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Federal Register

Thursday
December 26, 1985

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

Administrative Practice and Procedure
Equal Employment Opportunity Commission
Postal Rate Commission

Air Pollution Control
Environmental Protection Agency

Animal Drugs
Food and Drug Administration

Antibiotics
Food and Drug Administration

Aviation Safety
Federal Aviation Administration

Bridges
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Crop Insurance
Federal Crop Insurance Corporation

Education
Veterans Administration

Exports
International Trade Administration

Government Procurement
Agency for International Development
General Services Administration

Government Property
General Services Administration

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Selected Subjects

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

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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.

Imports
Animal Plant Health Inspection Service

Radio Broadcasting
Federal Communications Commission

Reporting and Recordkeeping Requirements
Customs Service

Television Broadcasting
Federal Communications Commission

Trade Practices
Federal Trade Commission

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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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

Federal Crop Insurance Corporation

7 CFR Parts 414, 416, 418, 419, 420, 421, 423, 424, 425, 426, 427, 428, 431, 432, 433, 435, 437, 438, 447 and 448

[Docket No. 3015S]

Crop Insurance Regulations; Various

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Interim rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the Forage Seeding, Pea, Wheat, Barley, Grain Sorghum, Cotton, Flax, Rice, Peanut, Combined Crop, Oat, Sunflower, Soybean, Corn, Dry Bean, Tobacco (Quota Plan), Canning and Freezing Sweet Corn, Canning and Processing Tomato, Popcorn, and ELS Cotton Crop Insurance Regulations (7 CFR Parts 414, 416, 418, 419, 420, 421, 423, 424, 425, 426, 427, 428, 431, 432, 433, 435, 437, 438, 447, and 448 respectively), effective for the 1985 calendar year only, by extending the date for filing contract changes specified in the policies for insuring such crops. The intended effect of this rule is to provide additional time in which to file changes made in the Actuarial Tables for such crops. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATES: *Effective date:* December 31, 1985.

Comment date: Written comments, data, and opinions on this interim rule must be submitted not later than February 24, 1986, to be sure of consideration.

ADDRESS: Written comments on this interim rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures.

Merritt W. Sprague, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies, that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

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

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Section 16 of the policy for each of the crops affected (Section 7 of Combined Crop) provides that any changes in the contract must be placed on file in the service office by a certain date. The contract consists of the application, the policy, and the actuarial table. Due to the workload involved in making changes on the Actuarial Table of each crop insured in each county where such insurance is offered requires that in the counties where changes in the contract must be on file by December 31, 1985, the date must be extended to January 20, 1986.

FCIC is currently reviewing the actuarial tables for the regulations referred to herein to determine whether the adequacy of current actuarial structures and rates levels offered under each crop insurance policy are consistent with sound actuarial principles and if not to make adjustments where necessary. This is an annual review conducted on all crops. The amount of work involved is such that these reviews will not be completed prior to the date for filing such actuarial data in the service offices for the crops and counties involved unless the filing date is extended.

Merritt W. Sprague, Manager, FCIC, has determined and certifies that an emergency situation exists which warrants publication of this rule without providing for a period for public comment before such publication. Without this review, the statutory mandate that the program be actuarially sound could not be met. The workload involved in these actuarial changes will not permit filing of these actuarial tables by the present contract change date of December 31.

There is not sufficient time to provide for public comment and implement these changes prior to December 31. It has been determined that the date by which such changes are required to be placed on file in the service office will be extended from December 31, 1985, until January 20, 1986, and made effective for the 1985 calendar year only for Forage Seeding, Peas, Wheat, Barley, Grain Sorghum, Cotton, Flax, Rice, Peanuts, Combined Crop, Oats, Sunflowers, Soybeans, Corn, Dry Beans, Tobacco (Quota Plan), Canning and Freezing Sweet Corn, Canning and Processing Tomatoes, Popcorn, and ELS Cotton.

The changes in the actuarial tables for the crops affected by this rule may be beneficial in some instances and detrimental in others. All policyholders should be aware of the changes in the actuarial table affecting their individual crop insurance contract and of the additional time provided for FCIC to file such changes.

FCIC is soliciting public comment on this rule for 60 days after publication in the **Federal Register**. This rule will be scheduled for review in order that any amendment made necessary by public comment may be published in the **Federal Register** as quickly as possible.

Any comments received pursuant to this rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Buidling, U.S. Department of Agriculture, Washington, DC 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Parts 414, 416, 418, 419, 420, 421, 423, 424, 425, 426, 427, 428, 431, 432, 433, 435, 437, 438, 447, and 448.

Crop insurance, Forage seeding, Pea, Wheat, Barley, Grain sorghum, Cotton, Flax, Rice, Peanut, Combined crop, Oat, Sunflower, Soybean, Corn, Dry Bean, Tobacco (Quota Plan), Canning and freezing sweet corn, Canning and processing tomato, Popcorn, and ELS Cotton.

Interim Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the Forage Seeding, Pea, Wheat, Barley, Grain Sorghum, Cotton, Flax, Rice, Peanut, Combined Crop, Oat, Sunflower, Soybean, Corn, Dry Bean, Tobacco (Quota Plan), Canning and Freezing Sweet Corn, Canning and Processing Tomato, Popcorn, and ELS Cotton Crop Insurance Regulations, effective for the 1985 calendar year only (7 CFR Parts 414, 416, 418, 419, 420, 421, 423, 424, 425, 426, 427, 428, 431, 432, 433, 435, 437, 438, 447, and 448, respectively) in the following instances:

1. The Authority citations for 7 CFR Parts 414, 416, 418, 419, 420, 421, 423, 424, 425, 426, 427, 428, 431, 432, 433, 435, 437, 438, 447, and 448 continue to read as follows:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. 7 CFR 418.7(d)16, 419.7(d)16, and 427.7(d)16 are revised to read as follows:

§§ 418.7, 419.7 and 427.7 Application and policy.

* * * * *

(d) * * *

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by December 31 preceding the cancellation date for counties with an April 15 cancellation date (January 20, 1986, for the 1985, 1986 transition) and by May 31 preceding the cancellation date for all other counties. Acceptance of any change will be conclusively presumed in the absence of any notice from you to cancel the contract.

* * * * *

3. 7 CFR 416.7(d)16, 423.7(d)16, 428.7(d)16, 433.7(d)16, 433.7(d)16, and 447.7(d)16, are revised to read as follows:

§§ 416.7, 423.7, 428.7, 433.7, 437.7 and 447.7 Application and policy.

* * * * *

(d) * * *

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by December 31 preceding the cancellation date (January 20, 1986, for the 1985, 1986 transition). Acceptance of any change will be conclusively presumed in the absence of any notice from you to cancel the contract.

* * * * *

4. 7 CFR 414.7(d)16 is revised to read as follows:

§ 414.7 Application and policy.

* * * * *

(d) * * *

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your amount of insurance is no longer offered, the actuarial table will provide the amount of insurance which you are deemed to have elected. All contract changes will be available at your service office by December 31 for counties with an April 15 cancellation date (January 20, 1986, for the 1985, 1986 transition) and by April 30 for all other counties. Acceptance of any change will be conclusively presumed in the absence of any notice from you to cancel the contract.

* * * * *

5. 7 CFR 420.7(d)16, 421.7(d)16, 424.7(d)16, 425.7(d)16, 431.7(d)16, 432.7(d)16, and 438.7(d)16 are revised to read as follows:

§§ 420.7, 421.7, 424.7, 425.7, 431.7, 432.7, and 438.7 Application and policy.

* * * * *

(d) * * *

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by December 31 preceding the cancellation date for counties with an April 15 cancellation date (January 20, 1986, for the 1985, 1986 transition) and by November 30 preceding the cancellation date for all other counties. Acceptance of any change will be conclusively presumed in the absence of any notice from you to cancel the contract.

* * * * *

6. 7 CFR 426.7(b)6 is revised to read as follows:

§ 426.7 The policy.

* * * * *

(b) * * *

6. In lieu of section 16 of the applicable crop policies, we may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by December 31 preceding the cancellation date (January 20, 1986, for the 1985, 1986, transition). Acceptance of any change will be conclusively presumed in the absence of any notice from you to cancel the contract.

* * * * *

5. 7 CFR 435.7(d)16 is revised to read as follows:

§ 435.7 Application and policy.

* * * * *

(d) * * *

16. Contract changes

We may change any terms and provisions of the contract from year to year. All contract changes will be available at your service office by December 31 preceding the cancellation date except that, for the 1985, 1986 transition only, all contract changes will be available at your service office by January 20, 1986. Acceptance of any change will be conclusively presumed in the absence of any notice from you to cancel the contract.

* * * * *

5. 7 CFR 448.7(d) 16 is revised to read as follows:

§ 448.7 Application and policy.

* * * * *

(d) * * *

16. Contract changes

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by November 30 preceding the cancellation data except that, for the 1985, 1986, transition only, all contract changes will be available at your service office by January 20, 1986. Acceptance of any change will be conclusively presumed in the absence of any notice from you to cancel the contract.

* * * * *

Done in Washington, D.C. on December 5, 1985.

Edward Hews,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 85-30466 Filed 12-24-85; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 426

[Amdt. No. 2; Docket No. 2951S]

Combined Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the Combined Crop Insurance Regulations (7 CFR Part 426), effective for the 1986 and succeeding crop years by revising and reissuing § 426.7. The intended effect of this rule is to: (1) Change to a mandatory "Actual Production History" (APH) basis by removing the Premium Adjustment Table and providing for cancellation for not furnishing records; and (2) change the method of computing indemnities when acreage, share, or practice is underreported. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: December 31, 1985.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC, 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is October 25, 1990.

Merritt W. Sprague, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order No. 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

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

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Other than minor changes in language and format, the principal changes in the combined crop policy are:

1. Section 3.b.—When acres are underreported, the production from all acres will be applied against the reported acres in calculating indemnities. This change will reduce the indemnities when acres are underreported and will reduce the complexity of calculations.

2. Section 4.—Remove the Premium Adjustment Table. The crop will be insured on an actual production history (APH) basis. Coverages will, therefore, reflect the actual production history of the crop on the unit. Insureds with good loss experience who are now receiving a premium discount are protected since they may retain a discount under the present schedule through the 1990 crop year or until their loss experience causes them to lose the advantage, whichever is earlier.

3. Section 6.—Add a new section to cancel the contract if production history is not furnished by the cancellation date. An exception will be allowed if the insured can show, prior to the cancellation date, that records are unavailable due to conditions beyond the insured's control. This clause is required by the change to mandatory APH.

On Wednesday, November 13, 1985, FCIC published a notice of proposed rulemaking in the **Federal Register** at 50 FR 46772, amending the Combined Crop Insurance Regulations (7 CFR Part 426), effective for the 1986 and succeeding crop years. The public was given 30 days in which to submit written comments, data, and opinions on the proposed rule, but none were received. Therefore, with the exception of minor changes in language and format, the proposed rule is hereby adopted as a final rule.

Since policy changes must be on file by December 31, 1985, good cause is shown for making this amendment effective in less than 30 days.

List of Subjects in 7 CFR Part 426

Crop Insurance; Combined Crop.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the Combined Crop Insurance Regulations (7 CFR Part 426), effective for the 1986 and succeeding crop years, to read as follows:

PART 426—[AMENDED]

1. The authority citation for 7 CFR Part 426 continues to read as follows:

Authority: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. Section 426.7 is revised to read as follows:

§ 426.7 The policy.

(a) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1986 and succeeding crop years, a contract in the form provided for in this subpart will come into effect as a continuation of a combined crop insurance contract issued under such prior regulations, without the filing of a new application.

(b) The provisions of the Combined Crop Insurance Policy for the 1986 and succeeding crop years are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Combined Crop—Crop Insurance Policy

(This is a continuous contract. See the provisions of the individual crop policies)

Agreement to insure: We will provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us," and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Applicability.

The provisions for each insured crop contained in the individual policy for such crop will apply except as otherwise provided herein. For the purpose of combined crop insurance, those parts of the individual policies which refer to individual crops will be considerend to mean all crops insured under this policy.

2. Crop Acreage and Share Insured.

In addition to section 2 of the applicable individual crop policies, the following will apply:

a. The crops insured are all of the crops grown on insured acreage and for which production guarantees and premium rates are provided by the actuarial table for combined crop insurance.

b. Insurance will not be considered to have attached to any acreage of rye for any crop year when the contract is canceled or terminated for indebtedness for the crop year.

3. Annual Premium.

In lieu of section 5 of the applicable individual crop policies, the following will apply:

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the applicable diversification factor(s) times the applicable premium factor(s).

b. Interest will accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. If you are eligible for a premium reduction in excess of 5 percent based on your insuring experience through the 1984 crop year under the terms of the experience table contained in the combined crop policy in effect for the 1985 crop year, you will continue to receive the benefit of that reduction subject to the following conditions:

(1) No premium reduction will be retained after the 1990 crop year;

(2) The premium reduction will not increase because of favorable experience;

(3) The premium reduction will decrease because of unfavorable experience in accordance with the terms of the policy in effect for the 1985 crop year;

(4) Once the loss ratio exceeds .80, no further premium reduction will apply; and

(5) Participation must be continuous.

4. Claim for Indemnity.

In lieu of subsection 9(c) of the applicable individual crop policies, the following will apply:

a. The indemnity will be determined in each unit by:

(1) Multiplying the insured acreage for each insured crop on the unit times the applicable production guarantee, times the applicable price election, times your share;

(2) Multiplying the total production to be counted for each insured crop on the unit, times the applicable price election, times your share;

(3) Adding the dollar amounts obtained for each of the respective insured crops in (1) above; and

(4) Adding the dollar amounts obtained for each of the respective insured crops in (2) above, and subtracting this sum from the sum obtained in (3) above.

b. If the information reported by you results in a lower premium than actual premium determined to be due, the dollar amounts in (3) above will be computed on the information reported, but all production from insurable acreage, whether or not reported as insurable, will be counted in (2) above.

5. Yield Records.

In lieu of section 15.c. of the individual crop policies and prior to the cancellation date for any crop year you must:

(a) Furnish to the Corporation, satisfactory production records for the previous crop year or the contract will be cancelled for the subsequent crop year; or

(b) Show to our satisfaction that the records are not available because of conditions beyond your control, such as fire, flood or other natural disaster. (If this subsection (2) applies, the Field Actuarial Office may assign a yield for the year for which the records are unavailable.)

You may furnish the records required by this section for any crop year at least 90 days prior to that crop year's cancellation date. Your election of this option will result in the inclusion of that crop year's production information in the next year's yield guarantee.

6. Cancellation and Termination Dates.

In lieu of section 15.e. of the applicable individual crop policies, the cancellation and termination dates are April 15.

7. Contract Changes.

In lieu of section 16 of the applicable crop policies, we may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by December 31 preceding the cancellation date. Acceptance of any change will be conclusively presumed in the absence of notice from you to cancel the contract.

8. Meaning of Terms.

For the purposes of combined crop insurance:

a. "Actuarial table," in lieu of the definition of actuarial table in section 17 of the applicable crop policies, means the forms and related material for the crop year approved by us which are on file for public inspection in the service office, and which show the production guarantees, coverage levels, premium factors, dollar coverage per acre, applicable prices for computing indemnities, the applicable diversification factor table, insurable and uninsurable acreage, and related information regarding combined crop insurance in the county.

b. "Diversification factor" means a factor applied to reduce the premium when there is a diversity of crops planted. The factor is provided by the county actuarial table.

c. "Premium factor" means the factor provided in the county actuarial table for use in determining the premium.

d. "Unit", in lieu of the unit definition in section 17 of the applicable crop policy, means all of the insurable acreage of all applicable insured crops in the county at the time of planting for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the crop(s) on such land will be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office. Units will be determined when the acreage is reported. Errors in reporting units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

Done in Washington, DC, on December 13, 1985.

Edward Hews,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 85-30465 Filed 12-24-85; 8:45 am]

BILLING CODE 3410-08-M

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 85-098]

African Swine Fever

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the regulations in 9 CFR Part 94 to provide a mechanism to allow, under certain conditions, pork and pork products originating in a country believed to be free of African swine fever (ASF) to be imported into the United States after being processed in a country where ASF exists or is reasonably believed to exist. It has been determined that compliance with the provisions in this final rule will be adequate to allow such pork or pork products to be imported into the United States without presenting a significant risk of causing the introduction into the United States of ASF.

EFFECTIVE DATE: December 26, 1985.

FOR FURTHER INFORMATION CONTACT: Dr. Mark P. Dulin, Import-Export Animals and Products Staff, VS, APHIS, USDA, Room 841, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. (301) 436-8499.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR Part 94 (referred to below as the regulations), among other things, regulate the importation into the United States of pork and pork products in order to prevent the introduction into the United States of African swine fever (referred to below as ASF). ASF is considered to be the most dangerous and destructive communicable disease of swine.

Section 94.8 of the regulations lists countries where ASF exists or is reasonably believed to exist (referred to below as ASF countries) and regulates the importation into the United States of pork and pork products from such countries.

In a document published in the **Federal Register** on June 28, 1985 (50 FR 26782–26785), the Department proposed to amend the regulations by providing a mechanism to allow under certain conditions, pork and pork products originating in a country believed to be free of African swine fever (ASF) to be imported into the United States after being processed in a country where ASF exists or is reasonably believed to exist.

Comments

The document of June 28, 1985, invited the submission of written comments on or before July 29, 1985. A document extending the comment period to August 29, 1985, was published in the **Federal Register** on July 30, 1985 (50 FR 30857–30858).

Twenty-two comments were received in response to the proposed rule. Comments were received from importers, representatives of foreign governments, and representatives of the pork industry.

Several commenters favored the adoption of the proposed rule without changes. Other commenters opposed the adoption of the proposed rule by asserting that the proposed rule is unnecessarily restrictive. Other commenters opposed the adoption of any rule that would allow pork and pork products originating in a country free of ASF to be imported into the United States after being processed in a country where ASF exists or is believed to exist.

All of the comments submitted in response to the proposal have been carefully considered, and the issues raised by the comments are discussed below.

Based on the rationale set forth in the proposal and in this document, the provisions of the proposal have been adopted as a final rule with a minor change discussed below.

Heating Provisions

It was proposed that as a condition of importation, the pork or pork products must be heated to an internal temperature of at least 156 °F. (68.9 °C.) throughout (this must occur after the bones have been removed). Research has established that heating pork or pork products to 69 °C. is adequate to destroy any ASF virus in the pork or pork products (See "Residual Viruses in Pork Products," McKercher, P.D., W.R. Hess, and F. Hamdy, 1978. *Applied and Environmental Microbiology 35:* 142–145). The reference to 68.9 °C. is changed to 69 °C. to accurately reflect the temperature that was used in the research.

One commenter asserted: (1) That the research document did not specify the number of hams from infected pigs that were processed and tested, but only stated that 2 pound units were injected and cured; (2) that the research document did not provide an estimate or analysis of the salt level or brine concentration in the hams and did not specify how the ham pieces were injected with a brine solution and consequently did not indicate the extent to which they are representative of commercial production; and (3) that the research failed to establish the critical temperature to destroy ASF virus and failed to stipulate a safety margin. Also, it was asserted that a safety margin is extremely critical for commercial systems with inherent temperature variability during heating, especially with respect to the heating of hams weighing more than 2 pounds. No changes are made based on these comments.

With respect to the number of hams used in the study, it should be noted that eight hams were used. The published research states that four swine were inoculated with ASF virus. Four of the hams from the infected swine were used as control hams and four hams were heat treated. With respect to the brine concentration in the hams, a 16 percent brine solution (by weight) was injected into the hams with syringe and needle. As the commenter indicates, the research document does not provide any estimate or analysis of the salt level or brine concentration in the hams. Such an estimate or analysis is not considered necessary since salt levels have no effect toward protecting or weakening ASF virus prior to or during heat treatment.

Further, as indicated by the research, the ASF virus was destroyed at an internal temperature of 69 °C. (156 °F.). The heating provisions in the final rule require that the pork or pork products be heated to an internal temperature of at least 69 °C. (156 °F.) throughout (this must occur after the bones have been removed). The temperature of 69 °C. was selected for the research because this is the temperature commonly used by commercial producers for the heating of cooked pork or pork products imported into the United States. However, it appears that 69 °C. would provide a safety margin of at least 5 °C. based on the heat treatment research concerning ASF virus in blood derived from swine with acute ASF infection and in tissue culture medium containing twenty-five percent swine from ASF-infected swine. (See Plowright, W. and J. Parker 1967. "The Stability of African Swine Fever with Particular Reference to Heat and pH Inactivation." *Arch des virus forsch 21:* 383–402 and Sidorov M.A. 1968. "Resistance of African Swine Fever Virus to Various Temperatures" *Byull. Vses. Inst. Eksp. Vet.* #4 16–18, translated from Russian).

Also, the size of hams is not relevant to the requirement that the hams be heated to 69 °C. throughout. Although the cooking time could be longer for larger hams compared to smaller hams, heating throughout to a minimum internal temperature of 69 °C. would be adequate to destroy the virus.

Another commenter asserted that the study did not thoroughly evaluate "the interactive effects of tissue type, temperature, rate of temperature penetration, time and temperature exposure, and condition of the virus itself on African swine fever virus survival." This commenter also asserted that in order to be considered valid, the research results should be documented at more than one research center. No changes are made based on these comments.

The virus used for the study was highly pathogenic as was demonstrated when susceptible swine became infected with ASF as a result of being innoculated with material from uncooked infected hams.

Based on a review of the McKercher research project, it has been determined that such research is sufficient to establish that heating pork or pork products to 69 °C. is adequate to destroy any ASF virus in the pork or pork products. In addition, as explained above, the results of the McKercher research project are consistent with the results of the two other research projects referred to above. Under these circumstances, it has been determined that the heat treatment is adequate to kill ASF virus regardless of tissue type and other issues raised relating to temperature.

Maintaining Identity

The final rule provides, as a condition of importation, that the pork or pork products must come from a processing establishment operated by persons who entered into a valid written compliance agreement with Veterinary Services whereby such persons have agreed to maintain copies of certain certificates on file at the establishment for at least two years and to allow Veterinary Services personnel to make unannounced

inspections as necessary to monitor compliance with the regulations.

Commenters objected to the proposed rule based on assertions that periodic visits by Veterinary Services personnel to the processing establishment would be little value in assuring the integrity of the system, and that the retention of records would be of no value if the records are not regularly verified by Veterinary Services personnel. No changes are made based on these comments.

The Department disagrees with the commenters' assertions. Further, it should be noted that under the regulations the pork or pork products must be accompanied by a certificate issued by an official of the national government of the country wherein the processing establishment is located stating that all of the requirements concerning the pork or pork products have been met. It has been determined that the cooperative efforts of Veterinary Services personnel and officials of the national government of the country in which the processing establishment is located, in combination with the other safeguards prescribed by the regulations, would be adequate to ensure that the identity of the pork products would be maintained.

It was proposed that, as a condition of importation, the pork or pork products must have been processed in an establishment that, among other things, does not receive or process any live swine and uses only pork or pork products which originate in the ASF-free countries. These provisions were included to ensure that the pork or pork products intended for importation into the United States are not commingled with other pork or pork products that might be contaminated with ASF virus. One commenter suggested that these provisions are overly restrictive and should not be applied as long as the pork or pork products are protected against being commingled with pork or pork products that originate in ASF countries. No changes are made based on this comment. However, the Department is considering whether changes should be made in the regulations consistent with the commenter's suggestion. Any action to amend the regulations in this regard would be the subject of a future rulemaking proceeding.

Europe

Two commenters suggested that Europe, or at least the European Economic Community, should be considered one jurisdiction for purposes of regulations concerning the importation of pork and pork products. This was based on assertions conerning the lack of control over movement of travelers and products across national boundries in Europe and assertions concerning the ease with which ASF and other exotic diseases spread in Europe. No changes are made based on this comment. There does not appear to be a basis for treating all of Europe, or even European Economic Community, as one jurisdiction with respect to the importation of pork or pork products. Even though some of the countries in Europe are listed in the regulations as countries in which ASF exists or is reasonably believed to exist, ASF has not spread throughout Europe or throughout the European Economic Community. This is due in large part to the effectiveness of animal health programs.

Miscellaneous

This document also adds due process provisions for cancelling compliance agreements.

Effective Date

This final rule is made effective on the date of publication. The final rule relieves certain restrictions which have been found to be unnecessary. Accordingly, prompt action should be taken to delete these restrictions.

Paperwork Reduction Act

In accordance with section 3507 of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the information collection provisions that are included in this rule have been approved by the Office of Management and Budget (OMB) and have been given the OMB control number 0579-0015.

Executive Order 12291 and Regulatory Flexibility Act

This rule is issued in conformance with Executive Order 12291 and has been determined to be not a "major rule." The Department has determined that this rule will not have a significant annual effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will have no significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprise in domestic or export markets.

It is anticipated that the amount of pork and pork products that will be imported into the United States under these provisions will be insignificant compared to the total amount of pork and pork products imported into the United States.

Under the circumstances explained above, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (See 7 CFR 3015, Subpart V).

List of Subjects in 9 CFR Part 94

African swine fever, Animal diseases, Exotic newscastle disease, Foot-and-mouth disease, Fowl pest, Garbage, Hog cholera, Imports, Livestock and livestock products, Meat and meat products, Milk, Poultry and poultry products, Swine vesicular disease.

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), NEWCASTLE DISEASE (AVIAN PNEUMOENCEPHALITIS), AFRICAN SWINE FEVER, AND HOG CHOLERA: PROHIBITED AND RESTRICTED IMPORTATIONS

Accordingly, 9 CFR Part 94 is amended as follows:

1. The authority citation for Part 94 is revised to read as set forth below, and the authority citations following all the sections in Part 94 are removed:

Authority: 7 U.S.C. 147a, 150ee, 161, 162, 450; 19 U.S.C. 1306, 21 U.S.C. 111, 114a, 134a, 134b, 134c, and 134f; 42 U.S.C. 4331, 4332; 7 CFR 2.17, 2.51, and 371.2(d).

§ 94.8 [Amended]

2. In § 94.8, paragraph (a)(2) is amended to change the period to a semicolon and to add "or" after the semicolon.

3. In § 94.8, a new paragraph (a)(3) is added to read as follows:

§ 94.8 Pork and pork products from countries where African swine fever exists or is reasonably believed to exist

* * * * *

(a) * * *

(3) Such pork or pork product meets the conditions of paragraphs (a)(3)(i) through (a)(3)(VI) of this section;

(i) It was derived from pork or pork products:

(A) Which originated from swine raised and slaughtered in a country not listed in this section;

(B) Which were shipped from the country of origin to a processing

establishment [1] in a country listed in this section in a closed container sealed with serially numbered seals applied by an official of the national government of the country of origin;

(C) Which were accompanied from the country of origin to such processing establishment by a certificate signed by an official of the national government of the country of origin specifying the country of origin, the processing establishment to which the pork was consigned, and the numbers of the seals applied; and

(D) Which were taken out of the container at such processing establishment only after an official of the national government of the country where such processing establishment is located determined that the seals were intact and free of any evidence of tampering, and had so stated on the certificate referred to in paragraph (a)(3)(i)(C) of this section;

(ii) All bones were completely removed;

(iii) It was heated by other than a flash-heating method at the processing establishment referred to in paragraph (a)(3)(i)(B) of this section, to an internal temperature of at least 69 °C. (156 °F.) throughout (this must have occurred after the bones had been removed);

(iv) The processing establishment referred to in paragraph (a)(3)(i)(B) of this section:

(A) Does not receive or process any live swine, uses only pork or pork products which originate in countries not listed in this section, and processes port or pork products only in accordance with paragraphs (a)(3)i) through (a)(3)(vi) of this section;

(B) Is operated by persons who have entered into a valid written compliance agreement with Veterinary Services whereby such persons have agreed to maintain on file at the establishment for at least two years copies of the certificates referred to in paragraph (a)(3)(i)(C) of this section, to allow Veterinary Services personnel to make unannounced inspections as necessary to monitor compliance with the provisions of this section, and have agreed to otherwise comply with the provisions of this section;

(C) Is operated by persons who have entered into a trust fund agreement executed by such persons and Veterinary Services; pursuant to the trust fund agreement the establishment is current in paying the cost for Veterinary Services personnel to inspect the establishment (it is anticipated that such inspections will occur once per year), including travel, salary, subsistence, administrative overhead, and other incidental expenses (including excess baggage provisions up to 150 pounds); and in addition the establishment has on deposit with the Animal and Plant Health Inspection Service an unobligated amount equal to the cost for Veterinary Services personnel to conduct one inspection;

(v) It was processed in a country listed in this section only at one processing establishment; and

(vi) It is accompanied at the time of importation into the United States by a certificate issued by an official of the national government of the country wherein the processing establishment referred to in paragraph (a)(3)(i)(B) of this section is located stating that all of requirements of this section have been met.

§ 94.8 [Amended]

4. In § 94.8, a new paragraph (d) is added to read as follows:

* * * * *

(d) Any compliance agreement may be cancelled orally or in writing by the inspector who is supervising its enforcement whenever the inspector finds that such person has failed to comply with the provisions of this section or any conditions imposed pursuant to such provisions. If the cancellation is oral, the decision and the reasons therefore shall be confirmed in writing, as promptly as circumstances allow. Any person whose compliance agreement has been cancelled may appeal the decision, in writing, within ten (10) days after receiving written notification of the cancellation. The appeal shall state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully cancelled. The Deputy Administrator shall grant or deny the appeal, in writing, stating the reasons for such decision, as promptly as circumstances allow. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict. Rules of Practice concerning such a hearing will be adopted by the Deputy Administrator.

Done at Washington, DC, this 20th day of December 1985.

Gerald J. Fichtner,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 85-30438 Filed 12-24-85; 8:45 am]

BILLING CODE 3410-34-M

[1] As a condition of entry into the United States, pork or pork products must also meet all of the requirements of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and regulations thereunder (9 CFR Part 301 *et seq.*), including requirements that the pork or pork products be prepared only in approved establishments.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-CE-35-AD; Amendment 39-5207]

Airworthiness Directives; Collins Models 329B-7A, 329B-7J, ADI-44V, ADI-84 and ADI-84A Flight Director Indicators and Models 331A-8H, HSI-45 and HSI-70 Horizontal Situation Indicators

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action adopts a new Airworthiness Directive (AD), AD 85-22-10 applicable to certain Collins Model 329B-7A, 329B-7J, ADI-44V, ADI-84 and ADI-84A flight director indicators and Model 331A-8H, HSI-45 and HSI-70 horizontal situation indicators and codifies the corresponding emergency AD letter dated October 30, 1985, into the **Federal Register**. This AD requires inspection and repair or replacement, as necessary, of a gear shaft assembly in the affected indicators. The AD is prompted by a report of erroneous display, with no warning annunciation, of pitch and/or roll command and roll pointer displays (flight director indicators) or course pointer and/or heading displays (horizontal situation indicators) which could cause incorrect interpretation of aircraft attitude and/or navigation information and subsequent loss of the aircraft.

DATES: Effective December 31, 1985, to all persons except those to whom it has already been made effective by priority letter from the FAA dated October 30, 1985.

Compliance: As prescribed in the body of the AD.

ADDRESSES: The Collins Alert Service Bulletins listed in the AD may be obtained from Collins Radio Division/ Rockwell International, 400 Collins Road NE, Cedar Rapids, Iowa 52406. A copy of the information is also contained in the Rules Docket, Office of the Regional Counsel; Room 1558, 601 East 12th Street, Kansas City, Missouri, 64106.

FOR FURTHER INFORMATION CONTACT: Ralph W. Rissmiller, Jr., Aerospace Engineer, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas, 67209; Telephone (316) 946-4419.

SUPPLEMENTARY INFORMATION: This AD, applicable to certain Collins Model

329B-7A, 329B-7J, ADI-44V, ADI-84 and ADI-84A flight director indicators and Model 331A-8H, HSI-45 and HSI-70 horizontal situation indicators, was prompted by a report of erroneous display, with no warning annunciation, of pitch and/or roll command and roll pointer displays (flight director indicators) or course pointer and/or heading displays (horizontal situation indicators) which could result in loss of control of the airplane. This AD requires inspection and repair or replacement, as necessary, of a gear shift assembly in the affected indicators.

The FAA determined that this is an unsafe condition that may exist in other airplanes of the same type design, thereby necessitating the AD. It was also determined that an emergency condition existed and that immediate corresponding action was required and that notice and public procedure thereon was impractical and contrary to the public interest. Accordingly, the FAA notified all known owners and operators affected by this AD by priority mail letter dated October 30, 1985. The AD became effective immediately as to those individuals upon receipt of that letter and is identified as AD 85-22-10. Since the unsafe condition described herein may still exist on other certain Collins Model 329B-7A, 329B-7J, ADI-44V, ADI-84 and ADI-84A flight director indicators and Model 331A-8H, HSI-45 and HSI-70 horizontal situation indicators, the AD is hereby published in the **Federal Register** as an amendment to Part 39 of the Federal Aviation Regulations (14 CFR Part 39) to make it effective as to all persons who did not receive the priority letter notification. Because a situation still exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

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

List of Subjects 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

Adoption of the Amendment

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

Collins Avionics Division/Rockwell International. Applies to the following flight director indicators and horizontal situation indicators certificated to the applicable requirements of Technical Standard Orders C3a, C3b, C4c, C52a, and C66a (*):

Model	Part No.	Serial No.
329B-7A	522-3206-005	5018 thru and including 5021.
329B-7J	522-3867-003	1000 thru and including 1001.
ADI-44V	622-5139-001	1024 thru and including 1036.
	622-5139-002	1024 thru and including 1036.
	622-5139-003	1024 thru and including 1036.
	622-5139-004	1024 thru and including 1036.
ADI-84	787-6173-013	4079 thru and including 4109.
	787-6173-016	4079 thru and including 4109.
ADI-84A	622-3594-013	5549 thru and including 5646.
	622-3594-015	5549 thru and including 5646.
	622-3594-016	5549 thru and including 5646.
	622-3594-017	5549 thru and including 5646.
331A-8H	777-1026-004	3204 thru and including 3227.
HSI-45	622-4298-001	1246 thru and including 1326.
HSI-70	622-4913-001	1670 thru and including 1681.

(*) This AD only applies to indicators manufactured between June 1, 1985, and October 25, 1985. It does not apply to indicators installed in an aircraft prior to June 1, 1985.

Compliance: Required as indicated unless already accomplished.

To prevent internal gear slippage that many result in erroneous display, with no warning annunciation, of pitch and/or roll command and roll pointer displays in flight director indicators or course and/or heading displays in horizontal situation indicators, accomplish the following:

(a) For affected flight director indicators, prior to further use, or if installed in an aircraft, prior to further flight, remove the indicator, inspect the gear shaft assemblies to determine if the taper pin is properly installed, and if necessary, modify the assemblies in accordance with the instructions contained in the appropriate Collins' Alert Service Bulletin identified below:

Model	Alert service bulletin No.	Date
329B-7A	A13	Oct. 25, 1985.
329B-7J	A9	Do.
ADI-44V	A4	Do.
ADI-84	A10	Oct. 29, 1985.
ADI-84A	A10	Do.

(b) For affected horizontal situation indicators not installed in an aircraft, prior to further use, inspect the gear shaft assemblies to determine if the taper pin is properly installed, and if necessary, modify the assemblies in accordance with the instructions contained in the appropriate Collins' Alert Service Bulletin identified below:

Model	Alert service bulletin No.	Date
331A-8H	A7	Oct. 28, 1985.
HSI-45	A4	Do.
HSI-70	A1	Oct. 29, 1985.

(c) For affected Models 331A-8H and HSI-45 horizontal situation indicators installed on an aircraft:

(1) Prior to further flight, deactivate the autopilot and flight director by pulling the respective circuit breakers, and,

(2) Fabricate and install on the instrument panel adjacent to the HSI/ADI and visible to the pilot the following placard using letters of a minimum 0.10 inch in height: "AP/FD INOPERATIVE. COURSE AND HEADING INDEX NOT TO BE USED FOR NAVIGATION," and operate the aircraft accordingly.

(3) Within 25 hours time-in-service after the effective date of this AD, inspect the gear shaft assemblies to determine if the taper pin is properly installed, and if necessary, modify the assemblies in accordance with the instructions in the appropriate Collins' Alert Service Bulletin identified below:

Model	Alert service bulletin No.	Date
331A-8H	A7	October 29, 1985.
HSI-45	A4	do.

(4) The requirements of paragraphs (c)(1) and (c)(2) of this AD are no longer required when paragraph (c)(3) of this AD has been accomplished.

(d) For affected Model HSI-70 horizontal situation indicators installed on an aircraft, prior to further flight, remove the indicator. Prior to further use of the indicator, inspect the gear shaft assemblies to determine if the taper pin is properly installed, and if necessary modify the assemblies in accordance with the instructions contained in Collins' Alert Service Bulletin No. A1, dated October 29, 1985.

(e) The inspection and modification requirements of paragraphs (a) through (d) of this AD must be accomplished by a FAA certified instrument repair station.

(f) Within five (5) days report, in writing, all defects found during accomplishment of this AD to the Manager, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas, 67209. (Reporting approved by the Office of Management and Budget under OMB No. 2120-0056.)

(g) Aircraft may be flown in accordance with Federal Aviation Regulation 21.197 to a location where this AD can be accomplished.

(h) An equivalent method of compliance with this AD, if used, must be approved by the Manager, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas, 67209.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to Collins Radio Division-Rockwell International, 400 Collins Road NE, Cedar Rapids, Iowa 52406 or the FAA, Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective December 31, 1985, as to all persons except those persons to whom it was made immediately effective by priority letter AD 85-22-10, issued October 30, 1985, which contained this amendment.

Issued in Kansas City, Missouri, on December 16, 1985.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 85-30401 Filed 12-24-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 85-NM-126-AD; Amdt. 39-5199]

Airworthiness Directives; Lockheed-California Company Model L-1011-385 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the **Federal Register** and makes effective as to all known persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of Lockheed Model L-1011-385 series airplanes by individual telegrams. This AD requires inspection of the auxiliary power unit (APU) cables and the No. 2 engine generator feeder cables for damage and for minimum clearance from the bleed air duct. This action was prompted by an incident where one operator reported experiencing an in-flight fire while descending through 20,000 feet for landing. This condition, if not corrected, could have hazardous consequences for the airplane and its passengers.

DATES: Effective January 10, 1986. This AD was effective earlier to all recipients of telegraphic AD T85-22-51, dated October 30, 1985. Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support Contracts, Dept. 63-11, U-33, B-1. This information may also be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Harold P. Wasinger, Aerospace Engineer, Systems & Equipment Branch, ANM-130L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 548-2831.

SUPPLEMENTARY INFORMATION: On October 30, 1985, the FAA issued telegraphic AD T85-22-51, applicable to Lockheed Model L-1011-385 series airplanes, which requires inspection of the auxiliary power unit (APU) cables and the No. 2 engine generator feeder cables for damage and for minimum clearance from the bleed air duct. This action was prompted by an incident where one operator reported experiencing an in-flight fire while descending through 20,000 feet for landing. Cockpit indications were as follows: No. 2 generator fault light illuminated; followed by indication of area "J" overheat warning; followed by No. 2 engine fire warning, loss of cabin pressure, and smoke in the cockpit and cabin. The airplane landed successfully with no reported injuries.

Subsequent examinations of the airplane revealed that the fire originated in the left aft under-floor area of the pressurized fuselage aft of the C-3 cargo compartment and forward of the rear pressure bulkhead. Severe fire damage was evident in that area. An area of the bulkhead was annealed and a hole approximately 8 inches was blown through the pressure bulkhead. Three feet of the titanium bleed air duct was missing in the area immediately forward of the rear pressure bulkhead. The No. 2 engine generator feeder cable routed adjacent to the bleed air duct showed evidence of arcing.

The FAA has determined that an electrical arc occurred which burned a hole in the duct, and that the high pressure bleed air provided the oxygen to propagate the fire. The feeder cable appears to have contacted the No. 2 engine bleed air duct insulation cover, which caused abrasion and subsequent shorting of the cable to the titanium duct. Other materials in the area may have contributed to the damage.

Lockheed-California issued Alert Service Bulletin 093-24-A127 on October 29, 1985, which describes inspection and repair procedures of this area to assure adequate clearance between the cables and the duct.

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

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

List of Subjects 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the amendment

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:

Lockheed-California Company: Applies to Lockheed Model L-1011-385 series airplanes, certificated in any category.

To prevent fires which may be ignited by damaged electrical wires, accomplish the following, unless previously accomplished:

A. Within ten (10) days after the effective date of this AD, using the procedure described in Lockhead Service Bulletin 093-24-A127 dated October 29, 1985, inspect the auxiliary power unit (APU) cables and the No. 2 engine generator feeder cables located on the left side, between the second frame

forward of pressure bulkhead and the pressure bulkhead, at approximately Waterline (WL) 179, for a minimum clearance of one-half inch between the cables and the closest part of the bleed air duct insulated cover.

If the clearance is less than one-half inch, before further flight, adjust the cables to provide adequate clearance in accordance with Lockheed Service Bulletin 093-24-A127, dated October 29, 1985.

B. Within ten (10) days after the effective date of this AD, inspect the APU cables and No. 2 engine generator feeder cables located on left side between the second frame forward of pressure bulkhead and the pressure bulkhead at approximately WL 179, which are routed adjacent to the bleed air duct, for proper clamping and condition of insulation. If insulation damage is found, check closely for wire damage.

If damage to insulation or wires is found, before further flight, repair in accordance with FAA-approved maintenance procedures.

C. Alternative means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Lockheed-California Company, P.O. Box 551, Burbank, California 91520, Attention: Commercial Support Contracts, Dept. 63-11, U-33, B-1. These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This amendment becomes effective January 10, 1986, as to all persons, except those persons to whom it was made immediately effective by telegraphic AD T85-22-51, issued October 30, 1985.

Issued in Seattle, Washington, on December 17, 1985.

Wayne Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85-30398 Filed 12-24-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 85-NM-138-AD; Amdt. 39-5200]

Airworthiness Directives; McDonnell Douglas Model DC-9, and C-9 (Military) Series Airplanes, Fuselage Numbers 1 Through 1248

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD) which requires inspection, and repair, if necessary, of the upper anti-collision light doubler on certain McDonnell Douglas DC-9 series airplanes. This amendment is needed to correct two errors in that AD: (1) Two digits in a referenced document number were inadvertently transposed; and (2) an alternate method of compliance which had been previously approved for incorporation in the final rule was inadvertently omitted.

EFFECTIVE DATE: January 10, 1986.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Michael N. Asahara, Sr., Aerospace Engineer, Airframe Branch, ANM-122L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 548-2826.

SUPPLEMENTARY INFORMATION: Airworthiness Directive (AD) 85-19-03, Amendment 39-5137 (50 FR 36570; September 9, 1985), applicable to certain McDonnell Douglas DC-9 series airplanes, requires inspection and repair, as necessary, of the upper anticollision light doubler at one or both ends of the cutout in the longitudinal axis of the doubler, originating at a plate nut clearance hole.

After the AD was issued, two editorial errors were discovered. First, two digits were transposed in the citation of SB 09530186. Second, an alternative method of compliance with paragraph B. of the AD, identified in SB 09530186, which had been approved for incorporating in the final version of the AD, was inadvertently omitted.

Since this amendment merely corrects two editorial errors, it has no adverse economic impact and imposes no additional burden on any person. Therefore, notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days.

The FAA has determined that this document involves an amendment that only corrects editorial errors and does not impose any additional burden on any person. This amendment is, therefore, not major under Executive Order 12291 (46 FR 13193; February 19, 1981) and not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Because its anticipated impact is so minimal, it does not warrant preparation of a regulatory evaluation. For these reasons and because few, if any, Model DC-9 or C-9 series airplanes are operated by small entities, I certify that it 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 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

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 Regulation 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 amending AD 85-19-03, Amendment 39-5137, as follows:

A. Revise all references made to "SB 09531086" to read "SB 09530186."

B. Revise paragraph B. to read as follows: "If no cracks are found under Condition I, Phase I, as referenced in SB 53-186, perform repetitive eddy current inspections at intervals not to exceed 3,500 landings in accordance with Figure 2 of SB 53-186, until such time as stress coining of plate nut clearance holes, as outlined under Condition 1, Phase II of SB 53-186, or SB 09530186 (originally identified as McDonnell Douglas DC-9 Service Sketch 3626C), is accomplished."

C. Revise paragraph C.1., by deleting the parenthetical phrase after "SB 09530186."

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This amendment becomes effective January 10, 1986.

Issued in Seattle, Washington, on December 17, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85-30399 Filed 12-24-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 85-AWP-23]

Revised Description of the Santa Maria, CA, Control Zone and Transition Area

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: The revised description of the exising Santa Maria, California, Control Zone and Transition Area is required as a result of the upcoming name change of the Santa Maria Very High Frequency Omni-directional Radio Range and Tactical Air Navigational Aid (VORTAC). This action does not change the actual airspace of the existing Santa Maria, California, Control Zone and Transition Area.

EFFECTIVE DATE: 0901 G.m.t., March 13, 1986.

FOR FURTHER INFORMATION CONTACT: Joe Fowler, Airspace Branch, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261; telephone (213) 297-1658.

SUPPLEMENTARY INFORMATION:

History

This revision is required to redefine the existing Santa Maria, California, Control Zone and Transition Area description as a result of the upcoming name change of the Santa Maria VORTAC. This action only provides editorial changes and does not alter the existing airspace. To preclude numerous editorial changes to control zone and transition area descriptions, this amendment uses geographical coordinates as reference points which are permanent in nature and not subject to change as name or location of navigational aids. Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations (FAR) were republished in Handbook 7400.6A dated January 2, 1985.

The Rule

This amendment to §§ 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) will change the description of the Santa Maria, California, Control Zone and Transition Area using geographical coordinates and delete the reference to the Santa Maria VORTAC used in the definition. This action does not change the actual airspace of the existing control zone and transition area.

Under the circumstances presented, the FAA concludes that there is an immediate need for a regulation to reflect the correct description of the Santa Maria, Caliornia, Control Zone and Transition Area. Therefore, I find that notice or public procedure under 5 U.S.C. 553(b) is contrary to the public interest and that good cause exists for making this amendment effective coincident with the next charting date. Description of the amended control zone and transition are set forth below and depicted on the chart at the end of this document.

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

List of Subjects in 14 CFR Part 71

Control zones, Transition areas, Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration, Part 71 of the FAR is revised as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

2. Section 71.171 is amended as follows:

Santa Maria, CA—[Revised]

Within a 5-mile radius of the Santa Maria Public Airport (lat. 34°53'56" N., long. 120°27'23" W.); beginning at lat. 34°50'00" N., long. 120°24'25" W.; clockwise via the 5-mile radius to lat. 34°52'00" N., long. 120°22'10" W.; to lat. 34°51'10" N., long. 120°21'20 W.; to lat. 34°49'20" N., long 120°23'20" W.; to the point of beginning.

3. Section 71.181 is amended as follows:

Santa Maria, CA—[Revised]

That airspace extending upward from 700 feet above the surface beginning at lat. 34°45'00> N., long. 120°20'10" W.); to lat. 34°49'20" N., long. 120°26'00" W.; thence clockwise via the 5-mile radius of the Santa Maria Public Airport (lat. 34°53'56" N., long. 120°27'23" W.; to lat. 34°54'20" N., long. 120°32'30" W.; to lat. 35°00'50" N., long 120°08'00" W.; to lat. 35°03'45" N., long. 120°32'25" W.; to lat. 34°58'20" N., long. 120°28'15" W.; thence clockwise via the 5-mile radius of the Santa Maria Public Airport (lat. 34°53'56" N., long 120°27'23" W.); to lat. 34°53'20" N., long. 120°21'10" W.; to lat. 34°48'50" N., long. 120°15'50" W.; to the point of beginning.

Issued in Los Angeles, California, on December 10, 1985.

B. Keith Potts,

Acting Director, Western-Pacific Region.

[FR Doc. 85-30396 Filed 12-24-85; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. C-3174]

Larry Brog; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires a former chief executive officer of a Salt Lake City, Utah manufacturer and distributor of a dry milk substitute, among other things, to cease making any representations concerning the health benefits or expected shelf life for "Meadow Fresh White", a powdered, dairy-based milk substitute, or other food products, without reliable and competent substantiation. Also, respondent is prohibited from excluding some distributors in computing "average" distributor earnings without proper disclosures concerning the method of computation.

DATE: Complaint and Order issued Dec. 3, 1985.[1]

FOR FURTHER INFORMATION CONTACT: Lawrence Hodapp, FTC/H-238A, Washington, DC 20580. (202) 523-3860.

[1] Copies of the Complaint and the Decision and Order are filed with the original document.

SUPPLEMENTARY INFORMATION: On Tuesday, Sept. 17, 1985, there was published in the **Federal Register**, 50 FR 37686, a proposed consent agreement with analysis In the Matter of Larry Brog, individually and as a former officer of Meadow Fresh Farms, Inc., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Advertising Falsely or Misleadingly: S 13.15 Business status, advantages, or connections; 13.15–60 Earnings and profits; S 13.170 Qualities or properties of product or service; 13.170–52 Medicinal, therapeutic, healthful, etc. Subpart—Corrective Actions and/or Requirements: S 13.533 Corrective actions and/or requirements; 13.533–45 Maintain records; 13.533–45(a) Advertising substantiation. Subpart—Misrepresenting Oneself and Goods—Goods: S 13.1615 Earnings and profits.

List of Subjects in 16 CFR Part 13

Powdered milk products, Trade practices.

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

Emily H. Rock,

Secretary.

[FR Doc. 85-30439 Filed 12-24-85; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket No. RM85-1-000 (Parts A-D)]

Regulation of Natural Gas Pipelines After Partial Decontrol; Berkshire Gas Co.

Issued: December 13, 1985.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order Denying Request for Clarification and Waiver of Regulations.

SUMMARY: On October 9, 1985, the Commission issued Order No. 436, a Final Rule amending its regulations in, among others, Part 284, 50 FR 42,408 (Oct. 18, 1985). In amending its regulations in this Part, the Commission adopted a simplified transportation program, including blanket certificates under section 7 of the Natural Gas Act, and transportation programs under section 311 of the Natural Gas Policy Act of 1978. In response to a petition filed by Berkshire Gas Company, the Commission issues this order clarifying Order No. 436.

EFFECTIVE DATE: The amendments to Part 284 were effective October 9, 1985.

FOR FURTHER INFORMATION CONTACT: Sharon S. Schellhardt, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357-8574.

SUPPLEMENTARY INFORMATION:

Order Denying Request for Clarification and Waiver of Regulations

Before Commissioners: Raymond J. O'Connor, Chairman; A.G. Sousa, Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

On November 18, 1985, Berkshire Gas Company filed a request for clarification of the Commission's Regulations. Berkshire alleges that it has engaged in a series of one year contracts with Tennessee Gas Pipeline and Bay State Gas Company, a neighboring utility. Under these contracts, Tennessee has transported gas on behalf of Berkshire pursuant to section 311 of the Natural Gas Policy Act (NGPA). The most recent yearly contract expired on October 29, 1985. Tennessee did not file appropriate extension reports in accordance with §§ 284.105 and 284.106 of the old regulations. The parties had not executed letter agreements prior to October 9, 1985 to continue service for an additional period of time.

Berkshire argues that clarification should be granted because of a mutual understanding of the parties arrived at in 1982 to continue the transportation arrangement on a yearly basis through 1988. Alternatively, Berkshire requests waiver of the regulations based on the high priority category of the customers to be served and the lack of alternative sources of supply.

The facts and circumstances cited in Berkshire's petition do not justify granting a waiver of the regulations. The technical corrections clarify the Commission's intent when it issued Order No. 436. Initiation of service under a new contract signed after October 9, 1985 would constitute a new NGPA section 311 transportation transaction under § 284.102. Accordingly, Berkshire's petition for clarification and waiver of the regulations is denied.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-30489 Filed 12-24-85; 8:45 am]

BILLING CODE 6717-01-M

18 CFR Part 284

[Docket No. RM85-1-000 (Parts A-D)]

Regulation of Natural Gas Pipelines After Partial Decontrol; Entrade Corp.

Issued: December 13, 1985.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order Granting Request for Clarification.

SUMMARY: On October 9, 1985, the Commission issued Order No. 436, a Final Rule amending its regulations in, among others, Part 284, 50 FR 42,408 (Oct. 18, 1985). In amending its regulations in this Part, the Commission adopted a simplified transportation program, including blanket certificates under section 7 of the Natural Gas Act, and transportation programs under section 311 of the Natural Gas Policy Act of 1978. In response to a petition filed by Entrade Corporation, the Commission issues this order clarifying Order No. 436.

EFFECTIVE DATE: The amendments to Part 284 were effective October 9, 1985.

FOR FURTHER INFORMATION CONTACT: Tom Salzer, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357-9219.

SUPPLEMENTARY INFORMATION:

Order Granting Request for Clarification

Before Commissioners: Raymond J. O'Connor, Chairman; A.G. Sousa, Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

On November 12, 1985, Entrade Corporation filed a request for clarification of the transition provisions of Order No. 436 [1] with respect to contract changes which are necessary for engineering considerations to move gas under transportation agreements issued pursuant to section 311 of the Natural Gas Policy Act.

A customer of Entrade entered into transportation agreements prior to October 9, 1985 with two pipelines, to transport the gas in sequence from its receipt by the first pipeline to its ultimate delivery by the second. Due to variable pressure differentials, the first pipeline provided in its contract that either of two interconnections with the

[1] 50 FR 42408 (October 18, 1985).

second pipeline could be used. The second pipeline's contract, however, listed only one interconnection, and should be modified to reflect the two possible interconnections.

This modification is minor and technical, and is implied from the contract with the first pipeline. The volumes of gas, their receipt point on the first pipeline, and their delivery point on the second pipeline, all remain unchanged.

On the basis of these facts, we conclude that both of these transportation agreements fall within the scope of the transition provisions of Order No. 436, including the use of the second interconnection point between the two interstate pipeline transporters.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-30490 Filed 12-24-85; 8:45 am]

BILLING CODE 6717-01-M

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18 CFR Part 284

[Docket No. RM85-1-000 (Parts A-D)]

Regulation of Natural Gas Pipelines After Partial Decontrol; Mountain Fuel Resources, Inc.

Issued: December 13, 1985.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order Granting Request for Clarification.

SUMMARY: On October 9, 1985, the Commission issued Order No. 436, a Final Rule amending its regulations in, among others, Part 284, 50 FR 42,408 (Oct. 18, 1985). In amending its regulations in this Part, the Commission adopted a simplified transportation program, including blanket certificates under section 7 of the Natural Gas Act, and transportation programs under section 311 of the Natural Gas Policy Act of 1978. In response to a petition filed by Mountain Fuel Resources, Inc., the Commission issues this order clarifying Order No. 436.

EFFECTIVE DATE: The amendments to Part 284 were effective October 9, 1985.

FOR FURTHER INFORMATION CONTACT: Kevin Rees, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC, 20426, (202) 357-9221.

SUPPLEMENTARY INFORMATION:

Order Granting Request for Clarification

Before Commissioners: Raymond J. O'Connor, Chairman; A.G. Sousa, Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

On November 13, 1985, Mountain Fuel Resources, Inc., filed a request for clarification of § 284.223(g) of the regulations promulgated by Order No. 436.[1]

Mountain Fuel entered into an agreement with the Grand Valley Gas Transmission Company on September 26, 1985 whereby Mountain Fuel was to transport up to 2,500 Mcf of natural gas per day to Northwest Pipeline Corporation for its ultimate redelivery to the end-user.[2] At the time of the agreement, Grand Valley advised Mountain Fuel that the end-user would be a low-priority end-user and that the service would be provided under § 157.209(e) of the Regulations. The agreement between Mountain Fuel and Grand Valley recites that transportation service is for a low-priority end-use and specifically limits the transportation to not more than 120 days (until January 29, 1986). The agreement further limits the term of the transportation service to October 31, 1985, unless Mountain Fuel elects to extend the transportation for the remainder of the 120 days of service.

On October 2, 1985, Grand Valley advised Mountain Fuel that it was able to negotiate a sales contract with a high-priority end-user, J.R. Simplot Company, and that the gas was being transported by Mountain Fuel on behalf of Simplot for its high-priority end-use. The transportation service on behalf of Simplot commenced on October 1, 1985, the first date of service under the agreement.

Mountain Fuel filed its initial report as required by § 157.209(g)(1), summarizing the transportation service provided to Simplot. In its report, Mountain Fuel indicates that the gas was being transported on behalf of a high-priority end-user.

Mountain Fuel states that it has halted transportation service for Simplot as it is unsure of whether the continued transportation for Simplot will require Mountain Fuel to comply with the non-discriminatory access provisions of Order No. 436. Mountain Fuel is seeking clarification as to whether its transportation service agreement with Grand Valley falls within the transition provisions of § 284.223(g)(1) or whether Mountain Fuel will have to offer non-discriminatory access transportation if it wishes to continue performing this service.

We find that Mountain Fuel's transportation service was performed under § 157.209(a)(1). Although the original agreement provided for transportation service for a low-priority end-user, prior to October 9, 1985, Mountain Fuel was informed that such transportation would instead be for a high-priority end-user. Thus, the parties verbally amended their contract. Furthermore, Mountain Fuel indicated in its report that it was performing such service under § 157.209(a)(1). Accordingly, we find that the service falls within the scope of the transition provisions of § 284.223(g)(1). However, Mountain Fuel may continue the service only for the term provided in its contract.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-30383 Filed 12-24-85; 8:45 am]

BILLING CODE 6717-01-M

[1] 33 FERC ¶61,007 (1985), 50 FR 41,408 (October 18, 1985).

[2] Mountain Fuel's agreement was entered into pursuant to its blanket authority in Docket No. CP82-491-000, 20 FERC ¶62,580 (1982).

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18 CFR Part 284

[Docket No. RM85-1-000 (Parts A-D)]

Regulation of Natural Gas Pipelines After Partial Decontrol; J. R. Simplot Co.

Issued: December 13, 1985.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order Denying Request for Clarification.

SUMMARY: On October 9, 1985, the Commission issued Order No. 436, a Final Rule amending its regulations in, among others, Part 284, 50 FR 42,408 (Oct. 18, 1985). In amending its regulations in this Part, the Commission adopted a simplified transportation program, including blanket certificates under section 7 of the Natural Gas Act, and transportation programs under section 311 of the Natural Gas Policy Act of 1978. In response to a petition filed by J. R. Simplot Company, the Commission issues this order clarifying Order No. 436.

EFFECTIVE DATE: The amendments to Part 284 were effective October 9, 1985.

FOR FURTHER INFORMATION CONTACT: Robert F. Riley, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357-8049.

SUPPLEMENTARY INFORMATION:

Order Denying Request for Clarification

Issued: December 13, 1985.

Before Commissioners: Raymond J. O'Connor, Chairman; A.G. Sousa, Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

On November 13, 1985, the J. R. Simplot Company, pursuant to Rule 207 of the Commission's rules of practice and procedure,[1] requested clarification of the "grandfathering" provision for blanket certificate transactions for high priority end-users as established in § 284.223(g)(1) of Order No. 436. Specifically, Simplot asks whether a written contract explicitly allowing for contract term extensions and the addition or deletion of receipt and delivery points, which contract had not been extended prior to October 9, 1985, is subject to the transitional provisions after October 9, 1985.

Simplot entered into a transportation agreement with Northwest Pipeline Company on June 17, 1985, and amended that agreement on July 30 and August 5, 1985. The amended agreement is to continue until December 17, 1985. The agreement provides for changes in the term and the delivery and receipt points at any time upon mutual agreement of the parties. Although a written contract was in place and service had commenced, the parties did not agree to extend the December 17, 1985 term before the October 9, 1985 deadline.

Service under a contract for transportation pursuant to § 157.209(a)(1) for which service had commenced by October 9, 1985, may continue after November 1, 1985 under § 284.223(g)(1) for the time remaining in its authorized term. Thus, the existing contract between Simplot and Northwest can remain in effect until December 17, 1985, without obligating Northwest in any way with respect to becoming a non-discriminatory access transporter of natural gas.

However, a transitional transportation arrangement may not be amended after October 9, 1985, because § 284.233(g)(1) specifically limits that transaction to the operative terms and conditions of the transportation arrangements that existed on October 9, 1985. Because the agreement between Simplot and Northwest was not extended prior to October 9, 1985, Simplot's agreement does not qualify for transition treatment beyond the original contract date of December 17, 1985. Further, the transportation arrangement may not be amended to change the points of receipt and/or delivery.[2] Any subsequent changes to the terms and conditions of the originally certificated transaction would require an application for a new blanket certification under section 284.221.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-30493 Filed 12-24-85; 8:45 am]

BILLING CODE 6717-01-M

[1] 18 CFR 385.207.

[2] *Panhandle Eastern Pipeline Co.*, 33 FERC ¶ 61,139 (issued November 13, 1985).

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18 CFR Part 284

[Docket No. RM85-1-000 (Parts A-D)]

Regulation of Natural Gas Pipelines After Partial Decontrol; Southern Natural Gas Co.

Issued: December 13, 1985.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order Granting and Deferring, in Part, Request for Clarification.

SUMMARY: On October 9, 1985, the Commission issued Order No. 436, a Final Rule amending its regulations in, among others, Part 284, 50 FR 42,408 (Oct. 18, 1985). In amending its regulations in this Part, the Commission adopted a simplified transportation program, including blanket certificates under section 7 of the Natural Gas Act, and transportation programs under section 311 of the Natural Gas Policy Act of 1978. In response to a petition filed by Southern Natural Gas Company, the Commission issues this order clarifying Order No. 436.

EFFECTIVE DATE: The amendments to Part 284 were effective October 9, 1985.

FOR FURTHER INFORMATION CONTACT: Kevin Rees, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357-9221.

SUPPLEMENTARY INFORMATION:

Order Granting Motion for Clarification

Before Commissioners: Raymond J. O'Connor, Chairman; A.G. Sousa, Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

Southern Natural Gas Company (Southern) has filed a motion for clarification of § 284.105 of the Regulations adopted in Order No. 436.[1] Specifically, Southern requests that we clarify that it may continue to provide transportation service on behalf of Power-Tex Joint Venture (Power-Tex), a Texas intrastate pipeline, pursuant to section 311 of the Natural Gas Policy Act of 1978 (NGPA), after November 1, 1985. We will grant Southern's motion.

Section 284.105 provides that any NGPA section 311 transportation service authorized and commenced on or before October 9, 1985, may be continued, with several exceptions, under the terms that applied prior to November 1, 1985, until the earlier of October 9, 1987, or the expiration of the original or extended term of the contract.

Power-Tex received section 311 transportation service from Southern, pursuant to an oral agreement between Southern and Northern Gas Marketing, Inc. to amend a transportation agreement by adding Power-Tex as a shipper for whom Southern would transport gas, prior to October 9, 1985. We have previously clarified that § 284.105 is applicable to transportation service which commenced pursuant to a verbal agreement prior to October 9, 1985. *Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (Pacific Gas and Electric Company).* 33 FERC ¶ 62,155 (October 31, 1985). Southern may continue to provide transportation service after November 1, 1985, on behalf of Power-Tex, under § 284.105, as long as Southern complies with all applicable reporting requirements.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-30491 Filed 12-24-85; 8:45 am]

BILLING CODE 6717-01-M

[1] 33 FERC ¶ 61,007, 50 FR 42,408 (October 18, 1985).

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18 CFR Part 284

[Docket No. RM85-1-000 (Parts A-D)]

Regulation of Natural Gas Pipelines After Partial Decontrol; Southern Natural Gas Co.

Issued: December 13, 1985.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order Granting Motion for Clarification.

SUMMARY: On October 9, 1985, the Commission issued Order No. 436, a Final Rule amending its regulations in, among others, Part 284, 50 FR 42,408 (Oct. 18, 1985). In amending its regulations in this Part, the Commission adopted a simplified transportation program, including blanket certificates under section 7 of the Natural Gas Act, and transportation programs under section 311 of the Natural Gas Policy Act of 1978. In response to a petition filed by Southern Natural Gas Company, the Commission issues this order clarifying Order No. 436.

EFFECTIVE DATE: The amendments to Part 284 were effective October 9, 1985.

FOR FURTHER INFORMATION CONTACT: Jim Hostetler, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, Washington, DC. 20426, (202) 357-8780.

SUPPLEMENTARY INFORMATION:

Order Granting and Deferring In Part, Request for Clarification

Federal Energy Regulatory Commission

Before Commissioners: Raymond J. O'Connor, Chairman; A.G. Sousa, Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

On November 5, 1985, Southern Natural Gas Company (Southern) filed a request for clarification that certain blanket Certificate transportation arrangements qualify under § 284.223(g)(1) of Order No. 436[1] for continued transportation anthorization after November 1, 1985. The first category concerns transportation services that Southern performs on behalf of local distribution company (LDC) customers acting as agents for end-users whose use of natural gas qualifies as high priority end-uses. The second category concerns transportation services southern performs for LDC customers acting as agents for numerous end-users whose use of natural gas qualifies as both high and low priority end-uses.

Southern states that it performed transportation services on behalf of LDC customers acting as agents for end-users whose use of gas qualified as high priority end-uses. Southern filed reports as required under § 157.209(g) as it existed prior to November 1, 1985, notifying the Commission of the Commencement of the transportation service. In each of its reports, however, Southern failed to specifically cite § 157.209(a)(1), and in the section of the report stating that the gas was eligible for tranportation under Southern's blanket certificate because it was purchased in a first sale and was not dedicated to interstate commerce on November 8, 1978, Southern cited to § 157.209(e).

Southern also states that it has rendered transportation service to LDCs acting as agents for numerous end-users whose plants have both high and low priority end-uses of gas. Southern states that it filed timely reports indicating that such gas would be transported for both high priority and low priority end-users, but Southern did not specifically state what precent of the total volumes would be used high priority end-uses and thus transported under § 157.209(a)(1) or what percent of the total would be transported under § 157.209(a)(2) and (e)(1). However, in its reports, Southern referred to § 157.209(e). During September and October, Southern filed pursuant to § 157.209(e)(2) to extend such transportation beyond the 120-day self-implementing period for those low priority end-users that would have experienced an interruption on or before December 15, 1985.[2]

We are granting Southern's request for clarification regarding its transportation services in the first category. We are deferring ruling on the request for clarification regarding its transportation services in the second category.

Regarding the transportation services in the first category, Southern is allowed to proceed with its transportation under § 284.223(g)(1) as Southern commenced such services under section 157.209(a)(1). Southern will be required to amend its reports to reflect that such services were performed pursuant to the authority of § 157.209(a)(1) as it existed prior to November 1, 1985.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-30492 Filed 12-24-85; 8:45 am]

BILLING CODE 6717-01-M

[1] 33 FERC ¶61,007 (1985), 50 FR 42,408 (October 18, 1985).

[2] See Dockets Nos. CP85-878-000, CP86-14-000, CP86-15-000, CP86-49-000, CP86-55-000, CP86-57-000, CP86-58-000. In each of its filings in these dockets, Southern clearly stated in commenced such transportation under § 157.209(e)(1) for a term of 120 days.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 449

[Docket No. 85N-0136]

Antibiotic Drugs; Nystatin Tablets; Revision of Disintegration Standard

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations by revising the disintegration standard for nystatin tablets. The agency is taking this action to assure better quality control of this product.

DATES: Effective January 27, 1986; comments, notice of participation, and request for hearing by January 27, 1986; data, information, and analyses to justify a hearing by February 24, 1986.

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

FOR FURTHER INFORMATION CONTACT: Joan M. Eckert, Center for Drugs and Biologics (HFN-815), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 26, 1985 (50 FR 30478), FDA proposed to amend the antibiotic drug regulations by revising the disintegration standard for nystatin film-coated tablets from 30 minutes to 2 hours.

As discussed in the proposal, the disintegration test for film-coated tablets (21 CFR 436.212(e)(1)) measures the rate of disintegration of this dosage form by immersion in simulated gastric fluid for the time specified in the individual monograph (regulation). The monograph providing for the nystatin tablets specifies a disintegration time period of 30 minutes for film-coated tablets. If the tablets have not disintegrated in 30 minutes, they do not meet the standard for disintegration.

The agency has concluded that a disintegration standard of 30 minutes is unnecessarily stringent for nystatin film-coated tablets. The agency has determined that a disintegration time period of 2 hours is a more reasonable time period.

In addition, the agency proposed to amend the regulation (monograph) for nystatin tablets by deleting (1) the provision for the plain-coated tablets because they are no longer marketed, and (2) the reference to film-coated tablets containing a starch filler because all nystatin tablets currently marketed fit this description.

Interested persons were given until September 24, 1985, to submit written comments on this proposal and until August 26, 1985, to submit requests for an informal conference. No comments or requests for an informal conference were received in response to the proposal.

Economic Impact

The agency has considered the economic impact of this final rule and has determined that it does not require a regulatory flexibility analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96-354). Specifically, the final rule would refine an existing technical provision to provide a less stringent requirement. Accordingly, the agency

certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

Filing Objections

Any person who will be adversely affected by this regulation may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file (1) on or before January 27, 1986, a written notice of participation and request for hearing, and (2) on or before February 24, 1986, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 314.300. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 314.300.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 449

Antibiotics.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 449 is amended as follows:

PART 449—ANTIFUNGAL ANTIBIOTIC DRUGS

1. The authority citation for 21 CFR Part 449 is revised to read as follows:

Authority: Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357); 21 CFR 5.10.

2. In § 449.150a by revising paragraph (a)(1) to read as follows:

§ 449.150a Nystatin tablets.

(a) *Requirements for certification*—(1) *Standards of identity, strength, quality, and purity.* Nystatin tablets are tablets composed of nystatin and suitable and harmless buffer substances, diluents, binders, lubricants, colorings, and flavorings. Each tablet contains 500,000 units of nystatin. Its potency is satisfactory if it is not less than 90 percent and not more than 130 percent of the number of units of nystatin that it is represented to contain. The loss on drying is not more than 8 percent. The tablets shall disintegrate within 2 hours. The nystatin used conforms to the standards prescribed by § 449.50(a)(1).

* * * * *

Dated: December 18, 1985.

Daniel L. Michels, Director,

Office of Compliance, Center for Drugs and Biologics.

[FR Doc. 85-30411 Filed 12-24-85; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 520

Oral Dosage Form New Animal Drugs not Subject to Certification; Tioxidazole Granules

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Druge Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Schering Corp., providing for safe and effective use of tioxidazole granules in horses as an anthelmintic.

EFFECTIVE DATE: December 26, 1985.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Center for Veterinary Medicine (HFV-114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: Schering Corp., 2000 Galloping Hill Rd., Kenilworth, NJ 07033, filed NADA 134-645, which provides for administering tioxidazole granules to horses by mixing with a small amount of the grain ration. Tioxidazole granules are indicated for removal of certain mature large strongyles, mature ascarids, mature and immature pinworms, and mature small strongyles. The NADA is approved and the regulations are amended to reflect the approval. The basis of approval is discussed in the freedom of information summary.

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

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. FDA's regulations implementing the National Environmental Policy Act (21 CFR Part 25) have been replaced by a rule published in the **Federal Register** of April 26, 1985 (50 FR 16636, effective July 25, 1985). Under the new rule, an action of this type would require an abbreviated environmental assessment under 21 CFR 25.31a(b)(4).

List of Subjects in 21 CFR Part 520

Animal drugs, oral use.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 520 is amended as follows:

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

1. The authority citation for 21 CFR Part 520 is revised to read as follows:

Authority: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.83.

2. By adding new § § 520.2473 and 520.2473a to read as follows:

§ 520.2473 Tioxidazole oral dosage forms.

§ 520.2473a Tioxidazole granules.

(a) *Specifications.* Each gram of granules contains 200 milligrams of tioxidazole.

(b) *Sponsor.* See No. 000085 in § 510.600(c) of this chapter.

(c) *Conditions of use*—(1) *Horses*—(i) *Amount.* 5 milligrams per pound of body weight as a single dose.

(ii) *Indications for use.* Removal of mature large strongyles *(Strongylus edentatus, S. equinus,* and *S. vulgaris),*

mature ascarids *(Parascaris equorum)*, mature and immature (4th larval stage) *(Oxyuris equi)*, and mature small strongyles *(Triodontophorus* spp.)

(iii) *Limitations.* For administration with feed: Sprinkle required amount of granules on a small amount of the usual grain ration and mix. Prepare for each horse individually. Withholding of feed or water not necessary. Not for use in horses intended for food. The reproductive safety of tioxidazole in breeding animals has not been determined. Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism. It is recommended that this drug be administered with caution to sick or debilitated horses.

(2) [Reserved].

Dated: December 18, 1985.

Lester M. Crawford,

Director, Center for Veterinary Medicine.

[FR Doc. 85-30413 Filed 12-24-85; 8:45 am]

BILLING CODE 4160-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

706 Agencies; Rescission of North Carolina Personnel Commission

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule; amendment.

SUMMARY: The Equal Employment Opportunity Commission amends its regulations designating certain State and local fair employment practices agencies (706 Agencies) so that they may handle employment discrimination charges. Publication of this amendment rescinds the designation of the North Carolina State Personnel Commission as a 706 Agency.

EFFECTIVE DATE: December 26, 1985.

FOR FURTHER INFORMATION CONTACT: Miguel Torres, Equal Employment Opportunity Commission, Office of Program Operations, Systemic Investigations and Individual Compliance Programs, 2401 E Street NW., Washington, DC 20507, telephone 202/634-6922.

SUPPLEMENTARY INFORMATION: The Commission was notified that the North Carolina State Personnel Commission's statutory authority to enter into a 706 charge deferral relationship with the Equal Employment Opportunity Commission has been rescinded effective January 1, 1986. Consequently the Director, Office of Program Operations believed that the North Carolina State Personnel Commission should not be considered as a 706 Agency.

The Director received written notice from the Director, Office of State Personnel, State of North Carolina that the State Personnel Commission will cease operation as a 706 Agency on or before January 1, 1986.

Accordingly, the Director hereby makes a final determination that the North Carolina State Personnel Commission will no longer be considered a 706 Agency. Publication of this amendment to § 1601.74 rescinds the designation of the following agency as a designated 706 Agency; North Carolina State Personnel Commission.

List of Subjects in 29 CFR Part 1601

Administrative practice and procedure, Equal employment opportunity, Intergovernmental relations.

1. The authority citation for Part 1601 continues to read as follows:

Authority: Secs. 709, 713, 78 Stat. 263, 265; 42 U.S.C. 2000e-8, 2000e-12.

PART 1601—[AMENDED]

§ 1601.74 [Amended]

Accordingly, 29 CFR Part 1601 is amended in § 1601.74(a) by removing the entry for the North Carolina State Personnel Commission.

Signed at Washington, DC, this 16th day of December 1985.

For the Commission.

James H. Troy,

Director, Office of Program Operations.

[FR Doc. 85-30064 Filed 12-24-85; 8:45 am]

BILLING CODE 6570-06-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD8-85-08]

Drawbridge Operations Regulations; Tigre Bayou, LA.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Louisiana Department of Transportation and Develpment (LDOTD), the Coast Guard is changing the regulation governing the operation of the swing span bridge over Tigre Bayou, mile 2.3, on LA330 near Delcambre, Vermilion Parish, Louisiana, by requiring that at least four hours advance notice be given for an opening of the draw at all times. Presently, the draw is required to open on signal from 5 a.m. to 9 p.m. and on 12 hours advance notice from 9 p.m. to 5 a.m. This change is being made because of infrequent requests for opening the draw. This action will relieve the bridge owner of the burden of having a person constantly available at the bridge to open the draw from 5 a.m. to 9 p.m., while still providing for the reasonable needs of navigation.

EFFECTIVE DATE: This regulation becomes effective on January 27, 1986.

FOR FURTHER INFORMATION CONTACT: Perry Haynes, Chief, Bridge Administration Branch, telephone (504) 589-2965.

SUPPLEMENTARY INFORMATION: On 5 July 1985, the Coast Guard published a proposed rule (50 FR 27624) concerning this amendment. The Commander, Eighth Coast Guard District, also published the proposal as a public notice dated 15 July 1985. In each notice interested persons were given until 19 August 1985 to submit comments.

Drafting Information

The drafters of this regulation are Perry Haynes, project officer, and Lieutenant Commander James Vallone, project attorney.

Discussion of Comments

Five responses were received, two offering no objections and three expressing concern over the four hours advance notice for a bridge opening in an emergency or economic hardship case, and on the potential for reactivation of a defunct small boat repair facility located immediately upstream of the bridge. In a meeting with the three concerned respondents, confirmed in writing, the LDOTD reviewed the low number of bridge openings and how this justified a bridegetender on a four-hour call instead of continually on site, to accommodate a vessel passage. At the same time, the LDOTD assured the parties that it is committed to: (1) Opening the bridge on less than four hours notice in the case of an emergency or economic hardship, (2) assigning a tender at the site to open the bridge on signal in the event of a temporary surge in waterway traffic, and (3) reverting to stationing a tender at the bridge, either part or full time, if the boat repair facility should be reactivated and generate the volume of waterway traffic to warrant this action. In view of the foregoing, the respondents stated that the proposed change in operating the bridge was acceptable.

Economic Assessment and Certification

This regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic imact has been found to be so minimal that a full regulatory evaluation is unnecessary. The basis for this conclusion is that the bridge averaged only one vessel opening every three days in 1984 and only one vessel opening every five days in 1985 through October. These few vessels can reasonably give four hours advance notice for a bridge opening, from ashore or afloat, by placing a collect call at any time to the bridge owner at the LDOTD District Office in Lafayette, Louisiana, telephone (318) 233-7404. Mariners requiring the bridge openings are repeat users of the waterway and scheduling their arrival at the bridge at the appointed time should involve little or no additional expense to them. Should the occasion arise to open the bridge on less than four hours notice for an emergency or to operate the bridge on demand for a temporary surge in waterway traffic, the LTOTD has committed to doing so. Since the economic impact of this regulation is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulation

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g).

2. Section 117.507 is revised to read as follows:

§ 117.507 Tigre Bayou

The draw of the S330 bridge, mile 2.3 near Delcambre, shall open on signal if at least four hours notice is given. The draw shall open on less than four hours notice for an emergency and shall open on signal should a temporary surge in waterway traffic occur.

Dated: December 13, 1985.

Clyde T. Lusk, Jr.,

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

[FR Doc. 85-30510 Filed 12-24-85; 8:45 am]

BILLING CODE 4910-14-M

VETERANS ADMINISTRATION

38 CFR Part 3

Temporary Programs of Vocational Training

AGENCY: Veterans Administration.

ACTION: Final rules.

SUMMARY: The Veterans Administration (VA) has amended its adjudication regulations to implement certain provisions of Pub. L. 98-543, the Veterans' Benefits Improvement Act of 1984. These amendments are necessary to define Adjudication Division responsibilities with respect to newly established temporary vocational rehabilitation training programs. The effect of these amendments will be to provide authority for actions to insure participation in temporary vocational rehabilitation training programs.

DATES: These rules are effective February 1, 1985, as provided by law.

FOR FURTHER INFORMATION CONTACT: Robert M. White, Chief, Regulations Staff, Compensation and Pension Service, Department of Veterans Benefits (202) 389-3005.

SUPPLEMENTARY INFORMATION: On pages 36631-33 of the **Federal Register** of September 9, 1985, the VA published proposed amendments to 38 CFR 3.341 through 3.343. Interested persons were given until September 30, 1985, to submit comments, suggestions or objections to the proposed amendments. Since no comments, suggestions or objections were received, the amendments have been adopted as proposed.

The Administrator hereby certifies that these regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act 5 U.S.C. 601-612. Therefore, pursuant to 5 U.S.C. 606(b), these regulations are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that these regulations impose no regulatory burdens on small entities, and only claimants for VA benefits will be directly affected. Determined that these regulations are non-major for the following reasons:

(1) They will not have an annual effect on the economy of $100 million or more.

(2) They will not cause a major increase in costs or prices.

(3) They will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans, Veterans Administration.

The Catalog of Federal Domestic Assistance program numbers are 64.104 and 64.109.

Approved: November 27, 1985.

By direction of the Administrator.

Everett Alvarez Jr.,

Deputy Administrator.

PART 3—[AMENDED]

38 CFR Part 3, *Adjudication*, is amended as follows:

1. Section 3.341 is amended by adding paragraph (c) to read as follows:

§ 3.341 Total disability ratings for compensation purposes.

* * * * *

(c) *Temporary program of vocational rehabilitation.* (1) Each time a veteran is rated totally disabled on the basis of individual unemployability during the period beginning on February 1, 1985, and ending on January 31, 1989, the Vocational Rehabilitation and Counseling Division will be notified so that an evaluation may be made, as required by § 21.6513, to determine whether the achievement of a vocational goal by the veteran is reasonably feasible. Upon receipt of notice from the Vocational Rehabilitation and Counseling Division that any such veteran, for reasons other than those beyond the veteran's control, has failed to participate in the evaluation process, the veteran's rating shall be reduced, in accordance with § 3.105(e), to the rating applicable to the veteran's service-connected disabilities without consideration of indivdidual unemployability and shall remain so reduced for the duration of such failure.

(2) Veterans described in paragraph (c)(1) of this section from whom it is determined that the achievement of a vocational goal is reasonably feasible and for whom an individualized written plan of vocational rehabilitation is formulated will be required to pursue the program described in that plan.

Upon receipt of notice from the Vocational Rehabilitation and Counseling Division that any such veteran, for reasons other than those beyond the veteran's control, has failed to pursue (or to continue to pursue) such vocational rehabilitation program in accordance with § 21.6517, the rating board, in a promptly scheduled review of the veteran's rating, shall consider the results of the feasibility evaluation for that veteran together with any other evidence concerning the veteran's eligibility for a total disability rating based on individual unemployability and shall adjust the veteran's rating as necessary.

(38 U.S.C. 363)

2. In § 3.342, paragraph (b)(4) is revised and paragraph (c) is added to read as follows:

§ 3.342 Permanent and total disability ratings for pension purposes.

* * * * *

(b) * * *

(4) The following shall not be considered as evidence of employability:

(i) Employment as a member-employer or similar employment obtained only in competition with disabled persons.

(ii) Participation in, or the receipt of remuneration as a result of participation in, a therapeutic or rehabilitation activity under 38 U.S.C. 618. (But see §§ 3.262 and 3.271 with regard to income for pension purposes.)

(38 U.S.C. 618(f))

* * * * *

(c) *Temporary program of vocational rehabilitation training for certain pension recipients.* (1) When a veteran under age 50 is awarded disability pension during the period beginning on February 1, 1985, and ending on January 31, 1989, the Vocational Rehabilitation and Counseling Division will be notified so that an evaluation may be made, as required by § 21.6050, to determine that veteran's potential for rehabilitation. Upon receipt of notice from the Vocational Rehabilitation and Counseling Division that a veteran, for reasons other than those beyond the veteran's control, has failed to participate in the evalution process, the veteran's disability pension award shall be suspended effective the date of last payment and shall remain suspended for the duration of such failure.

(2) Veterans age 50 or older who are awarded disability pension during the period beginning on February 1, 1985, and ending on January 31, 1989, are also eligible to apply for participation in vocational rehabilitation training; however, such participation is strictly voluntary, and the provisions of paragraph (c)(1) of this section do not apply to such veterans.

(38 U.S.C. 524)

3. In § 3.343, paragraph (c) is revised to read as follows:

§ 3.343 Continuance of total disability ratings.

* * * * *

(c) *Individual unemployability.* (1) In reducing a rating of 100 percent service-connected disability based on individual unemployability, the provisions of § 3.105(e) are for application but caution must be exercised in such a determination that actual employability is established by clear and convincing evidence. When in such a case the veteran is undergoing vocational rehabilitation, education or training, the rating will not be reduced by reason thereof unless there is received evidence of marked improvement or recovery in physical or mental conditions or of employment progress, income earned, and prospects of economic rehabilitation, which demonstrates affirmatively the veteran's capacity to pursue the vocation or occupation for which the training is intended to qualify him or her, or unless the physical or mental demands of the course are obviously incompatible with total disability. Neither participation in, nor the receipt of remuneration as a result of participation in, a therapeutic or rehabilitation activity under 38 U.S.C. 618 shall be considered evidence of employability. (38 U.S.C. 618(f))

(2) If a veteran with a total disability rating for compensation purposes based on individual unemployability begins to engage in a substantially gainful occupation during the period beginning on February 1, 1985, and ending on January 31, 1989, the veteran's rating may not be reduced solely on the basis of having secured and followed such substantially gainful occupation unless the veteran maintains the occupation for a period of 12 consecutive months. For purposes of this subparagraph, temporary interruptions in employment which are of short duration shall not be considered breaks in otherwise continuous employment.

(38 U.S.C. 363(a))

* * * * *

[FR Doc. 85-30469 Filed 12-24-85; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 421

[FRL-2941-1]

Nonferrous Metals Manufacturing Point Source Category, Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: EPA is correcting errors in the preamble and effluent limitations guidelines and pretreatment standards for the nonferrous metals manufacturing point source category which appeared in the **Federal Register** on September 20, 1985 (50 FR 38276).

FOR FURTHER INFORMATION CONTACT: Mr. Ernst P. Hall at (202) 382-7126.

SUPPLEMENTARY INFORMATION: EPA has promulgated regulations for the nonferrous metals manufacturing point source category in two phases because of the diversity and complexity of the category. Phase I was promulgated on March 8, 1984 (49 FR 8742). Phase II was promulgated on September 20, 1985 (50 FR 38276). The Phase II regulation contained errors which are discussed briefly below and are corrected by this notice.

First, the preamble to the Phase II regulation incorrectly referred to a BAT regulation for the secondary indium and secondary nickel subcategories when no BAT regulations are promulgated for those subcategories. The correct reference is to NSPS. Second, the Phase II regulation erroneously changed the Phase I PSES compliance date to September 20, 1988 for subparts J, K, L, and M. As stated in the March 8, 1984 Phase I final rule, the PSES compliance date for these subparts is March 8, 1987. For subparts N through AE, the PSES compliance date under Phase II is September 20, 1988.

Also, subpart I—Metallurgical Acid Plants Subcategory contained an error. The Preamble to the final Phase II rule clearly explained that EPA was expanding the applicability of the existing BPT requirements to molybdenum metallurgical acid plants. As part of this expanded applicability, the final Phase II preamble discussion explicitly noted that "[t]he pollutants specifically regulated at BPT are arsenic, cadmium, copper, lead, zinc, *flouride, molybdenum,* TSS and pH." (emphasis added). (50 FR 38301). However, due to a typographical error in

preparing the final regulations for **Federal Register** publication, the Agency omitted to include the two pollutants flouride and molybdenum in the BPT table at 40 CFR 421.92 for the metallurgical acid plant subcategory. Today's notice corrects this error.

Finally, the summary of process wastewater sources in the Primary Zirconium and Hafnium subcategory in Section V(A) of the preamble (50 FR 38282) needs to be corrected to indicate that only 14 of the 18 process wastewater sources with allowances in this category are included in the summary. The remaining four are described in detail in the zirconium and hafnium development document. The final regulations for this category provide allowances for each of the zirconium and hafnium process waste water sources.

Dated: December 11, 1985.

Lawrence J. Jensen,

Assistant Administrator for Water.

The following corrections are made in FRL 2872-1, the Nonferrous Metals Manufacturing Point Source Category; Effluent Limitations Guidelines; Pretreatment Standards and New Source Performance Standards published in the **Federal Register** on September 20, 1985 (50 FR 38276).

1. The sixth full paragraph in the third column on page 38292 which reads, "The sources of process wastewater receiving an allowance in the primary zirconium and hafnium subcategory are listed below along with the pollutants typically found in each:" is revised to read as follows:

"*Fourteen of the remaining 18* sources of process wastewater receiving an allowance in the primary zirconium and hafnium subcategory are listed below, along with the pollutants typically found in each. *The other four sources are described in detail in the accompanying development document for this subcategory.*"

2. On page 38310, second column, line 8, change "BAT" to "NSPS".

3. On page 38310, third column, line 46, change "BAT" to "NSPS".

4. On page 38312, third column, line 14, change "BAT" to "PSES".

5. Section 421.4 on page 38342, column 2, is correctly revised to read as follows:

§ 421.4 Compliance date for pretreatment standards for existing sources (PSES).

The PSES compliance deadline in subparts A through M is March 8, 1987. The PSES compliance deadline for plants in subparts N through AE is September 20, 1988.

§ 421.92 [Corrected]

6. Section 421.92, on page 38343, first column, the table is correctly revised to read as follows:

* * * * *

SUBPART I—METALLURGICAL ACID PLANT

Pollutant or pollutant property	BPT effluent limitations	
	Maximum for any 1 day	Maximum for monthly average
	mg/kg (pounds per million pounds of 100% sulfuric acid capacity	
Cadmium	0.180	0.090
Copper	5.000	2.000
Lead	1.800	0.790
Zinc	3.600	0.900
Fluoride [1]	212.800	121.000
Molybdenum [1]	40.160	20.790
Total suspended solids	304.000	152.000
pH	[2]	[2]

[1] For Molybdenum Acid Plants Only.
[2] Within the range of 6.0 to 9.0 at all times.

[FR Doc. 85-30250 Filed 12-24-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 85-154; RM-4927]

FM Broadcast Station in Mount Pleasant, SC

AGENCY: Federal Communications Commission.

AGENCY: Final rule.

SUMMARY: Action taken herein substitutes Channel 283C2 for Channel 285A at Mount Pleasant, South Carolina, and modifies the license of Station WDXZ to specify operation on the higher powered channel, at the request of Southeast Communications, Inc.

EFFECTIVE DATE: January 27, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio.

The Authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended 1082, as amended; 47 U.S.C. 154, 303. Interpret 47 U.S.C. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Report and Order (Proceeding Terminated)

In the Matter of amendment of § 73.202(b), table of allotments, FM broadcast stations. (Mount Pleasant, South Carolina) (MM Docket No. 85-154, RM-4927

Adopted: December 16, 1985.

Released: December 19, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making,* 50 Fed. Reg. 23733, published June 5, 1985, soliciting comments on the proposal to substitute Channel 283C2 for Channel 285A at Mount Pleasant, South Carolina, at the request of Southeast Communications, Inc. ("Southeast"). The *Notice* also proposed to modify the license of Station WDXZ to specify operation on the higher-powered channel. Comments were filed by Southeast and Christ Church Parish Broadcasting, Inc. ("Christ Church") and reply comments were filed by Southeast and Resort Broadcasters of Charleston, Inc. ("Resort").

2. As stated in the *Notice*, the Commission may not modify the license of Station WDXZ if another party expresses an interest in the higher powered channel unless an additional equivalent channel is allocated. See, *Modification of FM and TV Station Licenses*, 98 F.C.C. 2d 916 (1984). Both Christ Church and Resort have expressed such an interest and no second equivalent channel is available at Mount Pleasant. However, Christ Church has now withdrawn it interest in the new allocation and Resort's interest was not timely filed as comments but were filed as reply comments.[1]

3. Channel 283C2 can be allocated to Mount Pleasant in compliance with the Commission's minimum distance separation requirements if the transmitter site is restricted to an area at least 17.0 kilometers (10.6 miles) southwest of the community to avoid short-spacing to Station WNOK, Channel 284 at Columbia, South Carolina, and to ensure placement of the transmitter on land. In view of the foregoing and the stated need for a wide coverage area FM station, the Commission believes that the public interest would be served by the allocation of Channel 283C2 to Mount Pleasant, South Carolina.

In adopting § 1.420(g), the Commission stated that ". . . its policy of granting modification to stations seeking to upgrade their facilities is not violative of the *Ashbacker* mandate in situations where no other interest in the proposed superior class of channel is expressed in comments." 98 F.C.C. 2d 916, 919 (1984).

As for the late expression of interest filed by Resort in the use of the new channel, we have been provided with no reason for the late filing. Therefore, we find no reason to waive the requirement that such expressions of interst be timely filed. Accordingly, we are herein modifying the license of Station WDXZ to specify operation on Channel 283C2 in lieu of Channel 285A.

PART 73—[AMENDED]

4. In view of the above and pursuant to the authority contained in §§ 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective January 27, 1986 the FM Table of Allotments, § 73.202(b) of the Commission's Rules, IS AMENDED for the community listd below to read as follows:

City	Channel No.
Mount Pleasant, SC	283C2

5. It is further ordered, that pursuant to section 316(a) of the Communications Act of 1934, as amended, the license of Station WDXZ, Mount Pleasant, South Carolina, IS MODIFIED to specify operation of Channel 283C2 subject to the following conditions:

(a) The licensee shall submit to the Commission a minor change application for a construction permit (Form 301);

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

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of environmental impact statement pursuant to § 1.301 of the Commission's Rules.

6. It is further ordered, That this proceeding is terminated.

7. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

Federal Communications Commission

Charles Schott,

Chief, Policy and Rules Division Mass Media Bureau.

[FR Doc. 85-30428 Filed 12-24-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[FCC 85-647]

Construction of Broadcast Stations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action taken by the Commission on its own initiative extends the time period for construction of TV and radio broadcast stations to 24 and 18 months, respectively. Permittees of other broadcast and auxiliary stations also will have 18 months within which to build their facilities. The FCC adopted these modifications to provide realistic time periods for station construction. However, strict criteria for the granting of applications to extend the time to construct broadcast facilities and for granting modifications and assignment/transfers were adopted in order to avoid unwarranted delays and expedite service to the public. These criteria were not imposed on Instructional TV Fixed and International Broadcast stations. Moreover, we are removing the paperwork burdens on TV permittees by eliminating the requirement to file mid-term progress reports on construction.

EFFECTIVE DATE: December 10, 1985.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Freda Lippert Thyden, Mass Media Bureau (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio and Television broadcasting.

Memorandum Opinion and Order

In the matter of amendment of § 73.3598 and associated rules concerning the construction of broadcast stations.

Adopted: December 10, 1985.

Released: December 17, 1985.

By the Commission.

1. The matter before us is the amount of time taken by broadcast permittees to construct their facilities. Currently, Section 73.3598 of the Commission Rules provides that the period for construction of television and radio broadcast stations is 18 and 12 months, respectively. The latter period also applies to other broadcast, auxiliary and Instructional TV Fixed (ITFS) stations.[1] However, the many applications for extension of time (FCC Form 701) granted makes this period to build much greater and thus precludes activation of new broadcast service to the public. We are seriously concerned about this situation and intend to strictly review applications for extensions. However, in recognition of the substantial changes in the complexity and amount of the equipment needed and the growing multiplicity of business decisions involved in establishing a station, we are extending the initial period to construct.[2] We will now allow construction periods of 24 months for television stations and 18 months for AM and FM radio and other broadcast and auxiliary stations.[3]

2. By extending the initial length of time allowed permittees to construct their stations, we have provided an adequate time to build broadcast facilities. Thus, there should be fewer applications to extend time. In any event, permittees would be well advised to note our present determination to limit the grant of extension requests. We are providing strict criteria for the granting of applications to extend time to construct broadcast stations.[4] Thus, an application for extension of time to construct such facilities will be granted only under one of the following three circumstances:[5]

[1] Specifically, this provision (Rule § 73.3598(b)) includes International Broadcast, low power TV, TV translator, FM translator, FM booster and broadcast auxiliary. Though an oversight, § 73.3598 of the Commission's Rules was not amended to reflect an extension of the construction period for Instructional TV Fixed stations to 18 months which was adopted by the Commission in the ITFS *Report and Order* (MM Docket No. 83-523), 49 FR 32590 (August 15, 1984). This oversight is corrected in the instant document.

[2] Under the Federal Radio Commission, the time period within which to construct broadcast stations was four months, whereas in 1934 the FCC provided an eight month construction time period. In 1970, the construction period was again lengthened, that time to its current amount.

[3] A petition for rule making was filed on July 29, 1985, by Mary P. Norman, requesting that International Broadcast stations be allowed a longer initial period within which to construct their facilities. Since this *Memorandum Opinion and Order* extends the time for construction of broadcast stations in general, including International Broadcast facilities, Ms. Norman's petition is dismissed as moot.

[4] We are not applying these new stricter standards for granting applications for extension of time to construct to International Broadcast stations and ITFS. In view of the size and complexity of the equipment for International Broadcast stations and their frequent location in obscure areas, strict criteria for extensions of time will not be imposed on this service. ITFS, in light of the specialized nature and the limited funds available for its growth, also will not be subjected to the new stricter extension of time criteria.

[5] On May 14, 1984, a *Public Notice* (No. 4177) was released establishing similar guidelines for processing applications for additional time within which to construct AM and FM broadcast stations. This *Memorandum Opinion and Order* is intended to supersede the May 14, 1984 *Public Notice* and establish uniform standards or broadcast (not International or ITFS) stations.

a. Construction is complete and testing is underway looking toward prompt filing of a license application.

b. Substantial progress has been made *i.e.*, demonstration that equipment is on order or on hand, site acquired, site cleared and construction proceeding toward completion.

c. No progress has been made for reasons clearly beyond the control of the permittee (such as delays caused by governmental budgetary processes and zoning problems) but the permittee has taken all possible steps to expeditiously resolve the problem and proceed with construction.

3. In order to expedite service to the public, we also are establishing strict criteria for the granting of applications for modifications and assignment/transfers of unbuilt facilities,[6] and extensions of time relating to them. If a permittee finds it necessary to file either an application to modify its authorized but unbuilt facilities, or an assignment/transfer application, such application shall be filed within the first 9 months of the issuance of the original construction permit for radio and other broadcast and auxiliary stations, or within 12 months of the issuance of the original construction permit for television facilities. Before such an application can be granted, the permittee or assignee must certify that it will immediately begin building after the modification is granted or the assignment is consummated. Modifications and assignment applications filed after the above time periods will not be granted absent a showing that one of the three criteria in paragraph 2, *supra* applies, and a certification by the permittee or the assignee that it immediately will begin building after the modification is granted or the assignment consummated. The seller must make the "one of three criteria" showing in the assignment/transfer application. Moreover, the burden to meet one of the three criteria increases as the period in the second half of the construction period term continues. If a modification is granted, the time period allowed for construction will be 6 months from the issuance of the authorization to modify or the remainder of the construction period, whichever is longer. Also, in the case of an assignment, the time period allowed for construction will be 12 months from the consummation of the assignment or the remainder of the construction period, whichever is longer.[7] The extension will be given subject to the condition that the modification is completed or the assignment is consummated. Failure to modify or consummate within the time allowed will result in cancellation of the construction permit. We will *not* entertain an application for modification or assignment/transfer if filed after the expiration of the initial construction period.

4. We are amending § 73.3598 to provide what, under present circumstances, are more realistic time periods for construction.[8] Permittees should nevertheless be advised that we expect station construction to commence and be brought to fruition expeditiously. Moreover, applications for extension of time to construct broadcast stations will be carefully scrutinized. Thus, unwarranted delays will be avoided and service to the public expedited. If stations are not constructed within the allowed time, permittees will lose their authorizations.[9] Others more able to commence operations and provide expeditious service to the public will be given the opportunity to apply for the frequency involved.

5. We believe that providing more time initially for the building of facilities can substantially reduce the volume of requests for extension of time to construct. This will reduce the administrative burdens imposed on Commission personnel, thus allowing scarce staff resources to be better utilized. For this reason and the others expressed in this document, we conclude that the public interest will be served by extending the time periods for construction of broadcast stations and imposing strict criteria for the granting of applications to extend time to construct as well as for granting modifications and assignment/transfers.[10]

6. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to decrease requirements or burdens upon the public. This decrease will be subject to approval by the Office of Management and Budget as prescribed by the Act.

7. Authority for the action taken herein is contained in sections 4(i) and 303 of the Communications Act of 1934, as amended.[11]

8. Accordingly, it is ordered that the Commission's Rules are amended, effective December 10, 1985,[12] as described above and set forth in the attached Appendix.[13]

9. It is further ordered, that the Petition for Rule Making filed by Mary P. Norman on July 29, 1985, is dismissed as moot.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 73—[AMENDED]

47 CFR Part 73 is amended as follows:

[6] When referring to assignments and transfers, we mean those requiring long form assignments (FCC Form 314) or long form transfer (FCC Form 315).

[7] We do not comtemplate allowing repeated assignments which would each permit 12 months from their consummation for the construction of a facility. Allowing such extended time periods would not be in the public interest as it would delay service to the audience.

[8] In view of the stricter standards being applied to extension of time requests, we believe the requirement in Rule 73.3598 that TV permittees file a report on the progress of station construction is unnecessary. Therefore, that provision is being eliminated.

[9] See *P & R Temmer v. FCC*, 743 F.2d 918 (D.C. Cir. 1984), which the U.S. Court of Appeals affirmed the Commission's decision cancelling authorizations of those who failed to comply with channel loading and construction requirements within the required time period.

[10] Since the Commission already has the requisite information to take this action and the matter is noncontroversial, prior notice and comment proceedings are neither necessary nor required. 5 U.S.C. § 553(b)(3()B); and Section 1.412(c) of the Commission's Rules.

[11] The amendments being adopted include a conforming editorial revision which substitutes the word "declared" for "automatically" in Rule 73.3599 in order to conform our Rules with our long-standing practice of declaring a construction permit forfeited before considering it actually to have lapsed. For court affirmation of this procedure, *see MG-TV Broadcasting Company v. FCC*, 408 F.2d 1257, 1261 (D.C. Cir. 1968); *Mass Communicators, Inc. v. FCC*, 266 F.2d 681 (D.C. Cir. 1959), *cert. denied*. 361 U.S. 828 (1959); and *United Detroit Theatres Corp. v. FCC*, 178 F.2d 700 (D.C. Cir. 1949).

[12] Since the benefits of these rule changes should be made available to broadcasters and the public immediately, and the matter is noncontroversial, good cause has been found to order this *Memorandum Opinion and Order* effective within less than thirty days from the time it is published in the Federal Register. 5 U.S.C. 553(d)(3) and § 1.427(b) of the Commission's Rules.

[13] The new policies for granting modification and assignment/transfer applications and applications for extensions of time will apply, as will the new time periods for initial construction (§ 73.3598), to all construction permits granted after the effective date of this *Order*. As to those permittees holding unexpired construction permits granted prior to the effective date of this *Order*, if they wish additional time to construct they must file an application for extension (Form 701). At that time such permittees will automatically receive a first extension of six additional months for a total initial construction period of 24 months for TV stations and 18 months for radio, other broadcast and auxiliary stations. We believe this provides current permittees with fair and just treatment. After an initial construction period of 24 or 18 months has been given to current permittees, however, broadcast permittees (not International or ITFS) will be required to meet the new stricter criteria before an extension of time request or an application for modification or assignment is granted.

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

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

* * * * *

2. 47 CFR 73.3534 is revised in its entirety to read as follows:

§ 73.3534 Application for extension of construction permit or for construction permit to replace expired construction permit.

(a) Application for extension of time within which to construct a station shall be filed on FCC Form 701, "Application for Extension of Construction Permit or to Replace Expired Construction Permit." The application shall be filed at least 30 days prior to the expiration date of the construction permit if the facts supporting such application for extension are known to the applicant in time to permit such filing. In other cases, an application will be accepted upon a showing satisfactory to the FCC of sufficient reasons for filing within less than 30 days prior to the expiration date.

(b) Applications for extension of time to construct broadcast stations, with the exception of International Broadcast and Instructional TV Fixed stations, will be granted only if one of the following three circumstances have occurred: (1) Construction is complete and testing is underway looking toward prompt filing of a license application; (2) substantial progress has been made *i.e.*, demonstration that equipment is on order or on hand, site acquired, site cleared and construction proceeding toward completion; or (3) no progress has been made for reasons clearly beyond the control of the permittee (such as delays caused by governmental budgetary processes and zoning problems) but the permittee has taken all possible steps to expeditiously resolve the problem and proceed with construction.

(c) Applications for extension of time to construct International Broadcast and Instructional TV Fixed stations will be granted upon a specific and detailed showing that the failure to complete was due to causes not under the control of the permittee, or upon a specific and detailed showing of other sufficient to justify an extension.

(d) If an application for extension of time within which to construct a station is approved, such an extension will be limited to a period of no more than 6 months except when as assignment or transfer has been approved that provides for a longer period up to a maximum of 12 months from the date of consummation.

(e) Application for a construction permit to replace an expired construction permit shall be filed on FCC Form 701. Such applications must be filed within 30 days of the expiration date of the authorization sought to be replaced. If approved, such authorization shall specify a period of not more than 6 months within which construction shall be completed and application for license filed.

3. New 47 CFR 73.3535 Application to modify authorized but unbuilt facilities, or to assign or transfer control of an unbuilt facility, is added to Subpart H, Part 73, to read as follows:

§ 73.3535 Application to modify authorized but unbuilt facilities, or to assign or transfer control of an unbuilt facility.

(a) If a permittee finds it necessary to file either an application to modify its authorized, but unbuilt facilities, or an assignment/transfer application, such application shall be filed within the first 9 months of the issuance of the original construction permit for radio and other broadcast and auxiliary stations, or within 12 months of the issuance of the original construction permit for television facilities. Before such an application can be granted, the permittee or assignee must certify that it will immediately begin building after the modification is granted or the assignment is consummated.

(b) Modification and assignment applications filed after the time periods stated in paragraph (a) will not be granted absent a showing that one of the following three criteria apply: (1) Construction is complete and testing is underway looking toward prompt filing of a license application; (2) substantial progress has been made *i.e.*, demonstration that equipment is on order or on hand, site acquired, site cleared and construction proceeding toward completion; or (3) no progress has been made for reasons clearly beyond the control of the permittee (such as delays caused by governmental budgetary processes and zoning problems) but the permittee has taken all possible steps to expeditiously resolve the problem and proceed with construction. A certification by the permittee or the assignee that it immediately will begin building after the modification is granted or the assignment is consummated is also necessary. A seller must make the "one of three criteria" showing in an assignment application.

(c) If a modification is granted, the time period allowed for construction will be 6 months from the issuance of the authorization to modify or the remainder of the construction period, whichever is longer. Also, in the case of an assignment, the time period allowed for construction will be 12 months from the consummation of the assignment or the remainder of the construction period, whichever is longer. The extension will be given subject to the condition that the modification is completed or the assignment is consummated. Failure to modify or consummate within the time allowed will result in cancellation of the construction permit.

(d) We will not entertain an application for modification of an authorized but unbuilt facility or an application for assignment or transfer of control of an unbuilt facility if filed after the expiration of the initial construction period.

4. 47 CFR 73.3598 is revised in its entirety to read as follows:

§ 73.3598 Period of construction.

(a) TV broadcast stations. Each original construction permit for the construction of a new TV broadcast station, or to make changes in an existing station, shall specify a period of no more than 24 months from the date of issuance of the original construction permit within which construction shall be completed and application for license filed.

(b) Other broadcast, auxiliary and Instructional TV Fixed Stations. Each original permit for the construction of a new AM, FM or International Broadcast; low power TV; TV translator; FM translator; FM booster; broadcast auxiliary; or Instructional TV Fixed station, or to make changes in such existing stations, shall specify a period of no more than 18 months from the date of issuance of the original construction permit within which construction shall be completed and application for license be filed.

5. 47 CFR 73.3599 is revised in its entirety to read as follows:

§ 73.3599 Forefeiture of construction permit.

A construction permit shall be declared forfeited if the station is not ready for operation within the time specified therein or within such further time as the FCC may have allowed for completion, and a notation of the forefeiture of any construction permit under this provision will be placed in the records of the FCC as of the expiration date.

[FR Doc. 85-30424 Filed 12-24-85; 8:45 am]

BILLING CODE 6712-01-M

GENERAL SERVICES ADMINISTRATION

48 CFR Part 525

[Acquisition Circular AC-85-5]

Threshold for Application of Trade Agreements Act

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Temporary regulation.

SUMMARY: This Acquisition Circular provides the new dollar threshold required for the applicability of the Trade Agreements Act of 1979 as authorized by the U.S. Trade Representative under E.O. 12260. The intended effect is to provide guidance to GSA contracting activities pending a revision to the General Services, Administration Acquisition Regulation.

DATES: *Effective date:* January 1, 1986.

Expiration date: This Acquisition Circular will expire July 1, 1986, unless canceled earlier or extended.

Comment date: January 27, 1980.

ADDRESS: Comments may be submitted to Ms. Marjorie Ashby, 18th & F Sts., N.W., Room 4026, Office of GSA Acquisition Policy and Regulations, Washington, D.C. 20405, (202) 523-3822.

FOR FURTHER INFORMATION CONTACT: Ms. Ida Ustad, Office of GSA Acquisition Policy and Regulations (VP), (202) 566-1224.

SUPPLEMENTARY INFORMATION: Pursuant to section 22(d) of the Office of Federal Procurement Policy Act, as amended, a determination has been made to waive the requirement for publication of procurement procedures for public comment before the regulation takes effect. The January 1, 1986, effective date for the change in the dollar threshold under the Trade Agreements Act of 1979 creates an urgent and compelling circumstance which makes advance publication impracticable. The Director, Office of Management and Budget (OMB), by memorandum dated December 4, 1984, exempted certain agency procurement regulations from Executive Order 12291. The exemption applies to this rule. The General Services Administration (GSA) certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.). This rule implements the U.S. Trade Representative's decision to reduce the dollar threshold for applicability of the Trade Agreements Act. Accordingly, no regulatory flexibility analysis has been prepared. This Circular does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et. seq.

Authority: 40 U.S.C. 486(c).

48 CFR Part 525 is amended by the following Acquisition Circular.

General Services Administration Acquisition Regulation, Acquisition Circular No. AC-85-5

December 17, 1985.

To: All GSA contracting activities.

Subject: Threshold for application of Trade Agreements Act.

1. *Purpose.* This Acquisition Circular is issued to implement a change in the dollar threshold for applicability of the Trade Agreements Act, pending a formal revision to the General Services Administration Acquisition Regulation (GSAR).

2. *Background.* The United States Trade Representative (TR) is authorized under Executive Order 12260 to determine the appropriate dollar threshold required for the applicability of the Trade Agreements Act of 1979. By letter dated November 26, 1985, the Trade Representative changed the threshold from $156,000 to $149,000 effective January 1, 1986.

3. *Effective date.* All solicitations issued on or after January 1, 1986, that are subject to the Trade Agreements Act, shall cite the new dollar threshold of $149,000.

4. *Expiration date.* This Acquisition Circular expires July 1, 1986, unless canceled earlier or extended.

5. *Reference to regulation.* Section 525.402(a) of the General Services Administration Acquisition Regulation.

6. *Instructions/Procedures.*

(a) Section 525.402 is amended to revise paragraph (a) to read as follows:

§ 525.402 Policy.

(a) Pursuant to FAR 25.402(a), contracting officers shall evaluate offers of $149,000 or more for an eligible product without regard to the restrictions of the Buy American Act or the Balance of Payments Program. The $149,000 threshold shall be inserted in paragraph (b) of the FAR clause at 52.225-9 (see Article 30 of the GSA Form 3507, Supply Contract Clauses).

* * * * *

(b) When using the GSA Form 3507, Supply Contract Clauses, contracting officers shall modify the form pending its revision to notify bidders/offerors of the change to the FAR clause by including a notice which reads substantially as follows in solicitations and contracts subject to the Trade Agreements Act:

Trade Agreements Act—Applicability (Dec. 1985)

Article 30 (FAR 52.225-9 Buy American Act—Trade Agreements Act—Balance of Payments Program (Apr. 1984)) of GSA Form 3507 is amended by changing the dollar value specified in paragraph (b) from $161,000 to $149,000.

Richard H. Hopf, III,

Acting Associate Administrator for Acquisition Policy.

[FR Doc. 85-30440 Filed 12-24-85; 8:45 am]

BILLING CODE 6820-61-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

48 CFR Part 702

[AIDAR Notice 85-13]

Duties, Responsibilities, and Authority of the Procurement Executive

AGENCY: Agency for International Development, IDCA.

ACTION: Final rule.

SUMMARY: The AID Acquisition Regulation (AIDAR) is being amended to specify the duties, responsibilities, and authority of the Procurement Executive.

EFFECTIVE DATE: December 26, 1985.

FOR FURTHER INFORMATION CONTACT: M/SER/PPE, Mr. James M. Kelly, telephone (703) 235-9855.

SUPPLEMENTARY INFORMATION: We have determined that this Notice does not constitute a significant or major change as defined by FAR 1.301(b), or FAR 1.501, or E.O. 12291.

As required by the Regulatory Flexibility Act, it is hereby certified that this Notice will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 48 CFR Part 702

Government procurement.

1. The authority citation in Part 702 is unchanged and continues to read as follows:

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445 (22 U.S.C. 2381), as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673, 3 CFR 1979 Comp., p. 435.

PART 702—DEFINITIONS OF WORDS AND TERMS

Subpart 702.170—Definitions

2. Section 702.170-9 is revised as follows:

702.170-9 Head of agency.

"Head of agency" means, for AID, the Administrator, and the Deputy

Administrator, and in accordance with the responsibilities and limitations set forth in 702.170-13(c)(4), the Agency Procurement Executive.

3. Section 702.170-13 is revised as follows:

702.170-13 Procurement Executive.

(a) "Procurement Executive" means the AID official who:

(1) Is responsible to the Administrator, through the Assistant to the Administrator for Management, for management direction of AID's procurement system, including implementation of AID's unique procurement policies, regulations, and standards, and

(2) Oversees development of the system, evaluates system performance in accordance with approved criteria, and certifies to the Administrator, through the Assistant to the Administrator for Management, that the AID procurement system meets approved criteria.

(b) The Procurement Executive for AID is Mr. John F. Owens, the Associate Assistant to the Administrator for Management. Mr. Owens reports and makes recommendations to the Administrator, the Deputy Administrator, or other AID officials, as appropriate, with regard to the implementation and improvement of the procurement system and procurement staffing to meet the objectives and requirements of the Foreign Assistance Act, Executive Order 12352, the Office of Federal procurement Policy Act, and other statutory and Executive Branch procurement policies and requirements applicable to AID operations. These reports and recommendations, including results of case reviews requested by the Deputy Administrator, will deal with the use of effective competition in procurement; establishment of clear lines of authority, accountability, and responsibility for procurement decision making within AID; and development and maintenance of a procurement career management program to assure an adequate professional work force.

(c) The AID Procurement Executive has specific authority to:

(1) Select and appoint contracting officers and terminate their appointments in accordance with section 1.603 of the Federal Acquisition Regulation;

(2) Issue, develop, and maintain the Agency's acquisition regulations, procedures and standards for issuance in accordance with established agency delegations and requirements, as provided in Subpart 1.3 of the Federal Acquisition Regulation;

(3) Exercise in person or by delegation the authorities stated in Subpart 1.4 of the Federal Acquisition Regulation with regard to deviations from that regulation; and

(4) Act for the Administrator, as "head of the agency" for all other purposes of the Federal Acquisition Regulation and the AID Acquisition Regulation, except for the authority in FAR 6.302-7(a)(2), 6.302-7(c)(1), 7.103, 17.602(a), 19.201(c)(2), 19.201(c)(3), 27.306(a), 27.306(b), and 30.201-2 or where the "head of the agency" authority is expressly not redelegable under the FAR or AIDAR.

(d) In the absence of the Procurement Executive, the Director, Office of Acquisition and Assistance Management, or in the absence of both, the Deputy Director for Program Operations, Office of Acquisition and Assistance Management, without authority to redelegate, shall act as the Agency's Procurement Executive.

Dated: December 16, 1985.

John F. Owens,

Procurement Executive.

[FR Doc. 85-30444 Filed 12-24-85; 8:45 am]

BILLING CODE 6116-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Administration

48 CFR Chapter 24

[Docket No. R-85-1263; FR-2098]

Implementation of the Competition in Contracting Act of 1984 into the HUD Acquisition Regulation, Announcement of Effective Date

AGENCY: Office of the Assistant Secretary for Administration, HUD.

ACTION: Notice of announcement of effective date for interim rule.

SUMMARY: This notice announces the effective date for the interim rule published in the **Federal Register** on November 8, 1985 (50 FR 46572) that implemented the requirements of the Competition in Contracting Act of 1984 into the HUD Acquisition Regulation.

The effective date provision of the rule stated that the rule would become effective upon expiration of the first period of 30 calendar days of continuous session of Congress after publication, and announced that future notice of the effectiveness of the rule would be published in the **Federal Register.** Thirty calendar days of continuous session of Congress have expired since the rule was published.

DATE: The effective date for the interim rule published November 8, 1985 (50 FR 46572), is December 18, 1985.

FOR FURTHER INFORMATION CONTACT: Edward L. Girovasi, Jr., Director, Policy and Evaluation Division, Office of Procurement and Contracts, telephone (202) 755-5294. (This is not a toll-free number.)

Dated: December 20, 1985.

Donald A. Franck,

Acting Assistant General Counsel for Regulations.

[FR Doc. 85-30533 Filed 12-24-85; 8:45 am]

BILLING CODE 4210-01-M

Proposed Rules

Federal Register
Vol. 50, No. 248
Thursday, December 26, 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 AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 85-390]

7 CFR Part 318

Sharwil Avocados From Hawaii; Reopening of Comment Period

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Reopening of comment period for proposed rule; notice of public hearings.

SUMMARY: A document published in the **Federal Register** on November 19, 1985, proposed to amend the "Hawaiian Fruits and Vegetables" regulations to allow Sharwil avocados to be moved pursuant to a certificate from Hawaii interstate to any destination based on compliance with certain harvesting and handling provisions. This document reopens the comment period for the proposal, and gives notice of public hearings in Hawaii and California concerning the proposal.

DATES: Written comments on the proposed rule must be received on or before February 4, 1986. Public hearings will be held on January 10, 1986, in Kailua-Kona, Hawaii; and on January 14, 1986, in Los Angeles, California.

ADDRESSES: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, Animal and Plant Health Inspection Service, USDA, Room 728, Federal Building, 6506 Belcrest Road, Hyattsville, MD 20782. Comments should state that they are in response to Docket Number 85-330. Written comments received may be inspected in Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. The public hearings will be held at the following locations: (1) On January 10, 1986 at the Keauhou Beach Hotel, Kahaluu Roo, 78-6740 Alii Drive, Kailua-Kona, Hawaii 96740; and (2) on January 14, 1986, at the Viscount Hotel, 9750 Airport Boulevard, Los Angeles, California, 90045.

FOR FURTHER INFORMATION CONTACT: C.M. Amyx, Senior Staff Officer, Technology Analysis and Development Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 600, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8896.

SUPPLEMENTARY INFORMATION: On November 19, 1985, the Department published in the **Federal Register** (50 FR 47551-47555) a proposal to amend the "Hawaiian Fruits and Vegetables" regulations to allow Sharwil avocados to be moved pursuant to certificates from Hawaii interstate to any destination based on compliance with certain harvesting and handling provisions.

A 20-day period was provided for receiving comments on the proposal. The comment period expired on December 9, 1985.

Based on a review of the comments received, it appears that there is considerable interest in the proposal by persons involved in the growing and marketing of avocados and other agricultural products and that additional time is needed to allow interested persons adequate time in which to prepare comments. Six commenters (members of Congress and representatives of agricultural trade associations) requested that the Department extend the comment period. Also, ten commenters (members of Congress and representatives of agricultural trade associations) requested that a public hearing be held concerning the proposal.

Under these circumstances, the comment period is extended for an additional 40 days. Also, public hearings on the proposal are scheduled at Kailua-Kona, Hawaii, on January 10, 1986, and at Los Angeles, California, on January 14, 1986 (see the information concerning the location of the hearings under **"ADDRESSES"** above).

Procedures for Public Hearings

A representative of the Animal and Plant Health Inspection Service will preside at each of the public hearings. Any interested person may appear and be heard in person, by attorney, or by other representative.

Each hearing will begin at 10 a.m. and is scheduled to end at 5 p.m. local time. However, a hearing may be terminated at any time after it begins if all of those persons at the hearing who desire an opportunity to speak have been heard. Persons who wish to speak are requested to register with the presiding officer prior to the hearing. The prehearing registration will be conducted at the location of the hearing from 9 a.m. to 10 a.m. Registered persons will be heard in the order of their registration. However, any other person who wishes to speak at the hearing will be afforded such opportunity after the registered persons have been heard. It is requested that two copies of any written statements that are presented be provided to the presiding officer at the hearing. If the number of preregistered persons and other participants in attendance at the hearing warrants it, the presiding officer may limit the time for each presentation in order to allow everyone wishing to speak the opportunity to be heard.

Done at Washington, DC, this 20th day of December, 1985.

Harvey L. Ford,

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

[FR Doc. 85-30582 Filed 12-23-85; 2:15 pm]

BILLING CODE 3410-34-M

Federal Crop Insurance Corporation

7 CFR Part 430

[Docket No. 0041A]

Sugar Beet Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to revise and reissue the Sugar Beet Crop Insurance Regulations (7 CFR Part 430), effective for the 1986 and succeeding crop years in all states, except Arizona and California, where they will be effective for the 1987 and succeeding crop years. The intended effect of this rule is to: (1) Add as a cause of loss the unavoidable failure of irrigation water

supply; (2) Limit the insured's share of an indemnity on crops transferred before harvest; (3) Clarify processor contract requirements; (4) Change to a mandatory "Actual Production History" (APH) basis by removing the Premium Adjustment Table and providing for cancellation for not furnishing records; (5) Change the method of computing indemnities when acreage, share or practice is underreported; (6) Change the method of crediting the replanting payments; (7) Change the calculation in computing replanting payments; (8) Change the stage guarantees; (9) Shorten the length of time an insured has to give notice when claiming an indemnity; (10) Change the cancellation and termination dates in certain counties; (11) Provide a method for calculating production to count on harvested and appraised production; (12) Define at what stage of guarantee a replanting payment will be determined; (13) Add definitions for the terms "ASCS", "Loss ratio", and "Normal Stand"; (14) Amend definitions for the terms "County", "Crop year", and "Harvest" and (15) change the method of determining if a loss occurs when the beets are harvested and delivered to the processor. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

COMMENT DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than January 27, 1986, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation No. 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is October 1, 1990.

Merritt W. Sprague, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order No. 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal papework burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

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

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Other than minor changes in language and format, the principal changes in the sugar beet policy are:

1. Section 1.—Add the failure of irrigation water supply because of an unavoidable cause as an insurable cause of loss. This clarifies intent since it is implied as a cause of loss in Section 2.e.(2).

2. Section 2.—Add a clause to change the method of calculating the insured's share of an indemnity on crops trnsferred before harvest. This limits indemnities to the insured's insurable interest at the time of loss.

Clarify processor contract requirements and when such requirements must be met in order for sugar beet acreage to be insured.

3. Section 4.b.—Eliminate the current second stage guarantee and make the current third stage guarantee the second stage guarantee to provide protection which more closely reflects the investment cost of producing sugar beets after the first stage. Sugar beets which are destroyed in the second stage will now receive a full indemnity.

4. Section 5.—Remove the Premium Adjustment Table. The crop will be insured on an actual production history (APH) basis. Coverages will, therefore, reflect the actual production history of the crop on the unit. Insureds with good loss experience who are now receiving a premium discount are protected since they will retain any discount under the present schedule through the 1990 crop year or until their loss experience causes them to loss the advantage, whichever is earlier.

Remove the provisions for the transfer of insurance experience and for premium computation when participation has been continuous. Deletion of the premium adjustment table eliminates the need for these provisions.

5. Section 6.—Specify that the replanting payment will only be applied to payment of the premium if the billing date has passed. In cases when the billing date for a crop has passed on the date the replanting payment is made it will be deducted and applied to payment of the billed premium. This is a change from the current practice of applying the replanting payment to the outstanding premium in all cases.

6. Section 8.—Shorten from 30 days to 10 days the time an insured has to give notice of loss when claiming an indemnity. This will allow FCIC to determine indemnities more timely and efficiently.

7. Section 9.—If the acreage, share or practice reported results in a premium less than the acreage, share or practice actually planted, allow the guarantee only on the acreage, share or practice reported. When acres are underreported, the production from all acres will be applied against the reported acres in calculating indemnities. This change will reduce the complexity of calculations and reduce the indemnities to those producers underreporting after planting.

Add provisions to prodive a method of calculating production to count for harvested and appraised production when claiming an indemnity.

Increase from 10 acres or 10 percent to 20 acres or 20 percent the acreage required to be replanted to qualify for a replant payment; clarify that the percentage to be replanted is computed on the acreage initially planted on the unit as of the final planting date; and delete the requirement that the payment be considered an indemnity except for minor coverage requirements. This reduces the number of inspections by eliminating small replant payments and paperwork.

Clarify the stage in determining a replanting payment.

8. Section 15.c.—Add a clause to cancel the contract if production history is not furnished by the cancellation date. An exception will be allowed if the insured can show, prior to the cancellation date, that records are unavailable due to conditions beyond the insured's control. This clause is

required by the proposed change to mandatory APH.

Change cancellation date from July 15 to August 31 in Arizona and Imperial County, California. Add a November 30 termination date for all other California counties. These changes are made to more closely conform to practices in these areas.

9. Section 17.—Add definitions for the terms "ASCS", "Loss ratio", and "Normal stand".

Amend the "County" definition to clarify that land identified by an ASCS farm serial number and located outside the county will be included in the county.

Amend the "Crop year" and "Harvest" definitions.

FCIC is soliciting public comment on this proposed rule for 30 days after publication in the **Federal Register**. Written comments will be available for public inspection in the Office of the Manager during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 430

Crop insurance, Sugar beets.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1503 *et seq.*), the Federal Crop Insurance Corporation hereby proposes to revise and reissue the Sugar Beet Crop Insurance Regulations (7 CFR Part 430), effective for the 1986 and succeeding crop years in all states, except Arizona and California, and for the 1987 and succeeding crop years for Arizona and California, to read as follows:

PART 430—SUGAR BEET CROP INSURANCE REGULATIONS

Subpart—Regulations for the 1986 and Succeeding Crop Years (1987 and Succeeding Crop Years in California and Arizona)

Sec.

430.1 Availability of sugar beet crop insurance.
430.2 Premium rates, production guarantees, coverage levels, and prices at which indemnites shall be computed.
430.3 OMB controls numbers.
430.4 Creditors.
430.5 Good faith reliance on misrepresentation.
430.6 The contact.
430.7 The application and policy.

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

Subpart—Regulations for the 1986 and Succeeding Crop Years (1987 and Succeeding Crop Years in California and Arizona)

§ 430.1 Availability of sugar beet crop insurance.

Insurance shall be offered under the provisions of this subpart on sugar beets in counties within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation.

§ 430.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for sugar beets which will be included in the actuarial table on file in the applicable service offices for the county and which may be changed from year to year.

(b) At the time the application for insurance is made, the applicant will elect a coverage level and price at which indemnities will be computed from among those levels and prices contained in the actuarial table for the crop year.

§ 430.3 OMB control numbers.

The OMB control numbers are contained in Subpart H of Part 400, Title 7 CFR.

§ 430.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, involuntary transfer or other similar interest shall not entitle the holder of the interest to any benefit under the contract.

§ 430.5 Good faith reliance on misrepresentation.

Notwithstanding any other provisions of the sugar beet insurance contract, whenever: (a) an insured under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation: (1) Is indebted to the Corporation for additional premiums; or (2) has suffered a loss to a crop which is not insured or for which the insured is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured believed to be insured, or believed the terms of the insurance contract to have been complied with or waived; and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000.00, finds that: (1) an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action to give erroneous advice; (2) said insured relied thereon in good faith; and (3) to require the payment of additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured shall be granted relief the same as if otherwise entitled thereto. Requests for relief under this section must be submitted to the Corporation in writing.

§ 430.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the sugar beet crop as provided in the policy. The contract shall consist of the application, the policy, and the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. The forms referred to in the contract are available at the applicable service offices.

§ 430.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's share in the sugar beet crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the service office on or before the applicable sales closing date on file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any county upon its determination that the insurance risk is excessive, and also, for the same reason, may reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the sales closing date for submitting applications in any county, by placing the extended date on file in the applicable service offices and publishing a notice in the **Federal Register** upon the manager's determination that no adverse selectivity will result during the extended period. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1986 and succeeding crop years, a contract in the form provided for in this subpart will come

into effect as a continuation of a sugar beet contract issued under such prior regulations, without the filing of a new application.

(d) The application for the 1986 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR § 400.37, § 400.38) and may be amended from time to time for subsequent crop years. The provisions of the Sugar Beet Crop Insurance Policy for the 1986 and succeeding crop years (1987 and succeeding crop years in California and Arizona) are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Sugar Beet—Crop Insurance Policy

(This is a continuous contract. Refer to section 15.)

Agreement to Insure: We will provide the insurance described in this polity in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us," and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Cause of Loss.

a. The insurance provided in against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;

(2) Fire;

(3) Insects;

(4) Plant disease;

(5) Wildlife;

(6) Earthquake;

(7) Volcanic eruption; or

(8) If applicable, failure of the irrigation water supply due to an unavoidable cause occurring after the beginning of planting;

unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(7).

b. We will not insure againat any loss of production due to:

(1) The neglect, mismanagement, or wrongdoing of you, any member of your household, your tenants, or employees;

(2) The failure or breakdown of irrigation equipment or facilities;

(3) The failure to follow recognized good sugar beet irrigation practices;

(4) The failure to follow recognized good sugar beet farming practices;

(5) The impoundment of water by any governmental, public, or private dam or reservoir project; or

(6) Any cause not specified in section 1a as an insured loss.

2. Crop, Acreage, and Share Insured.

a. The crop insured will be sugar beets grown under a contract with a processor for processing as sugar, which are grown on insured acreage and for which a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year will be sugar beets planted on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we elect.

c. The insured share is your share as landlord, owner-operator, or tenant in the insured sugar beets at the time of planting. However, only for the purpose of determining the amount of indemnity, your share will not exceed your share on the earlier of:

(1) The time of loss; or

(2) The beginning of harvest.

d. We do not insure any acreage:

(1) If the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(2) Which is irrigated and an irrigated practice is not provided for in the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(3) Which is destroyed, it is practical to replant to sugar beets and such acrease is not replanted;

(4) Initially planted after the final planting date contained in the actuarial table, unless you agree, in writing, on our form to coverage reduction;

(5) Of sugar beets not grown under a contract executed with a processor or excluded from the processor contract for, or during, the crop year (The contract must be executed and effective before you report your acreage);

(6) Planted to a type or variety of sugar beets not established as adapted to the area or excluded by the actuarial table:

(7) Planted to sugar beets:

(a) The preceding crop year in Michigan Minnesota, North Dakota, and Ohio unless the acreage is designated as insurable by the actuarial table; or

(b) The two preceding crop years in all other states unless the acreage is designated as insurable by the actuarial table;

(8) In California except Imperial county, planted before filing of the application until a normal stand is obtained;

(9) Of volunteer sugar beets; or

(10) Planted with another crop.

e. If insurance is provided for an irrigated practice you must report as irrigated only the acreage for which you have adequate facilities and water, at the time of planting, to carry out a good sugar beet irrigation practice.

f. Acreage which is planted for the development or production of hybrid seed or for experimental purposes is not insured, unless we agree, in writing, to insure such acreage.

g. We may limit the insured acreage to any acreage limition established under any Act of Congress if we advise you of the limit prior to planting.

3. Report of Acreage, Share, and Practice.

You must report on our form:

a. All the acreage of sugar beets in the county in which you have a share;

b. The practice; and

c. Your share at the time of planting.

You must designate separately any acreage that is not insurable. You must report if you do not have a share in any sugar beets planted in the county. This report must be submitted annually on or before the reporting date established by the actuarial table. All indemnities may be determined on the basis of information you submit on this report. If you do not submit this report by the reporting date, we may elect to determine, by unit, the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production Guarantees, Coverage Levels, and Prices for Computing Indemnities.

a. The production guarantees, coverage levels, and prices for computing indemnities are contained in the actuarial table.

b. The second stage production guarantees are in the actuarial table.

The first stage guarantee is 60 percent of the second stage guarantee. The stages are:

(1) First state is from planting until July 1 except in California and Arizona where the first state is from planting until the earlier of thinning or 90 days after planting. The first stage also applies to any acreage damaged in the first stage to the extent that growers in the area generally would not further care for the sugar beets;

(2) Second stage applies to all insured sugar beets after the first stage.

The production guarantee applicable to any acreage within a unit will be that established for the stage reached by the sugar beets on that acreage.

c. Coverage level 2 will apply if you do not elect a coverage level.

d. You may change the coverage level and price election on or before the sales closing date as established by the actuarial table for submitting applications for the crop year.

5. Annual Premium

a. The annual premium is earned and payable at the time of planting.

The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting.

b. Interest will accure at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. If you are eligible for a premium reduction in excess of 5 percent based on your insuring experience through the 1984 crop year (1985 crop year in California and Arizona) under the terms of the experience table contained in the sugar beet policy in effect for the 1985 crop year (1986 crop year in California and Arizona), you will continue to receive the benefit of that reduction subject to the following conditions:

(1) No premium reduction will be retained after the 1990 (1991 crop year in California and Arizona) crop year;

(2) The premium reduction will not increase because of favorable experience;

(3) The premiun reduction will decrease because of unfavorable experience in accordance with the terms of the policy in effect for the 1985 crop year (1986 crop year in California and Arizona);

(4) Once your loss ratio exceeds .80, no further premium reduction will apply; and

(5) Participation must be continuous.

6. Deductions for Debt.

Any unpaid amount due us may be deducted from any indemnity payable to you, or from a replanting payment if the billing date has passed on the date you are paid the replanting payment, or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance Period.

Insurance attaches when the sugar beets are planted and ends at the earliest of:

a. total destruction of the sugar beets;

b. harvest of the unit;

c. final adjustment of a loss; or

d. the following calendar date:

(1) July 15 for Arizona and Imperial County, California;

(2) The last day of the 12th calendar month after the date of planting on the unit in all other California counties, unless a request for extension of the insurance period is received before such date and we approved the request;

(3) November 25 in Ohio; and

(4) November 15 in all other states.

8. Notice of Damage or Loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) You want our consent to replant sugar beets damaged due to any insured cause (see subsection 9f);

(b) During the period before harvest, the sugar beets on any unit are damaged and you decide not to further care for or harvest any part of them;

(c) You want our consent to put the acreage to another use; or

(d) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the sugar beets and given written consent. We will not consent to another use until it is too late to replant. You must notify us when such acreage is replanted or put to another use.

(2) You must give us notice of probable loss at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is determined within 15 days of or during harvest, immediate notice must be given and a representative sample of the unharvested sugar beets (at least 10 feet wide and the entire length of the field) must remain unharvested for a period of 15 days from the date of notice unless we give you written consent to harvest the sample.

(4) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, you must give us notice not later than 10 days after the earliest of:

(a) Total destruction of the sugar beets on the unit;

(b) Harvest of the unit; or

(c) The calendar date for the end of the insurance period.

b. You may not destroy or replant any of the sugar beets on which a replanting payment will be claimed until we give written consent.

c. You must obtain written consent from us before you destroy any of the sugar beets which are not to be harvested.

d. We may reject any claim for indemnity if you fail to comply with any of the requirements of this section or section 9.

9. Claim for Indemnity.

a. Any claim for indemnity on a unit must be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the sugar beets on the unit;

(2) Harvest of the unit; or

(3) The calendar date for the end of the insurance period.

b. We will not pay any indemnity unless you:

(1) Establish the total production of sugar beets on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of sugar beets to be counted (see section 9e);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this result by your share.

d. If the information reported by you under section 3 of the policy results in a lower premium than the actual premium determined to be due, the production guarantee on the unit will be computed on the information reported, but all production from insurable acreage, whether or not reported as insurable, will count against the production guarantee.

e. The total production (in tons) to be counted for a unit will include all harvested and appraised production.

(1) Any harvested production of undamaged sugar beets will be determined by:

(a) Dividing the average percentage of sugar in such sugar beets, by the percentage of sugar shown in the actuarial table; and

(b) Multiplying the results (rounded to three places) by the tons of such sugar beets.

The average percentage of sugar will be determined by the processor from individual tests taken at the time of delivery. If individual tests of sugar content are not made at the time of delivery, the factor will be 1.000.

(2) The production to count from acreage damaged due to insurable causes occurring within the insurance period, will be determined by:

(a) Dividing the gross amount received for the damaged sugar beets (including cooperative stock, patronage refunds, dollar values, etc.) by the applicable price per pound of sugar;

(b) Dividing that result by 2,000; and

(c) Dividing that result by the factor contained in the actuarial table for that purpose.

The applicable price per pound for sugar will be the local market price on the earlier of:

(i) The day the loss is adjusted; or

(ii) The day the damaged sugar beets are sold. If the price per pound received for the damaged sugar beets is less than the highest average amount paid by the processor to any producer for sugar beets which were damaged by the cause of loss as claimed by you, you will be considered to have received that average amount per pound in determining the gross amount received.

(3) Appraised production to be counted will include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good sugar beet farming practices;

(b) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause;

(c) Only the appraised production in excess of the difference between the first and second stage production guarantee for acreage not covered by (a) and (b) of this subsection (3) and which does not qualify for the second stage guarantee will be counted except as provided in (d) of this subsection (3); and

(d) The total appraisal for uninsured causes.

(4) There will be no adjustment for quality on any appraisal.

(5) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use will be considered production unless such acreage is:

(a) Not put to another use before harvest of sugar beets becomes general in the county and reappraised by us;

(b) Further damaged by an insured cause and reappraised by us; or

(c) Harvested.

(6) The amount of production of any harvested or unharvested sugar beets may be determined on the basis of field appraisals or inspections conducted after the end of the insurance period.

(7) If you elect to exclude hail and fire as insured causes of loss and the sugar beets are damaged by hail or fire, appraisals will be made in accordance with Form FCI-78, "Request to Exclude Hail and Fire."

f. A replanting payment may be made on any insured sugar beets replanted after we have given consent and the acreage replanted is at least the lesser of 20 acress or 20 percent of the insured acreage for the unit, (as determined on the final planting date).

(1) No replanting payment will be made on acreage:

(a) On which our appraisal exceeds 90 percent of the second stage guarantee;

(b) Initially planted prior to the date established by the actuarial table; or

(c) On which a replanting payment has been made during the current crop year.

(2) The replanting payment per acre will be your actual cost per acre for replanting, but will not exceed one ton multiplied by the price election times your share.

If the information reported by you results in a lower premium than the actual premium determined to be due, the replanting payment will be reduced proportionately.

g. You must not abandon any acreage to us.

h. You may not sue us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7

U.S.C. 1508(c). You must bring suit within 12 months of the data notice of denial is received by you.

i. We have a policy for paying your indemnity within 30 days of our approval of your claim, or entry of a final judgment against us. We will, in no instance, be liable for the payment of damages, attorney's fees, or other charges in connection with any claim for indemnity whether we approve or disapprove such claim. We will, however, pay simple interest computed on the net indemnity ultimately found to be due by us or by a final judgement from and including the 61st day after the date you sign, date, and submit to us the properly completed claim for indemnity form, if the reason for our failure to timely pay is not due to your failure to provide information or other material necessary for the computation or payment of the indemnity. The interest rate will be that established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and published in the **Federal Register** semiannually on or about January 1 and July 1. The interest rate to be paid on any indemnity will vary with the rate announced by the Secretary of the Treasury.

j. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the sugar beets are planted for any crop year, any indemnity will be paid to the persons determined to be beneficially entitled thereto.

k. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of the amount.

(1) Of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) By which the loss from fire exceeds the indemnity paid or payable under such other insurance.

For the purpose of this section, the amount of loss from fire will be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or Fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract. Such voidance will be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of Right to Indemnity on Insured Share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be made on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee will have all rights and responsibilities under the contract.

12. Assignment of Indemnity.

You may assign to another party your right to an indemnity for the crop year, only on our form and with our approval. The assignee will have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such right. If we pay you for your loss, then your right of recovery will at our option belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and Access to Farm.

"You must keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale, or other disposition of all sugar beets produced on each unit, including separate records showing the same information for production from any uninsured acreage. Failure to keep and maintain such records may, at our option, result in cancellation of the contract prior to the crop year which the records apply, assignment of production to units by us, or a determination that no indemnity is due. Any person designated by us will have access to such records and the farm for purposes related to the contract.

15. Life of Contract: Cancellation and Termination.

a. This contract will be in effect for the crop year specified on the application and may not be canceled by you for such crop year. Thereafter, the contract will continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceeding such crop year.

c. Prior to cancellation date you must:

(1) Furnish to us satisfactory production records for the crop year or the contract will be cancelled for the next crop year; or

(2) Show to our satisfaction that the records are not available because of conditions beyond your control, such as fire, flood, or other natural disaster. (If this subsection (2) applies, the Field Actuarial Office may assign a yield for the year for which the records are unavailable.)

d. This contract will terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due if deducted from:

(1) An indemnity will be the date you sign this claim; or

(2) Payment under another program administered by the United States Department of Agriculture will be the date both such other payment and setoff are approved.

e. The cancellation and termination dates are:

State and county	Cancellation	Termination date
Imperial County, CA; and Arizona.	August 31	August 31
All other California counties	July 15	November 30
All other states	April 15	April 15

f. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death or one of the persons will dissolve the joint entity.

g. The contract will terminate if no premium is earned for 5 consecutive years.

16. Contract Changes.

We change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by:

a. December 31 preceding the cancellation date for counties with an April 15 cancellation date;

b. April 30 preceding the cancellation date for all other counties.

Acceptance of any change will be conclusively presumed in the absence of notice from you to cancel the contract.

17. Meaning of Terms.

For the purposes of sugar beet crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding sugar beet insurance in the county.

b. "ASCS means the Agricultural Stabilzation and Conservation Service of the United States Department of Agriculture.

c. "County" means:

(1) The county shown on the application;

(2) Any additional land located in a local producing area bordering on the county, as shown by the actuarial table; and

(3) Any land identified by an ASCS farm serial number for the county but physically located in another county within the State.

d. "Crop year" means the period within which the sugar beets are normally grown and will be designated by the calendar year in which the sugar beets are normally harvested; however, in California and Arizona, it will be the period from planting until the applicable date for the end of the insurance period and will be designated by:

(1) The calendar year in which planted if planted on or before July 15; or

(2) The next calendar year if planted After July 15.

e. "Harvest" means the completion of topping and lifting of sugar beets on any acreage for delivery to a processor.

f. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

g. "Insured" means the person who submitted the application accepted by us.

h. "Loss ratio" means your ratio of indemnity to premium.

i. "Normal stand" means the number of live plants after thinning required to produce an average yield per acre for the area.

j. "Person" means an individual, partnership, association, corporation, estate, trust, or other legal entity, and whereever applicable, a State, a political subdivision of a State, or any agency thereof.

k. "Replanting" means performing the cultural practices necessary to replant insured acreage to sugar beets.

l. "Service office" means the ofice servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

m. "Tenant" means a person who rents land from another person for a share of the sugar beets or a share of the procees therefrom.

n. "Unit" means all insurable acreage of sugar beets in the county on the date of planting for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the sugar beets on such land will be considered as owned by the lessee. Land which would otherwise be on unit may be divided according to applicable guidelines on file in your service office. Units will be determined when the acreage is reported. Errors in reporting units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. Descriptive Headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy will be made by us. If you disagree wth our determinations, you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Done in Washington, DC, on October 3, 1985.

Edward Hews,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 85-30468 Filed 12-24-85; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Parts 434 and 436

[Amdt. No. 1; Docket No. 2578S]

Tobacco (Guaranteed Production Plan) Crop Insurance Regulations and Tobacco (Dollar Plan) Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Tobacco (Guaranteed Production Plan) Crop Insurance Regulations (7 CFR Part 436), effective for the 1986 and succeeding crop years, by expanding the provisions of these regulations to incorporate insurance procedures for tobacco types 11, 12, 13, and 14, formerly insured under the Tobacco (Dollar Plan) Crop Insurance Regulations 7 CFR Part 434, and terminate the Dollar Plan effective for the 1986 crop year. The intended effect of this rule is to: (1) Broaden the provisions of the Guaranteed Plan regulations by combining the procedures for insuring tobacco under the Guaranteed Plan and Dollar Plan and terminating the Dollar Guaranteed Plan of insurance; (2) Add end of insurance period dates by tobacco type; (3) Shorten the length of time an insured has to give notice when claiming an indemnity; (4) Add the requirement that stalks of certain tobacco types not be destroyed without consent; (5) Change the cancellation and termination dates for some states and counties; and (6) Redefine "Market price" to clarify its meaning. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than January 27, 1986, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation No. 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is August 1, 1989.

Merritt W. Sprague, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order No. 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) Major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) Significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

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

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

The current regulations for insuring tobacco under the guaranteed dollar plan are contained in 7 CFR Part 434. FCIC has determined to propose conversion to Actual Production History (APH) on all crops except those under GYC-GYC/IYC plans. Under the Actual Production History (APH) program, the regulations for insuring tobacco under the dollar plan are only slightly different from those for insuring tobacco under the guaranteed production plan of insurance found in 7 CFR Part 436. The proposed conversion to APH would mean that the dollar plan would no longer apply, since this insurance is offered on a dollar guarantee rather than a production guarantee. Therefore, it is

proposed that both policies for insuring tobacco be combined into one differentiating the separate types of tobacco where necessary, effective for the 1986 and succeeding crop years.

In order to more effectively administer the tobacco crop insurance program with regard to these two plans of insurance, FCIC proposes to incorporate those provisions applying to types 11, 12, 13, and 14 tobacco into the policy provisions contained herein through the following changes:

1. Section 7—Add end of the insurance period dates by tobacco type.

2. Section 8—Specify 5 days for inspection of tobacco not sold through auction warehouses prior to its sale or other disposition if an indemnity is to be claimed.

Add a clause requiring insureds to leave tobacco stalks standing in field for inspection on any unit of tobacco of types 11, 12, 13, or 14 on which an indemnity is to be claimed after harvest is completed.

Shorten from 30 days to 10 days the time an insured has to give notice of loss when claiming an indemnity. This will allow FCIC to determine indemnities more timely and efficiently.

3. Section 9—Add a clause to enable FCIC to determine the fair market value or tobacco not sold through auction warehouses, by inspecting such tobacco before it is sold, contracted to be sold, or otherwise disposed of.

Add a provision to appraise acreage of tobacco types 11, 12, 13, or 14, at not less than the guarantee, if stalks are destroyed prior to our written consent.

4. Section 15—Add March 31 cancellation and termination dates for some states and counties.

8. Section 17—Amend the "Market price" definition to specify location.

FCIC is soliciting public comment on this proposed rule for 30 days after publication in the **Federal Register.** Written comments received pursuant to this proposed rule will be available for public inspection in the Office of the Manager, Room 4096, South Building, U.S. Department of Agriculture, Washington, DC 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Parts 434 and 436

Crop Insurance; Tobacco (Dollar Plan and Guaranteed Production Plan).

Proposed Rule

PART 434—[AMENDED]

(a) Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501, *et seq.*), the Federal Crop Insurance Corporation hereby proposes to amend the subpart heading to the Tobacco (Dollar Plan) Crop Insurance Regulations (7 CFR Part 434), as follows:

1. The Authority Citation for 7 CFR Part 434 continues to read as follows:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. The subpart heading in 7 CFR Part 434 is revised to read as follows:

Subpart—Regulations for the 1985 Crop Year

Proposed Rule

PART 436—[AMENDED]

(b) Pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501, *et seq.*), the Federal Crop Insurance Corporation hereby proposes to amend the Tobacco (Guaranteed Production Plan) Crop Insurance Regulations (7 CFR Part 436), effective for the 1986 and succeeding crop years, in the following instances:

1. The Authority citation for 7 CFR Part 436 continues to read as follows:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. 7 CFR 436.7(d) is revised to read as follows:

§ 436.7 The application and policy.

* * * * *

(d) The application for the 1986 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37, 400.38) and may be amended from time to time for subsequent crop years. The provisions of the Tobacco (Guaranteed Production Plan) Insurance Policy for the 1986 and succeeding crop years are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Guaranteed Production Plan of Tobacco—Crop Insurance Policy

(This is a continuous contract. Refer to section 15.)

Agreement To Insure: We will provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us," and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of Loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;

(2) Fire;

(3) Insects;

(4) Plant disease;

(5) Wildlife;

(6) Earthquake;

(7) Volcanic eruption; or

(8) If applicable, failure of the irrigation water supply due to an unavoidable cause occurring after the beginning of planting; unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(7).

b. We will not insure against any loss of production due to:

(1) The neglect, mismanagement, or wrongdoing of you, any member of your household, your tenants, or employees;

(2) The failure to follow recognized good tobacco farming practices;

(3) The failure or breakdown of irrigation equipment or facilities;

(4) The failure to follow recognized tobacco irrigation practices;

(5) The impoundment of water by any governmental, public, or private dam or reservoir project; or

(6) Any cause not specified in section 1a as an insured loss.

2. Crop, Acreage, and Share Insured.

a. The crop insured will be tobacco of the type shown as insurable in the actuarial table, which is grown on insured acreage, and for which a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year will be tobacco planted on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we elect.

c. The insured share is your share as landlord, owner-operator, or tenant in the insured tobacco at the time of planting.

d. We do not insure any acreage:

(1) If the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(2) On which the tobacco was destroyed for the purpose of conforming with any other program administered by the United States Department of Agriculture;

(3) Which is destroyed, it is practical to replant to tobacco, and such acreage is not replanted;

(4) Initially planted after the final planting date contained in the actuarial table unless you agree, in writing, on our form to coverage reduction;

(5) Planted to tobacco of a discount variety under the provision of the tobacco price support program;

(6) Planted to a type or variety of tobacco not established as adapted to the area or excluded by the actuarial table;

(7) Designated as uninsurable by the actuarial table; or

(8) Tobacco planted for experimental purposes.

e. If insurance is provided for an irrigated practice you must report as irrigated only the acreage for which you have adequate facilities and water, at the time of planting, to carry out a good tobacco irrigation practice.

(f) We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

3. Report of Acreage, Share, and Practice.

You must report on our form:

a. All the acreage of insurable types of tobacco in the county in which you have a share;

b. The practice; and

c. Your share at the time of planting.

You must designate separately any acreage that is not insurable. You must report if you do not have a share in any tobacco planted in the county. This report must be submitted annually on or before the reporting date established by the acturial table. All indemnities may be determined on the basis of information you submit on this report. If you do not submit this report by the reporting date, we may elect to determine, by unit, the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production Guarantees, Coverage Levels, and Prices for Computing Indemnities.

a. The production guarantees, coverage levels, and prices for computing indemnities are contained in the acturial table.

b. The production guarantee will be reduced by 35 percent for any unharvested acreage.

c. Coverage level 2 will apply if you do not elect a coverage level.

d. You may change the coverage level and price election on or before the sales closing date as established by the actuarial table for submitting applications for the crop year.

5. Annual Premium.

a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting.

b. Interest will accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. If you eligible for a premium reduction in excess of 5 percent based on your insuring experience through the 1983 crop year under the terms of the experience table contained in the tobacco policy for the 1984 crop year, you will continue to receive the benefit of that reduction subject to the following conditions:

(1) No premium reduction will be retained after the 1989 crop year;

(2) The premium reduction will not increase because of favorable experience;

(3) The premium reduction will decrease because of unfavorable experience in accordance with the terms of the policy in effect for the 1984 crop year;

(4) Once the loss ratio exceeds .80, no further premium reduction will apply; and

(5) Participation must be continuous.

6. Deductions for Debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance Period.

Insurance attaches when the tobacco is planted and ends at the earliest of:

a. Total destruction of the tobacco;

b. Weighing-in at the tobacco warehouse;

c. Removal of the tobacco from the unit (except for curing, grading, packing, or immediate delivery to the tobacco warehouse);

d. Final adjustment of a loss; or

e. The following dates immediately after the normal harvest period:

(1) Types 11 and 12:..... November 30;
(2) Type 13..... October 31;
(3) Type 14.....September 30;
(4) Type 36.....January 31;
(5) Type 35.....February 28;
(6) Types 21, 22, 23, 37, 54, and 55...March 31;
(7) All other types.....April 30.

8. Notice of Damage or Loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) During the period before harvest, the tobacco on any unit is damaged and you decide not to further care for or harvest any part of it;

(b) You want our consent to put the acreage to another use; or

(c) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the tobacco and given written consent. We will not consent to another use until it is too late to replant. You must notify us when such acreage is put to another use.

(2) You must give us notice of probable loss at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) For any unit of tobacco other than types 11, 12, 13, or 14, if probable loss is determined within 15 days prior to or during harvest, immediate notice must be given and a representative sample of the unharvested tobacco (at least 10 feet wide and the entire length of the field) must remain unharvested for a period of 15 days from the date of notice unless we give you written consent to harvest the sample.

(4) Notice must be given immediately if any insured tobacco is destroyed or damaged by fire during the insurance period.

(5) If tobacco is not to be sold through auction warehouses and an indemnity is to be claimed, notice must be given to allow us 5 days to inspect the cured tobacco prior to its sale or other disposition.

(6) For any unit of tobacco of types 11, 12, 13, or 14 on which an indemnity is to be claimed and the tobacco stalks are to be destroyed notice of loss must be given to us upon completion of harvest. The tobacco stalks must not be destroyed until we give consent.

(7) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, you must give us notice not later than 10 days after the earliest of:

(a) Total destruction of the tobacco on the unit;

(b) The date marketing or other disposal of the insured tobacco is completed on the unit; or

(c) The calendar date for the end of the insurance period.

b. You must obtain written consent from us before you destroy any of the tobacco which is not to be harvested.

c. We may reject any claim for indemnity if you fail to comply with any of the requirements of this section or section 9.

9. Claim For Indemnity.

a. Any claim for indemnity on a unit must be submitted to use on our form not later than 60 days after the earliest of:

(1) Total destruction of the tobacco on the unit;

(2) The date marketing or other disposal of the insured tobacco on the unit is completed; or

(3) The calendar date for the end of the insurance period.

b. We will not pay any indemnity unless you:

(1) Establish the total production of tobacco on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of tobacco to the counted (see section 9e);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this product by your share.

d. If the information reported by you under section 3 of the policy results in a lower premium than the actural premium determined to be due, the production guarantee on the unit will be computed on the information reported, but all production from insurable acreage, whether or not reported as insurable, will count against the production guarantee.

e. The total production to be counted for a unit will include all harvested and appraised production.

(1) Harvested tobacco production which, due to insurable causes, has a value less than the market price for tobacco of the same type, will be adjusted by:

(a) Dividing the value per pound by the market price per pound; and

(b) Multiplying the product by the number of pounds of such tobacco.

(2) To enable us to determine the fair market value of tobacco not sold through auction warehouses, we must be given the opportunity.

(a) To inspect such tobacco before it is sold, contracted to the sold, or otherwise disposed of, and

(b) At our option to obtain additional offers on your behalf.

(3) Appraised production to be counted will include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good tobacco farming practices;

(b) Not less than the guarantee for any acreage which is abandoned, damaged solely by an uninsured cause, or put to another use without our prior written consent; and

(c) Only the appraisal in excess of 35 percent of the production guarantee for all other unharvested acreage.

(4) We may make an appraisal of not less than the guarantee per acre for any acreage of tobacco types 11, 12, 13, and 14 on which the stalks have been destroyed prior to our consent.

(5) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use will be considered production unless such acreage is:

(a) Not put to another use before harvest of tobacco becomes general in the county and reappraised by us;

(b) Further damaged by an insured cause and appraised by us; or

(c) Harvested.

(6) The amount of production of any unharvested tobacco may be determined on the basis of field appraisals conducted after the end of the normal harvest period.

(7) If you elect to exclude hail and fire as insured causes of loss and the tobacco is damaged by hail or fire, appraisals will be made in accordance with Form FCI-78, "Request to Exclude Hail and Fire."

f. You must not abandon any acreage to us.

g. You may not sue us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is received by you.

h. We have a policy for paying your indemnity within 30 days of our approval of your claim, or entry of a final judgment against us. We will, in no instance, be liable for the payment of damages, attorney's fees, or other charges in connection with any claim for indemnity, whether we approve or disapprove such claim. We will, however, pay simple computed on the net indemnity ultimately found to be due by us or by a final judgment from and including the 61st day after the date you sign, date, and submit to us the properly completed claim for indemnity form, if the reason for our failure to timely pay is not due to your failure to provide information or other material necessary for the computation or payment of the indemnity. The interest rate will be that established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and published in the **Federal Register** semiannualy on or before January 1, and July 1. The interest rate to be paid on any indemnity will vary with the rate announced by the Secretary of the Treasury.

i. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the tobacco is planted for any crop year, any indemnity will be paid to the persons determined to be beneficially entitled thereto.

j. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of the amount:

(1) Of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) By which the loss from fire exceeds the indemnity paid or payable under such other insurance.

For the purpose of this section, the amount of loss from fire will be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or Fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract. Such voidance will be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of Right to Indemnity on Insured Share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee will have all rights and responsibilities under the contract.

12. Assignment of Indemnity.

You may assign to another party your right to an indemnity for the crop year, only on our form and with our approval. The assignee will have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or part of your loss from someone other than us, you must do all you can to preserve any such right. If we pay you for your loss, then your right of recovery will at our option belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and Access To Farm.

You must keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale, or other disposition of all tobacco produced on each unit, including separate records showing the same information for production from any uninsured acreage. Failure to keep and maintain such records may, at our option, result in cancellation of the contract prior to the crop year to which the records apply, assignment of production to units by us, or a determination that no indemnity is due. Any person designated by us will have access to such records and the farm for purposes related to the contract.

15. Life of Contract: Cancellation and Termination.

a. This contract will be in effect for the crop year specified on the application and may not be canceled by you for such crop year. Thereafter, the contract will continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. Prior to the cancellation date you must:

(1) Furnish to us, satisfactory production records for the crop year or the contract will be cancelled for the next crop year; or

(2) Show to our satisfaction that the records are not available because of conditions beyond your control, such as fire, flood, or other natural disaster. (If this subsection (2) applies, the Field Actuarial Office may assign a yield for the year for which the records are unavailable.)

d. This contract will terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due if deducted from:

(1) An indemnity will be the date you sign the claim; or

(2) Payment under another program administered by the United States Department of Agriculture will be the date both such other payment and setoff are approved.

e. The cancellation and termination dates are:

State and county	Cancellation and termination dates
Alabama; Florida; Georgia; Surry, Wilkes, Caldwell, Burke; and Cleveland Counties, North Carolina and all North Carolina counties east thereof; and South Carolina.	March 31.
All other North Carolina counties and all other states.	April 15.

f. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, or dissolution. If such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

g. The contract will terminate if no premium is earned for 5 consecutive years.

16. Contract Changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by December 31 preceding the cancellation date. Acceptance of any change will be conclusively presumed in the absence of notice from you to cancel the contract.

17. Meaning of Terms.

For the purposes of guaranteed tobacco crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding tobacco insurance in the county.

b. "ASCS" means the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

c. "County" means:

(1) The county shown on the application;

(2) Any additional land located in a local producing area bordering on the county, as shown by the actuaril table; and

(3) Any land identified by an ASCS farm serial number for the county even though physically located in another county within the state.

d. "Crop year" means the period within which the tobacco is normally grown and will be designated by the calendar year in which the tobacco is normally harvested.

e. "Harvest" means the completion of cutting or priming of tobacco on any acreage from which at least 20 percent of the production guarantee per acre shown by the actuarial table is cut or primed.

f. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

g. "Insured" means the person who submitted the application accepted by us.

h. "Loss ratio" means the ratio of indemnity to premium.

i. "Market price" means the average price determined by us for the applicable type of tobacco. Such price will be the:

(1) Average price in the belt or area for the preceding crop year for any unit which is not to be harvested; or

(2) The average price in the belt or area for the current crop year for any unit or part thereof which is harvested.

j. "Person" means an individual, partnership, association, corporation, estate, trust, or other legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

k. "Planting" means transplanting the tobacco plant from the bed to the field.

l. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

m. "Tenant" means a person who rents land from another person for a share of the tobacco or a share of the proceeds therefrom.

n. "Unit" means all insurable acreage of an insurable type of tobacco in the county in which you have an insured share on the date of planting for the crop year and which is identified by a single ASCS farm serial number of the time insurance first attaches under this policy for the crop year. Units will be determined when the acreage is reported. We may reject or modify any ASCS reconstitution for the purpose of unit definition if the reconsitution was in whole or in part to defeat the purpose of the Federal Crop Insurance Program or to gain disproportionate advantage under this policy. Errors in reporting units may be corrected by us when adjusting a loss.

18. Descriptive Headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Done in Washington, DC on November 18, 1985.

Edward Hews,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 85-30467 Filed 12-24-85; 8:45 am]

BILLING CODE 3410-08-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-NM-130-AD]

Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to amend an existing airworthiness directive applicable to certain Boeing Model 727 series airplanes, which currently requires an initial inspection of the forward entry doorway forward frame prior to 25,000 landings and repair, if necessary. Since issuance of that AD, frames have been found to crack sooner than originally determined. This proposed AD would require the initial inspection to be performed prior to 15,000 landings. This action is necessary to ensure the structural integrity of the forward entry doorway.

DATES: Comments must be received on or before February 14, 1986.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85-NM-130-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. The 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:

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 light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85-NM-130-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

Amendment 39-4561 (48 FR 5536) AD 83-03-01, was issued on January 26, 1983, to require repetitive inspections beginning at 25,000 landings, and repair, if necessary, of the forward entry doorway forward frame on certain Boeing Model 727 series airplanes. The FAA has determined that a reduction in the compliance time for the initial inspection is necessary because cracks have been detected in three airplanes that have accumulated between 15,000 and 25,000 landings. Since this condition is likely to exist in other aircraft of the same type design, this amendment is proposed to reduce the time for the initial inspection required in AD 83-03-01 from 25,000 to 15,000 landings. The reduction in compliance time for the initial inspection is necessary to ensure

the structural integrity at the forward entry doorway.

It is estimated that 834 airplanes would be affected by this AD, that it would take approximately 45 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Inspection costs are estimated at $1,800 per airplane. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $1,503,000.

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 727 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List 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. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By amending Airworthiness Directive (AD) 83-03-01, Amendment 39-4561 (48 FR 5536) as follows:

Replace paragraphs A, A.1., and A.2. with the following paragraphs:

A. Visually inspect the forward entry doorway frame for cracks in accordance with Boeing Service Bulletin 727-53-153, dated February 1, 1980, or later FAA-approved revisions, at the earlier of the times indicated in subparagraphs A.1. or A.2., below, and repeat the inspection at intervals not to exceed 3,700 landings:

1. Within the next 1,850 landings after March 11, 1983, or prior to accumulating 25,000 landings, whichever occurs later; or

2. Within the next 1,850 landings after the effective date of this amendment, or prior to accumulating 15,000 landings, whichever occurs later.

Issued in Seattle, Washington, on December 17, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85-30400 Filed 12-24-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 85-NM-108-AD]

Airworthiness Directives; British Aerospace Model BAe 125-800A Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require incorporation of a modification to the Electronic Flight Instrument System (EFIS) power supply on certain British aerospace Model BAe 125-800A series airplanes. This action is promoted by a report of overheating in the EFIS power supply. This condition, if not corrected, can lead to loss of electrical power to the EFIS, which can result in loss of certain critical flight instruments.

DATES: Comments must be received on or before February 14, 1986.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85-NM-108-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from British Aerospace, Inc., Box 17414, Dulles International Airport, Washington, DC 20041. This information may also 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:

Comments Invited

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

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85-NM-108-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The Civil Aviation Authority of the United Kingdom (CAA) has classified British Aerospace 125 Service Bulletin 24-248-(3024), dated March 8, 1985, as mandatory. There has been one reported incident of overheating of the heat sink diode assembly which is part of the EFIS electrical power supply. This condition, if not corrected, can lead to loss of the EFIS, which can result in the loss of certain critical flight instruments. Depending upon the power supply utilized, the service bulletin prescribes either: (a) Replacing the existing heat-sink with a new subassembly which will provide better heat dissipation for certain airplanes, or (b) replacing the existing heat-sink subassembly and certain associated power supply cabling for the remaining airplanes.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require the action mentioned above.

The following table lists the number of U.S. registered airplanes that would be affected by this AD and it gives an estimate of the manhours per airplane that it would take to accomplish each of the proposed actions:

Case	No. of Airplanes	Manhours/ Airplane
(a)	2	6
(b)	12	1

Based on an average labor cost of $40 per manhour and the information contained in the table above, the total cost impact of this AD to U.S. operators is estimated to be $960.

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 Transportion 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 of the minimal cost of compliance per airplane (approximately $70.). A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

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. 97–449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive:

British Aerospace

Applies to Model BAe 125–800A series airplanes with maufacturer serial numbers listed in British Aerospace 125 Service Bulletin 24–248–(3024), dated March 8, 1985, certificated in any category. To prevent complete loss of power to the Electronic Flight Instrument System (EFIS), accomplish the following within the next 60 days after the effective date of this AD, unless previously accomplished:

A. Perform the following actions as applicable:

1. For airplanes with manufacturer serial numbers 258003 and 258010, and for airplanes which have utilized power supplies HN1/HP1, the existing heat-sink must be replaced with a new sub-assembly, as described in Part A of the accomplishment instructions of the service bulletin; or

2. If power supplies HN1/HP1 have not been utilized, the existing heat-sink assembly and associated power supply cabling from ground supply contactor "E" on panel GA must be replaced in accordance with Part B of the accomplishment instructions of the service bulletin.

B. Alternative 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 proposed directive who have not already received these documents from the manufacturer may obtain copies upon request to British Aerospace, Inc., Librarian, 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 at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on December 17, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85–30397 Filed 12–24–85 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 85–NM–109–AD]

Airworthiness Directives; British Aerospace Model BAe 125–800A Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require the incorporation of a revised flap microswitch layshaft in the stall identification system on certain British Aerospace Model BAe 125–800A series airplanes. This action is prompted by a report of incorrect assembly, which has caused failure of a flap microswitch layshaft flange in the stall identification system. If not corrected, this condition could result in loss of stall warning.

DATES: Comments must be received on or before February 14, 1986.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85–NM–109–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, D.C. 20041. This information may also 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:

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 light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA–public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85–NM–109–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion

The Civil Aviation Authority of the United Kingdom (CAA) has classified British Aerospace 125 Service Bulletin 25–136–(3059A), Revision 1, dated June 24, 1985, as mandatory. Improper assembly during manufacture has caused a failure of a flap microswitch layshaft flange detail in the stall identification system. This failure could result in loss of the stall warning. The

service bulletin prescribes incoporation of a new layshaft assembly which has revised flange details.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require the action mentioned above.

It is estimated that 20 airplanes of U.S. registry would be affected by this AD, that it would take approximately 8 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $6,400.

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 signifcant 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 of the minimal cost of compliance per airplane ($320). A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List 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. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive:

British Aerospace:

Applies to Model BAe 125-800A series airplanes listed in BAe 125 Service Bulletin 27-136-(3059A), Revision 1, dated June 26, 1985, certificated in any category. To prevent loss of stall warning, accomplish the following within the next 60 days after the effective date of this AD, unless previously accomplished:

A. Incorporate a new layshaft assembly in the stall identification system in accordance with the accomplishment instructions of British Aerospace 125 Service Bulletin 27-136-(3059A), Revision 1, dated June 24, 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 proposed directive who have not already received these documents from the manufacturer may obtain copies upon request to British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, D.C. 20041. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on December 17, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85-30402 Filed 12-24-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 85-AGL-28]

Proposed Transition Area Alteration; Britton, SD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the transition area currently designated for Britton, South Dakota. The present 1200-foot description excludes Gwinner, North Dakota. The intent of this action is to include Gwinner, North Dakota in the description by deleting the words "Gwinner, ND".

DATE: Comments must be received on or before January 27, 1986.

ADDRESS: Send comments on the proposal in triplicate to: Federal Aviation Administration, Regional Counsel, AGL-7, Attn: Rules Docket No. 85-AGL-28, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

An informal docket may also be examined during normal business hours at the Airspace, Procedures, and Automation Branch, Air Traffic Division, Federal Aviation Administration, 2300 East Evon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The Britton, South Dakota transition area is being modified to include Gwinner, North Dakota in the 1200-foot transition area description. As presently described Gwinner, ND is excluded.

The Gwinner, North Dakota 1200-foot and 700-foot transition areas were established in anticipation that an instrument approach procedure would be developed for Gwinner Municipal Airport and that the areas would be needed to ensure the segregation of aircraft utilizing the instrument approach procedure from other aircraft operating under Visual Flight Rules (VFR) while in controlled airspace. That approach procedure was never developed and there is no pending action for any such development. Therefore, the 700-foot area is neither necessary or warranted.

However, the controlling facility for the Gwinner area has identified a requirement to retain the 1200-foot designated airspace for the area. A modification to the Britton transition area by deleting the words "Gwinner, ND" would provide the required 1200-foot floor of controlled airspace in the area after revocation of the Gwinner transition area is published.

The revocation of the Gwinner, North Dakota transition area to eliminate the 700-foot transition area is the subject of Docket No. 85-AGL-27. That docket along with this Britton docket would be processed and charted simultaneously so as to maintain continuity in the 1200-foot controlled airspace.

Aeronautical maps and charts will reflect the area returned to a non-controlled status.

Comments invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental,

and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 85-AGL-28."

The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, DC 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2, which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the designated transition area for Britton, SD.

Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 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 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

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:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

AUTHORITY: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

2. By amending § 71.181 as follows:

Britton, SD

Delete the words "Gwinner, ND" from the 1200-foot transition area description.

Issued in Des Plaines, Illinois, on December 10, 1985.

Monte R. Belger,

Acting Director, Great Lakes Region.

[FR Doc. 85-30403 Filed 12-24-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 85-AGL-26]

Proposed Transition Area Revocation, Grafton, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revoke the transition area currently designated for Grafton, North Dakota and to return the associated 700-foot area to a non-controlled status.

DATE: Comments must be received on or before January 27, 1986.

ADDRESS: Send comments on the proposal in triplicate to: Federal Aviation Administration, Regional Counsel, AGL-7, Attn: Rules Docket No. 85-AGL-26, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Evenue, Des Plaines, Illinois.

An informal docket may also be examined during normal business hours at the Airspace, Procedures, and Automation Branch, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telehpone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The Grafton, North Dakota 1200-foot and 700-foot transition areas were established in anticipation that an instrument approach procedure would be developed for Grafton Municipal Airport and that the areas would be needed to ensure the segregation of aircraft utilizing the instrument approach from other aircraft operating under Visual Flight Rules (VFR) while in controlled airspace. That approach procedure was never developed and there is no pending action for any such development. Therefore, the 700-foot area is neither necessary or warranted.

The controlling facility for the area has identified a requirement to retain the 1200-foot designated airspace for the area. This requirement has been met. Grafton is included in the description for Grand Forks, ND, 1200-foot transition area.

Aeronautical maps and charts will reflect the area returned to a non-controlled status.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with these comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 85 AGL-26." The postcard will be date/time stamped and returned to the Commenter. All communications received before the specified closing date for comments will be considered before taking action on

the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2, which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revoke the designated transition area for Grafton, ND.

Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 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 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

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.

2. By amending § 71.181 as follows:

Grafton, ND [Revoked]

Issued in Des Plaines, Illinois, on December 10, 1985.

Monte R. Belger,

Acting Director, Great Lakes Region.

[FR Doc. 85-30404 Filed 12-24-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 85-ASO-10]

Proposed Revocation of Transition Area, Tallassee, AL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to revoke the transition area whch was predicated on the Tallassee, Alabama, Municipal Airport. The airport has been permanently closed and the instrument approach procedures, which previously established the need for the transition area, have been canceled. This action will raise the base of controlled airspace, within a 6.5-mile radius of the former airport site, from 700 feet to 1,200 feet above the surface.

DATES: Comments must be received on or before: February 20, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Manager, Airspace and Procedures Branch, ASO-530, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Supervisor, Airspace Section, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. ———." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch (ASO-530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) which involves revoking a transition area and raising the base of controlled airspace from 700 feet to 1,200 feet above the surface, within a 6.5-mile radius of the former Tallassee Municipal Airport site. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in FAA Order 7400.6A 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 evaulation 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, Airspace, Transition area.

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 Federal Aviation Regulations (14 CFR Part 71) as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Public Law 97-449, January 12, 1983); [14 CFR 11.65]; 49 CFR 1.47.

§ 71.181 [Amended]

2. By amending § 71.181 as follows:

Tallassee, AL—[Revoked]

By revoking the title and text.

Issued in East Point, Georgia, on December 16, 1985.

J. Stiglin,

Acting Director, Southern Region.

[FR Doc. 85-30405 Filed 12-24-85; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 377

[Docket No. 51298-5198]

Exports of Crude Oil Derived from Alaska's Cook Inlet.

AGENCY: Office of Industrial Resource Administration, International Trade Administration, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: On November 6, 1985, the Secretary of Commerce, with the concurrence of the Secretaries of State, Energy, and Treasury, determined that permitting the export of crude oil derived from Alaska's Cook Inlet is in the national interest and consistent with the purposes of he Energy Policy and Conservtion Act.

Accordingly, the Department of Commerce proposes to revise Part 377 of the Export Administration Regulations (EAR) to permit exports of crude oil derived from Cook Inlet.

Only crude oil derived from state waters in Alask's Cook Inlet and not subject to the restrictions contained in the Export Administration Act of 1979, as amended, Naval Petroleum Reserves Production Act of 1976, Outer Continental Shelf Lands Act, or Mineral Lands Leasing Act of 1920, as amended, will be eligible to be exported under this proposed rule.

DATE: Comments must be submitted on or before February 24, 1986.

ADDRESSES: Send written comments (three copies) to Mr. Rodney A. Joseph, Acting Manager, Short Supply Program, Room 3876, Office Industrail Resource Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230.

The public rulemaking docket may be inspected at the Freedom of Information Records Inspection Facility, International Trade Administration, Room 4104, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230

FOR FURTHER INFORMATION CONTACT: Mr. Rodney A. Joseph, Acting Manager, Short Supply Program, Telephone: 202/377-3984.

SUPPLEMENTARY INFORMATION: On November 6, 1985, Secretary of Commerce Malcolm Baldrige made the following national interest finding:

National Interest Findings for Exports of Crude Oil Derived from Alaska' Cook Inlet

This Administration has concluded that the national interest will be served by permitting the export of crude oil derived from Alaska's Cook Inlet. The benefits that will ensue from these exports include increased incentives for investment in the exploration and development of domestic crude oil, transportation efficiencies, and material enhancements to the energy security of our allies. This initiative will also encourage other countries to remove trade barriers to U.S. goods and services. It does not affect our energy security as we retain the flexibility to react to changes in the world's available oil supply.

Only crude oil derived from Alaska's Cook Inlet and not subject to the restrictions contained in the Export Administration Act of 1979, as amended, Naval Petroleum Production Act of 1976, Outer Continental Shelf Lands Act or Mineral Lands Leasing Act of 1920, as amended, will be eligible to be exported under this initiative. The initiative thus applies to crude oil which is advantageously located for export trade and which is not subject to special statutory provisions on export.

Before any Cook Inlet crude oil may be exported, certain findings and determinations must be made under section 103 of the Energy Policy and Conservation Act (42 U.S.C. 6212). Accordingly, pursuant to authority delegated to the Secretary of Commerce by Executive Order 11912 (41 FR 15825), and based on the consultations with other appropriate U.S. Government officials, I hereby find and detemine that the export of crude oil derived from Alaska's Cook Inlet is in the national interest and consistent with the purposes of the Energy Policy and Conservation Act.

I have directed the International Trade Administration to initiate the necessary rulemaking procedures to implement this decision.

Malcolm Baldridge,

Secretary of Commerce.

This rule proposes to implement that decision by modifying section 377 of the Export Administration Regulations. Under the proposed rule, a new eligibility category would be created—Exports from Alaska's Cook Inlet. Each exporter would be required to submit a license application along with supporting information demonstating that the export qualifies under this new category. No export could be made without the Department of Commerce first issuing an individual validated license.

Only crude oil derived from state waters in Alaska's Cook Inlet and not subject to the restrictions contained in the Export Administration Act of 1979, as amended, Naval Petroleum Reserves Production Act of 1976, Outer Continental Shelf Lands Act, or Mineral Lands Leasing Act of 1920, as amended, will be eligible to be exported under this proposed rule. This excludes domestic crude oil derived from the North Slope or Outer Continental Shelf, or crude oil transported over a federal right-of-way.

Exporters should be aware that any licenses issued will have a term of not greater than one year. Moreover, they should also be aware that outstanding licenses are subject to revocation if

there is serious interruption to available U.S. oil supplies.

In connection with various rulemaking requirements, the Office of Industrial Resource Administration has determined that:

1. This proposed rule is not a major rule within the meaning of section 1 of Executive Order 12291 because it is not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or in the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, preparation of a Regulatory Impact Analysis is not required, and neither a preliminary nor a final Regulatory Impact Analysis has been or will be prepared.

2. Consistent with section 103 of the Energy Policy and Conservation Act, these revisions are being issued in proposed form. Comments from the public on this proposed rule will be considered in formulating a final rule, if received no later than February 24, 1986. Comments received after that date will be considered if possible. All public comments received will be placed in the public rulemaking docket and will be available for public inspection and copying.

In the interest of accuracy and completeness, written comments are preferred. Written comments (three (3) copies) should be sent to the address indicated in the address section above. Oral comments should be directed to Rodney A. Joseph, OIRA, (202) 377-3984. If oral comments are received, the Department of Commerce official receiving such comments will prepare a memorandum summarizing the substance of the comments and identifying the individual making the comments, as well as the person on whose behalf they purport to be made. All such memoranda will be placed in the public rulemaking docket and will be available for public review and copying.

Written comments accompanied by a request that part or all or the material contained be treated confidentially will not be considered in developing the final regulation. Such comments and materials will be returned to the submitter.

Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

The public rulemaking docket concerning this regulation will be maintained in the International Trade Administration's Freedom of Information Records Inspection Facility, at the address indicated in the address section above. Records in this facility may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information pertaining to the inspection and copying of records may be obtained from Ms. Patricia L. Mann, International Trade Administration's Freedom of Information Officer, at the Records Inspection Facility address provided above, or by calling (202) 377-3031.

3. The General Counsel of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small businesses. This is because the proposed rule relieves a U.S. government prohibition on crude oil exports derived from Alaska's Cook Inlet and has no direct or indirect costs of compliance other than a routine licensing requirement. As a result, neither an initial nor final Regulatory Flexibility Analysis has been or will be prepared.

4. This rule contains collections of information requirements subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq*). These collections have been approved by the Office of Management and Budget under control numbers 0625-0001 and 0625-0155.

List of Subjects in 15 CFR Part 377

Exports.

PART 377—SHORT SUPPLY CONTROLS AND MONITORING

Acordingly, Part 377 of Title 15, Code of Federal Regulations, is amended to read as follows:

1. The authority citation for Part 377 continues 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 Dec. 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); Sec. 103, Pub. L. 97-163, as amended, (42 U.S.C. 6212) as amended by Pub. L. 99-58 of July 2, 1985; Sec. 28 Pub. L. 93-153, (30 U.S.C. 185); Sec. 28 Pub. L. 95-372, (43 U.S.C. 1354); E.O. 11912 of April 3, 1976 (41 FR 15825, as amended); Sec. 101 and 201(11)(e) Pub. L. 94-258, (10 U.S.C. 7420 and 7430(e)); and Presidential Findings (50 FR 25189, June 18, 1985).

2. Section 377.6(d)(1)(ix) is added as follows:

§ 377.6 Petroleum and petroleum products.

* * * * *

(d) * * *

(1) * * *

(ix) Exports from Alaska's Cook Inlet. The Group A commodity was derived from the state waters of Alaska's Cook Inlet and has not been and will not be transported by a pipeline over a federal right-of-way granted pursuant to section 28(u) of the Mineral Lands Leasing Act of 1920 or by section 203 of the Trans-Alaska Pipeline Authorization Act.[1]

* * * * *

Issued: December 20, 1985.

John A. Richards, Director,

Office of Industrial Resource Administration.

[FR Doc. 85-30515 Filed 12-24-85; 8:45 am]

BILLING CODE 3300-00-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 4, 6, 10, 12, 19 and 54

Proposal to Eliminate Certain Information Collection Requirements

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: In accordance with the directives of the Paperwork Reduction Act, Customs has reviewed its regulations in an attempt to reduce or eliminate obsolete or burdensome regulatory information collection requirements. That review revealed numerous collection requirements which Customs believes may no longer be necessary. This notice invites comments in regard to this matter before making a final decision as to the retention or deletion of these requirements.

DATE: Comments must be received on or before February 24, 1986.

ADDRESS: Comments (preferably in triplicate) may be submitted to, and inspected at, the Regulations Control Branch, Room 2426, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Herb Geller, Duty Assessment Division, (202-535-4161), or Pat Barbare, Office of Inspection and Control (202-566-8151), U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229.

[1] On November 6, 1985, the Secretary of Commerce determined that the export of crude oil derived from state waters in Alaska's Cook Inlet is consistent with the national interest and the purposes of the Energy Policy and Conservation Act.

SUPPLEMENTARY INFORMATION:

Background

On June 10, 1983, a general notice was published in the **Federal Register** (48 FR 26831), which advised the public that in compliance with the Regulatory Flexibility Act (5 U.S.C. 601), Customs was undertaking a review of its regulations to identify those regulations having a significant economic impact on a substantial number of small entities and to seek ways of modifying procedures to reduce or eliminate obsolete or burdensome regulatory requirementrs. The initial comment period was to have closed on August 9, 1983, however, by notice published in the **Federal Register** on July 27, 1983 (48 FR 34061), an extension of the comment period was granted to October 11, 1983. Four comments were received in response to this notice. All respondents agreed with the idea of regulatory reduction. There were several specific suggestions for modifying existing regulations and one generalized comment endorsing regulatory reform but only if it could be accomplished without diminishing Customs enforcement and revenue collection capabilities.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501), as part of Customs continuing effort to ensure that paperwork burdens are not imposed on the public unless the practical value of information sought is worth the burden of its collection, and after analysis of the comments received in response to the 1983 notice, Customs now proposes to amend the Customs Regulations (19 CFR Chapter 1), by deleting certain information collection requirements contained in Parts 4, 6, 10, 12, 19 and 54, Customs Regulations (19 CFR Parts 4, 6, 10, 12, 19, 54). Because of these proposed deletions, conforming changes would also be necessary to other sections of the regulations.

A list of those regulations proposed for removal follows:

19 CFR section	Description
4.41(a)	Application for permission to enter wrecked cargo.
6.12(g)	Requirement to post a copy of schedule of charges for servicing aircraft at an airport.
10.6(a)	Certificate of foreign shipper that boxes or barrels were made from American shooks or staves.
10.6(b)	Certificate of box maker that boxes or barrels were made from American shooks or staves.
10.9(g), (h)	Certificate of owner, importer, consignee or agent that processed articles entered are a portion of articles exported for processing that are covered by a certificate of registration.
10.10	Statement of cameraman, shipper, or other person identifying films and stating that they were exposed abroad and are shipped for use as newsreel of current events abroad.
10.35(b)	Declaration by importer of a model of women's wearing apparel that the article will be used solely as a model, etc.
10.35(d)	Requirement to mark for identification purposes imported models of women's wearing apparel.
10.50	Declaration of American artist residing temporarily abroad in support of duty-free entry of a work of art.
10.53(a), (b)	Declaration in connection with the entry of antiques.
10.54(b)	Certificate of manager or other responsible employee of the Gobelin or other factory or producer establishing the character of the Gobelin or other hand-woven tapestry in support of duty-free entry.
10.56(f)	Declaration of owner or consignee that vegetable oil has been rendered permanently unfit for use as food.
10.58(a)	Requirement as to marking of bolting cloth for milling purposes in support of duty-free entry.
10.64a	Declaration for withdrawal of fuel from a Customs bonded warehouse to be ladan as aircraft supplies.
10.66(a)(2), (b)	Declaration of foreign shipper that merchandise was exported from the U.S. for temporary use at an exhibition and is being returned.
10.70(a)	Declaration in connection with the entry of purebred animals for breeding purposes.
10.72	Declaration in connection with the entry of horses or mules imported solely for slaughter.
10.73	Certificate of ultimate consignee of cows being imported solely for dairy purposes in support of claim for reduced rate of duty.
10.74(a)	Owners descriptive list of domestic animals driven across boundary for pasturage.
10.74(b)	Declaration in connnection with the return of domestic animals previously driven across boundary for pasturage.
10.79	Declaration of master of taking vessel in support of duty-free entry of products of American fisheries.
10.82(a)(1)	Certificate of person making withdrawal of salt used in curing fish taken by an American vessel.
10.82(a)(2)	Certificate of master and at least one other person employed on vessel in connection with the withdrawal of salt used for curing fish.
10.82(a)(3)	Certificate of at least two persons employed on shore in curing fish with salt.
10.82(b)	Certificate of person employed on shore curing fish with salt.
10.90(a)	Application of importer for the importation of master records and metal matrices.
10.90(b)	Statement evidencing agreement between importer and manufacturer concerning the use of master records and metal matrices.
10.90(d)	Declaration of importer as to use of master records and metal matrices.
10.93	Record of receipt by manufacturer, processor or dealer who enters, withdraws, or receives wool or hair under bond.
10.94	Records of manufacturer or processor with respect to products or substances resulting from wool or hair.
10.95(a), (c), (f)	Records of manufacturer, processor or dealer pertaining to enumerated articles of wool or hair delivered from his premises.
10.95(b)	Declaration of manufacturer, processor or dealer pertaining to delivery of wool or hair.
10.96	Reports of use of transfer or wool or hair in violation of bond.
10.98(e)	Report of smelting or converting plant pertaining to the use of copper-bearing fluxing material.
10.106	Declaration of importer in connection with wheat unfit for human consumption.
10.108(b)	Statement in connection with entry of articles previously imported into U.S. with duty paid, exported under lease, and now being reimported.
10.110	Certificate for strategic materials acquired by the Commodity Credit Corporation as result of barter or exchange of agricultural commodities or products.
10.134	Declaration by importer of intended use of merchandise imported under actual use provisions of tariff schedules.
12.99	Declaration by importer or consignee in support of a permitted entry of a switchblade knife.
19.16	Various reporting requirements relating to the operation of cigar manufacturing warehouses.
54.6(a)	Statement of importer that articles in chief value of metal are to be used in such a manner which renders them fit only for recovery of the metal content.

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.6, Treasury Department Regulations (31 CFR 1.6), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* it is certified that, if adopted, the proposed amendments will not have a significant economic impact on a substantial number of small entities. Accordingly, they are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

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 Customs offices participated in its development.

List of Subjects

19 CFR Parts 4, 6, 10, 12, 19, and 54

Customs duties and inspection, Imports, Exports.

19 CFR Part 4

Cargo vessels, Reporting and recordkeeping requirements, Vessels.

19 CFR Part 6

Airports.

19 CFR Part 10

Art, Exports, Fisheries, Oil imports, Packaging and containers, Tobacco, Wildlife.

19 CFR Part 12

Imports.

19 CFR Part 19

Tobacco.

19 CFR Part 54

Metal.

Proposed Amendments to the Regulations

It is proposed to amend Parts 4, 6, 10, 12, 19, and 54, Customs Regulations (19 CFR Parts 4, 6, 10, 12, 19, 54), as set forth below:

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. The general 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.

§ 4.41 [Amended]

2. It is proposed to amend § 4.41(a) by removing the words "written application for permission to enter the wrecked cargo", and inserting in their place the words, "entry on Customs Form 7501".

PART 6—AIR COMMERCE REGULATIONS

1. The general authority citation for Part 6 continues to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202 (Gen. Hdnote 11), 1624, 49 U.S.C. 1474, 1509.

§ 6.12 [Amended]

2. It is proposed to amend § 6.12(g) by removing the last sentence.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. The general authority citation for Part 10 continues to read as follows:

Authority: 19 U.S.C. 66, 1202, 1481, 1484, 1498, 1623, 1624.

2. It is proposed to revise the heading and text of § 10.6 to read as follows:

§ 10.6 Shooks and staves; claim for duty exemption.

An importer, seeking an exemption from duty on account of boxes or barrels made from American shooks or staves, must make such claim on Customs Form 3311 at the time of filing the entry. Upon receipt, from the district director at the port of exportation of the shooks and staves, of corroboration that the records of exportation do not conflict materially with such claim, the exemption may be allowed. If the claim for an exemption is disallowed in full or in part, the importer may file a request within 15 days of the date of the district director's notice to him of any disallowance, for referral of the question to the Commissioner of Customs for review.

§ 10.9 [Amended]

3. It is proposed to amend § 10.9 by removing paragraphs (g) and (h) and redesignating paragraphs (i), (j), (k), and (l) as (g), (h), (i), and (j), respectively.

§ 10.10 [Removed and reserved]

4. It is proposed to amend Part 10 by removing § 10.10 and marking it "Reserved". It is also proposed to amend Part 10 by removing footnote 8 to § 10.10.

§ 10.35 [Amended]

5. It is proposed to amend § 10.35 by removing paragraphs (b) and (d), and redesignating paragraph (c) as (b).

§ 10.50 [Removed and reserved]

6. It is proposed to amend Part 10 by removing § 10.50 and marking it "Reserved". It is also proposed to amend Part 10 by removing footnote 45 to § 10.50.

§ 10.53 [Amended]

7. It is proposed to amend § 10.53 by removing paragraphs (a) and (b) and redesignating paragraphs (c), (d), (e), (f), (g), (h), and (i) as (a), (b), (c), (d), (e), (f), and (g), respectively. It is further proposed that Part 10 be amended by removing footnote 48 to § 10.53.

8. In redesignated §§ 10.53 (b) and (c), the phrase, "paragraph (g)" is removed and, "paragraph (e)" is inserted, in its place.

9. In redesignated § 10.53(e)(6), the phrase, "paragraphs (a), (b) and (c)" is removed and, "paragraph (a)" is inserted, in its place.

§ 10.54 [Amended]

10. It is proposed to amend § 10.54 by removing the "(a)" in front of the first paragraph and by removing paragraph (b).

§ 10.56 [Amended]

11. It is proposed to amend § 10.56(f) by placing a period after the word "denatured" and removing the remainder of the paragraph, including the form.

12. It is proposed to revise § 10.58(a) to read as follows:

§ 10.58 Bolting cloths; marking.

(a) As a prerequisite to the free entry of bolting cloth for milling purposes under item 357.25, Tariff Schedules of the United States, the cloth shall be indelibly marked from selvage to selvage at intervals of not more than 4 inches with the words "bolting cloth expressly for milling purposes" in block letters 3 inches in height. Bolting cloths composed of silk imported expressly for milling purposes shall be considered only such cloths as are suitable for and are used in the act of process of grading, screening, bolting, separating, classifying, or sifting dry materials, or dry materials mixed with water, if the water is merely a carrying medium.

* * * * *

§ 10.58 [Amended]

13. It is proposed to amend Part 10 by removing footnote (and footnote reference) 55 to § 10.58.

§ 10.64a [Removed and reserved]

14. It is proposed to amend Part 10 by removing § 10.64a and marking it "Reserved".

§ 10.66 [Amended]

15. It is proposed to amend § 10.66 by removing paragraph (a)(2) and by redesignating paragraphs (a)(3) and (a)(4) as (a)(2) and (a)(3), respectively.

16. It is also proposed to amend § 10.66(b) by removing the last sentence.

§ 10.70 [Amended]

17. It is proposed to amend § 10.70 by removing paragraph (a) and by redesignating paragraph (b) as (a) and revising the section heading and first sentence of (a) to read as follows:

§ 10.70 Purebred animals for breeding purposes; certificate.

(a) In connection with the entry of purebred animals for breeding purposes under item 100.01, Tariff Schedules of the United States, no claim for free entry shall be allowed in liquidation of the entry until the district director has received from the Department of Agriculture a certificate that the animal is purebred of a recognized breed and duly registered in a book of record recognized by the Secretary of Agriculture for that breed.

* * * * *

18. It is also proposed to amend § 10.70 by redesignating paragraph (c) as (b).

§ 10.70 [Amended]

19. It is proposed to amend Part 10 by removing footnote (and footnote reference) 64 to § 10.70.

§ 10.72 [Removed and reserved]

20. It is proposed to amend Part 10 by removing § 10.72 and marking it "reserved." It is also proposed to amend Part 10 by removing footnote 66 to § 10.72.

§ 10.73 [Removed and reserved]

21. It is proposed to amend Part 10 by removing § 10.73 and marking it "Reserved." It is also proposed to amend Part 10 by removing footnote 67 to § 10.73.

22. It is proposed to revise the heading and text of § 10.74 to read as follows:

§ 10.74 Animals straying across boundary for pasturage; offspring.

When domestic animals for which free entry is to be claimed under item 100.03, Tariff Schedules of the United States, have strayed across the boundary line, they may be returned, together with their offspring, without entry if brought back within 30 days; otherwise entry shall be required. The owner of any such animal shall report its return to the nearest Customs offices and hold it for such inspection and treatment as may be deemed necessary by a representative of the Agricultural Research Service of the Department of Agriculture and any such arrival found not to have been so reported or held shall be subject to seizure and forfeiture pursuant to 18 U.S.C. 545.

23. It is proposed to amend Part 10 by removing footnote (and footnote reference 68 to § 10.74.

24. It is proposed to revise § 10.78(a) to read as follows:

§ 10.78 Entry.

(a) No entry shall be required for fish or other marine products taken on the high seas by vessels of the U.S. or by residents of the U.S. in undocumented vessels owned in the U.S. when such fish or other products are brought into port by the taking vessel, or are transferred at sea to another fishing vessel of the same fleet and brought into port.

* * * * *

§ 10.79 [Removed and reserved]

25. It is proposed to amend Part 10 by removing § 10.79 and marking it "Reserved."

§ 10.82 [Removed and reserved]

26. It is proposed to amend Part 10 by removing § 10.82 and making it "Reserved."

27. It is proposed to revise § 10.83(a) to read as follows:

§ 10.83 Bond; cancellation; extension.

(a) If it shall appear to the satisfaction of the district director holding the bond referred to in § 10.80, that the entire quantity of salt covered by the bond has been duly accounted for, either by having been used in curing fish or by the payment of duty, the district director may cancel the charges against the bond. The district director may require additional evidence in corroboration of the proof of use produced.

* * * * *

§ 10.90 [Amended]

28. It is proposed to amend § 10.90 by removing paragraphs (a), (b), and (d) and by redesignating paragraphs (c), (e), (f), and (g), as (a), (b), (c), and (d), respectively.

29. It is proposed to amend Part 10 by removing footnote (and footnote reference) 81 to § 10.90.

30. It is also proposed to amend newly designated paragraph 10.90(d) by removing the phrase, "If and when the application is approved" and changing the word "entries" to "Entries."

§§ 10.93 and 10.94 [Removed and reserved]

31. It is proposed to amend Part 10 by removing §§ 10.93 and 10.94 and marking them "Reserved." It is also proposed to remove footnote 86 to § 10.94.

§ 10.95 [Amended]

32. It is proposed to amend § 10.95 by removing paragraphs (a), (b), (c), and (f) and by redesignating paragraphs (d) and (e) as (a) and (b), respectively.

§ 10.96 [Removed and reserved]

33. It is proposed to amend Part 10 by removing § 10.96 and marking it "Reserved." It is also proposed to remove footnote 87 to § 10.96.

§ 10.98 [Amended]

34. It is proposed to amend § 10.98 by removing paragraph (e).

§ 10.106 [Removed and reserved]

35. It is proposed to amend Part 10 by removing § 10.106 and marking it "Reserved."

§ 10.108 [Amended]

36. It is proposed to amend § 10.108 by removing the "(a)" in front of paragraph (a), and by removing paragraph (b).

§ 10.110 [Removed and reserved]

37. It is proposed to amend Part 10 by removing § 10.110 and marking it "Reserved." It is also proposed to remove footnote 103 to § 10.110.

§ 10.134 [Amended]

38. It is proposed to amend § 10.134 by removing the words, "filing with the entry for consumption or for warehouse a declaration as to the intended use of the merchandise, or by."

39. It is proposed to revise § 10.136 to read as follows:

§ 10.136 Suspension of liquidation.

Liquidation of an entry covering merchandise pursuant to § 10.134, shall be suspended until proof of use is furnished or the 3-year period allowed for production thereof has expired.

§ 10.139 [Amended]

40. It is proposed to amend § 10.139 by removing the phrase, "the declaration of intent required by § 10.134" and inserting, in its place, "an entry pursuant to § 10.134".

PART 12—SPECIAL CLASSES OF MERCHANDISE

1. The authority citation for Part 12 is revised to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202 (Gen. Hdnote 11, Tariff Schedules of the United States), 1624. Sections 12.105–12.109 also issued under 19 U.S.C. 2094. Sections 12–110–12.117 also issued under 7 U.S.C. *et seq.* Sections 12.118–12.127 also issued under 15 U.S.C. 2601 *et seq.*

Section 12.1 also issued under 21 U.S.C. 371(b);

Section 12.3 also issued under 7 U.S.C. 135h, 21 U.S.C. 381(b);

Section 12.4 also issued under 21 U.S.C. 381(b);

Section 12.6 also issued under 7 U.S.C. 1854, 19 U.S.C. 1303;

Section 12.10 also issued under 7 U.S.C. 151–162;

Section 12.15 also issued under 19 U.S.C. 1558;

Section 12.16 also issued under 7 U.S.C. 1592(b);

Sections 12.21–12.23 also issued under 42 U.S.C. 262;

Section 12.26 also issued under 18 U.S.C. 42;

Section 12.28 also issued under 42 U.S.C. 42, 19 U.S.C. 1527;

Section 12.34 also issued under 19 U.S.C. 1202 (Sch. 7, 9A, hdnote 1);

Section 12.37 also issued under 27 U.S.C. 203;

Section 12.39 also issued under 19 U.S.C. 1337, 1623;

Sections 12.40–12.41 also issued under 19 U.S.C. 1305;

Sections 12.42–12.44 also issued under 19 U.S.C. 1307;

Section 12.73 also issued under 19 U.S.C. 1484; 42 U.S.C. 7522, 7601;

Section 12.85 also issued under 19 U.S.C. 1623, 46 U.S.C. 4302, 4306, 4310;

Sections 12.95–12.103 also issued under 18 U.S.C. 545.

2. All other statutory authority cited at the end of various sections in Part 12 is removed.

§ 12.99 [Removed and reserved]

3. It is proposed to amend Part 12 by removing § 12.99 and marking it "Reserved."

PART 19—CUSTOMS WAREHOUSES, CONTAINER STATIONS AND CONTROL OF MERCHANDISE THEREIN

1. The general authority citation for Part 19 continues to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1624.

§ 19.16 [Removed]

2. It is proposed to amend Part 19 by removing § 19.16 and marking it "Reserved."

PART 54—CERTAIN IMPORTATION TEMPORARILY FREE OF DUTY

1. The authority citation for Part 54 is revised to read as follows:

Authority: 19 U.S.C. 66, 1202 (Gen. Hdnote 11, Tariff Schedules of the United States), 1624.

§ 54.6 [Amended]

2. It is proposed to amend § 54.6 by removing paragraph (a) and by redesignating paragraphs (b), (c), and (d) as (a), (b), and (c), respectively.

3. It is also proposed that in redesignating paragraph (a), the phrase "paragraph (c)" be removed and "paragraph (b)" inserted, in its place.

4. It is proposed to amend Part 54 by removing footnote (and footnote reference) 1 to § 54.6.

William von Raab,

Commissioner of Customs.

Approved: December 12, 1985.

David D. Queen,

Assistant Secretary of the Treasury.

[FR Doc. 85-30370 Filed 12-24-85; 8:45 am]

BILLING CODE 4820-02-M

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket No. RM86-3]

Rules of Practice and Procedure

December 19, 1985.

AGENCY: Postal Rate Commission.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend Subpart G of the Rules of Practice and Procedure of the Postal Rate Commission found in Part 3001 of Title 39 of the Code of Federal Regulations. Subpart G contains the rules applicable to the filing of periodic reports by the United States Postal Service. Since Subpart G was promulgated in 1976, Postal Service data collection and reporting systems have evolved with changes in technology and needs. This proposed rule would update the list of reports which must be filed by the Postal Service, would eliminate the format requirements for that reporting and would revise filing dates to reflect current practices. The rule changes emphasize receipt of the desired information without rigid format requirements. The scope of this rule is to establish a periodic data reporting system which will allow the Commission to acquire the necessary data to perform its statutory duties more efficiently and to increase its expertise in postal matters.

DATES: Comments due on or before February 4, 1986.

ADDRESSES: Comments should be filed with the Secretary, Postal Rate Commission, 1333 H Street NW., Suite 300, Washington, DC 20268–0001.

FOR FURTHER INFORMATION CONTACT: Gerald E. Cerasale, Legal Advisor to the Chairman, Postal Rate Commission, 1333 H Street NW., Suite 300, Washington, DC 20268–0001 (telephone number (202) 789–6868).

SUPPLEMENTARY INFORMATION: On October 29, 1976, the Postal Rate Commission promulgated Subpart G of its Rules of Practice and Procedure. These rules, including a timetable for filing, listed the periodic reports which must be filed by the Postal Service with the Secretary of the Postal Rate Commission. Since 1976 the data gathering of the Postal Service has undergone many revisions. Some of the reports listed in the current rule are no longer produced by the Postal Service and are not needed for postal management. In those instances the Commission has examined its data needs. In most situations the data needs of the Commission can be satisfied through other sources listed in the proposed rule.

The proposal also changes the date to file the reports to follow more logically the use of the reports within the management stream of the Postal Service, which should reduce the burdens on the Postal Service in making this information available. The proposal also reflects the Commission's concern that the information contained in the reports will be understandable to the Commission and will conform to current operations. In this light, the Commission proposes to eliminate the format requirements which are laid out in the current rule. In essence, the Commission is seeking substance over form.

Since the purpose of this rule is to receive Postal Service reports, the Commission staff has consulted with the staff of the Postal Service to determine what reports are currently produced and in what format, what reports are no longer produced, and when reports are produced. For reports and information that continue to be required by this proposed rule, prior interpretations continue to apply.

Note.—The Commission finds that the proposed rule changes do not constitute a major rule. The proposed rule is an update of the current periodic reporting rule. The proposal would reduce the burden upon the Postal Service by requiring information in the format used by Postal management rather than in prescribed formats. The above analysis that the proposed rule changes do not constitute a major rule applies, as well, to the Regulatory Flexibility Act.

Section by Section Analysis

Section 3001.101 has added that reports are to be filed with the Secretary of the Commission.

Section 3001.102. The opening paragraph is eliminated, and replaced by a requirement that all reports be filed within two weeks of their presentation for use by Postal management. This standard is intended to insure that data currently in use by the Service are also available for the Commission. The new paragraph also requires that data contained in any named source continue to be supplied if the source is changed in future years.

(a) Annual Reports

(1) This section has been changed to reflect the new name of the report, Cost and Revenue Analysis, with the addition that the Postal Service will identify the changes in attribution assumptions from the prior year. The Postal Service will also include portions of LIOCATT, which were used in production of the report, and transportation workpapers 31 and 57. Data collection forms and corresponding training handbooks, if changed, will be filed with the Secretary of the Commission.

(3) The report is duplicative of information provided pursuant to subsections (a) (1) and (11) of this Section. Thus, this requirement has been eliminated.

(4) The audited financial statements are included in the Postmaster General's Annual Report and we have eliminated this requirement.

(5) Nonvolume workload change reports are not generated outside of a

rate case and, therefore, the Commission will not require them to be filed periodically.

(6) For city delivery statistics national totals, the format has been dropped and replaced by a list of information required.

(7) For rural carrier national statistics, the format has been dropped and been replaced by a list of information required.

(8) This section, calling for Regional Operating Plans Summaries, will be deleted.

(10) The Commission is adding the requirement that summary workpapers be included with the workers' compensation report.

(12) The annual budget has been changed to reflect the new title Congressional Budget Submission. The Commission has also required workpapers to accompany that submission. In addition to the Budget Submission the Postal Services will provide summary Tables SE 1, 2 and 6.

New Sections

The Commission has added a new section which requires production of the Audit Adjustment Vouchers, if any.

(b) Quarterly Reports

(3) This report, *Cost Reduction Programs/Tracking System,* is no longer produced and is no longer required.

(c) Accounting Period Data

New Section

The Commission has added the National Consolidated Trial Balances and the Revenue and Expense Summary. These reports have been provided to the Commission by the Postal Service and the Commission is merely adding them to this list.

(d) Miscellaneous Reports

(3) This section has been rewritten to require simply a list be filed with the Secretary of the Commission as it changes.

(e) Formats for Filing Certain Periodic Reports

This entire section has been eliminated in the proposed rule to reflect the desire of the Commission to receive promptly information which is understandable and reflects current operations. Since the Postal Service's operations, data collection and data production have evolved, its data reports have changed. The formats required in the current rule have tended to delay the provision of the information to the Commission. Elimination of this section will hopefully speed the delivery of information to the Commission, and, therefore, to the public.

List of Subjects in 39 CFR Part 3001

Administrative practice and procedure, Commission proceedings—data requirements.

PART 3001—RULES OF PRACTICE AND PROCEDURE

For the reasons stated above, the Commission proposes to Amend 39 CFR Part 3001 as follows:

1. The authority Citation for Part 3001 is revised to read as follows:

Authority: 33 U.S.C 3603, 3622–3624.

§ 3001.101 [Amended]

2. Section 3001.101 is amended so that the phrase "file with the Commission" is changed to "file with the Secretary of the Commission".

3. Section 3001.102 is revised to read as follows:

§ 3001.102 Filing of reports.

Each report listed in this section shall be filed with the Secretary of the Commission within two weeks of its presentation for use by postal management unless otherwise noted. The reports and information required to be provided by this subpart need not include matters exempt from disclosure by law. Whenever a specific source is cited in this section, that citation includes any successor or substitute source.

(a) *Annual reports.* The following information will be filed by the Postal Service annually.

(1) Cost and Revenue Analysis Report which will identify each change in attribution assumptions from the previous year's report. The Postal Service will file concurrently portions of LIOCATT used in the report, transportation workpapers 31 and 57 and, if changed from the previous year, data collection forms and corresponding training handbooks.

(2) Cost Segments and Components.

(3) City Delivery Information including the number of routes by type, the number of possible deliveries by type, the number of collection boxes and businesses served (120 days from the close of the fiscal year).

(4) Rural Carrier Information including the number of routes by type and miles, stops, boxes served and mail pieces by route type (120 days from the close of the fiscal year).

(5) Civil Service Retirement Fund Deficit Report (2 weeks after release of the Annual Report of the Postmaster General).

(6) Worker's Compensation Report including summary workpapers (2 weeks after release of the Annual Report of the Postmaster General).

(7) Annual Report of the Postmaster General.

(8) Congressional Budget Submission including workpapers. The Postal Service will also file concurrently Summary Tables SE 1, 2 and 6 (coincide with submission to Congress).

(9) Audit Adjustment Vouchers, if any.

(b) *Quarterly reports.* The following information will be filed by the Postal Service quarterly:

(1) Revenue, Pieces and Weight by Classes of Mail and Special Services.

(2) Origin/Destination Information Report National Service Index.

(3) Investment Income Statements (60 days from the close of the Quarter, except for the last report for the fiscal year—2 weeks after release of the Annual Report of the Postmaster General).

(c) *Accounting period reports.* The following information will be filed by the Postal Service each accounting period:

(1) Cash Flow Statement (60 days from the close of the Accounting Period, except for the last report for the fiscal year—2 weeks after release of the Annual Report of the Postmaster General).

(2) Summary Financial and Operating Report.

(3) National Payroll Hours Summary.

(4) National Consolidated Trail Balances and the

Revenue and Expense Summary

(d) *Miscellaneous reports.* The following information will be provided by the Postal Service as updated:

(1) Before/After Pay Increase Reports.

(2) Before/After COLA Cost Report.

(3) A master list of publications and handbooks including those related to internal information systems or data collection procedures (when changed).

(4) Notices of Changes in Data Reporting Systems (90 days before implementing changes in data reporting systems).

By the Commission.

Charles L. Clapp,

Secretary.

[FR Doc. 85–30455 Filed 12–24–85; 8:45 am]

BILLING CODE 7715-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AL-013; A-4-FRL-2943-6]

Approval and Promulgation of Implementation Plans; Alabama; SIP Revision for TSP

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA is today proposing to approve a State Implementation Plan (SIP) revision for Total Suspended Particulates (TSP), submitted by the Alabama Department of Environmental Management (ADEM). This revision changes the emission limits for four point sources in Talladega County, one of which is a reliaxation of the current emission limit. This relaxation will allow Kimberly Clark Corporation to burn more bark at the wood-waste boiler in order to decrease fuel costs. To offset this increase in allowable emissions, the allowable emission limits from three other sources have been tightened.

DATES: Comments are due January 27, 1986.

ADDRESSES: Written comments should be addressed to Kelly McCarty of EPA, Region IV's Air Programs Branch (see first address below). Copies of the State's submittal are available for review during normal business hours at the following locations:

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365

Air Division, Alabama Department of Environmental Management, 1751 Federal Drive, Montgomery, Alabama 36130.

FOR FURTHER INFORMATION CONTACT: Kelly McCarty, EPA, Region, IV, Air Programs Branch, at the above listed address and telephone 404/881-3286 or FTS 257-3286.

SUPPLEMENTARY INFORMATION: Alabama submitted this SIP revision to EPA on October 23, 1984. After a thorough review, EPA found that insufficient dispersion modeling had been performed to adequately support the request. The deficiencies included: no Prevention of Significant Deterioration (PSD) increment consumption analysis; less than five years of meteorological data; and lack of inclusion of all emission points and sources in the area. At that time, EPA and the ADEM Air Division developed a protocol for the dispersion modeling demonstration to show attainment and maintenance of the National Ambient Air Quality Standard (NAAQS) for TSP, and what, if any, the PSD increment consumed by these emission changes would be.

The modeling was completed and sent to EPA on May 17, 1985. It was found to be acceptable pending resolution of a few minor issues. All issues were finally resolved by a submittal from the State on July 1, 1985. The results of EPA's review of the modeling analysis indicate the NAAQS and PSD increment are protected. Thus, EPA is proposing to approve the State's request for a SIP revision. The State's revision request and the results of EPA's review of these documents are available for public inspection at the Region IV office listed above.

The proposed SIP revision consists of the relaxation of the allowable emission limit for the wood-waste boiler, so that Kimberly Clark Corporation can burn more bark in it to reduce fuel costs, and the tightening of three other allowable emission limits to offset this increase. The current and proposed allowable SIP emission limits are shown in the table below:

Sources	Emission limits	
	Current	Proposed
Coal-fired boilers up to 300 MMBTU/hour.	0.12 lb/MMBTU [1]	0.10 lb/MMBtu.
Recovery boilers	4 lb/ADTP [2]	2.5 lb/ADTP.
Smelt dissolver tanks.	0.5 lb/ADTP	0.3 lb/ADTP.
Wood-waste boilers.	259 lb/hr	347 lb/hr.

[1] Million British thermal units.
[2] Air dried ton of pulp.

The result of all these emission changes is to increase overall allowable emissions from Kimberly Clark slightly.

A modeling analysis consistent with EPA policy and guidance was performed for the plant using allowable emission limits and including nearby and background sources to determine the ambient impact of the proposed emission limits. The modeling analyses showed no violation or exceedance of the primary and secondary NAAQS or PSD increment for TSP.[3] The State's demonstration is consistent with EPA's final revised stack height regulations.

Compliance with the mass emission limit for the wood-waste boiler shall be determined by an annual stack test, while continuous measurement of the capacity of the emissions from the source shall be insured by a transmissometer. An opacity limit of 76% as determined by fixed one-hour averages (the average of each ten six-minute averages per discrete clock hour) was set for the source, to be met at all times. The opacity limit was calculated from a mass-visible emission correlation curve developed from several tests performed at the facility.

PSD increments are set for areas that are cleaner than required by the NAAQS. It is triggered when the first permit application for a major source or modification is received. In Alabama the date is November 20, 1977, and the PSD increment is 37 micrograms per cubic meter (ug/m^3) using a 24-hour average: no combination of emissions increases in the area may have an impact greater than 37 ug/m^3 on the ambient air.

The PSD increment consumed was calculated by modeling the actual emissions from 1977 and the current proposed allowable emissions. The actual emissions from 1977 was used because this was the year that the baseline was triggered. One-hour averages are reported by the State in the technical support document for this rulemaking proposal for the PSD increment analysis, rather than 24-hour averages. Where the predicted values exceeded the Class II increment of 37 ug/m^3 on a one-hour average, a second analysis was performed calculating concentrations on a 24-hour average. The highest estimated increment calculated on a 24-hour average is 9.5 ug/m^3. The highest one-hour value that was not remodeled was 36.3 ug/m^3. This clearly demonstrates that the 24-hour increment will not be violated by this proposed relaxation.

Proposed Action

EPA has reviewed the State's submitted material and found it to comply with current EPA requirements. Therefore, EPA is today proposing to approve the State submittal of revisions to the TSP emission limits for pulp mills in Talladega County, and is soliciting public comment on the proposed regulations.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

For further details on the specifics of the analysis, see EPA's Technical Support Document.

Interested persons are invited to submit comments on this proposed approval EPA will consider all

[3] The primary TSP NAAQS is violated when, in a year, either (1) the annual geometric mean value of TSP concentration exceeds 75 micrograms per cubic meter of air (75 ug/m^3), or (2) the maximum 24-hour concentration of TSP at any site exceeds 260 ug/m^3 more than once. The secondary TSP NAAQS is violated when, in a year, the maximum 24/hour concentration exceeds 150 ug/m^3 more than once.

comments received within thirty days of this notice.

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

List of Subjects in 40 CFR Part 52

Air pollution control, Particulate matter, Incorporation by reference.

Authority. 42 U.S.C. 7401-7642.

Dated: September 3, 1985.

John A. Little,

Acting Regional Administrator.

[FR Doc. 85-30349 Filed 12-24-85; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 105-67

[ADM 7900.10]

Debarment/Suspension of Contractors From Purchases of Federal Personal Property

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice invites written comments on a proposed change to the General Services Administration Property Management Regulation (GSPMR) that would add Part 105-67 to implement the October 9, 1985, amendment to the Federal Property Management Regulation (FPMR) which applied the Governmentwide policies, procedures and requirements of Subpart 9.4 of the Federal Acquisition Regulation (FAR) on suspension, debarment and ineligibility to contractors who purchase Federal personal property. The new subpart would implement FPMR 101-45.6 within GSA by applying the policies, procedures and requirements of Subpart 509.4 of the General Services Administration Acquisition Regulation (GSAR) on suspension, debarment and ineligibility to contractors who purchase Federal personal property.

DATE: Comments are due by January 27, 1986.

ADDRESS: Comments should be addressed to Mrs. Marjorie Ashby, Office of GSA Acquisition Policy and Regulations (VP), 18th and F Streets NW., Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Edward C. Loeb, Procurement Analyst, Office of GSA Acquisition Policy and Regulations (VP), (202) 535-7791.

List of Subjects in 41 CFR 105-67

Debarred, Suspended, Ineligible contractors.

Part 105-67 is added to read as follows:

PART 105-67—SALE OF PERSONAL PROPERTY

Sec.
105-67.100 Scope of subpart.
105-67.101 Debarred, suspended and ineligible contractors.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

105-67.100 Scope of subpart.

This subpart prescribes policies and procedures governing the debarment or suspension of contractors from purchases of Federal personal property (see FPMR 101-45).

105-67.101 Debarred, suspended and ineligible contractors.

The policies, procedures and requirements of Subpart 509.4 of the General Services Administration Acquisition Regulation (GSAR) are incorporated by reference and made applicable to contracts for, and to contractors who engage in, the purchase of Federal personal property.

Dated: December 17, 1985.

Patricia A. Szervo,

Associate Administrator for Acquisition Policy.

[FR Doc. 85-30441 Filed 12-24-85; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 10, 15, 35, 157, 185, 186, and 187

[CGD 81-059 and 81-059a]

Notice of Hearing for Licensing of Maritime Personnel and Licensing of Officers and Operators for Mobile Offshore Drilling Units

AGENCY: Coast Guard, DOT.

ACTION: Notice of public hearing.

SUMMARY: In the October 24, 1985 issue of the **Federal Register** (50 FR 43316 and 43366) the Coast Guard published a supplemental notice of proposed rulemaking on Licensing of Maritime Personnel and a supplemental notice of proposed rulemaking for Licensing of Officers and Operators for Mobile Offshore Drilling Units. Those documents discussed the fact that public hearings were planned on both items and that a separate notice would be published giving the exact times, dates, and places for the hearings. A Notice of Public Hearings was published on October 24, 1985 (50 FR 43374) specifying dates and locations of five (5) public hearings. Due to the high public interest in the rulemakings, another public hearing is being scheduled. This document announces the time, date, and location of the additional public hearing.

DATES: The Coast Guard will hold a public hearing on January 10, 1986. The hearing will begin at 10:30 a.m. and end at 4 p.m. or whenever all comments have been heard, whichever occurs first.

ADDRESS: A public hearing will be held January 10, 1986, Building 4, Wing C, Coast Guard Island (formerly known as Government Island), Alameda, CA 94501.

Attendance is open to the public. Persons wishing to present oral statements at the hearing should notify the Executive Secretary no later than three days before the hearing of the item toward which comments will be directed. Written comments may be submitted at any time before the end of the comment period. In order to assure orderly presentations and accurate records, comments will be received on Licensing of Maritime Personnel (CGD 81-059) first. When all comments have been received on this supplemental notice of proposed rulemaking, comments will be received on Licensing of Officers and Operators for Mobile Offshore Drilling Units (CGD 81-059a). Due to the expected volume of comments the Coast Guard encourages the submission of written copies of presentations and reserves the right to limit the length of oral presentations.

FOR FURTHER INFORMATION CONTACT: Captain R.F. Ingraham, Executive Secretary, Marine Safety Council (G-CMC/21), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593, telephone (202) 426-1477.

Dated: December 20, 1985.

J.W. Kime,

Rear Admiral (Lower Half), U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 85-30511 Filed 12-24-85; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 85-390; FCC 85-642]

TV Broadcast Station in Ventura, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission on its own motion proposes two alternative UHF channels as a substitute for UHF Channel 16 in Ventura, California. The substitutions are proposed in order to facilitate the reallocation of UHF Channel 16 to the Public Safety Land Mobile Service for use in the Los Angeles, California area.

DATES: Comments must be filed on or before January 24, 1986, and reply comments on or before February 10, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Authur D. Scrutchins, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

TV broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Notice of Proposed Rule Making

In the Matter of amendment of § 73.606(d), Table of Assignments, TV Broadcast Stations. (Ventura, California) MM Docket No. 85-390.

Adopted: December 10, 1985.

Released: December 18, 1985.

By the Commission.

1. The Commission on its own motion proposes two alternative UHF channels as a substitute for UHF Channel 16 in Ventura, California. The substitutions are proposed in order to facilitate the reallocation of UHF Channel 16 to the Public Safety Land Mobile Service for use in the Los Angeles, California area.

Background

2. The Los Angeles County Sheriff's Department ("the Sheriff") filed a Petition for Rule Making in August, 1981 and a Supplement in November 1983, requesting reallocation of UHF television channels 14-20 for land mobile use on a nationwide basis. In the Supplement, the Sheriff initially requested the allocation of Channel 19 for public safety purposes in the Los Angeles area to meet the expanding needs of its Department. Alternatively, it requested that Channel 16 be made available immediately by removing the UHF television assignment from Ventura, California and reallocating another UHF television assignment to Ventura in its place.

3. In September 1984, the Commission adopted the *Notice of Proposed Rule Making* [1] in General Docket 84-902, proposing the use of UHF-TV Channel 19 for public safety purposes in the Los Angeles area. The Sheriff filed a motion to modify the *Notice of Proposed Rule Making* to consider the use of Channel 16 as an alternative to the use of Channel 19 due to adjacent channel interference to Station KSCI (Channel 18) in San Bernardino, California.

4. In May 1985, in the *Further Notice of Proposed Rule Making,* [2] the Commission, *inter alia,* proposed the use of Channel 16 as a possible solution to the needs of the Los Angeles County Sheriff. Channel 16 is presently unoccupied in the Los Angeles area, although it has been assigned to Ventura and there are two mutually exclusive applicants presently seeking to operate on Channel 16 at Ventura. To that end, the Commission recently announced that it would condition the grant of a construction permit for the Ventura channel on the outcome of General Docket 84-902 should it decide to reallocate this channel to the Public Safety Service in the Los Angeles area.[3]

5. By *Report and Order* adopted December 10, 1985, in Docket 84-902, the Commission has reallocated UHF television Channel 16 to the Public Safety Land Mobile Service for use in the Los Angeles area. In that *Report and Order,* we indicated that we would make a specific proposal that will reflect our best effort to find a substitute for Channel 16 in Ventura offering the maximum flexibility with respect to site selection and population coverage. We further indicated that only the current application for Channel 16 will be eligible to apply for the substituted channel. However, we have also asked those applicants to inform us whether they wish to pursue their applications on the substitute channel. If both applicants fail to state their intention to apply in comments to this *Notice* then the newly allotted channel would be opened up to the other applicants.

6. In order to implement that determination, we are specifically proposing in the instant proceeding the substitution of UHF Channel 25 for Ventura, California, to compensate for the loss of Channel 16 there. Channel 25 is being proposed because it meets the specific sites proposed by the present applicants for Channel 16 in Ventura.[4] However we note that our proposal for Channel 25 will result in a short spacing of 42.2 km (26.2 miles) to UHF Station KTBN, Channel 40, Santa Ana, California. While it is extremely unusual for the Commission to propose to assign a short spaced channel, we believe that due to the unique circumstances involved here and the limited options available it is appropriate to consider such a proposal. In this regard existing service will not be affected since the interference created by a picture image taboo (N+15) only occurs 15 channels below the proposed channel. Therefore, under this proposal, only the Ventura station would be affected by any resulting interference.[5]

7. In order to assign Channel 25 to Ventura, it will be necessary to make several other changes. First we propose to substitute Channel 41 for Channel 25 in Ridgecrest, California. In addition our present proposal is short spaced to Channel *32 in Santa Barbara, California. In Docket 85-251 (*Notice of Proposed Rule Making,* 50 FR 34519, published August 26, 1985), we have proposed to substitute Channel *51 for Channel *32 in Santa Barbara.

8. As an alternative to Channel 25, we note that Channel 51 can also be assigned to Ventura with a 1.2 km north site restriction to avoid short spacing to KUSI-TV, Channel 51, in San Diego, California. In order to assign this channel, we are also proposing to substitute Channel *55 instead of Channel *51 in Santa Barbara, in order to offer Channel 51 for Ventura. While this proposal has some impact on the pending land mobile television sharing proceeding,[6] by limiting the option available to the land mobile services in selecting a channel pair from the two proposed in the item, it effectively avoids a reduction in the amount of spectrum proposed for land mobile use in Los Angeles.[7] Finally we encourage

[1] *Notice of Proposed Rule Making,* 49 FR 45875, published November 21, 1984.

[2] *Further Notice of Proposed Rule Making,* 50 FR 19956, published May 13, 1985.

[3] *Memorandum Opinion and Order,* Docket 80-698-99, FCC 85-326 released June 27, 1985.

[4] In an Initial Decision, FCC 84D-21, the Administrative Law Judge recommended the grant of California Broadcasting Corporation's application for a construction permit. However, the Review Board subsequently remanded this proceeding for further evidentiary hearings. *Memorandum Opinion and Order,* 56 R.R. 2d 1319 (1984).

[5] See § 73.698, Table 4, of the Commission's Rules.

[6] See, *Notice of Proposed Rule Making, Further Sharing of the UHF Television Band by Private Land Mobile Services,* General Docket No. 85-172, 50 FR 25587, published June 20, 1985.

[7] In the *Notice of Proposed Rule Making* in General Docket No. 85-172 (See footnote 6, *supra*) we proposed channel pair 26/32 or 32/36 for land mobile use in the Los Angeles area. The instant action will preclude the use of channel pair 26/32 for land mobile use in Los Angeles. However, Channel pair 32/36 will still be available.

the pending applicants for Ventura to provide us with any other alternative channel proposals for Ventura.

PART 73—[AMENDED]

9. Accordingly, we consider it appropriate to elicit comments on the proposals to amend the Television Table of Assignments, § 73.606(b) of the Commission's Rules as follows:

City	Channel No.	
	Present	Proposed
Ventura, CA	41 +	25 or 51 +, 57 +
Ridgecrest, CA	25	41 +
Santa Barbara, CA	3 , 14,[1] *20,[1] *32, and 38.	3 , 14,[1] *20,[1] 38, and *55 +

[1] Following the decision in Docket 18261, channels so indicated will not be available for television use until further action by the Commission.

10. It is ordered, that the Secretary shall send copies of this *Notice of Proposed Rule Making*, certified mail return receipt requested, to the following applicants for Ventura, California, Channel 16:

1. California Broadcasting Corporation, 223 E. Thousand Oaks, Thousand Oaks, California 91360.

2. Channel Islands Television Corporation, 10635 Riverside Drive, Toluca Lake, California 91602.

11. The Commission's authority to institute rule making proceedings, showings required, cut off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

12. Interested parties may file comments on or before January 24, 1986, and reply comments on or before February 10, 1986, and are advised to read the Appendix for the proper procedures.

13. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the Table of Television Assignments, §73.606(b) of the Commission's Rules. See *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 F.R. 11549, published February 9, 1981.

14. For further information concerning this proceeding, contact Arthur D. Scrutchins, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

William Tricarico,

Secretary.

Appendix

1. Pursuant to authority found in sections 4(i), 5(e)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, §73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.*

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, DC.

[FR Doc. 85–30425 Filed 12–24–85; 8:45 am]

BILLING CODE 6712-01-M

* *See* paragraph 5, *supra*.

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47 CFR Part 76

[MM Docket No. 85–349]

Amendment of the Rules Concerning Carriage of Television Broadcast Signals by Cable Television Systems

AGENCY: Federal Communications Commission.

ACTION: Order extending time.

SUMMARY: Action taken herein extends the time for filing comments in response to the *Notice of Inquiry and Notice of Proposed Rule Making* in MM Docket No. 85–349. This *Notice* requested comments and proposals on the matter of carriage of broadcast television

signals by cable television systems. The extension of time was requested by the National Association of Broadcasters.

DATES: Comments are due on or before January 29, 1986 and replies to comments are due February 25, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Alan Stillwell, Mass Media Bureau, (202) 632-6302.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 76

Cable television.

Order Granting Motion for Extension of Time To File Comments

In the matter of amendment of Part 76 of the Commission's Rules Concerning Carriage of Television Broadcast Signals by Cable Television Systems; MM Docket No. 85-349.

Adopted: December 16, 1985.
Released: December 18, 1985.

By the Chief, Mass Media Bureau.

1. On November 14, 1985, the Commission adopted a combined *Notice of Inquiry and Notice of Proposed Rule Making (Notice)* in MM Docket No. 85-349, 50 FR 46232, to consider the matter of carriage of broadcast television signals by cable systems. The *Notice* was released on November 18, 1985, with comments due by December 30, 1985, and reply comments due by Jaunary 21, 1985.

2. On December 13, 1985, the National Association of Broadcasters (NAB) submitted a request that the date for filing comments be extended by 30 days and that the date for filing replies be extended by 5 days. NAB submits that this additional time is necessary to adequately address the complex questions involved in the "must carry" matter and to complete empirical research studies. It states that the time considerations are exacerbated because the comment period coincides with the holiday season. NAB also indicates that it is involved in discussions with representatives of the cable industry concerning the possibility of proposing a compromise resolution of the must carry matter and that the requested extension would allow for a more orderly completion of those discussions. Several parties filed comments in support of NAB's request.

3. The Association of Independent Television Stations, Inc. (INTV), in its filing of December 13, 1985, opposes NAB's request for extension of time. INTV contends that a number of stations are being harmed or threatened in the absence of any must carry rules or guidelines. It argues that this situation necessitates expeditious action and avoidance of the delay that would result from grant of NAB's request. INTV also argues that there is sufficient time for parties to complete and submit research studies prior to the date for filing replies. INTV further states that the Commission would be able to consider the results of any industry consensus agreement in the reply phase or before adoption of a Report and Order in this proceeding.

4. As indicated in the *Notice*, the Commission believes it is important to complete this proceeding in an expeditious manner. However, it recognizes the importance of the must carry issue to broadcasters, cable operators and the public and the demands involved in developing responses to the complex questions involved in this matter. The Commission also believes that negotiations currently in progress between broadcasters and cable operators concerning signal carriage may be of significant value in resolving this matter. In view of these considerations and to ensure a complete record in the must carry proceeding, the Commission finds that an extension of time for filing comments and replies, as requested by NAB, is warranted. While it is attentive to the concerns raised by INTV, the Commission believes these concerns are outweighed by the benefits to be obtained from this relatively brief extension of time.

5. Accordingly, it is ordered that the dates for filing comments and replies to comments in response to the above-captioned *Notice of Inquiry and Notice of Proposed Rule Making* are extended to January 29, 1986 and February 25, 1986, respectively. This action is taken pursuant to authority provided in section 4(i) of the Communications Act of 1934, as amended, and § 0.283 of the Commission's rules.

6. For further information concerning this proceeding, contact Alan Stillwell, Mass Media Bureau, (202) 632-6302.

Federal Communications Commission,
James C. McKinney,
Chief, Mass Media Bureau.

[FR Doc. 85-30426 Filed 12-24-85; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 14

Humane and Healthful Transport of Wild Animals and Birds to the United States

Correction

In FR Doc. 85-28556 beginning on page 49709 in the issue of Wednesday, December 4, 1985, make the following correction: On page 49722, in the second column, in § 14.141(a), in the third line, "has been subjected" should read "has not been subjected".

BILLING CODE 1505-01-M

Notices

Federal Register
Vol. 50, No. 248
Thursday, December 26, 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.

COMMISSION ON CIVIL RIGHTS

Michigan Advisory Committee; Agenda and Notice of 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 Michigan Advisory Committee to the Commission will convene at 6:00 p.m. and adjourn at 9:00 p.m., on January 16, 1986, at the Plymouth Hilton, 14707 Northville Road, Conference Room, Plymouth, Michigan. The purpose of the meeting is to discuss program planning.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Charles Tobias or Clark Roberts, Director of the Midwestern Regional Office at (312) 353-7171, (TDD 312/886-2188). 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 19, 1985

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85-30494 Filed 12-24-85; 8:45 am]

BILLING CODE 6335-01-M

New Hampshire Advisory Committee; Agenda and Notice of 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 New Hampshire Advisory Committee to the Commission will convene at 6:00 p.m. and adjourn at 8:00 p.m., on January 8, 1986, at the McLane, Graf, Raulerson & Middleton, 40 Stark Street, Manchester, New Hampshire. The purpose of the meeting is to continue planning FY 86 project activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Robert A. Wells, or Jacob Schlitt, Director of the New England Regional Office at (617) 223-4671, (TDD 617/223-0344). 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 19, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85-30495 Filed 12-24-85; 8:45 am]

BILLING CODE 6335-01-M

Pennsylvania Advisory Committee; Agenda and Notice of 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 Pennsylvania Advisory Committee to the Commission will convene at 10:30 a.m. and adjourn at 4:30 p.m., on January 16, 1986, at the Federal Building, 1421 Cherry Street, Conference Room B, 11th Floor, Philadelphia, Pennsylvania. The purpose of the meeting is to discuss a proposed project on new civil rights strategies and racial tensions in Philadelphia.

Persons desiring additional information, or planning a presentation to the committee, should contact Committee Chairperson, Murray Friedman 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 19, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85-30496 Filed 12-24-85; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

Annual Survey of Retail Sales and Inventories; Notice of Determination

In accordance with Title 13, United States Code, sections 182, 224, and 225, and due Notice of Consideration having been published October 21, 1985 (50 FR 42574), I have determined that various government agencies need the 1985 annual retail trade data to provide a sound statistical basis for the formation of policy and that these data also serve a variety of public and business needs. This annual survey is a continuation of similar surveys that we have conducted each year since 1951 (except 1954). It provides, on a comparable classification basis, annual sales, purchases of merchandise and accounts receivable balances for 1985 and year-end inventories for 1984 and 1985. These data are not available publicly on a timely basis from nongovernmental or other governmental sources.

The Census Bureau will require a selected sample of firms operating retail establishments in the United States (with sales size determining the probability of selection) to report in the 1985 Annual Retail Trade Survey. The sample will provide, with measurable reliability, statistics on the specified subjects.

We will furnish report forms to the firms covered by this survey and will require their submission within 20 days after receipt. Copies of the forms are available upon written request to the Director, Bureau of the Census, Washington, DC 20233.

I have directed, therefore, that an annual survey be conducted for the purpose of collecting these data.

Dated: December 20, 1985.

John G. Keane,

Director, Bureau of the Census.

[FR Doc. 30470 Filed 12-24-85; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

Articles of Quota Cheese; Annual Listing of Foreign Government Subsidies

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Publication of Annual List of Foreign Government Subsidies on Articles of Quota Cheese.

SUMMARY: The Department of Commerce, in consultation with the Secretary of Agriculture, has prepared its annual list of foreign government subsidies on articles of quota cheese. We are publishing the current listing of those subsidies that we have determined exist.

EFFECTIVE DATE: January 1, 1986.

FOR FURTHER INFORMATION CONTACT: Patricia W. Stroup, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION: Section 702(a) of the Trade Agreements Act of 1979 ("the TAA") requires the Department of Commerce ("the Department") to determine, in consultation with the Secretary of Agriculture, whether any foreign government is providing a subsidy with respect to any article of quota cheese, as defined in section 701(c)(1) of the TAA, and to publish an annual list and quarterly updates of the type and amount of those subsidies.

The Department has developed, in consultation with the Department of Agriculture, information on subsidies (as defined in section 702(h)(2) of the TAA) being provided either directly or indirectly by foregin governments on articles of quota cheese. The appendix to this notice lists the country, the subsidy program or programs, and the gross and net amount of each subsidy on which information is currently available.

The Departmet will incorporate additional programs which are found to consititue subsidies, and additional information on the subsidy programs listed, as the information is developed.

The Department encourages any person having information on foreign government subsidy programs which benefit articles of quota cheese to submit such information in writing to the Deputy Assistant Secretary for Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230.

This determination and notice are in accordance with section 702(a) of the TAA (19 U.S.C. 1202 note).

Dated: December 19, 1985.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

APPENDIX—QUOTA CHEESE SUBSIDY PROGRAMS

Country and program(s)	Cents per pound	
	Cross[1] subsidy	Net[2] subsidy
Belgium: European Community (EC) Restitution payments	1.3	1.3
Canada: Export Assistance on certain types of Cheese	25.4	25.4
Denmark: EC restitution payments	0.4	0.4
Finland:		
Export subsidy	46.1	46.1
Indirect subsidies	14.5	14.5
	60.6	60.6
France: EC restitution payments	.0	.0
Ireland: EC restitution payments	2.5	2.5
Italy: EC restitution payments	18.7	18.7
Luxembourg: EC restitution payments	1.3	1.3
Netherlands: EC restitutions payments	.0	.0
Norway:		
Indirect (Milk) subsidy	15.4	15.4
Consumer subsidy	34.1	34.1
	49.5	49.5
Switzerland: Deficiency payments	67.4	67.4
United Kingdom: EC restitution payments	.0	.0
W. Germany: EC restitution payments	.0	.0

[1] Defined in 19 U.S.C. 1677(5).
[2] Defined in 19 U.S.C. 1677(6).

[FR Doc. 85-30477 Filed 12-24-85; 8:45 am]

BILLING CODE 3510-DS-M

Petitions by Producing Firms for Determinations of Eligibility to Apply for Trade Adjustment Assistance

Petition have been accepted for filing on the dates indicated from the following firms: (1) Pelton Casteel, Inc., 148 West Dewey Place, Milwaukee, Wisconsin 53207, producer of steel castings (November 21, 1985); (2) Dubrowsky & Perlbinder, Inc., 512 Seventh Avenue, New York, New York 10018, producer of women's jackets and coats (November 21, 1985); (3) Norwich Shoe Company, Inc., Hale Street Extension, Norwich, New York 13815, producer of men's and children's footwear (November 22, 1985); (4) Leeco Manufacturing, Inc., P.O. Box 808, Calimesa, California 92320, producer of brush and grass trimmer heads and accessories (November 22, 1985); (5) Pleasant Valley Finishing Company, Inc., P.O. Box 5100, Poughkeepsie, New York 12602, processor of fabric (November 22, 1985); (6) XchangeAIR Corporation, P.O. Box 1565, Fargo, North Dakota 58107, producer of heating equipment (November 25, 1985); (7) Aarrow General, Inc., P.O. Box 702, Shawano, Wisconsin, 54166, producer of valve and pump parts and other iron castings (November 26, 1985); (8) Swirl, Inc., 508 Greenville Road, Easley, South Carolina 29640, producer of women's growns, robes and other loungewear (November 26, 1985); (9) Concept Tool & Machine, Inc., R.R. 3, 45 Cooper Road, Berlin, New Jersey 08009-1007, producer of metal parts for process control equipment (November 27, 1985); (10) Trueform Manufacturing, Inc., 715 Fairfield Avenue, Kenilworth, New Jersey 07033, producer of electronic components (November 27, 1985); (11) Universal Tools and Manufacturing Company, 115 Victory Road, Springfield, New Jersey 07081, producer of electronic components (November 27, 1985); (12) National Graphics, Inc., 2711 Miami, St. Louis, Missouri 63118, producer of photographic papers and chemicals (November 29, 1985); (13) Just-Rite Tool & Mold Corporation, 2112 Stonington Avenue, Hoffman Estates, Illinois 60195, producer of injection molds and other molds (December 2, 1985); (14) Jackl 'N Hides Corporation, 413 South 12th Street, Omaha, Nebraska 68102, producer of office and commercial furniture (December 3, 1985); (15) Gold Star Hat & Cap Company, Inc., P.O. Box 1062, Union City, New Jersey 07087, producer of headwear (December 3, 1985); (16) Hydro-Dynamics, Inc., 2000 Industrial Boulevard, Lake Havasu City, Arizona 86403, producer of waterbed accessories and power boats (December 3, 1985); (17) Moreco Energy, Inc., 7601 West 47th Street, McCook, Illinois 60525, producer of lubricants (December 4, 1985); (18) Candor Hosiery Mill, Inc., Box 459, Candor, North Carolina 27229, producer of socks (December 5, 1985); (19) J & K Button Company, Inc., 315-319 West Mississippi Drive, Muscatine, Iowa 52761, producer of buttons and button blanks (December 6, 1985); (20) Tidewater Sportswear, Inc., 1028 West 27th Street, Norfolk, Virginia 23517, producer of men's, women's and children's pants, shirts, blouses and skirts (December 6, 1985); (21) Russell Pipe and Foundry Company, Inc., P.O. Box 519, Alexander City, Alabama 35101, producer of iron castings (December 6, 1985); (22) Speizman Industries, Inc., 508 West Fifth Street, Charlotte, North Carolina 28202, producer of hosiery knitting equipment, textile machine parts and socks

(December 6, 1985); (23) General Headwear of Norwalk, Inc., 18 Marshall Street, South Norwalk, Connecticut 06854, producer of infants' headwear and dresses (December 6, 1985); (24) Kewanna Metal Specialties, Inc., P.O. Box 367, Kewanna, Indiana 46939, producer of baskets, grills and other wire forms (December 6, 1985); (25) Dee-Vee Manufacturing Company, Inc., 14 Catherine Street, Poughkeepsie, New York 12601, producer of women's dresses (December 6, 1985); (26) Spelts-Schultz Lumber Company of Grand Island, P.O. 1447, Grand Island, Nebraska 68802, producer of wood cabinets and trusses (December 6, 1985); (27) O.K. Equipment, Inc., P.O. Box 47A, Mandan, North Dakota 58554, producer of agricultural equipment (December 6, 1985); (28) Aerospace Lighting Corporation, 20 Oser Avenue, Hauppauge, New York 11788, producer of aircraft lighting systems (December 6, 1985); (29) Sea Freeze, Inc., 508 Carolina Street, Bellingham, Washington 98225, producer of marine refrigeration equipment (December 6, 1985); (30) Woods and Rohde, Inc., 6325 Petersburg Street, Anchorage, Alaska 99507, producer of wood trusses, doors and windows (December 9, 1985); (31) Bayside Plastics Corporation, P.O. Box 728, Dover, New Hampshire 03820, producer of footwear soles (December 11, 1985); (32) Debbie Knits, Inc., Route 1, Box 97-B, York, South Carolina 29745, producer of knitted fabric (December 11, 1985); and (33) The Barre' Company, Inc., 201 Park Avenue South, Linden, New Jersey 07036, producer of sheet metal equipment parts (December 12, 1985).

The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Certification Division, Office of Trade Adjustment Assistance, Room 4015A, International Trade Administration , U.S. Department of Commerce, Washington, DC 20230, no later than the close of businesss of the tenth calendar day following the publication of this notice. The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.309, Trade Adjustment Assistance. Inasfar as this notice involves petitions for the determination of eligibility under the Trade Act of 1974, the requirements of Office of Management and Budget Circular No. A-95 regarding review by clearinghouses do not apply.

Charles L. Smith,

Acting Chief, Certification Division, Office of Trade Adjustment Assistance.

[FR Doc. 85-30471 Filed 12-24-85; 8:45 am]

BILLING CODE 3510-DR-M

[41-570-501]

Natural Bristle Paint Brushes and Brush Heads from the People's Republic of China; Final Determination of Sales at Less than Fair Value

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We determine that natural bristle paint brushes and brush heads from the People's Republic of China (PRC) are being, or are likely to be, sold in the United States at less than fair value, and that "critical circumstances" exist with respect to imports of the merchandise under investigation. We have notified the U.S. International Trade Commission (ITC) of our determination and the ITC will determine within 45 days of publication of this notice, whether a U.S. industry is materially injured, or threatened with material injury, by reason of imports of this merchandise. We have directed the U.S. Customs Service to continue to suspend liquidation on all entries of subject merchandise as described in the "Suspension of Liquidation" section of this notice and to require a cash deposit or posting of a bond for each such entry in an amount equal to the dumping margin described in the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: December 26, 1985.

FOR FURTHER INFORMATION CONTACT: Paul Tambakis or John Brinkman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-4136 or (202) 377-3965.

SUPPLEMENTARY INFORMATION:

Final Determination

Based upon our investigation, we determine that natural bristle paint brushes and brush heads from the PRC are being, or are likely to be, sold in the United States at less than fair value, pursuant to section 735(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1673d(a)) (the Act). We have determined the weighted-average margin of sales at less than fair value to be 127.07 percent. We found that the foreign market value of the subject merchandise exceeded the United States price on virtually all of the sales we compared. These margins ranged from 13 to 335 percent.

Case History

On February 19, 1985, we received a petition from the United States Paint Brush Manufacturers and Suppliers Ad Hoc Import Action Coalition, filed on behalf of the U.S. industry producing natural bristle paint brushes and brush heads. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petitioner alleged that imports of natural bristle paint brushes and brush heads from the PRC 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, and that these imports materially injure, or threaten material injury to, a United States industry.

After reviewing the petition, we determined it contained sufficient grounds upon which to initiate an antidumping duty investigation. We notified the ITC of our action and initiated such an investigation on March 11, 1985 (50 FR 10523). On April 5, 1985, the ITC determined that there is a reasonable indication that imports of natural bristle paint brushes and brush heads from the PRC are threatening material injury to a Untied States industry. On July 2, 1985, petitioner amended its petition to allege that "critical circumstances" exist with respect to imports of this merchandise, as defined in section 733(e) of the Act.

On May 1, 1985, a questionnare on United States price was presented to counsel for the China National Native Produce and Animal By-Products Import-Export Corporation (Animal By-Products Corporation), the only known exporter of natural bristle paint brushes and brush heads to the United States. On June 7, 1985, the Animal By-Products Corporation requested an extension of the time to respond to the Department's questionnaire. On June 12, 1985, we granted a two-week extension to June 21, 1985. On June 21, 1985, the Animal

By-Products Corporation requested an additional extension of 7 days to complete the response. This request was denied. We received a partial response from the Animal By-Products Corporation on July 26, 1985, which was not timely and not in proper form for consideration in our preliminary determination. In response to our August 19, 1985, deficiency letter additional responses were received from the Animal By-Products Corporation on August 28, 1985 and October 25, 1985.

On July 29, 1985, we issued our preliminary determination that natural bristle paint brushes and brush heads were being, or were likely to be, sold in the United States at less than fair value (50 FR 31636). To determine whether sales in the United States were made at less than fair value, we used best information available for calculating United States price. We based foreign market value on a simple average of delivered home market selling prices of the two Sri Lankan respondents for the most common sizes of paint brushes believed to be sold by the PRC to the United States net of discounts. We also preliminarily determined that critical circumstances exist in this case. In our preliminary determination, we stated that we would issue a final determination by October 14, 1985.

On August 14, 1985, the Animal By-Products Corporation requested that we extend the period for the final determination for 60 days, until not later than the 135th day after publication of our preliminary determination, in accordance with section 735(a)(2)(A) of the Act. This request was granted on August 23, 1985, and our final determination was postponed until not later than December 18, 1985 (50 FR 35285).

We conducted verifications in Sri Lanka of the Ravi and Harris responses during the week of August 19, 1985. Verification of the Animal By-Products Corporation's responses took place in the PRC between October 7–12, 1985.

As required by the Act, we afforded interested parties an opportunity to submit oral and written comments, and on November 8, 1985, a public hearing was held to allow parties to address the issues arising in this investigation.

On November 18, 1985, the Animal By-Products Corporation submitted a proposal for suspension of this investigation. The Department was unable to accept this proposed suspension agreement because it was not filed on a timely basis and did not meet the statutory requirements of section 734(e) of the Act.

We have determined that the PRC is a state-controlled-economy country for the purpose of this investigation. This is further discussed under the "Foreign Market Value" section of this notice.

Scope of Investigation

The products covered by this investigation are natural bristle paint brushes and brush heads as currently provided for in item 750.65 of the *Tariff Schedules of the United States (TSUS).*

The period of investigation is from September 1984, through February 1985.

Fair Value Comparison

To determine whether sales in the United States of the subject merchandise were made at less than fair value, we compared United States price with the foreign market value based on prices of similar merchandise sold to unrelated purchasers in Sri Lanka and the weighted-average price of imports of similar merchandise into the United States.

United States Price

We used the purchase price of the subject merchandise to represent United States price because the merchandise was sold to unrelated purchasers prior to its importation into the United States. We calculated the purchase price of the subject merchandise, as provided in section 722(b) of the Act, based on the C.I.F., packed prices net of discounts to unrelated purchasers in the United States. We made deductions, where appropriate, for foreign inland freight and insurance, brokerage and handling charges in the PRC, ocean freight and marine insurance. In accordance with the policy set forth in recent final determinations involving state-controlled-economy countries, including *Carbon Steel Wire Rod from Poland,* (49 FR 29434 (1984)), we based foreign inland freight and insurance on charges incurred for similar services in a "non-state-controlled-econmy" country. We based those charges denominated in Renminbi Yuan (RMB) on costs for similar services in Sri Lanka.

Foreign Market Value

In accordance with section 773(c) of the Act, we used the home market prices and costs of Sri Lankan paint brush producers and the weighted-average price of brush imports into the United States to determine foreign market value. Petitioner alleged that the PRC is a "state-controlled-economy" country and that sales of the subject merchandise in that country or to third countries do not permit a determination of foreign market value under section 773(a) of the Act. After an analysis of the PRC's economy and consideration of the brief submitted by the parties, we determined that the PRC is a "state-controlled-economy" country for purposes of this investigation. For a further discussion of this issue, see the Department's response to respondent's comment 2.

As a result, section 773(c) of the Act requires us to use price of sales in the home market or to other countries, or the constructed value, of such or similar merchandise of a "non-state-controlled-economy" country. Section 353.8(a) of our regulations establishes a preference for foreign market value based upon prices at which *similar* merchandise is sold for consumption in the home market of that country, or to other countries, including the United States. Section 353.8(b) further provides that, to the extent possible, we should determine foreign market value on the basis of prices in a "non-state-controlled-economy" country that is at a stage of economic development comparable to the country with the state-controlled economy.

After an analysis of the countries that produce natural bristle pain brushes, we determined that Sri Lanka would be an appropriate surrogate since it is at a level of economic development comparable to the PRC. Accordingly, we mailed questionnaires to the two known Sri Lankan producers of paint brushes, Harris, Ltd. and Ravi Industries, Ltd., and received responses from these two companies on May 28 and July 26, 1985, respectively.

After reviewing the Harris and Ravi responses, we determined that while the Sri Lankan merchandise is similar to a portion of the Chinese merchandise subject to this investigation, it is not similar to a significant percentage of the Chinese brushes exported to the U.S. In particular, it cannot be considered similar to Chinese "chip" brushes. Section 771(16) of the statute defined "such or similar merchandise" as follows, in the order of preference, as: "(A) The merchandise which is the subject of an investigation and other merchandise which is identical in physical characteristics with, and was produced in the same country by the same person as, the merchandise," or "(B) merchandise (i) produced in the same country and by the same person as the merchandise which is the subject of the investigation, (ii) like that merchandise in component material or materials and in the purposes for which used, and (iii) approximately equal in commerical value to that merchandise," or "(C) merchandise (i) produced in the same country and by the same person and of the same general class or kind as the merchandise which is the subject of

the investigation, (ii) like that merchandise in the purposes for which used, and (iii) which the administering authority determines may reasonably be compared with that merchandise."

Based on our analysis of the Sri Lankan and Chinese merchandise, we have determined that, with respect to Chinese chip brushes, the Sri Lankan product cannot be satisfactorily categorized under definitions (A), (B), or (C) above. The black bristle paint brushes produced in Sri Lanka do not satisfy the criteria under (A) because they are not physically identical to the chip brushes. The Chinese chip brushes are made with significantly fewer bristles and cheaper wooden handles. The Sri Lankan brushes also fail to satisfy the criteria under (B) and (C) because they are not like the Chinese merchandise in the purposes for which they are used. While Sri Lankan brushes (like the non-chip Chinese brushes) are used to apply paint, stain and varnish, the Chinese chip brushers are used extensively in the industrial market to remove chips and other scrap generated during machining operations. and to apply lubricants, glue and other adhesives.

Therefore, having determined that the Sri Lankan merchandise is not such or similar to the Chinese chip brushes, for purposes of our fair value comparisons with respect to chip brush sales, we based foreign market value on the weighted-average F.A.S. price of brushes, both chip and non-chip, imported into the United States. We considered this "basket" information, the most specific information on world chip brush prices compiled by the Department, to be the best information available. We were not able to base foreign market value for chip brushes on the sales of a surrogate or upon constructed value, as provided in section 773(c) of the Act, because we first received information from respondent indicating it sold chip brushes in its supplemental response of August 28, 1985.

For purposes of our fair value determination with respect to shipments of brushes other than chip brushes, we based foreign market value on the delivered, packed, home market selling prices of sales by Harris, Ltd. to its unrelated customers in Sri Lanka. For purposes of this determination, we disregarded the selling prices of Ravi Industries, Ltd., pursuant to § 353.22(b) of the regulations (19 CFR 353.22(b)), since all home market sales by this company were made to a related distributor in Sri Lanka. We made deductions for inland freight and insurance and discounts. We made adjustments for differences in credit terms and advertising expenses in accordance with § 353.15 of the regulations (19 CFR 353.15).

We also made adjustments for known differences in the physical characteristics of the merchandise based on costs of materials and labor in Sri Lanka, in accordance with § 353.16 of the Commerce Regulations. We used PRC inputs furnished by the Wuxi, Shanghai and Lan Xi Brush Factories and the Shanghai Bristle and Brush Factory, since the brush styles included in our final calculations were produced at these locations. With regard to materials, we made adjustments for differences in bristle and ferrule weight, timber usage, epoxy and nails. We disregarded in our adjustments any costs for materials purchased by Harris from related companies because there was no evidence that such purchases were made at arm's length. For these adjustments, we used Ravi's purchases of materials from unrelated sources. Since packing was identical in the two markets, no adjustment was made for this expense.

Petitioner's Comments

Comment 1. Petitioner argues that the Department should make a final affirmative determination that critical circumstances exist. There is a history of dumping as evidenced by a Canadian finding of dumping for natural bristle paint brushes from the PRC in October, 1984. With regard to the second prong of the test, whether there have been massive imports over a ralatively short period, petitioner points out that: (1) The import penetration ratios for PRC brushes have increased from 1982 to 1984; (2) imports from the PRC have surged recently: (3) recent imports are significantly above the average calculated over the last three years; (4) there are no seasonal factors.

DOC Response. We agree that critical circumstances exist in this case. See the section of this notice entitled "Affirmative Determination of Critical Circumstances".

Comment. 2. Petitioner requests that the Department calculate deductions from United States price in accordance with Departmental practice. Specifically, for ocean freight petitioner cites to the Departmental practice of verifying that rates charged by COSCO, the PRC state-owned carrier, are commensurate with rates charged by "non-state-controlled-economy" carriers and requests that we do the same in this case. Moreover, because brokerage and handling charges are included in COSCO's ocean freight rate, that rate should exceed the "non-state-controlled-economy" carrier rate and if it doesn't, brokerage and handling charges incurred by Sri Lankan producers on their export shipments should be deducted from United States price. Finally, for inland freight, petitioner requests that we use the cost per mile for inland freight in Sri Lanka.

DOC Response. Only two of the shipments were transported on PRC flag vessels, the remainder being shipped on vessels from "non-state-controlled" countries. The fees paid to COSCO and the China Foreign Vessel Agent Company for shipments on vessels from "non-state-controlled" countries included both port charges and ocean freight rates.

Therefore, since both rates include brokerage and handling, there is no need to calculate these charges based on costs of similar services in Sri Lanka. We verified that the fees charged by COSCO were comparable to those charged by carriers from "non-state-controlled" countries. Inland freight deductions were calculated using the per mile cost of inland freight in Sri Lanka.

Comment 3. Petitioner agrees with the Department's selection of Sri Lanka as the appropriate surrogate and argues that the Sri Lankan producers' home market prices should be preferred to their export prices as the basis for calculating foreign market value. In regard to the two Sri Lankan producers from whom the Department obtained home market prices, Ravi and Harris, all the domestic sales of Ravi were to a related distributor. As a result, petitioner claims that these prices cannot be used because there is no way to demonstrate that they are comparable to those that would be charged to unrelated customers. Therefore, petitioner argues that the prices charged by Ravi's distributor and, preferably, the prices charged by Harris, who sells directly to unrelated purchasers in the home market, should be used as the basis for calculating foreign market value.

DOC Response. We agree that the home market prices for similar merchandise charged by a producer in a market economy at a comparable level of economic development to the state-controlled economy in question are preferred to the export prices of that surrogate producer for purposes of calculating foreign market value. (See *Carbon Steel Plate from Romania; Final Results of Administrative Review of Suspension Agreement*, 49 FR 12292 (1984)). Therefore, we have compared the Sri Lankan home market prices for paint brushes to the prices charged for

PRC paint brushes. Because one of the Sri Lankan producers that responded to our questionnaire made sales directly to related customers (Ravi) and we do not have information necessary to make circumstances-of-sale adjustments to the prices charged by Ravi's distributor, we disregarded this producer's prices to its related distributor. Accordingly, we based foreign market value for paint brushes on home market sales to the unrelated customers of Harris.

As discussed elsewhere in this notice, we have determined that the paint brushes sold in Sri Lanka are not similar to the chip brushes sold by the PRC in the United States. Therefore, we developed an alternative measure for foreign market value for the chip brushes, the weighted-average price of imports to the United States from countries other than the PRC.

Comment 4. Petitioner contends that unless the Department has verified: (1) The existence and percentage rates of quantity discounts claimed by respondent for the PRC's sales in the U.S. and (2) that the discounts are consistently applied and justifiable on the basis of a real cost savings for volume production and/or sale, then no adjustments to foreign market value should be made for quantity discounts.

DOC Response. We verified that discounts were actually given on various PRC sales based on, *inter alia*, the quantity ordered and the length of time that the U.S. purchaser had been a customer. Consistent with our practice, we used the price net of discounts for United States price.

As we did not request information relative to specific sales by Harris in its home market, we did not compare PRC paint brush sales to sales of comparable quantities in Sri Lanka. Instead, we relied upon standard prices listed for the various brush sizes, which we verified were the actual prices charged in the home market. We verified that Harris offered a wholesaler discount and that the discount was given on over 80 percent of Harris' sales during the period for which we gathered information. Therefore, also consistent with our practice, we based foreign market value for paint brushes on prices net of the weighted-average discount given on Harris' home market sales during the period of investigation.

For chip brushes, because we used import statistics, no adjustment was made to foreign market value for quantity discounts.

Comment 5. Petitioner urges the Department to reject respondent's claim for a level-of-trade adjustment because respondent has not demonstrated that different costs are incurred in selling at the wholesale and retail levels.

DOC Response. We agree. No evidence has been submitted demonstrating that there are differing costs associated with selling paint brushes at different levels of trade in Sri Lanka. See respondent's comment 8 and the Department's response thereto. Also, no level-of-trade adjustment was made for sales of chip brushes.

Comment 6. Petitioner contends that there is no evidence that the Sri Lankan producers incur costs for warranties, guarantees or technical assistance. Therefore, foreign market value should not be adjusted for these circumstances of sale.

DOC Response. We have not made circumstance of sale adjustments for warranties, guarantees or technical assistance because the Sri Lankan producer, whose home market paint brush prices we have used, did not incur these types of expenses. Circumstances of sale adjustments were made to account for direct advertising expenses incurred by Harris and differences in the credit terms offered by the Sri Lankan and PRC producers on paint brush sales.

No circumstances-of-sale adjustments were made for chip brushes because we did not have the necessary information to adjust the prices of imports to the United States from other countries.

Comment 7. Petitioner contends that there is no evidence of significant differences between the grades of bristle used by the PRC producers as opposed to the Sri Lankan producers, nor that the bristle used in Sri Lanka has undergone further processing. Therefore, no adjustments for differences in quality of the bristle should be made to the per unit price of bristle in Sri Lanka. Moreover, specific deductions requested by respondent to account for the fact that Harris purchases its bristle from its U.K. parent should not be allowed because they have not been quantified or verified.

DOC Response. The paint brushes produced by Ravi and Harris have almost identical physical characteristics. For the reasons stated in the "Foreign Market Value" section, we have used the costs of bristle to Ravi, the Sri Lankan producer who purchases bristles directly from unrelated suppliers, to make adjustments for the differing amounts of bristle contained in the Sri Lankan and PRC paint brushes. Therefore, any additional costs that may be built into Harris's bristles do not affect our calculations. For bristles purchased by Ravi, we verified that no further processing is done to the bristles and, thus, no adjustment is warranted in this regard. Also, no adjustment has been made for differences in the grade of bristle used by Ravi and the PRC producers in their paint brushes because no evidence was submitted to demonstrate that any difference in grades used by Ravi resulted in different costs.

No adjustments were made for any differences in the physical characteristics of chip brushes.

Comment 8. Petitioner argues that no adjustment should be made to the prices of Sri Lankan brushes to account for differences in the physical characteristics of the ferrules used by the PRC producers. In the case of Harris, who purchases ferrules from its U.K. parent, the specific deductions called for by respondent have not been quantified or verified. For Ravi, who purchases nickel-plated ferrules from Italy, neither the cost nor the amount of Italian raw materials or labor inputs associated with nickel-plating is known. In the petitioner's view, even if these were known, comparing Italian costs to the labor-intensive methods of production in the PRC would likely require an upward rather than downward adjustment to foreign market value. Moreover, by respondent's admission, nickel-plating is an inexpensive process and, hence, could be disregarded as an insignificant adjustment. Finally, the Sri Lankan producers' decision to import ferrules and thereby incur additional costs of transportation, freight and insurance reflects responses to economic forces operating in a free market. The PRC producers' decision to produce the ferrules themselves was not a result of such forces. Therefore, the surrogates' choice should be recognized and no adjustments should be made to reflect the potentially higher costs of importing ferrules.

DOC Response. We have used the prices paid by Ravi for its ferrules in examining whether adjustments based upon differences in the types of ferrules used for paint brushes are appropriate. Thus, there was no need to consider the specific adjustments to the prices paid by Harris. The ferrules used by Ravi are nickel-plated whereas some of the PRC brushes have tin-plated ferrules. Ideally, any adjustment for these physical differences in the merchandise would be made by comparing the prices Ravi paid for tin-plated ferrules. However, Ravi did not use the tin-plated ferrules.

We did not seek material or labor input information or costs from the Italian ferrule producers to ascertain or value the differences in physical characteristics between their ferrules and the PRC ferrules. Our reasons for not doing so are twofold. Italy would not

be considered at a comparable level of economic development to the PRC and, hence, a revaluation along the lines offered by petitioner (*i.e.*, one taking into account the labor-intensive production methods in the PRC) would be inappropriate.

Therefore, the adjustment we have made to account for physical differences in the ferrules used by Ravi and the PRC producers for paint brushes reflects only the weight differences in the ferrules. Because the type of plating can affect the weight of the ferrule, this adjustment may account, in part, for different costs of using nickel-plated and tin-plated ferrules.

Comment 9. Petitioner believes that PRC brush producers import timber for manufacture of brush handles. If so, the cost of the handles is easily identified and should exceed the cost of timber to Sri Lankan producers because of the additional charges for transportation.

DOC Response. We verified that the timber used by the PRC brushmakers for the Shanghai and Jiangsu branches is from domestic sources.

Comment 10. Petitioner claims that the Department must use labor hours reported in the PRC response rather than the actual labor hours verified for certain styles of brushes for computing costs related to differences in physical characteristics. The response appears to report total labor hours per brush style. Worksheets from verification, however, report labor input in working days per unit of brushes. These were converted by the Department to a total amount for labor input by multiplying the number of days by the number of hours in an average working day, *i.e.*, eight hours. Because the average working day may exceed eight hours the Department should rely on the standard labor hour total reported in the response.

DOC Response. We disagree. In making adjustments for physical differences in the characteristics of Sri Lankan and PRC paint brushes, we have used the actual, verified labor hours of the Shanghai Branch in our final determination because these numbers were supported by accounting records and daily production reports. The data shown in the accounting records does not represent total labor hours. Rather, these number represent total working days per 10,000 units. The Department multiplied the number of days by the verified average number of hours in a workday. We also divided by ten to convert labor hours per 10,000 units to labor hours per 1000 units.

Respondent's Comments

Comment 1. Respondent urges the Department to find that critical circumstances are not present in this case. Specifically, imports from the PRC should not be considered massive over a relatively short period because increased imports following the filling of the petition are explained by seasonal factors, and because the increase in imports from the PRC is consistent with import growth from other suppliers. Furthermore, Congress intended the critical circumstances remedy to be used in situations where the domestic industry is badly injured by large volumes or a surge of imports and to deter exporters from shipping large quantities before the preliminary determination and thereby circumvent the law. Respondent claims that neither of these considerations are present in this case because the ITC only reached a preliminary determination of threat of material injury and because significant quantities of the post-petition imports were purchased directly by petitioner's members of through importers who are primarily suppliers to petitioner's members. Finally, the overwhelming majority of post-petition imports were ordered prior to the filing of the petition and could not constitute in any way stockpiling of inventories or an attempt to circumvent the intent of the law.

DOC Response. As explainted in the section of this notice entitled "Affirmative Determination of Critical Circumstances", the Department based that determination on its standard analysis of recent import statistics. Based on that analysis, we found that imports increased significantly following the filing of the petition, and that recent imports are significantly above average imports calcualted over the last three years. Furthermore, seasonality is not an issue because, by the respondent's own admission, the bulk of the shipments are of chip brushes. Though there were instances of post-petition imported that had been ordered prior to the filing of the petition, three of these orders were quite large and occurred within two weeks of the filing. Thus, there is evidence that stockpiling may have been untertaken in an attempt to circumvent the intent of the law.

Comment 2. Respondent claims that the most appropriate measure of foreign market value for PRC brushes is home market prices in the PRC. In respondent's view, the current economic climate in the PRC generally and the business practices of the Animal By-Products Corporation particularly, render the use of a surrogate unnecessary and inappropriate because the PRC economy is not state controlled within the meaning of section 773(c) of the Act. According to the respondent, information submitted by the Animal By-Products Corporation establishes that costing of materials and labor are done in PRC factories, that usual and normal markups over cost of production are taken by the factories and the relevant branches, that charges such as ocean freight & insurance are at prevailing rates and that, in an overall sense, at least the brush business in the PRC operates on free market principles.

DOC Response. We are not persuaded that the PRC economy as a whole or the PRC brush producing entities, in particular, operate under economic forces which would permit a determination of foreign market value on the basis of home market prices or costs. The information submitted by respondent does not demonstrate that the quantities and prices of inputs to brushes, including capital and labor, are not centrally controlled. Nor has respondent demonstrated that the quantities, styles and prices of PRC brushes are not in accordance with centrally-set goals. Also, there is no evidence that home market prices of brushes in the PRC are affected by competition among PRC producers of brushes or substitute products or imports. Finally, no information was presented regarding the convertibility of the Renminbi, the national current of the PRC, a factor which the Department takes into account in determining whether an economy can be treated as non-state controlled for purposes of an antidumping duty proceeding.

Comment 3. Assuming a surrogate measure of foreign market value was necessary, respondent argues that it would be more appropriate to select a number of major brush producing countries, including Taiwan and Korea, for pricing comparisons. Such an approach is provided for expressly in section 773(c) of the Act, whereas the criterion of economic comparability is an administrative construct created by regulation rather than law. Respondent claims that by choosing surrogate countries at a comparable level of economic development the Department limited itself to producers that are insignificant in worldwide production.

DOC Respone. As respondent has recognized. § 353.8(b) of our regulations provides that in investigations involving state-controlled economies, foreign market value "shall be determined, to the extent possible, from the prices or costs in a 'non-state-controlled-economy' country or countries at a stage of economic development comparable to the 'state-controlled-economy' country from which the merchandise is exported." In accordance with this regulation we have used paint brush

prices in Sri Lanka, a country we have determined to be at a level of economic development comparable to this PRC. As discussed above, because the Sri Lunkan product is not similar to the PRC chip brushes, we have used the weighted-average prices of imports into the United States for calculating foreign market value for chip brushes. While the Act does not dictate a preference for choosing countries at a comparable level of economic development to act as surrogates, it was clearly within the Department's authority, and a reasonable exercise thereof, to incorporate this preference in its regulations. The antidumping duty statute consistently provides for a fair value comparison between such or similar merchandise, and it allows several adjustments to ensure that the merchandise sold in different markets does not differ in ways that may affect the differences in its price. In promulgating section 353.8(b), the Department recognized that sales of comparable merchandise, at comparable terms, were more likely to occur in countries at equivalent stages of development. Resondent does not dispute that Sri Lanka is at a comparable level of economic development.

Comment. Respondent contends that the inappropriateness of Sri Lanka as a surrogate is further demonstrated by the particular characteristics of the Sri Lankan producer investigated. In particular, for one Sri Lankan producer (Ravi) all home market sales are made to a related distributor who, in turn, sells to unrelated retailers. The prices charged to the distributor cannot be used absent a showing, which respondent believes cannot be made, that the same prices would be charged to unrelated purchasers. Moreover, although prices to retailers were obtained, no information was provided on discounts, credit expenses, and freight or insurance.

For the second Sri Lankan producer (Harris), the primary materials for brush manufacture, bristles and ferrules, are obtained from its parent company in the U.K. The circumstances under which Harris purchases these materials raise the prospect that Harris home prices are inflated; first because they are obtained at transfer prices and, second, because of the additional transportation and duty charges incurred in importing these materials. As a result, any adjustments made to Harris' home market prices to account for differences in the physical characteristics of the marchandise would reflect these additonal layers of costs.

Finally, for both Ravi and Harris, the brushes sold in Sri Lanka are of medium to high quality for the application of paint, stain and varnish. In respondent's view, these cannot be considered such or similar merchandise to the "chip" or industrial brushes which constitute the overwhelming majority of the PRC's sales in the U.S. because of the differences in components and purposes for which the brushes are used. Hence, the Sri Lankan brushes cannot be used for comparison puposes.

In summary, respondent asserts that given the peculiarities of the two Sir Lankan producers, use of their prices and costs without, at the very least. fundamental and extensive accounting adjustments, contradicts Congressional intent and agency rationale for economically comparable merchandise comparisons.

DOC Response. We agree that the paint brushes sold in the Sri Lankan home market are not similar to the chip brushes sold by the PRC in the United States. Therefore, we have only used Sri Lankan home market prices for calulating for foreign market value of paint chip brushes sold by the PRC in the United States. As described elsewhere, we have used the home market prices of Harris, who does sell to a related distributor. Also, adjustments for physical differences in the bristles and ferrules have not been based on Harris' costs.

Comment 5. Respondent argues that if Sri Lankan home market prices are used, an adjustment must be made for differences in quantities sold. Presumably, Sri Lankan home market sales are in significantly smaller quantities than the PRC export sales. Also, the Sri Lankan producers are essentially paint brush assemblers. Although quantity discounts are not reflected in PRC price lists, their prices are negotiated individually with U.S. buyers and reflect the size and volume of the purchases. Such discounts are based on economies of scale achieved by the PRC producers and their totally integrated production process.

DOC Response. An adjustment has been made to Harris' paint brush prices to reflect that firm's wholesaler discounts. Discounts given on PRC sales have also been deducted from United States prices. See DOC position on petitioner's comment 4.

Comment 6. If Sri Lankan prices are used as the basis for foreign market value, respondent argues that adjustments for difference of circumstances of sales must be made. Respondent claims that the Animal By-Products Corporation incurs no direct selling expenses for its U.S. sales, whereas the Sri Lankan producers extend credit and incur such selling expenses as adverstising, salesmen's salaries, management overhead and expenses and travel for salesmen

DOC Response. We made circumstances of sale adjustments to account for differences in credit expenses and direct advertising expenses incurred on Sri Lankan paint brush sales. For PRC sales where the letters of credit were drawn down after shipment, we treated this period as the number of days credit was outstanding and applied Harris' short-term cost of borrowing to this credit period. We adjusted Harris' prices for the difference between PRC credit expenses and credit expenses incurred by Harris based on the average number of days for which Harris extended credit. The other types of expenses allegedly incurred are not considered directly related to Harris' sales and, hence, no adjustment has been made for these. Also, because weighted-average F.A.S. import prices were used for calculating the foreign market value of PRC chip brushes, no circumstances-of-sale adjustments were made.

Comment 7. Given the limited nature of the Sri Lankan operations and the fact that the Sri Lankan producers purchase major components, such as bristles and ferrules, related and/or foreign suppliers, respondent claims that adjustments for differences in the physical characteristics of the Sri Lankan and PRC merchandise should factor out costs which are peculiarly and solely related to the Sri Lankan producers' methods of procurement and production to allow differences in the physical characteristics of the merchandise to be adjusted on a comparable cost basis.

DOC Response. In making adjustments for differences in the PRC and Sri Lankan paint brushes, we have relied on Ravi's costs for bristles and ferrules, since Ravi purchases these materials from unrelated suppliers. As explained in the "Foreign Market Value" section of this notice, we excluded any costs for materials purchased by Harris from related companies. Therefore, the issue of specific adjustments to the Harris prices is moot.

In regard to adjustments to Ravi's costs, respondent would make an adjustment to account for additional processing of bristle in Sri Lanka. The bristle purchased by Ravi undergoes no additional treatment, as claimed by respondent, and, therefore, no adjustment is necessary. For ferrules, respondent would have us factor out the

allegedly higher resulting from producing ferrules in Italy rather than Sri Lanka, the freight and insurance incurred in shipping the product from Italy, and the import duties and other taxes associated with importing the ferrule. We disagree that such adjustments should be made. Ravi chose to purchase ferrules overseas rather than to produce them itself, presumably for sound business reasons. Therefore, it is reasonable to assume that use of the prices paid to Italian ferrule producers does not skew or inflate the cost of components.

Comment 8. Respondent claims that Sri Lankan home market sales are to retailers or related distributors while PRC sales in the U.S. are to manufacturers of importers. For this reason, respondent requests an adjustment an adjustment for differences in levels of trade.

DOC Response. We have not made a level of trade adjustment because no evidence has been provided to demonstrate that different costs are incurred in selling at different levels of trade.

Comment 9. Respondent argues that retroactive imposition of antidumping duties under the critical circumstances provision of the Act is unconstitutional. This provision allegedly violates the due process clause of the Fifth Amendment, under the "vagueness doctrine." The major principle of the vagueness doctrine is that statutes and regulations which purport to govern conduct must give an adequate warning of what they command or forgive.

A critical circumstances determination results in the retroactive application of the preliminary margin, to entries beginning 90 days prior to the preliminary determination. Respondent argues that this violates the vagueness doctrine, because until an antidumping petition is filed and the ITA selects a surrogate, an importer purchasing goods from a "state-controlled-economy" country does not known what sales will be used as a pricing benchmark, and thereby lacks any ability whatsoever to know if the purchases being made are unlawful, i.e., at less than fair value, or to exercise a meaningful choice as to his conduct.

DOC Response. Congress enacted the critical circumstances provisions of the antidumping and countervailing duty laws as part of the Trade Agreements Act of 1979. However, the Antidumping Act of 1921 and the International Antidumping Code of 1967 also contained retroactivity provisions. One of the purposes of the critical circumstances provisions was "to deter exporters whose merchandise is subject to an investigation from circumventing the intent of the law by increasing their exports to the United States during the period between initiation of an investigation and a preliminary determination by the authority." H.R. Rep. No. 96–317, 96th Cong., 1st Sess. 63 (1979). The Department has further stated that "the retroactive levying will serve as necessary and effective warning that merchandise subject to United States antidumping or countervailing duty investigations may not be rushed into the United States in order to avoid possible antidumping or countervailing duties." *Certain Steel Products from France,* 47 FR 35656, 35660 (1982).

Thus, both Congress and the Department view the initiation of an antidumping duty investigation as sufficient notice that the subject merchandise may be subject to antidumpting duties in the future. There is no reason that the initiation serves as notice of the possible imposition of a duty deposit rate only at the time of a preliminary determination. Section 733(e)(2) provides that liquidation may be suspended retroactively with respect to "unliquidated entries of merchandise entered . . . on or after the date which is 90 days before the date on which suspension of liquidation was first ordered." The earliest date upon which suspension of liquidation may be ordered in an antidumping duty investigation is the date of the preliminary determination, which occurs within 160 days after the filing of the petition, pursuant to section 733(b)(1) of the Act. In a normal antidumping investigation where critical circumstances are found to exist, suspension of liquidation would not begin to apply until at least 70 days after the filing of the petition, or 50 days after the date of initiation.

In this investigation, the preliminary determination was issued on July 29, 1985, and the notice was published in the **Federal Register** of August 5, 1985. The retroactive suspension of liquidation applies to entries 90 days prior to the date of publication, or beginning May 7, 1985. This date is actually 77 days after the filing of the petition, and 57 day after the date of initiation, and 53 days after publication of the notice of initiation.

The notice of initiation was therefore sufficient notice to any importer of the subject merchandise that this merchandise could be subject to antidumping duty deposits, under either the critical circumstances provisions or the normal schedule dictated by the Act.

Interest Party Comments

Comment 1. Wagman-Wolf, Inc., an importer of brushes from the PRC, claims that the Department cannot make an affirmative finding of critical circumstances unless it has concluded that imports have been massive over a relatively short period and there is reason to believe (1) massive imports would continue or recur absent the imposition of special antidumping duties applied retroactively; (2) the massive imports have been injuring the domestic industry; and (3) the recent imports were intended to circumvent the U.S. aantidumping law by being entered prior to the Department's preliminary determination.

With respect to massive imports, the importer notes that in examining whether imports have been massive over a relatively short period, imports in the second quarter of 1985 (following filing of the petition in February) declined from the prior quarter and were not significantly greater than import levels during the first and last quarters of 1984. The relatively high level of imports in July, 1985 should not be seen as leading to critical circumstances because import levels are historically high in July and July, 1985 imports are lower than July, 1984 imports. Moreover, the brushes which entered after the filing of the petition were generally ordered long before the filing to fill orders placed by the importers' customers, a standard practice in the industry, and, therefore, did not represent an attempt to circumvent the law. Also, the increase in imports in the first quarter of 1985 may have resulted from the need to replenish depleted stocks occasioned by the low level of shipments arriving in prior months. An additional reason that imports increased was the sharp decline in the Renminbi/dollar exchange rate. The exchange rate has now stabilized, precluding the possibility of imports increasing by substantial amounts in the future. Finally, the importer claims that any perceived surge in imports most probably resulted from petitioners' own activities as they are substantial importers as well as customers of importers.

DOC Response. The Department has determined that critical circumstances exist. See the sections of this notice entitled "Affirmative Determination of Critical Circumstances" and the Department's reponse to respondent's comment 1.

Affirmative Determination of Critical Circumstances

Counsel for the petitioner alleged that imports of natural bristle paint brushes from the PRC present "critical circumstances." Under section 735(a)(3) of the Act, "critical circumstances" exist if we determine (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.

For a preliminary determination under section 733(e)(1) of the Act, on the other hand, we determine only "whether there is a *reasonable basis to believe or suspect*" that such elements are present (emphasis added. The standard for a final affirmative determination is more stringent, since we must make an actual finding of whether the necessary elements exist.

In our preliminary determination in this case, we made an affirmative critical circumstances determination. We found a reasonable basis to believe or suspect that imports were massive over a relatively short period, and that there was a history of dumping of the class or kind of the merchandise which is the subject of this investigation.

For purposes of this final determination, we still have found a history of dumping in the United States or elsewhere of natural bristle brushes and brush heads from the PRC. In making this determination, we reviewed past antidumping findings of the Department of the Treasury as well as past Department of Commerce antidumping duty orders. We also reviewed the antidumping actions of other countries, and found a 1984 Canadian antidumping duty order issued on natural bristle paint brushes from the PRC.

Since there is a history of dumping in the United States or elsewhere, we do not need to consider whether there is reason to believe or suspect that importers of this product know or should have known that it was being sold at less than fair value. We generally consider the following concerning massive imports: (1) Recent trends in import penetration levels; (2) whether imports have surged recently; (3) whether recent imports are significantly above the average calculated over the last three years; and (4) whether the pattern of recent imports may be explained by seasonal factors. Based on this analysis, we find that imports of the subject merchandise from the PRC during the period subsequent to receipt of the petition have been massive when compared to recent import levels and that recent imports are significantly above average imports calculated over the last three years. We also find that the pattern of recent imports cannot be explained by seasonal factors.

Therefore, we determine that critical circumstances exist with respect to imports of natural bristle paint brushes and brush heads from the PRC.

Verification

In accordance with section 776(a) of the Act, we verified all data used in making this final determination using standard verification procedures, including on-site inspection of manufacturers' facilities and examination of records and selected original source documentation containing relevant information.

Continuation of Suspension of Liquidation

In accordance with section 733(d) of the Act, on August 5, 1985, we directed the United States Customs Service to suspend liquidation of all entries of natural bristle paint brushes and brush heads from the PRC for all manufacturers/producers/exporters, which were entered, or withdrawn from warehouse, for consumption 90 days prior to August 5, 1985. As of the date of publication of this notice in the **Federal Register**, the liquidation of all entries or withdrawals from warehouse, or natural bristle paint brushes and brush heads, for consumption, or this merchandise shall continue to be suspended. The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. The bond or cash deposit amount established in our preliminary determination of August 5, 1985, is no longer in effect. The weighted-average margin is 127.07 percent. This suspension of liquidation will remain in effect until further notice.

ITC Notification

In accordance with section 735(d) 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 consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether the domestic industry is materially injured, or threatened with material injury, by reason of these imports within 45 days of the publication of this notice.

If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, we will issue an antidumping duty order, directing Customs officers to assess antidumping duties on natural bristle paint brushes and brush heads from the PRC, as appropriate.

This notice is published in accordance with section 735(d) of the Act.

Dated: December 18, 1985.

Paul Freedenberg,

Assistant Secretary for Trade Administration.

[FR Doc. 85-30475 Filed 12-24-85; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of issuance of an export trade certificate of review.

SUMMARY: The Department of Commerce has issued an export trade certificate of review of Grays Harbor Exporting Trading Company ("GHETCO") This notice summarizes the conduct for which certification has been granted. Note that the Notice or Application (50 FR 42720) referred to the applicant as "Grays Harbor Exporting-Importing Company".

FOR FURTHER INFORMATION CONTACT: James V. Lacy, Director, Office of Export Trading Company Affairs, International Trade Administration, 202-377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 ("the Act") (Pub. L. No. 97-290) authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing Title III are found at 15 CFR Part 325 (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice

pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a certificate in the **Federal Register.** Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct.

Export Trade Products: All products.

Related Services: Provision of technical information and advice related to the export of Products, including site preparation, set-up, and maintenance; engineering, architectural and consulting services; and taking title to goods.

Export Markets: The Exports Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation: To engage in Export Trade in the Export Markets, GHETCO may:

(1) Enter into nonexclusive and/or exclusive agreements with suppliers individually to act as an Export Intermediary wherein:

(a) GHETCO agrees not to represent any competitors of such supplier for Products or Related Services for any Export Market unless authorized by the supplier; and/or

(b) the supplier agrees not to sell, directly or indirectly through any other intermediary, into any part of the Export Markets in which GHETCO exclusively represents the supplier as an Export Intermediary.

(2) Enter into nonexclusive and/or exclusive agreements with Export Intermediaries for the sale of Products and Related Services in the Export Markets wherein:

(a) GHETCO agrees to deal in Products and Related Services in any Export Market only through that intermediary; and/or

(b) that intermediary agrees not to deal in particular Products and Related Services in any Export Market with anyone except GHETCO.

(3) Contract suppliers (including competing suppliers), on a one-to-one basis, to elicit price, volume, estimated delivery, and other information relating to sales in the Export Markets.

(4) Enter into exclusive and/or nonexclusive agreements with individual buyers in any Export Market to act as a purchasing agent with respect to particular transactions.

Definitions

For purposes of this certificate, the following terms are defined:

(1) "Export Intermediary" means a person who acts as a distributor, sales representative, sales or marketing agent, or broker, or who performs similar functions, including providing or arranging for the provision of Products and Related Services for Export Trade.

(2) "Agreements with suppliers individually" means the agreements have been entered into independely of agreements with other suppliers.

Members

Mr. O'Dean Williamson, Mr. Ray Ericks, and Mr. John L. Farra (all of whom are from, Aberdeen, Washington) are "members" within the meaning of §325.2(1) of the Regulations.

A copy of each cetificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

Dated: December 20, 1985.

James V. Lacy,

Director, Office of Export Trading Company Affairs.

[FR Doc. 85-30500 Filed 12-24-85; 8:45 am]

BILLING CODE 3510-DR-M

NASA Lewis Research Center et al.; Applications for Duty-Free Entry of Scientific Instruments

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 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket Number: 6-044

Applicant: NSAS Lewis Research Center, 21000 Brookpark Road, Cleveland, OH 44135.

Instrument: Acoustical Scanning Microscope, Model ASM100 with Accessories.

Manufacturer: VG Semicon Limited, United Kingdom.

Intended Use: The instrument is intended to be used to study the real area of contact between two solids, both statically and with relative motion between the solids. The effect of load and elastic and plastic deformation on contact will be addressed as well. In situ loading experiments with tangential motion between the solids will be conducted directly in the microscope experimentally to verify models for the real area of contact between solids. The materials to be examined will include metals, alloys, polymers and ceramics.

Application received by Commissioner of Customs: November 5, 1985.

Docket Number: 86-045.

Applicant: University of Minnesota Hospital and Clinics, 420 Delaware Street, S.E., Minneapolis, MN 55455.

Instrument: Extracorporeal Shock Wave Lithotripter and Accessories.

Manufacturer: Dornier System GmbH, West Germany.

Intended Use: The instrument is intended to be used in studies to evaluate the physiologic effect shock wave therapy may have on a patient and to determine if methods can be developed to lessen these effects. In addition, the instrument will be used for training purposes in the Urology Residency Program.

Application received by Commissioner of Customs: November 5, 1985.

Docket Number: 86-046.

Applicant: Southern Research Institute, 2000 Ninth Avenue, South, P.O. Box 55305, Birmingham, AL 35255-5305.

Instrument: High resolution Mass Spectrometer, Model MM7070S with Accessories.

Manufacturer: VG Instruments, Incorporated, United Kingdom.

Intended Use: The instrument will be used for studies of polychlorinated dibenzo(*p*)dioxins (PCDDs) and polychlorinated dibenzofurans (PCDFs), polypeptides, chemotherapy agents and polar compounds from woodfires. PCDDs and PCDFs will be determined by high resolution gas chromatography/high resolution mass spectrometry to achieve parts per trillion detection limits and unambiguous identification of the highly toxic compounds. Polypeptides, chemotherapy agents and other polar organic compounds will be studied by high performance liquid chromatography and fast atom bombardment mass spectrometry or electron ionization mass

spectrometry. The principal objective of the experiment is to charactrize compounds by means of mass spectrometry.

Application received by Commissioner of Customs: November 6 1985.

Docket Number: 86-047.

Applicant: Emory University, Chemistry Department, 1515 Pierce Drive, Atlanta, GA 30322.

Instrument: Monolayer Surface Balance.

Manufacturer: Mayer Feintechnik, West Germany.

Intended Use: The instrument is intended to be used to determined pressure-area isoltherms for fatty acids and other lipids in experiments to learn more about the properties of films and membranes so that the principles of passive diffusion through such structures can be better understood.

Application received by Commissioner of Customs: November 1, 1985.

Docket Number: 86-048.

Applicant: University of Illinois Urbana-Champaign Campus, Purchasing Division, 223 Administration Building, 506 South Wright Street, Urbana, IL 61801.

Instrument: Electron Energy Analyzer, Model EA10/100 with Accessories.

Manufacturer: Leybold-Heraeu Vacuum Products Incorporated, West Germany.

Intended Use: The instrument is intended to be used for studies of semiconductors such as Si, Ge, GaAs, and metals such as Ag, Au, Al, etc. Photoemission experiments will be conducted with the objectives of obtaining a better understanding of the electronic properties of these systems and to determine the crystal growth habits.

Application received by Commissioner of Customs: November 1, 1985.

Docket number: 86-049.

Applicant: The Johns Hopkins University, Mergenthaler Hall, Charles & 34th Streets, Baltimore, MD 21218.

Instrument: Eight-channel Pulse Generator, Model Master-8-cp.

Manufacturer: A.M.P.I., Israel.

Intended use: The instrument will be used for neurophysiological research involving experiments performed on bullfrog lumbar paravertebral ganglia. The electrical properties of chemical synapses on these ganglion cells will be studied. Following stimulation of the incoming nerve, a chemical is released which has a powerful excitatory effect on the ganglion cells. The objective of the research is to understand the mechanisms that are used by nerve cells to communicate information between them. In addition, the instrument will be used to train graduate students in the Biophysics Department.

Application received by Commissioner of Customs: November 15, 1985.

Docket number: 86-050.

Applicant: Loma Linda University, 11234 Anderson Street, Loma Linda, CA 92530.

Instrument: Electron Microscope, Model CM10.

Manufacturer: N.V. Philips, The Netherlands.

Intended use: The instrument is intended to be used in virological, immunological, histochemical, hematological and neurological research in which the ultrastructural (morphological) characteristics of tumors, cells, etc. will be studied. The instrument will also be used in classes in Cell and Molecular Biology at the graduate level and courses in Pathology and Anatomy for the medical students.

Application received by Commissioner of Customs: November 15, 1985.

Docket number: 86-051.

Applicant: The University of Mississippi Medical Center, 2500 North State Street, Jackson, MS 39216-4505.

Instrument: Circular Dichroism Spectropolarimeter, Model J-500A.

Manufacturer: Japan Spectroscopic Company, Limited, Japan.

Intended use: The instrument is intended to be used for circular dichroism spectra studies of nucleic acids, antibiotics, and proteins. The instrument will also be used in a graduate level course on the physical biochemistry of proteins.

Application received by Commissioner of Customs: November 18, 1985.

Docket number: 86-053.

Applicant: The University of Tennessee Center for the Health Sciences, 860 Madison Avenue, Memphis, TN 38163.

Instrument: Electron Microscope (Side Entry Goniometer), Model JEM-1200EX with Accessories.

Manufacturer: JOEL, Limited, Japan.

Intended use: The instrument will be used in morphological and cytochemical studies of the structure of nervous tissue. In some experiments, specific neurons stained by methods that select small populations of functionally related cells will be studied to establish the patterns of their connections with other cells. In other experiments, molecular structures identified by their enzyme activity or by immunological techiques will be studied in relation to overall synaptic structure.

Application received by Commissioner of Customs: November 20, 1985.

Docket number: 86-054.

Applicant: Emory University, Department of Chemistry, 1515 Pierce Drive, Atlanta, GA 30322.

Instrument: Mass Spectrometer, Model MM7070S with Accessories.

Manufacturer: VG Analytical Instruments Limited, United Kingdom.

Intended use: The instrument is intended to be used for spectroscopic studies of the following:

(1) Synthesis of nucleic acid and nucleotide metal complexes,

(2) Synthesis and properties of organo-cobalt complexes,

(3) Synthesis of fused heterocyclic compounds,

(4) Bacterial identification of multiparameter fluorescence,

(5) Biologically active compounds—new synthetic methods,

(6) Synthesis of antifeeding agents and

(7) Role of covalent flavin in flavoenzyme catalysis.

Application received by Commissioner of Customs: November 20, 1985.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Education and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 85-30453 Filed 12-24-85; 8:45 am]

BILLING CODE 3510-DS-M

U.S. Geological Survey; 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 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, D.C.

Docket No. 85-199R. Applicant: U.S. Geological Survey, Menlo Park, CA 94025. Instrument: Mass Spectrometer, Model MAT 261. Manufacturer: Finnigan MAT, West Germany. Intended use: See notice at 50 FR 26394.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value of 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 an automated gas inlet system;

variable multicollector for simultaneous collection of up to 5 isotopes of a single element and an internal reproducibility of $< \pm 0.007\%$ in the multicollector mode on 2 μg Uranium (U-500). The capability of the foreign instrument described above is pertinent to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

(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. 83-30449 Filed 12-24-85; 8:45 am]

BILLING CODE 3510-DS-M

University of Chicago, Argonne National Laboratory; Decision of 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 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, D.C.

Docket No. 85-039R. Applicant: University of Chicago, Operator of Argonne National Laboratory, Argonne, IL 60439. Instrument: C80 Heatflux Calorimeter and accessories. Original notice of this resubmitted application was published in the **Federal Register** of December 28, 1984.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value of 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 a detection sensitivity of 2.0 microcalories per second and can operate to temperatures up to 300 degrees centigrade. The National Bureau of Standards advises in its memorandum dated September 16, 1985 that (1) the capability of the foreign instrument described above 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. 83-30446 Filed 12-24-85; 8:45 am]

BILLING CODE 3510-DS-M

University of Illinois, Urbana-Champaign Campus; 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 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, D.C.

Docket No. 85-150. Applicant: University of Illinois, Urbana-Champaign Campus, Urbana, IL 61801. Instrument: Electron Spectrometer, Model LSH-10 with Accessories. Manufacturer: Leybold-Heraeus Vacuum Products, Inc., West Germany. Intended use: See notice at 50 FR 19430.

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 performs x-ray and ultraviolet photoelectron spectrometry and Auger electron spectrometry providing an electron energy resolution of 30 MeV at pass energies of 10 eV. This capability is pertinent to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Education and Scientific Materials.)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 85-30451 Filed 12-24-85; 8:45am]

BILLING CODE 3510-DS-M

University of Rochester et al; Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

This is a decision consolidated 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 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No. 85-228. Applicant: University of Rochester, Rochester, NY 14620. Instrument: Electron Microscope, Model EM 902 with Accessories. Manufacturer: Carl Zeiss Incorporated, West Germany. Intended use: See notice at 50 FR 30217. Instrument ordered: November 19, 1985.

Docket No. 85-231. Applicant: University of Maryland, College Park, MD 20742. Instrument: Electron Microscope, Model EM 10CA with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use: See notice at 50 FR 30217. Instrument ordered: June 3, 1985.

Docket No. 85-232. Applicant: LDS Hospital (Intermountain Health Care, Inc.), Salt Lake City, UT 84143. Instrument: Electron Microscope, Model JEM-100SX with Accessories. Manufacturer: JEOL, Limited, Japan. Intended use: See notice at 50 FR 30217. Instrument ordered: April 30, 1985.

Docket No. 85-234. Applicant: University of Massachusetts, Amherst, MA 01003. Instrument: Electron Microscope, Model JEM-2000FX. Manufacturer: JEOL, Limited, Japan. Intended use: See notice at 50 FR 30217. Instrument ordered: November 20, 1984.

Docket No. 85-235. Applicant: University of Washington, Seattle, WA 98195. Instrument: Electron Microscope, Model EM 410LS with Accessories. Manufacturer: Philips Electronic Instruments, Inc., The Netherlands. Intended use: See notice at 50 FR 30218. Instrument ordered: March 13, 1985.

Docket No. 85-237. Applicant: University of Pennsylvania, Philadelphia, PA 19104-4288. Instrument: Electron Microscope, Model EM 410LS with Accessories. Manufacturer: Philips Electronic Instruments, Inc., The Netherlands. Intended use: See notice at 50 FR 30218. Instrument ordered: April 9, 1985.

Docket No. 85-238. Applicant: Georgetown University School of Medicine, Washington, DC 20007. Instrument: Electron Microscope (Side Entry Goniometer), Model JEM-1200EX and Accessories. Manufacturer: JEOL, Limited, Japan. Intended use: See notice at 50 FR 32756. Instrument ordered: March 26, 1985.

Docket No. 85-241. Applicant: University of Texas Medical Branch at Galveston, Galveston, TX 77550-2772. Instrument: Electron Microscope, Model JEM-100CX with Accessories. Manufacturer: JEOL Company, Limited,

Japan. Intended use: See notice at 50 FR 32756. Instrument ordered: April 9, 1985.

Docket No. 85-243. Applicant: Tulane University, New Orleans, LA 70118. Instrument: Electron Microscope, Model 410LS with Accessories. Manufacturer: N.V. Philips, The Netherlands. Intended use: See notice at 50 FR 32757. Instrument ordered: June 17, 1985.

Docket No. 85-246. Applicant: University of Washington, Seattle, WA 98195. Instrument: Electron Microscope, Model JEM-1200EX. Manufacturer: JEOL, Limited, Japan. Intended use: See notice at 50 FR 33992. Instrument ordered: March 5, 1985.

Docket No. 85-253. Applicant: Medical College of Pennsylvania, Philadelphia, PA 19129. Instrument: Electron Microscope, Model JEM-100CX with Accessories. Manufacturer: JEOL, Limited, Japan. Intended use: See notice at 50 FR 33993. Instrument ordered: June 4, 1985.

Docket No. 85-254. Applicant: Northwestern University, Evanston, IL 60201. Instrument: Electron Microscope, Model JEM-1200EX with Accessories. Manufacturer: JEOL, Limited Japan. Intended use: See notice at 50 FR 33993. Instrument ordered: March 14, 1985.

Docket No. 85-255. Applicant: Medical College of Georgia, Augusta, GA 30912. Instrument: Electron Microscope, Model JEM-100CXII with Accessories. Manufacturer: JEOL,Company, Limited, Japan. Intended use: See notice at 50 FR 33993. Instrument ordered: May 9, 1985.

Docket No. 85-256. Applicant: Bowman Gray School of Medicine, Wake Forest University, Winston-Salem, NC 27103. Instrument: Electron Microscope, Model H-600 CR/CR with Accessories. Manufacturer: Hitachi, Japan. Intended use: See notice at 50 FR 33993. Instrument ordered: January 18, 1985.

Docket No. 85-257. Applicant: Purdue University, West Lafayette, IN 47907. Instrument: Electron Microscope, Model EM 109TS with Accessories. Manufacturer: Carl Zeiss, Incorporated, West Germany. Intended use: See notice at 50 FR 34538. Instrument ordered: April 18, 1985.

Docket No. 85-261. Applicant: Michigan State University, East Lansing, MI 48824. Instrument: Electron Microscope, Model JEM-100CXII with Accessories. Manufacturer: JEOL, Japan. Intended use: See notice at 50 FR 34538. Instrument ordered: May 3, 1985.

Docket No. 85-265. Applicant: University Medical Center, Tucson, AZ 85724. Instrument: Electron Microscope, Model JEM-100CXII. Manufacturer: JEOL, Limited, Japan. Intended use: See notice at 50 FR 34537. Instrument ordered: March 14, 1985.

Docket No. 85-267. Applicant: East Carolina University, Greenville, NC 27834. Instrument: Electron Microscope, Model JEM-1200EX. Manufacturer: JEOL, Limited, Japan. Intended use: See notice at 50 FR 34537. Instrument ordered: April 18, 1985.

Docket No. 85-270. Applicant: The Arthritis Institute, Arlington, VA 22206. Instrument: Electron Microscope, Model EM 410LS. Manufacturer: N.V. Philips, The Netherlands. Intended use: See notice at 50 FR 36128. Instrument ordered: May 30, 1985.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufuactured in the United States at the time the instruments were ordered.

Reasons: Each foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. WE know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States either at the time of order of each instrument or at the time of receipt of application by the U.S. Customs Service.

(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. 85-30452 Filed 12-24-85; 8:45 am]

BILLING CODE 3510-DS-M

[A-580-505 and C-580-505]

Postponement of Final Antidumping Duty Determination and Final Countervailing Duty Determination: Offshore Platform Jackets and Piles From the Republic of Korea

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On November 21, 1985, we received a request from respondents in the antidumping duty investigation of offshore platform jackets and piles that the final determination be postponed as provided for in section 735(a)(2)(A) of the Tariff Act of 1930, as amended (19 U.S.C. 1673d(a)(2)(A)) (the Act). Pursuant to this request, we are postponing our final antidumping duty determination as to whether sales of offshore platform jackets and piles from the Republic of Korea have been made at less than fair value until not later than March 31, 1986.

On July 25, 1985, petitioners filed a request for an extension of the deadline date for the final determination in the countervailing duty investigation of offshore platform jackets and piles from Korea to correspond with the date of the final determination in the antidumping investigations of offshore platform jackets and piles from Korea and Japan. Therefore, this notice also postpones the countervailing duty determination until not later than March 31, 1986.

EFFECTIVE DATE: December 26, 1985. For Further Information Contact; Francis R. Crowe, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-4087.

SUPPLEMENTARY INFORMATION: On May 15, 1985, we published a notice in the **Federal Register** that we were initiating, under section 732(b) of the Act (19 U.S.C. 1673a(b)), an antidumping duty investigation to determine whether imports of offshore platform jackets and piles from the Republic of Korea are being, or are likely to be sold at less than fair value (50 FR 20254). We issued our preliminary affirmative determination on November 15, 1985 (50 FR 48452). That notice stated that we would issue a final determination on or before January 29, 1986. On November 21, 1985, counsel for the respondents requested that we extend the period for the final determination until not later than the 135th day after the date of our preliminary determination in accordance with section 735(a)(2)(A) of the Act. The respondents account for a significant proportion of exports of the subject merchandise to the United States, and thus are qualified to make this request. If a qualified exporter properly requests an extension after an affirmative preliminary determination, the Department is required, absent compelling reasons to the contrary, to grant the request. Accordingly we grant the request and postpone our final determination until not later than March 31, 1986. Also, based on the request of petitioners, we are extending our final determination in the countervailing duty determination to correspond with the date of the final determination in the Korean antidumping duty investigation. This is made pursuant to section 705(a)(1) of the Tariff Act of 1930, as amended by section 606 of the Trade and Tariff Act of 1984 (Pub. L. 98-573).

The public hearing for the Korean antidumping investigation is also being

postponed until 10:00 a.m. on February 12, 1985, at the U.S. Department of Commerce, Room 6802, 14th Street and Constitution Avenue, NW Washington, DC 20230. Accordingly, prehearing briefs must be submitted to the Deputy Assistant Secretary by February 5, 1985.

This notice is published pursuant to section 735(d) of the Act.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

December 17, 1985.

[FR Doc. 85-30476 Filed 12-24-85; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

[Modification No. 1 to Permit No. 380]

Marine Mammals; Permit Modification, Southwest Fisheries Center

Notice is hereby given that pursuant to the provisons of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Scientific Research Permit No. 380 issued to the Southwest Fisheries Center, National Marine Fisheries Service, P.O. Box 271, La Jolla, California, 92038 on May 7, 1982 (47 FR 20653), is modified as follows:

Section B-4 is modified by substituting the following:

4. "This Permit is valid with respect to the authorized taking until December 31, 1987.

This modification becomes effective on December 31, 1985.

The Permit, as modified, and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, DC, and

Director, Southwest Region, National Marine Fisheries Service 300 South Ferry Street, Terminal Island, California 90731.

Dated: December 17, 1985.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 85-30423 Filed 12-24-85; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment of Import Limit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in the People's Republic of China

December 19, 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 December 26, 1985. For further information contact Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

On October 8, 1985, a notice was published in the **Federal Register** (50 F.R. 40990), which announced that the United States Government, under Article 3 of the Arrangement Regarding International Trade in Textiles, had requested the Government of the People's Republic of China to enter into consultations concerning exports to the United States of braided and unbraided luggage of man-made fibers in Category 670pt. (only T.S.U.S.A. numbers 706.3420, 706.4144 and 706.4152), produced or manufactured in China.

No solution has been reached in consultations on a mutually satisfactory limit for the category. The United States Government has decided, therefore, to control imports in Category 670pt., exported during the twelve-month period beginning on September 3, 1985 and extending through September 2, 1986 at a level of 12,042,805 pounds. The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of the People's Republic of China, further notice will be published in the **Federal Register.**

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).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

December 19, 1985

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 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 Agreement 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, effected by exchange of notes dated 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 December 26, 1985, entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Category670pt.[1], produced or manufactured in China and exported during the twelve-month period which began on September 3, 1985 and extends through September 2, 1986, in excess of 12,042,805 pounds.[2]

Textile products in Category 670pt.[1] which have been exported to the United States prior to September 3, 1985 shall not be subject to this directive.

Textile products in Category 670pt.[1] which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13,1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), 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

[1] In Category 670, only T.S.U.S.A. numbers 706.3420, 706.4144 and 706.4152.

[2] The restraint limit has not been adjusted to reflect any imports exported after September 2, 1985.

Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-30461 Filed 12-24-85; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of Import Restraint Limits for Certain Cotton, and Man-Made Fiber Textile Products From Taiwan

December 19, 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 December 26, 1985. For further information contact Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

The bilateral agreement of November 18, 1982, concerning cotton, wool and man-made fiber textile products from Taiwan provides, among other things, for percentage increases in certain categories during an agreement year for swing and shift, provided corresponding reductions in equivalent square yards are made in other specific limits or sublimits during the same year. It also provides for the borrowing of yardage from a subsequent year's limit with the amount used being charged to that limit in the succeeding year (carryforward). Pursuant to the terms of the bilateral agreement, the import restraint limits established for Categories 340, 633/634/635, 633/634, and 635, exported during the twelve-month period which began on January 1, 1985 are being increased for swing and carryforward. The limit for Category 640 is being reduced to account for swing applied to Category 340.

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).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textiles Agreements.

December 19, 1985.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: On December 21, 1984, the Chairman of the Committee for the Implementation of Textile Agreements, directed you to prohibit entry for consumption or withdrawal from warehouse for consumption of goods exported during the twelve-month period which began on January 1, 1985 and extends through December 31, 1985 of cotton, wool and man-made fiber textile products in certain specified categories, produced or manufactured in Taiwan, in excess of the designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Effective on December 26, 1985, the directive of December 21, 1984 is hereby further amended to include adjusted restraint limits for cotton and man-made fiber textile products in the following categories:

Category	Adjusted 12-month restraint limit
340	795,207 dozen.
633/634/635	1,648,572 dozen of which not more than 1,087,259 dozen shall be in Category 633/634 and not more than 808,598 dozen shall be in Category 635.
640	3,286,883 dozen.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-30460 Filed 12-24-85; 8:45 am]

BILLING CODE 3910-DR-M

[1] The agreement of November 18, 1982, concerning cotton, wool and man-made fiber textile products from Taiwan provides, in part, that (1) specific limits or sublimits may be exceeded by certain designated percentages, provided a corresponding reduction in equivalent square yards is made in one or more of specific limits or sublimits during the same year; (2) certain specific limits or sublimits may be increased for carryforward; (3) special shift may be applied to certain categories, provided an equal amount in square yards equivalent is deducted from designated categories; and (4) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement.

Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Thailand

December 19, 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 December 26, 1985. For further information contact Jane Corwin, 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 July 27 and August 8, 1983, as amended and extended, establishes limits, among other categories, for yarn, and fabric of cotton and man-made fibers in Categories 313, 314, 315, 317, 319, 320, 604, 605pt. (only T.S.U.S.A. number 310.9140) and 613, produced or manufactured in Thailand and exported during the twelve-month periods which began on January 1, 1985 and extends through December 31, 1985 and which begins on January 1, 1986 and extends through December 31, 1986. Import controls established for cotton textiles in Category 301pt. (only T.S.U.S.A. numbers 300.6026 and 300.6028) are for the twelve-month period beginning on January 1, 1986 and extends through December 31, 1986 only. In the letter to the Commissioner of Customs which follows this notice the CITA Chairman directs the Commissioner of Customs to prohibit entry for consumption, or withdrawal from warehouse for consumption, of cotton and man-made fiber textile products in the foregoing categories in excess of the designated restraint limits. Imports charged to the limits established for the foregoing categories, exported during the twelve-month period which began on January 1, 1985 and extends through December 31, 1985, have amounted to the following and will be charged. Further charges will be made for the period which began on December 1, 1985 and extends through December 31, 1985 when the data become available.

Category	Amount to be charged
	(January 1, 1985—November 30, 1985).
313	10,527,288 square yards.
314	7,832,688 square yards.
315	16,330,714 square yards.
317	5,893,488 square yards.
319	1,681,343 square yards.
320	9,893,415 square yards.

Category	Amount to be charged
604	796,064 pounds of which not more than 394,664 pounds shall be in T.S.U.S.A. number 310.5049.
605pt. (only T.S.U.S.A. 310.9140).	391,521 pounds.
613	15,667,078 square yards.

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).

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.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textiles Agreements.

December 19, 1985.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 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 July 27 and August 8, 1983, as amended and extended on November 25 and 27, 1985, between the Governments of the United States and Thailand; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on December 26, 1985, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 313, 314, 315, 317, 319, 320, 604, 605pt [1] and 613, produced or manufactured in Thailand and exported during the periods indicated below, in excess of the indicated restraint limits:

Category	12-month restraint limit [1] Jan. 1, 1985–Dec. 31, 1985
313	13,554,800 square yards.
314	10,028,130 square yards.
315	19,040,000 square yards.
317	6,516,880 square yards.
319	4,706,311 square yards.
320	11,689,822 square yards.

[1] In Category 605, only T.S.U.S.A. number 310.9140.

Category	12-month restraint limit [1] Jan. 1, 1985–Dec. 31, 1985
604	857,716 pounds of which not more than 506,900 pounds shall be in T.S.U.S.A. number 310.5049.
605pt. [1]	564,158 pounds.
613	16,530,965 pounds.

[1] The limits have not have adjusted to reflect any imports exported after December 31, 1984.

Category	12-month restraint limit [1] Jan. 1, 1985–Dec. 31, 1986
301pt. [1]	4,822,912 pounds.
313	13,815,786 square yards.
314	10,123,636 square yards.
315	20,247,272 square yards.
317	6,907,893 square yards.
319	7,146,096 square yards.
320	11,791,058 square yards.
604	833,711 pounds of which not more than 484,153 pounds shall be in T.S.U.S.A. number 310.5049.
605pt. [2]	543,828 pounds.
613	16,376,470 square yards.

[1] In Category 301, only T.S.U.S.A. numbers 300.6026 and 300.6028.
[2] In Category 605, only T.S.U.S.A. number 310.9140.

In carrying out this directive, cotton, wool and man-made fiber textile products in the immediately foregoing categories 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 that period. 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 for the twelve-month period beginning on January 1, 1986 and extending through December 31, 1986.

The limits are subject to adjustment according to the terms of the bilateral agreement of July 27 and August 8, 1983, as amended and extended, between the Governments of the United States and Thailand, which provide, in part, that: (1) under certain specified conditions, certain specific limits or sublimits may be exceeded by not more than 7 percent for cotton and man-made fiber and 1% for wool products, provided that the amount of the increase is compensated for by an equal square yards equivalent decrease in another specific limit in the same group; (2) specific limits may be increased for carryover and carryforward up to 11 prcent of the applicable category limit; and (3) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement.

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. (a)(1).

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-30457 Filed 12-24-85; 8:45 am]

BILLING CODE 3510-DR-M

Announcement of an Import Restraint Level for Certain Cotton Textile Products, Produced or Manufactured in Turkey

December 19, 1985.

On August 15, 1985, a notice was published in the **Federal Register** (50 FR 32883) annoncing that, on July 29, 1985 the United States Government, under Article 3 of the Arrangement Regarding International Trade in Textiles, had requested the Government of Turkey to enter into consultations concerning exports to the United States of women's girls', and infants' cotton trousers, slacks, and shorts in Category 348, produced or manufactured in Turkey.

The purpose of this notice is to advise the public that, inasmuch as no agreement has been reached on a mutually satisfactory solution concerning this category, the United States Government has decided to control imports in Category 348 (women's, girls', and infants' cotton trousers, slacks and shorts), produced or manufactured in Turkey and exported during the twelve-month period which began on July 29, 1985 and extends through July 28, 1986 at a level of 389,682 dozen. Should further consultations result in agreement, further notice will be published in the **Federal Register.**

Accordingly, in the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton textile products in Cataegory 348, exported during the period which began on July 29, 1985 and extends through July 28, 1986 in excess of the designated restraint limit. The level has not been adjusted to include any charges for imports exported after July 28, 1985. Such charges for the August 1, 1985 through October 31, 1985 period have amounted to 52,235 dozen and will be made. As the data become available, further charges will be made for the period which began on

November 1, 1985 and extends through the remainder of the restraint period.

FOR FURTHER INFORMATION CONTACT: Ann Fields, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. (202/377-4212).

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 949 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).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

December 19, 1985.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 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; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on December 26, 1985, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 348 produced or manufactured in Turkey and exported during the twelve-month period beginning on July 29, 1985 and extending through 28, 1986, in excess of 389,682 dozen.[1]

Textile products in Category 348 which have been exported to the United States prior to July 29 shall not be subject to this directive.

Textile products in Category 348 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. number 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 this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-30458 Filed 12-26-85; 8:45 am]

BILLING CODE 3510-DR-M

[1] The level has not been adjusted to reflect any imports exported after July 28, 1985. Imports from August 1, 1985 through October 31, 1985 amounted to 52,235 dozen.

Temporary Visa Waiver For Certain Towels and Other Made-up Textile Articles Affected by Customs Ruling on Country of Origin of Certain Shop Towels

December 19, 1985.

On October 24, 1985, the U.S. Customs Service issued a ruling on the country of origin of certain shop towels where the fabric was woven in China and shipped to Cyprus for finishing (CLA-2:CO:R:CV:G 0076879 PR). In Cyprus the fabric was cut to size, the non-selvage edges were overlocked, and the towels were linked, stamped and packed. The U.S. Customs Service ruled that these towels were to be considered country of origin China, rather than Cyprus. This ruling is now being applied to other products produced in a similar manner.

In order to eliminate trade problems resulting from this new ruling, a decision has been made to permit importers having shop towels, other towels or similar merchandise to which this ruling is being applied, which are exported from the country where the cutting, finishing and packing was performed on or before December 31, 1985, to obtain waivers of the requirement for a visa from the country of origin by addressing a request to: Office of Textiles and Apparel, International Agreements and Monitoring Division, Room 3110, U.S. Department of Commerce, Washington, DC 20230, Attention: Waivers.

The following information should be included:

Port of Entry (indicating whether airport or seaport)
Name and Address of Importer
Name and Telephone Number of Customs Broker
Description of Merchandise
Category and TSUSA Number
Entry Number or Bill of Lading Number
Country of Origin
Country of Finishing
Date of Exports
Exporter

Information included in any request for a waiver is subject to section 1001 of Title 181 of the U.S. Code, which provides penalties for making false statements to any department of the United States Government.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreement.

[FR Doc. 85-30459 Filed 12-24-85; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of Import Limits for Certain Cotton Textile Products Produced or Manufactured in Peru

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 December 27, 1985. For further information contact Nathaniel Cohen, Trade Reference Assistant, Office of Textiles and Apparel, U.S. Department of Commerce (202) 377-4212.

Background

A CITA directive dated April 29, 1985 (50 FR 18547) established limits for certain specified categories of cotton textile products, including Categories 313, 317, 319 and 320, produced or manufactured in Peru and exported during the twelve-month period which began on May 1, 1985. The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of January 3, 1985, as amended, under the terms of which these limits were established, also includes provision for the carryover of shortfalls from the previous agreement year in certain categories (carryover) and for percentage increases in certain designated categories (swing) provided that a corresponding reduction in equivalent square yards is made in another specific limit. Under the foregoing provisions of the bilateral agreement and at the request of the Government of Peru the limits established for Categories 313 and 317 are being increased and those for Categories 319 and 320 are being reduced for goods exported during the twelve-month period which began on May 1, 1985 and extends through April 30, 1986.

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).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textiles Agreements.

December 20, 1985

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of April 29, 1985 from the Chairman of the Committee for the Implementation of Textile Agreements concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Peru and exported during the twelve-month period which began on May 1, 1985 and extending through April 30, 1985.[1]

Effective on December 27, 1985, paragraph 1 of the directive of April 29, 1985 is hereby further amended to include the following adjusted restraint limits:

Category	Adjusted 12-Month restraint limit [2]
313	18,725,000 square yards.
317	16,939,000 square yards of which not more than 5,681,700 square yards shall be in Category 317pt.[3]
319	20,175,000 square yards.
320	14,931,500 square yards.

[2] The limits have not been adjusted to reflect any imports exported after April 30, 1985.
[3] In Category 317, only T.S.U.S. items 320.——, through 331.—— with statistical suffixes 50, 87 and 93.

The Committees for the Implementation of Textile Agreements has determined that these actions shall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-30472 Filed 12-24-85; 8:45 am]

BILLING CODE 3510-DR-M

[1] The Bilateral Cotton, Wool in Man-Made Fiber Textile Agreement, as amended, of January 3, 1985 provides, in part that: (1) Specific limits and sublimits may be exceeded by not more than seven percent for swing in any agreement period provided that a corresponding reduction in equivalent square yards is made in another specific limit; (2) these limits may be adjusted for carryforward and carryover up to 11 percent of the applicable category limit or sublimit; and (3) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement.

Announcement of Imports Levels for Certain Cotton Textile Products from the Socialist Republic of Romania Effective January 1, 1986

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 Eve Anderson, International Trade Specialist Office of Textiles and Apparel, U.S. Department of Commerce (202) 377-4212.

Background

The Bilateral Cotton Textile Agreements of January 28 and March 31, 1983 between the Governments of the United States and the Socialist Republic of Romania establishes a group limit for textile products in Categories 330-333 and 335-359, and within the group specific limits for individual Categories 335, 340, and 347/348, designated consultation levels for textile products in Categories 338, and 361, and a minimum consultation level for textile products in Category 360, produced or manufactured in Romania and exported during the twelve-month period beginning on January 1, 1986. In the letter published below, the Chairman of the Committee for 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 Categories 335, 338, 340 and 347/348, 360 and 361 exported during the twelve-month period which begins on January 1, 1986 and extends through December 31, 1986, in excess of the designated limits.

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).

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.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

December 20, 1985

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 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 Agreement 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 Textile Agreement of January 28 and March 31, 1983, between the Governments of the United States and the Socialist Republic of Romania; 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 textile products in the following categories produced or manufactured in Romania and exported during the twelve-month period which begins on January 1, 1986 and extends through December 31, 1986, in excess of the following restraint limits:

Category	Twelve-Month Restraint Limit
Group II—Apparel.	
330-333 and 335-359.	28,415,829 square yards equivalent.
335	68,725 dozen.
338	256,000 dozen of which not more than 97,222 dozen shall be in T.S.U.S.A. numbers other than 381.0230, 381.0240, 381.3516, 381.4120, 381.4130, 381.4337, 381.6610, 381.8506, and 381.9924, 381.0425.
340	157,787 dozen.
347/348	281,569 dozen.
360	909,091 numbers.
361	483,871 numbers.

In carrying out this directive, entries of textile products in the foregoing categories, produced or manufactured in Romania, 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 that period. 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.

The levels set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of January 28 and March 31, 1983, between the Governments of the United States and Romania, which provide in part, that: (1) Specific limits or specific sublimits may be exceeded by not more than seven percent for swing in any agreement period; (2) these same levels may be adjusted for carryover and carryforward up to 11 percent of the

applicable category limit or sublimit; and (3) administrative arrangements or adjustments may be made to resolve 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.

Sincerely,

Walter C. Lanahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-30473 Filed 12-24-85; 8:45 am]

BILLING CODE 3510-DR-M

Announcement of Import Limits for Certain Wood and Man-Made Fiber Textile Products From the Socialist Republic of Romania Effective January 1, 1986

December 20, 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, 1985. For further information contact Eve Anderson, International Trade Specialist Office of Textiles and Apparel, U.S. Department of Commerce (202) 377-4212.

Background

The Bilateral Wool and Man-Made Fiber Textile Agreement effected by exchange of notes dated November 7 and 16, 1984, between the Governments of the United States and the Socialist Republic of Romania establishes a group limit for Categories 431-459 and 630-659, and within the group, specific limits for individual Categories 433/434, 435/444, 443, 604, 635, 638/639, 643/644pt. (all T.S.U.S.A. numbers except 381.2332, 381.2334, 381.2336, 381.2338, 381.8920, 381.8922, 381.8924, 381.8926, 381.8928, 384.1915, 384.2528, 384.7755, 384.9125, 384.8126), 645/646, and a designated consultation level for Category 648, produced or manfactured in Romania and exported during the twelve-month period beginning on January 1, 1986 and extending through December 31, 1986. The agreement also provides consultation levels for categories which are not subject to specific limits and which may be adjusted 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 the terms of the bilateral agreement, to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption, of wool and man-made fiber textile products in the foregoing categories, exported during the twelve-month period which begins on January 1, 1986 and extends through December 31, 1986, in excess of the designated limits. The limits for Categories 433/434, 443, 643/644 and 645/646 have been adjusted to include intercategory flexibility. 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).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreements, but are designed to assist only in the implementation of certain of its provisions.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textiles Agreements.

December 20, 1985

Committee for the Implementation of Textile Agreements

Commissioner of Customs,

Department of the Treasury, Washington, D.C. 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 Wool and Man-Made Fiber Textile Agreement of November 7 and 16, 1984, between the Governments of the United States and the Socialist Republic of Romania; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed effective on January 1, 1986, to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption of wool and man-made fiber textile products in Categoris produced or manufactured in Romania and exported during the twelve-month period beginning on January 1, 1986 and extends through December 31, 1986, in excess of the indicated restraint limits:

Category	12-Month restraint level
Group III-Apparel 431-459 and 630-659.	39,271,448 square yards equivalent.
433/434	275,427 square yards equivalent.
435/444	7,470 dozen.
443	7,943 dozen.
604	3,005,163 pounds.
635	52,677 dozen.
638/639	4,596,150 square yards equivalent.
643/644pt.[1]	34,414 dozen.
645/646	182,091 dozen.
648	59,831 dozen.

[1] In Category 643/644 only T.S.U.S.A numbers 381.3162, 381.3164, 381.3166, 381.3168, 381.3561, 381.6976, 381.8670, 381.9560, 381.9562, 381.9564, 381.9566, 381.9568, 381.9972, 384.2327, 384.2328, 384.2329, 384.2331, 384.2332, 384.2333, 384.2334, 384.2336, 384.2337, 384.2776, 384.2778, 384.2779, 384.2781, 384.2783, 384.2784, 384.2787, 384.2788, 384.5673, 384.5674, 384.5675, 384.5677, 384.5678, 384.5679, 384.5680, 384.5681, 384.5683, 384.7863, 384.7865, 384.7866, 384.7867, 384.7869, 384.7870, 384.7871, 384.7873, 384.7875, 384.9156, 384.9157, 384.9158, 384.9159, 384.9161, 384.9162, 384.9163, 384.9164, 384.9166, 384.9674.

In carrying out this directive, entries of textile products in the foregoing categories, produced or manufactured in the Socialist Republic of Romania, 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, 1986 and extending through December 31, 1986. 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 Category 645/646 shall be permitted entry into the United for consumption, or withdrawal from warehouse for consumption, in an amount not to exceed 36,418 dozen during each month of the January through May 1986 period.

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 1986 limits are subject to adjustment in the future according to the provisions of the Bilateral Wool and Man-Made Fiber Textile Agreement of November 7 and 16, 1984 between the Governments of the United States and the Socialist Republic of Romania which provide, in part, that: (1) Specific limits may be increased for carryover and carryforward; consultations may be held to

adjust levels for categories not subject to specific limits; and (2) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustment under 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. 553 (a)(1).

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-30474 Filed 12-24-85; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of the Import Limit for Certain Man-Made Fiber Apparel Products Produced or Manufactured in Taiwan

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 a directive published below to the Commissioner of Customs to be effective on December 27, 1985. For further information contact Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

A CITA directive dated December 21, 1984 (49 FR 50233) established limits for certain specified categories of cotton, wool and man-made fiber textile products, including man-made fiber sweaters in Category 645/646, produced or manufactured in Taiwan and exported during the twelve-month period which began on January 1, 1985 and extends through December 31, 1985.

Pending completion of a data reconciliation involving this category, the amount of 33,666 dozen is being deducted from import charges made to the restraint limit established in the directive of December 21, 1984 for Category 645/646. The 1986 limit for Category 645/646 will be adjusted, depending on the outcome of the data reconciliation.

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).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textiles Agreements.

December 20, 1985.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: To facilitate implementation of the bilateral agreement of November 18, 1982 concerning cotton, wool and man-made fiber textile products from Taiwan, I request that, effective on December 27, 1985, you deduct 33,666 dozen from the imports charged to the restraint limit established in the directive of December 21, 1984 for man-made fiber textile product in Category 645/646, produced or manufactured in Taiwan and exported during the twelve-month period which began on January 1, 1985 and extends through December 31, 1985.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-30462 Filed 12-24-85; 8:45 am]

BILLING CODE 3510-DR-M

Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Philippines Effective on January 1, 1986

December 20, 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, as issued the directive published below to the Commissioner of Customs to be effective on January 1, 1986. For further information contact Ross Arnold, 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 November 24, 1982, as amended, between the Governments of the United States and the Republic of the Philippines establishes an aggregate limit for Categories 300-354, 459-369, 400-448, 459-469, 600-654 and 659-669 and within the aggregate, specific limits for Categories 330, 331, 333/334, 335, 336, 337, 338/339, 340, 341, 342, 345, 347, 348, 352, 400, 431, 433, 434, 435, 443,445/446, 337, 448, 604, 631, 634, 635, 636, 637, 638/639, 640, 641, 642, 643, 645/646NT, 647, 648, 649, 650, 651, 652, 659, 666, and 669 among other categories which have been produced or manufactured in the Philippines and exported during the agreement year beginning on January 1, 1986 and extending through December 31, 1986. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of textile products in the aforementioned categories, in excess of the desingated restraint limits and which have been exported during that twelve-month period.

Certain categories not subject to specific limits may be adjusted during the year upon agreement between the two governments.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, (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 is Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

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.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

December 20, 1985

Committee for the Implementation of Textile Agreements

Commissioner of Customs,

Department of the Treasury, Washington, D.C. 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 effected by exchange of notes dated November 25, 1982, as amended, between the Governments of the United States and the Philippines; and in accordance with the provisions of Executive Order 11651 on 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 the Philippines 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
300-354, 359-369, 400-448, 459-469, 600-654 and 659-669.	376, 308, 725 square yards equivalent.
330	1,343,547 dozen.
331	698,581 dozen pairs.
333/334	91,216 dozen.
335T	43,853 dozen.
335NT	41,578 dozen.
336T	448,218 dozen.
336NT	32,936 dozen.
337T	410,412 dozen.
337NT	50,711 dozen.
338/339	915,857 dozen.
340	289,746 dozen.
341T	84,210 dozen.
341NT	108,071 dozen.
342T	54,336 dozen.
342NT	64,715 dozen.
345	36,658 dozen.
347	301,592 dozen.
348	245,199 dozen.
352T	87,925 dozen.
352NT	117,358 dozen.
359T	1,216,686 dozen.
359NT	1,139,256 pounds.
400	59,237 pounds.
431	151,500 dozen.
433	3,425 dozen.
434	2,194 dozen.
435	2,283 dozen.
443	2,306 dozen.
445/446	18,493 dozen.
447	6,850 dozen.
448	6,582 dozen.
604	2,221,647 pounds.
631pt.[1]	2,025,045 dozen pairs.
631pt.[2]	424,360 dozen pairs.
634	229,359 dozen.
634T	42,236
635NT	263,076 dozen pairs.
636T	1,093,049 dozen.
636NT	50,858 dozen.
637T	656,266 dozen.
637NT	45,408 dozen.
638/639	941,284 dozen.
640	117,711 dozen.
641T	86,615 dozen.
641NT	208,573 dozen.
642T	54,336 dozen.
642NT	66,046 dozen.
643	53,586 dozen.
645/646NT	106,585 dozen.
646T	284,298 dozen.
647	108,667 dozen.
648T	208,638 dozen.
648NT	67,951 dozen.
649	4,261,365 dozen.
650	23,051 dozen.
651	117,559 dozen.
652T	60,449 dozen.
652NT	686,304 dozen.
659T	4,190,969 pounds.
659NT	1,641,675 pounds.
666	217,259 pounds.
669	177,138 dozen.

[1] In Category 631, all T.S.U.S.A. numbers except 704.3215, 704.8520, 704.8525, 704.8550, 704.9000.
[2] In Category 631, only T.S.U.S.A numbers 704.3215, 704.8520, 704.8525, 704.8550, 704.9000.

In carrying out this directive entires of textile products in the foregoing categories, except Categories 330, 359, 434, 435, 447, 448, 643, 650, 651 and 666, produced or manufactured in the Philippines, 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 that twelve-month period. 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. Textile products in Categories 330, 359, 434, 435, 447, 448, 643, 650, 651 and 666 which have been exported before January 1, 1986 shall not be subject to this directive.

Further, the following factors should be used for conversions, as indicated:

Category	Conversion factor
333/334	39.5 square yards equivalent per dozen.
638/639	15.5 square yards equivalent per dozen.
359 T	8.0 square yards equivalent per dozen.
659 T	13.6 square yards equivalent per dozen.

The restraint limits set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement between the Governments of the United States and the Philippines which provide, in part, that: (1) specific limits or sublimits may be exceeded by designated percentages; (2) specific limits may be adjusted for carryover and carryforward; and (3) administrative arrangements or adjustments may be made to resolve problems arising in the implemenation 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 contrue 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 fail within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 533(a)(1).

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

FR Doc. 85-30463 Filed 12-24-85; 8:45 am]

BILLING CODE 3510-DR-M

Import Limit for Certain Wool Apparel Products Produced or Manufactured in Uruguay

December 20, 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, 1985. For further information contact Nathaniel Cohen, Trade Reference Assistant, Office of Textiles and Apparel, U.S. Department of Commerce (202) 377-4212.

Background

Under the terms of the Bilateral Wool Textile Agreement of December 30, 1983 and January 23, 1984, as amended, between the Governments of the United States and Uruguay, the United States Government has decided to control imports of men's and boys' wool suit-type coats in Category 433, produced or manufactured in Uruguay and exported during the twelve-month period which begins on January 1, 1986 and extends through December 31, 1986, at a limit of 13,635 dozen. The letter to the Commissioner of Customs which follows this notice establishes the twelve-month limit.

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).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textiles Agreements.

December 20, 1985.

Commissioner of Customs

Department of the Treasury, Washington, DC

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 Wool Textile Agreement of December 30, 1983 and January 23, 1984, between the Governments of the United States and Uruguay; 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 wool textile products in Category 433 produced or manufactured in Uruguay, in excess of 13,635 dozen.

This limit is subject to adjustment in the future according to the provisions of the bilateral agreement of December 30, 1983 and January 23, 1984, which provide, in part, that: (1) The specific limit may be adjusted for carryover and carryforward and (2) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

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 this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-30528 Filed 12-24-85; 8:45 am]

BILLING CODE 3510-DR-M

Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Socialist Federal Republic of Yugoslavia; Effective on January 1, 1986

December 20, 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, as issued the directive published below to the Commissioner of Customs to be effective on January 1, 1986. For further information contact Eve Anderson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202)377-4212

Background

On October 9 and November 12, 1985, the Government of the United States and the Socialist Federal Republic of Yugoslavia exchanged diplomatic notes further amending and extending the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 26 and 27, 1984 for one-year beginning on January 1, 1986 and extending through December 31, 1986. The amended and extended agreement establishes, among other things, specific limits for Categories 340/640, 433, 434, 435, 443/643, 444 and 447/448, produced or manfuactured in Yugoslavia and exported during the twelve-month period beginning on January 1, 1986 and extending through December 31, 1986. The letter from the Chairman of the Committee for the Implementation of Textile Agreements published below directs the Commissioner of Customs to prohibit entry for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the foregoing categories in exoess of the designated limits.

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 and Annotated (1985).

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.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textiles Agreements.

December 20, 1985.

Commissioner of Customs

Department of the Treasury Washington, DC

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 a 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 effected by exchange of the notes dated October 9 and November 12, 1985, as amended, and extended, between the Governments of the United States and the Socialist Federal Republic of Yugoslavia; 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 manfactured in Yugoslavia 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	Twevle-month restraint limit
340/640	340,000 dozen.
443/643	21,348 dozen of which not more than 8,365 dozen shall be in Category 443.
433	7,744 dozen.
444	7,447 dozen.
434	8,585 dozen.
435	37,875 dozen.
447/448	47,470 dozen of which not more than 28,280 dozen shall be in Category 447 and not more than 28,280 dozen shall be in category 448.

In carrying out this directive entries of textile products in the foregoing categories, produced or manufactured in Yugoslavia, which have been exported to the United States during the periods which ended on 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, 1986 and extending through December 31, 1986. 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.

The limits set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of October 26 and 27, 1978, as amended and extended, between the Governments of the United States and the Socialist Federal Republic of Yugoslavia which provide, in part, that: (1) within the group limit the specific limits may be exceeded by five percent in any agreement period except for Category 340/640 where 6 percent is applicable; (2) the group limit may be exceeded for carryover and carryforward not be exceed 11 percent of the appicable limit; and (3) up to 67% of the carryover and carryforward applied to the group limit may be applied to the Category 443 limit.

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 Commission 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 Agreement has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 533 (a)(1).

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FD Doc. 85-30529 Filed 12-24-85; 8:45 am]

BILLING CODE 3510-DR-M

Import Restraint Limits for Certain Cotton and Wool Textile Products Produced or Manufactured in the Socialist Federal Republic of Yugoslavia

December 20, 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, was amended, has issued the directive published below to the Commissioner of Customs to be effective on December 27, 1985. For further information contact Eve Anderson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce (202) 377-4212.

Background

The Governments of the United States and the Socialist Republic of Yugoslavia have exchanged notes dated October 9 and November 12, 1985 further amending their Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 26 and 27, 1978 for an additional year, through December 31, 1986. The agreement, as further amended and extended, also establishes specific limits for Categories 340/640, 434, and 435 and 447/448, produced or manufactured in Yugoslavia and exported during the period which began on August 1, 1985 and extends through December 31, 1985. The letter to the Commissioner of Customs which follows this notice establishes these new limits.

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).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textiles Agreements.

December 20, 1985.

Commissioner of Customs

Department of the Treasury, Washington, DC

Dear Mr. Commissioner:

This directive cancels and supersedes the directive of September 13, 1985 concerning imports of cotton and wool textile products in Categories 340 and 448, produced or manufactured in Yugoslavia and exported during the period which began on June 28, 1985 and extends through June 27, 1986.

Under the terms of Section 204 of the Agriculture 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 October 26 and 27, 1978, amended and extended, between the Governments of the United States and the Socialist Federal Republic of Yugoslavia; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on December 27, 1985, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in Categories 340/640, 434, 435 and 447/448, produced or manufactured in Yugoslavia and exported during the period which began on August 1, 1985 and extends through December 31, 1985, in excess of the following restraint limits:

Category	5-mo. restraint limit [1]
340/640	133,648 dozen.
434	3,542 dozen.
435	15,625 dozen.
447/448	19,583 dozen of which not more than 11,667 shall be in Category 447 and not more than 11,667 dozen shall be in Category 448.

[1] The limits have not been adjusted to account for any imports exported after July 31, 1985.

Textile products in the foregoing categories which have been exported to the United States prior to August 1, 1985 shall not be subject to this directive.

Textile products in the foregoing categories which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The limits set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of October 26, and 27, 1978, as amended and extended, between the Governments of the United States and the Socialist Federal Republic of Yugoslavia which provide in part that these limits may be adjusted for carryforward and carryover up to and not to exceed 11 percent, with not more than 6 percent carryforward.

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), 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. 553(a)(1).

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-30530 Filed 12-24-85; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Taiwan

December 19, 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 December 26, 1985. For further information contact Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

A CITA directive dated December 21, 1984 (49 FR 50233) established limits for certain specified categories of cotton, wool and man-made fiber textile products, including Categories 313, 333/334, 335, 347/348, 640 and 648, produced or manufactured in Taiwan and exported during the twelve-month period which began on January 1, 1985 and extends through December 31, 1985.

Pending completion of a data reconciliation involving these categories, the following amounts are being deducted from import charges made to the restraint limits established for them in the directive of December 21, 1984. The 1986 limits for these categories will be adjusted, depending on the outcome of the data reconciliation.

Category	Amount of deduction
313	1,028,240 square yards.
333/334	2,510 dozen.
335	2,103 dozen.
345	5,260 dozen.
347/348	18,092 dozen.
640	10,081 dozen.
648	25,450 dozen.

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).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textiles Agreements.

December 19, 1985.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,

Department of the Treasury, Washington, DC

Dear Mr. Commissioner:

To facilitate implementation of the bilateral agreement of November 18, 1982, as amended, concerning cotton, wool and man-made fiber textile products from Taiwan, I request that, effective on December 26, 1985, you deduct the following amounts from imports charged to the restraint limits established for cotton and man-made fiber textile products in the categories indicated, produced or manufactured in Taiwan and exported during the twelve-month period which began on January 1, 1985 and extends through December 31, 1985.

Category	Amount of deduction
313	1,028,240 square yards.
333/334	2,510 dozen.
335	2,103 dozen.
345	5,260 dozen.
347/348	18,092 dozen.
640	10,081 dozen.
648	25,450 dozen.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553 (a)(1).

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-30454, Filed 12-24-85; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Department of the Navy

Intent To Prepare a Supplemental Environmental Impact Statement for San Francisco Bay Ship Homeporting, Naval Station, Treasure Island, CA

Pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969 and the Council on Environmental Quality Guidelines (40 CFR Part 1500), the Department of the Navy will prepare a Supplement to the Environmental Impact Statement completed for San Francisco Bay Region Ship Homeporting, Naval Station, Treasure Island.

The Final Environmental Impact Statement was announced in the **Federal Register**, Vol. 49, No. 251 of Friday, December 28, 1984 (49 CFR 50440).

The Department of the Navy announced in the **Federal Register**, Vol. 50, No. 79 of Wednesday, April 24, 1985 its decision to berth four ships (frigate class) at the Naval Station, Treasure Island (Alternative II) in order to provide support to elements of the Naval Reserve Forces. A pier and associated shoreside support facilities were to be constructed to accommodate the additional ships, associated personnel and operational requirements. Other alternatives also considered included the no-project alternative (Alternative I) and a thirteen ship alternative (Alternative III), which included the four Naval Reserve Force ships of Alternative II. The decisions to adopt Alternative II was consistent with the current mission of Naval Station, Treasure Island. Significant adverse impacts were to be avoided by the proper design, construction, operation and maintenance of facilities. Correspondingly, it was determined that any major proposed action in addition to Alternative II would be subject to additional environmental studies and scoping which would be based, in part, on the concerns that were addressed and generated by the NEPA documents supporting this decision.

The Supplemental Environmental Impact Statement will address the additional site alternative of basing the ships and constructing support facilities associated with Alternative II at the Naval Facilities at Hunters Point, San Francisco, California. Federal, state and local agencies, potential developers, and other individuals or organizations who may be interested in or affected by the decision are invited to submit questions, written comments and suggestions concerning the analysis to:

Commander, Western Division, Naval Facilites Engineering Command, P.O. Box 727, 900 Commodore Drive, San Bruno, California 94066-0720.

Attention:

Mr. Dana N. Sakamoto, Head, Planning Implementation Branch, (415) 877-7590.

In order that comments may be considered in a timely fashion, correspondence should be received not later than January 1, 1986. The document is to be available to the public in early 1986.

Dated: December 20, 1985.

William F. Roos, Jr.,

Lieutenant, JAGC, USNR, Federal Register Liaison Officer.

[FR Doc. 85-30525 Filed 12-24-85; 8:45 am]

BILLING CODE 3810-AE-M

Chief of Naval Operations; Executive Panel Advisory Committee; Strategic Planning and the Technology Base Task Force; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Strategic Planning and the Technology Base Task Force will meet January 14-15, 1986, from 9 a.m. to 5 p.m. each day, at 4401 Ford Avenue, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of this meeting is to explore the relationship between Navy strategic planning process and the Technology Base. The entire agenda for the meeting will consist of discussions of key issues regarding the integration of technology management with strategic planning and requirements definition and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Lieutenant Paul G. Butler, Executive Secretary of the CNO Executive Panel Advisory Committee, 4401 Ford Avenue, Room 928, Alexandria, Virginia 22302-0268. Phone (703) 756-1205.

Dated: December 20, 1985.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Office.

[FR Doc. 85-30526 Filed 12-24-85; 8:45 am]

BILLING CODE 3810-AE-M

Naval Research Advisory Committee; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Naval Research Advisory Committee will meet on January 23 and 24, 1986, at the North American Defense Command an Unified Space Command at Peterson Air Force Base, Colorado and at Cheyenne Mountain, Colorado. The meeting will commence at 8:15 A.M. and terminate at 6:00 P.M. on January 23rd and 24th. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to provide briefings for the Committee members on C^3I and space. The agenda for the meeting will consist of briefings on communications, air and space defense, and intelligence. These briefings will contain classified information that is specifically authorized under criteria established by Executive order to kept secret in the interest of national defense and are in fact properly classified pursuant to such Executive order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to perclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander T. C. Fritz, U.S. Navy, Office of Naval Research (Code 100N), 800 North Quincy Street, Arlington, VA 22217-5000, Telephone number (202) 696-4870.

Dated: December 20, 1985.

William R. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 85-30527 Filed 12-24-85; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF ENERGY

Floodplain/Wetlands Involvement of the Strategic Petroleum Reserve Seaway Complex Distribution Enhancements

AGENCY: Strategic Petroleum Reserve, Energy.

ACTION: Revised floodplain/wetlands assessment and opportunity for comment.

SUMMARY: On December 28, 1984, the Strategic Petroleum Reserve (SPR) published a floodplain/wetlands assessment and opportunity for comment in the **Federal Register** (49 FR 50435) on a proposed 42-inch diameter buried crude oil pipeline from existing facilities of the SPR Seaway Complex, Brazoria County, Texas, to an existing commercial crude oil terminal in Texas City, Galveston County, Texas. No comments were received. An Environmental Assessment [(EA), DOE/EA-0252] and a Finding of No Significant Impact were issued in May 1985. The public notice of floodplain/wetlands involvement and the EA treated as subalternatives three different alignments for routing the pipeline from Bryan Mound past Freeport, Texas. The SPR subsequently has identified and is considering a fourth alternative route through Freeport. This fourth alternative, which would also involve activities within a floodplain/wetlands area, is the subject of the revised floodplain/wetlands assessment provided below. Public comments or suggestions on the floodplain/wetlands involvement of this fourth alternative are invited. Comments received will be incorporated in the revised EA for this action which is in preparation.

DATE: Written comments should be received at the address below by January 10, 1986.

ADDRESS: Address comments to: Mr. Sidney R. Evans., SPR Project Management Office, Department of Energy, 900 Commerce Road East, New Orleans, Louisiana 70123, Phone: (504) 734-4353.

FOR FURTHER INFORMATION CONTACT:

1. Mr. Sidney R. Evans at the above address.
2. Mr. Walter H. Delaplane, Jr., Strategic Petroleum Reserve, Department of Energy, FE-421, 1000 Independence Ave., SW., Washington, DC 20585, Phone: (202) 252-4730.

SUPPLEMENTARY INFORMATION: The Strategic Petroleum Reserve (SPR) of the U.S. Department of Energy (DOE) proposes to construct at most a 53-mile long, 42-inch diameter buried pipeline to transport crude oil from existing facilities of the SPR Seaway Complex in Brazoria County, Texas to a commercial crude oil terminal in Texas City, Texas.

On December 28, 1984, the SPR published a floodplain/wetlands assessment and opportunity for comment in the **Federal Register** (49 FR 50435) on the proposed pipeline and no comments were received. In May 1985 the SPR issued an EA (DOE/EA-0252), a Finding of No Significant Impact, and a floodplain/wetlands Statement of Findings for this action. The public notice of floodplain/wetlands involvement and the EA addressed three alternative alignments for routing the pipeline from Bryan Mound past Freeport, Texas.

The SPR has identified and is considering a fourth alternative route through Freeport to mitigate logistical problems (primarily crowded corridors) associated with pipeline construction along the previously considered alternative route segments. This fourth alternative, which also involves activities within a floodplain/wetlands area, is an approximately 11-mile long route from Bryan Mound to Stratton Ridge where it shares a common point with the three alternatives considered previously. From the Stratton Ridge common point to the ARCO Terminal in Texas City, the route is essentially the same as that assessed previously. Figure 1 provides a regional overview of Alternatives 1-4 and the remainder of the proposed route. The Stratton Ridge-to-Texas City segment is about 35 miles long.

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ORNL-DWG 85-14770R

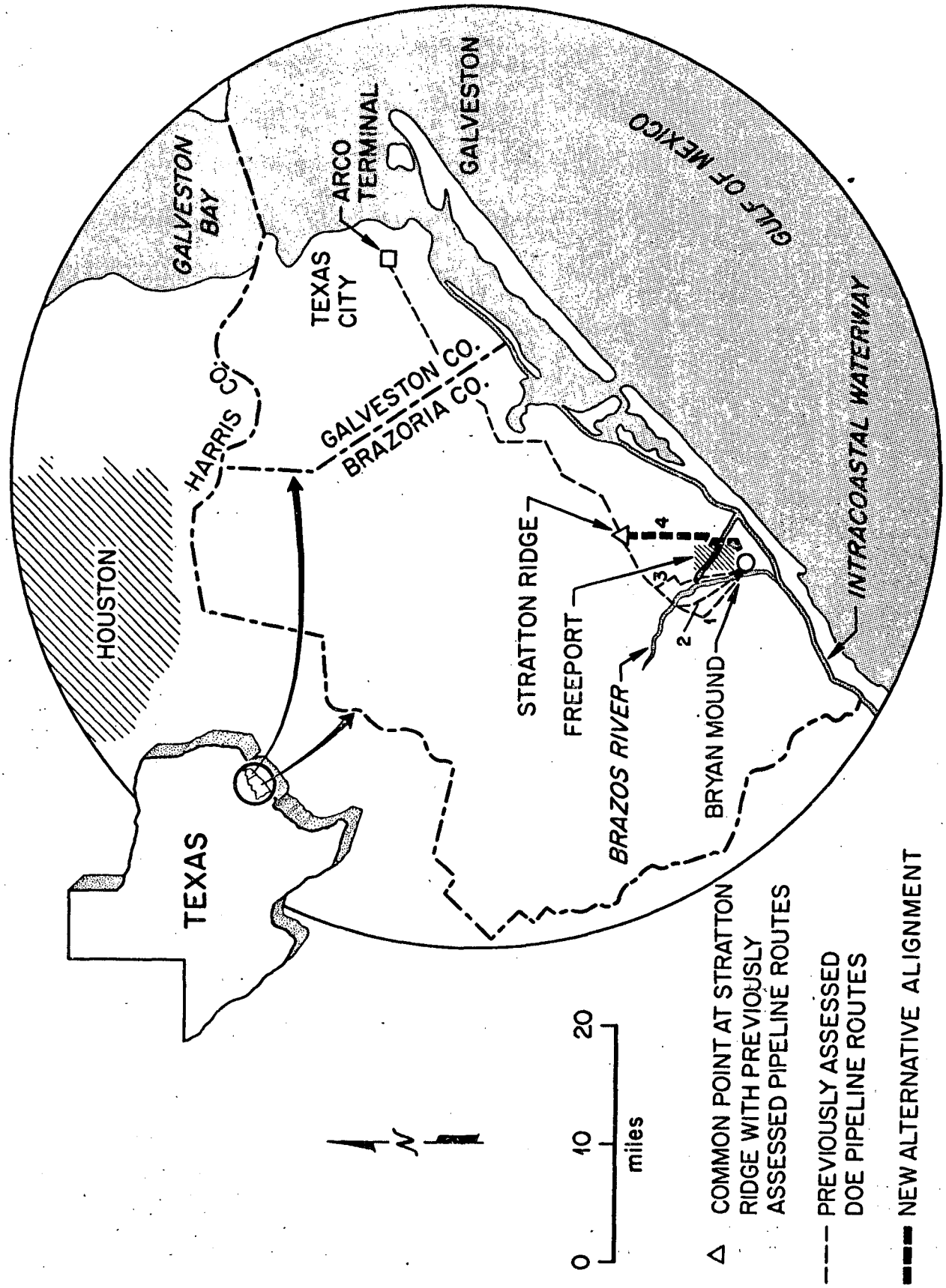

Figure 1. Regional overview of alternative DOE pipeline routes

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Floodplain Involvement

Most of the Alternative 4 route is within the 100-year floodplain (Figure 2). From the SPR Bryan Mound storage site, which has an elevation above the 100-year floodplain, the pipeline route crosses the floodplain east-northeast along the north side of an elevated road (Bryan Mound Road). The route leaves the floodplain as it crosses State Highway 288/36 and a levee and enters the City of Freeport.

Within Freeport passes east of a residential area and turns north, crossing levees on either side of the Old Brazos River (Freeport Harbor) near the Stauffer Turning Basin. Except for a 1000-ft stretch beyond the north harbor levee, the route is within the floodplain as it proceeds north until it reaches a levee-protected area at the Dow Barge Canal. The route crosses three levees at this point and proceeds north. Between the Dow Barge Canal and Oyster Creek, the route is within the floodplan except for an 800-ft wide band at State Highway 332 and a 1-mile wide band along the south bank of Oyster Creek. After crossing the seventh and final levee at Oyster Creek, the route remains in the floodplain to the Stratton Ridge common point.

The areas within the 100-year floodplain delineated the Figure 2 are subject to flooding from high rainfall and storm surges associated with hurricanes and other coastal storms. Features shown in Figure 2 are based on current maps published by the Federal Emergency Management Agency supplemented by visual inspection of the proposed route during August 1985. The environments characterizing the floodplain in the vicinity of the proposed pipeline consist mainly of urban/industrial land and coastal prairie (primarily used as range and pasture); small areas of woodlands and coastal marsh are also encountered.

According to Executive Order 11988 (Floodplain Management, May 24, 1977), Federal agencies "shall consider alternatives to avoid adverse effects and incompatible development in the floodplain." If there is no "practicable alternative" to locating a project in a floodplain, an agency is to "design or modify its action in order to minimize potential harm to or within the floodplain." Natural and beneficial floodplain values to be protected include natural moderation or floods, water quality maintenance, groundwater recharge, support of living resources (marshes, fish and wildlife), cultural richness (archaeological, historical, recreational, scientific resources), and agricultural, aquacultural, and forestry production.

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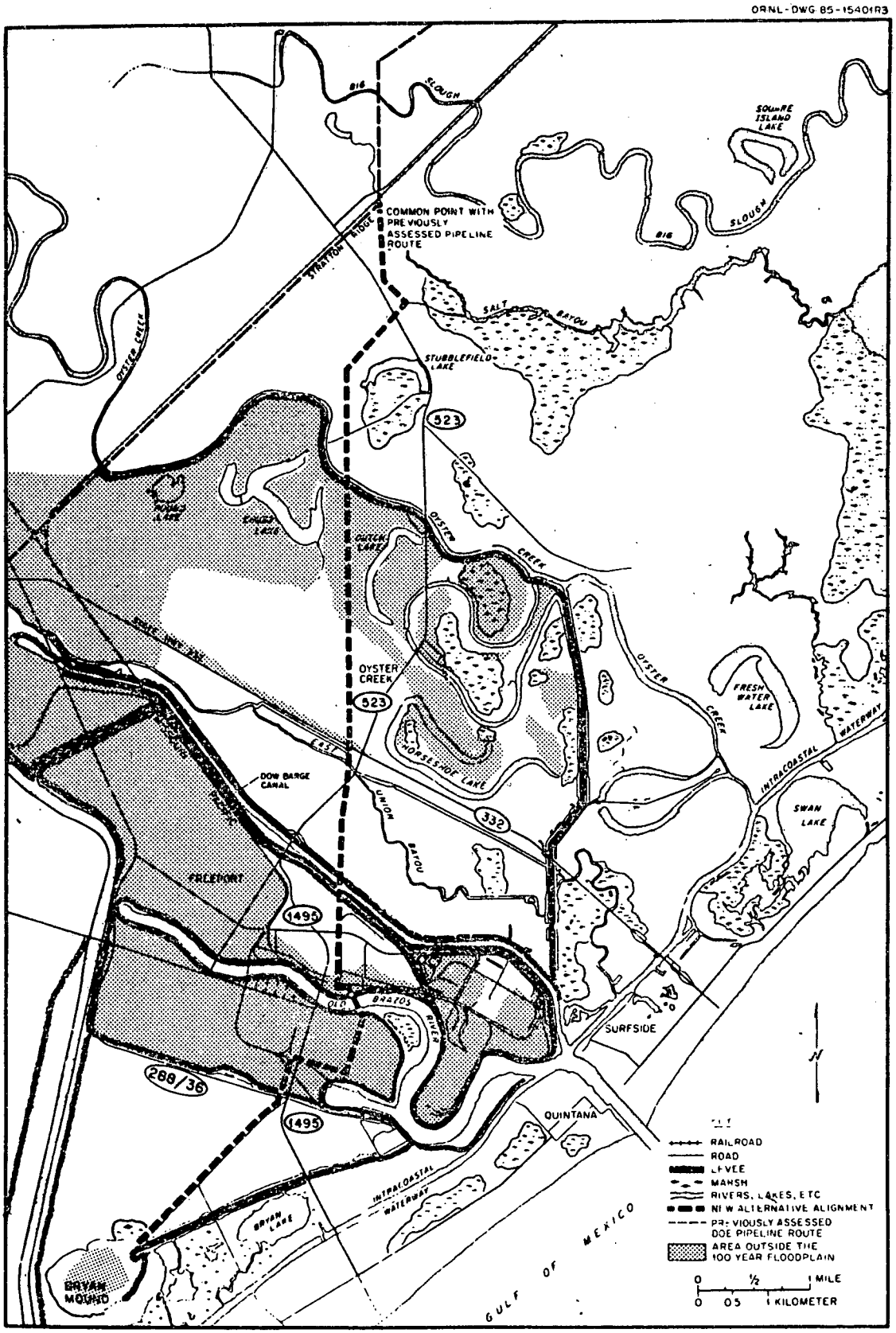

Figure 2. Location of 100-yr floodplain along new alternative DOE pipeline alignment from Bryan Mound through Freeport

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There is no practicable alternative pipeline route from Bryan Mound past Freeport that would entirely avoid activity in the floodplain. About 8 miles, or 71 percent, of Alternative 4 is within the floodplain. This is comparable to the other three alternatives which involve from 8 to 13 miles of floodplain between Bryan Mound and the common point at Stratton Ridge.

Alternative 4 crosses nine water bodies and seven levees. In comparison, Alternatives 1 and 2, which bypass Freeport to the west and north by crossing the Brazos River twice, cross seven water bodies and five levees six water bodies and four levees, respectively. Alternative 3, which parallels the east bank of the Brazos River past Freeport, crosses two water bodies and five levees.

About 84 percent of the 35-mile segment of the project pipeline from the common point at Stratton Ridge to the ARCO Terminal in Texas City is in the floodplain. The 5.5 mile portion that is not in the floodplain is located principally in Galveston County.

Wetlands Involvement

Alternative 4 involves about 0.1 mile of wetlands, all located immediately adjacent to the Bryan Mound site (Figure 2). In comparison, Alternative 3 along the east bank of the Brazos would virtually avoid wetlands. Alternatives 1 and 2 involve about 4 miles and 3 miles of wetlands, respectively. The common segment from Stratton Ridge to Texas City involves about 1 mile of wetlands, mainly associated with stream crossings.

Executive Order 11990 (Protection of Wetlands, May 24, 1977) requires Federal agencies to avoid construction in wetlands (e.g., coastal marshes) unless "there is no practicable alternative" and "all practicable measures to minimize harm" are included. There is no practicable alternative pipeline route from Bryan Mound to Texas City that would entirely avoid wetlands. However, Alternative 3 would avoid wetlands in routing the pipeline from Bryan Mound past Freeport.

Floodplain/Wetlands Effects

The effect of pipeline construction on the floodplain will be direct, minor and short-term. During construction, small areas of pastureland and wildlife habitat will be disturbed for the 100-ft (maximum) construction right-of-way (ROW) and the 50-ft maintenance ROW (maximum). The ROW may be defined as that area consisting of a perpetual easement plus a temporary construction zone. Normally, the ROW will be a total of 125 ft wide. However, at major crossings, the total will be greater due to additional construction zones required. Maximum ROW areas at major crossings are estimated to be 200 ft by 600 ft.

For Alternative 4, a small wooded area is encountered between Oyster Creek and Highway 523; the permanent ROW in this area will be 25 ft wide and will require clearing about 2 acres of oak and other hardwood trees. Since about 70 percent of the Alternative 4 route uses existing ROW, there will be little net change to habitat from the construction ROW or from the maintenance ROW. Alternatives 1–3 each use existing ROW for about 77 percent, 53 percent, and 85 percent of their total lengths, respectively.

Because the pipeline will be buried and designed to minimize the potential for leakage, there will be no interference with natural moderation of floods, water quality maintenance, groundwater recharge, or agricultural production. Similarly, there will be no increase in the threat to life or property from flooding as a result of the buried pipeline.

Effects of pipeline construction on wetlands will also be minor. For Alternative 4, the construction ROW will disturb about 1.1 acre of wetlands outside the northeast corner of Bryan Mound. The portion of this area that will be directly disrupted by digging the 10-ft wide pipeline trench is about 0.1 acre. This wetland area is part of a larger area that is to be filled for future development of an industrial park. For Alternatives 1 and 2, the pipeline trench will disrupt about 4 acres and 3 acres of wetlands, respectively.

The wetlands involved in Alternatives 1 and 2 and the common pipeline segment east of Stratton Ridge are mainly brackish and fresh or intermediate coastal marshes. Although such coastal marshes are important as habitat and in maintaining the bay-estuarine ecosystem, none of the areas involved are specifically set aside for wildlife; further, they are often disturbed by grazing and other uses.

Mitigation

Permit conditions will ensure that the effects of the pipeline on floodplains and associated wetlands will be temporary and localized and will minimize harm to floodplains and wetlands in accordance with E. O. 11988 and E. O. 11990. In particular, return to original bottom contours (U.S. Army Corps of Engineers, General Permit 15800, Special Condition 3), revegetation of riparian areas (General Permit 15800, Special Condition 7), and disposal of dredge spoils in upland areas (General Permit 15800) will minimize construction effects on surface waters. For water bodies to be crossed by directional drilling, General Permit 14114 specifies that there will be no dredging or filling in the waterway or adjacent wetlands (Special Condition f), no disturbance to adjacent wetlands or submerged vegetation (Special Condition g), and restoration of preproject ground conditions (Special Condition h).

Construction techniques will ensure that flood protection levees will not be disturbed during pipeline crossings. For Alternative 4, the Old Town Site levee (the first one encountered) will be crossed by boring. The remaining six levees will be crossed using directional drilling. Either method will prevent disturbance of existing embankments. Also, seasonal limitations on construction activity (e.g., during hurricane season) in the vicinity of levees will be observed. Construction techniques at water crossings should minimize water quality impacts. Buffer zones for water body crossings of up to 200 ft perpendicular to the pipeline and up to 600 ft parallel to the pipeline will separate construction activities from the water's edge on each side.

The risks and potential impacts of crude oil spills will be reduced by routine pipeline inspection and maintenance and implementation of a spill contingency plan.

Issued at Washington, DC Dated: December 19, 1985.

William A. Vaughan,

Assistant Secretary, Environment, Safety, and Health.

[FR Doc. 85-30516 Filed 12-24-85; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 85-39-NG]

Energy Marketing Exchange, Inc.; Application To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice of Application for Blanket Authorization to Import Natural Gas from Canada for Short-Term and Spot Sales.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on December 11, 1985, of an application filed by Energy Marketing Exchange Inc. (EME), a wholly-owned subsidiary of NUI Corporation (NUI) and affiliate of Elizabethtown Gas Company, for

blanket authorization to import from Canada up to 50 Bcf of natural gas over a two-year period beginning on the date of first delivery. The gas will be supplied by various Canadian producers, pipelines, gas utilities and marketers. EME would then resell the gas to industrial and commercial end-users, agricultural users, and electric utilities or would act as an agent on behalf of Canadian producers and marketers and the U.S. purchasers. EME proposes to file quarterly reports showing the specific terms of each import and sale, including the price and volumes.

The application is filed with the ERA pursuant to Section 3 of the Natural Gas Act and Delegation Order No. 0204-111. Protests, motions to intervene or notices of intervention, and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, and written comments are to be filed no later than 4:30 p.m. on January 27, 1986.

FOR FURTHER INFORMATION CONTACT:

Clifford P. Tomaszewski, Natural Gas Division, Economic Regulatory Administration, Forrestal Building, Room Ga-076, 1000 Independence Ave., SW., Washington, DC 20585, (202) 252-9760;

Diane Stubbs, Office of General Counsel, Natural Gas and Mineral Leasing, U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Ave., SW., Washington, DC 20585, (202) 252-6667.

SUPPLEMENTARY INFORMATION: The decision on this application will be made in accordance with section 3 of the Natural Gas Act and consistent with the Secretary of Energy's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant has asserted that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene, or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA-076-A, RG-23, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585. They must be filed no later than 4:30 p.m., January 27, 1986.

The Administrator intends to develop a decisional record on the application through responses to the notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or a trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law or policy at issue, show that it is material and relevant to a decision on the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in despute that are relevant and material to a decision and that a trial-type hearing is necesary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of EME's application is available for inspection and copying in the Natural Gas Division Docket Room, GA-076-A, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

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

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 85-30432 Filed 12-26-85; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER86-145-000]

Bangor Hydro-Electric Co.; Filing

December 19, 1985.

Take notice that Bangor Hydro-Electric Company (BH), on December 16, 1985, tendered for filing as a rate schedule an executed agreement date as of November 1, 1985 between BH and Central Vermont Public Service Corporation (CVPS). The proposed rate schedule provides for the sale of non-firm energy by BH to CVPS.

BH states that a copy of the filing was mailed to CVPS.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, 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 26, 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. 85-30483 Filed 12-24-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER86-146-000]

Bangor Hydro-Electric Co.; Filing

December 19, 1985.

Take notice that Bangor Hydro-Electric Company (BH), on December 16, 1985, tendered for filing as a rate schedule an executed agreement dated as of November 1, 1985 between BH and Green Mountain Power Corporation (GMP). The proposed rate schedule provides for the sale of non-firm energy by BH to GMP.

BH states that a copy of the filing was mailed to GMP.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, 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 26, 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. 85-30484 Filed 12-24-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER86-176-000]

The Dayton Power and Light Co.; Filing

December 18, 1985.

Take notice that on November 25, 1985, the Dayton Power and Light Company (DP&L) tendered for filing an executed Service Agreement For Partial Requirements And/Or Transmission Wheeling Service To Municipalities For Resale (Service Agreement) between DP&L and the Village of Eldorado, Ohio, and a Notice of Cancellation of FERC Electric Tariff, Original Volume 1.

The proposed Service Agreement permits the Village of Eldorado to receive partial requirements and transmission wheeling service from DP&L under its FERC Electric Tariff, Original Volume No. 2. The previous service agreement between DP&L and the Village of Eldorado under which the Village of Eldorado received service pursuant to DP&L's FERC Electric Tariff Original Volume No. 1, is superseded.

No customers will remain on FERC Electric Tariff, Original Volume No. 1 and the same Full Requirement Service is available on FERC Electric Tariff, Original Volume No. 2 on file with the Commission.

DP&L requests the Commission waive its notice and filing requirements and permit the proposed Eldorado Service Agreement and the Notice of Cancellation to become effective December 1, 1985.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, 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 24, 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. 85-30485 Filed 12-24-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-355-008]

Natural Gas Pipeline Co. of America; Petition to Amend

December 18, 1985.

Take notice that on December 5, 1985, Natural Gas Pipeline Company of America (Petitioner), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP82-355-008, a petition to amend the order issued January 14, 1985 in Docket No. CP82-355-000, pursuant to section 7(c) of the Natural Gas Act so as to authorize interconnections between the facilities of Petitioner and United Gas Pipeline Company (United) at Deep Lake in Cameron Parish, Louisiana and at the outlet of the Henry plant in Vermilion Parish, Louisiana and to delete two sale points directly to Entex previously authorized but never put in service at Lake Charles in Calcasieu Parish, Louisiana, and at the Henry plant and to delete 16.22 miles of 10-inch pipeline previously authorized but never constructed which would have been required to effectuate deliveries to Entex at Lake Charles, all as more fully described in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that by order issued January 14, 1985, the Commission affirmed an Initial Decision issued June 22, 1984, in Docket No. CP82-355-000 which authorized Petitioner to increase its daily contract quantity to Entex from 1,850 Mcf to 50,000 Mcf, to add, among others, the Lake Charles and Henry plant sales points and to construct and operate 16.22 miles of ten-inch pipeline to make the Lake Charles deliveries. Deliveries to Entex at the Henry plant were to be made through existing facilities between Petitioner and Entex.

Petitioner states that Entex has entered into a transportation agreement with United dated September 30, 1985, whereby United would transport volumes of gas from two existing interconnections between Petitioner and United at Deep Lake, and at the outlet of the Henry plant in lieu of the authorized direct deliveries by Petitioner. United would redeliver these volumes to Entex at various existing interconnections between Entex and United. (United filed for authority to provide such transportation on October 31, 1985 in Docket No. CP86-111-000). Petitioner states that because of Entex's transportation arrangment with United, Petitioner would no longer require the Lake Charles and Henry plant sales delivery points or the related pipeline facilities, previously authorized. Petitioner would require, in their place, the new sales points at Deep Lake and at the outlet of the Henry plant described above at which it would deliver to United, on Entex's behalf. No additional facilities would be required for these two new sales points.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before Dec. 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-30486 Filed 12-24-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL85-19-103]

Salmon River Basin, Idaho; Intent to Prepare an Environmental Impact Statement; Conduct a Scoping Meeting; Conduct a Technical Workshop

December 18, 1985.

The staff (Staff) of the Federal Energy Regulatory Commission has concluded Phases 1 and 2 of the Salmon River Basin Cluster Impact Assessment Procedure (CIAP), and its analysis

indicates that the development of the 15[1] proposed hydroelectric projects included in the CIAP study constitutes a major Federal action significantly affecting the quality of the human environment. Therefore, the staff intends to prepare an environmental impact statement (EIS) on the 15 proposed projects in accordance with the National Environmental Policy Act. Possible alternatives to the proposed actions will be addressed. Site specific and cumulative environmental impacts will be evaluated in the EIS.

Interested persons and agencies are invited to provide comments and recommendations, including any supporting data, on the scope of the planned EIS. The identified target resources,[2] already under detailed cumulative impact analysis by the Staff, will be evaluated in the EIS, as well as other relevant resources and issues.

The EIS scoping process will entail an evaluation by the Staff of all the environmental issues of primary concern, based on the comments received and the Staff's independent analysis. An EIS scoping document will be prepared, distributed to the interested parties, and discussed in conjunction with the Staff's planned CIAP Phase 3 Technical Session. The technical session will begin on January 27, 1986, at the Boise Inter-Agency Fire Center (BIFC), 3905 Vista Avenue, Boise, Idaho, in the training building auditorium at 9:00 a.m. and will continue through January 29th. The EIS scoping sessions wil be held at 8:30 a.m. and at 7:00 p.m. on January 30th, also at the BIFC auditorium.

Comments and recommendations should be filed with the Commission or or before February 15, 1986, and must be addressed to Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capital Street, NE., Washington, DC 20426, and should clearly show the following caption on the first page: Salmon River Basin, Idaho, Docket No. EL85-19-103.

For further information, please contact the FERC Project Manager, John Staples, at (202) 376-9064 or Robert F. Koch, FERC Attorney, (202) 357-5776.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-30487 Filed 12-24-85; 8:45 am]

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[1] FERC Projects Nos. 6433, 6434, 6435, 7225, 7299, 7300, 7301, 7334, 7340, 7378, 7380, 7382, 7383, 7589, and 7899.

[2] Chinook salmon, steelhead trout, rainbow trout, cutthroat trout, bull trout, elk, mule deer, and riparian habitat.

[Docket No. ER86-79-000]

Western Massachusetts Electric Co.; Supplemental Filing

December 18, 1985.

Take notice that, on December 12, 1985, Northeast Utilities Service Company, as agent for Western Massachusetts Electric Company, filed additional information on its filing in this docket.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., 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 24, 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. 85-30488 Filed 12-24-85; 8:45 am]

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Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of November 11 Through November 15, 1985

During the week of November 11 through 15, 1985, the decisions and orders summarized below were issued with respect to applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy.

Requests for Exception

Mid-West Oil, Ltd, 11/15/85, HEE-0141

Mid-West Oil, Ltd. filed an Application for Exception to be relieved of the requirement to prepare and file Form EIA-782B with the DOE Energy Information Administration. The basis of the request was the firm's claim that the filing requirement posed an inordinate burden. In considering the request, the DOE found that the information supplied by the firm was insufficient to support the exception request and that the firm refused to supply additional, necessary material although requested to do so. Under the circumstances, the application was denied.

Red River Oil Company, 11/14/85, HEE-0164

The Red River Oil Company filed an Application for Exception seeking relief from the requirement that it prepare and file Form EIA-782B (Reseller/Retailers' Monthly Petroleum Product Sales Report) with the DOE Energy Information Administration. In a Proposed Decision and Order issued on October 2, 1985, the DOE found that Red River had failed to show that the burden of completing the Form outweighed the benefit to the nation of having the EIA-782B survey results. The firm filed a Statement of Objections to the Proposed Decision and Order on October 15, 1985. In considering the firm's objections to the Proposed Decision, the DOE concluded that any burden experienced by Red River Oil as a result of the filing requirement was not out of proportion to the burden placed upon other, similarly situated firms. Accordingly, the request was denied.

Ted's Truck Center, 11/15/85, HEE-0156

Ted's Truck Center filed an Application for Exception in which it sought relief from the requirement that it prepare and file Form EIA-782B with the DOE Energy Information Administration. According to the firm, because of its limited staff, the filling requirement creates an undue hardship. In considering the request, the DOE found that the information supplied by the firm was insufficient to support its exception request. When the additional, necessary information which was requested was not provided, the application was denied.

Walthall Oil Company, 11/15/85, HEE-0149

The Walthall Oil Company filed an Application for Exception in which it sought relief from the requirement that it prepare and file Form EIA-821 with the DOE Energy Information Administration. According to Walthall, the filing requirement was unduly burdensome. In considering the request, the DOE found that the firm had not shown that any burden which it experienced as a result of this filing requirement was greater than that of other, similarly situated firms. Nor did Walthall demonstrate that the burden of filing the form outweighed the public policy interest in receiving the data produced by the EIA-821 survey. Accordingly, Walthall's request for exception was denied.

Motion for Discovery

Marathon Oil Co., Economic Regulatory Administration, Growmark, Inc., 11/14/85, HRD-0043, HRD-0036, HRD-0044, HRD-0053, HRD-0062, HRD-0043, HRD-0024

Marathon Oil Company, the Economic Regulatory Adminstration and Growmark, Inc., filed Motions for Discovery and Evidentiary Hearing concerning the class of purchaser issue set forth in a Proposed Remedial Order issued to Marathon. In the PRO, the ERA alleged that based on both a supply contract entered into by Growmark and Marathon, and the manner of Growmark's purchases from Marathon, Marathon improperly included Growmark in its wholesale reseller classes, rather than in its own separate "Growmark contact class." The OHA found that the Growmark supply contract was not the type which warranted the creation of a separate class of purchaser, and that Growmark's manner of purchasers did not result in a significant cost savings to Marathon. As a result the OHA concluded that Growmark properly belonged in Marathon's wholesale reseller class of purchaser. The OHA therefore found it likely that the legal theory set forth in the PRO would not be sustained. Consquently, it decided that the Motions for Discovery and Evidentiary Hearing, which sought information relating to that theory, were irrelevant. Accordingly, all motions filed in connection with the class of purchaser issue were denied.

Motion for Evidentiary Hearing

J.D. Streett & Co., Inc., 11/15/85, HRH-0037

J.D. Streett and Company, Inc. filed a Motion for Evidentiary Hearing in connection with a Proposed Remedial Order (PRO) which the Economic Regulatory Administration (ERA) issued to the firm on May 21, 1982. In its motion, Streett contended that documents which ERA furnished to explain the basis of its margin computations for regular, unleaded, and premium gasoline do not explain the assumptions upon which the calculations are based. The firm thus maintained that an evidentiary hearing should be convened to determine the proper maximum lawful selling prices of its unleaded gasoline sales, including but not limited to an examination of the firm's lawful margins for unleaded gasoline.

In its decision, the DOE noted that evidentiary hearings are convened only for the presentation of evidence on disputed factual issues. It further determined that the arguments which Streett advanced in support of its motion for evidentiary hearing were purely legal in nature. Because an evidentiary hearing is not the proper forum for establishing legal positions, the DOE denied the firm's motion.

Implementation of Special Refund Procedures

Pasco Petroleum Company, 11/15/85, HEF-0146

The DOE issed a Decision and Order implementing a plan for the distribution of $113,842, plus accrued interest, received as the result of a consent order entered into by Pasco Petroleum Company and the DOE. The DOE determined that the Pasco settlement fund should be distributed to customers that were injured as a result of purchases of motor gasoline from Pasco during the period November 1, 1973 through April 30, 1974. The DOE also decided that for small claimants, a separate detailed showing of injury would not be required of applicants for refunds of $5,000 or less. The Decision discusses specific information to be included in refund applications.

Refund Applications

C.C. Dillion Company/Watkins "66" Service Station, 11/14/85, RF148-3

The DOE issued a Decision and Order Concerning an Application for Refund filed by Watkins "66" Service Station, a reseller of motor gasoline purchased from C.C. Dillion Company. Watkins provided purchase volume figures for the consent order period and requested a refund below the $5,000 threshold level. In accordance with the procedures established in the Dillion Special Refund Proceeding, the DOE determined that Watkins should receive a refund based on a prorated portion of the alleged overcharges to the applicant. The total refund amount approved in this Decision is $2,060, representing $1,709 in principal and $351 in interest.

Field Oil Company/Vern's Midtown Amoco Service et al., 11/15/85, RF173-1 et al.

The DOE issued a Decision and Order concening Applications for Refund filed by twelve resellers of motor gasoline purchased from Field Oil Company. Eleven of the applicants were identified in the ERA Filed audit file as having allegedly been overcharged. In addition, each applicant provided documentation of its purchase volumes of Field motor gasoline and requested a refund below the $5,000 threshold level. In accordance with the procedures established in the Field Special Refund Proceeding, the DOE determined that the eleven applicants who were identified in the Field audit file should receive refunds based on the alleged overcharges to the applicant. The DOE found that the twelfth applicant was not injured by Field's pricing practices and therefore was not entitled to a refund. The total amount of refunds approved in this Decision is $24,249, representing $13,493 in principal and $10,756 in interest.

Gulf Oil Corporation/Adams Oil & Tire Company, Inc., et al., 11/14/85, RF40-522, et al.

Adams Oil & Tire Company, Service Oil Company, C.R. Black Coal & Oil Company and Gramco Ltd. filed Applications for Refund seeking portions of the fund obtained through a Consent Order entered into by the DOE and Gulf Oil Corporation. Each of the firms demonstrated that it would not have been required to pass through to its customers a cost reduction equal to the refund it was claiming. Accordingly, the DOE found it appropriate to award the firms refunds totalling $44,821, representing $38,781 in principal and $6,040 in interest.

Gulf Oil Corporation/Gordon C. Varn, Inc., et al., 11/12/85, RF40-841, et al.

Gordon C. Varn, Inc., and 16 other gasoline and middle distillate wholesalers and retailers, filed Applications for Refund in which they sought a portion of the funds obtained through a consent order entered into by the DOE and Gulf Oil Corporation. The DOE found that each of the firms demonstrated that it would not have been required to pass through to customers a cost reduction equal to the refund amount that they claimed. The DOE therefore decided that Gordon C. Varn, Inc. and the 16 other wholesalers and resellers would receive a cumulative refund amount totalling $135,935, representing $117,614 in principal and $18,321 in interest.

Gulf Oil Corporation/Simmons Oil Corporation, et al., 11/12/85, RF40-363, et al.

The DOE issued a Decision and Order concerning three Applications for Refund filed by purchasers of Gulf Oil Corporation petroleum products. The claimants applied for refunds based on the procedures outlined in *Gulf Oil Corp.*, 12 DOE ¶ 85,048 (1984), governing the disbursement of settlement funds received from Gulf pursuant to a 1978 consent order. All of the claimants demonstrated that they would not have been required to reduce selling prices to their customers by the amount of refund received, and that they had purchased products directly. Therefore, the DOE concluded that the claimants should receive refunds totalling $8,324, representing $7,202 in principal and $1,122 in interest.

Gulf Oil Corporation/Younce Gulf Service, Inc., et al., 11/13/85, RF40-202, et al.

The DOE issued a decision concerning 21 Applications for Refund filed by purchasers of Gulf Oil Corporation petroleum products. The claimants applied for refunds based on the procedures outlined in *Gulf Oil Corp.*, 12 DOE ¶ 85,048 (1984), governing the disbursement of settlement funds received from Gulf pursuant to a 1978 consent order. All of the claimants demonstrated that they would not have been required to reduce selling prices to their customers by the amount of refund received, and that they had purchased products directly. Therefore, the DOE concluded that the claimants should receive refunds totalling $36,573, representing $31,645 in principal and $4,928 in interest.

Little America Refining Company/Bree's Oil Company et al., 11/15/85, RF112-37, et al.

The DOE issued a Decision and Order granting Applications for Refund filed by 20 purchasers of Little America Refining Company petroleum products. The applicants documented the volume of their purchases from Larco during the consent order period and requested refunds below the $5,000 threshold level. In accordance with the procedures established in the Larco Special Refund Proceeding, the DOE determined that the applicants should receive refunds based on the volume of product they purchased from Larco during the consent order period. The total amount of refunds approved in this Decision is $31,827, representing $21,874 in principal and $9,953 in interest.

Little America Refining Company/Kraus Oil Company, 11/12/85, RF112-182

The DOE issued a Decision and Order granting an Application for Refund filed by Kraus Oil Company, a purchaser of Little America Refining Company petroleum products. Kraus, a reseller of motor gasoline and middle distillates, documented the volume of its purchases from Larco during the consent order period and requested a refund below the $5,000 threshold level. In accordance with the procedures established in the Larco Special Refund Proceeding, the DOE determined that Kraus should receive a refund based on the volume of product it purchased from Larco during the consent order period. The total amount of refunds approved in this Decision is $1,014, representing $697 in principal and $317 in interest.

Little America Refining Company/Nebraska Public Power District, et al., 11/15/85, RF112-6, et al.

The DOE issued a Decision and Order granting Applications for Refund filed by 20 purchasers of Little America Refining Company petroleum products. The applicants documented the volume of their purchases from Larco during the consent order period and requested refunds below the $5,000 threshold level. In accordance with the procedures established in the Larco Special Refund Proceeding, the DOE determined that the applicants should receive refunds based on the volume of product they purchased from Larco during the consent order period. The total amount of refunds approved in this Decision is $37,975, representing $26,100 in principal and $11,875 in interest.

Little America Refining Company/Olson Brothers, et al., 11/15/185, RF112-144, et al.

The DOE issued a Decision and Order granting Applications for Refund filed by 3 purchasers of Little America Refining Company petroleum products. The applicants documented the volume of their purchases from Larco during the consent order period and requested refunds below the $5,000 threshold level. In accordance with the procedures established in the Larco Special Refund Proceeding, the DOE determined that the applicants should receive refunds based on the volume of product they purchased from Larco during the consent order period. The total amount of refunds approved in this Decision is $6,859, representing $4,724 in principal and $2,135 in interest.

Little America Refining Company/Valley Petroleum Company, 11/14/85, RF112-180

The DOE issued a Decision and Order granting an Application for Refund filed by Valley Petroleum Company, a purchaser of Little America Refining Company petroleum products. Valley documented the volume of its purchases of general refinery products from Larco during the consent order period and requested a refund below the $5,000 threshold level. In accordance with the procedures established in the Larco Special Refund Proceeding, the DOE determined that the applicant should receive a refund based on the volume of product it purchased from Larco during the consent order period. The total refund amount approved in this Decision is $4,522, representing $3,109 in principal and $1,413 in interest.

Little America Refining Company/Wolf Oil Company, 11/13/85, RF112-8

The DOE issued a Decision and Order granting an Application for Refund filed by Wolf Oil Company, a purchaser of Little America Refining Company petroleum products. Wolf documented the volume of its purchases of general refinery products from Larco during the consent order period and requested a refund below the $5,000 threshold level. In accordance with the procedures established in the Larco Special Refund Proceeding, the DOE determined that the applicant should receive a refund based on the volume of product it purchased from Larco during the consent order period. The total refund amount approved in this Decision is $1,000, representing $689 in principal and $311 in interest.

Standard Oil Company (Indiana)/State of Colorado, RQ21-231; State of Wisconsin, RQ21-233; The Navajo Nation, 11/13/85, RQ21-232

The OHA issued a Decision and Order approving the Navajo Nation's second-stage refund plan for use of the Standard Oil Co. (Indiana) (Amoco) escrow funds. OHA also approved restitutionary plans from the States of Colorado and Wisconsin for use of the Amoco moneys remaining for those states. Colorado plans to use $65,000 of the Amoco funds to promote car and vanpooling and ridesharing in the metropolitan Denver area. Wisconsin will use $449,160 of the Amoco funds to provide residential furnace adjustment and apartment demonstration weatherization programs, and to purchase a gas chromatograph. The Navajo Nation will use $7,208 allocated to it to develop an educational brochure to increase solar energy awareness among tribal members. The OHA found these programs to be restitutionary to injured Amoco consumers.

Witco Chemical Corporation/Triangle Gasoline Company of Butler, Inc., 11/14/85, RF115-5

The DOE issued a Decision and Order granting an Application for Refund filed by Triangle Gasoline Company from the Witco Chemical Corporation consent order fund. Triangle documented the volume of its purchases from Witco during the consent order period and requested a refund below the $5,000 threshold level. In accordance with the procedures established in the Witco Special Refund Proceeding, the DOE determined that each applicant should receive a refund based on the volume of product it purchased from Witco during the consent order period. The total refund amount approved in this Decision is $2,164, representing $1,387 in principal and $777 in interest.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

December 17, 1985.

[FR Doc. 85-30433 Filed 12-24-85; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of November 25 Through November 29, 1985

During the week of November 25 through November 29, 1985, the decisions and orders summarized below were issued with respect to applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Remedial Order

Tampimex Oil International, Inc., 11/29/85, *HRO-0292, HRD-0292*

On March 25, 1985, the ERA issued a Proposed Remedial Order (PRO) to Tampimex Oil International, Inc., alleging that during the audit period Tampimex violated the crude oil reseller pricing rule set forth at 10 CFR § 212.182, and the anti-layering provision set forth at 10 CFR § 212.186. In its Statement of Objections, Tampimex challenged the ERA's calculation of its permissible average markup, and presented documentation supporting its position. On October 11, 1985, the ERA filed a Motion to Dismiss the PRO, stating that, in view of the material in Tampimex's Statement of Objections, it was necessary to re-evaluate certain of the allegations in the PRO.

OHA determined that good cause existed for allowing the ERA to withdraw the PRO, and that Tampimex would not be unduly prejudiced by such action. Accordingly, OHA granted the motion to dismiss the PRO, and also dismissed the firm's related Motion for Discovery.

Request for Exception

Millard A. Peake, 11/25/85, *HEE-0155*

Millard A. Peake filed an Application for Exception in which he sought relief from his obligation to file Form EIA-782B. Peake's application asserted that it would take three to six hours to complete the form, and that this amount of time would create an inordinate burden for him. In considering the request, the DOE found that because Peake had never filed any of the EIA forms, his claim concerning the time involved in completion of the form was purely speculative, and would not support the approval of exception relief. Peake's request for exception was accordingly denied.

Request for Modification and/or Rescission

Jack W. Grigsby d.b.a. Grigsby Oil & Gas, 11/25/85, HRR-0098

Jack W. Grigsby d/b/a Grigsby Oil & Gas filed a Motion for Reconsiderationn of a January 14, 1985 Supplemental Order issued by the Office of Hearings and Appeals, *Jack W. Grigsby d/b/a Grigsby Oil & Gas*, 12 ¶ 82,542 (1985), in which the OHA had determined that none of the proceeds of an escrow account established pursuant to the 1976 DOE order, *Jack W. Grigsby d/b/a Grigsby Oil & Gas*, 5 FEA ¶ 85,004 (1976), should be returned to Grigsby. After considering additional information furnished by the firm in its submission and at a meeting between DOE personnel and Grigsby, the OHA determined that the January 14, 1985 determination should be modified. The amount of money to be remitted to the DOE for providing restitution to injured Grigsby customers was calculated and the remaining escrow funds were ordered to be returned to the firm.

Motions for Discovery

Economic Regulatory Administration, 11/25/85, HRD-0294

The DOE's Economic Regulatory Administration (ERA) filed a Motion for Discovery in connection with an enforcement proceeding involving a Proposed Remedial Order (PRO) issued to Texaco Inc. (Texaco) on February 7, 1985. In the PRO, ERA alleges that Texaco determined excessive May 15, 1973 selling prices for certain classes of purchasers. This determination is based on allegations that Texaco made sales on or before May 15, 1973 pursuant to written contracts but did not use the prices charged in those sales as the May 15, 1973 components of its maximum allowable prices. Rather, the PRO finds, Texaco used posted price quotations implemented on June 1, 1973 or thereafter as the May 15, 1973 components of its maximum allowable prices. In its motion, ERA requested discovery with respect to two of the additional factual representations set forth in the firm's Statement of Objections.

The first representation as to which ERA sought discovery was that between the dates that the written contracts became binding and May 15, 1973, Texaco entered into oral contracts with its customers for the pricing system implemented on June 1, 1973 and thereafter. In considering ERA's request for discovery with respect to this representation, the DOE found that under Ruling 1977-5 a presumption existed that oral contracts become binding upon the date of delivery of product and, therefore, Texaco's alleged oral contracts were post-May 15, 1973 contracts. The DOE further found that Texaco's representation concerning these alleged oral contacts was too general and vague to rebut that presumption. Finally, the DOE found that under the DOE procedural regulations Texaco had had ample opportunity to make specific representations concerning the alleged oral contracts, that Texaco has failed to do so, and that Texaco had not presented good cause for such failure. Accordingly, the DOE concluded, Texaco was foreclosed from making any further representations or submitting evidence on the issue. The DOE therefore concluded that ERA's request for discovery on the issue did not seek "relevant and material evidence" under 10 CFR 205.198(c), and this discovery request was denied.

The second representation as to which ERA sought discovery was that "several undercharge/offset situations" existed that warranted reduction of the alleged violation amount. In considering this request, the DOE noted that Texaco did not represent that its alleged undercharges met the standards for "offsets" established in *Mid-Continent, Inc.*, 3 FEA ¶ 80,507 (1975), and therefore, discovery about whether Texaco met those requirements did not relate to a disputed issue. According, this discovery request was also denied.

Economic Regulatory Administration, 11/26/85, HRD-0295

The DOE's Economic Regulatory Administration (ERA) filed a Motion for Discovery in connection with a pending enforcement proceeding involving Texaco, Inc. That proceeding involves a Proposed Remedial Order (PRO) in which ERA challenges, *inter alia*, the May 15, 1973 prices that Texaco determined for certain customers. In its motion, the ERA requested discovery with respect to an additional factual representations set forth in Texaco's Statement of Objections. The representation was that May 15, 1973 prices that Texaco utilized for the customers specified in the PRO were the same as the May 15, 1973 prices charged "similarly situated customers with substantively identical variable-priced contracts." The DOE found that since Texaco conceded that it had single-member classes of purchaser, information concerning Texaco's sales to customers other than those specified in the PRO were not relevant to the proper determination of May 15, 1973 prices for the customers specified in the PRO. Accordingly, ERA's request for discovery was denied.

MacMillan Oil Company Inc., 11/25/85, HRD-0294

On April 4, 1983, MacMillan Oil Co., Inc. filed a Motion for Discovery requesting that the ERA be directed to produce audit-related documents and answer interrogatories. In addition, the firm reserved the right to request the depositions of certain ERA personnel identified through its discovery requests. In denying the Motion, the DOE determined that the firm's request for audit-related documents was overly broad in that it requested documents other than the audit workpapers which the firm was entitled to receive. The DOE also found that the firm's failure to submit any interrogatories with its Motion rendered its request for answers to interrogatories irrelevant and immaterial. Since the DOE denied the firm's underlying and discovery request, it was not necessary to consider the firm's request to depose ERA personnel.

Patton Oil Company, 11/26/85; HRD-0238, HRH-0238

Patton Oil Company filed Motions for Discovery and Evidentiary Hearing in connection with a Proposed Remedial Order issued to the firm. In considering the Motions, the DOE found that Patton had not shown that its requested discovery was relevant or material to the disputed factual issues involved in the proceeding. Specifically, Patton's request for contemporaneous construction on the meaning and application of the terms "newly discovered crude oil" and "property" were denied because Patton had not demonstrated that this discovery would further clarify the issues in the proceeding. Patton's request for certain audit file materials was denied because the firm did not show the presence of any special circumstances that would have made the requested information from the audit file relevant and material to the issues raised in the proceeding. The DOE also found that Patton was incorrect in contending that the Freedom of Information Act (FOIA) is a proper basis for discovery. The DOE stated that the releasability of documents pursuant to a FOIA request is irrelevant on the issue of whether discovery is appropriate. Finally, Patton did not identify the factual disputes which it believed could have been resolved by convening an evidentiary hearing. Thus, the firm failed to provide sufficient information to enable the DOE to make a reasoned determination concerning the relevance of any potential facts to be established at the hearing. For the above reasons, Patton's Motions for Discovery and Evidentiary Hearing were denied.

Motion for Evidentiary Hearing

Texaco Inc., Philadelphia Electric Co., et al., Economic Regulatory Administration, KRH-0003, KRZ-0007, KRZ-0008, KRZ-0009, KRZ-0010

Several motions and requests were filed with the Office of Hearings and Appeals (OHA) in connection with a pending enforcement proceeding involving Texaco Inc. (Texaco), Case No. DRO-0199. Those motions and requests included: (i) A motion for evidentiary hearing filed by Texaco on July 19, 1985; (ii) two motions to amend filed by Texaco respectively on July 19, 1985 and on August 30, 1985, relating to a Statement of Factual Objections filed by Texaco in the proceeding; (iii) a request to participate filed on May 13, 1985, by Philadelphia Electric Company, National Freight, Inc., RJG Cab Inc., and Geraldine H. Sweeney; and (iv) a request filed by the Economic Regulatory Administration (ERA) on March 4, 1985 that OHA deny Texaco's confidentiality claims or, in the alternative, compel Texaco to justify its confidentiality claims for all past and future submissions in the proceeding. In considering these interlocutory matters, the DOE determined that: (i) Texaco's motion for evidentiary hearing was insufficiently specific and was improperly directed towards a legal matter; (ii) Texaco's motions to amend were untimely and contrary to prior determinations made by OHA in the proceeding; (iii) the request to participate was untimely; and (iv) ERA's request was unnecessary since OHA would independently evaluate Texaco's confidentiality claims at the close of the proceeding. Accordingly, Texaco's motion for evidentiary hearing was denied, Texaco's motions to amend were denied, the request to participate was denied,

and ERA's request concerning confidentiality was dismissed. In addition, OHA closed the record of the proceeding and scheduled a hearing for the purpose of oral argument.

Implementation of Special Refund Procedures

Busler Enterprises, Inc., Eastern Petroleum Corp., FKG Oil Co., General Equities, Inc., Indian Oil Co., 11/25/85, HEF-0045; HEF-0066; HEF-0073; HEF-0078; HEF-0095

The DOE issued a Decision and Order which establishes procedures for the distribution of funds totaling $292,899.48, plus interest, obtained as a rsult of Consent Orders with the following firms: Busler Enterprises, Inc., Eastern Petroleum Corp., FKG Oil Co., General Equities, Inc., and Indian Oil Co. The Decision sets forth refund application procedures for customers who purchased motor gasoline from the consent order firms during the relevant consent order period. Specific information regarding the data to be included in an Application for Refund is discussed in the Decision.

Northeastern Oil Company, Inc., 11/26/85, HEF-0139

The DOE issued a Decision and Order implementing a plan for the distribution of $30,000 plus interest, received as the result of a consent order with Northeastern Oil Company, Inc. (NOCI). The DOE determined that the settlement fund should be distributed to customers who were injured as a result of purchases of motor gasoline from NOCI during the period, December 18, 1978 through April 30, 1980. The Decision discussed specific information to be included in refund applications.

Pacer Oil Company of Florida, Inc., 11/29/85, HEF-0143

The DOE issued a Decision and Order implementing a plan for the distribution of $39,114.54 plus interest, received as the result of a consent order with Pacer Oil Company of Florida, Inc. The DOE determined that the Pacer settlement fund should be distributed to customers who were injured as a result of purchases of motor gasoline from Pacer during the period July 1, 1979 through December 31, 1979. The Decision discussed specific information to be included in refund applications.

Refund Applications

Allied Materials Corporation and Excel Corporation/Great Plains Corporation, 11/27/85, RF194-4

The DOE issued a Decision and Order concerning an application for refund filed by Great Plains Corporation (GPC), a reseller of petroleum products located in Wichita, Kansas. GPC filed its application following the procedures established in *Allied Materials Corporation and Excel Corporation*, 13 DOE ¶ 85,095 (1985). GPC sought a refund of $142,862 based on its purchases of diesel fuel and No. 6 fuel oil from Allied during the period August 19, 1973 through June 30, 1976. In considering the application, the DOE found that GPC had sufficient banked costs to support the claimed refund amount during the relevant time period. The DOE also found, however, that the prices GPC paid to Allied for diesel fuel placed the applicant at a competitive disadvantage during only three of the fourteen months during which purchases were made. Accordingly, the DOE determined that GPC had suffered injury from Allied's alleged pricing practices in its purchases of diesel fuel during these three months, and in all purchases of No. 6 fuel oil. GPC was granted a refund of $83,059, consisting of $60,624 in principal and $22,435 in interest.

Arkla Chemical Corporation/Halliburton Company et al., RF153-24 et al.; Arkansas Louisiana Gas Company/ Halliburton Company et al. 11/26/85, RF154-7 et al.

The DOE issued a Decision and Order concerning five Applications for Refund filed by purchasers of Arkla refined products. Two of the claimants applied for refunds from Arkla Chemical Corporation (Arkla I) for the amounts listed in the audit file for Arkla I, 13 DOE ¶ 85,043 (1985). Three claimants applied for volumetric refunds from Arkansas Louisiana Gas Company (Arkla II), *id.* Four firms applied for refunds below the 5,000 threshhold amounts, and the other applicant was an end-user. After examining the evidence and supporting information submitted by the applicants, the DOE concluded that they should receive refunds totalling $27,477 ($2,105 from Arkla I and $25,372 from Arkla II) based upon their purchases of Arkla refined products.

Charter Co./Dearybury Oil Company et al., 11/26/85, RF23-11 thru RF23-16

The DOE issued a Supplemental Order concerning a group of Applications for Refund filed in the Charter Company proceeding. *Charter Company/Dearybury Oil Company et al.* 11 DOE ¶ 85,017 (1983). The DOE discovered that the applicants listed in that decision had received incorrect interest payments. Accordingly, all were granted additional interest amounts. The total amount of additional payments awarded in this Decision is $11,668.

Cosby Oil Company/Winall Oil Company, 11/26/85, FR170-2

The DOE issued a Decision and Order concerning an Application for Refund filed by Winall Oil Company, a reseller of motor gasoline purchased from Cosby Oil Company. Winall requested a refund of $14,526, a prorated portion of the alleged overcharges to the firm, but was unable to make a sufficient showing of injury to merit a refund over the $5,000 threshold level. Accordingly, the DOE determined that Winall should receive a refund equal to the $5,000 threshold amount. The total refund amount granted in this Decision is $9,333 ($5,000 principal plus $4,333 interest).

Gulf Oil Corporation/ Avis Rent-a-Car, Inc., 11/27/85, RF40-720

The DOE issued a Decision and Order concerning an Application for Refund filed by Avis Rent-a-Car, Inc. based on purchases of Gulf motor gasoline and diesel fuel. Avis applied for a refund based on the procedures outlined in *Gulf Oil Corp.*, 12 DOE ¶ 85,048 (1984). In accordance with these procedures, reseller claimants were required to demonstrate that they would not have had to pass through to customers a cost reduction equal to the refund claimed. After examining the evidence in the record, the DOE concluded that Avis' refueling fees constituted sales, so Avis was a reseller of the Gulf products. Because Avis was unable to demonstrate that it would have not have been required to pass through any refund by lowering prices charged to its customers for refueling, its Application was denied.

Gulf Oil Corporation/Rollins Leasing Corporation, 11/27/85, RF40-00468

The DOE approved an Application for Refund filed by Rollins Leasing Corporation, a reseller of Gulf petroleum products. Rollins applied for a refund based on its purchases of motor gasoline and diesel fuel, which it resold to its leasing customers, as well as lubricants, which it directly consumed.

Because of the way in which Rollins determined its prices of motor gasoline and diesel fuel on May 15, 1973, Rollins was limited under the pricing regulations to no profit margin throughout the consent order period. Consequently, it would have been ineligible for a refund based on these volumes of Gulf petroleum products. However, Rollins was allowed to increase its prices by $0.01 per gallon after January 1, 1974 in order to account for non-product cost increases. Rollins also granted a refund for the total volume of lubricants it purchases during the consent order period as an end-user. Rollins was granted a total refund of $3,793 including accrued interest.

Inland U.S.A., Inc. 11/25/85, RF176-7

The DOE issued a Decision and Order concerning an Application for Refund filed by UCO Oil Company, reseller of motor gasoline purchased from Inland U.S.A., Inc. UCO reguested a refund of $71,446, a prorated portion of the alleged overcharges to the firm, but was unable to make a sufficient showing of injury to merit a refund over the $5,000 threshold level. Accordingly, the DOE determined that UCO should receive a refund equal to the $5,000 threshold amount. The total refund amount granted in this Decision is $7,096 ($5,000 principal plus $2,096 interest).

Little America Refining Company/Harpel Oil Company, 11/26/85, RF112-25

Harpel Oil Company, a reseller of motor gasoline and middle distillates, filed an Application for Refund based on the principles and procedures set forth in *Seminole Refining, Inc.*, 12 DOE ¶ 85,188 (1985). In seeking a portion of the funds obtained by the DOE through a consent order with the Little America Refining Company, Harpel elected to limit its refund claim to the small claims threshold established in *Seminole*, below which injury is presumed. Accordingly, the DOE granted a refund of $5,000 principal and $2,297 interest to Harpel.

Sid Richardson Carbon and Gasoline Company and Richardson Products Company/Avon LP Gas Company RF26-21, Evans Oil and Gas, Inc., 11/26/85, RF26-22

The DOE issued a Decision and Order concerning two Applications for Refund for monies available from the Sid Richardson

escrow account. Both firms applied for a volumetric refund based on the presumption of injury for small claims. *See Office of Enforcement,* 10 DOE ¶ 85,056 (1983). After examining the evidence and supporting information submitted by the applicants, the DOE concluded that Avon LP Gas Company should receive a refund of $14,179 and that Evans Oil and Gas, Inc. should receive a refund of $29,261.

Dismissals

The following submissions were dismissed:

Name and Case No.

Evert Oil Company, HRO-0098
Grumman Aerospace Corp., FR115-2

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines,* a commercially publishd loose leaf reporter system.

Dated: December 18, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 85-30434 Filed 12-24-85; 8:45 am]

BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Energy.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearngs and Appeals of the Department of Energy announces the procedures for filing Applications for Refund from funds currently totalling over $550,000 obtained from South Hampton Refining Company in settlement of all issues regarding the firm's application of the federal petroleum price and allocation regulations during the period August 19, 1973 through December 31, 1975.

DATE AND ADDRESS: Applications for refund must be postmarked by March 26, 1986, should conspicuously display a reference to case number HEF-0222, and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Geoffrey D. Stein, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-6602.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set forth below. The Decision and Order establishes procedures to distribute funds obtained as a result of a consent order between the DOE and South Hampton Refining Company (SHRC). The consent order settled all disputes between the DOE and SHRC concerning possible violations of DOE price and allocation regulations with respect to the firm's sales of refined petroleum products to its customers during the period August 19, 1973 to December 31, 1975.

Any members of the public who believe that they are entitled to refunds in this proceeding may file Applications for Refund. Specific information to be included in Applications for Refund is set forth in Section III of the Decision and Order. All Applications should be postmarked by March 26, 1986, and should be sent to the address set forth at the beginning of this notice. Applications for refunds must be filed in duplicate and these applications will be made available for public inspection between the hours of 1:00 and 5:00 p.m., Monday through Friday, except federal holidays, in the Public Docket Room of the Office of Hearings and Appeals, located in Room 1E-234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: December 17, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Special Refund Procedures

Name of Firm: South Hampton Refining Company.

Date of Filing: October 13, 1983.

Case Number: HEF-0222.

The procedural regulations of the Department of Energy (DOE) permit the Economic Regulatory Administration (ERA) to request that the Office of Hearings and Appeals (OHA) formulate and implement procedures for distributing funds received as a result of enforcement proceedings involving alleged violations of DOE regulations. *See* 10 CFR Part 205, Subpart V. In accordance with these regulatory provisions, on October 13, 1983, the ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order which it entered into with South Hampton Refining Company (SHRC). Under the terms of the consent order, SHRC agreed to remit a total of $500,000 to the DOE in settlement of all civil and administrative claims by the DOE relating to SHRC's compliance with the federal petroleum price and allocation regulations applicable to refiners of petroleum products during the period from August 19, 1973 through December 31, 1975 (the consent order period).[1]

I. Background

SHRC was a "refiner" of petroleum products as that term was defined in 10 CFR 212.31. During the consent order period, SHRC refined crude oil and marketed products covered by the federal petroleum price and allocation regulations set forth in 6 CFR Part 150 and 10 CFR Part 212. The ERA audited SHRC to determine the firm's compliance with these regulations. In the course of the audit process, SHRC entered into a consent order with the DOE whereby the firm agreed to remit $500,000 to the DOE for distribution to resolve all issues regarding SHRC's application of the regulations during the consent order period.

The consent order refers to the ERA's allegations of overcharges, but emphasizes that there was no finding of actual violations. In addition, the consent order states that SHRC does not admit that it violated the regulations. Notice of this proposed consent order was published for public comment at 45 FR 25114 (1980). Five interested parties responded. The proposed consent order was adopted without modification as a final order of the DOE on June 4, 1980. 45 FR 37722 (1980).

Although the consent order specified that SHRC deposit $500,000 in a DOE escrow account, the firm has fallen into arrears with its payments and had remitted only $325,000 as of November 30, 1985. Enforcement of the consent order may be referred to the Department of Justice; however, it is uncertain whether further payments will be made to fulfill SHRC's obligation. This decision concerns our plans to distribute the funds currently in the consent order, which totaled $549,919.44, including accrued interest, as of November 30, 1985.

On October 23, 1985, the OHA issued a Proposed Decision and Order (PD&O) setting forth a tentative plan for the distribution of the SHRC consent order fund. 50 FR 45660 (November 1, 1985). In the PD&O, we described a two-stage process for disbursing refunds. In the first stage, refunds would be made to identifiable purchasers of SHRC covered products that may have been injured by

[1] The consent order also required SHRC to reduce its bank of unrecovered increased costs attributable to motor gasoline by $1,600,000.

the firm's pricing practices during the consent order period. This decision describes the information that purchasers of SHRC products should submit in order to demonstrate eligibility for a portion of the consent order fund. After these meritorious claims are paid, a second stage may become necessary if funds remain.

Comments were solicited regarding the proposed refund procedures outlined in the PD&O. Seven states—Arkansas, Delaware, Iowa, Louisiana, North Dakota, Rhode Island, and West Virginia—commented as a group on the distribution of residual funds in a second-stage proceeding. The formulation of procedures for the final disposition of any funds remaining after meritorious claims have been paid will necessarily depend on the size of the fund. *See Office of Enforcement*, 9 DOE ¶ 82,508 (1981). Accordingly, it would be premature for us to address at this time the issues raised by the states' comments concerning disposition of second-stage funds.

II. Refund Procedures

The procedural regulations of the DOE set forth general guidelines to be used by the OHA in formulating and implementing plans to distribute funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE is unable to identify readily the persons who may be eligible to receive refunds as a result of enforcement proceedings or to ascertain readily the amounts that such persons should receive. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds, *see Office of Enforcement*, 9 DOE ¶ 82,508 (1981), *and Office of Enforcment*, 8 DOE ¶ 82,597 (1981).

A. Refunds to Identifiable Purchasers

During the first stage in the refund process, the consent order funds will be distributed to claimants that satisfactorily demonstrate that they were adversely affected by the alleged overcharges in SHRC's sales of covered products. We will accept applications from all parties who can demonstrate that they either directly or indirectly purchased products which originated with SHRC

In order to be eligible to receive a refund, claimants must file an application and, with the three exceptions discussed below, show the extent to which they were injured by the alleged overcharges. Firms or individuals will be eligible for a share of the consent order fund to this extent. While there are a variety of ways in which a showing of injury may be made, a reseller or retailer will generally be required to demonstrate that competitive market conditions would not permit it to pass through the increased costs associated with the alleged overcharges. In addition, this type of claimant must show that during the consent order period, it maintained a "bank" of unrecovered increased product costs at least equal to the refund amount claimed, indicating that the claimant did not actually pass on alleged overcharges to its own customers. If actual, contemporaneously calculated cost banks are not available for specific reasons, we will accept other information, *e.g.* monthly profit margin data, which conclusively proves that the alleged overcharges were not passed along. *See Husky Oil Company*, 13 DOE ¶ 85,045 (1985); *see also Tenneco Oil Company/Northern Petroleum, Inc.*, 13 DOE ¶ 85,207 (1985).

In this case we will adopt three rebuttable presumptions regarding the demonstration of injury. These presumptions have been used in many previous refund proceedings. First, we will presume that purchasers of SHRC products who are claiming small refunds ($5,000 or less, not including interest) were injured by the alleged overcharges. Claimants in this category need not provide us with a showing of injury, as described above.[2] Second, we will not require a showing of injury from regulated utilities or agricultural cooperatives that passed on the alleged overcharges in sales to their end-user members. In their applications, however, these firms should provide a full explanation of the manner in which refunds would be passed through to customers and how the appropriate regulatory body or membership group will be advised of the applicant's receipt of a refund. Third, we will adopt a presumption that spot purchasers were not injured and are generally not eligible to apply for refunds.[3] Prior OHA decisions provide detailed explanations of the basis for these presumptions. *E.g., VGS Corporation, et al.*, 13 DOE ¶ 85,165 at 88,451–53 (1985). We also explained the rationale for these presumptions in the PD&O. 50 Fed. Reg. 45660 at 45661–662 (November 1, 1985). The presumptions will permit claimants to apply for refunds without incurring disproportionate expenses and will enable the OHA to consider the refund applications in the most efficient way possible in view of the limited resources available. Finally, we will adopt a finding made in the PD&O that end-users or ultimate consumers of SHRC products whose businesses are unrelated to the petroleum industry were injured by the alleged overcharges, and therefore need not demonstrate injury. *Id.*

B. Calculation of Refund Amounts

We will adopt a volumetric method of dividing the consent order funds among applicants who demonstrate eligibility to receive refunds. This method, outlined in the PD&O, presumes that the alleged overcharges were spread equally over all the gallons of products which SHRC sold during the consent order period. We have calculated the volumetric amount to be used in this proceeding by dividing the total amount of consent order funds—$325,000 exclusive of interest—by the total volume of regulated petroleum products sales by SHRC during the consent order period, which we estimate to be approximately 211,986,287 gallons. This calculation results in a volumetric refund amount of $.001533 per gallon. A successful claimant will receive a refund equal to its eligible volume of petroleum product purchases from SHRC multiplied by the volumetric amount, plus a pro rata share of accrued interest.[4]

III. Applications for Refund

We have determined that the refund procedures described above are the best means of distributing the SHRC consent

[2] Resellers or retailers of SHRC products who claim a refund in excess of $5,000 but who cannot establish that they did not pass through the alleged overcharges will be eligible for a refund up to the $5,000 threshold, without being required to submit further evidence of injury. Firms potentially eligible for greater refunds may choose to limit their claims to $5,000 in order to avoid having to submit detailed documentation of their injury. *See* Office of Enforcement, 8 DOE ¶ 82,597 at 85,396 (1981).

[3] If a spot purchaser believes it was injured, it must submit additional documentation of this injury to overcome the presumption that this category of SHRC customers suffered no harm. As in previous cases, however, we will except from the presumption of non-injury cooperative organizations which made spot purchases and resold these products to their members. *See* VGS Corporation, *et al.*, 13 DOE ¶ 85,165 at 88,453 n.8 (1985).

[4] Any applicant that believes it suffered a disproportionate share of SHRC's alleged overcharges may apply for a refund greater than the amount computed by the volumetric method. Such applicants will be required to document conclusively the disproportionate impact. In addition, we intend to set a minimum refund amount for potential claimants. In prior refund cases, we have not granted refunds for less than $15.00 because the cost of issuing such refunds exceeds the restitutionary benefits which may be achieved. *See* Office of Special Counsel, 10 DOE ¶ 85,048 at 88,214 (1982). We will utilize the same minimum refund in the present case.

order fund. Accordingly, we will now accept applications for refunds.

Applications must be in writing, signed by the applicant, and make reference to Case Number HEF-0222. Applications must include the following information:

(i) The business address of the firm during the consent order period, August 19, 1973 through December 31, 1975;

(ii) Monthly schedules indicating the volume of products purchased from SHRC during the consent order period, or, if no documentation is available, a detailed estimate of purchases;

(iii) A showing of injury, as explained above, or a statement that the applicant need not show injury because it was an end-user of the product, an agricultural cooperative or regulated utility which sold the product to members, or is claiming a refund of $5,000 or less;

(iv) An indication of the firm's level in SHRC's chain of distribution, *e.g.*, ultimate consumer, reseller, etc.

(v) A statement of whether there has been a change in the ownership of the firm during the consent order period. If there has been a change of ownership, the applicant must provide the names and addresses of any other owners and either a statement of the reasons why the refund should be paid to the applicant rather than to the other owners, or a signed statement from the other owners indicating that they do not claim a refund.

(vi) The name, title, and telephone number of a person who the OHA may contact for additional information concerning the application; and

(vii) The following statement: "I swear [or affirm] that the information submitted is true and accurate to the best of my knowledge and belief." *See* 10 CFR 205.283(c), 18 U.S.C. 1001.

All applications for refund must be filed in duplicate. A copy of each application will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals, Room 1E-234, 1000 Independence Avenue, SW., Washington, DC. Any applicant who believes that its application contains confidential information must so indicate on the first page of its application and submit two additional copies of its application from which the information which the application claims is confidential has been deleted, together with a statement specifying why any such informatin is privileged or confidential. All applications should be sent to: South Hampton Refining Company Refund Proceeding, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

It is therefore ordered that:

(1) Applications for refunds from the funds remitted to the Department of Energy by South Hampton Refining Company pursuant to the consent order executed on June 4, 1980, may now be filed.

(2) All applications must be received no later than 90 days after publication of this Decision and Order in the **Federal Register.**

Dated: December 17, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 85-30435 Filed 12-24-85; 8:45 am]

BILLING CODE 6560-50-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP 30261; FRL. 2942-7]

Applications To Register Pesticide Products; Sumitomo Chemical Co., Ltd. et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing active ingredients not included in any previously registered product pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comment by January 27, 1986.

ADDRESS: By mail submit comments identified by the document control number [OPP-30261] and the registration/file number, attention Product Manager (PM) named in each application at the following address:

Information Services Section (TS-757C), Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Environmental Protection Agency, Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Registration Division (TX-767C), Attn: (Product Manager (PM) named in each registration), Office of Pesticide Programs, 401 M St., SW., Washington, D.C. 20460.

In person: Contact the PM named in each registration at the following office location/telephone number:

Product manager	Office location/ telephone number	Address
PM 15, George LaRocca.	Rm. 204, CM#2 (703-557-2400).	EPA, 1921 Jefferson Davis Hwy., Arlington, VA 22202.
PM 23, Richard Mountfort.	Rm. 237, CM#2 (703-557-1830).	Do.
PM 25, Robert Taylor.	Rm. 245, CM#2 (703-557-1800).	Do.

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered product pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

I. Products Containing an Active Ingredient not Included in any Previously Registered Product

1. File Symbol: 10308-RN. Applicant: Sumitomo Chemical Co., Ltd, 1330 Dillon Heights Ave., Baltimore, MD 21228. Product name: Gokilaht" Technical. Insectide. Active ingredient: (RS)-alpha-cyano-3-phenoxybenzyl (1R)-*cis,trans*-chrysanthemate 87.4%. Proposed classification/Use: Restricted. For formulating use only. (PM 15).

2. File Symbol: 8340-EG. Applicant: American Hoechst Corp., Routes 202-206 North, Somerville, NJ 08876. Product name: Whip 1 EC Herbicide. Herbicide. Active ingredient: (±)-Ethyl 2-[4-[(6-chloro-2-benzoxazolyl)oxy]phenxy]propanoate 12.5%. Proposed classification/Use: General. For selective postemergence annual and perennial grass control in rice and soybeans. Type registration: Conditional. (PM 23)

3. File Symbol: 476/EEEA. Applicant: Stauffer Chemical Co., 1200 South 47th St., Richmond, CA 94804. Product name: SC-0224 4-LC. Herbicide. Active ingredient: Trimethylsulfoniumcarboxy-methylaminomethylphosphonate 40.8%. Proposed classification/Use: General.

For weed control in non-crop areas. (PM 25)

4. File Symbol: 476-EEEL. Applicant: Stauffer Chemical Co. Product name: SC-0224 Concentrate. Herbicide. Active ingredient: Trimethylsulfoniumcarboxymethyl-aminomethylphosphonate 52.2%. Proposed classification/Use: General. For weed control in non-crop areas. (PM 25)

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register.** The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the Program Management and Support Division (PMSD) office at the address provided from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the PMSD office (703-557-3262), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

Dated: December 6, 1985.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 85-30246 Filed 12-24-85; 8:45 am]

BILLING CODE 6560-50-M

[PF-432; FRL-2942-8]

Pesticide Tolerance Petitions; Rhone-Poulenc Inc. et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide petitions relating to the establishment of tolerances for certain pesticide chemicals in or on certain agricultural commodities.

ADDRESS: By mail, submit comments identified by the document control number [PF-432] and the petition number, attention Product Manager (PM-16), at the following address:

Information Services Section (TS-757C), Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to:

Information Service Section (TS-757C), Environmental Protection Agency, Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed in response to this notice will be available for public inspection in the Information Service Section office at the address given above, from 8 a.m., to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail:

William Miller, (PM-16), Registration Division (TS-767C), Environmental Protection Agency, Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 211, CM#2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703-557-2600).

SUPPLEMENTARY INFORMATION: EPA has received pesticide (PP), and feed additive (FAP) petitions relating to the establishment of tolerances for certain pesticide chemicals in or on certain agricultural commodities.

Initial Filings

1. *PP 6F3321.* Rhone-Poulenc Inc., P.O. Box 125, Monmouth Junction, NJ 08852. Proposes amending 40 CFR 180.262 by establishing a tolerance for residues of the nematocide and insecticide, ethoprop in or on the commodity brussels sprouts at 0.02 part per million (ppm). The proposed analytical method for determining residues is a gas chromatographic procedure utilizing a phosphorus specific flame photometric detector.

2. *PP 6F3317.* Mobay Chemical Corp., P.O. Box 4913, Kansas City, MO 64120. Proposes amending 40 CFR 180.315 by establishing tolerances for residues of the insecticide methamidophos in or on the commodities as follows:

Commodities	Part per million (ppm)
Lentils	0.5
Lentil, vines	8.0
Melons	1.5
Milk	0.05
Peanuts	0.2
Peanut, hulls	0.4
Peas, dry	0.1
Peas, dry vines	4.0
Peas, green	1.0
Peas, green vines	12.0
Soybeans, dry vines (hay)	1.5
Soybeans, threshed	0.2
Watermelons	1.5

The proposed analytical method for determining residues is a gas chromatographic procedure utilizing a thermionic detector.

3. *FAP 6H5480.* Mobay Chemical Corp. Proposes amending 21 CFR 561.277 by establishing a regulation permitting residues of the above insecticide (PP 6F3317) in or on the commodities soybean hulls at 3.0 ppm, and peanut and soybean meal at 0.4 ppm.

Authority: 21 U.S.C. 346a and 348.

Dated: December 13, 1985.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 85-30245, Filed 12-24-85; 8:45 am]

BILLING CODE 6560-50-M

[PP 5G3191/T505; FRL-2943-1]

Diethatyl-Ethyl; Extension of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has extended temporary tolerances for residues of the herbicide diethatyl-ethyl and its metabolites in or on the raw agricultural commodity cottonseed.

DATE: This temporary tolerance expires November 5, 1986.

FOR FURTHER INFORMATION CONTACT:

By mail: Richard Mountfort, Product Manager (PM) 23, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 237, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-1830).

SUPPLEMENTARY INFORMATION: EPA issued a notice that published in the **Federal Register** of May 1, 1985 (50 FR 18567), announcing the extension of a temporary tolerance for residues of the herbicide diethatyl ethyl and its metabolites (free and bound)

determinable as the *N*-acetyl (*N*-(2,6-diethylphenyl) glycine derivative in or on the raw agricultural commodity cottonseed at 0.05 part per million (ppm). This tolerance was issued in response to pesticide petition PP 5G3191, submitted by Nor-Am Chemical Co., 3509 Silverside Rd., P.O. Box 7495, Wilmington, DE 19803.

This temporary tolerance has been extended to permit the continued marketing of the raw agricultural commodity named above when treated in accordance with the provisions of experimental use permit 45639-EUP-28, which is being extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that the extension of this temporary tolerance will protect the public health. Therefore, the temporary tolerance has been extended on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Nor-Am Chemical Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires November 5, 1986. Residues not in excess of this amount remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Authority: 21 U.S.C. 346a(j).

Dated: December 6, 1985.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 85-30242 Filed 12-24-85; 8:45 am]

BILLING CODE 6560-50-M

[PF-430; FRL-2942-9]

Pesticide Tolerance Petitions; Union Carbide Agricultural Products Co., Inc. et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide, feed, and food additive petitions relating to the establishment of tolerances for certain pesticide chemicals in or on certain agricultural commodities.

ADDRESS: By mail, submit comments identified by the document contrtol number [PF-430] and the petition number, attention Product Manager (PM-25), at the following address.

Information Services Section (TS-757C), Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Information Services Section (TS-757C), Environmental Protection Agency, Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information as marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed in response to this notice will be available for public inspection in the Information Services Section office at the address given above, from 8 a.m., to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Robert Taylor, (PM-25), Registration Division (TS-767C), Environmental Protection Agency, Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Room 245, CM#2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703-557-1800).

SUPPLEMENTARY INFORMATION: EPA has received pesticide (PP), feed, and food additive petitions (FAP), relating to the establishment of tolerances for certain pesticide chemicals in or on certain agricultural commodities.

Initial Filing

1. *PP 6F3311.* Union Carbide Agricultural Products Co., Inc., P.O. Box 12014, T.W. Alexander Dr., Research Triangle Park, NC 27709. Proposes amending 40 CFR 180.324 by establishing tolerances for residues of the herbicide bromoxynil (3,5-dibromo-4-hydroxybenzonitrile) resulting from application of its octanoic acid ester and/or butyric acid ester in or on the commodity alfalfa, seedling at 0.10 part per million (ppm). The proposed analytical method for determining residues is gas chromatography with ^{63}Ni electron capture detector.

2. *FAP 6H5479.* E.I. duPont deNemours & Co., Agricultural Products Department, Wilmington, DE 19898. Proposes amending 21 CFR Parts 193 (food) and 561 (feed) by establishing regulations permitting residues of the herbicide ethyl 2-[4-(6-chloroquinozalin-2-yl oxy) phenoxy]propanoate and its acid metabolite, 2-[4-(6-chloroquinoxalin-2-yl oxy)phenoxy]proanoic acid, in or on the commodities as follows:

CFR affected	Commodities	Part per million (ppm)
21CFR Part 193	Soybean Flour	0.5
21CFR Part 561	Soybean hulls	0.2
	Soybean meal	0.5
	Soybean soapstock	1.0

3. *FAP 5H5455.* Velsicol Chemical Corp., 341 East Ohio St., Chicago, IL 60611. Proposes amending 21 CFR Part 193 by establishing a regulation permitting residues of the herbicide dicamba (3, 6-dichloro-o-anisic acid) and its 5-hydroxy metabolite in or on the commodities as follows:

Commodities	Part per million (ppm)
Tomato catsup	0.6
Tomato juice	0.6
Tomato pomace (wet and dry)	0.6
Tomato puree	0.6

4. *FAP 6H5477.* Dow Chemical U.S.A., P.O. Box 1706, Midland, NI 48674. Proposes amending 21 CFR Part 193 by establishing a regulation permititng the combined residues of the herbicide triclorpyr, [(3,5,6-trichloro-2-pyridinyl)oxy]acetic acid, and its metabolites, 3,5,6-trichloro-2-pyridinol and 2-methoxy-3,5,6-trichloropyridine, in potable water at 0.1 ppm.

Authority: 21 U.S.C. 346a and 348.

Dated: December 16, 1985.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 85-30244 Filed 12-24-85; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30256; FRL-2943-1]

Certain Companies; Applications To Register Pesticide Products; E.I. du Pont de Nemours and Co., Inc. et al.

AGENCY: Environmental Protection Agency: (EPA).

ACTION: Notice.

SUMMARY: This notice annunces receipt of applications to register a pesticide product containing an active ingredient not included in any previously registered product and a product involving a changed use pattern pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comment by Janaury 27, 1986.

ADDRESS: By mail submit comments identified by the document control number [OPP-30256] and the registration/file number, attention Product Manager (PM) named in each application at the following address.

Information Services Section (TS-757C), Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Environmental Protection Agency, Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4. p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Registration Division (TS-767C), Attn: (Product Manager (PM) named in each registration), Office of Pesticide Programs, 401 M St., SW., Washington, D.C. 20460.

In person: Contact the PM named in each registration at the following office location/telephone number:

Product manager	Office location/ telephone number	Address
PM 25, Robert Taylor.	Rm. 245, CM#2 (703-557-1800).	EPA, 1921 Jefferson Davis Hwy., Arlington, VA 22202.
PM 31, John Lee...	Rm. 252, CM#2 (703-557-3663).	Do.

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register a pesticide product containing an active ingredient not included in any previously registered product and a product involving a changed use pattern pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

I. Product Containing an Active Ingredient not Included in any Previously Registered Product

1. File Symbol: 352-UUR. Applicant: E.I. du Pont de Nemours and Co, Inc., Agricultural Chemicals Dept., Wilmington, DE 19898. Product name: Assure+ Herbicide. Herbicide. Active ingredient: 2-[4-[(6-Chloro-2-quinoxalinyl)oxy]phenoxy] propionic acid, ethyl ester 9.5%. Proposed classification/Use: General. For the control of annual and perennial grasses in soybeans and cotton. (PM 25)

2. File Symbol: 352-UGA. Appliant: E.I. du Pont de Nemours and Co., Wilmington, DE 19898. Product name: Du Pont Classic™ Herbicide. Herbicide. Active ingredient: Ethyl 2-[[[[(4-chloro-6-methoxypyrimidin-2-yl)amino]carbonyl]sulfonyl]benzonate 25%. Proposed classification/Use: General. For weed control in soybeans. (PM 25)

3. File Symbol: 241-EIO. Applicant: American Cyanamid Co. Agricultural Research Div., PO Box 400, Princeton, NJ 08540. Product name: Scepter Herbicide. Herbicide. Active ingredient: Imazaquin 2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1*H*-imidazol-2-yl]-3-quinolinecarboxylic acid 18.1%. Proposed classification/Use: General. For use in soybeans. (PM 25)

4. File Symbol: 241-EIT. Applicant: American Cyanamid Co. Product name: Scepter Herbicide Technical. Herbicide. Active ingredient: Imazaquin 2-[4,5-dihydro-4-methyl-4-(1-methylethyl)-5-oxo-1*H*-imidazol-2-yl]-3-quinolinecarboxylic acid 95%. Proposed classification/Use: General. For formulation purposes only. (PM 25)

5. File Symbol: 241-EIL. Applicant: American Cyanamid Co. Product name: Assert+ Herbicide Technical. Herbicide. Active ingredient: Methyl 2-(4-isopropyl-4-methyl-5-oxo-2-imidazolin-2-yl)-*p*-toluate and methyl 6-(4-isopropyl-4-methyl-5-oxo-2-imidazolin-2-yl]-*m*-toluate 29%. Proposed classification/Use: General. For terrestrial food use in sunflowers, wheat, and barley. (PM 25)

II. Product Involving a Changed Use Pattern

File Symbol: 40810-A. Applicant: Ciba-Geigy Corp., Plastics and Additives Div., Three Skyline Drive, Hawthorne, NY 10532. Product name: Belclene 329. Algaecide. Active ingredient: Terbuthylazine 2-(*tert*-butylamino)-4-chloro-6-(ethylamine)-*s*-triazine 44.7%. Proposed classification/Use: General. To include in its presently registered manufacturing use only, a new use for control of algae in recirculating water cooling towers. (PM 31)

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register.** The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the Program Management and Support Division (PMSD) office at the address provided from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the PMSD office (703-557-3236), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

Dated: December 16, 1985.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 85-30243 Filed 12-24-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL RESERVE SYSTEM

Keystone Bancshares, Inc.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 13, 1986.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Keystone Bancshares, Inc.*, Kankakee, Illinois; to acquire Keystone Data Corporation, Kankakee, Illinois, and thereby engage in processing demand deposit accounts, all types of savings and time deposits, types of loans, General Ledger and investment portfolio, audit functions required by auditor, the preparation of payrolls for bank and non-bank customers, the preparation of ATM cards, and the provision of micro-film services, pursuant to § 225.25(b)(7) of Regulation Y.

Board of Governors of the Federal Reserve System, December 19, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-30417 Filed 12-24-85; 8:45 am]

BILLING CODE 6210-01-M

The Mitsubishi Bank Ltd. and Bancal Tri-State Corp.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 17, 1986.

A. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *The Mitsubishi Bank Limited*, Tokyo, Japan, and *BanCal Tri-State Corporation*, San Francisco, California; to engage *de novo* through its subsidiary, BanCal Investment Services, Inc., San Francisco, California, in providing securities brokerage services and making available self-directed IRA and Keogh account products, pursuant to § 225.25(b)(15) of Regulation Y. These activities would be conducted in the State of California, Oregon and Washington.

Board of Governors of the Federal Reserve System, December 19, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-30416 Filed 12-24-85; 8:45 am]

BILLING CODE 6210-01-M

Agency Forms Under Review

December 19, 1985.

Background

Notice is hereby given of final approval of proposed information collection(s) by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.9 (OMB Regulations on Controlling Paperwork Burdens on the Public).

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3822)

OMB Desk Officer—Robert Neal—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503 (202-395-6880)

Proposal to approve under OMB delegated authority the extension without revision of the following report:

1. Report title: Domestic Finance Company Report of Consolidated Assets and Liabilities

Agency form number: FR 2248, FR 2248a
OMB Docket number: 7100-0005
Frequency: Monthly, Quarterly
Reporters: Domestic finance companies

Small businesses are affected.
General description of report:
This information collection is voluntary and is given confidential treatment [5 U.S.C. 552 (b)(4) & (b)(8)].

These reports collect information on major categories of consumer and business credit extended and held by finance companies and on major short-term liabilities outstanding. These data are used by the Federal Reserve for assessing aggregate credit market activity.

Board of Governors of the Federal Reserve System, December 19, 1985.
William W. Wiles,
Secretary of the Board.
[FR Doc. 85-30390 Filed 12-24-85; 8:45 am]
BILLING CODE 6210-01-M

Bank of New England Corp.; Notice of Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 224.21(a) of the Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 15, 1986.

A. Federal Reserve Bank of Boston (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts, 02106:

1. *Bank of New England Corporation*, Boston, Massachusetts; to engage *de novo* through its subsidiary New England Discount Brokerage, Inc., Boston, Massachusetts, in providing securities brokerage services pursuant to § 225.25(b)(15) of Regulation Y. Initially, such activities will consist solely of buying and selling securities as agent for the account of customers and services incidental thereto.

Board of Governors of the Federal Reserve System, December 19, 1985.
James McAfee,
Associate Secretary of the Board.
[FR Doc. 85-30414 Filed 12-24-85; 8:45 am]
BILLING CODE 6210-01-M

Miami Corporation, et al.; Notice of Applications To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 10, 1986.

A. Federal Reserve Bank of Boston (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Miami Corporation*, Chicago, Illinois; to engage *de novo* through its subsidiary, Boulevard Bancorp, Inc., Chicago, Illinois, in making, acquiring or servicing loans or other extensions of credit for the company's account or for the account of others, pursuant to § 225.25(b)(1) of Regulation Y. Some such loans would be made to officers and directors of the company at rates below that of the general market in which case it is expressly intended that a benefit in the form of compensation be conferred on the recipient. These activities would be conducted in Chicago, Illinois, and its surrounding suburbs.

B. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Lloyds Bank plc*, London, England, and *Lloyds Bank International, Limited*, London, England; to engage *de novo* through its subsidiary, Lloyds International Corporation, New York, New York, in leasing real and personal property, pursuant to § 225.25(b)(5) of Regulation Y from offices in New York, New York, San Francisco, California, and Hyland Park, Illinois. These activities would be conducted in the United States, Canada, Central America and South America.

Board of Governors of the Federal Reserve System, December 19, 1985.
James McAfee,
Associate Secretary of the Board.
[FR Doc. 85-30415, Filed 12-24-85; 8:45 am]
BILLING CODE 6210-01-M

First United Bancorp; Formation of, Acquisition by, or Merger of Bank Holding Companies and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the

Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any question of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 13, 1986.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First United Bancorp*, Franklin, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of Franklin Bank & Trust Company, Franklin, Indiana.

Applicant also has applied to acquire Franklin Financial Corporation, Indianapolis, Indiana, and thereby engage in the origination, package, sale and servicing of commercial and mortgage loans, the origination of small consumer loans, and the origination of finance leases, pursuant to § 225.25(b)(1) and 225.25(b)(5) of Regulation Y, respectively.

Applicant also has applied to acquire Franklin Mortgage Corporation, Indianapolis, Indiana, and thereby engage in residential mortgage lending, servicing and brokering, and commercial mortgage loan servicing and brokering, pursuant to § 225.25(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, December 19, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-30418 Filed 12-24-85; 8:45 am]

BILLING CODE 6210-01-M

Texas American 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, identifiying 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 17, 1986.

A. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Texas American Bancshares, Inc.*, Fort Worth, Texas; to acquire 100 percent of the voting shares of Texas American Bank/Cityview, N.A., Fort Worth, Texas, a *de novo* bank.

2. *Texas American Bancshares, Inc.*, Fort Worth, Texas; to acquire 100 percent of the voting shares of Texas American Bank/U.S., Newark, Delaware, *de novo* bank.

Board of Governors of the Federal Reserve System, December 19, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-30419 Filed 12-24-85; 8:45 am]

BILLING CODE 6210-01-M

United Bancorp of Kentucky, 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, identifiying 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 14, 1986.

A. Federal Reserve Bank of Cleveland (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio, 44101:

1. *United Bancorp of Kentucky, Inc.*, Lexington, Kentucky; to acquire 100 percent of the voting shares of First National Bank of Versailles, Versailles, Kentucky. Comments on this application must be received not later than January 17, 1986.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *SouthTrust Corporation*, Birmingham, Alabama; to acquire at least 60 percent of the voting shares of First Dallas County Bank, Selma, Alabama.

C. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230

South LaSalle Street, Chicago, Illinois 60690:

1. *Central Wisconsin Bankshares, Inc.*, Wausau, Wisconsin; to acquire 80 percent of the voting shares of Valley View Bank, LaCrosse, Wisconsin.

2. *CSB, Inc.*, Chesterton, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of Chesterton State Bank, Chesterton, Indiana.

D. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *FNBT Bancshares Perry, OK, Inc.*, Perry, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank and Trust Company of Perry, Perry, Oklahoma.

Board of Governors of the Federal Reserve System, December 19, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-30420 Filed 12-24-85; 8:45 am]

BILLING CODE 6210-01-M

Central Bancshares, Inc.; Correction

This notice corrects a previous Federal Register document (FR Doc. No. 85-28340), published at page 49131 of the issue for Friday, November 29, 1985.

On page 49131, in the middle column, the name of the subsidiary "Central Bancshares, Inc.," has been changed to "Central Technology, Inc."

Board of Governors of the Federal Reserve System, December 19, 1985.

James McAfee

Associate Secretary of the Board.

[FR Doc. 85-30421 Filed 12-24-85; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 77N-0240; DESI 1786]

Certain Single-Entity Coronary Vasodilators; Drug Efficacy Study Implementation; Extension of Deadline

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is extending the deadline announced in two previous **Federal Register** notices for the submission and approval of required bioavailability/bioequivalence data. The two previous notices announced the conditions for marketing various dosage forms of single-entity isosorbide dinitrate and oral controlled-release nitroglycerin tablets and capsules.

DATES: For isosorbide dinitrate, the deadline for approval of bioavailability supplements is June 26, 1987. For oral controlled-release nitroglycerin, the deadline for submission of bioavailability data is June 26, 1987.

ADDRESSES: Communications in response to this notice should be identified with Docket No. 77N-0240 (DESI 1786), directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements to full new drug applications (identify with NDA number): Division of Cardio-Renal Drug Products (HFN-110), Rm. 16B-45, Center for Drugs and Biologics.

Supplements to conditionally approved abbreviated new drug applications (identify with ANDA number): Division of Generic Drugs (HFN-230), Rm. 16-70, Center for Drugs and Biologics.

Requests for information on conducting bioavailability/bioequivalence tests: Division of Bioequivalence (HFN-250), Center for Drugs and Biologics.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFN-310), Center for Drugs and Biologics.

FOR FURTHER INFORMATION CONTACT: Mary E. Catchings, Center for Drug and Biologics (HFN-366), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of December 14, 1972 (37 FR 26623), as amended July 11, 1973 (38 FR 18477), August 26, 1977 (42 FR 43127), October 21, 1977 (42 FR 56156), and September 15, 1978 (43 FR 41282), certain single-entity coronary vasodilators were temporarily exempted from the time limits established for the Drug Efficacy Study Implementation (DESI) program. The notices established conditions for marketing these products, including requirements for both bioavailability and clinical studies. Conditions were established for marketing identical, similar, or related products (21 CFR 310.6) whether or not they had been marketed and whether or not they were subjects of approved new drug applications. An abbreviated new drug application (conditionally approved, pending the results of ongoing studies) was required to market a product not the subject of an NDA.

In notices published in the **Federal Register** of August 3, 1984 and September 7, 1984 (49 FR 31151 and 35428), after completing its review of the data submitted for single-entity isosorbide dinitrate and oral controlled-release nitroglycerin tablets and capsules, the agency announced its conclusions that these drugs are effective. The notices set forth the conditions for marketing and approval of such drug products. The notices stated that within 6 months a manufacturer should submit bioavailability data, and required that supplements be fully approved within a year.

In response to the August 3, 1984 and September 7, 1984 notices, a number of firms have requested that the deadline for submitting bioavailability data be extended. The firms contend that additional time is needed to obtain guidance and other technical information necessary to conduct the required studies, and to find or establish a laboratory capable of performing the required studies before the deadlines established by the August and September 1984 notices.

The agency concludes that additional time is justified, and is extending the date for compliance with the bioavailability requirement.

This notice also reconfirms that blood level determinations are required for the demonstration of bioavailability/bioequivalence of isosorbide dinitrate and oral nitroglycerin. The new deadlines are set forth below.

Isosorbide dinitrate. Supplements demonstrating bioavailability must be approved by June 26, 1987. To provide adequate time for review, the agency suggests that bioavailability data be submitted on or before December 26, 1986. The agency believes this new deadline will provide a sponsor enough time to conduct the required studies and submit the data to FDA. Isosorbide dinitrate products not the subject of approved bioavailability supplements by June 26, 1987, will be subject to regulatory action. Information on conducting dissolution tests and bioavailability/bioequivalence tests may be obtained from the Division of Bioequivalence at the address given above.

Oral nitroglycerin (controlled-release) tablets and capsules. The sponsors shall develop an appropriate protocol for evaluating the bioavailability/bioequivalence of oral controlled-release nitroglycerin. Because attempts to determine intact nitroglycerin have been unsuccessful, the agency suggests that the best approach might be to

determine the metabolites. Any sponsor unable to demonstrate bioequivalence will be required to conduct clinical studies. Bioavailability data must be submitted by June 26, 1987. The agency recognizes that compliance with the bioavailability requirements of this section may take longer than the extension of time granted. However, any additional requests for an extension will be granted only to a sponsor who documents the need for an extension by showing significant progress toward meeting the bioavailability requirement. If no progress can be shown, the product(s) will be subject to regulatory action.

(Correction to the August 3, 1984 notice: On page 31152, in the third column, in the item numbered "2," the firm name "Ives" is deleted and "Reed & Carnrick" is inserted in its place.)

This notice is issued under the Federal Food, Drug, and Cosmetic Act (Secs. 502, 505, 52 Stat. 1050–1053 as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the center for Drugs and Biologics (21 CFR 5.70 and 5.82).

Dated: December 19, 1985.

Paul Parkman,

Acting Director, Center for Drugs and Biologics.

[FR Doc. 85-30412 Filed 12-24-85; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 75N-0187; DESI 10837]

Combid Spansules; Drugs for Human Use; Drug Efficacy Study Implementation; Withdrawal of Approval of New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of the new drug application for Combid Spansules containing a fixed-combination of prochlorperazine maleate and isopropamide iodide. The basis for withdrawal is that the product lacks substantial evidence of effectiveness. The product has been used to treat various gastrointestinal disorders.

EFFECTIVE DATE: January 27, 1986.

ADDRESS: Requests for an opinion of the applicability of this notice to a specific product should be identified with DESI 10837 and directed to the Division of Drug Labeling Compliance (HFN-310), Center for Drugs and Biologics, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Douglas I. Ellsworth, Center for Drugs and Biologics (HFN-366), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of September 15, 1978 (43 FR 41278), the Director of the Bureau of Drugs (now the Center for Drugs and Biologics) evaluated fixed-combination drug products containing prochlorperazine maleate and isopropamide iodide as lacking substantial evidence of effectiveness. The Director also proposed to withdraw approval of the relevant new drug application and offered an opportunity for a hearing on the proposal. In response, hearing requests were submitted for the following products containing 10 milligrams (mg) of prochlorperazine maleate and 5 mg of isopropamide iodide:

1. Combid Spansules; NDA 11-162, held by SmithKline & French Laboratories, Division of SmithKline Beckman Corp., 1500 Spring Garden St., Philadelphia, PA 19101.

2. Propazine; no approved application; Cord Laboratories, Inc., 2555 West Midway Blvd., Broomfield, CO 80020.

Subsequently, SmithKline & French withdrew its hearing request on Combid Spansules. Accordingly, the Director of the Center for Drugs and Biologics is withdrawing approval of the new drug application for this product. The other product listed above, which is the subject of a pending hearing request, is not affected by this notice.

Any drug product that is identical, related, or similar to Combid Spansules and is not the subject of an approved new drug application or of a pending hearing request is covered by NDA 11-162 and is subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance (address above).

The Director of the Center for Drugs and Biologics, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053 as amended (21 U.S.C. 355)) and under the authority delegated to him (21 CFR 5.82), finds that, on the basis of new information before him with respect to the product, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence that the product will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

Therefore, pursuant to the foregoing finding, approval of NDA 11-162 and all amendments and supplements thereto is withdrawn effective January 27, 1986. Shipment in interstate commerce of Combid Spansules or any identical, related, or similar product that is not the subject of an approved new drug application or of a pending hearing request will then be unlawful.

Dated: December 18, 1985.

Peter H. Rheinstein,

Acting Director, Center for Devices and Biologics.

[FR Doc. 85-30410 Filed 12-24-85; 8:45 am]

BILLING CODE 4160-01-M

Office of Human Development Services

Demonstration of Alternative Organizational Structure in Two HDS Regional Offices

AGENCY: Office of Human Development Services, HDS.

ACTION: Notice of one year demonstration of alternative organizational structure in two regional offices.

SUMMARY: This notice announces that the Office of Human Development Services' Regional Offices in Region II (New York City) and Region V (Chicago, Illinois) will participate in a one-year demonstration of new assignments of regional staff to find a method to more efficiently carry out the functions of the HDS regional offices.

FOR FURTHER INFORMATION CONTACT:

Miguel Torrado, HDS Regional Administrator, Region II, Federal Building, 26 Federal Plaza, New York, NY 10278, (212) 264-1487.

Carolyn Woodard, HDS Regional Administrator, Region V, 300 South Wacker, 13th Floor, Chicago, IL 60606, (312) 353-8322.

DATE: This demonstration is expected to be implemented early in 1986.

SUPPLEMENTARY INFORMATION:

Background

The ten HDS regional offices have been operating for several years under a structure which reflects the central office's organization of the Office of Human Development Services (HDS) program responsibilities. Under this organizational structure, HDS has four separate program administrations. These are: the Administration on Developmental Disabilities, the Administration for Native Americans, the Administration on Aging, and the Administration for Children, Youth, and Families. Functional Statements

describing the duties and responsibilities of the HDS and its component programs and staff offices; including the regional offices were published in the **Federal Register** at 43 FR 33345, 45 FR 64269, 46 FR 63386, 47 FR 54553, 49 FR 5682, 49 FR 17586, and 50 FR 30014.

The role and workload of the regional offices have changed during the years since 1980. The roles and workload have increased in some areas and decreased in others, e.g., in the Social Security Act, the reduced Federal monitoring role under the Social Services Block Grant and the increased responsibilities under the new Title IV-E. The personnel and staff resources allocated to the regional offices have decreased during that same time period. HDS has been exploring various strategies to maximize utilization of its resources. Recently, the Administration on Developmental Disabilities consolidated its regional functions into four regional offices, and the Administration for Native Americans eliminated all regional office functions except in Region X.

Demonstration Effort

The Assistant Secretary for Human Development Services has approved a one-year demonstration effort, allowing two regional offices to operate under an alternative organizational structure. The affected regions are Region II (New York) and Region V (Chicago), both of which have experienced staff reductions despite continued heavy workloads. Region II has responsibility for the States of New York and New Jersey and for Puerto Rico, and the Virgin Islands. Region V includes the States of Illinois, Indiana, Minnesota, Michigan, Ohio, and Wisconsin.

These two regions will each demonstrate a different management strategy. Each Regional Administrator will design a new approach to achieve a coordinated organization structure that takes a comprehensive approach to staff utilization. The use of a mix of generalists and specialists, state teams, or other organizational approaches will allow the Regional Administrators more flexibility and efficiency in use of staff.

The functions of the two regional offices in the demonstration will not be changed, except for certain current responsibilities regarding programs of the Administration on Aging. Inquiries on all program matters should continue to be directed to the regional offices. However, specific functions will not necessarily be carried out by the same units or the same personnel as before. Necessary communication between the regional offices and the central office will continue, as will regional office support of special national initiatives.

Statutory Requirements Regarding the Older Americans Act

The Commissioner on Aging, in accordance with statutory authority under sections 201 and 202 of the Older Americans Act, will rescind, for the period of this demonstration, delegations of certain program authorities to officials in Region II and Region V:

The authority to approve State Advocacy Assistance Grants, issued 7/10/79;

The authority to approve grants under the State Education and Training Program, issued 7/18/79; The authority to approve Model Projects—Disaster Relief Reimbursement and Demonstration Projects, issued 8/8/79;

The authority to approve State Plans, issued 8/14/79;

The authority to approve Title IV-A Career Preparation Program, issued 9/7/79.

For the period of this demonstration, final decisions on State grant and discretionary grant awards will be made by the Commissioner on Aging from central office. The approval or disapproval of State plans under the Older Americans Act will also be made at central office. The Commissioner is currently completing an agreement with these two Regional Administrators which guarantees that remaining functions will be carried out in their regional offices in accordance with the provisions of the Older Americans Act.

Implementation

We want to emphasize that the regional offices will continue to serve as point of contact for all inquiries, functions, and responsibilities regarding HDS programs at the regional level, except as noted. Implementation of this demonstration is expected early in 1986. Training will be carried out as needed to assure that staff have the skills necessary to carry out the new functions they will perform. At the end of this demonstration, an evaluation of the success of this effort will be prepared and decisions will be made on similar future efforts.

Dated: December 18, 1985.

Approved.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

[FR Doc. 85-30437 Filed 12-24-85; 8:45 am]

BILLING CODE 4130-01-M

Statement of Organization, Functions, and Delegations of Authority

AGENCY: Administration for Native Americans, OHDS, HHS.

ACTION: Notice of Change to Statement of Organization, Functions, and Delegations of Authority.

SUMMARY: This notice amends Part D of the statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (OHDS) (47 FR 28797) to (1) abolish the Program Operations Division, (2) consolidate and elevate the functions of the Reservations Branch and Special Programs Branch of the Program Operations Division, to create the East Division and West Division, and (3) combine certain functions of the Program Support Branch and the Planning Staff to create the Planning and Support Division.

EFFECTIVE DATE: February 10, 1986.

FOR FURTHER INFORMATION CONTACT: William Engles, Commissioner, Administration for Native Americans.

The changes are as follows:

1. Part D, Chapter DN "The Administration for Native Americans" as published in the **Federal Register** on July 1, 1982, (47 FR 28797), is to be deleted in its entirety and replaced by the following:

DN.00 Mission. The Administration for Native Americans (ANA) represents the concerns of American Indians, Alaskan Natives, and Native Hawaiians, hereinafter referred to as Native Americans.

The Administration for Native Americans has primary responsibility for developing policy, legislative proposals and guidance and for providing staff advice to the Assistant Secretary and the Secretary on matters involving the social and economic development of Native Americans. ANA administers grant programs to eligible Indian tribes and Native American organizations in urban and rural areas with funds authorized under the Native American Programs Act of 1974, as amended.

In conjunction with the Office of the Assistant Secretary for Human Development Services, ANA provides Departmental liaison with other Federal agencies on Native American affairs, working to promote social and economic self-sufficiency for Native Americans. Through its policy, liaison, and granting functions, ANA explores new program concepts and new methods for increasing the social and economic development of Native Americans, assures that information about

Departmental services and benefits and eligibility criteria is available to Native Americans, and fosters the opportunity for the exercise of self-determination of Native Americans and their operation of Native American programs and enterprises.

ANA serves as the lead agency within the Department of Health and Human Services (DHHS) on issues concerning Native Americans. Advocates on behalf of Native Americans in Office of Human Development Services (OHDS) program planning and policy development. Develops standards, provides technical assistance, issues best practices guidelines, and initiates policy relative to OHDS services provided to Native Americans. Provides technical assistance and initiates policy relative to the provisions of services to Native Americans under Section 803, 804, and 805 of the Native American Programs Act, as amended. Works in collaboration with the Office of Program Development in the coordination of OHDS training and technical assistance programs.

DN.10 Organization. The Administration for Native Americans is headed by the Commissioner, who reports directly to the Assistant Secretary for Human Development Services, and consists of:

Administration for Native Americans,
Office of the Commissioner,
Intra-Departmental Council on Indian Affairs,
Planning and Support Division,
East Division,
West Division.

DN.20. Functions.

A. The Office of the Commissioner provides overall direction, management strategy and legislative liaison, in consultation with the Assistant Secretary for Human Development Services and the Office of the Assistant Secretary for Legislation, for all components of ANA. Serves as advisor to the Assistant Secretary for Human Development Services, the Secretary, and the heads of DHHS agencies administering programs which have a significant impact on Native Americans. On behalf of the Department conducts liaison with and obtains advice from Indian tribes and Native American organizations. Has approval authority for ANA grant awards for financial assistance to American Indian tribes, Alaskan Native organizations, and Native Hawaiian groups. Provides policy direction and guidance to the OHDS Regional Offices with respect to programs for urban Indians, off-reservation Indians and other Native American projects. Has ANA approval authority for all interagency agreements. The Commissioner is Chairman of the Intra-Departmental Council on Indian Affairs.

B. Intra-Departmental Council on Indian Affairs provides general staff support to the Council and to the Commissioner of ANA, the Chairperson on the Council. The Council serves as the focal point within the Department for intra-agency coordination activities relating to Indian affairs to effect cooperation and complementary utilization of the Department's resources for Indian people. Promotes consistent policies on Indian affairs for the entire Department and promotes the full and continuous application of these policies throughout the Department.

Identifies adminstrative, legislative and regulatory changes or developments necessary for the application of effective and consistent Federal Indian policy.

C. Planning and Support Division plans, coordinates, and controls ANA plolicy, planning, and management activities. Manages that development or regulations, policies, and guidelines for ANA. Develops and recommends the implementation of policies in coordination and consultation with the Office of Policy and Legislation/Office of Human Development Services.

In coordination with the Office of Program Development and the Office of Management Services in OHDS, directs the development of program plans consistent with the Department's requirements. Formulates budget and legislative plans consistent with Department and ANA requirements.

Coordinates the reporting by ANA units to the OHDS management information system, including reports on short-range initiatives.

Tracks financial status of all Program and Salaries and Expenses accounts and provides financial data to the Commissioner. Furnishes assistance to program specialists on Department financial management and on development of ANA fiscal and budget procedures; coordinates with appropriate Office of Human Development Services staff units in carrying out these functions. Manages the ANA program management information system to support ANA program reporting, planning, and administration.

Provides a wide range of management administrative services in support of all ANA programs and activities. Expedites the progress of all procurements and personnel actions. Serves an ANA Executive Secretariat, Controlling the flow of correspondence. Responsible for receipt of Freedom of Information Requests directed to ANA and coordinates responses to such requests. Coordinates with appropriate OHDS units in implementing administrative requirements and procedures.

Oversees and administers the panel review process for grant applications within ANA. Develops polices and procedures for paneling, rating, and ranking applications. Contacts prospective panelists and completes necessary paperwork. Coordinates logistics for panels.

D. West Division provides financial assistance to American Indian tribal governments, Native Hawaiian organizations, Alaskan Native organizations, urban Indian groups, rural off-reservation Native American groups, and other Native American groups and organizations, including national, regional, statewide, local, and inter-tribal consortia groups in the Western part of the U.S. Serves as a resource for and liaison with Indian tribes and other Native American groups and organizations and as a link with projects of national significance.

Carries out special projects and initiatives for the benefit of the ANA service population. Provides coordination for the ANA Region X Office and ANA activities in other OHDS regional offices serving the Western part of the U.S.

Provides information and program content for plans, budget formulation and policy development for activities authorized under the Native American Programs Act of 1974, as amended. Coordinates, in cooperation with the ANA Planning and Support Division on all matters pertaining to planning, overall ANA management, policy development and control, and program development.

E. East Division provides direct financial assistance to American Indian tribal governments, urban Indian groups, rural off-reservation Native American groups, and other Native American groups and organizations, including national, regional, statewide, local, and inter-tribal consortia groups in the Eastern part of the U.S. Serves as a resource for and liaison with Indian tribes and other Native American groups and organizations and as a link with programs of national significance.

Carries out special projects and initiatives for the benefit of the ANA service population. Provides coordination for ANA activities in OHDS regional offices serving the Eastern part of the U.S.

Provides information and program content for plans, budget formulation and policy development for activities authorized under the Native American Programs Act of 1974, as amended. Coordinates, in cooperation with the ANA Planning and Support Division on all matters pertaining to planning, overall ANA management, policy development and control, and program development.

Dated: December 18, 1985.

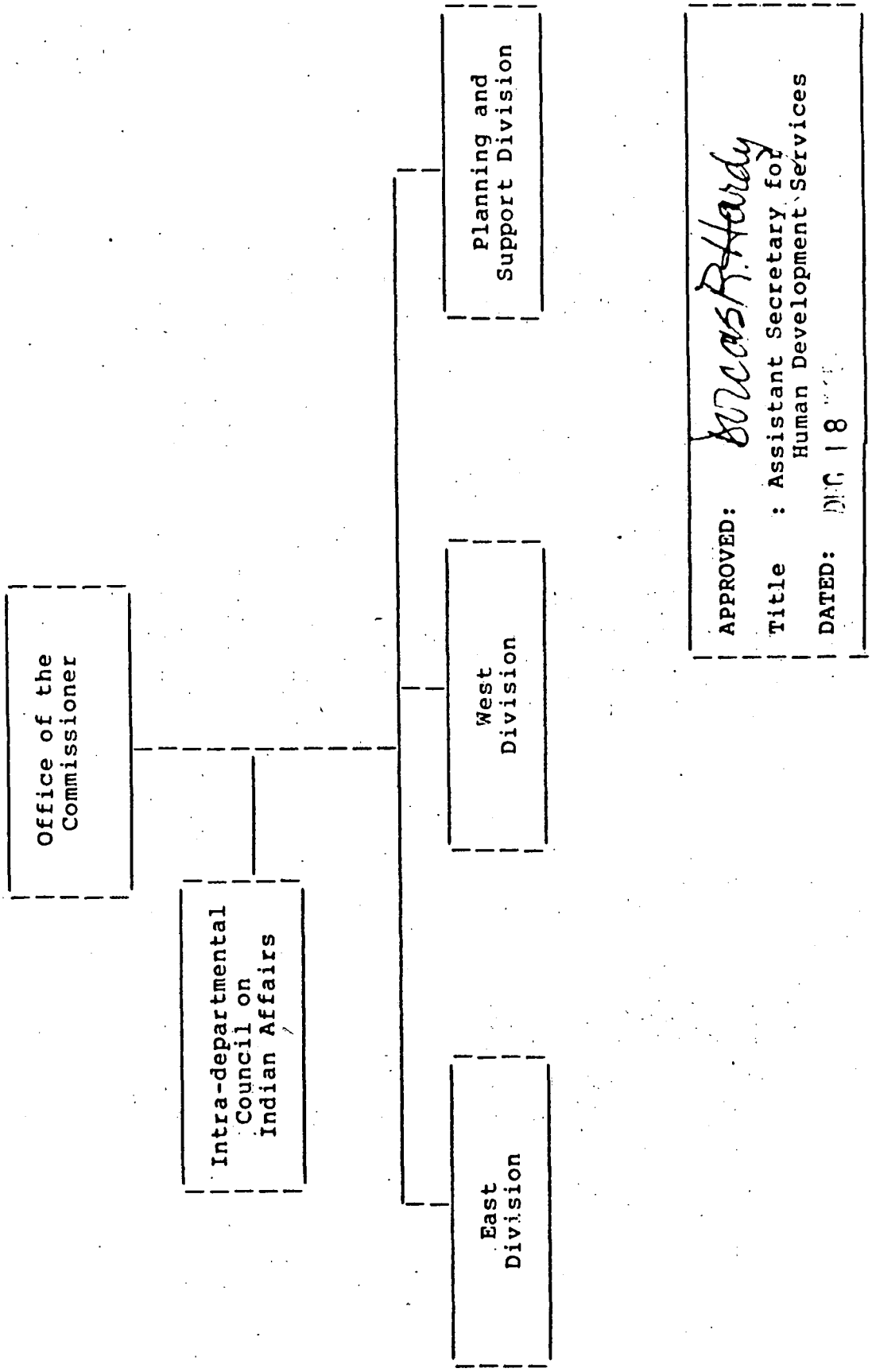
Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

BILLING CODE 4130-01-M

DHHS OFFICE OF HUMAN DEVELOPMENT SERVICES

ADMINISTRATION FOR NATIVE AMERICANS



[FR Doc. 85-30509 Filed 12-24-85; 8:45 am]
BILLING CODE 4130-01-C

National Institutes of Health

National Cancer Institute; Board of Scientific Counselors, Division of Cancer Prevention and Control, Cancer Control Science Subcommittee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Cancer Control Science Subcommittee of the Board of Scientific Counselors, Division of Cancer Prevention and Control, National Cancer Institute, National Institutes of Health, January 3, 1986, Building 31, Conference Room 4, 9000 Rockville Pike, Bethesda, Maryland 20892. The entire meeting will be open to the public from 10:30 a.m. to adjournment, and the current and future programs of the Cancer Control Science Program will be discussed. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of meetings and rosters of subcommittee members upon request.

Mr. J. Henry Montes, Executive Secretary of the Board of Scientific Counselors, Division of Cancer Prevention and Control, Nationl Cancer Institute, National Institutes of Health, Blair Building, Room 1A07, Bethesda, Maryland 20892 (301/427–8630) will furnish substantive program information.

Dated: December 20, 1985.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 85–30590 Filed 12–24–85; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Institute; Board of Scientific Counselors, Division of Cancer Prevention and Control, Centers and Community Oncology Subcommittee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Centers and Community Oncology Subcommittee of the Board of Scientific Counselors, Division of Cancer Prevention and Control, National Cancer Institute, National Institutes of Health, January 7, 1986, O'Hare Hilton Hotel, Room 2015, Chicago, Illinois. The entire meeting will be open to the public from 10:00 a.m. to adjournment, and the current and future programs of the Centers and Community Oncology Program will be discussed. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of meetings and rosters of subcommittee members upon request.

Mr. J. Henry Montes, Executive Secretary of the Board of Scientific Counselors, Division of Cancer Prevention and Control, National Cancer Institute, National Institutes of Health, Blair Building, Room 1A07, Bethesda, Maryland 20205 (301/427–8630) will furnish substantive program information.

Dated: December 20, 1985.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 85–30591 Filed 12–24–85; 8:45 am]

BILLING CODE 4140-01-M

National Cancer Institute; Cancer Biology-Immunology Contracts Review Committee; Cancellation of Meeting

Notice of the meeting of the Cancer Biology-Immunology Contracts Review Committee, National Cancer Institute, National Institutes of Health, January 8, 9, 10, 1986, published in the **Federal Register**, (50 FR 49462) on December 2, 1985, is hereby cancelled because of conflicting schedules of the committee members. For further information, please contact Dr. Wilna Woods, Executive Secretary, National Cancer Institute, Westwood Building, Room 807, National Institutes of Health, Bethesda, Maryland 20892 (301/496–7153).

Dated: December 20, 1985.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 85–30594 Filed 12–24–85; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Emergency Area Closure, Butte District, MT

AGENCY: Bureau of Land Management, Interior.

ACTION: Emergency area closure, closed to all vehicles October 15 to July 1, except for authorized access.

SUMMARY: This notice closes an area on Armstead Mountain in the Blacktail Mountains, Southwestern Montana, to all vehicle use, October 15 to July 1, except for authorized uses (43 CFR 8341.2). The purpose of this closure is to reduce watershed degradation. The emergency closure is effective immediately on the following lands, and will remain in effect until the 1984 Interagency Travel Plan for Southwestern Montana is revised.

T. 10 S., R. 9 W., MPM
Section 17: SW¼;
Section 18: E½, E½W½;
Section 19: NE¼;
Section 20: NW¼NW¼.

ADDRESS: Harry R. Cosgriffe, Area Manager, Dillon Resource Area, P.O. Box 1048, Dillon, Montana 59725.

Dated: December 17, 1985.

Jack A. McIntosh,

District Manager.

[FR Doc. 85–30406 Filed 12–24–85; 8:45 am]

BILLING CODE 4310-DN-M

Federal Minerals Exchange; Cibola, McKinley and Valencia Counties, NM; Realty Action

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Realty Action—Exchange, Federal Minerals in Cibola, Mckinley, and Valencia Counties, New Mexico.

SUMMARY: The following described Federal mineral estate which is located under private surface estate has been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1978, 43 U.S.C. 1716.

New Mexico Principal Meridian

T. 4 N., R. 2 W.,
Sec. 8, all.
T. 4 N., R. 5 W.,
Sec. 10, all.
T. 5 N., R. 4 W.,
Sec. 24, NW¼, S½.
T. 5 N., R. 5 W.,
Sec. 10, all.
T. 6 N., R. 3 W.,
Sec. 26, NW¼, S½;
Sec. 28, all.
T. 8 N., R. 13 W.,
Sec. 4, Lots 1 through 4, S½N½, S½;
Sec. 6, Lots 1 through 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Secs. 8, 10, all;
Sec. 18, Lots 1 through 4, E½, E½W½.
T. 9 N., R. 13 W.,
Sec. 4, Lots 1 through 4, S½N½, S½;
Sec. 6, Lots 1 through 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Secs. 8, 10, 14, all;
Sec. 18, Lots 1 through 4, E½, E½W½;
Secs. 20, 24, all;
Sec. 30, Lots 1 through 4, E½, E½W½.
T. 9 N., R. 14 W.,
Secs. 10, 12, all;
Sec. 14, N½;.

Sec. 24, all;
Sec. 26, E½E½, W½;,
Sec. 28, N½, SE¼;
Sec. 34, E½.
T. 10 N., R. 14 W.,
Secs. 22, 28, 34, all.
T. 11 N., R. 19 W.,
Sec. 2, Lots 1 through 4, S½N½;
Sec. 4, SE¼;
Sec. 6, Lots 1 through 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 12, all;
Sec. 24, S½.
T. 11 N., R. 20 W.,
Sec. 6, Lots 1 through 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 8, all;
Sec. 10, W½;
Sec. 12, N½, W½SW¼, E½SE¼;
Sec. 24, W½.
Containing 22,357.89 acres, more or less.

In exchange for this Federal mineral estate, the United States has selected approximately 22,234 acres of privately owned minerals within Cibola County in the El Malpais Instant Study Area south of Grants, New Mexico, as listed below:

New Mexico Principal Meridian

T. 8 N., R. 10 W.,
Sec. 1, Lots 1 through 4, S½N½, S½;
Sec. 3, Lots 1 through 4, S½N½, S½;
Sec. 5, Lots 1 through 4, S½N½, S½;
Sec. 7, Lots 1 through 4, E½, E½W½;
Sec. 9, all;
Sec. 11, 15, 17, all;
Sec. 19, Lots 1 through 4, E½, E½W½;
Sec. 21, 27, 29, all;
Sec. 31, Lots 1 through 4, E½, E½W½.
T. 8 N., R. 11 W.,
Sec. 1, Lots 1 though 4, S½N½, S½;
Sec. 3, Lots 1 though 4, S½N½, S½;
Sec. 5, Lots 1 though 4, S½N½, S½;
Sec. 7, Lots 1 through 4, E½, E½W½;
Sec. 9, 11, 13, 15, 17, all;
Sec. 19, Lots 1 through 4, E½, E½W½;
Sec. 21, 23, 25, 27, 29, all;
Sec. 31, Lots 1 through 4, E½, E½W½;
Sec. 33, 35, all.
T. 8 N., R. 12 W.,
Sec. 1, Lots 1 through 4, S½N½, S½;
Sec. 3, Lots 1 through 4, S½N½, S½;
Sec. 11, 25, all.
Containing 22,234.00 acres more or less.

The value of the mineral estates exchanged will be approximately equal.

The purpose of the exchange is to consolidate Federal mineral ownership where the Bureau also owns the surface estate.

The purpose of this Notice of Realty Action is two-fold. First, this notice will provide a response period of forty-five (45) days during which public comments will be accepted regarding this exchange proposal. Secondly, this action as provided in 43 CFR 2201.1(b), shall segregate the Federal minerals as described in this Notice, to the extent that they will not be subject to appropriation under mineral leasing and mining laws, subject to any prior valid rights. The segregative effect shall terminate either upon publication in the **Federal Register** of a termination of the segregation or two years from the date of this publication, whichever occurs first.

SUPPLEMENTARY INFORMATION: Detailed information concerning the exchange may be obtained from the Area Manager, Rio Puerco Resource Area, 3550 Pan American Freeway NE., Albuquerque, New Mexico, 87107.

For a period of forty-five (45) days interested parties may submit comments to the District Manager, Albuquerque District Office, P.O. Box 6770, Albuquerque, New Mexico, 87197–6770.

L. Paul Applegate,
District Manager.

[FR Doc. 85–30481 Filed 12–24–85; 8:45am]
BILLING CODE 4310–JB–M

Shoshone District, ID, Public Lands; Picabo Hills Area; Emergency Closure

AGENCY: Bureau of Land Management (BLM), Interior

ACTION: Emergency closure of public lands (Picabo Hills).

SUMMARY: Notice is hereby given that effective immediately all public lands located in the Picabo Hills Area are closed to motorized vehicles. The area is bounded generally by U.S. Highway 20 on the north, the Picabo Road on the east and south, and Spud Patch Road on the southwest, and the Intermountain Gas Pipeline Road on the West.

The legal description of the area is:

T. 1 S., 19 E., Boise Meridian,
Secs. 32 and 34 and portions of secs. 25, 30, 31, 33, and 35;
T. 1 S., R. 20 E., Boise Meridian,
Portions of secs. 29, 30, 31, 32, and 33;
T. 2 S., R. 19 E., Boise Meridian,
Secs. 5, 8, and 12 and portions of secs. 1, 6, 7, 10, 11, 13, 14, 15, 17, and 18;
T. 2 S., R. 20 E., Boise Meridian,
Secs. 7 and 8 and portions of secs. 4, 5, 6, 9, 17, 18, 19, 20, and 21.

All Federal lands administered by the Bureau of Land Management within the above described area are closed to all motorized vehicles from the date of this notice until April 15, 1986. Signs will be posted to identify the exterior boundaries.

The purpose of this closure is to protect wintering deer from all motor vehicles. The area is crucial winter habitat where deer are concentrated and susceptible to disturbances.

The authority for this closure is 43 CFR 8364.1. The closure will remain in effect until April 15, 1986.

FOR FURTHER INFORMATION CONTACT: Ervin R. Cowley, Monument Resource Area Manager, P.O. Box 2B, Shoshone, Idaho 83352, Telephone (208) 886–2206.

Dated: December 16, 1985.

Jon Idso,
Acting District Manager.

[FR Doc. 85–20445 Filed 12–24–85; 8:45 am]
BILLING CODE 4310–85–M

Revision of Oil and Gas, and Geothermal Lease Forms

AGENCY: Bureau of Land Management, Interior.

ACTION: Revision of oil and gas, and geothermal lease forms.

SUMMARY: On August 7, 1985 (50 FR 31925), the Bureau proposed certain changes to the standard oil and gas lease from (Form 3100–11) and the geothermal lease form (Form 3200–24). The changes would have: (1) Clarified that the non-exclusive right to conduct geophysical exploration was granted by a lease; (2) required that lessees contact the Bureau prior to entry on their leaseholds (rather than prior to disturbing the surface); and (3) specified that surface use would be subject to regulation by surface managing agencies provided their requirements did not conflict with lease rights granted or the terms and conditions of the leases.

After careful review of the comments received, it has been decided that only the first of the three proposed changes will be made final. Accordingly, at such time as reprinting of the oil and gas, and geothermal lease forms is necessary, language will be added to the respective granting clauses to clarify that lessees have the non-exclusive right to conduct geophysical exploration on their leaseholds.

EFFECTIVE DATE: This action involves only a clarification to existing forms. It is effective immediately and applicable to both existing and future leases.

ADDRESS: Director (140), Bureau of Land Management, 18th & C Streets, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Karl F. Duscher, (202) 653–2187.

SUPPLEMENTARY INFORMATION: Comments were received from fourteen parties; nine from energy developers, two from industry associations, and three from Federal Government offices. The comments were considered and addressed as follows:

There were no objections to the change involving geophysical exploration rights. However, it was suggested that the Bureau be more

comprehensive in the regulations (43 CFR 3162.3-3) addressing geophysical operations conducted by lessees on leaseholds. The regulations will be reviewed and, if changes are deemed necessary, a rulemaking will be proposed. It was also suggested that it would be more efficient for lessees if the Bureau allowed the agency administering the surface to approve exploration operations on leaseholds, particularly since geophysical projects often extend off lease and already require permitting by the surface management agency. In response to this suggestion, the Bureau wishes to clarify that lessees have a choice as to how they obtain approval of geophysical exploration operations on leaseholds. If the lessee chooses to conduct exploration in the capacity of a lessee, then compliance with Bureau regulations at 43 CFR 3162.3-3 is required. However, the lessee may also conduct the exploration as a "non-lessee" since the lessee had the right to apply for an exploration permit prior to lease issuance and is not deprived of this right (shared by all parties) by the existence of a lease. If the lessee so chooses, the geophysical project would not be considered lease operations and would, therefore, not require approval of the Bureau, but would require compliance with applicable regulations of the surface management agency. The Bureau believes that lessees will choose the most convenient method for approval.

With respect to the second proposed change, most of those commenting observed that the change was in conflict with Operating Order No. 1, which specifically allows entry upon leaseholds for surveying and staking of proposed well locations without advance approval. However, the Order does require advance approval where "significant" surface disturbance is likely to occur as a result of surveying and staking. A problem exists in that, in some cases, surface disturbance that is ordinarily thought to be minor (such as cutting vegetation for survey lines) may actually cause significant disturbance. The intent of the proposed change was to provide an apportunity for the Bureau to orient the lessee to unique concerns and environmental sensitivities on the leasehold that may not have been addressed in lease sitpulations since the areas involved were relatively small. With such information, the lessee would be better able to determine whether operations may in fact constitute significant surface disturbance. For this reason, the Order encourages lessees and operators to notify the surface management agency prior to entry upon the lands. However, the problem is not such that a change in the lease form is necessary. Consideration will be given to defining "significant" surface disturbance in either the Order or the regulations.

Comments on the third change indicated that the proposed wording was too broad, that dual permitting of operations could result, and that conflicts involving different sets of regulations and the lease terms would occur. Lessees do have to comply with surface management agency regulations for use of existing roads, acess to the leasehold, securing sand and gravel sources, etc. However, the comments indicated that such compliance was already well understood. Therefore, the Bureau will not adopt this change.

James M. Parker,

Acting Director, Bureau of Land Management.

December 20, 1985.

[FR Doc. 85-30499 Filed 12-24-85; 8:45 am]

BILLING CODE 4310-84-M

[Designation Order UT-020-8601]

Utah Off-road Vehicle Designations

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of off-road vehicle designation decisions.

Decision

Notice is hereby given relating to the use of off-road vehicles on public lands in accordance with the authority and requirements of Executive Orders 11644 and 11989, and regulations contained in 43 CFR Part 8340. The lands described below, under the administration of the Bureau of Land Management, are designated as closed, limited, or open to off-road motorized vehicle use.

The area affected by these designations is known as the Tooele Planning Unit, which includes all public lands in Tooele County, totaling 2,001,166 acres. These designations are a result of land use decisions developed with public involvement in the 1984 Tooele Management Framework Plan.

A. *Open Designation.* Areas which are designated open comprise approximately 1,694,155 acres.

Open designation was determined to be appropriate for these public lands since off-road vehicle use is an important recreational activity and is essential for the conduct of other authorized resource uses. All public lands administered by the Bureau of Land Management in the Tooele Planning Unit which are not designated limited or closed, are designated open.

B. *Limited Designation.* A total of 275,191 acres in the Tooele Planning Unit are designated as limited to motorized vehicle travel. The areas that are designated as limited are:

1. *Rush Lake/Muskrat Springs:* The Rush Lake/Muskrat Springs area contains 23,897 acres of public land in two parcels. One parcel contains 1,631 acres and is located immediately southwest of Stockton, Utah. The second parcel contains 22,266 acres and is located 4 miles south of Timpie Junction, Utah. These two parcels will closed to motor vehicles from April 1 to July 15 of each year and vehicle travel will be restricted to existing roads and jeep trails for the remainder of the year (July 16-March 31). This limitation is necessary to protect the breeding/nesting activities of shorebirds and waterfowl. In addition, the riparian vegetation and unstable soils (mud) are highly susceptible to damage from motor vehicles.

2. *Salt Mountain:* This area is located on the west slope of the Stansbury Mountains, about 3 miles east and northest of Iosepa, Utah. It contains 14,207 acres that have been identified as crucial deer winter range. Motor vehicles use will be restricted to existing roads and jeep trails from May 1 through December 31 of each year. From January 1 through April 30 of each year, the area will be closed to all motor vehicle use except for search and rescue efforts and administrative use by state and federal agencies. This area has been identified as the most crucial habitat for the survival of the Stansbury mule deer herd. The limitations listed above are necessary to ensure the protection of the habitat and to prevent the disturbance of big game animals during the time when they are most vulnerable.

3. *Southwest Stansbury Mountains-Western Onaqui Mountains:* This area contains three separate parcels of public land totaling 9,029 acres. One parcel is located immediately east of the Skull Valley Indian Reservation on the southwest slope of the Stansbury Mountains. The other two Parcels are located approximately 2 and 9 miles, respectively, south of the Johnson Pass on the West slope of the Onaqui Mountains. All three parcels have been identified as crucial mule deer winter range and vehicle travel will be restricted to existing roads and jeep trails for the entire year. This limitation is necessary to emphasize the sensitivity of the parcels to vehicle damage, to prevent the creation of additional roads

that would destroy deer habitat, and to prevent harassment of deer by vehicles.

4. *Simpson Springs Campground:* This area is located about 20 miles south-southwest of Dugway, Utah. Forty acres of land are designated. Motor vehicle use is limited to existing roads and designated trails year-round. This limitation is necessary to limit ORV play near the camping facilities in order to ensure the quiet enjoyment of the area by all recreationists. The limitation still allows motorized access to and from the camping area.

5. *Oquirrh Mountains:* Vehicle use will be restricted to existing roads and trails on almost the entire western slope of the Oquirrh Mountains—an area totaling 34,904 acres. This area runs from 2 miles south of I-80 on the north to 3 miles north of Fivemile Pass in the south. This area serves as an important watershed for the communities which lie below in the Tooele and Rush valleys. Indiscriminate motorized vehicle use in this steep, rugged terrain could destroy vegetation and disturb soils, thereby effectively reducing the suitability of the area for a community watershed. Protecting the intergrity of the elk and deer habitat is an important secondary objective that will be accomplished by this limitation.

6. *Puddle Valley Antelope Area:* This area contains 192,854 acres and includes Puddle Valley, Ripple Valley, the Lakeside Mountains, the Grassy Mountains, and the Greyback Hills. It will be closed to organized motorized vehicle races during the entire year. Antelope were reintroduced into this area in 1975, and the herd was supplemented in 1979. The area is large enough and the animals are dispersed enough that casual motor vehicle use will not conflict greatly with the antelope. However, large motorized vehicle races or other events could have negative impacts on the salt desert shrub vegetation. This impact to the vegetation would reduce the forage for antelope and open the area to erosion. Disturbance and/or harassment of antelope by noise and the presence of motorized vehicles could affect the continued existence of antelope in this area.

7. *Horseshoe Springs Recreation Area:* Between January 1 and April 30 each year 260 acres of public land of the Horseshoe Recreation Knoll is limited to motorized vehicle use. The only access allowed is for camping and other non-motorized recreation use. All other motorized vehicle use and "play" is prohibited during this period. The area is located about 9 miles south of Timpie Springs on the west side of the Stansbury Mountains. The area receives relatively heavy camping and recreation use and it is within crucial areas for both mule deer winter range and waterfowl brooding/nesting activities. Indiscriminate ORV use could be very disturbing to wildlife and destructive of their habitat during a crucial time of year for them. However, casual vehicle use for camping access will not be overly disturbing to wildlife. This area is open to ORVs during the remainder of the year.

C. *Closed Designation.* A total of 31,860 acres in two areas are designated as closed to motorized vehicle use of any kind during the entire year. These two areas are:

1. *North Deep Creek Mountains:* The north Deep Creek Range is located approximately 4 miles east of Ibapah, Utah and 7 miles northwest of Callao, Utah. Closure of this 21,860 acre area is necessary to protect its unique and pristine character and resources.

2. *North Stansbury Mountains:* The North Stansbury Mountains area is located approximately 8 miles west-northwest of Grantsville, Utah. Closure of this 10,000 acre area is necessary to protect valuable resources that are particularly sensitive to ORV use.

The designations become effective upon publication in the **Federal Register** and will remain in effect until rescinded or modified by the authorized officer. An environmental assessment describing the impact of these decisions is available for inspection at the office listed below.

ADDRESSES: For further information about these designations contact Gregg Morgan, Outdoor Recreation Planner or Joelle Buffa, Wildlife Biologist at the following office: Bureau of Land Management, Salt Lake District, 2370 South 2300 West, Salt Lake City Utah 84119, (801) 524-5348.

Dated: December 18, 1985.

Frank W. Snell,

Salt Lake District Manager

[FR Doc. 85-30456 Filed 12-24-85; 8:45 am]

BILLING CODE 4310-DQ-M

Minerals Management Service

Development Operations Coordination Document

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that ODECO Oil and Gas Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 5540, Block 90, Ship Shoal Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Dulac, Louisiana.

DATE: The subject DOCD was deemed submitted on December 12, 1985.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ms. Angie Gobert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: December 16, 1985.

J. Rogers Pearcy,

Acting Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85-30408 Filed 12-24-85; 8:45 am]

BILLING CODE 4310-MR-M

INTERNATIONAL TRADE COMMISSION

[Investigation 332-220]

Effects of Proposed Tax Reforms on the International Competitiveness of U.S. Industries

AGENCY: United States International Trade Commission.

ACTION: At the request of the Committee on Finance of the United States Senate, the Commission has instituted investigation No. 332-220 under section 332(b) of the Tariff Act of 1930 (19 U.S.C.

1332(b)) concerning how the President's proposed tax reform and the tax reforms recently proposed by the House Committee on Ways and Means would affect the international competitiveness of U.S. industries.

EFFECTIVE DATE:

FOR FURTHER INFORMATION CONTACT: Donald J. Rousslang (202-523-0075), Chief, Research Division, Office of Economics, U.S. International Trade Commission, Washington, DC.

SUPPLEMENTARY INFORMATION:

Backgound

The Commission instituted the investigation, No. 332-220, following receipt of December 2, 1985 of a request therefor from the Chairman of the Committee on Finance of the United States Senate. In accordance with the Committee's request, the study will estimate the effects of the proposed tax changes on the exports and imports of individual U.S. industries. It will also analyze other aspects of the effects on U.S. competitiveness.

Public Hearing

A public hearing in connection with this investigation will be held at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC., beginning at 10:00 a.m. on January 28, 1986. All persons shall have the right to appear, by counsel or in person, to present information and to be heard. Requests to appear at the public hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on January 14, 1986. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs. The deadline for filing prehearing briefs is January 21, 1986.

Written Submission:

In lieu of a public hearing, interested persons are invited to submit written statements concerning the investigation. Commercial or financial information that a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR information, will be made available for inspection by interested persons. To be assured of consideration by the Commission, written statements should be received no later than February 4, 1985. All submissions should be addressed to the Secretary at the Commission's office in Washington, DC.

Posthearing briefs must be submitted not later than the close of business on February 4, 1986. A signed original and 14 true copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's Rules (19 CFR 201.8).

Hearing-impaired persons are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 724-001.

By order of the Commission.

Issued: December 19, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-30520 Filed 12-24-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-215]

Certain Double-Sided Floppy Disk Drives and Components Thereof; Commission Decision To Review Initial Determination, Schedule for Filing of Written Submissions and Violation and on Remedy, the Public Interest, and Bonding

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has determined to review portions of the administrative law judge's initial determination finding no violation of section 337 of the Tariff Act of 1930 in the above-captioned investigation.

Authority: The authority for the Commission's disposition of this matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in sections 210.53-.56 of the Commission's Rules of Practice and Procedure (49 FR 46123 (Nov. 23, 1984); to be codified at 19 CFR 210.53-.56).

FOR FURTHER INFORMATION CONTACT: Marcia H. Sundeen, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0350.

SUMMARY: On November 1, 1985, the administrative law judge issued an initial determination (ID) finding no violation of section 337 in the importation or sale of certain double-sided floppy disk drives. Complainant, respondents and the Commission investigative attorney filed petitions for review of certain parts of the ID pursuant to section 210.54(a) of the Commission's rules.

Having examined the record, including the petitions for review and the responses thereto, the Commission has concluded that the following issues warrant review:

(1) Whether the double-sided floppy disk drives that are the subject of the investigation infringe U.S. Patent No. 4,151,573;

(2) Whether the domestic industry is efficiently and economically operated;

(3) Whether the domestic industry includes the activities of complainant Tandon Corporation;

(4) Whether the ALJ's reasoning that the domestic industry does not include 8-inch double-sided floppy disk drive manufacturing operations because "the 8 inch drive only competes against similar sized drives as possible replacements in older systems for existing 8 inch drives, and affords no real market competition to 5¼ inch and 3½ inch double-sided floppy disk drive products" (ID at pages 64-66) is legally erroneous in view of the decision of the Court of Appeals for the Federal Circuit in *Bally Midway Mfg. Co.* v. *U.S. International Trade Commission, 714 F.2d 1117 (Fed. Cir. 1983);*

(5) Whether there is a sufficient causal nexus between the alleged unfair acts of the respondents and the substantial injury to the domestic industry; and

(6) Whether the alleged unfair acts of the respondents have a tendency to substantially injure the domestic industry.

No other issues will be reviewed.

SUPPLEMENTARY INFORMATION: If the Commission finds that a violation of section 337 has occurred, it may issue (1) an order that could result in the exclusion of the subject articles from entry into the United States and/or (2) temporary cease and desist orders that could result in one or more respondents being required to cease and desist from engaging in unfair acts in the importation and sale of such articles. Accordingly, the Commission is interested in receiving written submissions that address the form of relief, if any, that should be ordered.

If the Commission concludes that a violation of section 337 has occurred and contemplates that some form of relief is appropriate, it must consider the effect that the relief would have upon: (1) The public health and welfare; (2) competitive conditions in the U.S. economy; (3) the U.S. production of articles that are like or indirectly competitive with those which are the subject of the investigation, and (4) U.S. consumers. The Commission is, therefore, interested in receiving written submissions concerning the effect, if any, that granting a remedy would have on the public interest.

If the Commission finds that a violation of section 337 has occurred and orders permanent relief, the President has 60 days to approve or disapprove the Commission's action. During this period, the subject articles would be entitled to enter the United States under a bond in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is, therefore, interested in receiving written submissions concerning the amount of the bond that should be imposed.

Written Submissions

The parties to the investigation and interested Government agencies are encouraged to file written submissions on the issues under review, and the issues of remedy, the public interest, and bonding. Complainant and the Commission investigative attorney are also requested to submit a proposed remedial order for the Commission's consideration. Persons other than the parties and Government agencies may file written submissions addressing the issues of remedy, the public interest, and bonding.

Written submissions on the issues under review and on remedy, the public interest, and bonding must be filed not later than the close of business on December 30, 1985. Reply submissions on the issues under review and on remedy, the pubic interest, and bonding must be filed not later than January 6, 1986.

Commission Hearing

The Commission does not plan to hold a public hearing in connection with the final disposition of this investigation.

Additional Information

Persons submitting written submissions must file the original document and 14 true copies thereof with the Office of the Secretary on or before the deadlines stated above. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment by the administrative law judge. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. Documents containing confidential information approved by the Commission for confidential treatment will be treated accordingly. All nonconfidential written submissions will be available for public inspection in the Office of the Secretary.

Notice of this investigation was published in the **Federal Register** of January 30, 1985 (50 FR 4276).

Copies of the nonconfidential version of the administraive law judge's initial determination and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0161. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

By order of the Commission.

Issued: December 19, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-30514 Filed 12-24-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-236]

Certain Portable Bag Sewing Machines and Parts Thereof; Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1327.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on November 15, 1985, pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Axia, Incorporated, 122 West 22nd Street, Oak Brook, Illinois 60521. Supplements to the complaint were filed on December 4, 5, and 6, 1985. The complaint, as supplemented, alleges unfair methods of competition and unfair acts in the importation of certain portable bag sewing machines and parts thereof into the United States, or in their sale, by reason of alleged (1) direct, contributory, and induced infringement of at least claims, 1-2, 4, 10, 18, 24, and 26-33 of U.S. Letters Patent 4,348,970; and (2) direct, contributory, and induced infringement of at least claims 1-2, 8, and 11 of U.S. Letters Patent 4,441,442. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests that the Commission institute and investigation, and, after a full investigation, issue a permanent exclusion order and permanent cease and desist orders.

FOR FURTHER INFORMATION CONTACT: Steven H. Schwartz, Esq., or Juan Cockburn, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202-523-4877 and 202-523-1272, respectively.

SUPPLEMENTARY INFORMATION:

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12)

Scope of Investigation

Having considered the compliant, the U.S. International Trade Commission, or December 12, 1985, ORDERD THAT—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain portable bag sewing machines and parts thereof into the United States, or in their sale, by reason of alleged (1) direct, contributory, and induced infringement of claims 1-2, 4, 10, 18, 24, and 26-33 of U.S. Letters Patent 4,348,970; and (2) direct, contributory, and induced infringement of claims 1-2, 8, and 11 of U.S. Letters Patent 4,441,442, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upn which this notice of investigation shall be served:

(a) The complainant is—

Axia, Incorporated, 122 West 22nd Street, Oak Brook, Illinois 60521.

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the compliant is to be served:

Newlong Machine Works, Ltd., 4-14 Higashi Ueno 6-chome, Taito-Ku, Tokyo 110, Japan.

American-Newlong, Inc., 5310 South Harding Street, Indianapolis, Indiana 46217.

(c) Steven H. Schwartz, Esq., and Juan Cockburn, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 701 E Street NW., Room 124 and Room 128, respectively, Washington, DC 20436, shall be the Commission investigative attorneys, party to this investigation; and

(3) For the investigation so instituted, Janet D. Saxon, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding administrative law judge.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of

the rules (19 CFR 201.16(d) and 210.21(a)), such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting responses will not be granted unless good cause therefore is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, DC 20436, telephone 202-523-0471. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

By order of the Commission.

Issued: December 13, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-30518 Filed 12-24-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-225]

Certain Multi-Level Touch Control Lighting Switches; Commission Determination Not To Review Initial Determination Joining Respondents

AGENCY: International Trade Commission.

ACTION: Nonreview of an initial determination (ID) joining three respondents to the investigation.

SUMMARY: Notice is hereby given that the Commission has determined not to review the ID of the administrative law judge (ALJ) to join three parties as respondents in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: John Kingery, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-1638.

SUPPLEMENTARY INFORMATION: On November 5, 1985, complainant Southwest Laboratories, Inc., moved (Motion 225-2) to amend the complaint and the notice of investigation by joining as respondents: (1) Darjung Industrial Co., Ltd., of Taiwan; (2) Barney Hong Kong, Ltd., of Hong Kong; and (3) COSM Electronics, Ltd., of Hong Kong. On November 21, 1985, the ALJ issued an ID granting the motion. No petitions for review were filed, nor were any comments from other government agencies received.

Copies of the ALJ's ID and all other non-confidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0161.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

By order of the Commission.

Issued: December 19, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-30521 Filed 12-24-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-234]

Certain Upper Body Protector Apparatus for Use in Motosports; Change of the Commission Investigative Attoney

Notice is hereby given that, as of this date, Gary J. Rinkerman, Esq., and Ethel L. Morgan, Esq., of the Office of Unfair Import Investigations will be the Commission investigative attorneys in the above-cited investigation.

The Secretary is requested to publish this Notice in the **Federal Register.**

Dated: December 16, 1985.

Arthur Wineburg,

Dictor, Office of Unfair Import Investigation.

[FD Doc. 85-30512 Filed 12-24-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-201]

Certain Products With Gremlins Character Depictions; Extension of Deadline for Completion of Investigation

AGENCY: International Trade Commission.

ACTION: Extension of deadline for completion of the above-captioned investigation to January 16, 1986.

SUMMARY: The Commission has determined to extend the administrative deadline for completion of the investigation to January 16, 1986. The Commission's action and order and opinion(s) will be issued on the date.

FOR FURTHER INFORMATION CONTACT: William E. Perry, Esq., Office of General Counsel, United States International Trade Commission, telephone 202-523-0499.

SUPPLEMENTARY INFORMATION: The Commission has determined to extend the administrative deadline for completion of this investigation in order to further consider the industry and injury issues. The Commission previously declared this investigation "more complicated" and established an administrative deadline of December 16, 1985. 50 FR 35169 (Aug. 29, 1985).

The authority for this action is contained in section 337 of the Tariff Act of 1930, 19 U.S.C. 1337.

Copies of all nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0161.

By order of the Commission.

Issued: December 16, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-30513 Filed 12-24-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-191]

Certain Stretch Wrapping Apparatus and Components Thereof; Institution of Advisory Opinion Proceedings

AGENCY U.S. International Trade Commission.

ACTION: Institution of advisory opinion proceedings.

SUMMARY: The Commission has accepted respondents' request for advisory opinion procedings. The Commission has certified the request to the Chief Administrative Law Judge for appropriate adversary proceedings and has directed the issuance of an initial advisory opinion (IAO) on whether an allegedly new machine is covered by the terms of the consent order issued in the above-captioned investigation in November 1984. The IAO is to be issued as expeditiously as possible, preferably within 4 months.

FOR FURTHER INFORMATION CONTACT: John Kingery, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-1638.

SUPPLEMENTARY INFORMATION: This action is taken under authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), and the Commission rule § 211.54(b) (19 CFR 211.54(b)).

Respondents filed a request for an advisory opinion on September 18, 1985. Respondents requested that the Commission issue an advisory opinion concerning whether an allegedly new machine developed by respondents infringes any claim of the patent at issue in the Commission's investigation terminated by the consent order issued in November 1984. Complainant responded that an advisory opinion is appropriate under the circumstances and argued that the allegedly new machine is covered by the terms of the consent order.

Copies of the Commission's action and order and all other nonconfidential documents filed in connection with this investigation and with respect to the request for an advisory opinion are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0160.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

By order of the Commission.

Issued: December 13, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-30519 Filed 12-24-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-300 (Preliminary)]

Dynamic Random Access Memory Semiconductors (DRAM's) of 256 Kilobits and Above From Japan

AGENCY: International Trade Commission.

ACTION: Revised schedule for the conference to be held in connection with the subject investigation.

EFFECTIVE DATE: December 20, 1985.

FOR FURTHER INFORMATION CONTACT: Lynn Featherstone (202-523-0242), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal on 202-724-0002.

SUPPLEMENTARY INFORMATION: On December 11, 1985, the Commission instituted the subject investigation and established a schedule for its conduct. Subsequently, a number of parties to the investigation requested that the conference to be held in connection with the investigation be rescheduled from January 3, 1986, to January 6, 1986. That request has been granted.

The Commission's new schedule for the investigation is as follows: the conference will be held in room 331 of the U.S. International Trade Commission Building at 9:30 a.m. on January 6, 1986, and the deadline for filing all written submissions, including post-conference briefs, is January 8, 1986.

For further information concerning this investigation see the Commission's notice of investigation and the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR part 207), and part 201, subparts A through E (19 CFR part 201).

AUTHORITY: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.12 of the Commission's rules (19 CFR 207.12).

By order of the Commission.

Issued: December 20, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-30522 Filed 12-24-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-200 (Preliminary)]

Radial Ply Tires for Passenger Cars From the Republic of Korea

Determination

In accordance with the August 8, 1985, judgment of the U.S. Court of International Trade[1] reversing and remanding the Commission's negative preliminary determination in Investigation No. 731-TA-200 (Preliminary), the Commission makes the following preliminary determination:

Pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a), there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports from the Republic of Korea of radial ply tires for passenger cars provided for in item 772.51 of the Tariff Schedules of the United States (TSUS), which are alleged to be sold at LTFV.

Background

On July 20, 1984, a petition was filed with the United States International Trade Commission and the U.S. Department of Commerce by counsel on behalf of The Armstrong Rubber Co., Cooper Tire & Rubber Co., The Firestone Tire & Rubber Co., Thje B.F. Goodrich Co., and The Goodyear Tire & Rubber Co., alleging that imports of the subject merchandise are being sold in the United States at less than fair value. Accordingly, effective July 20, 1984, the Commission instituted a preliminary antidumping investigation under section 733(a) of the Tariff Act of 1930 to determine whether there is a reasonable indication that an industry in the United States is materially injured, or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise.

Notice of the institution of the Commission's investigation and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** on July 31, 1984, and all persons who requested the opportunity were permitted to appear in person or by counsel.

On September 4, 1984, the Commission issued a negative preliminary determination in the investigation. 49FR 36712 (September 19, 1984). The negative preliminary determination, accompanied by the views of the Commission and the public version of its report, were subsequently published in *Radial Ply Tires for Passenger Cars from the Republic of Korea.* Investigation No. 731-TA-200 (Preliminary), USITC Pub. 1572 (1984).

On February 4, 1985, the petitioners sought judicial review of the Commission's determination by commencing a civil action in the U.S. Court of International Trade (CIT) under 28 U.S.C. 1581(c).

On August 8, 1985, the CIT entered a judgment reversing and remanding the Commission's determination and ordering the Commission to make a new determination consistent with the CIT's opinion.[2] In the course of its discussion of the issues of material injury and causation and the standard for preliminary determinations, the CIT's opinion makes clear that only an

[1] Armstrong Rubber Co. v. United States, Slip Opinion 85-84, U.S. Court of International Trade (August 8, 1985). The Commission has appealed the CIT's judgment. Appeal No. 85-2707.

[2] *See* note 1, *supra.*

affirmative preliminary determination would be consistent with its analysis.

On October 25, 1985, the Commission appealed the CIT's judgment to the United States Court of Appeals for the Federal Circuit (CAFC).[3]

On November 22, 1985, the CAFC denied the Commission's motion for a stay of the proceeding of the CIT pending appeal. The denial of the Commission's motion for a stay pending appeal requires the Commission to issue preliminary determinations in the subject investigation. Consistent with the CIT's opinion and judgment, the determination is affirmative. The issuance of this affirmative preliminary determination is affirmative. The issuance of this affirmative preliminary determination does not affect the Commission's appeal seeking reversal of the CIT's August 8, 1985, judgment, nor does it amount to a predetermination of the outcome of any final investigation which may be instituted.

The Commission transmitted this determination to the Secretary of Commerce on December 16, 1985.

By order of the Commission.

Issued. December 16, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-30517 Filed 12-24-85; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30750]

Burlington Northern Railroad Co.; Trackage Rights Exemption; Southern Pacific Transportation Co.

The Burlington Northern Railroad Company (BN) has entered into an agreement for trackage rights over Southern Pacific Transportation Company (SP) track between Albany and Lebanon, OR, as follows: (1) Between Albany and Page, for the purpose of bridging its freight trains, engines, and cars thereover and not for the purpose of using any industrial, team, loading, or unloading track or other facility; and (2) between Page and Lebanon, for the purpose of bridging its freight trains, engines, and cars thereover, and to serve existing industrial tracks; a distance of approximately 13.62 miles, in the State of Oregon. This trackage rights agreement became effective January 1, 1982.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) will not stay the transaction.

Dated: December 19, 1985.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 85-30479 Filed 12-24-85; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-10 (Sub-36X)]

Norfolk and Western Railway Co.; Discontinuance of Service in Madison County, IL; Exemption

Applicant has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to discontinu service over its 10.4-mile line of railroad between milepost A-20.3 near Troy Junction and milepost A-30.7 near O'Fallon.

Applicant has certified (1) that no local or overhead traffic has moved over the line for at least 2 years and (2) that no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District Court, or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the discontinuance of service shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment-Goshen*, 360 I.C.C. (91 1979).

The exemption will be effective January 25, 1986, and (unless stayed pending reconsideration). Petitions to stay must be filed by January 6, 1986, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by January 15, 1986 with:

Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission must be sent to applicant's representative:

Angelica O. Lloyd, 204 South Jefferson Street, Roanoke, VA 24042-0069.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

A notice of the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: December 17, 1985.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 85-30478 Filed 12-24-85; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Consent Decree in Clean Air Act Enforcement Action

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a consent decree in *United States* v. *World Oil Company* (CV F-85-033-EDP) was lodged with the United States District Court for the Eastern District of California on December 16, 1985. The decree requires World to convert its Sunland Refinery from "top loading" to "bottom loading" in accordance with a compliance schedule, provides for stipulated penalties for violations of the consent decree and requires World to pay a civil penalty of $25,000 for past violations.

The Department of Justice will receive for thirty (30) days from the publication date of this notice written comments relating to the decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States* v. *World Oil Company*, 90-5-2-1.741.

The consent decree can be examined at the office of the United States Attorney, 4311 Federal Building, 1130 "O" Street, Fresno, California, at the Region IX office of the Environmental Protection Agency, 215 Fremont Street, San Francisco, California and at the Environmental Enforcement Section, Land and Natural Resources Division, U.S. Department of Justice, (Room 1515), Ninth and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the consent decree can be obtained in person or by mail from the Environmental Enforcement Section at the above address at a cost of $1.00 (10 cents per page photcopying expense).

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 85-30442 Filed 12-24-85; 8:45 am]

BILLING CODE 4410-01-M

[3] *See* note 1, *supra*.

Lodging of Proposed Consent Judgement in Action Under the Clean Air Act; American Development Corporation, Hamburg, IA

In accordance with Departmental Policy, 28 CFR 50.7, 30 FR 19029, notice is hereby given that a proposed consent Judgement in *United States of America v. American Development Corporation*, Civil Action No. 84-70-W was lodged with the United States District Court for the Southern District of Iowa, on December 13, 1985.

The compliant filed by the United States alleged that American Devlopment Corporation (ADC) violated the Clean Air Act by failing to comply with the New Source Performance Standards (NSPS), 40 CFR 60.7 and 40 CFR 60.480 *et seq.* and with Prevention of Significant Deterioration (PSD) regulations before commencing construction of an ethanol producing facility which has the potential to emit 100 tons per year of sulfur dioxide and nitrogen oxides. the complaint sought injunctive relief and civil penalties. The Consent Judgement requires ADC to comply with the NSPS regulations and with PSD premit requirements, and to pay a civil penalty of $82,500.

The Department of Justice will receive for a period of thirty (30) days from date of this publication comments relating to the proposed Consent Judgement. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Wahsington, D.C. 20530 and should refer to *United States V. American Development Corporation*, D.J. Ref. 90-5-2-1-724.

The proposed Consent Judgement may be examined at the Office of the United States Attorney, 115 U.S. Courthouse, E 1st & Walnut Streets, Des Moines, Iowa 50309; and at the Region VII Office of the United States Environmental Protection Agency, 726 Minnesota Avenue, Kansas City, Kansas 66101. Copies of the Consent Judgement 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 Judgement 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 Habichet,

Assistant Attorney General and Natural Resources Division.

[FR Doc. 85-30443 Filed 12-24-85; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

[Docket No. 85-27]

Daniel R. Zoll, M.D. Brookline, MA; Hearing

Notice is hereby given that on March 28, 1985, the Drug Enforcement Administration, Department of Justice, issued to Daniel R. Zoll, M.D., an Oder To Show Cause as to why the Drug Enforcement Administration should not revoke his DEA Certificate of Registration, AZ12221388, for registration as a practitioner under 21 U.S.C. 823(f).

Thirty days having elapsed since the said Order To Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter is rescheduled to begin at 9:30 a.m. on Tuesday, January 7, 1986, in the U.S. Tax Court Courtroom, 13th Floor, U.S. Customs House, Number 2 India Street, Boston, Massachusetts.

Dated: December 19, 1985.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 85-30407 Filed 12-24-85; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Office of the Assistant Secretary for Veterans' Employment and Training

Veterans' Service Performance Standards; State Employment Security Agency Services

Title 38, United States Code, section 2007(b) requires establishment of definitive performance standards by which State Employment Security Agency (SESA) services for veterans will be measured. The minimum service categories which quantitative standards will be applied for Program Year 1985 are placement (in jobs over three days duration) counseling, enrollment in training and received some reportable service. The standards measure services provided to veterans (including eligible persons), Vietnam-era veterans, and disabled veterans, during PY 1985. For placement in jobs listed by Federal contractors, standards measure placement of Vietnam-era and special disabled veterans in all Federal contractor jobs.

According to Veterans' Program Letter No. 9-85, Veterans' Performance Standards for Program Year 1985, dated July 2, 1985, the methodology to be used for establishing performance standards for each State will be negotiated by the State Director for Veterans' Employment and Training Service and the State Employment Service Administrator. The numerical value for each reporting period for the veterans' performance standards will be published in the **Federal Register** as a public notice. The following performance standards have been established to be in effect through June 1986.

Signed at Washington, D.C. this 20th day of December 1985.

Donald E. Shasteen,

Assistant Secretary for Veterans' Employment and Training.

Veterans' Service Performance Standards

Option No. 1 (Percentage of Veterans vs. Total Applicants 22 and Over)

State	Placement			Counseling		
	Veterans and eligibles	Vietnam era veterans	Disabled veterans	Veterans and eligibles	Vietnam era veterans	Disabled veterans
REGION I						
Connecticut	25	10	1.0	19	7	2.0
Maine	22	8	0.5	50	30	8.0
Massachusetts	17	6.8	0.8	29.7	12.7	2.5
New Hampshire	20	8	2.0	23	11	3.0
REGION II						
New Jersey	24	9.5	1.0	17	6	1.5
New York	17	7	1.2	25	9.5	2.0

State	Placement			Counseling		
	Veterans and eligibles	Vietnam era veterans	Disabled veterans	Veterans and eligibles	Vietnam era veterans	Disabled veterans
Puerto Rico	8	3.5	0.6	14	4.5	1.4
REGION III						
District of Columbia	19	10	0.7	26	14	3.0
Pennsylvania	20	10	1.0	35	15	4.0
Virginia	27	12	1.0	35	24	6.0
West Virginia	19.9	10.3	1.1	34.1	19.1	2.3
REGION IV						
Alabama	23	10.8	1.0	33	15	3.0
Georgia	19.4	9.1	1.3	26.4	13.7	4.2
Kentucky	19	10	1.0	19	10	10
Mississippi	17	7.5	0.6	24	10	2.0
North Carolina	22	10	1.4	22	10.5	2.0
South Carolina	20	9.6	1.2	27.2	11.4	3.8
Tennessee	18.5	9.0	0.7	24	10	3.0
REGION V						
Michigan	21.2	9.6	0.8	37.9	17.4	1.5
Ohio	27	13	0.5	30	20	2.0
REGION VI						
Arkansas	22	10	1.0	50	30	10.0
New Mexico	22	10.5	1.0	25	12	2.0
Oklahoma	22	12.5	1.6	30	18.3	3.5
REGION VII						
Nebraska	20	10	0.5	40	18	2.5
REGION VIII						
Colorado	24	12	1.5	25	12	2.0
Montana	23	10	1.1	30	14	1.0
North Dakota	19	9	0.7	30	15	1.5
Wyoming	23	11	1.3	25	13	1.5
Region IX						
Arizona	27	12.3	1.5	50	25	5.0
California	22	10	1.2	32	14	2.0
Hawaii	25.1	12.3	1.8	62.1	33.8	8.9
Nevada	23	15	1.2	24	12	3.0

	Enrollment in Training		Disabled veterans	Received, some reportable service		Disabled veterans
	Veterans and eligibles	Vietnam era veterans		Veterans and eligibles	Vietnam era veterans	
Region I						
Connecticut	10	5	1.0	21	8	1.0
Maine	(1)	(1)	(1)	20	8	0.5
Massachusetts	10	5	1.0	19.5	7.5	0.8
New Hampshire	23	10	2.0	23	7	2.0
Region II						
New Jersey	8	4	0.8	22	8	1.0
New York	14	6	0.8	23.1	9.2	1.3
Puerto Rico	13	5.5	1.0	17	5.9	1.5
Region III						
District of Columbia	7	2	0.2	16	8	0.6
Pennsylvania	20	10	1.0	30	14	1.0
Virginia	12	4	1.0	20	10	1.0
West Virginia	11.5	5.9	0.3	24.1	13	1.2
Region IV						
Alabama	(1)	(1)	(1)	20	9	1.0
Georgia	3.3	2.0	0.2	19.1	8.7	1.2
Kentucky	19	10	1.0	19	10	1.0
Mississippi	13	5.7	0.4	17.5	7.5	0.7
North Carolina	13	5.5	1.0	21	9	1.2
South Carolina	14.6	6.0	0.5	22	10.5	1.2
Tennessee	8	4	0.5	18	8	0.5
Region V						
Michigan	22.7	10.4	1.1	28	12.6	0.9
Ohio	20	10	1.0	29	13	1.1
Region VI						
Arkansas	(1)	(1)	(1)	25	10	1.0
New Mexico	15	9	0.5	25	10	1.0
Oklahoma	(1)	(1)	(1)	24	13.5	1.7
Region VII						
Nebraska	40	180.5	3.5	24	10	1.0
Region VIII						
Colorado	20	15	3.0	25	12	1.5
North Dakota	14	7	0.9	19	9	0.8
Wyoming	23	11	0.7	2.3	11	1.2

State			Veterans and eligibles	Vietnam era veterans	Disabled veterans	Special disabled veterans
Region IX						
Arizona	4	2.5	0.5	30	15.5	1.5
California	20	10	1.0	22	10	1.2
Hawaii	3.8	0.4	(1)	26.6	12.6	1.5
Nevada	15	10	1.5	25	12	1.3

[1] Waived for prorgram year 1985.

Placements in Federal contractor jobs		
State	Vietnam era veterans	Special disabled veterans
REGION I		
Connecticut	12	5.0
Maine	9.5	0.3
Massachusetts	4.2	0.1
New Hampshire	8	.05
REGION II		
New Jersey	11.5	0.4
New York	9.4	0.8
Puerto Rico	10	1.0
REGION III		
District of Columbia	3	0.1
Pennsylvania	18	1.0
Virginia	11	1.0
West Virginia	9.8	0.5
REGION IV		
Alabama	8	0.2
Georgia	10	0.8
Kentucky	13	0.4
Mississippi	10	0.4
North Carolina	10	0.5
South Carolina	9	0.4
Tennessee	9	0.3
REGION V		
Michigan	9.3	0.3
Ohio	11.5	0.5
REGION VI		
Arkansas	9	0.5
New Mexico	8	0.5
Oklahoma	13.5	1.0
REGION VII		
Nebraska	40	0.1
REGION VIII		
Colorado	20	2.0
Montana	8	0.4
North Dakota	13	0.7
Wyoming	10	0.7
REGION IX		
Arizona	8	1.0
California	15	1.0
Hawaii	6.3	0.2
Nevada	8	1.3

Veterans' Service Performance Standards

Option No. 2

In developing standards under this option, it is necessary to determine the number and percentage of total applicants and each of the veteran categories in the file of applicants available (applicants active at any time) who are age 22 and over at the time of the evaluation. The "preference points" or negotiated percentages by which each veteran category must exceed their incidence in the work load are applied to those calculated percentages to determine the standard for each service. Each SESAs performance is evaluated against the resulting percentage which is the percentage of incidence in the file plus the preference percentage for each category of veteran.

Preference points for FY 1985 by which the percentages of incidence are to be multiplied for the SESAs electing Option No. 2 are as follows (in percentages):

Veterans' Service Performance Standards

Option No. 2

State	Veterans and eligibles	Vietnam era veterans	Disabled veterans	Special disabled veterans
REGION I				
Vermont	10	20	30	40
REGION III				
Delaware	10	20	30	40
REGION IV				
Florida	13	20	25	40
REGION V				
Illinois	10	20	30	40
Minnesota	10	20	30	40
Wisconsin	20	25	30	35
REGION VI				
Texas	10	15	20	25
REGION VII				
Iowa	10	20	30	40
Kansas	12	15	25	35
Missouri	10	20	30	40
REGION VIII				
Utah	10	15	20	25
REGION IX				
Idaho	10	20	30	40
Oregon	10	20	30	40
Washington	10	20	30	40

Veterans' Service Performance Standards

Option No. 3

This option is essentially the same as Option No. 2 except that the negotiated preference points are applied to the rate of service provided to total applicants available age 22 and over for each service to be measured to determine the standard to be achieved for each category of veteran. Each SESAs performance is evaluated against the resulting percentages which are the percentage rate of service plus the preference percentage for each category of veteran.

Preference points for FY 1985 by which the rates of service are to be multiplied for SESA electing Option No. 3 are as follows (in percentages except*):

Veterans' Service Performance Standards

Option No. 3

State	Veterans and eligibles	Vietnam era veterans	Disabled veterans	Special disabled veterans
REGION I				
Rhode Island	10	20	30	40
REGION III				
Maryland:				
Placement	10	20	30	N/A
FCJL	N/A	10	N/A	0.1
Counseling	10	20	30	N/A
Enrollment in training	1.0	2.0	3.0	N/A
Received some reportable service	1.0	5.0	10	N/A

State	Veterans and eligibles	Vietnam era veterans	Disabled veterans	Special disabled veterans
REGION V				
Indiana	*3	*3	*4	*4
REGION VI				
Louisiana:				
Placement	7	13.5	15.5	N/A
FCJL	N/A	55	N/A	75
Counseling	150	250	500	N/A
Enrollment in training	(1)	(1)	(1)	(1)
Received some reportable service	40	50	60	N/A
REGION VIII				
South Dakota:				
Placement	8	10	12	N/A
FCJL	N/A	7	N/A	0.3
Counseling	10	15	20	N/A
Enrollment in training	10	15	20	N/A
Received some reportable service	8	10	12	N/A
REGION X				
Alaska	10	20	30	40

[1] Waived for program year 1985.
[2] Standard deviations.

[FR Doc. 85-30508 Filed 12-24-85; 8:45 am]

BILLING CODE 4510-79-M

NUCLEAR REGULATORY COMMISSION

Philadelphia Electric Co. Limerick Generating Station, Unit 1; Consideration of Issuance of Amendment to Facility Operating License and proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

[Docket No. 50-352]

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-39, issued to Philadelphia Electric Company (the licensee), for operation of the Limerick Generating Station Unit 1 located in Montgomery County, Pennsylvania.

The amendment would revise the Technical Specifications (TS) to allow a one-time-only extension of time to satisfy a limited number of testing requirements for the excess flow check values in certain instrumentation lines which must be performed every 18 months and which require a plant shutdown. 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 96 days beyond the time otherwise designated by TS. The purpose of this amendent is to allow continued operation of the plant until other more extensive surveillance testing needs to be performed, and for which plant shutdown is unavoidable. The Technical Specification requirements for testing every 18 months which are requested to be extended are as follows:

Excess Flow Check Valves, Specification 4.6.3.4 (Primary Containment Isolation Valves), Table 3.6.3-1, Part B.

The testing for this specification is a water leak test to verify that these check valves will check flow when subjected to a differential pressure. These lines are small (1 inch or less), are equipped with one-quarter inch restricting orifices inside primay containment which serve to limit flow and are completely enclosed within primary and secondary containment. The lines provide fluid to pressure transmitting devices in the plant's instrumentation systems.

The leak test of the excess flow check valves in Technical Specification Table 3.6.3-1 cannot be performed during normal operation for the following reasons: (1) Entry of personnel would be required inside the primary containment which is at undersirable temperatures and radiation levels for routine personnel access during power operations; and (2) the instrument lines down stream of the valves must be partially drained in performing the test thus rendering numerous transmitters inoperable or tripped.

The consequences of leakage from an instrumentation line are minimal since the one-quarter inch orifice inside containment limits flow, and the majority of the line outside of primary containment is only three-eights inch in diameter. The lines protected by the check valves are also located within the reactor enclosure which is served by the standby gas treatment system so that any release from the line would be filtered and monitored. The failure of an instrument line is an analyzed event in the Final Safety Analysis Report and no aspect of the proposed change to the Technical Specifications would require a change in the safety analysis.

The 18 month surveillance interval was selected to be consistent with the maximum anticipated interval between refueling outages. However, the Technical Specifications allow an extension of 25% to this frequency to accommodate operations scheduling. Therefore, the end of the most limiting surveillance interval, including the allowable 25% extension, for Limerick Unit 1 is February 19, 1986. The next shutdown is currently expected to start on or before May 26, 1986. The period of plant operation during the requested extensions, therefore, is a maximum of 96 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. This amendment is in accordance with the licensee's application for amendment dated December 18, 1986.

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 previosly 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 previous evaluated because no change in the design or accident analysis of an instrument line break in the FSAR is required. Moreover, based on the type of surveillance extended, no significant increase in the probability of equipment failure 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 (96-days) does not significantly increase the possibility that an undetected failure will occur in any of the related equipment covered by these Technical Specifications. Accordingly, the Commission proposes to determine that the proposed changes to the Technical Specifications involve no significant hazards considerations.

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 of 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 January 26, 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 make a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters witihin the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide the 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 Regulator 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 Walter R. Butler: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of the **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 Conner and Wetterhahn, 1747 Pennsylvania Ave., NW., Washington, DC 20036, 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, in the presiding officer or the Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.174(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated December 18, 1985 which is available for public inspection at the Commission's Public Document Room, 1717 H Street, Pottstown, Pennsylvania 19464.

Dated at Bethesda, Maryland, this 20 day of December 1985.

For the Nuclear Regulatory Commission.

Walter R. Butler,

BWR Project Directorate No. 4 Division of BWR Licensing.

[FR Doc. 85–30409, Filed 12–24–85; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

State of Maryland, 55 mph Speed Limit Compliance Proceeding; Prehearing Conference

[Docket No. 43656]

Served December 20, 1985

Notice is hereby given that pursuant to the Order of the Secretary of Transportation dated December 9, 1985, instituting the above-titled proceeding and the December 17, 1985 notice of assignment by the Chief Administrative Law Judge, a prehearing conference will be held on January 9, 1986, at 10:00 a.m. (local time), in Room 5332, Nassif Building, 400 7th Street, SW., Washington, DC. before the undersigned administrative law judge.

In order to facilitate the conduct of the prehearing conference, the State of Maryland shall serve on the parties, with two copies to the judge, the information and materials required by Appendix A to the Secretary's order by January 7, 1986. In addition, the State of Maryland shall serve any requests for information from the other parties, proposed stipulations, if any, response to the Secretary's order, and a proposed procedural schedule by January 7, 1986.

NHTSA/FHWA shall serve in the parties, with two copies to the judge, by January 7, 1986, the following information; (a) Identify all witnesses which NHTSA/FHWA may present at the Hearing; (b) for each witness identified in (a) provide the following data; (1) employer, (2) position, (3) education, and (4) expertise; (c) submit a summary of the testimony expected to be obtained the person named in (a); (d) copies of all exhibits which NHTSA/FHWA intends to offer as evidence at the hearing in this proceeding. In addition, NHTSA/FHWA shall serve any requests for information, proposed stipulations, if any, and a proposed procedural schedule by January 7, 1986.

All parties should understand that January 7, 1986, is a delivery date and not a mailing date.

Dated at Washington, DC., December 19, 1985.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 85–30531 Filed 12–24–85; 8:45 am]

BILLING CODE 4910-62-M

Research and Special Programs Administration

National Hazardous Materials Transportation Advisory Committee; Advisory Committee Renewal

AGENCY: Research and Special Programs Administration (RSPA); Department of Transportation (DOT).

ACTION: Publication of advisory committee renewal.

SUMMARY: The RSPA announces the renewal of the National Hazardous Materials Transportation Advisory Committee (NHMTAC) a multidisciplinary advisory committee created under the Federal Advisory Committee Act (Pub. L. 92–463; 86 Stat. 720 (FACA) to provide DOT with a non-Federal perspective on issues and developments in all aspects of hazardous materials transportation. This renewal is effective January 1, 1986 to December 31, 1987.

FOR FURTHER INFORMATION CONTACT: Sherwood C. Chu, Office of Hazardous Materials Transportation, Research and Special Programs Administration, Washington, D.C. 20590 (202) 472–2698.

Authority: Sec. 325, Department of Transportation Act (49 U.S.C. 325) and Sec. 5(c), Federal Advisory Committee Act (5 U.S.C. 10).

M. Cynthia Douglass,

Administrator.

[FR Doc. 85–30532 Filed 12–24–85; 8:45 am]

BILLING CODE 4910-60-M

VETERANS ADMINISTRATION

Veterans Administration Wage Committee; Meetings

The Veterans Administration, in accordance with Pub. L. 92–463, gives notice that meetings of the Veterans Administration Wage Committee will be held on:

Thursday, January 16, 1986, at 2:30 p.m.
Thursday, January 30, 1986, at 2:30 p.m.
Thursday, February 13, 1986, at 2:30 p.m.
Thursday, February 27, 1986, at 2.30 p.m.
Thursday, March 13, 1986, at 2:30 p.m.
Thursday, March 27, 1986, at 2:30 p.m.

The meetings will be held in Room 304, Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, DC 20420.

The Committee's purpose is to advise the Chief Medical Director on the development and authorization of wage schedules for Federal Wage System (blue-collar) employees.

At these meetings the Committee will consider wage survey specifications, wage survey data, local committee reports and recommendations, statistical analyses, and proposed wage schedules.

All portions of the meetings will be closed to the public because the matters considered are related solely to the internal personnel rules and practices of the Veterans Administration and because the wage survey data considered by the Committee have been obtained from officials of private business establishments with a guarantee that the data will be held in confidence. Closure of the meetings is in accordance with subsection 10(d) of Pub. L. 92–463, as amended by Pub. L. 94–409, and as cited in 5 U.S.C. 552b(c)(2) and (4).

However, members of the public are invited to submit material in writing to the Chairman for the Committee's attention.

Additional information concerning these meetings may be obtained from the Chairman, Veterans Administration Wage Committee, Room 1175, 810 Vermont Avenue, NW., Washington, DC 20420.

Dated: December 16, 1985.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 85–30431 Filed 12–24–85; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 248
Thursday, December 26, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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NUCLEAR REGULATORY COMMISSION

DATE: Weeks of December 23, 30, 1985, January 6, and 13, 1986.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, DC.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of December 23

Tuesday, December 24

10:00 a.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of December 30—Tentative

Thursday, January 2

3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of January 6—Tentative

Monday, January 6

2:00 p.m.
Discussion of Management Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)

Tuesday, January 7

10:00 a.m.
Briefing by Staff on TVA Corporate Plan (Public Meeting)

2:00 p.m.
Status Briefing on Fermi (Open/Portion may be closed—Ex. 5 & 7)

Wednesday, January 8

2:00 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Thursday, January 9

10:00 a.m.
Briefing by TVA on Corporate Plan (Public Meeting)

2:00 p.m.
Briefing by Executive Branch (Closed—Ex. 1)

Friday, January 10

2:00 p.m.
Briefing by Executive Branch (Closed—Ex. 1) (Tentative)

Week of January 13—Tentative

Monday, January 13

10:00 a.m.
Discussion/Possible Vote on Full Power Operating License for Millstone-3 (Public Meeting)

Tuesday, January 14

10:00 a.m.
Briefing by GPU On TMI-2 Cleanup (Public Meeting)

2:00 p.m.
Staff Briefing on Integrated Safety Assessment Program (ISAP) (Public Meeting)

Thursday, January 16

2:00 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Friday, January 17

10:00 a.m.
Discussion of Revisions to NRC Sunshine Act Regulations (Public Meeting)

ADDITIONAL INFORMATION: Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6) was held on December 18.

TO VERIFY THE STATUS OF MEETINGS CALL: (Recording) (202) 634-1498.

CONTACT PERSON FOR MORE INFORMATION: Julia Corrado (202) 634-1410.

Julia Corrado,
Office of the Secretary.
December 19, 1985.

[FR Doc. 85-30566 Filed 12-23-85; 10:49 am]
BILLING CODE 7590-01-M

Federal Register

Thursday
December 26, 1985

Part II

Environmental Protection Agency

40 CFR Part 61

Assessment of Perchloroethylene as a Potentially Toxic Air Pollutant; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 61

[ADL-FRL-2889-4]

Assessment of Perchloroethylene as a Potentially Toxic Air Pollutant

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice describes the results of EPA's preliminary assessment of perchloroethylene (tetrachloroethylene, PERC) as a potentially toxic air pollutant. Based on the health and preliminary risk assessment described in today's notice, EPA now intends to add PERC to the list of hazardous air pollutants for which it intends to establish emission standards under section 112(b)(1)(A) of the CAA. The EPA will add PERC to the list if emission standards are warranted. The EPA will decide whether to add PERC to the list only after studying possible control techniques that might be used to control emissions of PERC and after further assessing public health risks. This notice has no effect on the regulation of PERC as a volatile organic compound in order to attain the national ambient air quality standards for ozone. In addition, this notice does not preclude any State or local air pollution control agency from specifically regulating emission sources of PERC.

Through this notice, the Agency solicits information on the Notice of Intent to List decision. The EPA also solicits information on the potential carcinogencity of PERC, the potential noncarcinogenic health effects of exposure to PERC, the effectiveness of controlling PERC emissions with control equipment, the current level of control of PERC sources, and current PERC emission estimates.

DATES: Written comments are to be submitted by February 24, 1986.

ADDRESSES: Submit written materials (duplicate copies are preferred) to: Central Docket Section (A-130), Environmental Protection Agency, Attn: Docket No. A-85-03, 401 M Street SW., Washington, DC. The docket may be inspected between 8:00 a.m. and 4:30 p.m. on weekdays, and a reasonable fee may be charged for copying.

Availability of Related Information

The final Health Assessment Document (HAD) for PERC is available through the U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161. The National Technical Information Service number PB85-249704 should be used when ordering. Paper copies of the HAD are available for $22.94 (price code A-13), and microfiche copies are available for $5.95 (price code A-01). Prices are subject to change. For further information on the availability of this document, please contact: ORD Publications, CERI-FR, U.S. Environmental Protection Agency, Cincinnati, Ohio 45268 (telephone: 513-684-7562 commercial/684-7562 FTS).

The source assessment document for PERC is also available through the National Technical Information Service and can be ordered at the address provided above. The order number PB85-233518 should be included when ordering. Paper copies are available for $16.95 (price code A-07) and microfiche copies are available for $5.95 (price code A-01). For additional information on the source assessment document, please contact Mr. Robert Rosensteel (telephone 919-541-5671 commercial/629-5671 FTS).

The HAD was reviewed by the Science Advisory Board (SAB), an independent group of recognized scientists and technical experts that provide advice and critical review of scientific issues to the Administrator. The SAB comments are available from the SAB office (contact Cheryl Bentley, A-101F, U.S. EPA, 401 M Street SW., Washington, DC 20460; phone 202-382-2560 commercial/382-2560 FTS). Transcripts of the SAB meetings are available for inspection and copying from the U.S. Environmental Protection Agency, Committee Management Staff. For additional information, please contact Janet Workcuff, PM 213, Room M2515, 401 M Street SW., Washington, DC 20460 (telephone 202-382-4036 commercial/382-5036 FTS).

FOR FURTHER INFORMATION CONTACT: Robert M. Schell, Pollutant Assessment Branch (MD-12), Strategies and Air Standards Division, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711 (telephone 919-541-5645 commercial/629-5645 FTS).

SUPPLEMENTARY INFORMATION:

Background

PERC is widely used as a solvent in dry cleaning and metal degreasing operations and as an intermediate in chlorofluorocarbon (CFC) production. In essentially every case of solvent use, much of the PERC employed (93-100%) is lost to the atmosphere through volatilization, with the remainder to incineration or solid waste disposal or released to ground and surface waters. Some of the PERC released to disposal systems or water bodies may volatilize and ultimately be released to the atmosphere.

In the atmosphere, PERC undergoes slow photochemical degradation to the extent that its estimated lifetime is measured in months, although it is appreciably less than 1 year, and little PERC is expected to be conveyed to the stratosphere. Because of the reduced solar energy in winter and seasonal variations in hydroxyl radical concentration, PERC levels in ambient air are expected to be higher in winter than in summer, with a considerable daily fluctuation.

The estimated northern hemisphere average background concentration is 40 parts per trillion (ppt), with urban concentrations about 30 times the background level. The hydroxyl radical-initiated decomposition products include dichloroacetyl chloride and phosgene.

PERC has chemical and physical properties which make it the most desirable solvent available for the dry cleaning of fabrics. There are no known substitutes available which combine the low fire hazard, the desirable solvent properties and the low acute toxicity of PERC. Epoxides and other stabilizers are commonly added to PERC to decrease its decomposition when exposed to light. About 51 percent of PERC production is used in dry cleaning establishments, 15 percent is used in metal degreasing operations and 34 percent as a chemical intermediate and in miscellaneous processes. Production of PERC in 1978 was estimated as 320,000 megagrams per year (Mg/yr), with production in 1983 estimated as 249,000 Mg/yr. A summary of PERC uses and source emissions is provided in Table 1.

In January 1984, the Office of Research and Development's Office of Health and Environmental Assessment (OHEA) published a draft of the Health Assessment Document for Perchloroethylene (HAD). This document was reviewed by the Science Advisory Board (SAB) in May 1984, with a final letter forwarding comments by SAB on the HAD sent to the Administrator, in January 1950. The final Health Assessment Document for Perchlorothylene, which incorporates comments and changes requested by the SAB, was printed in July 1985.

Since review and publication of the HAD, a new National Toxicology Program (NTP) study has been audited and the results validated by the NTP Board of Scientific Counselors. This

positive inhalation study in mice and rats has demonstrated a carcinogenic potential due to inhalation of PERC in both sexes of mice and in male rats, thus increasing the confidence that PERC is carcinogenic. This NTP study, in conjunction with the health effects information summarized in the HAD, has resulted in this Notice of Intent to List.

Adverse Health Effects

A number of studies have been conducted to assess the health effects resulting from exposure to perchloroethylene. The key studies have been compiled, reviewed and evaluated in the Health Assessment Document for Perchloroethylene (EPA, 1985b).

Although ingestion of drinking water contaminated by PERC is one source of exposure, inhalation is the principal route of concern by which PERC enters the body. During inhalation, PERC is absorbed by the blood and distributed throughout the body. There is evidence that PERC will partition selectively into lipid-rich tissues with chronic or long-term exposure until steady-state is attained. Most inhaled PERC is excreted via the lungs in unchanged form, with less that 2 percent of the absorbed PERC excreted in a metabolized form.

Epoxides and other stabilizers are commonly used in commercial formulations of PERC, although many studies on the adverse health effects of exposure to PERC, and in particular the studies on which the Notice of Intent to List is based, have used the compound in a purified form.

Excluding carcinogenicity as an enpoint, toxicity testing in experimental animals, coupled with limited human data derived principally from overexposure situations, suggests that long term exposure of humans to typical environmental levels of PERC is not likely to present a discernible health hazard.

TABLE 1.—SUMMARY OF PERCHLOROETHYLENE USES AND SOURCE EMISSIONS [a]

Source category	Use (percent)	Baseline emissions to U.S. atmosphere (Mg/yr)
Production	[b] N/A	50
Dry Cleaning	51	115,000
Metal Degreasing	15	32,600
Publicly-Owned Treatment Works	N/A	2,000
Chemical Plants	N/A	245
CFC Production	25	34
Drinking Water Treatment Facilities	N/A	40
Miscellaneous [c]	9	20,600
Total	100	171,169

[a] Based on estimates for 1983 (EPA, 1985a).
[b] Not applicable.
[c] Includes use in paints and coatings, adhesive formulations, and general solvent use.

Decrements in task performance and coordination are the first gross signs of central nervous system (CNS) depression and behavioral alterations observed in controlled human studies in which individuals were exposed to about 100 ppm for up to 7 hours. More sensitive tests, however, would have to be performed to determine if PERC affects the nervous system at even lower concentrations.

Evidence in rodent species suggests that PERC has the potential to cause liver damage with acute prolonged exposure at levels that, in humans, would cause only slight CNS depression. However, there are insufficient data to estimate the lowest levels of PERC that are associated with adverse effects upon the liver in humans.

The lowest observed adverse effect level (LOAEL), based on reversible, mild CNS dysfunction (i.e. headaches, sleepiness), is about 100 ppm for a several-hour exposure period. However, the LOAEL may not characterize a level of exposure protective of human health when one considers that intermittent or prolonged exposure of animals to PERC has been observed to result in more severe effects, such as liver and kidney damage, at concentrations near 200 ppm. It should be noted that acute liver damage in humans is generally associated with short-term exposures greatly in excess of 100 ppm.

The mammalian animal tests performed to date do not indicate any significant teratogenic potential of PERC in the species tested. The anatomical effects observed reflect delayed fetal development and can be considered reversible. It is important to note, however, that the reversible nature of an embryonic/fetal effect in one species might, in another species, be manifested in a more serious an irreversible manner. At the current time, the teratogenic potential of PERC for humans must be considered unknown.

PERC itself has not been clearly shown to be a mutagen. Certain commercial and technical preparations have elicited positive responses in some test systems, although the responses were generally weak, and eliciting them required rather high toxic concentrations of PERC. No dose-response relationships were established in these studies. The position findings may be explained by the presence of mutagenic contaminants and/or added stablizers. Highly purified PERC has only been evaluated in the *Ames/Salmonella* test, where negative results were obtained.

Although PERC itself has not been shown to be mutagenic, it should be emphasized that the negative results are not wholly unequivocal. Appropriate concurrent controls, adequate sample sizes, and exposure conditions were sometimes not used, and in some cases the available data are not sufficient to determine whether an adequate test was conducted. Thus, in conclusion, inadequate information exists to warrant a provisional classification of PERC either as nonmutagenic or mutagenic. If PERC is a mutagen, the evidence available thus far indicates that it is only weakly so.

The SAB reviewed an evaluated the data in the draft HAD on the carcinogenic potential of PERC. Using the criteria of the International Agency for Research on Cancer (IARC), the HAD concluded that the chemical cannot be classified as to its carcinogenicity for humans (IARC Category 3), although there was enough concern about the data to suggest that the classification was approaching IARC category 2B (i.e. a probable human carcinogen for humans). The SAB agreed with the Category 3 classification, with one member expressing the opinion that the PERC classification could be considered to be in IARC Category 2B, as well as in IARC category 3.

While the SAB were deliberating their conclusions, EPA completed and published for review proposed Guidelines for Carcinogen Assessment. The EPA announced at that time that the Agency would use these guidelines as interim measures. The proposed Guidelines for Carcinogen Assessment have now been favorably reviewed by the SAB, with the final HAD indicating that PERC is classified under the EPA guidelines as a possible human carcinogen (Group C).

Since publication of the final HAD, a new NTP inhalation study on mice and rats has been reported, showing a significant increase in the incidence of liver tumors in both sexes of B6C3F1 mice and an elevation in the incidence of mononuclear cell leukemia and kidney tumors in male F344/N rats. The NTP Board of Scientific Counselors Peer Review Panel concluded that this study demonstrated clear evidence of carcinogenicity in male and female mice and in male rats, and some evidence of carcinogenicity in female rats. This study impacts the carcinogenicity assessment for PERC in that it provides the first evidence of a positive carcinogenic response in rats, the first positive inhalation response, and increased confidence about PERC's carcinogenic potential. The carcinogenicity data base for PERC is being reevaluated, with a high likelihood

that it will be considered a probable human carcinogen under the new EPA guidelines (Anderson, 1985). The Agency is preparing an addendum to the HAD that incorporates the results of this NTP study. The addendum is scheduled for completion in 1986, and it will be reviewed by the SAB prior to a listing decision.

Finally, an ongoing epidemiological study of dry cleaning workers exposed to PERC for at least one year prior to 1960 is being conducted by the National Institute of Occupation Safety and Health (NIOSH). Preliminary results indicate a statistically significant increase in mortality due to urinary tract cancer for all dry cleaning workers included in the study, but in the group only exposed to PERC (600 out of 1,600), no urinary tract cancer deaths were found. However, incomplete work history data do not allow the drawing of a conclusion about the role of PERC in the increased mortality. This study is undergoing further analysis, and results are expected in the near future.

Risks to Public Health

Estimates of human exposure to atmospheric PERC emitted from all point sources identified in the source assessment document (EPA, 1985a) have been calculated using the Human Exposure Model (HEM).

For area sources such as the commercial dry cleaning, metal degreasing, publicly-owned treatment works (POTWs) and miscellaneous source categories, it was necessary to use a dispersion algorithm with assigns emissions to an area rather than to a point to estimate emissions and exposures. This area source methodology was used because these emission sources are too numerous to model individually and some of the information required to model them as point sources was unavailable. In the area source methodology, the quantity of emissions assigned to an area is proportional to the population density of that area, with certain assumptions permitting calculation of the maximum individual and annual incidence cancer risk estimates. The maximum individual risks for some of the area source categories may be underestimated because the model treats these sources as diffuse area sources although metal degreasing, dry cleaning, and POTW's may be large enough to be considered point sources. Emissions from these sources may result in higher concentrations, greater exposures and greater individual risks to individuals living near these sources than is predicted by the area source methodology. Since the location of the population with the maximum individual risk from each area source category is not certain, the Agency feels it is appropriate to identify the maximum individual risk estimate for each source category rather than to sum these risk estimates.

The upper-bound incremental unit risk estimate for air was derived from the geometric mean of results from inhalation bioassay data on hepatocellular carcinomas and hepatocellular adenomas in male and female B6C3F1 mice and on mononuclear cell leukemia in male and female F344/N rats (NTP, 1985; Anderson, 1985a; Anderson, 1985b). The unit risk factor is an estimate of the additional probability that an individual will die from cancer resulting from continuous exposure to 1 microgram of PERC per cubic meter of inspired air (assuming a 70-year life-span). The upper-bound nature of the unit risk estimate is such that the true risk is not likely to exceed this value and may be lower. Using the unit risk estimate for air (5.8×10^{-7}), the aggregate risk of cancer due to exposure to PERC for persons living within 50 kilometers of production sites, chemical plants, industrial dry cleaning facilities or drinking water treatment facilities and resulting from emissions from metal degreasing, commercial dry cleaning facilities, publicly-owned treatment or miscellaneous solvent uses, is 5.3 cases of cancer per year (Table 2). The highest individual risk estimate (defined as the additional risk of cancer to an individual continuously exposed to the highest modeled ambient concentration for a 70-year lifespan), is 1.5×10^{-4}. The new unit risk number incorporating the results of the new NTP study will be published in the addendum to the HAD. This analysis does not address potential risks associated with exposure via other media (i.e., food or water), the risks associated with exposure to background concentrations of PERC, or the summation of maximum individual risks for individuals exposed to emissions from area sources.

A study to estimate the cancer incidence rate resulting from exposure to PERC and other chemicals has been reported by Hunt et al. (1984). In the Hunt study estimates of national cancer incidence rates and maximum individual risk were calculated on the basis of limited urban and rural ambient concentrations of PERC. Using the Hunt technique and the most recent unit risk an aggregate cancer incidence of 8.7 cases per year and a maximum individual risk of 1.5×10^{-5} were calculated. These estimates compare favorably with modeling results presented above.

Risks to workers in facilities manufacturing or using PERC have not been estimated. However, if emission controls were applied to degreasers then it is likely that worker exposure to PERC will be reduced.

Current modeling information suggests that noncarcinogenic adverse health effects (i.e., central nervous system dysfunction) due to short-term concentrations may occur in the vicinity of some production facilities. Using a worst-case modeling scenario, fenceline (200 m from emission point) concentrations have been estimated at 13 ppm for an 8-hour averaging time and 410 ppm for a 15-minute averaging time. The Occupational Safety and Health Administration (OSHA) 8-hour Permissible Exposure Limit (PEL) is 100 ppm, and the lowest observed noncarcinogenic adverse health effects level is also about 100 ppm for an exposure period of 20 to 30 minutes. The American Conference of Governmental Industrial Hygienists (ACGIH) has recommended that the 8-hour Threshold Limit Value of 100 ppm be reduced to 50 ppm. In order to determine the extent to which modeled concentrations and potential health effects might occur, it will be necessary to examine the sources in much more detail along with the distribution of populations in the vicinity of facilities that emit PERC. Given the uncertainties of the present analysis, it is difficult to estimate the extent to which short-term emission of PERC pose risks to public health. As the Agency moves forward toward a decison on the listing of PERC, efforts to refine this analysis and characterize the risk to populations from short-term exposures will be performed.

There are a number of assumptions underlying these estimates that can yield either over or underestimates of the risk posed by PERC. Further study and assessment will not likely narrow the uncertainties associated with some of the inputs to the risk assessment or yield an improvement in some of these assumptions (e.g., the carcinogenic potency of a chemical estimated through the use of a mathematical model for extrapolating animal studies to the much lower concentrations present in the ambient air). There are other inputs to the risk estimates that are very preliminary at the current stage of assessment and that will be substantially refined through further study. The primary example of this is the source information: number and types of sources, their locations, emission rates, stack parameters,

variability of emissions, etc. Current source information is based on engineering estimates, data obtained under section 114 of the Clean Air Act, and other readily available information in the literature. This information, in many cases, will be improved through plant visits and source tests. The Agency has concluded that the preliminary risk estimates presented here are sufficient to warrant further study for possible regulation. The Agency will improve these estimates, particularly with respect to emissions and exposure, before making a final decision on whether to add PERC to the list under section 112.

TABLE 2.—HEALTH RISK ESTIMATES FOR PERCHLOROETHYLENE SOURCE CATEGORIES

Source category	Annual incidence	Maximum individual risk [a]
Metal degreasing [b]	1.2	3.4×10^{-5}
Industrial dry cleaners.	0.37	7.5×10^{-5}
Commercial dry cleaners [c]	3.2	1.5×10^{-4}
Publicly-owned treatment works [b]	0.052	2.2×10^{-6}
Production facilities	0.0052	6.5×10^{-5}
Chemical plants	0.0019	4.7×10^{-5}
Drinking water treatment facilities	0.0001	6.2×10^{-7}
Miscellaneous [b,d]	0.54	2.3×10^{-5}
Total all sources	5.3	

[a] The maximum individual risk estimates do not include the summation of risks for individuals exposed to emissions from area sources, thus these risk estimates are likely to understate the risks to the most exposed individuals.
[b] Area sources.
[c] Includes non-industrial commercial and coin-operated facilities.
[d] Includes use in paints and coatings, adhesive formulations, and general solvent use.

Statement of Intent

Section 112(b)(1)(A) of the CAA defines hazardous air pollutants as air pollutants that contribute to mortality or serious irreversible, or incapacitating reversible, illness. Section 112(b)(1)(A) provides that the Administrator shall maintain ". . . a list which includes each hazardous air pollutant for which he intends to establish an emission standard under this section." In deciding whether to establish such emission standards for carcinogens, EPA considers both public health risks and the feasibility and reasonableness of control techniques (e.g., 49 FR 23522, 23498, 23558 (June 6, 1984) (emission standards for benzene)).

Based on the health and preliminary risk assessment described in today's notice, EPA now intends to add PERC to the section 112(b)(1)(A) list. EPA will decide whether to add PERC to the list only after studying possible techniques that might be used to control emissions of PERC and after further improving the assessment of the public health risks. EPA will add PERC to the list if emission standards are warranted. EPA will publish this decision in the **Federal Register.**

If standards are not warranted under section 112 of the Clean Air Act, the Agency will consider other options as described in EPA's report "A Strategy to Reduce Public Health Risks from Air Toxics," June 1985. For example, in that strategy EPA described other approaches for dealing with routine releases of toxic air pollutants from stationary sources such as working with State or local air pollution control agencies to address problems that do not warrant federal regulatory action but which account for elevated risks in some areas.

Standards Development Process

The following discussion has been prepared to provide the reader with an explanation of the standards development process and the timing of the process. The standards development process involves two phases, each taking about two years. The first phase is the identification of the emission sources and the need and ability to control those sources. The second phase involves Agency decisionmaking and public review prior to a final action.

During the first phase, EPA identifies the sources that are significant emitters of the pollutant and the specific emission points within each source and then determines the quantities of pollution emitted, the alternative control systems available, and their cost and effectiveness in reducing emissions and associated public health risks. A set of alternative regulations is developed and the environmental, economic, energy, and public health risks are evaluated.

The first phase requires investigation of the many different ways in which a candidate pollutant can be emitted and controlled. As indicated earlier, PERC is emitted from production and chemical plant use of PERC, from metal degreasing and dry cleaning uses, from drinking water treatment facilities, from publicly-owned treatment works, and from miscellaneous uses in paints and coatings, adhesive formulations, and general solvent use. Within a source category there is wide variation in designs, sizes, and processes. This variation affects the emission rates, the public health risks, and the cost and controllability of the pollutant. Assessment of source emissions and controls is further complicated by the fact that emissions are not necessarily contained in stacks or ducts (i.e., some are fugitive emissions) and emission test programs are technically difficult and costly.

The decisionmaking and review phase involves a series of EPA internal and external activities. Prior to publication of proposed rules, the Agency reviews all of the technical, cost, and exposure/risk data and makes decisions on the level of standards. The data and conclusions are reviewed publicly by an independent technical advisory committee. The standard is proposed for public comment. The comment period is open a minimum of two months and a public hearing is held, if requested. Following the comment period, Agency technical staff review the comments and resolve technical issues, an activity that often requires obtaining and analyzing new data.

Miscellaneous

PERC is currently listed as a hazardous substance under section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). Under section 101(14) of CERCLA, Reportable Quantities (RQs) are established for substances specified in the CERCLA, as well as substances listed or designated under certain sections of the Clean Water Act, the Resource Conservation and Recovery Act, the CAA (section 112) and the Toxic Substances Control Act (50 *FR* 13456; April 4, 1985). Section 103(a) of the CERCLA requires any release of PERC to the environment (including the air) that is equal to or greater than one pound in any 24-hour period must be reported to the National Response Center [NRC] (Telephone 800-424-8802 or 202-426-2675 for the Washington DC, metropolitan area). The current RQ for PERC does not reflect consideration of its potential as a human carcinogen and is currently under review by the Agency. Since PERC is already listed under section 101(14) of the CERCLA, a decision to list PERC under section 112 of the CAA would not pose any additional reporting requirements.

Under Executive Order 12291, EPA must judge whether this action is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action is not major because it imposes no additional regulatory requirements on States or sources. This proposal was submitted to the Office of Management and Budget (OMB) for review. Any written comments from OMB and any written EPA responses are available in the docket. Pursuant to 5 U.S.C. 605(6), I hereby certify that this action will not have a significant economic impact on a substantial number of small entities because it imposes no new requirements. This action does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980.

List of Subjects in 40 CFR Part 61

Air pollution control, Asbestos, Beryllium, Hazardous materials, Mercury, Vinyl chloride.

Dated: December 14, 1985.

Lee M. Thomas,

Administrator.

PART 61—[AMENDED]

40 CFR Part 61 is proposed to be amended as follows:

1. The authority citation for Part 61 continues to read as follows:

Authority: 42 U.S.C. 7401, 7412, 7414, 7416 and 7601.

2. Section 61.01 paragraph (b) is amended by adding the following entry in the alphabetized list of substances.

§ 61.01 Lists of pollutants and applicability of Part 61.

* * * * *

(b) * * *

Perchloroethylene (50 FR [Page number]; December 26, 1985.)

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[FR Doc. 85-30252 Filed 12-24-85; 8:45 am]

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Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Parts 10, 13, and 14

Wildlife Import/Export Fees; Inspection Fees Whenever Wildlife Is Imported Into or Exported From the United States by Persons Engaged in Business as an Importer or Exporter of Wildlife; Final Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 10, 13 and 14

Wildlife Import/Export License Fees; Inspection Fees Whenever Wildlife Is Imported Into or Exported From the United States by Persons Engaged in Business as an Importer or Exporter of Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service amends its regulations relating to the import and export of wildlife. The license fee for a wildlife import/export license is increased from $50 to $250; only persons who import or export more than $25,000 worth of wildlife in one year require a license. The license term is changed from 2 years to 1 year. A new $25 inspection fee is charged for each commercial wildlife shipment imported into or exported from the U.S. by any licensee. Holders of the new $250 license will not pay inspection fees for the first five shipments under such license. Non-licensees who import or export wildlife pay no inspection fees except for inspections at a non-designated port or at special hours or locations, where charges are for expenses to accomodate the inspection request.

These "user" fees are authorized by both the Endangered Species Act of 1973 and general statutory authority permitting Federal agencies to charge fees, and are charges collected from recipients of Service-regulated benefits or services that are supplied to them upon request. Recipients reimburse the Service for expenses incurred to provide benefits or services, including the costs to maintain the regulatory system under which the services are delivered.

EFFECTIVE DATE: February 24, 1986.

FOR FURTHER INFORMATION CONTACT: Kathleen King, Division of Law Enforcement, Fish and Wildlife Service, U.S. Department of the Interior, P.O. Box 28006, Washington, D.C. 20005 telephone: (202) 343-9242.

SUPPLEMENTARY INFORMATION:

Background

The Fish and Wildlife Service (Service) enforces a variety of statutes and implementing regulations relating to the conservation of wildlife.

Some of the statutes and regulations apply only to specific species of wildlife, while others are of general applicability. Some are primarily domestic in thrust, while others result from obligations imposed upon the United States as a result of various international treaties or agreements concerning conservation of wildlife.

Among those treaties and statutes are the Convention of International Trade in Endangered Species of Wild Fauna and Flora, the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531-1545, and the Lacey Act Amendments of 1981,16 U.S.C. 3371-3378. Based upon the law and regulations, the Service regulates with varying emphases the importation, exportation, and transportation of wildlife species.

Pursuant to its statutory authority and responsibility to regulate the importation, exportation and transportation of wildlife, the Service has instituted an inspection program for shipments of wildlife imported into and exported from the United States. By regulation, except for shipments under special permit or exempted by regulation, all wildlife imported into or exported from the United States, must be imported or exported through ports designated for that purpose (50 CFR 14.11-14.12, 14.19) to enable representatives of the Service to inspect the shipments to ensure compliance with requirements of the law and regulations concerning those shipments. The inspection system is necessary to monitor effectively within a comprehensive system of regulation of domestic and foreign wildlife trade and to intercept and interdict illegal importations and exportations of wildlife.

Historically, the inspection services provided to persons importing or exporting wildlife by the Service were rendered without assessment of fee or cost. As part of its inspection program implementing the laws governing importation, exportation, and transportation of wildlife, the Service required persons engaged in business as importers or exporters of wildlife, with limited exceptions, to obtain a wildlife import/export license issued by the Service (50 CFR 4.91-14.93) and to comply with requirements concerning reporting and documenting the business uses of wildlife. This requirement went into effect January 1, 1981 (45 FR 56668).

In furtherance of its wildlife inspection responsibility, the Service has assigned uniformed wildlife inspectors at designated, border and special ports identified by the regulations as wildlife ports-of-entry. The Service also relies upon information and assistance from inspectors of the Department of Agriculture and of the Customs Service who have related duties to inspect imports and exports under their agency missions. The uniformed Service inspectors, together with the assistance of special agents of the Law Enforcement Division, check the legality of wildlife imports by reviewing permits, declarations, and other documents submitted to demonstrate authorization for the shipments and conduct physical inspections as needed to verify the documentation. The nature of a physical inspection and the detail in the review of a document package for each wildlife shipment does not vary with the value of the shipment. As much work may be required of a wildlife inspection for the importation of a few live tropical fish as for live giraffes. The same document review is necessary for the export of one or two raw or rough tanned hides as for a finished, and obviously more expensive, fur coat, and each may require a physical inspection to support clearance. Discernment of the propriety of documents or identification of species is not a direct function of the value of the wildlife species. Low dollar value specimens may require as much, or more, effort as higher dollar shipments to assure compliance with the law. Nor does the dollar value of an import or export necessarily reflect the extent to which the wildlife may be protected under law. Some endangered or threatened species have little, if any, extrinsic value, but are totally prohibited from most importations or exportations. Therefore, it is impossible to relate cost of inspection to the dollar value of a wildlife shipment.

With reference to imposing a wildlife import/export license fee, it was possible by reviewing available data concerning declared values of wildlife shipments for 1984 to determine that approximately 31% of the shippers of wildlife caused approximately 82% of the wildlife shipments. This percentage represents those wildlife shipments worth more, by declared value, than $25,000.00; the Service already has imposed a licensing requirement for those persons engaged in the business of wildlife import/export shipping whose shipments are valued at $25,000 or more per year. Shipments valued between $10,000 and $25,000 in a year per shipper accounted for approximately 7% of the total shipments while shipments valued between $5,000 and $10,000 and between $2,500 and $5,000 were each approximately 3%; shipments valued at less than $2,500 accounted for approximately 5% of the total shipments.

Public Comment

In consequence of the review of its programs, on June 18, 1984 (49 FR 24898), the Service proposed changes and

amendments to its regulations affecting wildlife imports and exports, raising the license fee for those engaged in the business of importing and exporting wildlife and imposing an inspection fee to be charged to all persons who are engaged in the business as an importer or exporter of wildlife for each shipment imported or exported.

Comment period on the proposed rule closed August 17, 1984. In response to requests received from the Government of Canada as well as from other sources, the Service reopened the comment period on the proposed rule on September 7, 1984 (49 FR 35389). Comments submitted under the reopened comment period were due by October 9, 1984.

A total of 151 comments were received within the comment and reopened comment periods. In addition, several comments were received after the close of the reopened period, and, to the extent possible, have also been considered in evaluating the proposed rulemaking.

Comments came from foreign governments, governmental representatives within the United States or the various States, public interest groups, individuals, large and small commercial interests, and trade associations. Commercial activities represented by the commentors included trappers, traders or brokers of furs or hides; traders in live animals or fish; merchandisers of shell or coral; breeders of reptiles; suppliers of zoological specimens; furriers and taxidermists.

Thirty-five responses generally favored increase of the import/export license fee. Several large commercial interests and trade associations proposed even larger increases, with the largest proposed increased fee for being $1,000.00. Twenty-four comments generally favored the concept of the inspection fee. Twelve comments from foreign businesses or business associations engaged in the fur or hide trade were in the form of identical mailgrams, differing only as to signature line which opposed both the increases in the license fee and the imposition of an inspection fee.

Evaluation of the comments was made difficult by the fact that many commentors mixed responses on the proposal, offered several reasons for opposing the proposals, or added suggestions to their comments.

One Congressman, while concerned about the impact of the proposed rule upon his constituents, small domestic tropical fish dealers, stated that he wished to commend the agency "for its effort to reduce the costs of government operations and to have users pay for the services which the government provides; however, a flat fee system which does not take into account the extent of the service provided . . . and does not take into account the relative cost of the examination fee to the cost of the articles being shipped can cause great hardship to small industries. . ."

The Congressman's comments fairly mirror the concern of many of the smaller businesses. Some of the brokers or trade associations objected to the proposed requirements that fees be paid by certified check or money order and suggested a monthly billing by the Service. Several who commented were involved in the importation of live animals or fish, and were concerned about the availability of inspection services at unusual hours or locations and suggested that fees be related to the availability of the inspection. Many of the business people who commented objected generally, characterizing the proposal as an additional "tax" upon their respective operations. Representatives of some businesses, while generally opposing the concept of an inspection fee or an increase in license fees applied to their respective operations, commented that the fee should be used either against competitors, or as a means of evening out competition by or with foreign interests.

Inspection Fees

The Endangered Species Act provides that:

The Secretary [of the Interior]. . .[is] authorized to promulgate such regulations as may be appropriate to enforce this Act, and charge reasonable fees for expenses to the Government connected with permits or certificates authorized by this Act including processing applications and reasonable inspections. . . 16 U.S.C. 1540(f).

Based upon this authorization, and statements of Congress concerning imposition of user's fees where appropriate, the Service re-examined its inspection program in the light of the proposed rule. Each inspection of a wildlife shipment is estimated to cost at least $25, depending upon complexity and size of the shipment. Data indicates most commercial shippers average 5 shipments a year; however approximately 61% of the licensed importers/exporters of wildlife exceed 5 shipments annually.

In reviewing the comments, expecially from those involved in import or export of live wildlife, it was apparent that the proposed rule assumed inspections would occur at locations where Service personnel was assigned and during regular Service business hours.

The comments made clear, and an informal survey of Service personnel verified, that imports or exports, especially of live wildlife, do not always occur at hours usual for other business operations. Sometimes it is necessary to import or export or to inspect imported or exported items at special locations. The Service had decided to accommodate the request for expanded special services and to impose a charge which reflects actual costs of these services.

The regulations already contain provisions (50 CFR 14.19, 14.31–14.33) for permits to allow inspections at special ports. Costs incurred by the Service for imports or exports at non-designated ports must already be paid by the importer or exporter (50 CFR 14.32–14.33). These regulations remain, and the new expansion of services is now added to the existing system.

The Service could, without hindrance to its own program requiring inspection before clearance of wildlife shipments (50 CFR 14.52–14.54), detain all wildlife shipments and cause them to be inspected at the convenience of the Service employees (50 CFR 14.51). Such detention would, however, obviously not be to the benefit of commercial transactions in the wildlife. Commercial transactions require some degree of promptitude in the inspection and clearance processes so that deadlines can be met and expenses related to delay minimized. The comments are quite clear as to that point. It is equally clear that it is not cost effective for the Service to commit itself to a twenty-four hour, seven day a week schedule or to inspection upon demand; there are too few inspectors and agents, too many ports, and too many inspections.

However, instead, the Service has reviewed comments and its proposed rule and has determined as a policy that two alternatives will be allowed. Regions within the Service will be allowed, based upon any special conditions in the region, to define a work schedule for Service personnel who perform inspections so that the personnel will be available at more commercially reasonable periods to the degree that this is compatible with other needs of the Service's enforcement program. The Service will collect a fee for any specially timed or located inspections to recoup costs based upon actual cost to the Service for the overtime or other special inspection conditions. Such fees may be collected on a case-by-case arrangement between the regional Special Agent in Charge

and the importer or exporter requesting the special inspection.

Also in response to the public comments, the Service determined to accommodate the public requests as follows: Inspection fees for inspections performed at designated ports during regular business hours for that port location will only be charged for imports or exports of wildlife made by one presently required to be licensed under 50 CFR 14.92. For holders of the new license issued subsequent to this rulemaking the inspection fee for the first five imports and/or exports will be included as part of the license expense. A monthly billing will ba available to document services. Payments of fees will not be required to be made by certified check or money order; however, to assure payment, the license itself will be conditioned upon payment and revocation or suspension of the privilege to import or export wildlife will be a consequence of nonpayment. Also, to reflect the more business-like format of the licensing process, the term of the license will be changed from two years to one year.

Wildlife Import/Export License Fee

On August 25, 1980 (45 FR 56668), the Service published a final rule revising 50 CFR Part 14 (Importation, Exportation, and Transportation of Wildlife) to implement provisions of a number of wildlife laws enforced by the Service. As part of that rulemaking, and under authority of section 9(d) of the Endangered Species Act of 1973, 16 U.S.C. 1538(d), an import/export license requirement was imposed on any person who engages in business as an importer or exporter of fish or wildlife.

Only a person who imports or exports during a calendar year wildlife with a declared value greater than $25,000.00 must have a license although all persons importing or exporting wildlife must keep and maintain appropriate records. (See 50 CFR 14.92). The current license fee is $50 and the license is biennial.

Under this rule, the license fee is raised from $50 to $250 and the term of the license is changed from two (2) years to one (1) years. The increase in fee covers costs to issue or renew licenses and to conduct compliance inspections of licensees. It costs the Service approximately $60 to issue a wildlife import/export license and slightly less to renew one.

During FY 1986 and beyond, the Service will increase emphasis on compliance inspections of licensees. The exact costs of compliance inspections cannot be determined prior to the fact; however, the average hourly pay rate alone for a journeyman agent during FY 1984 was $24. Based upon past experience, the Service expects each compliance inspection to require about 4 hours. At $24/hour of journeyman agent time per year per licensee beginning in FY 1985, the total cost to conduct compliance inspections during the effective period of each license is approximately $90 per year. The Service estimates costs to issue a license, inspect the licensee, and to inspect shipments at approximately $250 per year based upon data including an average of 5 shipments per importer/exporter.

The Service, through its computerized record system, will be able to provide a billing to licensees. The computerized system of records maintained by the Service is dependent upon accurate data input and accountability for the import or export of wildlife. Accuracy of wildlife import and export data require that there be a "one name, one license" policy. Fees may then be incidentally and easily apportioned to the licensee by license number.

Payment of the inspection fees for shipments will be a condition of the license as well as for clearance of subsequent shipments. The Service will revoke or suspend licenses when inspection fees are not paid within 90 days of the licensee being notified of the fees due. In addition, regional personnel will be allowed as a matter of policy to pass on and to collect on a case-by-case basis for actual costs to the Service caused by accommodating any requests for special inspections occurring at other than regular Service business hours or locations other than where physical inspections are regularly made.

Conclusion

User fees are based upon special benefits to recipients of services performed by the government. "Although . . . the public benefits from routine inspections which protect . . . these inspections are nonetheless needed to assure licensee's compliance with the . . . Act and with . . . regulations necessary for the retention of the license." *Mississippi Power & Light Co. v. U.S. Nuclear Regulatory Commission*, 601 F.2d 223 (5th Cir. 1979). "The receipt and retention of the license is of unquestionable benefit to the applicant" (*Id.*) since the person engaged in the business of import or export of wildlife cannot do so without meeting the license or regulatory requirements. The standards for user fees under these circumstances are that no fee may be charged to a private party when the identification of the ultimate beneficiary of the service is obscure or the service can be primarily considered to be as broadly benefiting the general public; and, the fee cannot exceed the cost to the agency rendering the Service.

After evaluation of its inspection program, the Service has determined that inspections specially benefit commercial shippers of wildlife by assuring that they are in compliance with the law and can legally sell, purchase, ship, transport, acquire, or receive the wildlife; avoid seizure of the shipment or penalties by other governments; and lawfully maintain their businesses. Commenters requested additional availability of inspection services for special needs.

The Service, therefore, will institute inspection fees for commercial wildlife shipments which exceed the 5 shipments which data indicate are the annual average for commercial wildlife shipments, or are inspected at the request of a shipper at a time outside Service business hours or at a special location, to reflect costs to the public for the inspection program and to induce effective compliance.

Commenters sought to have any inspection fee related to the value of the shipment, as was the case in the imposition of the import/export license fee. Since current data indicates that the bulk of inspection work is generated by shippers who import or export in excess of $25,000 per year, it was felt that acceding to the public comment in this area was appropriate because in fact the work of the Service involved in inspecting documents and shipments is identical regardless of the value of the shipment. Consideration is being given to future rulemaking lowering the dollar valuation threshold for imposing a requirement for an associated license and inspection charges; but, additional data and public comments will be obtained prior to institution of any such charge.

Noncommercial shippers pay no fee, reflecting the fact that such noncommercial uses are primarily either those of the casual tourist or traveler which require little effort by the Service employees to determine if the shipment is in compliance with the law or are under special permits or other sponsorships which may be deemed to be in the public interest.

Paperwork Reduction Act

The information collections contained in this document have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1018-0022.

Primary Author

The primary author of this final rule is Kathleen King, Division of Law Enforcement, U.S. Fish and Wildlife Service, Washington, DC 20005.

Determinations of Effects of Rules

The Department of the Interior had determined that this is not a major rule under Executive Order 12291. The Department has also certified that the rule will not have significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The increase in the fee for a wildlife import/export license is valid from $50 to $250. The change from a biennial to an annual term should have an inconsequential effect on the paperwork burden since billings and renewals will be provided by the Service. During any calendar year, a person may engage in business as an importer or exporter of wildlife and import or export wildlife with a declared value of up to $25,000 without a license. Therefore, the most any licensee would pay for the license is 1% of the total value of commercial wildlife imports and exports. For most licensees, the fee actually would be a much lower percentage of the total value of commercial imports and exports during a year.

It is difficult to make projections about inspection fees because of fluctuations in annual wildlife trade and the possibility that the number of commercial wildlife shipments will decrease as shipments are consolidated to reduce the fees paid. The service expects commercial shipments to remain near 1981–1982 levels based upon random samples of 1983 and 1984 wildlife trade data, and utilized 1984 data in assessing effects.

The data also indicates, depending upon the value of commercial wildlife trade and the number of shipments, the total inspection fee collected is likely to vary from approximately .13% to .15% of the total value of commercial wildlife imports and exports. Therefore, the institution of an inspection fee is not expected to have any significant economic effect on wildlife trade as a whole. Collecting an inspection fee is broad-based among all those who engage in wildlife trade and does not single out any particular group.

These determinations are discussed in more detail in a Determinations of Effects which has been prepared by the Service. A copy of that document may be obtained by contacting the person identified above under the caption "**FOR FURTHER INFORMATION CONTACT.**"

National Environmental Policy Act

An environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Division of Law Enforcement, 1375 K Street, NW., Suite 300, Washington, DC 20005, and may be examined during regular business hours. Single copies are also available upon request by contacting the person identified above under the caption "**FOR FURTHER INFORMATION CONTACT.**" This assessment forms the basis for the decision that this final rule is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

List of Subjects

50 CFR Part 10

Exports, Fish, Imports, Law enforcement officers, Wildlife.

50 CFR Part 13

Administrative practice and procedure, Exports, Fish, Imports, Penalties, Reporting requirements, Wildlife.

50 CFR Part 14

Exports, Fish, Imports, Labeling, Reporting requirements, Transportation, Wildlife.

Regulation Promulgation

For the reasons set out in the preamble, Subchapter B, Chapter I of Title 50, Code of Federal Regulations is amended as follows:

PART 10—GENERAL PROVISIONS

1. The authority citation for Part 10 is revised to read as follows:

Authority: Lacey Act, 62 Stat. 687, as amended, 63 Stat. 753, 83 Stat. 281 and 95 Stat. 1073 [18 U.S.C. 42–44]; Lacey Act Amendments of 1981, 95 Stat. 1073 [16 U.S.C. 3371 et seq.]; Migratory Bird Treaty Act, [16 U.S.C. 703–712]; Bald and Golden Eagle Protection Act, [16 U.S.C. 668–668d]; Tariff Classification Act of 1962, sec. 102, 76 Stat. 73 [19 U.S.C. 1202, Schedule I, Part 15D, Headnote 2(d), "Tariff Schedules of the United States"]; Endangered Species Act of 1973, [16 U.S.C. 1531–1545]; Fish and Wildlife Act of 1956, sec. 13(d), 86 Stat. 905 amending 85 Stat. 480; Marine Mammal Protection Act of 1972, sec. 112(a), 86 Stat. 1042, unless otherwise noted [16 U.S.C. 1375 et seq.].

§ 10.12 [Amended]

2. Amend § 10.12, Definitions, by revising the definition "permit" to read as follows:

"Permit" means any document designated as a "permit," "license," "certificate," or any other document issued by the Service to authorize, limit, or describe activity and signed by an authorized official of the Service.

PART 13—GENERAL PERMIT PROCEDURES

3. The authority citation for Part 13 is revised to read as follows:

Authority: Lacey Act, [18 U.S.C. 42]; Lacey Act Amendments of 1981, [16 U.S.C. 3374]; Migratory Bird Treaty Act, [16 U.S.C. 704,712]; Bald and Golden Eagle Protection Act, [16 U.S.C. 668a]; Tariff Classification Act, of 1962, [19 U.S.C. 1202 "Schedule 1, Part 15D, Headnote 2(d), Tariff Schedules of the United States"], Endangered Species Act of 1973, as amended, [16 U.S.C. 1539,1540(f)]; [16 U.S.C. 1538(d)]; sec. E.E. 11911, 41 FR 15683, 3 CFR, 1976 Comp., p. 112; Airborne Hunting Act, [16 U.S.C. 742j–1]; Marine Mammal Protection Act [16 U.S.C. 1382]; 31 U.S.C. 9701.

§ 13.11 [Amended]

4. Amend § 13.11, paragraph (d)(4) by removing the amount of "$50" under the fee for the import/export license (§ 14.93) and inserting in its place "$250 and inspection fees."

PART 14—IMPORTATION, EXPORTATION, AND TRANSPORTATION OF WILDLIFE

5. The authority citation for Part 14 is revised to read as follows:

Authority: Lacey Act, [18 U.S.C. 42–44]; Lacey Act Amendment, 1981, as amended, [16 U.S.C. 3371 et seq.]; Endangered Species Act of 1973, as amended [16 U.S.C. 1532, 1538, 1541, 1542]; Marine Mammal Protection Act [16 U.S.C. 1382]; Migratory Bird Treaty Act [16 U.S.C. 703 et seq.]; Pub. L. 97–1581, 96 Stat. 1051 [31 U.S.C. 9701].

§ 14.51 [Amended]

6. Add at the end of § 14.51, a sentence as follows:

The Director may charge reasonable fees, including salary, overtime, transportation and per diem of Service officers, for wildlife import or export inspections specially requested by the importer or exporter at times other than regular work hours or locations other than usual for such inspections at the port.

§ 14.52 [Amended]

7. Amend § 14.52, paragraph (c)(2) by adding a comma after the word "permits" followed by adding the word "licenses."

8. Amend § 14.53, paragraph (c) by adding a comma after the word "permit" followed by adding the word "license", adding a comma after the word "available"; removing the word "or"; and, adding the phrase, "is not currently valid or has been suspended or notice of revocation made; or," before the word "is".

9. Amend § 14.53, paragraph (d) by removing the period and adding the word "or" preceded by a semicolon.

10. Amend § 14.53 by adding paragraph (e) to read as follows:

§ 14.53 Refusal of clearance.

* * * * *

(e) Any fee or portion of balance due for inspection fees required by § 14.93 has not been paid.

§ 14.92 [Amended]

11. Amend § 14.92(b)(6) by removing the word "calendar".

12. Amend § 14.93 by removing paragraph (c).

13. Amend 14.93 by redesignating (d) as "(c)" and adding paragraph (c)(7) to read as follows:

§ 14.93 License Application procedure, conditions, and duration.

* * * * *

(c) Additional license conditions.

* * * * *

(7) Licensees agree to pay, as a condition of the license, reasonable user fees for inspections of commercial wildlife shipments imported or exported under the authorization of the license.

14. Amend § 14.93 by redesignating (e) as "(d)" and by removing the words "2 years" and substituting "1 year".

15. Amend § 14.93 by redesignating (f) as "(e)" and by inserting at the beginning of the text and before the word "additional" the following sentences: "Payment of all license and inspection fees shall be a condition of the license. It shall be grounds for suspension or revocation of any license, or for denial or renewal of a license, or of grant of a new import/export license to any person named as the holder, or a principal officer or agent of a holder, of a previous license issued pursuant to this Subpart, that any license fees or any fees owing for inspections of wildlife shipments remain unpaid at the time of application for renewal or of new application."

16. Add new paragraph (f) to § 14.93 as follows:

§ 14.93 License Application procedure, conditions, and duration.

* * * * *

(f) *Fees.*

(1) The basic license fee is $250 per year.

(2) Each licensee shall pay an inspection fee of $25 per shipment for each wildlife shipment imported into or exported from the United States. For licenses issued after December 26, 1985, the first five shipments imported or exported shall be included as part of the licensing fee. In addition, importers or exporters or wildlife will pay fees for actual costs of inspections conducted at special times or locations at the shipper's request.

(3) No fee or any portion of any license or inspection fee shall be refundable or payment of fee excused because importation or clearance of wildlife shipment is refused for any reason.

Dated: December 20, 1985.

P. Daniel Smith,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85-30237 Filed 12-24-85; 8:45 am]

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S. 1264/Pub. L. 99-194

Arts, Humanities, and Museums Amendments of 1985. (Dec. 20, 1985; 17 pages) Price: $1.00