperatives:

Chugach Electric Association

Publicly-Owned:

- * Anchorage Municipal Light & Power Department

State: Arizona

Regulatory Authority: Arizona Corporation Commission.

Gas Utilities

Investor-Owned:

Southern Union Gas Company
Southwest Gas Corporation

Electric Utilities

Investor-Owned:

Arizona Public Service Company
Tucson Electric Power Company

Publicly-Owned:

* Trico Electric Cooperative, Inc.

The following covered utilities within the State of Arizona are not regulated by the Arizona Corporation Commission:

Electric Utilities

Publicly-Owned:

Salt River Project Agricultural Improvement and Power District

State: Arkansas

Regulatory Authority: Arkansas Public Service Commission.

Gas Utilities

Investor-Owned:

Arkansas-Louisiana Gas Company
Arkansas-Okahoma Gas Corporation
Arkansas Western Gas Company
Associated Natural Gas Company

Electric Utilities

Investor-Owned:

Arkansas Power and Light Company
Empire District Electric Company
Oklahoma Gas and Electric Company
Southwestern Electric Power Company

Rural Electric Cooperatives:

* First Electric Cooperative Corporation

The following covered utility within the State of Arkansas is not regulated by the Arkansas Public Service Commission:

Publicly-Owned:

* North Little Rock Electric Department

State: California

Regulatory Authority: California Public Utilities Commission.

Gas Utilities

Investor-Owned:

Pacific Gas and Electric Company
San Diego Gas and Electric Company
Southern California Gas Company
Southwest Gas Corporation

Electric Utilities

Investor-Owned:

Pacific Gas and Electric Company
Pacific Power and Light Company
San Diego Gas and Electric Company
Sierra Pacific Power Company
Southern California Edison Company

The following covered utilities within the State of California are not regulated by the California Public Utilities Commission:

Electric Utilities

Publicly-Owned:

Anaheim Public Utilities Department

Burbank Public Service Department
*Glendale Public Service Department
Imperial Irrigation District
Los Angeles Department of Water and Power

Modesto Irrigation District
Palo Alto Electric Utility
Pasadena Water and Power Department
Riverside Public Utilities
Sacramento Municipal Utility District
Santa Clara Electric Department
Turlock Irrigation District
Vernon Municipal Light Department

Gas Utilities

Publicly-Owned:

Long Beach Gas Department

State: Colorado

Regulatory Authority: Colorado Public Utilities Commission.

Gas Utilities

Investor-Owned:

Greeley Gas Company
Iowa Electric Light and Power Company
Kansas-Nebraska Natural Gas Company
Peoples Natural Gas Company, Division of Internorth, Inc.
Public Service Company of Colorado

Publicly-Owned:

Colorado Springs Department of Utilities (Jurisdiction only sales to another gas utility)

Electric Utilities

Investor-Owned:

Public Service Company of Colorado
Southern Colorado Power Division of Centel

The following covered utilities within the State of Colorado are not regulated by the Colorado Public Utilities Commission:

Gas Utilities

Publicly-Owned:

Colorado Springs Department of Utilities (except sales to another gas utility)

Electric Utilities

Publicly-Owned:

Colorado Springs Department of Utilities (within city limits)

Rural Electric Cooperatives:

*Intermountain Rural Association
Moon Lake Electric Association

State: Connecticut

Regulatory Authority: Connecticut Department of Public Utility Control

Gas Utilities

Investor-Owned:

Connecticut Light and Power Company
Connecticut Natural Gas Corporation
Southern Connecticut Gas Company

Electric Utilities

Investor-Owned:

Connecticut Light and Power Company
United Illuminating Company

Publicly-Owned:

*Groton Public Utilities

State: Delaware

Regulatory Authority: Delaware Public Service Commission.

Gas Utilities

Investor-Owned:

Delmarva Power and Light Company

Electric Utilities

Investor-Owned:

Delmarva Power and Light Company

State: District of Columbia

Regulatory Authority: Public Service Commission of the District of Columbia

Gas Utilities

Investor-Owned:

Washington Gas Light Company

Electric Utilities

Investor-Owned:

Potomac Electric Power Company

State: Florida

Regulatory Authority: Florida Public Service Commission.

Gas Utilities

Investor-Owned:

*City Gas Company of Florida
Peoples Gas System

Electric Utilities

Investor-Owned:

Florida Power Corporation
Florida Power and Light Company
Gulf Power Company
Tampa Electric Company

Publicly-Owned: The Florida Public Service Commission has rate structure jurisdiction over the following utilities—

Gainesville Regional Utilities
Jacksonville Electric Authority
Lakeland Department of Electricity and Water

*Ocala Utilities

Orlando Utilities Commission
Tallahassee, City of

Rural Electric Cooperative: The Florida Public Service Commission has rate structure jurisdiction over the following utilities—

Clay Electric Cooperative
Lee County Electric Cooperative
*Sumter Electric Cooperative, Inc.
Withlacoochee River Electric Cooperative

State: Georgia

Regulatory Authority: Georgia Public Service Commission.

Gas Utilities

Investor-Owned:

Atlanta Gas Light Company
Gas Light Company of Columbus

Electric Utilities

Investor-Owned:

Georgia Power Company
Savannah Electric and Power Company

The following utilities within the State of Georgia are not regulated by the Georgia Public Service Commission.

Electric Utilities

Publicly-Owned:

- *Albany Water, Gas & Light Commission
- *Dalton Water, Light & Sink

Rural Electric Cooperatives:

- *Douglas County Electric Membership Corporation
- Cobb Electric Membership Corporation
- *Flint Electric Membership Corporation
- Jackson Electric Membership Corporation
- North Georgia Electric Membership Corporation
- *Walton Electric Membership Corporation

State: Hawaii

Regulatory Authority: Hawaii Public Utilities Commission.

Gas Utilities

None.

Electric Utilities

Investor-Owned:

- Hawaiian Electric Company, Inc.

State: Idaho

Regulatory Authority: Idaho Public Utilities Commission.

Gas Utilities

Investor-Owned:

- Intermountain Gas Company
- Washington Water Power Company

Electric Utilities

Investor-Owned:

- Idaho Power Company
- Pacific Power and Light Company
- Utah Power and Light Company
- Washington Water Power Light Company

State: Illinois

Regulatory Authority: Illinois Commerce Commission.

Gas Utilities

Investor-Owned:

- Central Illinois Light Company
- Central Illinois Public Service Company
- Illinois Power Company
- Iowa-Illinois Gas and Electric Company
- North Shore Gas Company
- Northern Illinois Gas Company
- Panhandle Eastern Pipeline Company
- Peoples Gas, Light and Coke Company

Electric Utilities

Investor-Owned:

- Central Illinois Light Company
- Central Illinois Public Service Company
- Commonwealth Edison Company
- Illinois Power Company
- Interstate Power Company
- Iowa-Illinois Gas and Electric Company
- Union Electric Company

The following covered utility within the State of Illinois is not regulated by the Illinois Commerce Commission:

Electric Utilities

Publicly-Owned:

Springfield Water, Light and Power Department

State: Indiana

Regulatory Authority: Indiana Public Service Commission.

Gas Utilities

Investor-Owned:

- Indiana Gas Company
- Northern Indiana Public Service Company
- Southern Indiana Gas and Electric Company
- Terre Haute Gas Corporation

Publicly-Owned:

- Citizens Gas and Coke Utility

Electric Utilities

Investor-Owned:

- Indiana and Michigan Electric Company
- Indianapolis Power and Light Company
- Northern Indiana Public Service Company
- Public Service Company of Indiana
- Southern Indiana Gas and Electric Company

Publicly-Owned:

- *Richmond Power and Light

State: Iowa

Regulatory Authority: Iowa Commerce Commission.

Gas Utilities

Investor-Owned:

- Interstate Power Company
- Iowa Electric Light and Power Company
- Iowa-Illinois Gas and Electric Company
- Iowa Power and Light Company
- Iowa Public Service Company
- Iowa Southern Utilities Company
- Peoples Natural Gas Company, Division of Internorth, Inc.

Electric Utilities

Investor-Owned:

- Interstate Power Company
- Iowa Electric Light and Power Company
- Iowa-Illinois Gas and Electric Company
- Iowa Power and Light Company
- Iowa Public Service Company
- Iowa Southern Utilities Company
- Union Electric Company

Publicly-Owned: The Iowa Commerce Commission has service and safety regulation over the following utilities—

- *Muscatine Power and Water
- Omaha Public Power District

State: Kansas

Regulatory Authority: Kansas State Corporation Commission.

Gas Utilities

Investor-Owned:

- Anadarko Production Company
- Arkansas-Louisiana Gas Company
- Gas Service Company
- Greeley Gas Company
- Kansas-Nebraska Natural Gas Company
- Kansas Power and Light Company
- Panhandle Eastern Pipeline Company
- Peoples Natural Gas Company, Division of Internorth, Inc.
- Union Gas System Inc.

Electric Utilities

Investor-Owned:

- Empire District Electric Company
- Kansas City Power and Light Company
- Kansas Gas and Electric Company
- Kansas Power and Light Company
- Southwestern Public Service Company
- Western Power Division of Centel

Rural Electric Cooperatives:

- Midwest Energy Incorporated
- The following covered utility within the State of Kansas is not regulated by the Kansas State Corporation Commission:

Electric Utilities

Public-Owned:

- Kansas City Board of Public Utilities

State: Kentucky

Regulatory Authority: Kentucky Energy Regulatory Commission.

Gas Utilities

Investor-Owned:

- Columbia Gas of Kentucky, Inc.
- Louisville Gas and Electric Company
- Union Light, Heat and Power Company
- Western Kentucky Gas Company

Electric Utilities

Investor-Owned:

- Kentucky Power Company
- Kentucky Utilities Company
- Louisville Gas and Electric Company
- Union Light, Heat and Power Company

Rural Electric Cooperatives:

- Green River Electric Corporation
- Henderson-Union Rural Electric Cooperative Corporation

The following covered utilities within the State of Kentucky are not regulated by the Kentucky Energy Regulatory Commission.

- Bowling Green Municipal Utilities
- Owensboro Municipal Utilities
- Pennyriple Rural Electric Cooperative Corporation
- Warren Rural Electric Cooperative Corporation
- West Kentucky Rural Electric Cooperative Corporation

State: Louisiana

Regulatory Authority: Louisiana Public Service Commission.

Gas Utilities

Investor-Owned:

- Arkansas-Louisiana Gas Company-Entex, Inc.
- Gulf States Utilities Company
- Louisiana Gas Service Company
- New Orleans Public Service, Inc. (East and West Bank)

Electric Utilities

Investor-Owned:

- Arkansas Power and Light
- Central Louisiana Electric Company
- Gulf States Utilities Company
- Louisiana Power and Light Company (West Bank)
- New Orleans Public Service, Inc. (East Bank)

Southwestern Electric Power Company
The following covered utilities within the State of Louisiana are not regulated by the Louisiana Public Service Commission:

Electric Utilities

Publicly-Owned:

Lafayette Utilities System
Rural Electric Cooperatives:
Dixie Electric Membership Corporation
Southwest Louisiana Electric Membership Corporation

State: Maine

Regulatory Authority: Maine Public Utilities Commission.

Gas Utilities

None.

Electric Utilities

Investor-Owned:

Bangor Hydro-Electric Company
Central-Maine Power Company

State: Maryland

Regulatory Authority: Maryland Public Service Commission.

Gas Utilities

Investor-Owned:

Baltimore Gas and Electric Company,
Washington Gas Light Company

Electric Utilities

Investor-Owned:

Baltimore Gas and Electric Company,
Conowingo Power Company
Delmarva Power and Light Company of Maryland
Potomac Edison Company
Potomac Electric Power Company

Rural Electric Cooperatives:

Southern Maryland Electric Cooperative, Inc.

State: Massachusetts

Regulatory Authority: Massachusetts Department of Public Utilities

Gas Utilities

Investor-Owned:

Bay State Gas Company
Boston Gas Company
Colonial Gas Energy System
Commonwealth Gas Company
Lowell Gas Company

Electric Utilities

Investor-Owned:

Boston Edison Company
Cambridge Electric Light Company
Commonwealth Electric Company
Eastern Edison Company
Massachusetts Electric Company
Western Massachusetts Electric Company

State: Michigan

Regulatory Authority: Michigan Public Service Commission.

Gas Utilities

Investor-Owned:

Consumers Power Company
Michigan Consolidated Gas Company

Michigan Gas Utilities Company
Michigan Power Company
Southeastern Michigan Gas Company
Wisconsin Public Service Corporation

Electric Utilities

Investor-Owned:

Consumers Power Company
Detroit Edison Company
Indiana and Michigan Electric Company
*Lake Superior District Power Company
*Michigan Power Company
Upper Peninsula Power Company
Wisconsin Electric Power Company
Wisconsin Public Service Corporation

The following covered utilities within the State of Michigan are not regulated by the Michigan Public Service Commission.

Gas Utilities

Investor-Owned:

Battle Creek Gas Company

Electric Utilities

Publicly-Owned:

Lansing Board of Water and Light

State: Minnesota

Regulatory Authority: Minnesota Public Utility Commission.

Gas Utilities

Investor-Owned

Inter-City Gas Company
Interstate Power Company
Iowa Electric Light and Power Company
Minnegasco, Inc.
Montana-Dakota Utilities Company
Northern States Power Company
Peoples Natural Gas Company-Division of InterNorth, Inc.

Electric Utilities

Investor-Owned:

Interstate Power Company
Minnesota Power and Light Company
Northern States Power Company
Otter Tail Power Company

Rural Electric Cooperative:

*Dakota Electric Association

The following covered utility within the State of Minnesota is not regulated by the Minnesota Public Service Commission:

Electric Utilities

Publicly-Owned:

*Rochester Department of Public Utilities

Rural Electric Cooperatives:

*Anoka Electric Cooperative

State: Mississippi

Regulatory Authority: Mississippi Public Service Commission.

Gas Utilities

Investor-Owned:

Entex, Inc.
Mississippi Valley Gas Company

Electric Utilities

Investor-Owned:

Mississippi Power and Light Company
Mississippi Power Company

The following covered utilities within the State of Mississippi are not regulated by the Mississippi Public Service Commission.

Electric Utilities

Rural Electric Cooperatives:

*4-County Electric Power Association
*Singing River Electric Power Association
*Southern Pine Electric Power Association

State: Missouri

Regulatory Authority: Missouri Public Service Commission

Gas Utilities

Investor-Owned:

Associated Natural Gas Company
Gas Service Company
Laclede Gas Company Consolidated
Missouri Public Service Company
Peoples Natural Gas Company Division of InterNorth, Inc.

Electric Utilities

Investor-Owned:

Empire District Electric Company
Kansas City Power and Light Company
Missouri Public Service Company
St. Joseph Light and Power Company
Union Electric Company

The following covered utilities within the State of Missouri are not regulated by Missouri Public Service Commission.

Gas Utilities

Investor-Owned:

Cities Service Gas Company

Publicly-Owned:

Springfield City Utilities

Electric Utilities

Publicly-Owned:

*Independence Power and Light Department
Springfield City Utilities

State: Montana

Regulatory Authority: Montana Public Service Commission.

Gas Utilities

Investor-Owned:

Montana-Dakota Utilities Company
Montana Power Company

Electric Utilities

Investor-Owned:

Black Hills Power and Light Company
Montana-Dakota Utilities Company
Montana Power Company
Pacific Power and Light Company
Washington Water Power Company

State: Nebraska

Regulatory Authority-Nebraska Public Service Commission.

The Commission does not regulate the rates and service of the gas and electric utilities of the State of Nebraska

The following covered utilities within the State of Nebraska are not regulated by the Nebraska Public Service Commission.

Electric Utilities

Publicly-Owned:

Lincoln Electric System
Nebraska Public Power District
Omaha Public Power District

Gas Utilities

Investor-Owned:

Gas Service Company
Iowa Electric Light and Power Company
Iowa Public Service Company
KN Energy, Inc.
Minnegasco, Inc.
Northwestern Public Service Company
Peoples Natural Gas Company Division of Internorth, Inc.

The governing body of each Nebraska municipality exercises ratemaking jurisdiction over gas utility rates, operations and services provided by a gas utility within its city or town limits. These municipal authorities would be State agencies as defined by PURPA, and thus have responsibilities under PURPA identical to those of the State regulatory authority.

Publicly-Owned:

Metropolitan Utilities District of Omaha

State: Nevada

Regulatory Authority: Nevada Public Service Commission.

Gas Utilities

Investor-Owned:

Southwest Gas Corporation

Electric Utilities

Investor-Owned:

Idaho Power Company
Nevada Power Company
Sierra Pacific Power Company

State: New Hampshire

Regulatory Authority: New Hampshire Public Utilities Commission.

Electric Utilities

Investor-Owned:

Public Service Company of New Hampshire

State: New Jersey

Regulatory Authority: New Jersey Department of Energy Board of Public Utilities.

Gas Utilities

Investor-Owned:

Elizabethtown Gas Company
New Jersey Natural Gas Company
Public Service Electric and Gas Company
South Jersey Gas Company

Electric Utilities

Investor-Owned:

Atlantic City Electric Company
Jersey Central Power and Light Company
Public Service Electric and Gas Company
Rockland Electric Company

State: New Mexico

Regulatory Authority: New Mexico Public Service Commission.

Gas Utilities

Gas Company of New Mexico

Electric Utilities

Investor-Owned:

El Paso Electric Company
Public Service Company of New Mexico
Southwestern Public Service Company
Texas-New Mexico Power Company

Rural Electric Cooperative:

*Lea County Electric Cooperative, Inc.

State: New York

Regulatory Authority: New York Public Service Commission.

Gas Utilities

Investor-Owned:

Brooklyn Union Gas Company
Columbia Gas of New York, Inc.
Consolidated Edison Company of New York, Inc.
Long Island Lighting Company
National Fuel Gas Distribution Corporation
New York State Electric and Gas Corporation
Niagara Mohawk Power Corporation
Orange and Rockland Utilities
Rochester Gas and Electric Corporation

Electric Utilities

Investor-Owned:

Central Hudson Gas and Electric Corporation
Consolidated Edison Company of New York
Long Island Lighting Company
New York States Electric and Gas Corporation
Niagara Mohawk Power Corporation
Orange and Rockland Utilities
Rochester Gas and Electric Corporation

The following covered utility within the State of New York is not regulated by the New York Public Service Commission:

Electric Utilities

Publicly-Owned:

Power Authority of New York

State: North Carolina

Regulatory Authority: North Carolina Utilities Commission.

Gas Utilities

Investor-Owned:

North Carolina Natural Gas Corporation
Piedmont Natural Gas Company
Public Service Company, Inc. of North Carolina

Electric Utilities

Investor-Owned:

Carolina Power and Light Company
Duke Power Company
*Nantahala Power & Light Company
Virginia Electric and Power Company

The following covered utilities within the State of North Carolina are not regulated by the North Carolina Utilities Commission:

Electric Utilities

Publicly-Owned:

Fayetteville Public Works Commission
*Greenville Utilities Commission

*High Point Electric Utility Department

*Rocky Mount Public Utilities

*Wilson Utilities Department

Rural Electric Cooperatives:

*Blue Ridge Electric Membership Corp.

*Rutherford Electric Membership Corporation

State: North Dakota

Regulatory Authority: North Dakota Public Service Commission.

Gas Utilities

Investor-Owned:

Montana Dakota Utilities Company
Northern States Power Company

Electric Utilities

Investor-Owned:

Montana Dakota Utilities Company
Northern States Power Company
Otter Tail Power Company

State: Ohio

Regulatory Authority: Ohio Public Utilities Commission.

Gas Utilities

Investor-Owned:

Cincinnati Gas and Electric Company
Columbia Gas of Ohio, Inc.
Dayton Power and Light Company
East Ohio Gas Company
National Gas and Oil Company
West Ohio Gas Company

Electric Utilities

Investor-Owned:

Cincinnati Gas and Electric Company
Cleveland Electric Illuminating Company
Columbus and Southern Ohio Electric Company
Dayton Power and Light Company
Monongahela Power Company
Ohio Edison Company
Ohio Power Company
Toledo Edison Company

The following covered utilities within the State of Ohio are not regulated by the Ohio Public Utilities Commission:

Electric Utilities

Publicly-Owned:

*Cleveland Division of Light and Power
Rural Electric Cooperatives:
South Central Power Company

State: Oklahoma

Regulatory Authority: Oklahoma Corporation Commission

Gas Utilities

Investor-Owned:

Arkansas-Louisiana Gas Company
Arkansas-Oklahoma Gas Corporation
Gas Service Company
Lone Star Gas Company
Oklahoma Natural Gas Company
Southern Union Gas Company
Union Gas System Inc.

Electric Utilities

Investor-Owned:

Empire-District Electric Company

Oklahoma Gas and Electric Company
Public Service Company of Oklahoma
Southwestern Public Service Company
Rural Electric Cooperative:
*Cotton Electric Cooperative

Gas Utilities

Investor-Owned:

Cities Service Gas Company

State: Oregon

Regulatory Authority: Public Utility
Commissioner of Oregon.

Gas Utilities

Investor-Owned:

Cascade Natural Gas Corporation
Northwest Natural Gas Company

Electric Utilities

Investor-Owned:

*CP National Corporation
Idaho Power Company
Pacific Power and Light Company
Portland General Electric Company

The following covered utilities within the
State of Oregon are not regulated by the
Public Utility Commissioner of Oregon:

Electric Utilities

Publicly-Owned:

Central Lincoln People's Utility District
*Clatskanie People's Utility District
Eugene Water and Electric Board
*Springfield Utilities Board

Rural Electric Cooperatives:

*Umatilla Electric Cooperative Association

State: Pennsylvania

Regulatory Authority: Pennsylvania Public
Utility Commission.

Gas Utilities

Investor-Owned:

Carnegie Natural Gas Company
Columbia Gas of Pennsylvania, Inc.
Equitable Gas Company
National Fuel Gas Distribution Corporation
North Penn Gas Company
Pennsylvania Gas and Water Company
Peoples Natural Gas Company
Philadelphia Electric Company
T.W. Phillips Gas and Oil Company
UGI Corporation

Electric Utilities

Investor-Owned:

Duquesne Light Company
Metropolitan Edison Company
Pennsylvania Electric Company
Pennsylvania Power Company
Pennsylvania Power and Light Company
Philadelphia Electric Company
*UGI—Luzerne Electric Company
West Penn Power Company

The following covered utility within the
State of Pennsylvania is not regulated by the
Pennsylvania Public Utility Commission:

Gas Utilities

Investor-Owned:

Philadelphia Gas Works

State: Puerto Rico

Regulatory Authority: Puerto Rico Public
Service Commission.

Gas Utilities

None.

Electric Utilities

None.

The following covered utility within Puerto
Rico is not regulated by the Puerto Rico
Public Service Commission:

Electric Utilities

Publicly-Owned:

Puerto Rico Electric Power Authority

State: Rhode Island

Regulatory Authority: Rhode Island Public
Utilities Commission.

Gas Utilities

Investor-Owned:

Providence Gas Company

Electric Utilities

Investor-Owned:

Blackstone Valley Electric Company
Narragansett Electric Company

State: South Carolina

Regulatory Authority: South Carolina
Public Service Commission.

Gas Utilities

Investor-Owned:

Carolina Pipeline Company
Piedmont Natural Gas Company
South Carolina Electric and Gas Company

Electric Utilities

Investor-Owned:

Carolina Power and Light Company
Duke Power Company
South Carolina Electric and Gas Company

The following covered utilities within the
State of South Carolina is not regulated by
the South Carolina Public Service
Commission:

Electric Utilities

Publicly-Owned:

South Carolina Public Service Authority

Rural Electric Cooperatives:

*Berkeley Electric Cooperatives, Inc.

State: South Dakota

Regulatory Authority: South Dakota Public
Utilities Commission.

Gas Utilities

Investor-Owned:

Iowa Public Service Company
Minnegasco, Inc.
Montana-Dakota Utilities Company
Northwestern Public Service Company

Electric Utilities

Investor-Owned:

Black Hills Power and Light Company
Iowa Public Service Company
Montana-Dakota Utilities Company
Northern States Power Company
Northwestern Public Service Company
Otter Tail Power Company

The following covered utility within the
State of South Dakota is not regulated by the
South Dakota Public Service Commission:

Electric Utilities

Publicly-Owned:

Nebraska Public Power District

State: Tennessee

Regulatory Authority: Tennessee Public
Service Commission.

Gas Utilities

Investor-Owned:

Chattanooga Gas Company
Nashville Gas Company

Electric Utilities

Investor-Owned:

Kingsport Power Company

The following covered utilities within the
State of Tennessee are not regulated by the
Tennessee Public Service Commission:

Electric Utilities

Publicly-Owned:

*Bristol Tennessee Electric System
Chattanooga Electric Power Board
*Clarksville Department of Electricity
*Cleveland Utilities

*Greenville Light and Power System
Jackson Utility Division—Electric
Department

Johnson City Power Board
Knoxville Utilities Board

*Lenoir City Utilities Board
Memphis Light Gas and Water Division
*Murfreesboro Electric Department
Nashville Electric Services

Rural Electric Cooperatives:

*Appalachian Electric Cooperative
Cumberland Electric Membership
Corporation
*Duck River Electric Membership
Corporation
*Gibson County Electric Membership
Corporation
*Meriweather Lewis Electric Cooperative
Middle Tennessee Electric Membership
Corporation
*Southwest Tennessee Electric
Membership Corporation
*Tri-County Electric Membership
Corporation
*Upper Cumberland Electric Membership
Corporation
Volunteer Electric Cooperative

Gas Utilities

Publicly-Owned:

Memphis Light, Gas and Water Division

State: Tennessee

Regulatory Authority: Tennessee Valley
Authority.

Gas Utilities

None.

Electric Utilities

Publicly-Owned:

*Bowling Green Municipal Utilities
*Bristol Tennessee Electric System
Chattanooga Electric Power Board

*Clarksville Department of Electricity
 *Cleveland Utilities
 Decatur Electric Department
 Florence Electric Department
 *Greeneville Light and Power System
 Huntsville Utilities
 Jackson Utility Division—Electric Department
 Johnson City Power Board
 Knoxville Utilities Board
 *Lenoir City Utilities Board
 Memphis Light, Gas and Water Division
 *Murfreesboro Electric Department
 Nashville Electric Service

Rural Electric Cooperatives:
 *Appalachian Electric Cooperative
 Cumberland Electric Membership Corporation
 *Duck River Electric Membership Corporation
 *Four-County Electric Power Association
 *Gibson County Electric Membership Corporation
 *Meriwether Lewis Electric Cooperative
 Middle Tennessee Electric Membership Corporation
 North Georgia Electric Membership Corporation
 Pennyrile Rural Electric Cooperative Corporation
 *Southwest Tennessee Electric Membership Corporation
 *Tri-County Electric Membership Corporation
 *Upper Cumberland Electric Membership Corporation
 Volunteer Electric Cooperative
 Warren Rural Electric Cooperative Corporation
 *West Kentucky Rural Electric Cooperative Corporation

State: Texas

Regulatory Authority: Texas Public Utility Commission.

Gas Utilities

Investor-Owned:
 None.

Electric Utilities

Investor-Owned:

Central Power and Light Company
 El Paso Electric Company
 Gulf States Utilities
 Houston Lighting and Power Company
 Southwestern Electric Power Company
 *Southwestern Electric Service Company
 Southwestern Public Service Company
 Texas-New Mexico Power Company
 Texas Utilities Electric Company
 West Texas Utilities Company

Publicly-Owned:

*Lower Colorado River Authority

Rural Electric Cooperatives:

*Bluebonnet Electric Cooperative, Inc.
 *Guadalupe Valley Electric Cooperative
 Pedernales Electric Cooperative
 *Sam Houston Electric Cooperative

The governing body of each Texas municipality exercises exclusive original jurisdiction over electric utility rates, operations and services provided by an electric utility (whether privately owned or publicly owned), within its city or town

limits, unless the municipality has surrendered this jurisdiction to the Texas Public Utility Commission. The Commission hears *de novo* appeals from the decisions of such municipalities. These municipal authorities would be State agencies as defined by PURPA, and thus have responsibilities under PURPA identical to those of a State regulatory authority.

The municipally-owned electric utilities listed below are not under the commission's original ratemaking jurisdiction.

Electric Utilities

Publicly-Owned:

Austin Electric Department
 Garland Electric Department
 *Lubbock Power and Light
 San Antonio City Public Service Board

State: Texas

Regulatory Authority: Railroad Commission of Texas.

Gas Utilities

Investor-Owned:

Arkansas-Louisiana Gas Company
 Energas Company
 Entex, Inc.
 Lone Star Gas Company
 Peoples Natural Gas Division of Northern Natural Gas Company
 Southern Union Gas Company

The Railroad Commission of Texas has special appellate jurisdiction over ratemaking decisions of the governing body of any municipality which affect the rates of a municipally-owned gas utility as provided by State statute. The governing body of each Texas municipality exercises exclusive original ratemaking jurisdiction over gas utility rates, operations, and services provided by a gas utility within its city or town limits. These municipal authorities would be State agencies as defined by PURPA and thus have responsibilities under PURPA identical to those of a State regulatory authority.

The following covered utilities within the State of Texas are not regulated by the Railroad Commission of Texas:

Gas Utilities

Investor-Owned:

City Service Gas Company

Publicly-Owned:

City Public Service Board (San Antonio)

State: Utah

Regulatory Authority: Utah Public Service Commission.

Gas Utilities

Investor-Owned:

Mountain Fuel Supply Company

Electric Utilities

Investor-Owned:

Utah Power and Light Company

Rural Electric Cooperatives:

Moon Lake Electric Association

State: Vermont

Regulatory Authority: Vermont Public Service Board.

Gas Utilities

None.

Electric Utilities

Investor-Owned:

Central Vermont Public Service Corporation
 Green Mountain Power Corporation
 Public Service Company of New Hampshire

State: Virginia

Regulatory Authority: Virginia State Corporation Commission.

Gas Utilities

Investor-Owned:

Columbia Gas of Virginia, Inc.
 Commonwealth Gas Services, Inc.
 Virginia Natural Gas
 Washington Gas Light Company

Electric Utilities

Investor-Owned:

Appalachian Power Company
 Delmarva Power and Light Company
 *Old Dominion Power Company
 Potomac Edison Company
 Potomac Electric Power Company
 Virginia Electric and Power Company

Rural Electric Cooperatives

Northern Virginia Electric Cooperative
 Rappahannock Electric Corporation

The following covered utility within the State of Virginia is not regulated by the Virginia State Corporation Commission.

Gas Utilities

Publicly-Owned:

City of Richmond, Virginia, Department of Public Utilities

Electric Utilities

Publicly-Owned:

*Danville Water, Gas & Electric

State: Washington

Regulatory Authority: Washington Utilities and Transportation Commission.

Gas Utilities

Investor-Owned:

Cascade Natural Gas Corporation
 Northwest Natural Gas Company
 Washington Natural Gas Company
 Washington Water Power Company

Electric Utilities

Investor-Owned:

Pacific Power and Light Company
 Puget Sound Power and Light Company
 Washington Water Power Company

The following covered utilities within the State of Washington are not regulated by the Washington Utilities and Transportation Commission.

Electric Utilities

Publicly-Owned:

*Port Angeles Light and Water Department
 Public Utility District No. 1 of Benton County

Public Utility District No. 1 of Chelan County
 Public Utility District No. 1 of Clark County
 Public Utility District No. 1 of Cowlitz County
 *Public Utility District No. 1 of Douglas County
 *Public Utility District No. 1 of Franklin County
 Public Utility District No. 1 of Grant County
 Public Utility District No. 1 of Grays Harbor County
 *Public Utility District No. 1 of Lewis County
 Public Utility District No. 1 of Snohomish County
 *Richland Energy Service Department
 Seattle City Light Department
 Tacoma Public Utility—Light Division

State: West Virginia

Regulatory Authority: West Virginia Public Service Commission.

Gas Utilities

Investor-Owned:

Columbia Gas of West Virginia, Inc.
 Consolidated Gas Supply Corporation
 Equitable Gas Company

Electric Utilities

Investor-Owned:

Appalachian Power Company
 Monongahela Power Company
 Potomac Edison Company
 Virginia Electric and Power Company
 Wheeling Electric Company

State: Wisconsin

Regulatory Authority: Wisconsin Public Service Commission

Gas Utilities

Investor-Owned:

Madison Gas and Electric Company
 Northern States Power Company
 Wisconsin Fuel and Light Company
 Wisconsin Gas Company
 Wisconsin Natural Gas Company
 Wisconsin Power and Light Company
 Wisconsin Public Service Corporation

Electric Utilities

Investor-Owned:

*Lake Superior District Power Company
 Madison Gas and Electric Company
 Northern States Power Company
 Wisconsin Electric Power Company
 Wisconsin Power and Light Company
 Wisconsin Public Service Corporation

State: Wyoming

Regulatory Authority: Wyoming Public Service Commission.

Gas Utilities

Investor-Owned:

Cheyenne Light Fuel and Power Company
 Kansas-Nebraska Natural Gas Company
 Montana-Dakota Utilities Company
 Mountain Fuel Supply Company

Electric Utilities

Investor-Owned:

Black Hills Power and Light Company
 Montana-Dakota Utilities Company

Pacific Power and Light Company
 Utah Power and Light Company
 Rural Electric Cooperative:
 Tri-Country Electric Association, Inc.

Appendix B

Electric Utilities

All utilities listed below had electric energy sales, for purposes other than resale, in excess of 500 million kilowatt hours in 1976, 1977, 1978, 1979, 1980, 1981, 1982, 1983 or 1984. All except those marked (*) are covered by PURPA Title I and NECPA Title II and VII. Utilities marked (*) either did not exceed the NECPA threshold of 750 million kilowatt-hour in 1984 for purposes other than resale, or do not have residential or commercial sales and therefore, are not covered by NECTA Titles II and VII. The utilities listed more than once have sales in more than one State, and those States are indicated by abbreviations in parentheses.

Investor-Owned:

Alabama Power Company
 Appalachian Power Company [VA]
 Appalachian Power Company [WV]
 Arizona Public Service Company
 Arkansas Power & Light Company [AR]
 Arkansas Power & Light Company [LA]
 Atlantic City Electric Company
 Baltimore Gas & Electric Company
 Bangor Hydro-Electric Company
 Black Hills Power & Light Company [MT]
 Black Hills Power & Light Company [SD]
 Black Hills Power & Light Company [WY]
 Blackstone Valley Electric Company
 Boston Edison Company
 Cambridge Electric Light Company
 Carolina Power & Light Company [NC]
 Carolina Power & Light Company [SC]
 Central Hudson Gas & Electric Corporation
 Central Illinois Light Company
 Central Illinois Public Service Company
 Central Louisiana Electric Company
 Central Maine Power Company
 Central Power & Light Company
 Central Vermont Public Service Corporation
 Cincinnati Gas & Electric Company
 Cleveland Electric Illuminating Company
 Columbus and Southern Ohio Electric Company
 Commonwealth Edison Company
 Commonwealth Electric Company
 Connecticut Light & Power Company
 *Conowingo Power Company
 Consolidated Edison Company of New York
 Consumer Power Company
 *CP National Corporation
 Dayton Power & Light Company
 Delmarva Power & Light Company [DE]
 Delmarva Power & Light Company [VA]
 Delmarva Power & Light Company of Maryland
 Detroit Edison Company
 Duke Power Company [NC]
 Duke Power Company [SC]
 Duquesne Light Company
 Eastern Edison Company
 El Paso Electric Company [NM]
 El Paso Electric Company [TX]
 Empire District Electric Company [AR]
 Empire District Electric Company [KS]
 Empire District Electric Company [MO]

Empire District Electric Company [OK]
 Florida Power Corporation
 Florida Power & Light Company
 Georgia Power Company
 Green Mountain Power Corporation
 Gulf Power Company
 Gulf States Utilities Company [LA]
 Gulf States Company [TX]
 Hawaiian Electric Company Inc.
 Houston Lighting & Power Company
 Idaho Power Company [ID]
 Idaho Power Company [NV]
 Idaho Power Company [OR]
 Illinois Power Company
 Indiana & Michigan Electric Company [IN]
 Indiana & Michigan Electric Company [MI]
 Indianapolis Power & Light Company
 Interstate Power Company [IA]
 Interstate Power Company [IL]
 Interstate Power Company [MN]
 Iowa Electric Light & Power Company
 Iowa-Illinois Gas & Electric Company [IA]
 Iowa-Illinois Gas & Electric Company [IL]
 Iowa Power & Light Company
 Iowa Public Service Company [LA]
 Iowa Public Service Company [SD]
 Iowa Southern Utilities Company
 Jersey Central Power & Light Company
 Kansas City Power & Light Company [KS]
 Kansas City Power & Light Company [MO]
 Kansas Gas & Electric Company
 Kansas Power & Light Company
 Kentucky Power Company
 Kentucky Utilities Company
 Kingsport Power Company
 *Lake Superior District Power Company [MI]
 *Lake Superior District Power Company [WI]
 Long Island Lighting Company
 Louisiana Power & Light Company
 Louisville Gas & Electric Company
 Madison Gas & Electric Company
 Massachusetts Electric Company
 Metropolitan Edison Company
 *Michigan Power Company
 Minnesota Power & Light Company
 Mississippi Power Company
 Mississippi Power & Light Company
 Missouri Public Service Company
 Monongahela Power Company [OH]
 Monongahela Power Company [WV]
 Montana-Dakota Utilities Company [MT]
 Montana-Dakota Utilities Company [ND]
 Montana-Dakota Utilities Company [SD]
 Montana-Dakota Utilities Company [WY]
 Montana-Dakota Power Company
 *Nantahala Power & Light Company
 Narragansett Electric Company
 Nevada Power Company
 New Orleans Public Service Inc.
 New York State Electric & Gas Corporation
 Niagara Mohawk Power Company
 Northern Indiana Public Service Company
 Northern States Power Company [MN]
 Northern States Power Company [ND]
 Northern States Power Company [SD]
 Northern States Power Company [WI]
 Northwestern Public Service Company
 Ohio Edison Company
 Ohio Power Company
 Oklahoma Gas & Electric Company [AR]
 Oklahoma Gas & Electric Company [OK]
 Old Dominion Power Company
 Orange & Rockland Utilities

Otter Tail Power Company (MN)
 Otter Tail Power Company (ND)
 Otter Tail Power Company (SD)
 Pacific Gas & Electric Company
 Pacific Power Light Company (CA)
 Pacific Power Light Company (ID)
 Pacific Power Light Company (MT)
 Pacific Power Light Company (OR)
 Pacific Power Light Company (WA)
 Pacific Power Light Company (WY)
 Pennsylvania Electric Company
 Pennsylvania Power & Light Company
 Pennsylvania Power Company
 Philadelphia Electric Company
 Portland General Electric Company
 Portland General Electric Company
 Potomac Edison Company (MD)
 Potomac Edison Company (VA)
 Potomac Edison Company (WV)
 Potomac Edison Power Company (DC)
 Potomac Edison Power Company (MD)
 Potomac Edison Power Company (VA)
 Public Service Company of Colorado
 Public Service Company of Indiana
 Public Service Company of New Hampshire (NH)
 Public Service Company of New Hampshire (VT)
 Public Service Company of New Mexico
 Public Service Company of Oklahoma
 Public Service Electric and Gas Company
 Puget Sound Power & Light Company
 Rochester Gas & Electric Corporation
 Rockland Electric Company
 St. Joseph Light & Power Company
 San Diego Gas & Electric Company
 Savannah Electric & Power Company
 Sierra Pacific Power Company (CA)
 Sierra Pacific Power Company (NV)
 South Carolina Electric & Gas Company
 Southern California Edison Company
 Southern Colorado Power Division of Centel (CO)
 Southern Indiana Gas & Electric Company
 Southwestern Electric Power Company (AR)
 Southwestern Electric Power Company (LA)
 Southwestern Electric Power Company (TX)
 Southwestern Electric Service Company
 Southwestern Public Service Company (KS)
 Southwestern Public Service Company (NM)
 Southwestern Public Service Company (OK)
 Southwestern Public Service Company (TX)
 Tampa Electric Company
 Texas-New Mexico Power Company
 Texas Utilities Electric Company
 Toledo Edison Company
 Tucson Electric Power Company
 *UGI-Luzerne Electric Division
 Union Electric Company (LA)
 Union Electric Company (IL)
 Union Electric Company (MO)
 Union Light, Heat & Power Company
 United Illuminating Company
 *Upper Peninsula Power Company
 Utah Power & Light Company (ID)
 Utah Power & Light Company (UT)
 Utah Power & Light Company (WY)
 Virginia Electric & Power Company (NC)
 Virginia Electric & Power Company (VA)
 Virginia Electric & Power Company (WV)

Washington Water Power Company (ID)
 Washington Water Power Company (MT)
 Washington Water Power Company (WA)
 West Penn Power Company
 West Texas Utilities Company
 Western Massachusetts Electric Company
 Western Power Division of Centel (KS)
 Wheeling Electric Company
 Wisconsin Electric Power Company (MI)
 Wisconsin Electric Power Company (WI)
 Wisconsin Power & Light Company
 Wisconsin Public Service Corporation (MI)
 Wisconsin Public Service Corporation (WI)
 Publicly-Owned:
 *Albany Water, Gas & Light Commission (GA)
 Anaheim Public Utilities Department (CA)
 *Anchorage Municipal Light & Power Department (AK)
 Austin Electric Department (TX)
 *Bowling Green Municipal Utilities (KY)
 *Bristol Tennessee Electric System (TN)
 *Brownsville Public Utility Board (TX)
 Burbank Public Service Department (CA)
 Central Lincoln People's Utility District (OR)
 Chattanooga Electric Power Board (TN)
 *Clarksville Department of Electricity (TN)
 *Clatskanie People's Utility District (OR)
 *Cleveland Division of Light & Power (OH)
 *Cleveland Utilities (TN)
 Colorado Springs Department of Utilities (CO)
 *Dalton Water, Light & Sink (GA)
 *Danville Water, Gas & Electric (VA)
 Decatur Electric Department (AL)
 *Dothan Electric Department (AL)
 Eugene Water & Electric Board (OR)
 Fayetteville Public Works Commission (NC)
 Florence Electric Department (AL, TN)
 Gainesville Regional Utilities (FL)
 Garland Electric Department (TX)
 Glendale Public Service Department (CA)
 *Greenville Light & Power System (TN)
 *Greenville Utilities Commission (NC)
 *Groton Public Utilities (CT)
 *High Point Electric Utility Dept. (NC)
 Huntsville Utilities (AL)
 Imperial Irrigation District (CA)
 *Independence Power & Light Department (MO)
 Jackson Utility Division—Electric Department (TN)
 Jacksonville Electric Authority (TN)
 Johnson City Power Board (TN)
 Kansas City Board of Public Utilities (KS)
 Knoxville Utilities Board (TN)
 Lafayette Utilities System (LA)
 Lakeland Department of Electricity and Water (FL)
 Lansing Board of Water & Light (MI)
 *Lenoir City Utilities Board (TN)
 Lincoln Electric System (NE)
 Los Angeles Department of Water and Power (CA)
 *Lower Colorado River Authority (TX)
 *Lubbock Power & Light (TX)
 Memphis Light, Gas & Water Division (TN)
 Modesto Irrigation District (CA)
 *Murfreesboro Electric Dept. (TN)
 *Muscatine Power & Water (IA)
 Nashville Electric Service (TN)
 Nebraska Public Power District (NE)
 Nebraska Public Power District (SD)
 *North Little Rock Electric Department (AR)

*Ocala Utilities (FL)
 Omaha Public Power District (IA)
 Omaha Public Power District (NE)
 Orlando Utilities Commission (FL)
 *Owensboro Municipal Utilities (KY)
 Palo Alto Electric Utility (CA)
 Pasadena Water & Power Department (CA)
 *Power Authority of New York (NY)
 *Port Angeles Light & Water Department (WA)
 Public Utility District No. 1 of Benton County (WA)
 Public Utility District No. 1 of Chelan County (WA)
 Public Utility District No. 1 of Clark County (WA)
 Public Utility District No. 1 of Cowlitz County (WA)
 *Public Utility District No. 1 of Douglas County (WA)
 *Public Utility District No. 1 of Franklin County (WA)
 Public Utility District No. 1 of Grant County (WA)
 Public Utility District No. 1 of Grays Harbor County (WA)
 *Public Utility District No. 1 of Lewis County (WA)
 Public Utility District No. 1 of Snohomish County (WA)
 Puerto Rico Electric Power Authority
 *Richland Energy Services Department (WA)
 *Richmond Power & Light (IN)
 Riverside Public Utilities (CA)
 *Rochester Department of Public Utilities (MN)
 *Rocky Mount Public Utilities (NC)
 Sacramento Municipal Utility District (CA)
 Salt River Project Agricultural Improvement and Power District (AZ)
 San Antonio City Public Service Board (TX)
 Santa Clara Electric Department (CA)
 Seattle City Light Department (WA)
 South Carolina Public Service Authority
 *Springfield City Utilities (MO)
 *Springfield Utilities Board (OR)
 Springfield Water, Light & Power Department (IL)
 Tacoma Public Utilities—Light Division (WA)
 *Trico Electric Cooperative, Inc. (AZ)
 Tallahassee, City of (FL)
 Turlock Irrigation District (CA)
 Vernon Municipal Light Department (CA)
 *Wilson Utilities Department (NC)

Rural Electric Cooperatives

*Anoka Electric Cooperative (MN)
 *Appalachian Electric Cooperative (TN)
 *Berkeley Electric Cooperative (SC)
 *Bluebonnet Electric Cooperative, Inc. (TX)
 *Blue Ridge Electric Membership Corporation (NC)
 Chugach Electric Association (AK)
 Clay Electric Cooperative (FL)
 Cobb Electric Membership Corporation (GA)
 *Cotton Electric Cooperative (OK)
 Cumberland Electric Membership Corporation (TN)
 *Dakota Electric Association (MN)
 *Douglas County Electric Membership Corporation (CA)

*Dixie Electric Membership Corporation (LA)
 Duck River Electric Membership Corporation (TN)
 *First Electric Cooperative Corporation (AR)
 *Flint Electric Membership Corporation (GA)
 *Four County Electric Power Association (MS)
 *Gibson County Electric Membership Corporation (TN)
 Green River Electric Corporation (KY)
 *Guadalupe Valley Electric Cooperative (TX)
 Henderson-Union Rural Electric Cooperative Corporation (KY)
 *Intermountain Rural Electric (CO)
 Jackson Electric Membership Corporation (GA)
 *Lea County Electric Cooperative, Inc. (NM)
 Lee County Electric Cooperative (FL)
 *Meriwether Lewis Electric Cooperative (TN)
 Middle Tennessee Electric Membership Corporation (TN)
 *Midwest Energy Incorporated (KS)
 Moon Lake Electric Association (CO)
 *Northern Virginia Electric Cooperative (VA)
 North Georgia Electric Membership Corporation (TX)
 Pedernales Electric Cooperative Corporation (TX)
 Pennyrite Rural Electric Cooperative Corporation (KY, TN)
 Rappahannock Electric Cooperative (VA)
 Rural Electric System (AL)
 *Rutherford Electric Membership Corporation (NC)
 *Sam Houston Electric Cooperative (TX)
 *Singing River Electric Power Association (MS)
 South Central Power Company (OH)
 Southern Maryland Electric Cooperative, Inc. (MD)
 *Southern Pine Electric Power Association (MS)
 Southwest Louisiana Electric Membership Corporation (LA)
 *Southwest Tennessee Electric Membership Corporation (TN)
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 *Tri-County Electric Membership Corporation (TN)
 *Umatilla Electric Cooperative Association (OR)
 *Upper Cumberland Electric Membership Corporation (TN)
 Volunteer Electric Cooperative (TN)
 *Walton Electric Membership Corporation (GA)
 Warren Rural Electric Cooperative Corporation (KY)
 *West Kentucky Rural Electric Cooperative Corporation (KY)
 Withlacoochee River Electric Cooperative (FL)

Federal Agencies

*Bonneville Power Administration (OR)
 *Tennessee Valley Authority (TN)
 *Western Area Power Administration (CO)

Gas Utilities

All gas utilities listed below had natural gas sales, for purposes other than resale, in excess of 10 billion cubic feet in 1976, 1977, 1978, 1979, 1980, 1981, 1982, 1983 or 1984. All except those marked (*) are covered by PURPA Title III and NECPA Titles II and VII. Utilities marked (*) are not covered by NECPA Titles II and VII because they either did not exceed the NECPA threshold of 10 billion cubic feet in 1984 for purposes other than resale, or do not have residential or commercial sales. The utilities listed more than once have sales in more than one State and those States are indicated by abbreviations in parentheses.

Investor-Owned

Alabama Gas Corporation
 Alabama-Tennessee Natural Gas Company
 Anadarko Production Company
 Arkansas-Louisiana Gas Company (AR)
 Arkansas-Louisiana Gas Company (KS)
 Arkansas-Louisiana Gas Company (LA)
 Arkansas-Louisiana Gas Company (OK)
 Arkansas-Louisiana Gas Company (TX)
 Arkansas-Oklahoma Gas Corporation (AR)
 Arkansas-Oklahoma Gas Corporation (OK)
 Arkansas Western Gas Company
 Associated Natural Gas Company (AR)
 Associated Natural Gas Company (MO)
 Atlanta Gas Light Company
 Baltimore Gas & Electric Company
 Battle Creek Gas Company
 Bay State Gas Company
 Boston Gas Company
 Brooklyn Union Gas Company
 Carnegie Natural Gas Company
 Carolina Pipeline Company
 Cascade Natural Gas Corporation (OR)
 Cascade Natural Gas Corporation (WA)
 Central Illinois Light Company
 Central Illinois Public Service Company
 Chattanooga Gas Company (TN)
 Cheyenne Light, Fuel and Power Company
 Cincinnati Gas and Electric Company
 Cities Services Gas Company (covered by NECPA only)
 *City Gas Company of Florida
 City Service Gas Company
 Colonial Gas Energy System
 Columbia Gas of Kentucky, Inc.
 Columbia Gas of New York, Inc.
 Columbia Gas of Ohio, Inc.
 Columbia Gas of Pennsylvania, Inc.
 Columbia Gas of Virginia, Inc.
 Columbia Gas of West Virginia, Inc.
 Commonwealth Gas Company
 Commonwealth Gas Service Incorporated
 Commonwealth Gas Services, Incorporated
 Connecticut Light & Power Company
 Connecticut Natural Gas Corporation
 Consolidated Edison Company of New York, Inc.
 Consolidated Gas Supply Corporation
 Consumers Power Company
 Dayton Power & Light Company
 Delmarva Power & Light Company (DE)
 East Ohio Gas Company
 Elizabethtown Gas Company
 Energas Company
 Enstar Natural Gas Company
 Entex Inc. (LA)
 Entex Inc. (MS)
 Entex Inc. (TX)
 Equitable Gas Company (PA)
 Equitable Gas Company (WV)

Gas Company of New Mexico
 Gas Light Company of Columbus
 Gas Service Company (KS)
 Gas Service Company (MO)
 Gas Service Company (NE)
 Gas Service Company (OK)
 Greeley Gas Company (CO)
 Greeley Gas Company (KS)
 Gulf States Utilities Company
 Illinois Power Company
 Indiana Gas Company
 Inter City Gas Company
 Intermountain Gas Company
 Interstate Power Company (IA)
 Interstate Power Company (MN)
 Iowa Electric Light & Power Company (CO)
 Iowa Electric Light & Power Company (IA)
 Iowa Electric Light & Power Company (MN)
 Iowa Electric Light & Power Company (NE)
 Iowa-Illinois Gas & Electric Company (IA)
 Iowa-Illinois Gas & Electric Company (IL)
 Iowa Power & Light Company
 Iowa Public Service Company (IA)
 Iowa Public Service Company (NE)
 Iowa Public Service Company (SD)
 Iowa Southern Utilities Company
 Kansas-Nebraska Natural Gas Company (CO)
 Kansas-Nebraska Natural Gas Company (KS)
 Kansas-Nebraska Natural Gas Company (WY)
 Kansas Power & Light Company
 KN Energy, Inc.
 Laclede Gas Company Consolidated
 Lone Star Gas Company (OK)
 Lone Star Gas Company (TX)
 Long Island Lighting Company
 Louisiana Gas Service Company
 Louisville Gas & Electric Company
 Lowell Gas Company
 Madison Gas & Light Company
 Michigan Consolidated Gas Company
 Michigan Gas Utilities Company
 Michigan Power Company
 Minnegasco, Inc. (MN)
 Minnegasco, Inc. (NE)
 Minnegasco, Inc. (SD)
 Mississippi Valley Gas Company
 Missouri Public Service Company
 Mobile Gas Service Corporation
 Montana-Dakota Utilities Company (MN)
 Montana-Dakota Utilities Company (MT)
 Montana-Dakota Utilities Company (ND)
 Montana-Dakota Utilities Company (SD)
 Montana-Dakota Utilities Company (WY)
 Montana Power Company
 Mountain Fuel Supply Company (UT)
 Mountain Fuel Supply Company (WY)
 Nashville Gas Company
 National Fuel Gas Distribution Corporation (NY)
 National Fuel Gas Distribution Corporation (PA)
 National Gas and Oil Company
 New Jersey Natural Gas Company
 New Orleans Public Service, Inc.
 New York State Electric & Gas Corporation
 Niagara Mohawk Power Company
 North Carolina Natural Gas Corporation
 North Shore Gas Company
 Northern Illinois Gas Company
 Northern Indiana Public Service Company
 Northern Natural Gas Company (KS)

Northern Natural Gas Company (NE)
 Northern States Power Company (MN)
 Northern States Power Company (ND)
 Northern States Power Company (WI)
 North Penn Gas Company
 Northwest Alabama Gas District
 Northwest Natural Gas Company (OR)
 Northwest Natural Gas Company (WA)
 Northwestern Public Service Company (NE)
 Northwestern Public Service Company (SD)
 Oklahoma Natural Gas Company
 Orange & Rockland Utilities
 Pacific Gas & Electric Company
 Panhandle Eastern Pipeline Company (IL)
 Panhandle Eastern Pipeline Company (KS)
 Pennsylvania Gas & Water Company
 Peoples Gas, Light and Coke Company
 Peoples Gas System
 Peoples Natural Gas Company
 Peoples Natural Gas Company, Division of Internorth, Inc. (IA)
 Peoples Natural Gas Company, Division of Internorth, Inc. (IA)
 Peoples Natural Gas Company, Division of Internorth, Inc. (KS)
 Peoples Natural Gas Company, Division of Internorth, Inc. (MN)
 Peoples Natural Gas Company, Division of Internorth, Inc. (MO)

Peoples Natural Gas Company, Division of Internorth, Inc. (NE)
 Peoples Natural Gas Company, Division of Internorth, Inc. (TX)
 Philadelphia Electric Company
 Piedmont Natural Gas Company (NC)
 Piedmont Natural Gas Company (SC)
 Providence Gas Company
 Public Service Company of Colorado
 Public Service Company, Inc. of North Carolina
 Public Service Electric and Gas Company
 Rochester Gas & Electric Corporation
 San Diego Gas & Electric Company
 South Carolina Gas & Electric Company
 South Jersey Gas Company
 Southeastern Michigan Gas Company
 Southern California Gas Company
 Southern Connecticut Gas Company
 Southern Indiana Gas & Electric Company
 Southern Union Gas Company (AZ)
 Southern Union Gas Company (OK)
 Southern Union Gas Company (TX)
 Southwest Gas Corporation (AZ)
 Southwest Gas Corporation (CA)
 Southwest Gas Corporation (NV)
 Terre Haute Gas Corporation
 T.W. Phillips Gas and Oil Company
 UGI Corporation
 Union Gas System, Inc. (KS)
 Union Gas System, Inc. (OK)
 Union Light, Heat & Power Company (KY)

Virginia Natural Gas
 Washington Gas Light Company (DC)
 Washington Gas Light Company (MD)
 Washington Gas Light Company (VA)
 Washington Natural Gas Company
 Washington Water Power Company (ID)
 Washington Water Power Company (WA)
 West Ohio Gas Company
 Western Kentucky Gas Company
 Wisconsin Fuel & Light Company
 Wisconsin Gas Company
 Wisconsin Natural Gas Company
 Wisconsin Power & Light Company
 Wisconsin Public Service Corporation (MI)
 Wisconsin Public Service Corporation (WI)

Public-Owned

Citizens Gas & Coke Utility (IN)
 City of Richmond, Virginia, Department of Public Utilities (VA)
 City Public Services Board (San Antonio) (TX)
 Colorado Springs, Department of Public Utilities (CO)
 Long Beach Gas Department (CA)
 Memphis Light, Gas & Water Division (TN)
 Metropolitan Utilities District of Omaha (NE)
 Philadelphia Gas Works (PA)
 Springfield City Utilities (MO)

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¹ No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1985. The CFR volume issued as of Apr. 1, 1980, should be retained.

² No amendments to this volume were promulgated during the period Apr. 1, 1984 to March 31, 1985. The CFR volume issued as of Apr. 1, 1984, should be retained.

³ No amendments to this volume were promulgated during the period July 1, 1984 to June 30, 1985. The CFR volume issued as of July 1, 1984, should be retained.

⁴ The July 1, 1985 edition of 32 CFR Parts 1-189 contains a note only for Parts 1-39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1-39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

⁵ The July 1, 1985 edition of 41 CFR Chapters 1-100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.