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Presidential Documents

Title 3—

The President

Proclamation 5708 of September 24, 1987

National Historically Black Colleges Week, 1987

By the President of the United States of America

A Proclamation

Setting aside a week in recognition of our country's historically Black colleges and universities is most appropriate because they are truly valuable national resources. During more than a century and a quarter they have educated hundreds of thousands of Americans who have gone on to contribute substantially to our Nation in every walk of life. Their alumni have included some of our most outstanding leaders and scholars.

This year, commemoration of the role of historically Black colleges and universities falls during our Nation's observance of the Bicentennial of the Constitution. That cherished document is the guarantor of liberty, union, and self-government for all Americans. Thanks to it we remain a strong people united in the richness of our diversity. We can all be proud of the role of historically Black colleges and universities in strengthening our country. Keeping these fine institutions a vital force in American education is a worthy national goal.

To acknowledge the accomplishments of historically Black colleges and universities and the appropriateness of focusing national attention on their contributions, the Congress, by Senate Joint Resolution 22, has designated the week of September 21 through September 27, 1987, as "National Historically Black Colleges Week" and authorized and requested the President to issue a proclamation in observance of this commemoration.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week of September 21 through September 27, 1987, as National Historically Black Colleges Week. I urge all Americans to observe this week with appropriate ceremonies and activities to express our respect and appreciation for the outstanding academic and social accomplishments of our Nation's historically Black institutions of higher learning.

IN WITNESS WHEREOF, I have hereunto set my hand this 24th day of September, in the year of our Lord nineteen hundred and eighty-seven, and of the Independence of the United States of America the two hundred and twelfth.

Ronald Reagan

[FR Doc. 87-22423
Filed 9-24-87; 4:28 pm]
Billing code 3195-01-M

Editorial note: For the President's remarks of September 24 on signing Proclamation 5708, see the *Weekly Compilation of Presidential Documents* (vol. 23, no. 38).

Rules and Regulations

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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

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 580]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 580 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 265,000 cartons during the period September 27 through October 3, 1987. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulation 580 (§ 910.880) is effective for the period September 27 through October 3, 1987.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523, South Building, P.O. Box 96456, Washington, DC 20090-6456, telephone; (202) 447-5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512-1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory action to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

This regulation is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act (the "Act", 7 U.S.C. 601 through 674), as amended. This action is based upon the recommendation and information submitted by the Lemon Administrative Committee and upon other available information. It is found that this action will tend to effectuate the declared policy of the Act.

This regulation is consistent with the marketing policy for 1987-88. The committee met publicly on September 22, 1987, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended by a 9 to 2 vote a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that the market is good for large sized lemons, poor for smaller sizes.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the Act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

For the reasons set forth in the preamble, 7 CFR Part 910 is amended as follows:

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. The authority citation for 7 CFR Part 910 continues to read as follows:

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

2. Section 910.880 is added to read as follows:

§ 910.880 Lemon regulation 580.

The quantity of lemons grown in California and Arizona which may be handled during the period September 27 through October 3, 1987, is established at 265,000 cartons.

Dated: September 23, 1987.

Robert C. Keeney,

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

[FR Doc. 87-22324 Filed 9-25-87; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

Policy and Procedure for Enforcement Actions: Policy Statement

AGENCY: Nuclear Regulatory Commission.

ACTION: Revised policy statement.

SUMMARY: The NRC is publishing minor revisions to its Enforcement Policy to further explain enforcement actions involving individuals, to describe the criteria to be used for reopening closed enforcement actions, to provide for the exercise of discretion to refrain from issuing a Notice of Violation or a proposed civil penalty under certain limited circumstances, and to make minor deletions and language changes. The policy statement is intended to inform licensees, vendors, and the public of the bases for taking various enforcement actions. The policy is codified as Appendix C to 10 CFR Part 2.

DATES: This revised statement of policy is effective September 28, 1987 while comments on the changes are being received. Submit comments on or before November 27, 1987.

ADDRESSES: Send comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555. ATTN: Docketing and Service Branch. Hand deliver comments to: Room 1121, 1717 H Street, NW., Washington, DC between 7:30 a.m. to 4:15 p.m.

Copies of comments may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: James Lieberman, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (301-492-8214).

SUPPLEMENTARY INFORMATION:

Background:

The criteria used by the Commission to conduct its enforcement activities were first published on October 17, 1972 (37 FR 21962). These criteria were subsequently modified on January 3, 1975 (40 FR 820) and on December 3, 1979 (44 FR 77135). In late 1979, the Commission directed the staff to prepare a comprehensive statement of enforcement policy. This staff effort was given added urgency by the enactment of Pub. L. 96-295 (signed June 30, 1980), that, among other things, amended section 234 of the Atomic Energy Act to raise the maximum civil penalty the NRC can impose from $5,000 to $100,000 per violation per day and eliminated the provision limiting the total civil penalties for any 30-day period to $25,000. On September 4, 1980, the Commission approved a proposed general statement of policy on enforcement. Comments were solicited on the policy and a series of public meetings was held. On March 9, 1982, the Commission published a final version of the policy (47 FR 9987). After the policy had been in effect for about two years, the Commission determined that certain minor revisions should be made. These revisions were published in the **Federal Register** (49 FR 8583) and became effective on March 8, 1984. The criteria were further revised to describe how the NRC Enforcement Policy applies to vendors of products or services on November 20, 1985 (50 FR 47716). In conjunction with approving the March 1984 revision to the Enforcement Policy, the Commission decided to establish a committee of outside experts to review the Enforcement Policy and provide the Commission with recommendations on any changes it believed advisable. The committee was established on August 31, 1984 and issued its report on November 22, 1985. The Commission subsequently decided that the Enforcement Policy should be revised to include some of the recommendations of the committee and other changes. Accordingly, the Commission has approved the following revisions to the Enforcement Policy which explain enforcement actions involving individuals, add a section regarding the criteria to be used for reopening closed enforcement actions, provide for the exercise of discretion to refrain from issuing a Notice of Violation or a proposed civil penalty under certain limited conditions, and make language deletions and changes in other sections.

Revisions to the Enforcement Policy

Revisions to the policy now being made are described in the following paragraphs. Only the sections to which changes were made are discussed here. The numbering of the sections tracks the section numbers in the policy.

I. Introduction and Purpose

Profiting from Violation

The Commission is deleting the following sentence in the second paragraph under Section I of the Enforcement Policy. "It is the Commission's intent that sanctions should be designed to ensure that a licensee does not deliberately profit from violations of NRC requirements." The Commission believes that the wording is ambiguous and that, in fact, few violations are the result of a calculated judgment to profit from noncompliance. Other wording in the policy clearly states that sanctions and severity levels may be increased for deliberate violations.

V. Enforcement Actions

Notice of Violation for Certain Severity Level IV and V Violations

Section V.A., Notice of Violation, previously discussed circumstances under which the NRC will not generally issue a Notice of Violation for Severity Level IV or V violations. Because this could be regarded as a type of discretionary enforcement, the discussion has been moved to the new Section V.F., Exercise of Discretion.

Enforcement Actions Against Individuals

The NRC has taken actions against individual licensed operators in certain instances where misconduct occurred. Generally, the staff policy has been that the NRC should defer to the licensee in the supervision of operators but should take action directly against licensed operators when their actions result in significant violations of NRC requirements involving incompetence or willfulness or where it appears operators are not competent to safely perform their duties. Such an approach places primary responsibility for operator errors where it belongs—with the facility licensee which is responsible for operator training and for developing adequate procedures to govern facility operations.

Despite this philosophy, the NRC does issue licenses to operators and has many regulations that recognize that timely actions by NRC-licensed individuals are an important part of safety. Specifically, the regulations state that:

- Generally, only licensed operators are permitted to manipulate the controls that directly affect reactivity (10 CFR 50.54(i));
- Licensed operators must be present at the controls at all times during the operation of the facility (10 CFR 50.54(k));
- Mechanisms and apparatus, other than controls, the operation of which may indirectly affect the power level or reactively of a reactor, may be manipulated only with the knowledge and consent of an operator licensed in accordance with Part 55 (10 CFR 50.54(j));
- Licensed senior operators must be present at the facility during specified conditions, and available or on call at other times during operation (10 CFR 50.54(m)); and
- An NRC licensed individual must observe all applicable rules, regulations and orders of the Commission, whether or not stated in the license (10 CFR 55.31(d)).

Because of the importance the Commission places on high standards of performance by facility staff, the guidance on when enforcement action against an individual will be considered has been expanded in renumbered Section V.E.

Allowing Mitigation of Civil Penalties for Severity Level I Violations

The Commission believes that mitigation of a civil penalty for a Severity Level I violation should be available on the same basis as for Severity Level II and III violations since the practical justifications for allowing mitigation of these violations is the same; i.e., to encourage self-identification and reporting, extensive corrective actions, and good performance by a licensee. The second paragraph under V.B. of the Enforcement Policy is modified as follows:

"Civil penalties are imposed absent mitigating circumstances for Severity Level I and II violations, are considered for Severity

Level III violations, and may be imposed for Severity Level IV violations that are similar to the previous violations for which the licensee did not take effective corrective action.

Reopening Closed Enforcement Actions

The agency's enforcement program does not address the criteria for reopening closed enforcement actions. There have been rare instances where it was appropriate to reopen an enforcement action to correct an inappropriately applied action. A new paragraph on Reopening Closed Enforcement Actions is added to Section V.

The Commission believes that reopening a previously closed enforcement action may be appropriate under certain circumstances. If significant new information is received by the NRC which indicates that an enforcement sanction was incorrectly applied, that action could be reopened to correct the record. Reopening should occur only (1) if remedial action, e.g., in the form of an order, is necessary to abate the continued harm of a violation to the public health and safety, the common defense and security, or the environment or (2) if new information shows that a violation was less serious than originally believed or that it did not occur. Enforcement action would normally not be reopened where the only change to the prior action would be to increase the severity level of a violation or to impose or increase a civil penalty. Reopening an enforcement action is expected to occur only rarely and would require specific approval of the Deputy Executive Director for Regional Operations.

Exercise of Discretion

As discussed in Section I above, the discussion of circumstances under which the NRC will not generally issue a Notice of Violation for Severity Level IV or V violations has been moved to new Section V.G., Exercise of Discretion.

Additionally, discussion of other circumstances under which a Notice of Violation or proposed civil penalty might not be issued by the NRC is added. Although strict application of the escalating and mitigating factors set forth in the enforcement policy would suggest that issuance of a civil penalty in a particular case would be appropriate, the benefits to be gained from issuing a civil penalty are doubtful for violations identified by a licensee during a forced shutdown where a licensee is diligently and aggressively addressing the causes of the violations. In particular, it is questionable whether such an action would provide incentives to meet the objectives set forth in the enforcement policy: specifically, encouraging prompt correction of existing violations and adverse conditions; deterring future violations and adverse conditions, and encouraging improved performance by the licensee and, by example, that of the industry; and at the same time, not discouraging aggressive and comprehensive implementation of a structured program to identify and correct problems.

In view of this, the Commission has decided that discretion may be exercised, provided there is prior staff consultation, to refrain from issuing a Notice of Violation and a proposed civil penalty for violations that meet all of the following criteria which are listed in a new paragraph in Section V:

1. (a) NRC has taken significant enforcement action based upon a major safety event contributing to an extended shutdown of an operating reactor or a material licensee (or a work stoppage at a construction site), or the licensee is forced into an extended shutdown or work stoppage related to generally poor performance over a long period; (b) the licensee has developed and is aggressively implementing during the shutdown a comprehensive program for problem identification and correction; and (c) NRC concurrence is needed by the licensee prior to restart;

2. Non-willful violations are identified by the licensee (as opposed to the NRC) as the result of its comprehensive program, or the violations are identified as a result of an employee allegation to the licensee. If the NRC identifies the violations, the NRC should determine whether enforcement action is necessary to achieve remedial action;

3. The violations are based upon activities of the licensee prior to the events leading to the shutdown; and

4. The non-willful violations would normally not be categorized as higher than Severity Level III violations under the NRC's Enforcement Policy.

Notwithstanding the above, a civil penalty may be proposed in a case where multiple Severity Level III violations are discovered. This action would be taken when judgment warrants it on the circumstances of the individual case.

The reason for the first condition is to limit the circumstances under which such discretion would be exercised to cases in which the incentives for problem identification and correction are the greatest and the deterrent effects of civil penalty enforcement action are likely to be fewest—when the licensee is in an extended shutdown caused by a major event or period of poor performance so significant that the NRC will not allow restart until it is sure that major problems have been satisfactorily resolved.

The reason for the second condition is to provide an incentive for licensee identification of violations. If the NRC finds the problem, and believes that the licensee's corrective action program is not working adequately, civil penalty enforcement action may be appropriate.

The reason for the third condition is that if violations are identified associated with work performed after the event or shutdown, this may also indicate that the incentives for conducting an adequate program are not sufficient and the deterrent effects of civil penalty enforcement may be necessary.

The reason for the fourth condition is to distinguish less significant violations from more significant violations. Although the rationale for refraining from civil penalty enforcement action may be the same for Severity Level I and II violations that meet the other three criteria, with violations at this level, it may be important to convey a message to other licensees regarding the significance and consequences of such violations.

Supplement VII

The reference to section 210 of the Energy Reorganization Act, which prohibits discrimination against employees for engaging in certain protected activities, has been replaced with a reference to 10 CFR 50.7 and similar NRC regulations prohibiting discriminations against employees. The requirements of § 50.7 apply to Part 50 licensees, but similar requirements appear in other parts of NRC regulations governing other types of licensed activity. Harassment and intimidation of quality assurance workers may constitute violations of the independence criterion for quality assurance programs, such as is required under 10 CFR Part 50, Appendix B. The replacement of the reference in Supplement VII to Section 210 with a reference to NRC regulations is appropriate because NRC regulations, not section 210, form the basis for violations and enforcement actions related to wrongful discrimination or harassment.

List of Subjects in 10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalty, Sex discrimination,

Source material, Special nuclear material, Waste treatment and disposal.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is adopting the following statement of policy as Appendix C to 10 CFR Part 2.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

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

Authority: Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87-615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552.

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68, Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 102, Pub. L. 91-190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Sections 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97-415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200-2.206 also issued under secs. 186, 234, 68 Stat. 955, 83 Stat. 444, as amended (42 U.S.C. 2236, 2282); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). Sections 2.600-2.606 also issued under sec. 102, Pub. L. 91-190, 83 Stat. 853 as amended (42 U.S.C. 4332). Sections 2.700a, 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.770 also issued under 5 U.S.C. 557. Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553 and sec. 29, Pub. L. 85-256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97-425, 96 Stat. 2230 (42 U.S.C. 10154). Appendix A also issued under sec. 6, Pub. L. 91-580, 84 Stat. 1473 (42 U.S.C. 2135). Appendix B also issued under sec. 10, Pub. L. 99-240, 99 Stat. 1842 (42 U.S.C. 2021b *et seq.*).

2. Appendix C to Part 2 is revised to read as follows:

Appendix C—General Statement of Policy and Procedure for NRC Enforcement Actions

The following statement of general policy and procedure explains the enforcement policy and procedures of the U.S. Nuclear Regulatory Commission and its staff in initiating enforcement actions, and of presiding officers, the Atomic Safety and Licensing Appeal Boards, and the Commission in reviewing these actions. This statement is applicable to enforcement in matters involving the public health and safety, the common defense and security, and the environment.[1]

I. Introduction and Purpose

The purpose of the NRC enforcement program is to promote and protect the radiological health and safety of the public, including employees' health and safety, the common defense and security, and the environment by:

- Ensuring compliance with NRC regulations and license conditions;
- Obtaining prompt correction of violations and adverse quality conditions which may affect safety;
- Deterring future violations and occurrences of conditions adverse to quality; and
- Encouraging improvement of licensee and vendor [1a] performance, and by example, that of industry, including the prompt identification and reporting of potential safety problems.

Consistent with the purpose of this program, prompt and vigorous enforcement action will be taken when dealing with licensees or vendors who do not achieve the necessary meticulous attention to detail and the high standard of compliance which the NRC expects. Each enforcement action is dependent on the circumstances of the case and requires the exercise of discretion after consideration of these policies and procedures. In no case, however, will licensees who cannot achieve and maintain adequate levels of protection be permitted to conduct licensed activities.

II. Statutory Authority and Procedural Framework

A. Statutory Authority

The NRC's enforcement jurisdiction is drawn from the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act (ERA) of 1974, as amended.

Section 161 of the Atomic Energy Act authorizes NRC to conduct inspections and investigations and to issue orders as may be necessary or desirable to promote the common defense and security or to protect health or to minimize danger to life or property. Section 186 authorizes NRC to revoke licenses under certain circumstances (e.g., for material false statements, in response to conditions that would have warranted refusal of a license on an original application, for a licensee's failure to build or operate a facility in accordance with the terms of the permit or license, and for violation of an NRC regulation). Section 234 authorizes NRC to impose civil penalties not to exceed $100,000 per violation per day for the violation of certain specified licensing provisions of the Act, rules, orders, and license terms implementing these provisions, and for violations for which licenses can be revoked. In addition to the enumerated provisions in section 234, sections 84 and 147 authorize the imposition of civil penalties for violations of regulations implementing those provisions. Section 232 authorizes NRC to seek injunctive or other equitable relief for violation of regulatory requirements.

Section 206 of the Energy Reorganization Act authorizes NRC to impose civil penalties for knowing and conscious failures to provide certain safety information to the NRC.

Chapter 18 of the Atomic Energy Act provides for varying levels of criminal penalties (i.e., monetary fines and imprisonment) for willful violations of the Act and regulations or orders issued under sections 65, 161(b), 161(i), or 161(o) of the Act. Section 223 provides that criminal penalties may be imposed on certain individuals employed by firms constructing or supplying basic components of any utilization facility if the individual knowingly and willfully violates NRC requirements such that a basic component could be significantly impaired. Section 235 provides that criminal penalties may be imposed on persons who interfere with inspectors. Section 236 provides that criminal penalties may be imposed on persons who attempt to or cause sabotage at a nuclear facility or to nuclear fuel. Alleged or suspected criminal violations of the Atomic Energy Act are referred to the Department of Justice for appropriate action.

B. Procedural Framework

Subpart B of 10 CFR Part 2 of NRC's regulations sets forth the procedures the NRC uses in exercising its enforcement authority. 10 CFR 2.201 sets forth the procedures for issuing notices of violation.

The procedure to be used in assessing civil penalties is set forth in 10 CFR 2.205. This regulation provides that the appropriate NRC Office Director initiates the civil penalty process by issuing a notice of violation and proposed imposition of a civil penalty. The licensee is provided an opportunity to contest in writing the proposed imposition of a civil penalty. After evaluation of the licensee's response, the Director may mitigate, remit, or impose the civil penalty. An opportunity

[1] Antitrust enforcement matters will be dealt with on a case-by-case basis.

[1a] The term "vendor" means a supplier of products or services to be used in an NRC-licensed facility or activity.

is provided for a hearing if a civil penalty is imposed.

The procedure for issuing an order to show cause why a license should not be modified, suspended, or revoked or why such other action should not be taken is set forth in 10 CFR 2.202. The mechanism for modifying a license by order is set forth in 10 CFR 2.204. These sections of Part 2 provide an opportunity for a hearing to the affected licensee. However, the NRC is authorized to make orders immediately effective if the public health, safety or interest so requires or, in the case of an order to show cause, if the alleged violation is willful.

III. Severity of Violations

Regulatory requirements[2] have varying degrees of safety, safeguards, or environmental significance. Therefore, the relative importance of each violation must be identified as the first step in the enforcement process.

Consequently, violations are categorized in terms of five levels of severity to show their relative importance within each of the following eight activity areas:

I. Reactor Operations;
II. Facility Construction;
III. Safeguards;
IV. Health Physics;
V. Transportation;
VI. Fuel Cycle and Materials Operations;
VII. Miscellaneous Matters; and
VIII. Emergency Preparedness.

Licensed activities not directly covered by one of the above listed areas, e.g., export license activities, will be placed in the activity area most suitable in light of the particular violation involved. Within each activity area, Severity Level I has been assigned to violations that are the most significant and Severity Level V violations are the least significant. Severity Level I and II violations are of very significant regulatory concern. In general, violations that are included in these severity categories involve actual or high potential impact on the public. Severity Level III violations are caused for significant concern. Severity Level IV violations are less serious but are of more than minor concern; i.e., if left uncorrected, they could lead to a more serious concern. Severity Level V violations are of minor safety or environmental concern.

Camparisons of significance between activity areas are inappropriate. For example, the immediacy of any hazard to the public associated with Severity Level I violations in Reactor Operations is not directly comparable to that associated with Severity Level I violations in Reactor Construction.

While examples are provided in Supplements I through VIII for determining the appropriate severity level for violations in each of the eight activity areas, the examples are neither exhaustive nor controlling. These examples do not create new requirements. Each is designed to illustrate the significance which the NRC places on a particular type of violation of NRC requirements. Each of the examples in the supplements is predicated on a violation of a regulatory requirement.

In each case, the severity of a violation will be characterized at the level best suited to the significance of the particular violation. In some cases, violations may be evaluated in the aggregate and a single severity level assigned for a group of violations.

The severity level of a violation may be increased if the circumstances surrounding the matter involve careless disregard of requirements, deception, or other indications of willfulness. The term "willfulness" as used here embraces a spectrum of violations ranging from deliberate intent to violate or falsify to and including careless disregard for requirements. Willfulness does not include acts which do not rise to the level of careless disregard, i.e., inadvertent clerical errors in a document submitted to the NRC. In determining the specific severity level of a violation involving willfulness, consideration will be given to such factors as the position of the person involved in the violation (e.g., first-line supervisor or senior manager), the significance of any underlying violation, the intent of the violator (i.e., negligence not amounting to careless disregard, careless disregard, or deliberateness), and the economic advantage, if any, gained as a result of the violation. The relative weight given to each of these factors in arriving at the appropriate severity level will be dependent on the circumstances of the violation.

The NRC expects licensees to provide full, complete, timely, and accurate information and reports. Accordingly, unless otherwise categorized in the Supplements, the severity level of a violation involving the failure to make a required report to the NRC will be based upon the significance of and the circumstances surrounding the matter that should have been reported. A licensee will not normally be cited for a failure to report a condition or event unless the licensee was actually aware of the condition or event which it failed to report. However, the severity level of an untimely report, in contrast to no report, may be reduced depending on the circumstances surrounding the matter.

IV. Enforcement Conferences

Whenever the NRC has learned of the existence of a potential violation for which a civil penalty or other escalated enforcement action may be warranted, or recurring nonconformance on the part of a vendor, the NRC will normally hold an enforcement conference with the licensee or vendor prior to taking enforcement action. The NRC may also elect to hold an enforcement conference for other violations, e.g., Severity Level IV violation which, if repeated, could lead to escalated enforcement action. The purpose of the enforcement conference is to (1) discuss the violations or nonconformance, their significance and causes, and the licensee's or vendor's corrective actions, (2) determine whether there are any aggravating or mitigating circumstances, and (3) obtain other information which will help determine the appropriate enforcement action.

In addition, during the enforcement conference, the licensee or vendor will be given an opportunity to explain to the NRC what corrective actions (if any) were taken or will be taken following discovery of the potential violation or nonconformance. Licensees or vendors will be told when a meeting is an enforcement conference. Enforcement conferences will not normally be open to the public.

When needed to protect the public health and safety or common defense and security, escalated enforcement action, such as the issuance of an immediately effective order modifying, suspending, or revoking a license, will be taken prior to the enforcement conference. In such cases, an enforcement conference may be held after the escalated enforcement action is taken.

V. Enforcement Actions

This section describes the enforcement sanctions available to NRC and specifies the conditions under which each may be used. The basic sanctions are notices of violation, civil penalties, and orders of various types. Additionally, related administrative mechanisms such as bulletins and confirmatory action letters, notices of nonconformance and notices of deviation are used to supplement the enforcement program. In selecting the enforcement sanctions to be applied,

[2] The term "requirement" as used in this policy means a legally binding requirement such as a statute, regulation, license condition, technical specification, or order.

NRC will consider enforcement actions taken by other Federal or State regulatory bodies having concurrent jurisdiction, such as in transportation matters. With very limited exceptions, whenever a violation of NRC requirements is identified, enforcement action is taken. The nature and extent of the enforcement action is intended to reflect the seriousness of the violation involved. For the vast majority of violations, action by an NRC regional office is appropriate in the form of a Notice of Violation requiring a formal response from the recipient describing its corrective actions. In situations involving nonconformance on the part of vendor, a Notice of Nonconformance will be issued. The relatively small number of cases involving elevated enforcement action receives substantial attention by the public, and may have significant impact on the licensee's operation. These elevated enforcement actions include civil penalties; orders modifying, suspending or revoking licenses; or orders to cease and desist from designated activities.

A. Notice of Violation

A notice of violation is a written notice setting forth one or more violations of a legally binding requirement. The notice normally requires the recipient to provide a written statement describing (1) corrective steps which have been taken and the results achieved; (2) corrective steps which will be taken to prevent recurrence; and (3) the date when full compliance will be achieved. NRC may require responses to notices of violation to be under oath. Normally, responses under oath will be required only in connection with civil penalties and orders.

NRC uses the notice of violation as the standard method for formalizing the existence of a violation. A notice of violation is normally the only enforcement action taken, except in cases where the criteria for civil penalties and orders, as set forth in Sections V.B and V.C, respectively, are met. In such cases, the notice of violation will be issued in conjunction with the elevated actions.

Licensees are not ordinarily cited for violations resulting from matters not within their control, such as equipment failures that were not avoidable by reasonable licensee quality assurance measures or management controls. Generally, however, licensees are held responsible for the acts of their employees. Accordingly, this policy should not be construed to excuse personnel errors.

B. Civil Penalty

A civil penalty is a monetary penalty that may be imposed for violation of (a) certain specified licensing provisions of the Atomic Energy Act or supplementary NRC rule or orders, (b) any requirement for which a license may be revoked, or (c) reporting requirements under Section 206 of the Energy Reorganization Act. Civil penalties are designed to emphasize the need for lasting remedial action and to deter future violations.

Civil penalties are imposed absent mitigating circumstances for Severity Level I and II violations, are considered for Severity Level III violations, and may be imposed for Severity Level IV violations that are similar [3] to previous violations for which the licensee did not take effective corrective action.

In applying this guidance for Severity Level IV violations, NRC normally considers civil penalties only for similar Severity Level IV violations that occur after the date of the last inspection or within two years, whichever period is greater.

Civil penalties will normally be assessed for knowing and conscious violations of the reporting requirements of section 206 of the Energy Reorganization Act, and for any willful violation of any Commission requirement including those at any severity level.

NRC imposes different levels of penalties for different severity level violations and different classes of licensees. Tables 1A and 1B show the base civil penalties for various reactor, fuel cycle, and materials programs. The structure of these tables generally takes into account the gravity of the violation as a primary consideration and the ability to pay as a secondary consideration. Generally, operations involving greater nuclear material inventories and greater potential consequences to the public and licensee employees receive higher civil penalties. Regarding the secondary factor of ability of various classes of licensees to pay the civil penalties, it is not the NRC's intention that the economic impact of a civil penalty be such that it puts a licensee out of business (orders, rather than civil penalties, are used when the intent is to terminate licensed activities) or adversely affects a licensee's ability to safely conduct licensed activities. The deterrent effect of civil penalties is best served when the amounts of such penalties take into account a licensee's "ability to pay." In determining the amounts of civil penalties for licensees for whom the tables do not reflect the ability to pay, NRC will consider as necessary an increase or decrease on a case-by-case basis.

NRC attaches great importance to comprehensive licensee programs for detection, correction, and reporting of problems that may constitute, or lead to, violation of regulatory requirements. This is emphasized by giving credit for effective licensee audit programs when licensees find, correct, and report problems expeditiously and effectively. To encourage licensee self-identification and correction of violations and to avoid potential concealment of problems of safety significance, application of the adjustment factors set forth below may result in no civil penalty being assessed for violations which are identified, reported (if required), and effectively corrected by the licensee.

On the other hand, ineffective licensee programs for problem identification or correction are unacceptable. In cases involving willfulness, flagrant NRC-identified violations, repeated poor performance in an area of concern, or serious breakdown in management controls, NRC intends to apply its full enforcement authority where such action is warranted, including issuing appropriate orders and assessing civil penalties for continuing violations on a per day basis, up to the statutory limit of $100,000 per violation, per day. In this regard, while management involvement, direct or indirect, in a violation may lead to an increase in the civil penalty, the lack of such involvement may not be used to mitigate a civil penalty.

Allowance of mitigation could encourage lack of management involvement in licensed activities and a decrease in protection of the public health and safety.

NRC reviews each proposed civil penalty case on its own merits and adjusts the base civil penalty values upward or downward appropriately. Tables 1A and 1B identify the base civil penalty values for different severity levels, activity areas, and classes of licensees. After considering all relevant circumstances, adjustments to these values may be made for the factors described below:

1. Prompt Identification and Reporting

Reduction of up to 50% of the base civil penalty may be given when a licensee identifies the violation and promptly reports the violation to the NRC. In weighing this factor,

[3] The word "similar," as used in thos policy, refers to those violations which could have been reasonably expected to have been prevented by the licensee's corrective action for the previous violation.

consideration will be given to, among other things, the length of time the violation existed prior to discovery, the opportunity available to discover the violation, the ease of discovery and the promptness and completeness of any required report. No consideration will be given to this factor if the licensee does not take immediate action to correct the problem upon discovery.

2. Corrective Action to Prevent Recurrence

Recognizing that corrective action is always required to meet regulatory requirements, the promptness and extent to which the licensee takes corrective action, including actions to prevent recurrence, may be considered in modifying the civil penalty to be assessed. Unusually prompt and extensive corrective action may result in reducing the proposed civil penalty as much as 50% of the base value shown in Table 1. On the other hand, the civil penalty may be increased as much as 50% of the base value if initiation of corrective action is not prompt or if the corrective action is only minimally acceptable. In weighing this factor, consideration will be given to, among other things, the timeliness of the corrective action, degree of licensee initiative, and comprehensiveness of the corrective action—such as whether the action is focused narrowly to the specific violation or broadly to the general area of concern.

3. Past Performance

Reduction by as much as 100% of the base civil penalty shown in Table 1 may be given for prior good performance in the general area of concern. On the other hand, the base civil penalty may be increased as much as 100% for prior poor performance in the general area of concern.

In weighing this factor, consideration will be given to, among other things, the effectiveness of previous corrective action for similar problems, overall performance such as Systematic Assessment of Licensee Performance (SALP) evaluations for power reactors, and prior enforcement history including Severity Level IV and V violations in the area of concern. For example, failure to implement previous corrective action for prior similar problems may result in an increase in the civil penalty.

4. Prior Notice of Similar Events

The base civil penalty may be increased as much as 50% for cases where the licensee had prior knowledge of a problem as a result of a licensee audit, or specific NRC or industry notification, and had failed to take effective preventive steps.

5. Multiple Occurrences

The base civil penalty may be increased as much as 50% where multiple examples of a particular violation are identified during the inspection period.

The above factors are additive. However, in no instance will a civil penalty for any one violation exceed $100,000 per day.

The duration of a violation may also be considered in assessing a civil penalty. A greater civil penalty may be imposed if a violation continues for more than a day. For example: (1) If a licensee is aware of the existence of a condition which results in an ongoing violation and fails to initiate corrective action, each day the condition existed may be considered as a separate violation and, as such, subject to a separate additional civil penalty.

(2) If a licensee is unaware of a condition resulting in a continuing violation, but clearly should have been aware of the condition or had an opportunity to correct the condition but failed to do so, a separate violation and attendant civil penalty may be considered for each day that the licensee clearly should have been aware of the condition or had an opportunity to correct the condition, but failed to do so.

(3) Alternatively, whether or not a licensee is aware or should have been aware of a violation that continues for more than one day, the civil penalty imposed for one violation may be increased to reflect the added significance resulting from the duration of the violation.

The Tables and the mitigating factors determine the civil penalties which may be assessed for each violation. However, the focus on the fundamental underlying causes of a problem for which enforcement action appears to be warranted, the cumulative total for all violations which contributed to or were unavoidable consequences of that problem may be based on the amount shown in the table for a problem of that Severity Level, as adjusted. If an evaluation of such multiple violations shows that more than one fundamental problem is involved, each of which, if viewed independently, could lead to civil penalty action by itself, then separate civil penalties may be assessed for each such fundamental problem. In addition, the failure to make a required report of an event requiring such reporting is considered a separate problem and will normally be assessed a separate civil penalty, if the licensee is aware of the matter that should have been reported.

TABLE 1A.—BASE CIVIL PENALTIES

	Plant operations, const, health physics and EP	Transportation		
		Safeguards	Greater than type A quantity [1]	Type A quantity or less [2]
a. Power Reactors	$100,000	$100,000	$100,000	5,000
b. Test Reactors	10,000	10,000	10,000	2,000
c. Research Reactors & Critical Facilities	5,000	5,000	5,000	1,000
d. Fuel Fabricators and Industrial Processors [3]	25,000	100,000 [4]	25,000	5,000
e. Mills and Uranium Conversion Facilities	10,000		5,000	2,000
f. Industrial Users of Material [5]	10,000		5,000	2,000
g. Waste Disposal Licensees	10,000		5,000	2,000
h. Academic or Medical Institutions [6]	5,000		2,500	1,000
i. Other Material Licensees	1,000		2,500	1,000

[1] Includes irradiated fuel, high level waste, unirradiated fissile material, and any other quantities requiring Type B packaging.
[2] Includes low specific activity waste (LSA), low level waste, Type A packages, and excepted quantities and articles.
[3] Large firms engaged in manufacturing or distribution of byproduct, source, or special nuclear material.

[4] This amount refers to Category 1 Licensees (as defined in 10 CFR 73.2 (bb)). Licensed fuel fabricators not authorized to possess Category 1 material have a base penalty amount of $50,000.

[5] Includes industrial radiographers, nuclear pharmacies, and other industrial users.

[6] This applies to nonprofit institutions not otherwise categorized under sections "a" through "g" in this table.

TABLE 1B.—BASE CIVIL PENALTIES

Severity level	Base civil penalty amount (percent of amount listed in table 1A)
I	100
II	80
III	50
IV	15
V	5

C. Orders

An order is a written NRC directive to modify, suspend, or revoke a license; to cease and desist from a given practice or activity; or to take such other action as may be proper (*see* 10 CFR 2.202 and 2.204). Orders may be issued as set forth below. Orders may also be issued in lieu of, or in addition to, civil penalties, as appropriate.

(1) License Modification Orders are issued when some change in licensee equipment, procedures, or management controls is necessary.

(2) Suspension Orders may be used:

(a) To remove a threat to the public health and safety, common defense and security, or the environment;

(b) To stop facility construction when (i) further work could preclude or significantly hinder the identification or correction of an improperly constructed safety-related system or component, or (ii) the licensee's quality assurance program implementation is not adequate to provide confidence that construction activities are being properly carried out;

(c) When the licensee has not responded adequately to other enforcement action;

(d) When the licensee interferes with the conduct of an inspection or investigation; or

(e) For any reason not mentioned above for which license revocation is legally authorized.

Suspensions may apply to all or part of the licensed activity. Ordinarily, a licensed activity is not suspended (nor is a suspension prolonged) for failure to comply with requirements where such failure is not willful and adequate corrective action has been taken.

(3) Revocation Orders may be used:

(a) When a licensee is unable or unwilling to comply with NRC requirements,

(b) When a licensee refuses to correct a violation,

(c) When a licensee does not respond to a notice of violation where a response was required,

(d) When a licensee refuses to pay a fee required by 10 CFR Part 170, or

(e) For any other reason for which revocation is authorized under Section 186 of the Atomic Energy Act (e.g., any condition which would warrant refusal of a license on an original application).

(4) Cease and Desist Orders are typically used to stop an unauthorized activity that has continued after notification by NRC that such activity is unauthorized.

Orders are made effective immediately, without prior opportunity for hearing, whenever it is determined that the public health, interest, or safety so requires, or when the order is responding to a violation involving willfulness. Otherwise, a prior opportunity for a hearing on the order is afforded. For cases in which the NRC believes a basis could reasonably exist for not taking the action as proposed, the licensee will ordinarily be afforded an opportunity to show cause why the order should not be issued in the proposed manner.

D. Escalation of Enforcement Sanctions

NRC considers violations of Severity Levels I, II, or III to be serious. If serious violations occur, NRC will, where necessary, issue orders in conjunction with civil penalties to achieve immediate corrective actions and to deter further recurrence of serious violations. NRC carefully considers the circumstances of each case in selecting and applying the sanction(s) appropriate to the case in accordance with the criteria described in Sections V.B and V.C, above.

Examples of enforcement actions that could be taken for similar Severity Level I, II, or III violations are set forth in Table 2. The actual progression to be used in a particular case will depend on the circumstances. However, enforcement sanctions will normally escalate for recurring similar violations.

Normally the progression of enforcement actions for similar violations will be based on violations under a single license. When more than one facility is covered by a single license, the normal progression will be based on similar violations at an individual facility and not on similar violations under the same license. However, it should be noted that under some circumstances, e.g., where there is common control over some facet of facility operations, similar violations may be charged even though the second violation occurred at a different facility or under a different license. For example, a physical security violation at Unit 2 of a dual unit plant that repeats an earlier violation at Unit 1 might be considered similar.

TABLE 2.—EXAMPLES OF PROGRESSION OF ESCALATED ENFORCEMENT ACTIONS FOR SIMILAR VIOLATIONS IN THE SAME ACTIVITY AREA UNDER THE SAME LICENSE

Severity of violation	Number of similar violations from the date of the last inspection or within the previous two years (whichever period is greater)		
	1st	2nd	3rd
I	([a]+[b])	([a]+[b]+[c])	([d])
II	([a])	([a]+[b])	([a]+[b]+[c])
III		([a])	([a]+[b])

[a] Civil penalty

[b] Suspension of affected operations until the Office Director is satisfied that there is reasonable assurance that the licensee can operate in compliance with the applicable requirements; or modification of the license, as appropriate.

[c] Show cause for modification or revocation of the license, as appropriate.

[d] Further action, as appropriate.

E. Enforcement Actions Involving Individuals

Enforcement actions involving individuals, including licensed operators, are significant personnel actions, which will be closely controlled and judiciously applied. An enforcement action will normally be taken only when there is little doubt that the individual fully understood, or should have understood, his or her responsibility; knew, or should have known, the required actions; and knowingly, or with careless disregard (i.e., with more than mere negligence), failed to take required actions which have actual or potential safety significance. Most transgressions of individuals at the level of Severity Level III, IV or V violations will be handled by citing only the facility licensee.

More serious violations, including those involving the integrity of an individual (e.g., lying to the NRC),

concerning matters within the scope of the individual's responsibilities, will be considered for enforcement action against the individual. Action against the individual, however, will not be taken if the improper action by the individual was caused by management failures. The following examples of situations illustrate this concept:

- Inadvertent individual mistakes resulting from inadequate training or guidance provided by the facility licensee.
- Inadvertently missing an insignificant procedural requirement when the action is routine, fairly uncomplicated, and there is no unusual circumstance indicating that the procedures should be referred to and followed step-by-step.
- Compliance with an express direction of management, such as the Shift Supervisor or Plant Manager, resulted in a violation unless the individual did not express his or her concern or objection to the direction.
- Individual error directly resulting from following the technical advice of an expert unless the advice was clearly unreasonable and the licensed individual should have recognized it as such.
- Violations resulting from inadequate procedures unless the individual used a faulty procedure knowing it was faulty and had not attempted to get the procedure corrected.

Examples of situations which could result in enforcement actions against individuals include, but are not limited to, violations which involve:

- Recognizing a violation of procedural requirements and willfully not taking corrective action.
- Willfully performing unauthorized bypassing of required reactor safety systems.
- Willfully defeating alarms which have safety significance.
- Unauthorized abandoning of reactor controls.
- Inattention to duty such as sleeping or being intoxicated while on duty.
- Willfully taking actions that violate TS Limiting Conditions for Operation.
- Falsifying records required for NRC regulations or by the facility licensee.
- Willfully failing to take "immediate actions" of emergency procedures.
- Willfully withholding safety significant information rather than making such information known to appropriate supervisory or technical personnel.

Any proposed enforcement action against individuals must be done with the concurrence of the Deputy Executive Director for Regional Operations. The opportunity for an Enforcement Conference with the individual will usually be provided.

Examples of sanctions that may be appropriate against NRC-licensed operators are:

- Issuance of a letter of reprimand to be placed in the operator's license file,
- Issuance of a Notice of Violation, and
- Suspension for a specified period, modification, or revocation of the license.

The sanctions are listed in escalating order of significance.[4] The particular sanction to be used should be determined on a case-by-case basis.

In the case of an unlicensed individual, an Order modifying the facility license to require the removal of the individual from all nuclear-related activities for a specified period of time or indefinitely may be appropriate.

F. Reopening Closed Enforcement Actions

If significant new information is received by the NRC which indicates that an enforcement sanction was incorrectly applied, that action could be reopened to correct the record. This should occur only (1) if remedial action, e.g., in the form of an Order, is necessary to abate the continued harm of a violation to the public health and safety, the common defense and security, or the environment, or (2) if new information shows that a violation was less serious than originally believed or that it did not occur. Enforcement actions would not normally be reopened where the only change to the prior action would be to increase the severity level of a violation or to impose or increase a civil penalty. Reopening an enforcement action is expected to occur only rarely and would require specific approval of the Deputy Executive Director for Regional Operations.

G. Exercise of Discretion

1. Because the NRC wants to encourage and support licensee initiative for self-identification and correction of problems, NRC will not generally issue a notice of violation for a violation that meets all of the following criteria:

a. It was identified by the licensee;

b. It fits in Severity Level IV or V;

c. It was reported, if required;

d. It was or will be corrected, including measures to prevent recurrence, within a reasonable time; and

e. It was not a violation that could reasonably be expected to have been prevented by the licensee's corrective action for a previous violation.

2. The NRC may also refrain from issuing a Notice of Violation or a proposed civil penalty for violations that meet all of the following criteria:

a. (i) NRC has taken significant enforcement action based upon a major safety event contributing to an extended shutdown of an operating reactor or a material licensee (or a work stoppage at a construction site), or the licensee is forced into an extended shutdown or work stoppage related to generally poor performance over a long period; (ii) the licensee has developed and is aggressively implementing during the shutdown a comprehensive program for problem identification and correction; and (iii) NRC concurrence is needed by the licensee prior to restart.

b. Non-willful violations are identified by the licensee (as opposed to the NRC) as the result of its comprehensive program, or the violations are identified as a result of an employee allegation to the licensee. If NRC identifies the violation, the NRC should determine whether enforcement action is necessary to achieve remedial action.

c. The violations are based upon activities of the licensee prior to the events leading to the shutdown, and

d. The non-willful violations would normally not be categorized as higher than Severity Level III violations under the NRC's Enforcement Policy.

Notwithstanding the above, a civil penalty may be proposed in a case where multiple Severity Level III violations are discovered. This action would be taken when judgment warrants it on the circumstances of the individual case.

H. Related Administrative Actions

In addition to the formal enforcement mechanisms of notices of violation, civil penalties, and orders, NRC also uses administrative mechanisms, such as bulletins, information notices, generic letters, notices of deviation, notices of nonconformance and confirmatory action letters to supplement its enforcement program. NRC expects licenses and vendors to adhere to any obligations and commitments resulting

[4] Except for individuals subject to civil penalties under section 206 of the Energy Reorganization Act of 1974, as amended, NRC will not normally impose a civil penalty against an individual. However, section 234 of the Atomic Energy Act (AEA) gives the Commission authority to impose civil penalties for violations on "any person." "Person" is broadly defined in Section 11s of the AEA to include individuals, a variety of organizations, and any representatives or agents. This gives the Commission authority to impose civil penalties on employees of licensees or on separate entities when a violation of a requirement directly imposed on them is committed.

from these processes and will not hesitate to issue appropriate orders to licensees to make sure that such commitments are met.

(1) Bulletins, Information Notices and Generic Letters are written notifications to groups of licensees identifying specific problems and recommending specific actions.

(2) Notices of Deviation are written notices describing a licensee's failure to satisfy a commitment where the commitment involved has not been made a legally binding requirement. A notice of deviation requests a licensee to provide a written explanation or statement describing corrective steps taken (or planned), the results achieved, and the date when corrective action will be completed.

(3) Confirmatory Action Letters are letters confirming a licensee's or a vendor's agreement to take certain actions to remove significant concerns about health and safety, safeguards, or the environment.

(4) Notices of Nonconformance are written notices describing non-licensees' failures to meet commitments which have not been made legally binding requirements by NRC. An example is a commitment made in a procurement contract with a licensee as required by 10 CFR Part 50, Appendix B. Notices of Nonconformances request non-licensees to provide written explanations or statements describing corrective steps (taken or planned), the results achieved, the dates when corrective actions will be completed, and measures taken to preclude recurrence.

I. Referrals to Department of Justice

Alleged or suspected criminal violations of the Atomic Energy Act (and of other relevant Federal laws) are referred to the Department of Justice for investigation. Referral to the Department of Justice does not preclude the NRC from taking other enforcement action under this General Statement of Policy. However, such actions will be coordinated with the Department of Justice to the extent practicable.

VI. Public Disclosure of Enforcement Actions

In accordance with 10 CFR 2.790, all enforcement actions and licensees' responses are publicly available for inspection. In addition, press releases are generally issued for civil penalties and orders. In the case of orders and civil penalties related to violations at Severity Levels I, II, or III, press releases are issued at the time of the order or the proposed imposition of the civil penalty. Press releases are not normally issued for Notices of Violation.

VII. Responsibilities

The Deputy Executive Director for Regional Operations (DEDRO), as the principal enforcement officer of the NRC, has been delegated the authority to issue notices of violations, civil penalties, and orders.[5] Regional Administrators may also issue notices of violation for Severity Level IV and V violations and may sign notices of violation for Severity Level III violations with no proposed civil penalty and proposed civil penalty actions with the concurrence of the DEDRO. In recognition that the regulation of nuclear activities in many cases does not lend itself to a mechanistic treatment, the DEDRO or the Regional Administrator must exercise judgment and discretion in determining the severity levels of the violations and the appropriate enforcement sanctions, including the decision to impose a civil penalty and the amount of such penalty, after considering the general principles of this statement of policy and the technical significance of the violations and the surrounding circumstances.

The Commission will be provided written notification of all enforcement actions involving civil penalties or orders. The Commission will be consulted prior to taking action in the following situations (unless the urgency of the situation dictates immediate action):

(1) An action affecting a licensee's operation that requires balancing the public health and safety or common defense and security implications of not operating with the potential radiological or other hazards associated with continued operation;

(2) Proposals to impose civil penalties in amounts greater than 3 times the Severity Level I values shown in Table 1A;

(3) Any proposed enforcement action that involves a Severity Level I violation;

(4) Any enforcement action that involves a finding of a material false statement;

(5) Refraining from taking enforcement action for matters meeting the criteria of Section V.F.2;

(6) Any action the Office Director believes warrants Commission involvement; or

(7) Any proposed enforcement action on which the Commission asks to be consulted.

VIII. Vendor Enforcement

The Commission's enforcement policy is also applicable to non-licensees (vendors). Vendors of products or services provided for use in nuclear activities are subject to certain requirements designed to ensure that the products or services supplied that could affect safety are of high quality. Through procurement contracts with reactor licensees, vendors are required to have quality assurance programs that meet applicable requirements including 10 CFR Part 50, Appendix B, and 10 CFR Part 71, Subpart H. Vendors of reactor and materials licensees and Part 71 licensees are subject to the requirements of 10 CFR Part 21 regarding reporting of defects in basic components.

The NRC conducts inspections of reactor licensees to determine whether they are ensuring that vendors are meeting their contractual obligations with regard to quality of products or services that could have an adverse effect on safety. As part of the effort of ensuring that licensees fulfill their obligations in this regard, the NRC inspects reactor vendors to determine if they are meeting their obligations. These inspections include examination of the quality assurance programs and their implementation by the vendors through examination of product quality. The NRC may also inspect vendors, including suppliers of Part 71 and materials licensees, to determine whether they are complying with Part 21. When inspections determine that violations of NRC requirements have occurred, or that vendors have failed to fulfill contractual commitments that could adversely affect the quality of a safety significant product or service, enforcement action will be taken. Notices of Violation and civil penalties will be used, as appropriate, for licensee failure to ensure that their vendors have programs that meet applicable requirements including Part 21. Notices of Violation will be issued for vendors which violate Part 21. Civil penalties will only be imposed against individual directors or responsible officers of a vendor organization who knowingly and consciously fail to provide the notice required by 10 CFR 21.21(b)(1). Notices of Nonconformance will be used for

[5] The Director, Office of Enforcement, acts for the Deputy Executive Director for Regional Operations in the latter's absence or as directed. The Directors of the Offices of Nuclear Reactor Regulation, Nuclear Material Safety and Safeguards, and Special Projects have also been delegated authority to issue orders, but it is expected that normal use of this authority by NRR, NMSS, and OSP will be confined to actions necessary in the interest of public health and safety. The Director, Office of Administration and Resources Management, has been delegated the authority to issue orders where licensees violate Commission regulations by nonpayment of license fees. (It is planned to consider redelegation of some or all of these authorities to the Administrators of the NRC Regional Offices over the next several years.)

vendors which fail to meet committments related to NRC activities.

Supplement I—Severity Categories

Reactor Operations

A. Severity I.—Violations involving for example:

1. A Safety Limit, as defined in 10 CFR 50.36 and the Technical Specifications, being exceeded;

2. A system [6] designed to prevent or mitigate a serious safety event not being able to perform its intended safety function [7] when actually called upon to work;

3. An accidental criticality; or

4. Release of radioactivity offsite greater than ten (10) times the Technical Specifications limit [8]

B. Severity II—Violations involving for example:

1. A system designed to prevent or mitigate serious safety events not being able to perform its intended safety function; or

2. Release of radioactivity offsite greater than five (5) times the Technical Specifications limit.

C. Severity III—Violations involving for example:

1. A significant violation of a Technical Specification Limiting Condition for Operation where the appropriate Action Statement was not satisfied within the time allotted by the Action Statement, such as:

a. In a pressurized water reactor, in the applicable modes, having one high-pressure safety injection pump inoperable for a period in excess of that allowed by the action statement; or

b. In a boiling water reactor, one primary containment isolation valve inoperable for a period in excess of that allowed by the action statement.

2. A system designed to prevent or mitigate a serious safety event not being able to perform its intended function under certain conditions (e.g, safety system not operable unless offsite power is available; materials or components not environmentally qualified);

3. Dereliction of duty on the part of personnel involved in licensed activities;

4. Changes in reactor parameters which cause unanticipated reductions in margins of safety;

5. Release of radioactivity offsite greater than the Technical Specifications limit;

6. Failure to meet the requirements of 10 CFR 50.59 such that a required license amendment was not sought; or

7. Licensee failure to conduct adequate oversight of vendors resulting in the use of products or services which are of defective or indeterminate quality and which have safety significance.

D. Severity IV.—Violations involving for example:

1. A less significant violation of a Technical Specification Limiting Condition for Operation where the appropriate Action Statement was not satisfied within the time allotted by the Action Statement, such as:

a. In a pressurized water reactor, a 5% deficiency in the required volume of the condensate storage tank; or

b. In a boiling water reactor, one subsystem of the two independent MSIV leakage control subsystems inoperable.

2. Failure to meet the requirements of 10 CFR 50.59 that does not result in a Severity Level I, II, or III violation;

3. Failure to meet regulatory requirement that have more than minor safety or environmental significance; or

4. Failure to make a required Licensee Event Report.

E. Severity Level V.—Violations that have minor safety or environmental significance.

Supplement II—Severity Categories

Part 50 Facility Construction

A. Severity I.—Violations involving a structure or system that is completed [9] in such a manner that it would not have satisfied its intended safety related purpose.

B. Severity II.—Violations involving for example:

1. A breakdown in the quality assurance program as exemplified by deficiencies in construction QA related to more than one work activity (e.g., structural, piping, electrical, foundations). Such deficiencies normally involve the licensee's failure to conduct adequate audits or to take prompt corrective action on the basis of such audits and normally involve multiple examples of deficient construction or construction of unknown quality due to inadequate program implementation; or

2. A structure or system that is completed in such a manner that it could have an adverse effect on the safety of operations.

C. Severity III.—Violations involving for example:

1. A deficiency in a licensee quality assurance program for construction related to a single work activity (e.g., structural, piping, electrical or foundations). Such significant deficiency normally involves the licensee's failure to conduct adequate audits or to take prompt corrective action on the basis of such audits, and normally involves multiple examples of deficient construction or construction of unknown quality due to inadequate program implementation;

2. Failure to confirm the design safety requirements of a structure or system as a result of inadequate preoperational test program implementation; or

3. Failure to make a required 10 CFR 50.55(e) report.

D. Severity IV.—Violations involving failure to meet regulatory requirements including one or more Quality Assurance Criterion not amounting to Severity Level I, II, or III violations that have more than minor safety or environmental significance.

E. Severity V.—Violations that have minor safety or environmental significance.

Supplement III—Severity Categories

Safeguards

A. Severity I.—Violations involving for example:

1. An act of radiological sabotage or actual theft, loss, or diversion of a formula quantity of strategic special nuclear material [10] (SSNM);

2. Actual entry of an unauthorized individual into a vital area or material access area from outside the protected area (i.e., penetration of both barriers) that was not detected at the time of entry; or

3. Failure to promptly report knowledge of an actual or attempted theft or diversion of SSNM or an act of radiological sabotage.

B. Severity II.—Violations involving for example:

1. Actual theft, loss or diversion of special nuclear material (SNM) of moderate strategic significance;[11]

2. Failure to control access such that all three elements of access control (barrier, monitoring, and response) at the protected area or vital area are inadequate or two of three elements are inadequate in both the protected and vital area;

[6] "System" as used in these supplements, includes administrative and managerial control systems, as well as physical systems.

[7] "Intended safety function" means the total safety function, and is not directed toward a loss of redundancy. For example, considering a BWR's high pressure ECCS capability, the violation must result in complete invalidation of both HPCI and ADS subsystems. A loss of one subsystem does not defeat the intended safety function as long as the other subsystem is operable.

[8] The Technical Specification limit as used in this Supplement (Items A.4, B.2 and C.5) does not apply to the instantaneous release limit.

[9] "Completed" means completion of construction including review and acceptance by the construction QA organization.

[10] *See* 10 CFR 73.2(bb).

[11] *See* 10 CFR 73.2(x).

3. Failure to implement approved compensatory measures when the central and secondary alarm stations are inoperable;

4. Failure to establish or maintain safeguards systems designed or used to prevent or detect the unauthorized removal of a formula quantity of SNM from areas of authorized use or storage; or

5. Failure to use established transportation security systems designed or used to prevent the theft, loss, or diversion of a formula quantity of SNM or acts of radiological sabotage.

C. Severity III.—Violations involving for example:

1. Failure to control access such that two of the three elements of access control at the vital area or protected area barrier are inadequate;

2. Failure to control access to a transport vehicle or the SNM being transported that does not constitute a Severity I or II violation;

3. Failure to establish or maintain safeguards systems designed or used to prevent or detect the unauthorized removal of SNM of moderate strategic significance from areas of authorized use or storage;

4. Failure to implement approved compensatory measures when the central (or secondary) alarm station is inoperable;

5. Failure to conduct a proper search at the access control point that results in introduction to the site of firearms, explosives, incendiary devices, or other items which could be used for industrial sabotage; or

6. Failure to properly secure or protect classified or other sensitive safeguards information which would significantly assist an individual in an act of radiological sabotage or theft of special nuclear material.

D. Severity IV.—Violations involving for example:

1. Failure to establish or maintain safeguards systems designed or used to prevent or detect the unauthorized removal of SNM of low strategic significance [12] from areas of authorized use or storage;

2. Failure to implement 10 CFR Parts 25 and 95 and information addressed under section 142 of the Act, and the NRC approved security plan relevant to those parts;

3. Failure to control access to a vital area or material access area from inside the protected area or failure to control access to the protected area in that one of the three elements of access control is inadequate;

4. Failure to properly secure or protect classified or other sensitive safeguards information which would not significantly assist an individual in an act of radiological sabotage or theft of special nuclear material; or

5. Other violations, such as failure to follow an approved security plan, that have more than minor safeguards significance.

E. Severity V.—Violations that have minor safeguards significance.

Supplement IV—Severity Categories

Health Physics 10 CFR Part 20 [13]

A. Severity I.—Violations involving for example:

1. Single exposure of a worker in excess of 25 rems of radiation to the whole body, 150 rems to the skin of the whole body, or 375 rems to the feet, ankles, hands, or forearms;

2. Annual whole body exposure of a member of the public in excess of 2.5 rems of radiation;

3. Release of radioactive material to an unrestricted area in excess of ten times the limits of 10 CFR 20.106;

4. Disposal of licensed material in quantities or concentrations in excess of ten times the limits of 10 CFR 20.303; or

5. Exposure of a worker in restricted areas of ten times the limits of 10 CFR 20.103.

B. Severity II.—Violations involving for example:

1. Single exposure of a worker in excess of 5 rems of radiation to the whole body, 30 rems to the skin of the whole body, or 75 rems to the feet, ankles, hands or forearms;

2. Annual whole body exposure of a member of the public in excess of 0.5 rems of radiation;

3. Release of radioactive material to an unrestricted area in excess of five times the limits of 10 CFR 20.106;

4. Failure to make an immediate notification as required by 10 CFR 20.403(a)(1) and 10 CFR 20.403(a)(2);

5. Disposal of licensed material in quantities or concentrations in excess of five times the limits of 10 CFR 20.303; or

6. Exposure of a worker in restricted areas in excess of five times the limits of 10 CFR 20.103.

C. Severity III.—Violations involving for example:

1. Single exposure of a worker in excess of 3 rems of radiation to the whole body, 7.5 rems to the skin of the whole body, or 18.75 rems to the feet, ankles, hands or forearms;

2. A radiation level in an unrestricted area such that an individual could receive greater than 100 millirem in a one hour period or 500 millirem in any seven consecutive days;

3. Failure to make a 24-hour notification as required by 10 CFR 20.403(b) or an immediate notification required by 10 CFR 20.402(a);

4. Substantial potential for an exposure or release in excess of 10 CFR 20 whether or not such exposure or release occurs (e.g., entry into high radiation areas, such as under reactor vessels or in the vicinity of exposed radiographic sources, without having performed an adequate survey, operation of a radiation facility with a nonfunctioning interlock system);

5. Release of radioactive material to an unrestricted area in excess of the limits of 10 CFR 20.106;

6. Improper disposal of licensed material not covered in Severity Level I or II;

7. Exposure of a worker in restricted areas in excess of the limits of 10 CFR 20.103;

8. Release for unrestricted use of contaminated or radioactive material or equipment which poses a realistic potential for significant exposure to members of the public, or which reflects a programmatic (rather than isolated) weakness in the radiation control program;

9. Cumulative worker exposure above regulatory limits when such cumulative exposure reflects a programmatic, rather than an isolated weakness in radiation protection;

10. Conduct of licensee activities by a technically unqualified person; or

11. Significant failure to control licensed material.

D. Severity IV.—Violations involving for example:

1. Exposures in excess of the limits of 10 CFR 20.101 not constituting Severity Level I, II, or III violations;

2. A radiation level in an unrestricted area such that an individual could receive greater than 2 millirem in a one-hour period or 100 millirem in any seven consecutive days;

3. Failure to make a 30-day notification required by 10 CFR 20.405;

4. Failure to make a followup written report as required by 10 CFR 20.402(b), 20.408, and 20.409; or

5. Any other matter that has more than minor safety or environmental significance.

E. Severity V.—Violations that have minor safety or environmental significance.

[12] *See* 10 CFR 73.2(y).

[13] Personnel overexposures and associated violations, incurred during a life saving effort, will be treated on a case-by-case basis.

Supplement V—Severity Categories

Transportation [14]

A. Severity I.—Violations of NRC transportation requirements involving for example:

1. Annual whole body radiation exposure of a member of the public in excess of 0.5 rems of radiation; or

2. Breach of package integrity resulting in surface contamination or external radiation levels in excess of ten times the NRC limits.

B. Severity II.—Violations of NRC transportation requirements involving for example:

1. Breach of package integrity resulting in surface contamination or external radiation levels in excess of NRC requirements;

2. Surface contamination or external radiation levels in excess of five times NRC limits that did not result from a breach of package integrity; or

3. Failure to make required initial notification associated with Severity Level I or II violations.

C. Severity III.—Violations of NRC transportation requirements involving for example:

1. Breach of package integrity;

2. Surface contamination or external radiation levels in excess of, but less than a factor of five above NRC requirements, that did not result from a breach of package integrity;

3. Any noncompliance with labelling, placarding, shipping paper, packaging, loading, or other requirements that could reasonably result in the following:

a. Improper identification of the type, quantity, or form of material;

b. Failure of the carrier or recipient to exercise adequate controls; or

c. Substantial potential for personnel exposure or contamination, or improper transfer of material; or

4. Failure to make required initial notification associated with Severity Level III violations.

D. Severity IV.—Violations of NRC transportation requirements involving for example:

1. Package selection or preparation requirements which do not result in a breach of package integrity or surface contamination or external radiation levels in excess of NRC requirements; or

2. Other violations that have more than minor safety or environmental significance.

E. Severity V.—Violations that have minor safety or environmental significance.

Supplement VI—Severity Categories

Fuel Cycle and Materials Operations

A. Severity I.—Violations involving for example:

1. Radiation levels, contamination levels, or releases that exceed ten times the limits specified in the license;

2. A system designed to prevent or mitigate a serious safety event not being operable when actually required to perform its design function; or

3. A nuclear criticality accident.

B. Severity II.—Violations involving for example:

1. Radiation levels, contamination levels, or releases that exceed five times the limits specified in the license; or

2. A system designed to prevent or mitigate a serious safety event being inoperable.

C. Severity III.—Violations involving for example:

1. Failure to control access to licensed materials for radiation purposes as specified by NRC requirements;

2. Possession or use of unauthorized equipment or materials in the conduct of licensee activities which degrades safety;

3. Use of radioactive material on humans where such use is not authorized;

4. Conduct licensed activities by a technically unqualified person;

5. Radiation levels, contamination levels, or releases that exceed the limits specified in the license; or

6. Medical therapeutic misadministrations.

D. Severity IV.—Violations involving for example:

1. Failure to maintain patients hospitalized who have cobalt-60, cesium-137, or iridium-192 implants or to conduct required leakage or contamination tests, or to use properly calibrated equipment;

2. Other violations that have more than minor safety or environmental signficance; or

3. Failure to report medical diagnostic misadministrations.

E. Severity V.—Violations that have minor safety or environmental significance.

Supplement VII—Severity Categories

Miscellaneous Matters

A. Severity I.—Violations involving for example:

1. A Material False Statement (MFS) [15] in which the statement made was deliberately false;

2. Falsification of records which NRC requires be kept of significant information in which the records were deliberately falsified by or with the knowledge of management;

3. A knowing and intentional failure to provide the notice required by Part 21; or

4. Action by senior corporate management in violation of 10 CFR 50.7 or similar regulations against an employee.

B. Severity II.—Violations involving for example:

1. A MFS or a reporting failure, involving information which, had it been available to the NRC and accurate at the time the information should have been submitted, would have resulted in regulatory action or would likely have resulted in NRC seeking further information;

2. A MFS in which the false statement was made with careless disregard;

3. Deliberate falsification of records which NRC requires be kept involving significant information;

4. Action by plant management above first-line supervision in violation of 10 CFR 50.7 or similar regulations against an employee; or

5. A failure to provide the notice required by Part 21.

C. Severity III.—Violations involving for example:

1. A MFS not amounting to a Severity Level I or II violation.

2. Deliberate falsification, of falsification by or with the knowledge of management, of records which the NRC requires be kept that did not involve significant information.

3. Action by first-line supervision in violation of 10 CFR 50.7 or similar regulations against an employee; or

4. Inadequate review or failure to review such that, if an appropriate review had been made as required, a Part 21 report would have been made.

D. Severity IV.—Violations involving for example:

[14] Some transportation requirements are applied to more than one licensee involved in the same activity such as a shipper (10 CFR 73.20) and a carrier (10 CFR 70.20a). When a violation of such a requirement occurs, enforcement action will be directed against the responsible licensee which, under the circumstances of the case, may be one or more of the licensees involved.

[15] In essence, a Material False Statement is a statement that is false by omission or commission and is relevent to the regulatory process. As can be seen in the examples, in determing the specific severity level of a violation involving material false statements or falsification of records, consideration will be given to such factors as the position of the person involved in the violation (e.g., first line supervisor or senior manager), the significance of the information involved, and the intent of the violator (i.e., negligence not amounting to careless disregard, careless disregard, or deliberateness). The relative weight given to each of these factors in arriving at the appropriate severity level will be dependent on the circumstances of the violation.

1. Inadequate review or failure to review under Part 21 or other procedural violations associated with Part 21 with more than minor safety significance;

2. A false statement caused by an inadvertent clerical or similar error involving information which, had it been available to NRC and accurate at the time the information should have been submitted, would probably not have resulted in regulatory action or NRC seeking additional information; or

E. Severity V.—Violations of minor procedural requirements of Part 21.

Supplement VIII—Severity Categories

Emergency Preparedness

A. Severity I.—Violations involving for example:

In a general emergency, licensee failure to promptly (1) correctly classify the event, (2) make required notifications to responsible Federal, State, and local agencies, or (3) respond to the event (e.g., assess actual or potential offsite consequences, activate emergency response facilities, and augment shift staff).

B. Severity II.—Violations involving for example:

1. In a site area emergency, licensee failure to promptly (1) correctly classify the event, (2) make required notifications to responsible Federal, State, and local agencies, or (3) respond to the event (e.g., assess actual or potential offsite consequences, activate emergency response facilities, and augment shift staff); or

2. Licensee failure to meet or implement more than one emergency planning standard involving assessment or notification.

C. Severity III.—Violations involving for example:

1. In an alert, licensee failure to promptly (1) correctly classify the event, (2) make required notifications to responsible Federal, State, and local agencies, or (3) respond to the event (e.g., assess actual or potential offsite consequences, activate emergency response facilities, and augment shift staff); or

2. Licensee failure to meet or implement emergency planning standard involving assessment or notification.

D. Severity IV.—Violations involving for example:

Licensee failure to meet or implement any emergency planning standard or requirement not directly related to assessment and notification.

E. Severity V.—Violations that have minor safety or environmental significance.

Dated at Washington, DC, this 23d day of September 1987.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 87-22314 Filed 9-25-87; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-NM-202-AD; Amdt. 39-5734]

Airworthiness Directives; Airbus Industrie Model A310 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A310 series airplanes, which requires repetitive testing, inspection, and rework, if necessary, of the ram air turbine (RAT) uplock and roller, and provides an optional terminating action. This amendment is prompted by reports of failure of the RAT to deploy during ground testing because the uplock hook was dented and the roller seized. This condition, if not corrected, could result in loss of emergency standby hydraulic power to the flight controls.

EFFECTIVE DATE: October 30, 1987.

ADDRESSES: The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Golder, Standardization Branch, ANM-113; telephone (206) 431-1967. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive, which requires testing, inspections, and rework of the ram air turbine (RAT) uplock and roller on certain Airbus Model A310 series airplanes, was published in the **Federal Register** on November 28, 1986 (51 FR 43010). The proposal was amended to clarify the terminating action and was published on July 14, 1987 (52 FR 26349).

Interested parties have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received in response to the amendment to NPRM. The commenter concurred with the proposal.

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

It is estimated that 52 airplanes of U.S. registry will be affected by this AD, that it will take approximately 10 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per man-hour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $20,800.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because of the minimal cost of compliance per airplane ($400). A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

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:

PART 39—[AMENDED]

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.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Airbus Industrie: Applies to Model A310 series airplanes with serial numbers listed in Airbus Service Bulletin A310-29-2010, Revision 3, dated August 21, 1985, certificated in any category. Compliance is required within 700 hours time in service after the effective date of this AD, unless previously accomplished.

To prevent failure of the ram air turbine (RAT) extension system and ensure deployment of the RAT when necessary, accomplish the following:

A. Test, inspect, and rework, if necessary, the RAT uplock hook and roller in accordance with Airbus Industrie Service Bulletin A310-29-2010, Revision 3, dated August 21, 1985.

B. Repeat the tests, inspections, and necessary rework required by paragraph A., above, at intervals not to exceed 1,400 hours time in service.

C. Incorporation of both Modification AI-5876 described in Airbus Industrie Service Bulletin A310-29-2011, Revision 1, dated September 2, 1986, and Modification AI 5958 described in Airbus Industrie Service Bulletin A310-29-2012, Revision 1, dated September 2, 1986, constitutes terminating action for the repetitive inspection requirements of paragraph B of this AD.

D. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

E. 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 the modifications required by this AD.

All persons affected by this directive who have not already received the appropriate service document from the manufacturer may obtain copies upon request to Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective October 30, 1987.

Issued in Seattle, Washington, on September 16, 1987.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-22225 Filed 9-25-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 87-NM-07-AD; Amdt. 39-5693]

Airworthiness Directives; Pacific Scientific Company Technical Standard Order (TSO) C22f Lap Belt Assembly, Part Number 1107177 (All Dash Numbers)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive, applicable to Pacific Scientific Company Technical Standard Order (TSO) C22f lap belt assemblies, which requires replacement of certain lap belt retractor shafts. This amendment is prompted by a report that some retractor shafts were installed which were not manufactured of the correct material. This condition, if not corrected, could lead to structural failure of the lap belt assembly during an emergency landing.

EFFECTIVE DATE: October 26, 1987.

ADDRESSES: The applicable service information may be obtained from Pacific Scientific Company, 1346 S. State College Boulevard, Anaheim, California 92803. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Western Aircraft Certification Office, 15000 Aviation Boulevard, Hawthorne, California.

FOR FURTHER INFORMATION CONTACT: Mr. Walter Eierman, Aerospace Engineer, Western Aircraft Certification Office, ANM-173W, FAA, Northwest Mountain Region, 15000 Aviation Boulevard, Hawthorne, California; telephone (213) 297-1388.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive which requires inspection for and replacement of certain incorrectly manufactured lap belt retractor shafts that do not provide adequate strength, was published in the **Federal Register** on March 12, 1987 (52 FR 7619).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter requested extending the proposed compliance time of 90 days to 180 days. This was requested because the specific aircraft on which this type of lap belt are installed can not be identified, and some airlines with large fleets will require additional time to inspect all of their airplanes. The FAA concurs and has determined that an extension of the compliance time to 180 days after the effective date of this AD can be granted without compromising safety. The final rule has been changed accordingly.

In addition, paragraph A. of the final rule has been revised to clarify the requirement that incorrectly-manufactured lap belt retractor shafts must be replaced prior to further flight.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the following rule with the change previously noted.

It is estimated that 4,800 shafts on lap belt assemblies of the affected type are installed in both large and small airplanes of U.S. registry and will be affected by this AD; approximately 880 of these shafts are made of the incorrect material and must be replaced. It will require one-quarter man-hour to inspect each of the 4,800 shafts, and an additional one-half man-hour to remove and replace each of the unacceptable shafts, for a total of 1,640 man-hours to accomplish the required action. The average labor cost will be $40 per man-hour. The lap belts with the unacceptable shafts can be returned to Pacific Scientific Company at no charge for replacement of the shafts. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $65,000.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities, because of the minimal cost of compliance per airplane ($30). A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

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 (14 CFR 39.13) as follows:

PART 39—[AMENDED]

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.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Pacific Scientific Company: Applies to TSO C22f lap belt assemblies, part number 1107177 (all dash numbers), manufactured between September 1, 1984, and January 1, 1986.

Compliance required within 180 days after the effective date of this AD, unless previously accomplished.

To eliminate lap belt assemblies with belt retractor shafts which do not provide adequate strength, accomplish the following:

A. Inspect all Pacific Scientific TSO C22f lap belt assemblies, part number 1107177 (all dash numbers), in accordance with Pacific Scientific Company Safety Advisory Letter (on the Mark V Reel Lap Belt Assembly, which deals with this problem), to determine if they have part number 1106294-01 retractor shafts made of the correct material. This is determined by visual examination of the end of the shaft: If the color is gold anodize, the shaft is acceptable. If the color is a dull battleship grey anodize, the shaft must be replaced prior to further flight.

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

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to ferry aircraft to a maintenance base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to Pacific Scientific Company, 1346 S. State College Boulevard, Anaheim, California 92803. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 15000 Aviation Boulevard, Hawthorne, California.

This amendment becomes effective October 26, 1987.

Issued in Seattle, Washington, on September 10, 1987.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 87-22221 Filed 9-25-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 87-AWP-11]

Revision to the Sacramento Metropolitan Airport, CA; Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the Sacramento Metropolitan Airport, CA; control zone. Construction of a new runway parallel to the existing runway will be completed shortly. The airport reference point (ARP) will change and controlled airspace will be required for instrument landing system (ILS) and nondirectional radio beacon (NDB) instrument approaches to the new runway.

EFFECTIVE DATE: 0901 UTC, January 14, 1988.

FOR FURTHER INFORMATION CONTACT: Frank Torikai, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration (FAA), 15000 Aviation Boulevard, Lawndale, California 90261; telephone (213) 297-1648.

SUPPLEMENTARY INFORMATION:

History

On July 13, 1987, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revise the Sacramento Metropolitan Airport, CA; control zone (52 FR 26153). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.171 of Part 71 of the Federal Aviation Regulations was published in Handbook 7400.6C dated January 2, 1987.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations revises the Sacramento Metropolitan, CA; control zone. 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 Procedures (44 FR 11034; February 25, 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.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, 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; E.O. 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

Sacramento Metropolitan Airport, CA. [REVISED]

Within a 5-mile radius of the Sacramento Metropolitan Airport (lat. 38°41'44" N., long 121°35'23" W.), within 2.5 miles each side of the Runway 16R/34L localizer N and S courses, extending from the 5-mile radius zone to 6 miles north and south of the airport, within 2.5 miles each side of the Runway 16L/34R localizer N and S courses, extending from the 5-mile radius zone to 6 miles north and south of the airport, and including that airspace adjoining the Sacramento McClellan AFB, CA., and the Sacramento Municipal Airport, CA., control zones between lat. 38°44'43" N., and the Sacramento VORTAC 351° radial.

Issued in Los Angeles, California, on September 8, 1987.

James A. Holweger,

Assistant Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 87-22226 Filed 9-25-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 75

[Airspace Docket No. 87-AWA-6]

Alteration of Jet Routes, Expanded East Coast Plan; Phase II

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the descriptions of four of eight jet routes located in the vicinity of New York that were published in the notice. These routes are part of an overall plan designed to alleviate congestion and compression of traffic in the airspace bounded by Eastern, New England, Great Lakes and the Southern Regions. However, due to numerous technical and administrative problems, only J-190, J-193, J-211 and J-221 will be implemented at this time. This amendment is part of Phase II of the Expanded East Coast Plan (EECP); Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast corridor. This action reduces en route and terminal delays in the Boston, MA; New York, NY; Miami, FL; Chicago, IL; and Atlanta, GA, areas, saves fuel and reduces controller workload. The EECP is being implemented in coordinated segments until completed.

EFFECTIVE DATE: 0901 UTC, November 19, 1987.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation

Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

History

On July 8, 1987, the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to alter the descriptions of Jet Routes J-174, J-190, J-191, J-193, J-208, J-209, J-211 and J-221 located in the vicinity of New York (52 FR 25607). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. However, due to numerous technical and administrative problems, the FAA has determined that only J-190, J-193, J-211 and J-221 should be implemented at this time. The other four jet routes will be delayed until a later date. Except for editorial changes and the omission of four jet routes, this amendment is the same as that proposed in the notice. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

The Rule

This amendment to Part 75 of the Federal Aviation Regulations alters the descriptions of four of eight jet routes located in the vicinity of New York that was published in the notice. These routes are part of an overall plan designed to alleviate congestion and compression of traffic in the airspace bounded by Eastern, New England, Great Lakes and the Southern Regions. This amendment is a part of Phase II of the EECP; Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast corridor. This action reduces en route and terminal delays in the Boston, MA; New York, NY; Miami, FL; Chicago, IL; and Atlanta, GA, areas, saves fuel and reduces controller workload. The EECP is being implemented in coordinated segments until completed.

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 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 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 75

Aviation safety, Jet routes.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 75 of the Federal Aviation Regulations (14 CFR Part 75) is amended, as follows:

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

1. The authority citation for Part 75 continues to read as follows:

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

§ 75.100 [Amended]

2. Section 75.100 is amended as follows:

J-190 [Amended]

By removing the words "to Rockdale, NY." and substituting the words "Rockdale, NY; to Albany, NY."

J-193 [Revised]

From Wilmington, NC; Cofield, NC; Harcum, VA; to INT Harcum 006° and Hopewell, VA, 030° radials.

J-211 [Amended]

By removing the words "From Johnstown, PA, via INT Johnstown 129° and Westminster, MD, 292° radials; " and substituting the words "From Youngstown, OH; Johnstown, PA; INT Johnstown 129° and Westminster, MD, 292° radials;"

J-221 [Removed]

Issued in Washington, DC, on September 15, 1987.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87-22227 Filed 9-25-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 75

[Airspace Docket No. 87-AWA-7]

Alteration of Jet Routes, Expanded East Coast Plan; Phase II

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the descriptions of three of nine jet routes located in the vicinity of New York that were published in the notice. These routes are part of an overall plan designed to alleviate congestion and compression of traffic in the airspace bounded by Eastern, New England, Great Lakes and the Southern Regions. However, due to numerous technical and administrative problems, only J-522, J-547 and J-563 will be implemented at this time. This amendment is part of Phase II of the Expanded East Coast Plan (EECP); Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast corridor. This action reduces en route and terminal delays in the Boston, MA; New York, NY; Miami, FL; Chicago, IL; and Atlanta, GA, areas, saves fuel and reduces controller workload. The EECP is being implemented in coordinated segments until completed.

EFFECTIVE DATE: 0901 UTC, November 19, 1987.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

History

On July 8, 1987, the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to alter the descriptions of Jet Routes J-222, J-225, J-228, J-518, J-522, J-547, J-563, J-573 and J-581 located in the vicinity of New York (52 FR 25610). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. However, due to numerous technical and administrative problems, the FAA has determined that only J-522, J-547 and J-563 should be implemented at this time. The other six jet routes will be delayed until a later date. Except for editorial changes, and the omission of six jet routes, this amendment is the same as that proposed in the notice. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

The Rule

This amendment to Part 75 of the Federal Aviation Regulations alters the descriptions of three of nine jet routes located in the vicinity of New York that was published in the notice. These routes are part of an overall plan

designed to alleviate congestion and compression of traffic in the airspace bounded by Eastern, New England, Great Lakes and the Southern Regions. This amendment is a part of Phase II of the EECP; Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast corridor. This action reduces en route and terminal delays in the Boston, MA; New York, NY; Miami, FL; Chicago, IL; and Atlanta, GA, areas, saves fuel and reduces controller workload. The EECP is being implemented in coordinated segments until completed.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necesary 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 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 75

Aviation safety, Jet routes.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 75 of the Federal Aviation Regulations (14 CFR Part 75) is amended, as follows:

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

1. The authority citation for Part 75 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.

§ 75.100 [Amended]

2. Section 75.100 is amended as follows:

J-522 [Amended]

By removing the words "to Huguenot, NY," and substituting the words "to Kingston, NY,"

J-547 [Amended]

By removing the words "Syracuse, NY; INT Syracuse 094° and Albany, NY, 058° radials;" and substituting the words "Syracuse, NY; Cambridge, NY;"

J-563 [Amended]

By removing the words "via INT of Albany 008° and Sherbrooke, PQ, Canada, 217° radials" and substituting the words "via INT of Albany 006° and Sherbrooke, PQ, Canada, 217° radials"

Issued in Washington, DC, on September 15, 1987.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87-22228 Filed 9-25-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 75

[Airspace Docket No. 87-AWA-8]

Alteration of Jet Routes, Expanded East Coast Plan; Phase II

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes two of four jet routes located in the vicinity of New York that were published in the notice. These routes are part of an overall plan designed to alleviate congestion and compression of traffic in the airspace bounded by Eastern, New England, Great Lakes and the Southern Regions. However, due to numerous technical and administrative problems, only J-223 and J-227 will be implemented at this time. This amendment is part of Phase II of the Expanded East Coast Plan (EECP); Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast corridor. This action reduces en route and terminal delays in the Boston, MA; New York, NY; Miami, FL; Chicago, IL; and Atlanta, GA, areas, saves fuel and reduces controller workload. The EECP is being implemented in coordinated segments until completed.

EFFECTIVE DATE: 0901 UTC, November 19, 1987.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9250.

SUPPLEMENTARY INFORMATION:

History

On July 8, 1987, the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to establish Jet Routes J-213, J-215, J-223 and J-227 located in the vicinity of New York (52 FR 25609). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. However, due to numerous technical and administrative problems, the FAA has determined that only J-223 and J-227 should be implemented at this time. The other two jet routes will be delayed until a later date. Except for editorial changes and the omission of two jet routes, this amendment is the same as that proposed in the notice. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

The Rule

This amendment to Part 75 of the Federal Aviation Regulations establishes two of four jet routes located in the vicinity of New York that was published in the notice. These routes are part of an overall plan designed to alleviate congestion and compression of traffic in the airspace bounded by Eastern, New England, Great Lakes and the Southern Regions. This amendment is a part of Phase II of the EECP; Phase I was implemented February 12, 1987. The EECP is designed to make optimum use of the airspace along the east coast corridor. This action reduces en route and terminal delays in the Boston, MA; New York, NY; Miami, FL; Chicago, IL; and Atlanta, GA, areas, saves fuel and reduces controller workload. The EECP is being implemented in coordinated segments until completed.

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 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 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 75

Aviation safety, Jet routes.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 75 of the Federal Aviation Regulations (14 CFR Part 75) is amended, as follows:

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

1. The authority citation for Part 75 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.

§ 75.100 [Amended]

2. Section 75.100 is amended as follows:

J-223 [New]

From LaGuardia, NY, via LaGuardia 310° and Elmira, NY, 100° radials; to Elmira.

J-227 [New]

From Armel, VA; INT Armel 001° and Elmira, NY, 193° radials; to Elmira.

Issued in Washington, DC, on September 15, 1987.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87-22229 Filed 9-25-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 97

[Docket No. 25392; Amdt. No. 1357]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFS-230), Air Transportation Division, Office of Flight Standards, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

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 Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment 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 97

Approaches, Standard instrument, Incorporation by reference.

Issued in Washington, DC, on September 18, 1987.

Robert L. Goodrich,

Director of Flight Standards.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

PART 97—[AMENDED]

1. The authority citation for Part 97 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354(a), 1421, and 1510; 49 U.S.C. 106(g) (revised, Pub. L. 97-449, January 12, 1983; and 14 CFR 11.49(b)(2)).

§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 and 97.35 [Amended]

By amending: Section 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

. . . Effective January 14, 1988

Pago Pago, American Samoa—Pago Pago Intl, VOR/DME or TACAN-B, Amdt. 4
Atlantic, IA—Atlantic Muni, NDB RWY 12, Amdt. 7
Cambridge, OH—Cambridge Muni, VOR-A, Amdt. 1
Cambridge, OH—Cambridge Muni, NDB RWY 4, Amdt. 5
Zanesville, OH—Zanesville Muni, VOR RWY 22, Amdt. 2
Zanesville, OH—Zanesville Muni, NDB RWY 4, Amdt. 11
Sheboygan, WI—Sheboygan County Memorial, VOR RWY 3, Amdt. 6
Sheboygan, WI—Sheboygan County Memorial, VOR RWY 21, Amdt. 6

. . . Effective December 17, 1987

Visalia, CA—Visalia Muni, ILS RWY 30, Amdt. 4
Kissimmee, FL—Kissimmee Muni, VOR/DME-A, Amdt. 6
Kissimmee, FL—Kissimmee Muni, NDB RWY 15, Amdt. 8
Kissimmee, FL—Kissimmee Muni, RNAV RWY 15, Amdt. 4
Bloomington-Normal, IL—Bloomington-Normal, VOR RWY 11, Amdt. 10
Bloomington-Normal, IL—Bloomington-Normal, VOR RWY 21, Amdt. 16
Bloomington-Normal, IL—Bloomington-Normal, VOR/DME RWY 21, Amdt. 1
Bloomington-Normal, IL—Bloomington-Normal, LOC BC RWY 11, Amdt. 7
Bloomington-Normal, IL—Bloomington-Normal, ILS RWY 29, Amdt. 7
Baltimore, MD—Baltimore-Washington Intl, VOR RWY 28, Amdt. 20
Baltimore, MD—Baltimore-Washington Intl, ILS RWY 28, Amdt. 7
Newberry, MI—Luce County Hale, VOR RWY 11, Amdt. 8
Newberry, MI—Luce County Hale, VOR RWY 29 Amdt. 8
Cross Keys, NJ—Cross Keys, VOR RWY 9, Amdt. 4
Washington, NC—Warren Field, VOR/DME RWY 5, Amdt. 2
Harrisburg, PA—Capital City, RADAR-1, Amdt. 12
Houston, TX—Houston Intercontinental, NDB RWY 8, Amdt. 9, Cancelled
Houston, TX—Houston Intercontinental, NDB RWY 26, Amdt. 1, Cancelled
Rutland, VT—Rutland State, LDA RWY 19, Amdt. 4

. . . Effective November 19, 1987

Jefferson City, MO—Jefferson City Meml, LOC BC RWY 12, Orig.

. . . Effective October 22, 1987

Coeur D'Alene, ID—Coeur D'Alene Air Term, VOR RWY 5, Amdt. 2, Cancelled
Coeur D'Alene, ID—Coeur D'Alene Air Term, VOR-A, Orig.
Coeur D'Alene, ID—Coeur D'Alene Air Term, NDB RWY 5, Amdt. 1
Coeur D'Alene, ID—Coeur D'Alene Air Term, ILS RWY 5, Amdt. 3

[FR Doc. 87-22231 Filed 9-25-87; 8:45 am]

BILLING CODE 4910-13-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1207

Standards of Conduct; Correction

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule, correction.

SUMMARY: A final rule entitled "Standards of Conduct" was published in the **Federal Register** on June 16, 1987 (52 FR 22755-22764). An error was made in the paragraph stating the procedure of how to include employees who are GM-13 or GS-13 in the category of employees who must file confidential statements of employment and financial interests. This is corrected below.

FOR FURTHER INFORMATION CONTACT: Elizabeth N. Siegel, 202 453-2465.

1. 14 CFR Part 1207.405 (a)(4) is correctly revised to read as follows:

§ 1207.405 [Corrected]

(a) * * *

(4) Employees classified below the GM-13 or GS-13 level under 5 U.S.C. 5332, or at a comparable pay level under other authority, and who are in positions which otherwise meet the criteria of § 1207.405(a)(1) or § 1207.405(a)(3), when designated in writing by the Designated Agency Ethics Official, after such designation has been justified in accordance with 5 CFR 735.403(d).

* * * * *

John E. O'Brien,

General Counsel.

[FR Doc. 87-22273 Filed 9-25-87; 8:45 am]

BILLING CODE 7510-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket C-3215]

Prohibited Trade Practices, and Affirmative Corrective Actions; American Hoechst Corporation, et al.

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, among other things, American Hoechst Corp. to divest certain polyester fiber businesses. The respondent must make the divestiture to a Commission-approved acquirer within one year and must obtain the Commission's prior approval for certain acquisitions for the next ten years.

DATE: Complaint and Order issued July 2, 1987.[1]

FOR FURTHER INFORMATION CONTACT: FTC/A-3302, Ronald B. Rowe, Washington, DC 20580. (202) 326-2610.

SUPPLEMENTARY INFORMATION: On Thursday, March 5, 1987, there was published in the **Federal Register**, 52 FR 6806, a proposed consent agreement with analysis In the Matter of American Hoechst Corporation, Hoechst Aktiengesellschaft, and Celanese Corporation, 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.

Comments were filed and considered by the Commission. 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.

[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Acquiring Corporate Stock Or Assets: Section 13.5 Acquiring corporate stock or assets; S.13.5–20 Federal Trade Commission Act. Subpart—Corrective Actions And/Or Requirements: S.13.533 Corrective actions and/or requirements; S.13.533–45 Maintain records.

List of Subjects in 16 CFR Part 13

Polyester textile fibers, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Emily H. Rock,

Secretary.

[FR Doc. 87–22261 Filed 9–25–87; 8:45 am]

BILLING CODE 6750–01–M

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16 CFR Part 13

[Docket C-3216]

Prohibited Trade Practices, and Affirmative Corrective Actions; L'Air Liquide Societe Anonyme Pour L'Etude et L'Exploitation des Procedes Georges Claude

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, among other things, L'Air Liquide to divest some assets to resolve any antitrust concerns in the production and sale of liquid gases and to obtain prior Commission approval for similar acquisitions.

DATE: Complaint and Order issued July 15, 1987.[1]

FOR FURTHER INFORMATION CONTACT: FTC/S–2105, Ernest A. Nagata, Washington, DC 20580, (202) 326–2714.

SUPPLEMENTARY INFORMATION: On Tuesday, November 4, 1986, there was published in the **Federal Register**, 51 FR 40039, a proposed consent agreement with analysis In the Matter of L'Air Liquide Societe Anonyme Pour L'Etude Et L'Exploitation Des Procedes Georges Claude, a corporation, 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.

A comment was filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered a modified order to divest, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Acquiring Corporate Stock Or Assets: Section 13.5 Acquiring corporate stock or assets; S.13.5–20 Federal Trade Commission Act. Subpart—Corrective Actions And/Or Requirements: S.13.533 Corrective actions and/or requirements; S.13.533–45 Maintain records.

List of Subjects in 16 CFR Part 13

Liquid gases, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

Emily H. Rock,

Secretary.

[FR Doc. 87–22262 Filed 9–25–87; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Regulations No. 16]

Supplemental Security Income for the Aged, Blind, and Disabled; State Supplementation Provisions; Agreements; Payments; Mandatory Passalong of Federal Supplemental Security Income Benefit Increases to Recipients of State Supplementary Payments

AGENCY: Social Security Administration, HHS.

ACTION: Final rules.

SUMMARY: The final regulations provide the rules we will use to implement the amendments made to the passalong provisions of section 1618 of the Social Security Act (the Act) by section 186 of Public Law (Pub. L.) 97–248 (Tax Equity and Fiscal Responsibility Act of 1982), enacted September 3, 1982; section 147 of Pub. L. 97–377 (Fiscal Year 1983 Continuing Budget Resolution for the Department of Health and Human Services), enacted December 21, 1982; section 402 of Pub. L. 98–21 (Social Security Amendments of 1983), enacted April 20, 1983; and section 12201(a) of Pub. L. 99–272 (Consolidated Omnibus Budget Reconciliation Act of 1985), enacted April 7, 1986.

Generally, the passalong provisions of section 1618 of the Act require States that supplement the Federal supplemental security income (SSI) benefit to "pass along" Federal cost-of-living increases to individuals who are eligible for State supplementary payments. In order to meet the passalong requirements of the Act, States that make supplementary payments on or after June 30, 1977, must have in effect an agreement with the Secretary to continue making these supplementary payments and to keep them at certain levels. If a State does not have such an agreement in effect, or if the State has such an agreement but does not keep the payments at the required levels, the State is subject to loss of Medicaid reimbursement under title XIX of the Act. However, the State will not be found to be out of compliance with the passalong requirements because it did not keep its payments at a particular level if it maintains its total annual expenditures for State supplementary payments at an amount at least equal to its expenditures for such payments in the preceding 12-month period provided that the State was in compliance for such preceding 12-month period.

DATES: These rules are effective September 28, 1987, but the statutory changes which the regulations reflect were effective on the dates provided for by the legislation, namely; section 186 of Pub. L. 97–248, enacted September 3, 1982; section 147 of Pub. L. 97–377, enacted December 21, 1982; section 402 of Pub. L. 98–21, enacted April 20, 1983; and section 12201(a) of Pub. L. 99–272 enacted April 7, 1986. Because the rules implementing section 12201(a) of Pub. L. 99–272 (see § 416.2097(c)) were not included in the Notice of Proposed Rulemaking, we are publishing these rules as final rules but will consider any comments concerning that provision that we receive by November 27, 1987, and will revise such rules if public comment warrants.

ADDRESSES: Send your written comments to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203 or deliver them to the Office of Regulation, Social Security Administration, 3–A–3 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, between 8:00 a.m. and 4:30 p.m. on regular business days. Comments may be inspected during the same hours by making arrangements with the contact person below.

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[1] Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H–130, 6th Street & Pennsylvania Avenue, NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Dave Smith, 3-B-3 Operations Building, 6401 Security Blvd., Baltimore, Maryland 21235, (301) 594-7460.

SUPPLEMENTARY INFORMATION:

Introduction

These regulations were published as a Notice of Proposed Rulemaking in the **Federal Register** on February 25, 1985 (50 FR 7607) with a 60-day comment period. A number of comments were received and are discussed under the heading titled *Discussion of Comments*. In addition to the changes made as a result of the comments, we made some minor clarifications to the regulations in order to make them easier to read and understand. The following regulations sections were clarified: 20 CFR 416.2096(c)(5), 416.2096(c)(3)(i); 416.2096(c)(3)(ii); 416.2097 (a) and (c); and 416.2098.

These regulations also implement section 12201(a) of Pub. L. 99-272 (Consolidated Omnibus Budget Reconciliation Act of 1985), which adds section 1618(f) to the Act and which was enacted subsequent to the notice of proposed rulemaking. We are including regulations reflecting this provision as final regulations but with an opportunity for public comment. The Department, even when not required by statute, as a matter of policy, generally follows the Administrative Procedure Act (APA) notice of proposed rulemaking and public comment procedures specified in 5 U.S.C. 553 in the development of its regulations. The APA provides exceptions to its notice and public comment procedures when an agency finds good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. Section 1618(f), as added by section 12201(a), provides a special rule for passalong compliance for the period January 1, 1984 through December 31, 1985 under which a State will not be found out of compliance for that period if in the period January 1, 1986 through December 31, 1986 its supplementary payment levels are not less than its payment levels in effect in December 1976 increased by the percentage by which the Federal Benefit Rate has increased after December 1976 and before February 1986. The language of the statute is not subject to any interpretation. The regulation implementing section 12201(a) does not involve an exercise of discretion or administrative policy choice. It does not grant or deny rights beyond those provided by the statute. Accordingly, we have determined that under 5 U.S.C. 553(b)(3), good cause exists for waiver of notice of proposed rulemaking and public comment procedures on the regulations implementing section 1618(f) of the Act since opportunity for public comment is unnecessary.

Relationship of Federal SSI Benefit and State Supplementary Payment

Beginning January 1974, the SSI program replaced the Federal/State matching grant program of assistance to the aged, blind, and disabled. To assure that individuals converted to SSI from the State rolls received at least the same amount as before the conversion, the States were required to supplement the SSI payment to these individuals where necessary. In addition to these mandatory payments, the States could, at their election, provide optional supplementary payments to SSI recipients.

Purpose of the Passalong Provision

The purpose of the passalong provision of section 1618 of the Act is to encourage States to pass along to SSI beneficiaries the amount of any Federal benefit increase. Some States had not done this prior to enactment of section 1618 on October 21, 1976. Instead, when Congress enacted cost-of-living increases in the Federal SSI benefit amount, some States would reduce the levels of the State supplementary payments by the amount of the Federal benefit increase. Thus, the SSI beneficiaries in these States received the same combined Federal/State benefit they were receiving before the increase, and did not receive the additional money provided by the benefit increase.

Description of the Passalong Provision

The original passalong provisions of section 1618 of the Act required States that supplemented Federal SSI benefits to "pass along" Federal cost-of-living increases to individuals eligible for State supplementary payments. To meet the passalong requirements, a State that makes supplementary payments on or after June 30, 1977 must, under an agreement with the Secretary, continue making the payments and keep them at certain levels. If the State does not comply it is subject to loss of Medicaid reimbursement under Title XIX of the Act. A State will not be found out of compliance with the requirement that it maintain its payments at certain levels with respect to any particular month or months if it maintains its total expenditures for supplementary payments in the 12-month period within which the month or months fall, beginning on the effective date of any increase in the level of SSI benefits pursuant to section 1617, at least equal to its expenditures for such payments in the preceding 12-month period provided that the State was in compliance for such preceding 12-month period.

Amendments to Passalong Provision

Congress, over the past 4 years, has enacted four amendments to section 1618 of the Act.

Section 186 of Pub. L. 97-248 (section 1618(c) of the Act) permitted a State which had not maintained all its December 1976 payment levels, but had been meeting the passalong requirements through total annual expenditures, to switch to the maintenance-of-payment-levels method without having to pass along all the Federal cost-of-living increases that had occurred since December 1976. Prior to the enactment of section 1618(c), for months from July 1, 1977 through June 30, 1982, a State shifting from the total-annual-expenditures method to the maintenance-of-payment-levels method was required to maintain its supplementary payments at levels at least equal to its December 1976 levels or, if a State first made supplementary payments after December 1976, the levels for the first month the State made supplementary payments. However, section 1618(c) provided that for any period beginning after June 30, 1982, a State switching to the maintenance-of-payment-levels method could elect to maintain the payment levels in effect in the immediately preceding December rather than those in effect in either December 1976 or in the first month thereafter that the State began making such payments. Because of the interaction of section 402 of Pub. L. 98-21 (discussed below) with section 186 of Pub. L. 97-248, section 1618(c) was applicable only to the period from July 1, 1982, through March 31, 1983, and the only December a State switching from the total-annual-expenditures method to the maintenance-of-payment-levels method could use was December 1981.

Section 147 of Pub. L. 97-377 (section 1618(d) of the Act) created a special method of compliance for meeting the passalong requirements of section 1618 of the Act by the total-annual-expenditures test for the period July 1, 1980 through June 30, 1981. Under this provision, the total expenditures for that period must only have equaled or exceeded the total expenditures for July 1, 1976 through June 30, 1977, rather than the total expenditures for the preceding 12-month period. As noted above, this provision did not become effective until December 21, 1982. Therefore, we will

give credit to States which already had made additional payments (prior to the enactment of section 147 of Pub. L. 97-377) in order to make up shortfalls for the July 1, 1980 through June 30, 1981 period, if the States so request. This credit will be limited to the amount of "excess" payments made by the State and will be applied to any shortfall(s) in total expenditures (should one exist) in any period(s) ending on or before December 31, 1986. A 3-year period has been selected to parallel the exception for shortfall States formerly provided in § 416.2096(c) of the regulations for the three 12-month periods ending before July 1980. Also, the 3-year period imposes a limit that is long enough to provide the States with some flexibility and yet short enough so that we can close these periods and resolve the accounts. This is noted in § 416.2096(c)(3)(ii) of the final regulations. This policy was explained in the preamble of the Notice of Proposed Rulemaking but was inadvertently omitted from the regulation itself.

Section 402 of Pub. L. 98-21 (section 1618(e) of the Act) changed the measure for determining passalong compliance from a concept of "State supplementary payment level" to a concept of a "combined level" of State supplementary payments and Federal SSI payments and established the March 1983 combined level as the base for compliance for months after March 1983. The purpose of this change was twofold: to prevent States on the total-expenditures method of compliance from reverting to December 1976 or other levels below the March 1983 levels; and to require that States maintaining supplementary payment levels pass along that part of the July 1983 Federal SSI benefit increase that would have occurred had there been a cost-of-living increase in July 1983.

Section 401 of Pub. L. 98-21 amended section 1617 of the Act to provide for an increase in SSI benefit rates effective July 1, 1983. The passalong provisions of section 1618(b) of the Act refer to total expenditures for State supplementary payments in a 12-month period beginning on the effective date of any Federal SSI benefit increase pursuant to section 1617 of the Act. Prior to July 1983, all section 1617 increases were cost-of-living adjustments (COLA's) and are referred to as such in the existing regulations. The July 1983 general Federal SSI benefit increase was not a COLA, but it did take place pursuant to section 1617 of the Act. For this reason, the passalong provisions of section 1618(b) apply to the July 1983 Federal SSI benefit increase.

Section 111 of Pub. L. 98-21 provides in effect that future COLA's in SSI benefits will occur in January rather than July as they had in the past. Therefore, the current and immediately preceding 12-month periods for passalong compliance under the total-expenditures test will run from January through December, beginning January 1, 1984. This change in the effective date for future COLA's from July 1 to January 1 caused a transitional 6-month period to occur that does not appear to have been contemplated by the passalong statute, which measures compliance in 12-month periods beginning with the effective date of each increase in the federal SSI benefit rate pursuant to section 1617 of the Act. That 6-month period is July 1, 1983 through December 31, 1983. Section 416.2096(c)(3)(i) of the final regulations provides a special rule for compliance under the total-expenditures test for this 6-month period. This rule is explained under *Discussion of Comments.*

Section 12201(a) of Pub. L. 99-272 (section 1618(f) of the Act) provided a special method of compliance for the period January 1, 1984 through December 31, 1985. A State will not be found out of compliance for that period if in the period January 1, 1986 through December 31, 1986, its supplementary payment levels are not less than its supplementary payment levels in effect in December 1976 increased by the percentage by which the Federal Benefit Rate has increased after December 1976 and before February 1986.

Revisions to the Regulations

We have updated § 416.2095 to reflect the reorganization of this subpart.

In § 416.2096(a), we discuss the State agreement with the Secretary. Basically, the State must have in effect an agreement with the Secretary to continue making supplementary payments at certain levels. For months prior to April 1983, these levels must have been either the levels in effect in December 1976 or, if newly established payments, the levels in effect for the first month of payment, or, in certain circumstances, the levels in effect in December 1981. For months beginning April 1983, the supplementary payment levels must be such as to maintain the combined supplementary/SSI payment levels of March 1983, increased by any subsequent Federal SSI benefit increases except that a State need pass along only a portion of the July 1, 1983, increase to the Federal Benefit Rate (FBR) and essential person increment. Effective July 1, 1983, the FBR was increased $20/$30 for an individual/couple and the essential person increment increased by $10. While these increases are not actually cost-of-living increases, they are increases pursuant to section 1617 of the Act and are, therefore, subject to the passalong requirements of section 1618 of the Act. A State was required to pass along only $9.70/$14.60 (individual/couple) and raise the essential person increment by $4.50. This represents the amount by which the FBR and essential person increment would have increased had there been a COLA (3.5 percent) effective July 1, 1983. A State could reduce its supplement by any amount up to $10.30/$15.40 (individual/couple) and reduce the essential person increment by up to $5.50.

If a State does not maintain these levels, but does make total State supplementary payments during a 12-month period that are at least equal to the expenditures for such payments made in the 12-month period before a Federal benefit increase, we will consider the State to have complied with the passalong requirements provided that the State was in compliance for such preceding 12-month period. We have also revised § 416.2096 to provide for a special 6-month transition period (July 1, 1983 through December 31, 1983) for total expenditures purposes. This is necessary to effectuate properly the provision of Pub. L. 98-21 whereby SSI cost-of-living increases beginning with 1984 occur in January rather than July, as discussed above, which caused a cost-of-living increase to occur on January 1, 1984—6 months following the previous SSI benefit increase.

In an effort to avoid passing along to SSI recipients the July 1983 Federal benefit increase, some States, which had not maintained all their December 1976 supplementary payment levels, but which had increased some of their supplementary payment levels, might have switched from the total expenditures test (which they had been meeting to comply with the passalong requirements) to maintenance of their December 1976 or other levels lower than their March 1983 levels. To prevent States from doing this, Congress introduced in section 1618(e), as added by Pub. L. 98-21, the concept of the combined supplementary/SSI payment level and established the March 1983 combined level for payment level passalong compliance purposes. Section 416.2096(b) was revised to reflect this provision.

We have deleted from the regulations the exception found at § 416.2096(c)(3)

for compliance with the passalong requirements under the total-expenditure test for the three 12-month periods ending before July 1980, because this exception has become obsolete due to passage of time.

In § 416.2097, a new section, we provide that in order for a State to comply by the payment-levels method the combined supplementary/SSI payment level for each payment category must at least equal the total of the Federal SSI benefit and State supplementary payment that a recipient with no countable income received for March 1983, increased by the amount of all subsequent SSI Federal benefit increases (including cost-of-living increases) except that we use for the amount of the July 1983 increase the amount (3.5 percent) by which the Federal benefit rate would have increased had there been a COLA. For months after March 1983, States that choose to comply by a means other than the total-expenditures test must maintain these combined March 1983 levels in order to comply with the passalong requirements.

For months prior to April 1983, the rules for passalong compliance are based on the definition of "supplementary payment level". In § 416.2098(f), we continue to define the December 1976. (or later month if it was the first month of supplementation) supplementary payment level as the amount of the supplementary payment established by the State that an individual in each payment category received in the State in December 1976 (or later month if it was the first month of supplementation) if the individual had no countable income. States must have maintained these levels to comply with the passalong requirements.

For example, the Federal SSI, benefit amount in December 1976 for an individual living in his or her own household and having no income was $167.80 per month. If a State made a $50 per month optional State supplementary payment to individuals in this situation, they would receive a total payment of $217.80 per month under the SSI program. In July 1977, the Federal cost-of-living increase was $10 and the Federal SSI benefit amount was increased to $177.80 per month. Under these circumstances, a State would maintain the level of its supplementary payment if the State continued to make a $50 per month supplementary payment above the Federal SSI benefit to individuals in this situation. Thus, the individuals would receive a total payment of $227.80 per month under the SSI program, and the Federal cost-of-living increase of $10 per month would be passed along to them.

Pub. L. 97–248 made one change as to what month's supplementary payment level a State could maintain under certain conditions and still comply with the payment-levels test. Section 186 of Pub. L. 97–248, effective September 3, 1982, provided that when a State had not maintained one or more of the December 1976 supplementary payment levels but, instead, had met the total-expenditures test for a particular 12-month period and decided to switch to the maintenance-of-payment levels test for the next 12-month period, the State could elect to maintain all its supplementary payment levels in effect in the preceding December instead of the December 1976 levels, provided that the preceding December was subsequent to 1980. Because of the interaction of section 402 of Pub. L. 98–21 with section 186 of Pub. L. 97–248, this option could be applied only for the period July 1, 1982, through March 31, 1983, and the only supplementary payment levels which could be elected instead of those which were in effect in December 1976 were those which were in effect in December 1981. Section 416.2098(b)(2) reflects this change.

In § 416.2099 (formerly § 416.2098), we discuss what we will require the States to do to show that they are complying with the passalong rules. Generally, a State must keep records and provide information about: (1) Its supplementary payment levels in December 1976 or, if no supplementary payments were made in December 1976, the first month such payments were or are made; (2) its March 1983 supplementary payment levels; (3) its total expenditures for supplementary payments for the 12-month period beginning July 1976 through June 1977 and the following 12-month periods, as well as its advance estimates of the total State supplementary payment expenditures for each 12-month period covered by the passalong agreement between the State and the Secretary; and (4) its total expenditures for supplementary payments in the 6-month period July 1983 through December 1983. If a State is not complying with the passalong rules, the State will be subject to a finding by the Secretary of ineligibility for payments under title XIX (Medicaid) of the Act.

Discussion of Comments

As previously indicated, we received a number of comments on the Notice of Proposed Rulemaking published in the **Federal Register** on February 25, 1985 (50 FR 7607). A summary of the comments and our responses follows.

Comment: One State suggested that paragraph (4) of § 416.2097 be clarified, or that we add a paragraph which would provide that State payments should be counted for passalong purposes in the month of entitlement when the State can document such month and the month of issuance if the entitlement month cannot be identified.

Response: The State's comment obviously applies to § 416.2096(c)(4) since § 416.2097 has no paragraph (4). Our policy, as reflected in § 416.2096(c)(4), has been to count the payment in the 12-month period in which it is processed (paid). The only instance in which we count payments made in the current 12-month period for a previous period is when the payments are made to correct a shortfall. In such an instance the payments are counted (included) as payments in the shortfall period only. (See § 416.2096(c)(5)). We do not believe a change in our present procedures would be beneficial to the States or to the SSI program. We must have a final cut-off date for each 12-month period since we cannot continue to reopen closed periods. If we reopened closed periods we would be increasing base-year amounts against which succeeding 12-month periods must be measured.

Comment: One commenter stated that it is unclear how court ordered retroactive payments will be treated for passalong purposes under § 416.2096(c)(5). Will the payments be recorded in the period in which the payments are made, thus inflating the State's expenditures in the current 12-month period, or will they be apportioned over the periods to which the court order applies?

Response: Section 416.2096(c)(5) provides that total State expenditures for a relevant 12-month period include adjustments in State supplementary payments made after the expiration of the relevant 12-month period if the payments are made to correct a shortfall. This is the only exception provided in the regulations to our general policy that State payments are attributed to the periods in which they are actually made. We believe the regulation is clear, i.e., there is no additional exception for court ordered retroactive payments. Therefore, court ordered retroactive payments will be recorded in the period in which the payments are made. Historically, all State supplementary payments have been recorded on the cash basis of accounting. As stated in the previous response, we cannot continually reopen closed periods. Therefore, § 416.2096(c)(5) is not being revised.

Comment: Two States suggested that for the July 1, 1983 through December 31, 1983, period (the transitional 6-month period) an additional comparison period or periods be permitted for those States complying with section 1618 of the Act by the total-expenditures method. The States requested that, for compliance purposes, total expenditures for the period January 1, 1983 through December 31, 1983, be at least as much as the total expenditures in the period January 1, 1982 through December 31, 1982. An additional comparison period suggested is to compare total expenditures for July 1, 1983 through December 31, 1983, with expenditures for July 1, 1982 through December 31, 1982.

Response: After considering the implications of these comments we are revising § 416.2096(c)(3)(i) to include two additional comparison periods. They are: (1) That total expenditures for State supplementary payments in the 12-month period January 1, 1983 through December 31, 1983, must be at least as much as in the 12-month period January 1, 1982, through December 31, 1982; or (2) that total expenditures for State supplementary payments in the 6-month period July 1, 1983 through December 31, 1983, must be at least as much as in the 6-month period July 1, 1982 through December 31, 1982. As provided in the Notice of Proposed Rulemaking a third comparison period would require that total expenditures for State supplementary payments in the 6-month period July 1, 1983 through December 31, 1983, be at least equal to one-half of the total expenditures for the period July 1, 1982 through June 30, 1983. Since it appears that Congress did not contemplate this 6-month period, the choice of comparison periods is a matter within the Secretary's authority to issue regulations that are necessary for efficient administration of the Act. Use of each of the three periods described above for purposes of passalong compliance for the 6-month transitional period is consistent with section 1618(b) of the Act, which measures compliance for total-expenditure States by the amount expended in the preceding period. Since the 6-month period overlaps two 12-month periods (July 1, 1983 through June 30, 1984 and January 1, 1983 through December 31, 1983), it is appropriate to provide several alternative comparison periods.

Comment: One State requested both a credit and that the final regulations provide for credit for State supplementary payments expended during the 12-month period July 1, 1981, through June 30, 1982, to make up a shortfall for the 12-month period July 1, 1980 through June 30, 1981. The State further requested that credits used to make up the shortfall not be added to a calendar year's total expenditures in measuring future compliance.

Response: We have provided for credits to States which made additional payments (prior to the enactment of section 147 of Pub. L. 97-377) in order to make up shortfalls for the July 1, 1980 through June 30, 1981, period. Credits must have been used by December 31, 1986. Once a base year expenditure amount under the total-expenditures method of compliance has been established, it cannot be decreased while the State remains on this method of compliance. If, in the succeeding calendar year, the State spends less than it spent in the prior year, a shortfall results. Credits are then used to increase the current year expenditures to the base year amount. The base year has not changed. To permit a State to use the amount expended prior to the addition of the credits as a new (and lower) base year would reduce the base-year amount for future years. This would clearly be inequitable to recipients.

Comment: One State requested that a "good faith effort" provision be incorporated in the regulations to cover the July 1, 1983 through December 31, 1983, period. The State was unaware of the fact that, under the payment-level method of compliance, at least a portion of the July 1, 1983, Federal benefit increase was required to be passed along to all recipients. It further stated that misinformation and lack of understanding on its part resulted in a reduction of a payment level. It also points out that a lack of published regulations also hindered its ability to make the proper decision to pass along the increase.

Response: Almost simultaneously with passage of the 1983 amendments, all States were notified that while the July 1, 1983, increase in the Federal benefit rate was not a cost-of-living adjustment (COLA) it took place pursuant to section 1617 of the Act. We notified all States in writing that they were required to pass along at least that portion of the increase that would have been required had there been a COLA in July 1983 (3.5 percent). Only seven States were out of compliance for the transitional 6-month period and were so notified by the Secretary. Since the other States have complied with the passalong requirements for this period, it would not be equitable to incorporate a "good faith effort" provision into the regulations.

Because these final regulations are being published after the close of this 6-month period and include additional compliance periods, we will soon be notifying States of the exact amount of their shortfalls. For this reason also, we are granting States additional time to correct any shortfalls. Any State with a shortfall for the transitional 6-month period must either restore retroactively the deficient payment levels to the March 1983 level or March 1983 level as adjusted (payment-level States) or increase payments to recipients in the current calendar year (total-expenditures States) by December 31, 1987.

Comment: One commenter does not believe the interpretation placed on section 402 of Pub. L. 98-21 (that the March 1983 payment levels must be maintained) is in compliance with the wording of the law or the intent of Congress. The commenter believes it was the intent of Congress to lock into regulation the March 1983 payment level for those States which had, at some point after 1977, reduced benefits below the December 1976 level and met the passalong requirements with aggregate expenditures.

Response: We do not agree with the above interpretation. This interpretation would permit the continued use of December 1976 State supplementary payment levels to satisfy the passalong requirements (section 1618(a)(4)).

The legislative history of section 402 of Pub. L. 98-21 clearly supports our position that the March 1983 levels are those that now must be maintained. The House bill substituted the State supplementary payment levels in effect in March 1983 for those in effect in December 1976 as the levels States must maintain to comply with the passalong requirements. The Senate amendment would have given States the option of maintaining either December 1976 levels or March 1983 levels. The Conference Committee rejected the Senate amendment, agreeing instead to follow the House version. *See* H.R. Rep. No. 47, 98th Cong., 1st Sess. 165-166 (1983).

Therefore, while section 1618(a)(4) of the Act still refers to levels in effect for December 1976 (in reference to payment-level States) the law does not provide these levels as bench marks for months after March 1983. For months after March 1983 a State which elects the payment level(s) method for complying with section 1618 of the Act must maintain the combined Federal/State payment level(s) in effect in March 1983 increased by all federal cost-of-living adjustments occurring subsequent to March 1983 except that a State need

passalong only a portion of the July 1, 1983, increase in the FBR's as discussed above.

Comment: One commenter believes that section 402 of Pub. L. 98–21 was only intended to update the payment level standard set forth in section 1618(a)(4) and was not intended to foreclose States from meeting passalong requirements under section 1618(c) of the Act. The commenter contends that a State which complies by the total-expenditures method for any period on or after June 30, 1982, may switch to the maintenance-of-payment-levels method of compliance if it maintains the payment levels in effect during December of the immediately preceding 12-month period. A State which complied with the payment-level standard of section 1618(a)(4) must, for months after March 1983, maintain payment levels in accordance with the combined-levels method set forth in section 1618(e).

Response: We do not believe that section 1618(e), as added by section 402 of Pub. L. 98–21 must be applied so narrowly. The combined supplementary-payment-level standard of section 1618(e) is applicable to "a State which is not treated as meeting the requirements imposed by paragraph (4) of subsection (a) by reason of subsection (b) * * *." In other words, a State meeting the basic passalong payment-level requirement of section 1618(a)(4) by a method other than by maintaining total annual expenditures for supplementary payments under section 1618(b), must maintain its payment levels in accordance with section 1618(e). Since a State that satisfies passalong by complying with the "previous December" payment-level-method of section 1618(c) would be a State "not treated as meeting the requirements imposed by paragraph (4) of subsection (a) by reason of subsection (b) * * *," such a State would appear from this language to now be required to comply with the payment level provisions of section 1618(e) rather than the "previous December" payment levels set forth in section 1618(c). Furthermore, section 1618(e) provides that for any months after March 1983, a State shall be treated as meeting the basic passalong requirement of section 1618(a)(4) "if and only if" it maintains the March 1983 combined levels together with the July 1983 passalong amount of section 1618(e)(2) and any subsequent increases in the Federal SSI benefit. The language "if and only if" stresses that Congress intended for there to be no exception to the March 1983 passalong level requirement, such as the December 1976 level requirement of section 1618(a)(4) or the previous December level requirement of section 1618(c).

In addition to the express language of section 1618(e), the legislative history of that section also provides some indication of the intent of the legislature with respect to the continued applicability of section 1618(c). In this regard, the differences in the Senate version of section 1618(e) of the Act from the version proposed by the House Bill, as summarized in the Conference Committee Report on H.R. 1900, dated March 24, 1983 (H.R. Rep. No. 98–47, 98th Cong., 1st Sess. 165, 166 (1983)) are most significant. Both the House and Senate versions continued the aggregate-spending-level option of section 1618(b) of the Act without change. As to the supplementary-payment-level option, however, the Senate version retained the December 1976 requirement of section 1618(a)(4) of the Act as well as the "previous December" option of section 1618(c) of the Act and made the March 1983 standard yet a third method for compliance available to the States, rather than a substitute for the December 1976 payment-level option. On the other hand, the House Bill required States which opt for maintaining supplementary payment levels to maintain March 1983 levels plus the July 1983 passthrough amount plus all subsequent increases in the FBR, in lieu of maintaining the December 1976 levels.

The Conference Committee rejected the Senate Amendment, which provided for the continuance of section 1618(c) of the Act and recommended adoption without change of the House Bill, which made clear that States which elect to meet the passthrough requirement by recourse to the supplementary-payment-levels option must, without exception, comply with the new March 1983 standard. Thus, in passing the House Bill into law, Congress abandoned section 1618(c) of the Act in favor of a uniform March 1983 supplementary-payment-level standard applicable to all States which meet the passthrough requirement by maintaining supplementary payment levels.

Moreover, under the commenter's approach, two classes of States meeting passalong requirements under the levels test could be created over time: those that were required to meet the precise test of 1618(e), and those that would be permitted to use as the basis for subsequent passalong compliance whatever their previous December levels happened to be. Since under Pub. L. 98–21, total-expenditure compliance is now measured for the period January through December, those levels could be significantly below the combined levels required under section 1618(e). Since such a result could seriously undermine the purpose of the passalong provision, which is to protect recipients from erosion of their benefits, we do not believe that the statute must be read to authorize it.

Regulatory Procedures

Executive Order 12291

The Secretary has determined that this is not a major rule under Executive Order 12291 because these regulations do not create any costs. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act

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

Paperwork Reduction Act of 1980

Section 416.2099 of this final rule contains information collection requirements. As required by section 3504(h) of the Paperwork Reduction Act of 1980, we submitted a copy of the proposed rule to the Office of Management and Budget (OMB) for its review of these information collection requirements. Other organizations and individuals desiring to submit comments on the information collection requirements were requested to send them to us and to the Office of Information and Regulatory Affairs, OMB, Room 3208, New Executive Office Building, Washington, DC 20503, ATTN: Robert J. Fishman. No comments were received on the information collection requirements.

Section 416.2099 was formerly § 416.2098, and this section has been approved by the Office of Management and Budget, approval number 0960–0240.

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

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental security income.

Dated: July 17, 1987.

Dorcas R. Hardy,

Commissioner of Social Security.

Approved: August 21, 1987.

Otis R. Bowen,

Secretary of Health and Human Services.

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

PART 416—[AMENDED]

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

Authority: Secs. 1102, 1616, 1618, and 1631 of the Social Security Act; 42 U.S.C. 1302, 1382e, 1382g, and 1383; sec. 212 of Pub. L. 93-66, 87 Stat. 155; sec. 401 of Pub. L. 92-603, 86 Stat. 1485; sec. 8 of Pub. L. 93-233, 87 Stat. 956; secs. 1 and 2 of Pub. L. 93-335, 88 Stat. 291.

2. Section 416.2095 is revised to read as follows:

§ 416.2095 Passalong of Federal benefit increases.

(a) *General.* This section and the four sections that follow describe the rules for passing along increases in the Federal SSI benefit to recipients of State supplementary payments.

(1) Section 416.2095(b) indicates when the passalong rules apply to State supplementary payments.

(2) Section 416.2096 describes the basic passalong rules. The States must have an agreement to "pass along" increases in Federal SSI benefits. A State passes along an increase when it maintains (rather than decreases) the levels of all its supplementary payments after a Federal benefit increase has occurred. Generally, a passalong of the increase permits recipients to receive an additional amount in combined benefits equal to the Federal benefit increase. A State can decrease one or more of its payment levels if it meets an annual total expenditures test.

(3) Section 416.2097 explains the required combined supplementary/SSI payment level.

(4) Section 416.2098 explains how to compute the March 1983, December 1981, and December 1976 supplementary payment levels.

(5) Section 416.2099 discusses what information a State must provide to the Secretary concerning its supplementation programs so that the Secretary can determine whether the State is in compliance. That section also discusses the basis for findings of noncompliance and what will occur if a State is found out of compliance.

(b) *When the passalong provisions apply.* (1) The passalong requirements apply to all States (and the District of Columbia) that make supplementary payments on or after June 30, 1977, and wish to participate in the Medicaid program.

(2) The passalong requirements apply to both optional State supplementary payments of the type described in § 416.2001(a) and mandatory minimum State supplementary payments as described in § 416.2001(c), whether or not these State supplementary payments are Federally administered.

(3) The requirements apply to State supplementary payments both for recipients who receive Federal SSI benefits and those who, because of countable income, receive only a State supplementary payment.

(4) The requirements apply to State supplementary payments for recipients eligible for a State supplementary payment on or after June 30, 1977.

(5) Supplementary payments made by a State include payments made by a political subdivision (including Indian tribes) where—

(i) The payment levels are set by the State; and

(ii) The payments are funded in whole or in part by the State.

3. Section 416.2096 is revised to read as follows:

§ 416.2096 Basic passalong rules.

(a) *State agreements to maintain supplementary payment levels.* (1) In order to be eligible to receive Medicaid reimbursement, any State that makes supplementary payments on or after June 30, 1977, must have in effect an agreement with the Secretary. In this agreement—

(i) The State must agree to continue to make the supplementary payments;

(ii) For months from July 1977 through March 1983, the State must agree to maintain the supplementary payments at levels at least equal to the December 1976 levels (or, if a State first makes supplementary payments after December 1976, the levels for the first month the State makes supplementary payments). For months in the period July 1, 1982 through March 31, 1983, a State may elect to maintain the levels described in paragraph (b)(2) of this section; and

(iii) For months after March 1983, the State must agree to maintain supplementary payments at least sufficient to maintain the combined supplementary/SSI payment levels in effect in March 1983, increased by any subsequent SSI benefit increases, except as provided in § 416.2097(b) and § 416.2097(c).

(2) We will find that the State has met the requirements of paragraph (a)(1) of this section if the State has the appropriate agreement in effect and complies with the conditions in either paragraph (b) or (c) of this section. We will consider a State to have made supplementary payments on or after June 30, 1977, unless the State furnishes us satisfactory evidence to the contrary.

(b) *Meeting the passalong requirement—supplementary payment levels.* (1) We will consider a State to have met the requirements for maintaining its supplementary payment levels (described in § 416.2098) for a particular month or months after March 1983 if the combined supplementary/SSI payment levels have not been reduced below the levels in effect in March 1983 (or if a State first made supplementary payments after March 1983, the combined supplementary/SSI payment levels in effect the first month the State made supplementary payments), increased by any subsequent Federal SSI benefit increases, except as provided in § 416.2097(b) and § 416.2097(c). We will consider a State to have met the requirements for maintaining its supplementary payment levels for a particular month or months between June 1977 and April 1983 if the supplementary payment levels have not been reduced below the levels in effect in December 1976 (or if a State first made supplementary payments after December 1976, the levels in effect the first month the State made supplementary payments, or in certain cases described in paragraph (b)(2) of this section, the levels in effect in December 1981.)

(2) We will also consider a State to have met the requirements for maintaining its supplementary payment levels for a particular month or months in the period July 1, 1982, through March 31, 1983, if the State had met the requirements of paragraph (c) of this section for a particular month or months in the 12-month period July 1, 1981 through June 30, 1982, and, with respect to any month in the period July 1, 1982 through March 31, 1983, the State maintained the payment levels in effect in December 1981.

(3) If a State reduced any of its supplementary payment levels for a month or months within any 12-month period beginning with the effective date of a Federal benefit increase, we will consider the State to have met the requirement to maintain its supplementary payment levels if—

(i) Within 12 months after the relevant 12-month period, the State restores the levels retroactively; and

(ii) The State makes a single retroactive benefit payment to each of

the beneficiaries eligible for the retroactive payment.

(c) *Meeting the passalong requirement—total expenditures.* (1) If a State does not meet the conditions in paragraph (b) of this section, we will consider a State to have met the requirement for maintaining supplementary payment levels for a particular month or months if total State expenditures for supplementary payments in the 12-month period within which the month or months fall, beginning on the effective date of a Federal SSI benefit increase, are at least equal to the total State expenditures for supplementary payments in the 12-month period immediately before the Federal SSI benefit increase provided that the State was in compliance for such preceding 12-month period. The combined Federal/State payment level for those persons receiving a mandatory minimum State supplementary payment can be no lower than the recipient's total income for December 1973 as defined in section 212(a)(3)(B) of Pub. L. 93-66.

(2) If total State expenditures in the relevant 12-month period are less than the total expenditures in the preceding 12-month period (a "shortfall"), we also will consider a State to have met the requirement for maintaining supplementary payment levels for the relevant 12-month period if in the following 12-month period the State increases the total expenditures required for that period by an amount at least equal to the amount of the shortfall in the relevant 12-month period. The increased amount up to the amount needed to correct the shortfall shall be deemed to be an expenditure in the relevant 12-month period, for passalong purposes only. (See paragraph (c)(5) of this section.)

(3)(i) Exception for the 6-month period from July 1, 1983 through December 31, 1983: We will consider the State to have met the total-expenditures requirement for the 6-month period July 1, 1983 through December 31, 1983, if—

(A) Total expenditures for State supplementary payments for the period July 1, 1983 through December 31, 1983, equal or exceed the total of such expenditures for the period July 1, 1982 through December 31, 1982;

(B) Total expenditures for State supplementary payments for the period January 1, 1983 through December 31, 1983, equal or exceed the total of such expenditures for the period January 1, 1982 through December 31, 1982; or

(C) Total expenditures for State supplementary payments for the period July 1, 1983 through December 31, 1983 equal or exceed one-half of the total of such expenditures for the period July 1, 1982 through June 30, 1983. The provisions of paragraphs (c)(4) and (c)(5) of this section and of § 416.2099 (b), (c), and (d) shall apply to this 6-month period in the same manner as they apply to the 12-month periods referred to therein.

(ii) Exception for the 12-month period ending June 30, 1981: If a State did not meet the conditions in paragraph (b) of this section, we will consider a State to have met the maintenance-of-supplementary-payment-levels requirement for this 12-month period if the State's expenditures for supplementary payments in that period were at least equal to its expenditures for such payments for the 12-month period ending June 30, 1977 (or, if the State made no supplementary payments in that period, the expenditures for the first 12-month period ending June 30 in which the State made such payments); if a State made additional State supplementary payments during the period July 1, 1981 through June 30, 1982, in order to make up a shortfall in the 12-month period ending June 30, 1981 (determined by a comparison with the preceding 12-month period) which later resulted in an excess payment (determined by comparison with the 12-month period July 1, 1976 through June 30, 1977) we will credit the State with the amount of the excess payments if the State so requests. This credit will be applied to any shortfall(s) in total expenditures (should one exist) in any period(s) ending on or before December 31, 1986.

(4) Total State expenditures for supplementary payments are the State's total payments for both mandatory minimum and optional State supplementary payments in the appropriate 12-month period less any amounts deemed to be expenditures for another 12-month period under paragraph (c)(2) of this section, less the amount of any payments recovered and other adjustments made in that period. Total State expenditures do not include State administrative expenses, interim assistance payments, vendor payments, or payments made under other Federal programs, such as Titles IV, XIX, or XX of the Social Security Act.

(5) Adjustments in total State supplementary payments made after the expiration of the relevant 12-month period for purposes of meeting total State expenditures under paragraph (c) of this section shall be considered a State expenditure in the relevant 12-month period only for purposes of the passalong requirement. For purposes of § 416.2080, which discusses the rules for limitation on fiscal liability of States (hold harmless), these retroactive adjustments are State expenditures when made and shall be counted as a State expenditure in the fiscal year in which the adjustments are made.

4. Sections 416.2097 and 416.2098 are redesignated as §§ 416.2098 and 416.2099, a new § 416.2097 is added and, as redesignated, § 416.2098 and paragraph (a) of § 416.2099 are revised. As amended, §§ 416.2097, 416.2098, and 416.2099 read as follows:

§ 416.2097 Combined supplementary/SSI payment levels.

(a) The combined supplementary/SSI payment level for each payment category that must be provided in any month after March 1983 (or if a State first made supplementary payments after March 1983, the combined supplementary SSI payment levels in effect the first month the State made supplementary payments) in order for a State to meet the requirement of the first sentence of § 416.2096(b) is the sum of—

(1) The SSI Federal benefit rate (FBR) for March 1983 for a recipient with no countable income;

(2) That portion of the July 1983 benefit increase computed in accordance with paragraph (b) of this section;

(3) The full amount of all SSI benefit increases after July 1983; and

(4) The State supplementary payment level for March 1983 as determined under § 416.2098.

(b) The monthly FBR's were increased in July 1983 by $20 for an eligible individual and $30 for an eligible couple, and the monthly increment for essential persons was increased by $10 in lieu of the expected cost-of-living adjustment which was delayed until January 1984. However, in computing the required combined supplementary/SSI payment levels for the purpose of determining passalong compliance, we use only the amounts by which the FBR's and the essential person increment would have increased had there been a cost-of-living adjustment in July 1983 (a 3.5 percent increase would have occurred). These amounts are $9.70 for an eligible individual, $14.60 for an eligible couple and $4.50 for an essential person.

(c) For the 24-month period January 1, 1984, through December 31, 1985, a State will not be found out of compliance with respect to its payment levels if in the period January 1, 1986, through December 31, 1986, its supplementary payment levels are not less than its supplementary payment levels in effect in December 1976 increased by the percentage by which the FBR has increased after December 1976 and

before February 1986. The FBR for an individual in December 1976 was $167.80. The FBR for an individual in effect on January 31, 1986, was $336.00, an increase of 100.24 percent over the December 1976 FBR. In order for a State to take advantage of this provision for the 24-month period January 1, 1984, through December 31, 1985, the State supplementary payment levels in effect for calendar year 1986 must be at least 100.24 percent higher than the State supplementary payment levels in effect in December 1976. This provision does not apply to State supplementary payments to recipients in Federal living arrangement "D" (residents of a medical facility where title XIX pays more than 50 percent of the costs).

§ 416.2098 Supplementary payment levels.

(a) *General.* For the purpose of determining the combined supplementary/SSI payment levels described in § 416.2097(a), (i.e., the levels that must be provided in any month after March 1983), the supplementary payment level for each payment category must be no less than the total State payment for March 1983 for that payment category that a State provided an eligible individual (or couple) with no countable income in excess of the FBR for March 1983. For July 1983 and successive months, a State can reduce the total State payment for March 1983 as described above by that portion of the July 1983 increase which does not relate to the cost of living (i.e., $10.30). For States that did not make supplementary payments in March 1983, the supplementary payment level for each payment category must be no less than the total State payment for the first month after March 1983 in which a State makes supplementary payments.

(b) *Calculation of the required mandatory minimum State supplementary payment level.* (1) Except for States described in paragraph (b)(2) of this section, the mandatory minimum State supplementary payment level for March 1983 is a recipient's December 1973 income, as defined in section 212(a)(3)(B) of Pub. L. 93–66, plus any State increases prior to April 1983, less any reductions made at any time after December 1973 due to changes in special needs or circumstances, less the March 1983 FBR. The amount determined under the previous sentence shall continue for April, May, and June 1983. For July 1983 and later the amount calculated in the first sentence shall continue except that it may be reduced by the amount of the July 1983 Federal increase that was not related to the cost of living (i.e., $10.30), so long as that reduction does not cause the mandatory minimum State supplementary level to fall below that required by section 212(a)(3)(A) of Pub. L. 93–66.

(2) Section 1618(c) of the Act permitted any State that had satisfied the requirements of section 1618 of the Act by the total-expenditures method for the 12-month period July 1, 1981, through June 30, 1982, and that elected to change and meet the section 1618 requirements by the maintenance-of-payment-levels method for the period July 1, 1982, through June 30, 1983, to do so by paying benefits at levels no lower than the levels of such payments in effect for December 1981. However, a recipient's December 1981 total income (December 1981 mandatory minimum State supplement plus the FBR) could not be less than the recipient's total income for December 1973 as defined in section 212(a)(3)(B) of Pub. L. 93–66. For a State that elected the option in the preceding two sentences, the mandatory minimum State supplementary payment level for March 1983 is a recipient's December 1981 total income (but not less than the total income for December 1973 as defined by section 212(a)(3)(B) of Pub. L. 93–66) plus any State increases after December 1981 and prior to April 1983, less any reductions made at any time after December 1981 due to changes in special needs or circumstances, less the March 1983 FBR. The amount determined under the previous sentence shall continue for April, May, and June 1983. For July 1983 and later, the amount calculated under the preceding sentence defining the required March 1983 mandatory minimum State supplementary payment level would continue except that it may be reduced by the amount of the July 1983 Federal increase that was not related to the cost of living (i.e., $10.30), so long as that reduction does not cause the mandatory minimum State supplementary level to fall below that required by section 212(a)(3)(A) of Pub. L. 93–66.

(c) *Calculation of the required optional State supplementary payment level for flat grant amounts.* The optional State supplementary payment level for March 1983 for flat grant amounts is the total amount that an eligible individual (or couple) with no countable income received for March 1983 in excess of the FBR for March 1983. The amount determined under the previous sentence shall continue for April, May, and June 1983. For July 1983 and later the amount calculated in the first sentence shall continue except that it may be reduced by the amount of the July 1983 Federal increase that was not related to the cost of living (i.e., $10.30). If the State varied its payment levels for different groups of recipients (e.g., paid recipients different amounts based on eligibility categories, geographic areas, living arrangements, or marital status), each variation represents a separate supplementary payment level.

(d) *Calculation of the required optional State supplementary payment level for individually budgeted grant amounts.* The optional State supplementary payment level for individually budgeted grant amounts for March 1983 is the amount that the State budgeted for March 1983 in excess of the March 1983 FBR for an eligible individual (or couple) having the same needs and no countable income. The amount determined under the previous sentence shall continue for April, May, and June 1983. For July 1983 and later the amount calculated in the first sentence shall continue except that it may be reduced by the amount of the July 1983 Federal increase that was not related to the cost of living (i.e., $10.30).

(e) *Optional State supplementary payment level for per diem based grant amounts.* (1) The optional State supplementary payment level for March 1983 for per diem grant amounts is the total dollar amount that the State paid to an eligible individual (or couple) with no countable income at rates in effect for March 1983 (number of days in the calendar month multiplied by the March 1983 per diem rate plus any March 1983 personal needs allowance) in excess of the March 1983 FBR.

Example: March 1983:	
$15.40	Per diem rate.
×31	Days in month.
477.40	
477.40	
+42.00	Personal needs allowance.
519.40	
519.40	Combined State supplementary/SSI payment.
−284.30	March 1983 FBR.
235.10	State supplementary payment level.

(2) The optional State supplementary payment level for months subsequent to March 1983 for per diem grant amounts is the total dollar amount that the State paid to an individual (or couple) with no countable income at rates in effect in March 1983 (number of days in the calendar month multiplied by the March 1983 per diem rate plus any March 1983 personal needs allowance) in excess of the March 1983 FBR for an individual (or couple) with no countable income

increased by all FBR increases subsequent to March 1983 with the exception of the July 1, 1983 increase. For the July 1, 1983 increase to the FBR, a State need passalong only that portion of the increase which represented the increase in the cost of living adjustment (3.5 percent).

Example:

Note.—Example assumes the State passed along only $9.70 of the $20.00 increase in the FBR effective July 1, 1983.

The March 1983 combined supplementary/SSI payment level for a 31-day month was $519.40.

July 1983 level:	
$519.40	March 1983 combined payment.
+9.70	July 1983 COLA-equivalent.
529.10	Required July 1983 combined level.
Payment:	
529.10	Required July 1983 combined level.
Payment:	
−304.30	July 1983 FBR.
224.80	Required State Supplementary level.
Payment:	
529.10	Required July 1983 combined level.
Payment:	
−42.00	Personal needs allowance.
487.10	
487.10	
÷31	Days in month.
15.71	Per diem rate.

The required July 1983 combined supplementary/SSI payment level for a 31-day month was $529.10. This amount is equal to the March 1983 combined payment amount for a 31-day month plus the July 1983 COLA-equivalent ($519.40+$9.70).

(f) *Required Optional State supplementary payment level for months prior to April 1983.* In determining passalong compliance under the maintenance-of-payment-levels test for months from July 1977 through March 1983, we used December 1976 (or December 1981 under the circumstances described in paragraph (g) of this section) as the standard month for determining the required State supplementary payment level. To determine the December 1976 State supplementary payment levels for categories described in paragraphs (a) through (e) of this section substitute "December 1976" for "March 1983" and "January 1977" for "April 1983" whenever they appear in these paragraphs only.

(g) *Alternative required Optional State supplementary payment level for July 1982 through March 1983.* States which were in compliance solely under the total-expenditures test for the 12-month period ending June 30, 1982, had the option of substituting December 1981 for December 1976 and switching to the maintenance-of-payment-levels test for July 1982 through March 1983 (see § 416.2096(b)(2)). If this situation applies, determine the December 1981 State supplementary payment levels for categories described in paragraphs (a) through (e) of this section by substituting "December 1981" for "March 1983" and "January 1982" for "April 1983" whenever they appear in these paragraphs only.

§ 416.2099 Compliance with passalong.

(a) *Information regarding compliance.* Any State required to enter into a passalong agreement with the Secretary shall provide appropriate and timely information to demonstrate to the Secretary's satisfaction that the State is meeting the passalong requirements. The information shall include, where relevant—

(1) The State's December 1976 supplementary payment levels, any subsequent supplementary payment levels, and any change in State eligibility requirements. If the State made no supplementary payments in December 1976, it shall provide such information about the first month in which it makes supplementary payments;

(2) The State's March 1983 supplementary payment levels, any subsequent supplementary payment levels, and any changes in State eligibility requirements;

(3) The total State expenditures for supplementary payments in the 12-month period beginning July 1976 through June 1977, in each subsequent 12-month period, and in any other 12-month period beginning on the effective date of a Federal SSI benefit increase. The State shall also submit advance estimates of its total supplementary payments in each 12-month period covered by the agreement; and

(4) The total State expenditures for supplementary payments in the 6-month periods July 1, 1982 through December 31, 1982 and July 1, 1983 through December 31, 1983.

(b) *Records.* Except where the Secretary administers the State supplementary payments, the State shall maintain records about its supplementary payment levels and total 12-month (or 6-month where applicable) expenditures for supplementary payments and permit inspection and audit by the Secretary or someone designated by the Secretary.

(c) *Noncompliance by the States.* Any State that makes supplementary payments on or after June 30, 1977, and does not have a passalong agreement with the Secretary in effect, shall be determined by the Secretary to be ineligible for payments under Title XIX of the Act. A State does not have an agreement in effect if it has not entered into an agreement or has not complied with the terms of the agreement. Ineligibility shall apply to total expenditures for any calendar quarter beginning after June 30, 1977, for which a State has not entered into an agreement. A State that enters into an agreement but does not maintain its payment levels or meet the total-expenditures test in a particular 12-month or transitional 6-month period, shall be determined by the Secretary not to have an agreement in effect for any month that the State did not meet the passalong requirements during that particular period. The State shall then be ineligible for title XIX payments for any calendar quarter containing a month for which an agreement was not in effect. If a State first makes supplementary payments beginning with a month after June 1977, ineligibility shall apply to any calendar quarter beginning after the calendar quarter in which the State first makes payments.

(d) *Notices to States about potential noncompliance.* Within 90 days after the end of the relevant 12-month period, the Secretary shall send a notice to any State that has not maintained its supplementary payment levels and that appears not to have maintained its total expenditures during the period. The notice will advise the State of the available methods of compliance and the time within which corrective action must be taken (see §§ 416.2096(b)(3) and 416.2096(c)(2)) in order to avoid a determination of noncompliance. If the State fails to take the corrective action, the Secretary shall make a timely determination of noncompliance.

(Approved by the Office of Management and Budget under control number 0960–0240.)

[FR Doc. 87–22138 Filed 9–25–87; 8:45 am]
BILLING CODE 4190–11–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 625

[FHWA Docket No. 86-17, Notice 2]

Design Standards for Highways; Standard Specifications for Highway Signs, Luminaires and Traffic Signals

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This rule adopts for application on Federal-aid highway projects the American Association of State Highway and Transportation Officials' (AASHTO) "Standard Specifications for Highway Signs, Luminaires and Traffic Signals, 1985" except for the requirements of Section 7 of the document which deal with breakaway supports. The FHWA is not yet ready to make a final decision regarding appropriate breakaway requirements for sign and luminaire supports. In the interim, the FHWA will continue to following the requirements for breakaway supports found in section 7 of the 1975 edition of AASHTO's "Standard Specifications for Highway Signs, Luminaires and Traffic Signals."

EFFECTIVE DATE: September 28, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. James H. Hatton, Office of Engineering, (202) 366-1629, or Mr. Michael J. Laska, Office of Chief Counsel, (202) 366-1382, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking (NPRM), FHWA Docket 86-17, (51 FR 40817, November 10, 1986), presented FHWA's proposal to adopt for application on Federal aid highway projects revised specifications for structural supports for highway signs, luminaires, and traffic signals. The FHWA has been following as a design standard on Federal-aid highway projects the specifications found in the 1975 edition of AASHTO's "Standard Specifications for Structural Supports for Highway Signs, Luminaires and Traffic Signals." In May 1985, AASHTO approved a new edition of these standard specifications which included several revisions to the previous specifications. It is these revised specifications (1985 edition) which FHWA has proposed to adopt.

There were 14 commenters on the NPRM. Comments were received from five State highway agencies, five suppliers of breakaway luminaire support systems, two distributors of traffic control systems, a lighting support industry group, and a safety advocacy group. Two State highway agencies, one luminaire support supplier, and the two distributors of traffic control devices recommended that FHWA adopt the 1985 AASHTO specification in its entirety.

Four other commenters, two State highway agencies and two luminaire support suppliers, recommended that FHWA adopt the 1985 AASHTO specification except for section 7, Breakaway Supports. It was suggested that FHWA's adoption of section 7 be deferred until there has been an opportunity to evaluate the results of FHWA's ongoing program to crash test existing breakaway luminaire support systems. The safety advocacy group also identified the need for making crash test results publicly available. It has always been FHWA's intention to publish for public information and comment the results from its ongoing luminaire crash testing program before a final decision is made regarding section 7. Additional information on this matter is discussed below.

Three other commenters, two luminaire support suppliers and the safety advocacy group, presented several suggestions concerning additional design information and other design detail modifications that might be included in the 1985 AASHTO specification. The FHWA is of the opinion that these proposed modifications would have no significant impact on the safety of sign and luminaire supports and they are not being incorporated into this final rule. The FHWA will forward the suggested modifications to the AASHTO Subcommittee on Bridges and Structures for its consideration in any future updates to the material in the AASHTO sign and luminaire specification.

Two suggestions could have some bearing on safety and are discussed in further detail as follows. One commenter recommended that the 1985 AASHTO specifications be revised to include guidance covering the placement of luminaires on slopes similar to the guidance that the FHWA issued to its regional offices in 1985. The FHWA is of the opinion that its previous guidance on this matter has served its intended purpose and there is no need to incorporate this material into a standard specification. The FHWA is working with the AASHTO on development of a Roadside Design Guide and this item will be considered for inclusion in that document.

The second comment concerning safety was that revisions to section 1.1.3(C) of the 1985 AASHTO specifications would result in the placement of overhead sign supports in locations vulnerable to vehicle impact and without barrier or impact attenuator protection. The FHWA does not share this concern. The 1985 AASHTO specification eliminates the reference to the fixed 30-foot clear zone for shielding of supports and instead references the AASHTO "Guide for Selecting, Locating, and Designing Traffic Barriers." It is expected that this AASHTO guide will be used for determining appropriate clear zones for the highway facility involved and that supports located within the designated clear zones will be shielded.

Several comments were also receive regarding the breakaway support requirements within section 7 of the 1985 AASHTO specification. Issues raised included:

- Concerns about the need to reduce the test vehicle from 2,250 pounds to 1,800 pounds.
- A need for the FHWA to develop a breakaway support standard that covers all licensed vehicles including those weighing as little as 1,200 pounds.
- A recommendation to lower the change of velocity criterion below 15 feet/second.
- A need for compliance dates for any new requirements established.
- Concerns about the reliability of the crash testing methods used at FHWA's testing facility.

As explained below, the FHWA is not proceeding at this time with the adoption of section 7 of the 1985 AASHTO specifications. Comments received to the NPRM regarding section 7 plus anticipated future comments received once the crash tests results are published will be considered later when a final decision is made regarding adoption of section 7.

The FHWA has decided to adopt as a design standard for use on Federal-aid highway projects the provisions of the 1985 AASHTO sign and luminaire specifications with the exception of section 7, Breakaway Supports. For the time being, FHWA's requirements regarding breakaway requirements for sign and luminaire supports will remain to be those found in section 7 of the 1975 AASHTO specification. The reasons for this are discussed below:

The November 10, 1986, NPRM noted that to assist in determining whether currently accepted hardware meets the breakaway requirements of the new 1985 AASHTO specifications, the FHWA would be conducting limited

testing of previously accepted luminaire hardware. Crash testing of various luminaire support systems with an 1,800-pound bogie vehicle at impacts of 20 mph and 60 mph is on-going. The NPRM also noted that when this capability testing was completed the FHWA would publish in the **Federal Register** a supplemental notice summarizing the test results and requesting public comment. Based on FHWA's analysis of the comments received and the test results, the FHWA would then adopt sign and luminaire support breakaway requirements it deemed appropriate.

Several suppliers have provided breakaway luminaire systems for the testing program. This program is taking longer to complete than originally anticipated and overall test results are not yet available. As a consequence, the FHWA will not be in a position to publish the supplemental notice until later this year.

So as to not unnecessarily delay FHWA's acceptance of other material in the 1985 AASHTO specification, FHWA is adopting all sections of the 1985 AASHTO specifications with the exception of section 7, Breakaway Supports. In the interim, FHWA's requirements for breakaway sign and luminaire supports on Federal-aid highways will remain to be those found in the 1975 AASHTO specification. These requirements are that satisfactory performance for a breakaway support is indicated when the maximum changes in momentum for a 2,250-pound vehicle, or its equivalent, striking the support at speeds of 20 mph and 60 mph does not exceed 1,100 pound-seconds but desirably does not exceed 750 pound-seconds.

Although the FHWA has not yet adopted section 7, Breakaway Supports, of the 1985 AASHTO specifications, a State or local highway agency has the option to begin applying on Federal-aid highway projects the more stringent requirements of section 7 of the 1985 AASHTO specification if it so chooses.

As previously noted, when the capability testing program for existing luminaire hardware is completed, an overall summary of test results will be published in a supplemental notice. Following an opportunity for public comment, the FHWA will then make a decision as to whether section 7 of the 1985 AASHTO specification should be adopted for application on Federal-aid highway projects.

Discussion of Revisions

The 1985 AASHTO specifications that the FHWA is adopting are divided into sections which address: General features of design; application and consideration of loads; method of analysis; steel, aluminum, and prestressed concrete design, including corresponding allowable unit stress; foundations and their design criteria; details of design; use of timber; and an accompanying commentary covering each section. The significant changes from the 1975 AASHTO specifications are discussed in detail below.

Section 1. The 1975 edition referred to the need to shield overhead sign supports when placed within 30 feet of the edge of the traveled way. The 1985 edition clarifies that these supports should be shielded wherever warranted. Also, the horizontal clearance from the rail to the face of the support has been clarified to demonstrate that this distance is measured from the back of the rail to the face of the supports.

Section 2. Wind drag coefficients for hexdecagonal, square and diamond shapes have been added in an attempt to more accurately apply expected wind load forces on structural supports. Information from wind tunnel tests suggests these drag coefficients should now be used in designing structural supports. This should result in a design procedure that incorporates the latest research findings.

Section 3. New requirements are established regarding telescopic field splices for high level lighting supports. Also, changes in the requirements for the use of anchor bolts include: optional use of cut or rolled threads; sizing of bolts due to combined loading of shear and tension; and increases in the allowable unit stresses. These changes should permit the structural designer more flexibility in specifying hardware and will give the industry more flexibility in supplying that hardware.

Section 4. New requirements have been added regarding: width to thickness ratios of compression elements, penetration criteria for longitudinal seam welds, and silicon content of structural steel to be galvanized. These changes have been included to ensure that the structure is a safe, reliable, and economical as possible.

Section 5. The allowable unit stresses for aluminum alloy members have been increased. The stresses allowed are now in conformance with building type structures rather than those for bridge type structures. This will result in more consistency between the factors of safety of aluminum structures and those of steel structures.

Section 6. Changes in the design of prestressed concrete materials include: A new equation for allowable stresses under severe corrosive exposure conditions, such as coastal areas; a revised ultimate strength design procedure; and recommendations on the use of epoxy coated reinforcement. These changes are expected to merely extend the life expectancy of prestressed concrete materials.

Section 7. The changes in the 1985 edition are not being adopted (see previous discussion).

Section 8. There are no significant changes to this section from the 1975 edition.

Section 9. Suggested deflection criteria for cantilever supports has been added to aid those wishing to control deflection for esthetic purposes. Under the 1985 AASHTO specifications, supports for small roadside signs would be exempt from the minimum thickness requirements for steel support. Experience has indicated that small roadside sign supports not meeting the minimum thickness requirements in the 1975 edition have sufficient durability and that they may have safety advantages.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under the regulatory policies and the procedures of the Department of Transportation. For the sections of the 1985 AASHTO specifications which are being adopted in this final rule, the economic impacts, if any, are minimal. This determination is based on the fact that, although the Revised Specifications contain standards which in some cases have been clarified, modified, or revised, the basic structural support design criteria will remain essentially the same. For this reason and under the criteria of the Regulatory Flexibility Act, the FHWA hereby certifies this action will not have a significant economic impact on a substantial number of small entities.

The manufacturers of sign and luminaire support systems may be minimally affected should FHWA decide, at a future date, to adopt section 7 of the 1985 AASHTO specification. A draft regulatory evaluation discussing these impacts was prepared and made available when the November 10, 1986, NPRM was published. This regulatory evaluation will be finalized at such time that the FHWA has made a final decision regarding adoption of section 7 of the 1985 AASHTO specification.

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

List of Subjects in 23 CFR Part 625

Design standards, Grant programs—transportation, Highways and roads, Incorporation by reference, Reporting requirements.

In consideration of the foregoing, Part 625 to Chapter 1 of Title 23, Code of Federal Regulations, is amended as set forth below.

Issued on: September 22, 1987.

Ray A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

The FHWA hereby amends 23 CFR Part 625 as follows:

PART 625—DESIGN STANDARDS FOR HIGHWAYS

1. The authority citation for Part 625 continues to read as follows:

Authority: 23 U.S.C. 109, 315, and 402; 49 CFR 1.48(b).

2. In § 625.4, paragraph (b)(5) is amended to read as follows:

§ 625.4 Standards, policies, and standard specifications.

* * * * *

(b) * * *

(5) Standard Specifications for Structural Supports for Highway Signs, Luminaires and Traffic Signals, AASHTO 1985, and Interim Revisions, AASHTO 1986, except for section 7, Breakaway Supports. The FHWA requirements for breakaway sign and luminaire supports are contained in section 7 of Standard Specifications for Structural Supports for Highway Signs, Luminaires and Traffic Signals, AASHTO 1975. (3)

* * * * *

[FR Doc. 87-22332 Filed 9-25-87; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 807

Publications Sales

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Final rule.

SUMMARY: This part has been rearranged and certain areas expanded to clarify handling procedures for specific types of requests from the public. This part provides Air Force procedures for issuing publications and forms to private citizens, organizations and commercial activities.

EFFECTIVE DATE: October 28, 1987.

ADDRESS: SAF/AADPD, Bolling AFB, DC 20332-6468.

FOR FURTHER INFORMATION CONTACT: Walter S. Frazer, SAF/AADPD, Bolling AFB, DC 20332-6468, telephone (202) 767-6077.

SUPPLEMENTARY INFORMATION: On July 24, 1987, the Air Force published a proposed rule on issuing Air Force publications and forms outside the Air Force (52 FR 27825). No comments were received.

The Department of the Air Force has determined that this regulation is not a major rule as defined by Executive Order 12291, is not subject to the relevant provisions of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354), and does not contain reporting or recordkeeping requirements under the criteria of the Paperwork Reduction Act of 1980 (Pub. L. 96-511).

List of Subjects in 32 CFR Part 807

Government contracts, government procurement.

Therefore, 32 CFR Part 807 is revised to read as follows:

PART 807—PUBLICATIONS SALES

Sec.
807.1 General requirements.
807.2 Charges.
807.3 Requests for classified material, For Official Use Only (FOUO) material, accountable forms, storage safeguard forms, Limited (L) distribution items, and items with restrictive distribution caveats.
807.4 Availability and non-availability of stock.
807.5 Processing requests.
807.6 Depositing payments.

Authority: 10 U.S.C. 8013.

§ 807.1 General requirements.

(a) Unaltered Air Force publications and forms in this distribution system will be made available to the public with or without charge subject to the requirements of this part. Base Chiefs of Administration will establish procedures to accommodate these requirements and will make available Master Publications Libraries for public use in accordance with AFR 5-31. Requesters will be advised of the availability of these libraries since in many instances this will satisfy their requirements and reduce workloads involved in processing sales requests. If the item is on sale by the Superintendent of Documents, Government Printing Office, refer the request to that outlet.

(b) These unaltered publications and forms are not considered records within the meaning of the Freedom of Information Act (FOIA) as outlined in 5 U.S.C. 552 and implemented by Part 806 of this chapter. Requests which involve the FOIA will be referred to the Chief, Base Administration for processing.

(c) Requests under the Foreign Military Sales Program (FMS) will be processed in accordance with AFR 7-1, Chapter 11.

(d) Requests from foreign governments, their representatives, or international commands are answered only by offices holding delegation of disclosure authority letters, as described in AFR 200-9. Such requests must be sent to the foreign disclosure policy office within a command, and at HQ USAF to HQ USAF/CVAI. Copies of such requests should also be sent to the base public affairs office for their information. Commands will supplement this requirement to include policies pertaining to those items which they have authority to release.

(e) Requests for non-Air Force items will be returned to the requester for submission to appropriate agency.

§ 807.2 Charges.

(a) Air Force policy provides that charges will be applied to all requests unless specifically excluded.

(b) Charges will be applied in accordance with Part 813 of this chapter. Additional guidance is in Part 812, including specific exclusions for charges as listed in § 812.5. As indicated, the list of exclusions is not all inclusive and recommendations for additional exclusions will be forwarded to the OPR for Part 812 of this chapter.

(c) Publications and forms required for contract performance will be furnished without charge to the contractor when these requirements are approved by the government contracting officer.

§ 807.3 Requests for classified material, For Official Use Only (FOUO) material, accountable forms, storage safeguard forms, Limited (L) distribution items, and items with restrictive distribution caveats.

(a) *Classified material.* Answer these requests by telling the requesters that the material is not authorized for release because it is currently and properly classified in the interest of national security as authorized by Executive Order, and must be protected from unauthorized disclosure.

(b) *FOUO material.* Requests will be reviewed by the Office of Primary Responsibility for the material to determine its releasibility.

(c) *Accountable forms.* These requests will be returned to the requester stating that the forms are stringently controlled and cannot be released to unauthorized personnel since their misuse could jeopardize Department of Defense

security or could result in fraudulent financial gain or claims against the government.

(d) *Storage safeguard forms.* These requests will be returned to the requesters stating that the forms are specially controlled and are not releasable outside the Department of Defense since they could be put to unauthorized or fraudulent use.

(e) *Limited (L) distribution items.* These items are not releasable outside the Department of Defense without special review in accordance with AFR 700-6. Requests will be referred to the SIS Manager shown in the index or on the cover of the publications. Advise the requesters of the referral.

(f) *Items with restrictive distribution caveats.* Some publications have restrictive distribution caveats on the cover. Follow the instructions stated and advise the requesters of the referral.

§ 807.4 Availability and non-availability of stock.

(a) It is Air Force policy to limit quantities furnished so that stock levels required for operational Air Force support are not jeopardized.

(b) If the item is not available from PDO stock, obtain it from the Air Force Publishing Distribution Center (AFPDC).

(1) If the item is not stocked by the AFPDC, check the appropriate index to see if it is available from another source and refer the request to that source. Advise the requester of the referral.

(2) If the item is under revision, advise the requester that it is being revised and no stock is available.

(c) If stock is not available and the item is being reprinted, advise the requester that stock is expected to be available in 90 days and to resubmit at that time.

§ 807.5 Processing requests.

Payment will be required before shipping the requested material. Payment must be by check or money order.

(a) When the request is received, determine the cost involved and advise the requester to ensure that he/she is willing to pay.

(b) If the requester agrees to pay the cost involved, take action to obtain the material.

(c) When the item is received advise the requester to remit the required payment and forward the material after payment is received.

(d) If the material cannot be obtained, advise the requester of the reason.

§ 807.6 Depositing payments.

Obtain instructions from the local Accounting and Finance Office regarding how checks or money orders must be prepared and required procedures for depositing them.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 87-22006 Filed 9-25-87; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 166

[CGD 84-004]

Shipping Safety Fairways; Approach to New York

AGENCY: Coast Guard, DOT.

ACTION: Final rule; correction.

SUMMARY: This notice corrects an error in the final rule published in the **Federal Register** on September 4, 1987 (52 FR 33587). The final rule established two new parallel shipping safety fairways to connect the Eastern approach off Nantucket and the Eastern approach off Ambrose lanes of the traffic separation scheme (TSS Off New York).

FOR FURTHER INFORMATION CONTACT: Lieutenant (j.g.) Daphne Reese at (202) 267-0365.

SUPPLEMENTARY INFORMATION: There is a typographical error on page 33589 (first column, lines 58-65 and second column, lines 5-12). The geographical positions for the fairway are given in degrees and minutes to the nearest hundreth of a minute. The geographic positions for the fairways should be listed in degrees, minutes, and seconds.

Section 166.500, paragraph (b) is correctly added to read as follows:

PART 166—SHIPPING SAFETY FAIRWAYS

§ 166.500 Areas along the Atlantic Coast.

* * * * *

(b) *Designated Areas*—(1) *Off New York Shipping Safety Fairway.* (i) Ambrose to Nantucket Safety Fairway. The area enclosed by rhumb lines, [North American Datum of 1927 (NAD-27)] joining points at:

Latitude	*Longitude*
40°32'20" N.	73°04'57" W.
40°30'58" N.	72°58'25" W.
40°34'07" N.	70°19'23" W.
40°35'37" N.	70°14'09" W.
40°30'37" N.	70°14'00" W.
40°32'07" N.	70°19'19" W.
40°28'58" N.	72°58'25" W.
40°27'20" N.	73°04'57" W.

(ii) *Nantucket to Ambrose Safety Fairway.* The area enclosed by rhumb lines, NAD-27, joining point at:

Latitude	*Longitude*
40°24'20" N.	73°04'58" W.
40°22'58" N.	72°58'26" W.
40°26'07" N.	70°19'09" W.
40°27'37" N.	70°13'46" W.
40°22'37" N.	70°13'36" W.
40°24'07" N.	70°19'05" W.
40°20'58" N.	72°58'26" W.
40°19'20" N.	73°04'58" W.

Dated: September 23, 1987.

A.B. Smith,

Acting Chief, Office of Navigation.

[FR Doc. 87-22305 Filed 9-25-87; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[(A-1-FRL-3267-8)]

Approval and Promulgation of Implementation Plans; Rhode Island; James River Corp.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Rhode Island. This revision approves an administrative consent agreement to control volatile organic compound (VOC) emissions from five coating lines at James River Corporation's Decorative Products Division (formerly Whitman Products Limited) in Johnston, Rhode Island. The intended effect of this action is to reduce ozone levels as required under section 110 of the Clean Air Act.

EFFECTIVE DATE: This action will be effective November 27, 1987 unless notice is received within 30 days that adverse or critical comments will be submitted.

ADDRESSES: Comments may be mailed to Louis F. Gitto, Director, Air Management Division, Room 2312, JFK Federal Building, Boston, MA 02203. Copies of the submittal and EPA's evaluation are available for public inspection during normal business hours at the Environmental Protection Agency, JFK Building, Room 2311, Boston, MA 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460; and the Division of Air & Hazardous Materials, Department of Environmental Management, 75 Davis Street, Cannon Building, Room 204, Providence, RI 02908.

FOR FURTHER INFORMATION CONTACT: David B. Conroy (617) 565-3252, FTS 835-3252.

SUPPLEMENTARY INFORMATION: On July 6, 1983 (48 FR 31026), EPA approved Rhode Island's Ozone Attainment Plan and incorporated it into the SIP. As part of the attainment plan, Rhode Island adopted Regulation No. 19, "Control of Volatile Organic Compounds from Surface Coating Operations." This regulation applies to facilities which emit more than 100 tons per year (TPY) of VOC emissions from either paper, fabric or vinyl surface coating operations. A source subject to this regulation is required under subsection 19.3.1 to apply reasonably available control technology (RACT) to its VOC emitting processes by July 1, 1985. The RACT limitations specified in subsection 19.3.1 are equivalent to those specified in EPA's applicable control techniques guideline (CTG) document (EPA-450/2-77-0 08).

On November 5, 1985, June 16, 1986, and November 3, 1986 the Rhode Island DEM submitted a revision to its SIP. This revision consists of an administraive consent agreement originally negotiated between the DEM's Division of Air and Hazardous Materials and Whitman Products Limited and now applicable to the new owner of the facility, James River Corporation (James River) in Johnston, Rhode Island. This consent agreement was issued pursuant to provisions found in Rhode Island Regulation No. 19, subsection 19.3.3.

The provisions found in subsection 19.3.3 allow the DEM to specify alternative final compliance dates to those set forth in subsection 19.3.1 on a case-by-case basis.

Rhode Island submitted subsection 19.3.3 on May 14, 1982 and EPA approved it on July 6, 1983 (48 FR 31026) as part of Rhode Island's Ozone Attainment Plan. It was EPA's intention when approving subsection 19.3.3 that all alternative compliance dates granted pursuant to this subsection by the DEM would be submitted to EPA as SIP revisions.

Summary of SIP Revision

James River operates eight coating/printing lines in Johnston, Rhode Island. James River coats book covering materials. James River is subject to the control requirements of Rhode Island SIP Regulation No. 19, subsection 19.3.1 which requires that the VOC content of each coating employed at James River be at or below 2.9 pounds VOC/gallon of coating (minus water) by July 1, 1985 except as provided in subsection 19.3.3.

At the time Rhode Island Regulation No. 19 was developed, the former owner of the facility, Whitman Products Limited, primarily employed solvent-based coatings on its coating/printing lines. During 1979, the first year this regulation was effective, the VOC emissions from this source were 2080 TPY. In 1985, the VOC emissions from this source were 504 TPY. Whitman Products Limited achieved this substantial reduction by reformulating a large percentage of its basecoats to agueous-based formulations. However, the reformulations do not reduce the facility's VOC emissions to the level required by the Rhode Island SIP. James River has proposed to achieve further reformulations by December 31, 1986 which would reduce James River's VOC emissions to approximately 293 TPY. Once James River implements the additional reformulations, the company will have achieved approximately a 86% reduction in VOC emissions from the 1979 level. This reduction is likely more than James River could have achieved had it installed add-on control equipment on its coating/printing lines.

Pursuant to subsection 19.3.3, the Rhode Island DEM has submitted a revision providing James River with a compliance date extension to December 31, 1986 for five of its eight coating/printing lines. After that date, James River will be subject to the existing SIP emission limitation in subsection 19.3.1 which will require James River to achieve continuous compliance with the emission limit of 2.9 pounds VOC/gal coating (minus water) for all coatings, or to comply on a daily plant-wide basis if the provisions of Rhode Island's generic bubble rule (subsection 19.4) are utilized.

The administrative consent agreement requires James River to reformulate certain basecoats to higher solids formulations and certain base and topcoats to aqueous formulations. The source is also required to meet and maintain daily interim emission limitations on each line during the reformulation program. The consent agreement also has a provision in it which would have required James River to install add-on control equipment by December 31, 1986 if James River's reformulation efforts to convert its solvent-based coatings to high solids and aqueous-based coatings were not achieving a certain level of success by April 1, 1986. However, James River was not required to install add-on controls since the Rhode Island DEM determined that the company was achieving the progress required by the consent agreement by April 1, 1986.

Rhode Island has demonstrated that it has achieved sufficient VOC reductions necessary to show attainment of the National Ambient Air Quality Standard (NAAQS) for ozone by December 31, 1982. EPA approved this demonstration on July 6, 1983 (48 FR 31026). (The entire State of Rhode Island, however, continues to be nonattainment due to transport of ozone from upwind sources into Rhode Island.) Additionally, Rhode Island has demonstrated in a letter to EPA dated November 3, 1986 that there is an adequate margin for growth, below the level of emissions necessary to show attainment of the NAAQS for ozone, to absorb the temporary increased emissions resulting from this compliance date extension. Each year Rhode Island recalculates that growth margin based on updated emission figures for all existing sources and emissions from new sources. Rhode Island only allows increases in VOC emissions from new sources based on the availability of emissions in that growth margin. Therefore, since James River itself does not consume the entire growth margin nor will Rhode Island give offsets to any new source which consumes the remainder of the growth margin, this compliance date extension for James River will not interfere with the continued maintenance of the NAAQS for ozone in Rhode Island.

Moreover, the DEM showed that Rhode Island's Ozone Attainment Plan projected Whitman Products (now James River Corporation) to emit approximately 2179 TPY in 1983, 2505 TPY in 1984, 2485 TPY in 1985, and 2402 in 1986. From Rhode Island's VOC emissions inventory, it can be seen that Whitman Products (now James River Corporation) actually emitted 720 TPY in 1983, 678 TPY in 1984, and 504 TPY in 1985. Furthermore, James River was expected to emit approximately 293 TPY of VOC in 1986 with the compliance date extension, which required James River to achieve additional reductions. Therefore, it was shown that James River has emitted much less over the past four years than were projected in Rhode Island's Ozone Attainment Plan.

For these reasons, this compliance date extension for James River will not interfere with Reasonable Further Progress (RFP) towards attainment of the ozone standard in Rhode Island.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective 60 days from the date of this **Federal Register** notice unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted. If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another

will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective Novemeber 27, 1987.

Final Action

EPA is approving the administrative consent agreement for James River Corporation submitted as a SIP revision by the Rhode Island DEM on November 5, 1985, June 16, 1986 and November 3, 1986. EPA believes that the conditions of the DEM's consent agreement were established in accordance with the compliance date provisions of federally-approved subsection 19.3.3 of the Rhode Island SIP. This compliance date extension is not to be construed as an alternative RACT determination for this source. A more detailed description of EPA's evaluation is presented in the Technical Support Document that has been prepared for the revision. Copies of that document may be obtained from the EPA Regional Office listed in the **ADDRESSES** section of this notice.

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

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (November 27, 1987). This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Hydrocarbons, Intergovernmental relations, Reporting and Recordkeeping requirements, Incorporation by reference.

Note: Incorporation by reference of the State Implementation Plan for the State of Rhode Island was approved by the Director of the **Federal Register** on July 1, 1982.

Dated: September 18, 1987.

Lee M. Thomas,

Administrator.

PART 40—[AMENDED]

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

Subpart 00—Rhode Island

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.2070 is amended by adding paragraph (c)(26) to read as follows:

§ 52.2070 Identification of plan.

* * * * *

(c) * * *

(26) Revisions submitted on November 5, 1985, June 16, 1986 and November 3, 1986 by the Rhode Island Department of Environmental Management (DEM) consisting of an administrative consent agreement between the DEM's Division of Air and Hazardous Materials and Whitman Products Limited (now James River Corporation's Decorative Product Division) in Johnston, Rhode Island. When the consent agreement expires on December 31, 1986, James River Corporation will be subject to the emission limits in Rhode Island Regulation No. 19, subsection 19.3.1.

(i) Incorporation by reference. (A) An administrative consent agreement between the Rhode Island and Providence Plantation Department of Environmental Management and Whitman Products Limited. The consent agreement became effective on May 29, 1985.

(B) Letters of June 16, 1986 and September 17, 1985 from the Department of Environmental Management to EPA.

(ii) *Additional materials.* (A) Letter submitted on November 3, 1986 affirming that a sufficient growth margin exists, below the level of emissions necessary to show attainment of the national ambient air quality standard for ozone in Rhode Island, to absorb the increased emissions resulting from this compliance date extension.

3. In § 52.2081 table 52.2081 is amended by adding the following entry at the end of No. 19 as indicated below:

§ 52.2081 EPA-approved EPA Rhode Island State regulations.

* * * * *

TABLE 52.2081.—EPA-APPROVED RULES AND REGULATIONS

State citation	Title/subject	Date adopted by State	Date approved by EPA	FR citation	52.2070	Comments/unapproved sections
No. 19	Control of VOCs from Surface Coating Operations.	5/29/85	/ /87	52 FR	(c)(26)	Compliance date extension for James River Corp. in Johnston.

[FR Doc. 87-22155 Filed 9-25-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6763]

Suspension of Community Eligibility; Maine et al.

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If FEMA receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register.**

EFFECTIVE DATES: The third date ("Susp.") listed in the fourth column.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646-2717, Federal Center Plaza, 500 C Street, Southwest, Room 416, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42

U.S.C. 4022), prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001 through 4128) unless an appropriate public body shall have adopted adequate floodplain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 *et. seq.*). Accordingly, the communities will be suspended on the effective date in the fourth column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register.** In the interim, if you wish to determine if a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Administrator finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, FEMA, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local floodplain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate floodplain management, thus placing itself in noncompliance of the Federal standards required for community participation. In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance—floodplains.

PART 64—[AMENDED]

1. The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 *et. seq.*, Reorganization Plan No. 3 of 1978, E.O. 12127.

2. Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Region I					
Maine	Medway, town of, Penobscot County.	230175	July 16, 1975, Emerg. Sept. 30, 1987, Reg. Sept. 30, 1987, Susp.	Sept. 30, 1987	Sept. 30, 1987.
Do	Winslow, town of, Kennebec County.	230071	May 22, 1974, Emerg. Sept. 30, 1987, Reg. Sept. 30, 1987, Susp.	do	Do.
Region II					
New York	Unadilla, town of, Otsego County.	361281	Jan. 2, 1976, Emerg. Sept. 30, 1987, Reg. Sept. 30, 1987, Susp.	do	Do.
Do	Unadilla, village of, Otsego County.	361044	July 28, 1975, Emerg. Sept. 30, 1987, Reg. Sept. 30, 1987, Susp.	do	Do.
Region III					
Pennsylvania	Canaan, township of, Wayne County.	422160	Aug. 28, 1975, Emerg. Sept. 30, 1987, Reg. Sept. 30, 1987, Susp.	do	Do.
Do	Cooper, township of, Montour County.	421920	Aug. 21, 1974, Emerg. Sept. 30, 1987, Reg. Sept. 30, 1987, Susp.	do	Do.
Do	Dyberry, township of, Wayne County.	422165	May 2, 1975, Emerg. Sept. 30, 1987, Reg. Sept. 30, 1987, Susp.	do	Do.
Do	Foxburg, borough of, Clarion County.	421502	Feb. 28, 1977, Emerg. Sept. 30, 1987, Reg. Sept. 30, 1987, Susp.	do	Do.
Do	Lewis, township of, Union County.	422104	July 29, 1976, Emerg. Sept. 30, 1987, Reg. Sept. 30, 1987, Susp.	do	Do.
Do	Lynn, township of, Lehigh County.	421812	July 21, 1976, Emerg. Sept. 30, 1987, Reg. Sept. 30, 1987, Susp.	do	Do.

State	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Do	Madison, township of, Clarion County.	422370	Jan. 16, 1976, Emerg. Sept. 30, 1987, Reg. Sept. 30, 1987, Susp.	do	Do.
Do	Mayberry, township of, Montour County.	421923	May 28, 1975, Emerg. Sept. 30, 1987, Reg. Sept. 30, 1987, Susp.	do	Do.
Do	Polk, township of, Monroe County.	421893	Dec. 18, 1975, Emerg. Sept. 30, 1987, Reg. Sept. 30, 1987, Susp.	do	Do.
Do	Springboro, borough of, Crawford County.	420353	May 23, 1975, Emerg. Sept. 30, 1987, Reg. Sept. 30, 1987, Susp.	do	Do.
Do	Texas, township of, Wayne County.	422176	July 24, 1975, Emerg. Sept. 30, 1987, Reg. Sept. 30, 1987, Susp.	do	Do.
Do	West Buffalo, township of, Union County.	422106	June 4, 1979, Emerg. Sept. 30, 1987, Reg. Sept. 30, 1987, Susp.	do	Do.
West Virginia	Milton, town of, Cabell County.	540019	Oct. 3, 1974, Emerg. Sept. 30, 1987, Reg. Sept. 30, 1987, Susp.	do	Do.
Do	Cabell County, unincorporated areas.	540016	May 3, 1976, Emerg. Sept. 30, 1987, Reg. Sept. 30, 1987, Susp.	do	Do.
Do	Wayne, town of, Wayne County.	540231	Dec. 30, 1975, Emerg. Sept. 30, 1987, Reg. Sept. 30, 1987, Susp.	do	Do.
Region IV					
Tennessee	Lauderdale County, unincorporated areas.	470333	Apr. 14, 1975, Emerg. Sept. 30, 1987, Reg. Sept. 30, 1987, Susp.	do	Do.
Region V					
Ohio	Tuscarawas County, unincorporated areas.	390782	Feb. 18, 1977, Emerg. Sept. 30, 1987, Reg. Sept. 30, 1987, Susp.	do	Do.
Region VIII					
Colorado	Castle Rock, town of, Douglas County.	080050	Apr. 22, 1975, Emerg. Aug. 15, 1978, Reg. Sept. 30, 1987, Susp.	do	Do.
Do	Douglas County, unincorporated areas.	080049	Aug. 28, 1974, Emerg. Sept. 3, 1980, Reg. Sept. 30, 1987, Susp.	do	Do.
Do	Parker, town of, Douglas County.	080310	March 12, 1986, Emerg. Sept. 30, 1987, Reg. Sept. 30, 1987, Susp.	do	Do.
North Dakota	Bowman County, unincorporated areas.	380355	Apr. 3, 1978, Emerg. Sept. 30, 1987, Reg. Sept. 30, 1987, Susp.	do	Do.
Do	Gascoyne, city of, Bowman County.	380677	Apr. 8, 1987, Emerg. Sept. 30, 1987, Reg. Sept. 30, 1987, Susp.	do	Do.
Do	Mandan, city of, Morton County.	380072	Apr. 4, 1974, Emerg. Sept. 30, 1987, Reg. Sept. 30, 1987, Susp.	do	Do.
Do	Morton County, unincorporated areas.	380148	Sept. 13, 1973, Emerg. Sept. 30, 1987, Reg. Sept. 30, 1987, Susp.	do	Do.
Do	Reiles Acres, city of, Cass County.	380324	March 22, 1978, Emerg. Sept. 30, 1987, Reg. Sept. 30, 1987, Susp.	do	Do.
Do	Scranton, city of, Bowman County.	380014	Aug. 27, 1975, Emerg. Sept. 30, 1987, Reg. Sept. 30, 1987, Susp.	do	Do.
Region IX					
California	Imperial Beach, city of, San Diego County.	060291	Jan. 28, 1974, Emerg. Sept. 30, 1987, Reg. Sept. 30, 1987, Susp.	do	Do.
Do	Loomis, town of, Placer County.	060721	Dec. 29, 1986, Emerg. Sept. 30, 1987, Reg. Sept. 30, 1987, Susp.	do	Do.
Region IV, Minimal Conversions					
North Carolina	Chadbourn, town of, Columbus County.	370065	July 9, 1975, Emerg. Sept. 30, 1987, Reg. Sept. 30, 1987, Susp.	do	Do.
Region VI					
Louisiana	Richwood, town of, Ouachita Parish.	220378	Feb. 9, 1978, Emerg. Sept. 30, 1987, Reg. Sept. 30, 1987, Susp.	do	Do.
New Mexico	Colfax County, unicorporated areas.	350126	July 8, 1975, Emerg. Sept. 30, 1987, Reg. Sept. 30, 1987, Susp.	do	Do.

State	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in special flood hazard areas
Region VIII					
Nebraska	Ogallala, city of, Keith County.	310129	Nov. 7, 1974, Emerg. Sept. 30, 1987, Reg. Sept. 30, 1987, Susp.	.....do	Do.
Iowa	Union, city of, Hardin County.	190142	Dec. 15, 1975, Emerg. June 1, 1987, Reg. Sept. 30, 1987, Susp.	June 1, 1987	Do.
North Dakota	Creel, township of, Ramsey County.	380625	June 18, 1979, Emerg. Sept. 30, 1987, Reg. Sept. 30, 1987, Susp.	Sept. 30, 1987	Sept. 30, 1988.

Code for reading fourth column: Emerg.—Emergency; Reg.—Regular; Susp—Suspension.

Harold T. Duryee,
Administrator, Federal Insurance Administration.

[FR Doc. 87-22249 Filed 9-25-87; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

Final Flood Elevation Determinations; Alabama et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are determined for the communities listed below.

The base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base (100-year) flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2767.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed. Proposed base flood elevations or proposed modified base flood elevations have been published in the **Federal Register** for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR Part 67. An opportunity for the community or individuals to appeal proposed determination to or through the community for a period of ninety (90) days has been provided.

The Agency has developed criteria for flood plain management in flood-prone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies for reasons set out in the proposed rule that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, this rule is not a major rule under terms of Executive Order 12291, so no regulatory analyses have been prepared. It does not involve any collection of information for purposes of the Paperwork Reduction Act.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

PART 67—[AMENDED]

The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

The base (100-year) flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. No appeal was made during the 90-day period and the proposed base flood elevations have not been changed.

PROPOSED BASE (100-YEAR) FLOOD ELEVATION

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Alabama	
Carbon Hill (city), Walker County (FEMA Docket No. 6909)	
Lost Creek:	
About 0.5 mile downstream of U.S. Highway 78	*402
About 1.2 miles upstream of Howard Road	*425
Poplar Tributary:	
About 0.5 mile downstream of Widow's Lane Road	*402
Just downstream of Poplar Street	*428
Just upstream of Poplar Street	*446
About 850 feet upstream of 8th Avenue	*476
Allen Creek:	
At mouth	*418
About 1,450 feet upstream of Nubbin Ridge Road	*424
Maps available for inspection at the City Hall, Carbon Hill, Alabama.	
Childersburg (city), Talladega County (FEMA Docket No. 6909)	
Coosa River:	
About 1.1 miles downstream of 12th Avenue	*413
About 4,000 feet upstream of Norfolk Southern Railway	*414
Tallaseehatchee Creek:	
At mouth	*414
About 0.7 mile upstream of confluence of Fourmile Branch	*418
Town Creek:	
At mouth	*416
About 1,000 feet upstream of Park Lane	*432
Griffin Branch: Within community	*417
Talladega Creek:	
Just downstream of Norfolk Southern Railway	*415
About 1.7 miles upstream of Norfolk Southern Railway	*418
Maps available for inspection at the City Hall, 118 6th Avenue, S.W., Childersburg, Alabama.	
Demopolis (city), Marengo County (FEMA Docket No. 6909)	
Tombigbee River:	
About 0.9 mile downstream of Demopolis Lock and Dam	*92
About 3.2 miles upstream of Demopolis Lock and Dam	*93
Black Warrior River:	
About 4.4 miles upstream of confluence with Tombigbee River	*93
About 5.3 miles upstream of confluence with Tombigbee River	*94
Maps available for inspection at the City Hall, Demopolis, Alabama.	

PROPOSED BASE (100-YEAR) FLOOD ELEVATION—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Dothan (city), Houston and Dale Counties (FEMA Docket No. 6912)	
Limestone Creek:	
About 1.5 miles downstream of Taylor Road	*223
About 0.87 mile upstream of Moore Road	*284
Beaver Creek Tributary:	
At mouth	*258
About 2,300 feet upstream of Honeysuckle Road	*279
Beaver Creek:	
At confluence with Newton Creek	*212
About 1,700 feet upstream of South Park Avenue	*280
Newton Creek:	
At mouth	*200
At confluence of Beaver Creek	*212
Little Choctawhatchee River:	
About 1,000 feet downstream of confluence of Newton Creek	*199
About 0.72 mile upstream of Brookside Drive	*245
Murphy Mill Branch:	
At mouth	*220
Just downstream of Kelly Springs Road	*247
Just upstream of Kelly Springs Road	*255
About 2,000 feet upstream of U.S. Highway 231	*268
Rocky Branch:	
Just upstream of Rocky Branch Road	*254
About 1,800 feet upstream of Bic Road	*302
Rock Creek:	
At mouth	*227
Just downstream of Seaboard Coast Line Railroad	*281
Just upstream of Seaboard Coast Line Railroad	*289
About 1,200 feet upstream of Murray Road	*312
Rock Creek Tributary:	
At mouth	*243
About 0.65 mile upstream of mouth	*259
Cypress Creek:	
About 0.89 mile downstream of Seaboard Coast Line Railroad (downstream crossing)	*245
Just downstream of Seaboard Coast Line Railroad (upstream crossing)	*273
Just upstream of Seaboard Coast Line Railroad (upstream crossing)	*280
About 1,500 feet upstream of Seaboard Coast Line Railroad (upstream crossing)	*282
Poplar Spring Branch:	
Just upstream of Old Webb Road	*236
Just downstream of Seaboard Coast Line Railroad	*263
Just upstream of Seaboard Coast Line Railroad	*268
Just downstream of Norfolk Southern Railway	*270
Just upstream of Norfolk Southern Railway	*290
Maps available for inspection at the City Hall, Dothan, Alabama.	
Eufaula (city), Barbour County (FEMA Docket No. 6912)	
Chattahoochee River:	
About 2.7 miles downstream of confluence of Cheneyhatchee Creek	*196
About 5.6 miles upstream of confluence of Cowikee Creek	*200
Maps available for inspection at the City Hall, Eufaula, Alabama.	
Flomaton (city), Escambia County (FEMA Docket No. 6909)	
Big Escambia Creek:	
About 0.6 mile downstream of Louisville & Nashville Railroad	*65
About 1.2 miles upstream of Highway 31	*78
Maps available for inspection at the City Hall, Flomaton, Alabama.	
Jackson (city), Clarke County (FEMA Docket No. 6909)	
East Bassett Creek:	
About 500 feet downstream of Depot Road	*34
About 2.45 miles upstream of Depot Road	*45
Tombigbee River:	
About 1,150 feet downstream of Norfolk Southern Railway	*35
About 2.18 miles upstream of Norfolk Southern Railway	*36
Maps available for inspection at the City Hall, Jackson, Alabama.	
Stevenson (city), Jackson County (FEMA Docket No. 6909)	
Bengis Creek:	
About 0.85 mile downstream of Kentucky Street	*607
About 1.17 miles upstream of the Louisville and Nashville Railroad	*618
Crow Creek:	
Just downstream of Lee Highway	*607
About 0.5 mile upstream of the Louisville and Nashville Railroad	*611
Bengis Creek Tributary	
At mouth	*609
Just downstream of Carroll Street	*619
Maps available for inspection at the City Hall, 296 West Main Street, Stevenson, Alabama.	
Sylacauga (city), Talladega County (FEMA Docket No. 6909)	
Upper Shirtee Creek:	
About 750 feet downstream of Old U.S. Highway 280	*517
About 2430 feet upstream of U.S. Highway 280	*544
Tributary No. 1:	
At mouth	*529
About 400 feet upstream of Airport Road	*544
Tributary No. 2:	
At mouth	*539
About 2580 feet upstream of mouth	*545
Tributary No. 3:	
At mouth	*539
About 2750 feet upstream of mouth	*545
Darby Branch:	
About 800 feet downstream of 4th Street	*529
Just downstream of Quarry Road	*574
Just upstream of Quarry Road	*580
Just downstream of U.S. Highway 280	*592
Just upstream of U.S. Highway 280	*599
Just upstream of Pinecrest Road	*631
Big Ditch:	
Just upstream of 8th Street	*530
About 470 feet upstream of Bay Street	*587
Shirtee Creek:	
Just downstream of Odena Road	*465
Just downstream of 6th Street	*533
Crooked Creek:	
About 0.80 mile downstream of State Highway 148	*520
About 0.62 mile upstream of Brickyard Road	*552
Maps available for inspection at the City Hall, Sylacauga, Alabama.	
Vernon (city), Lamar County (FEMA Docket No. 6909)	
Yellow Creek:	
About 1.1 miles downstream of State Highway 17	*270
About 1.6 miles upstream of Columbus Avenue East	*293
Tributary No. 1:	
About 1250 feet downstream of Yellow Creek Road	*273
About 2100 feet upstream of State Highway 18	*304
Buck Creek:	
About 1500 feet downstream of State Highway 18	*281
About 2500 feet upstream of State Highway 18	*293
Town Branch:	
About 700 feet downstream of State Highway 17	*288
About 1.6 miles upstream of First Street Northwest	*338
Maps available for inspection at the City Hall, Vernon, Alabama.	
ARKANSAS	
Independence County (FEMA Docket Nos. 6903 and 6909)	
White River (Lower Reach):	
At confluence of Black River	*233
At upstream County boundary	*234
White River (Upper Reach):	
Approximately 6.8 miles downstream County boundary (extended)	*252
At upstream side of U.S. Route 67	*266
Approximately 6 miles upstream of County boundary (extended)	*270
Miller Creek:	
Approximately 50 feet downstream of County boundary	*278
Approximately 1.0 mile upstream of confluence of Blue Creek	*297
Blue Creek:	
At confluence with Miller Creek	*286
Downstream side of State Route 25/233	*302
Approximately 1,600 feet upstream of County Route 97	*341
Pfeiffer Creek:	
At confluence with Miller Creek	*279
Upstream side of County Route 235	*357
40 feet upstream of County Route 87	*392
Polk Bayou:	
At confluence with White River	*266
At State Route 69 bypass	*280
Dry Run Creek:	
At confluence with Polk Bayou	*267
Approximately 1,350 feet upstream of State Route 106	*285
Tributary to Miller Creek:	
At confluence with Miller Creek	*293
Approximately 1,350 feet upstream from confluence with Miller Creek	*297
Maps available for inspection at the County Judge's Office, County Courthouse, Batesville, Arkansas.	
CALIFORNIA	
Colton (city), San Bernardino County (FEMA Docket No. 6909)	
Warm Creek:	
City of Colton Corporate Limits	#960
Upstream of San Bernardino Freeway	#960
Downstream of San Bernardino Freeway	#957
Southern Pacific Railroad	#957
Reche Canyon Channel:	
City of Colton Corporate Limits (most upstream limit of study)	*1304
Mobile Home Road	*1244
Barton Road	*1041
Confluence with San Timoteo Wash A Baseline	*930
Confluence with Santa Ana River	*925
San Timoteo Wash A:	
Hunts Lane	*934
Confluence with San Timoteo Wash B Baseline	*966
Interstate 15	*962
Mt. Vernon Avenue	*939
Confluence with Reche Canyon Channel	*939
San Timoteo Wash B:	
Confluence with San Timoteo Wash A	*966
Interstate 15	*962
Limit of Study	*952
Maps are available for inspection at City Hall, 650 N. La Cadena Drive, Colton, California.	
Marina (city), Monterey County (FEMA Docket No. 6912)	
Salinas River:	
Approximately 4,350 feet downstream of Blanco Road	*28
Approximately 310 feet upstream of Blanco Road	*32

PROPOSED BASE (100-YEAR) FLOOD ELEVATION—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps are available for inspection at City Hall, 211 Hillcrest, Marina, California.	
Orinda (city), Contra Costa County (FEMA Docket No. 6909)	
San Pablo Creek:	
50 feet upstream of Bear Creek Road at EB mud erosion control dam	*340
150 feet above confluence with Lauterwasser Creek	*391
50 feet downstream of Orinda Way	*403
At confluence with Overhill Creek	*477
150 feet downstream of Brookside Road	*526
Lauterwasser Creek:	
At confluence with San Pablo Creek	*390
North crossing at Miner Road	*423
100 feet upstream of Oak Arbor Road	*437
150 feet upstream of Lombardy Lane	*467
3400 feet upstream of Lombardy Lane	*537
Cascade Creek:	
At confluence with San Pablo Creek	*391
870 feet above confluence with San Pablo Creek	*416
1920 feet above confluence with San Pablo Creek	*470
Overhill Creek:	
320 feet above confluence with San Pablo Creek at Moraga Way	*475
1240 feet above confluence with San Pablo Creek	*511
2000 feet above confluence with San Pablo Creek	*532
Moraga Creek:	
Corporate limits of the City of Orinda at Ivy Drive	*517
100 feet upstream of Lavenida Drive	*548
100 feet upstream of El Camino Moraga	*575
20 feet downstream of Pacific Gas and Electric Access Road	*605
Maps are available for inspection at City Hall, 26 Orinda Way, Orinda, California 94563.	
Sacramento (city), Sacramento County (FEMA Docket No. 6909)	
Sacramento River:	
Approximately 700 feet downstream of Pioneer Memorial Bridge	*30
At downstream corporate limits	*24
Morrison Creek:	
At Western Pacific Railroad	*15
At Meadowview Road	*16
At Franklin Boulevard	*17
Approximately 400 feet upstream of Stockton Boulevard	*24
Just downstream of Logan Street Extention	*28
At Florin Perkins Road	*40
Just downstream of Central California Traction Railroad	*43
Approximately 300 feet downstream of Elk Grove Road	*46
Elder Creek:	
Just downstream of Franklin Boulevard	*17
Approximately 200 feet downstream of Center Parkway	*20
Just downstream of U.S. Highway 99	*23
Florin Creek:	
Approximately 150 feet downstream of Franklin Boulevard	*17
Just downstream of Brookfield Drive	*18
Just upstream of Center Parkway	*20
Just downstream of Florin Perkins Road	*37
Laguna Creek:	
Just upstream of Franklin Boulevard	*18
Approximately 150 feet downstream of Sheldon Road	*23
Unionhouse Creek:	
Just downstream of Franklin Boulevard	*18
Approximately 300 feet upstream of Center Parkway	*20
Approximately 120 feet upstream of U.S. Highway 99	*26
Just downstream of Stockton Boulevard	*27

PROPOSED BASE (100-YEAR) FLOOD ELEVATION—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps are available for inspection at City Hall, Department of Public Works, 915 I Street, Room 207, Sacramento, California.	
Stockton (city), San Joaquin County (FEMA Docket No. 6909)	
San Joaquin River:	
At downstream corporate limits	*7
At Navy Drive	*8
Just upstream of State Highway 4	*11
Along Atchison Topeka and Santa Fe Coal Road on Roberts Island	*7
In North Stockton at the intersection of March Lane and Quail Lakes Drive	*7
Wright Tract between the corporate limits and Fourteen Mile Slough	*7
Along Mariners Drive North of Lower Mosher Creek	*7
In North Stockton at the intersection of Wagner Heights Road extended and an unnamed road located approximately 850 feet southwest of the intersection of Wagner Heights Road and Lucille Avenue	*7
Calaveras River:	
At the intersection of Pershing Avenue and Monterey Avenue	*11
At the intersection of Buena Vista Avenue and Luceme Avenue	*8
Maps are available for inspection at the Department of Public Works, 425 N. El Dorado Street, Stockton, California.	
COLORADO	
Hinsdale County (unincorporated areas), (FEMA Docket No. 6909)	
Lake Fork of Gunnison River:	
2,080 feet upstream of Vine Street, South of Lake City	*8,687
150 feet upstream of Spring Street, 420 feet south of Lake City corporate limits	*8,639
190 feet downstream of Lake City corporate limits	*8,630
2,050 feet downstream of San Juan Drive	*8,590
Henson Creek:	
At Lake City corporate limits	*8,685
900 feet upstream of Gunnison Avenue	*8,686
Maps are available for inspection at the Hinsdale County Courthouse, County Administrator's Office, Henson Street, Lake City, Colorado.	
Lake City (city), Hinsdale County (FEMA Docket No. 6909)	
Lake Fork of Gunnison River:	
Just upstream of Henson Creek at Lake City corporate limits	*8,667
450 feet downstream of 9th Street Bridge	*8,632
Henson Creek:	
250 feet upstream of Lake Fork of Gunnison River	*8,667
Just upstream of Gunnison Avenue	*8,676
At Hinsdale County corporate limits	*8,685
Maps are available for inspection at the Hinsdale County Courthouse, County Administrator's Office, Henson Street, Lake City, Colorado.	
CONNECTICUT	
Norfolk (town), Litchfield County (FEMA Docket No. 6903)	
Blackberry River:	
Downstream corporate limits	*621
Confluence of North Brook	*874
Upstream side of River Place Road	*1,022
Confluence of Wood Creek and Spaulding Brook	*1,124
Norfolk Brook:	
Confluence with Spaulding Brook	*1,200
Upstream side of Cooper Street	*1,259
Upstream side of Norfolk Detention Reservoir Dam	*1,321
Approximately 0.8 mile upstream of Norfolk Brook Detention Reservoir Dam	*1,341

PROPOSED BASE (100-YEAR) FLOOD ELEVATION—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Spaulding Brook:	
Confluence with Blackberry River and Wood Creek	*1,124
Upstream side of downstream crossing of Westside Road	*1,177
Upstream side of West Pond Flood Detention Reservoir #5 Dam	*1,214
Upstream side of upstream crossing of Westside Road	*1,257
Approximately 0.6 mile upstream of Bigelow Pond Dam	*1,330
Wood Creek:	
At confluence with Blackberry River	*1,124
Upstream side of Wood Creek Detention Reservoir #9 Dam	*1,180
Approximately 0.5 mile downstream of Ashpohtag Road	*1,240
Upstream side of Wood Creek Pond Dam	*1,372
Maps available for inspection at the Planning and Zoning Commission, Norfolk, Connecticut.	
Roxbury (town), Litchfield County (FEMA Docket No. 6903)	
Shepaug River:	
Downstream corporate limits	*204
At confluence of Jack's Brook	*268
Upstream side of State Route 67	*317
Upstream corporate limits	*374
Maps available for inspection at the Zoning Commission, Town Hall, Roxbury, Connecticut.	
FLORIDA	
Caryville (city), Washington County (FEMA Docket No. 6912)	
Choctawhatchee River:	
Downstream corporate limits	*59
Upstream corporate limits	*62
Maps available for inspection at the City Hall, Caryville, Florida.	
Chattahoochee (city), Gadsden County (FEMA Docket No. 6912)	
Apalachicola River:	
At the upstream side of the Louisville and Nashville Railroad	*77
Approximately 500 feet downstream of the Jim Woodruff Dam	*79
Mosquito Creek:	
At the confluence with the Apalachicola River	*77
At the downstream side of the Apalachicola Northern Railroad	*80
At the downstream side of U.S. Route 90	*62
Maps available for inspection at the City Hall, Chattahoochee, Florida.	
Columbia County (unincorporated areas) (FEMA Docket No. 6909)	
Sante Fe River:	
At western county boundary	*34
At confluence of Olustee Creek	*58
Alligator Lake: Entire Shoreline	*104
Maps available for inspection at Building Official's Office, County Annex Building, Lake City, Florida.	
Destin (city), Okaloosa County (FEMA Docket No. 6912)	
Choctawhatchee Bay: About 1,750 feet north of the intersection of Chickasaw Way and Indian Bayou Drive	*3
Gulf of Mexico: About 400 feet south of the intersection of Gulf Shore Drive and Norriego Road	*9
Maps available for inspection at the City Hall, Destin, Florida.	

PROPOSED BASE (100-YEAR) FLOOD ELEVATION—Continued

Source of flooding and location	# Depth in feet above ground. *Elevation in feet (NGVD)
Lake City (city), Columbia County (FEMA Docket No. 6909)	
Alligator Lake: Along shoreline	*104
Montgomery Outlet Stream:	
At mouth	*104
Just downstream of service road east of South Marion Street	*104
Just upstream of South Marion Street	*109
Just downstream of South First Street	*110
Just upstream of Columbia City Road	*115
About 500 feet upstream of Alamo Drive	*131
Montgomery Lake: Along shoreline	*131
Maps available for inspection at the Building Official's Office, City Building, 150 North Alachua, Lake City, Florida.	
Suwannee County (unincorporated areas) (FEMA Docket No. 6909)	
Suwannee River:	
At confluence of Santa Fe River	*32
Just upstream of State Road 250	*59
About 3.5 miles upstream of Interstate 75	*85
Santa Fe River:	
At mouth	*32
About 0.7 mile upstream of confluence of Ichetucknee River	*34
Maps available for inspection at the County Coordinator's Office, County Courthouse, 224 Pine Avenue, Live Oak, Florida.	
GEORGIA	
Barnesville (city), Lamar County (FEMA Docket No. 6912)	
Tobesofkee Creek:	
About 2500 feet downstream of confluence of Tobesofkee Creek Tributary	*764
Just downstream of Redbud Drive	*784
Just upstream of Redbud Drive	*790
Just downstream of College Drive	*809
Just upstream of College Drive	*816
Tobesofkee Creek Tributary:	
At mouth	*777
Just downstream of Gordon Road	*783
Just upstream of Gordon Road	*788
Just upstream of Honeysuckle Lane	*793
About 1125 feet upstream of Honeysuckle Lane	*794
Maps available for inspection at the City Hall, 109 Forsyth Street, Barnesville, Georgia.	
Chattahoochee County (unincorporated areas) (FEMA Docket No. 6909)	
Chattahoochee River:	
About 9.0 miles downstream of confluence of Oswichee Creek	*212
At the confluence of Upatoi Creek	*224
Maps available for inspection at the Office of the Board of Commissioners, County Courthouse, Cusseta, Georgia.	
Clarkesville (city), Habersham County (FEMA Docket No. 6912)	
Soque River:	
About 1200 feet downstream of Monroe Street	*1,300
About 0.77 mile upstream of Bridge Street	*1,310
Soque River Tributary:	
At mouth	*1,307
Just upstream of Grant Street	*1,310
Maps available for inspection at the City Hall, Clarkesville, Georgia.	
Jesup (city), Wayne County (FEMA Docket No. 6912)	
Mosely Bay:	
About 1.0 mile downstream of downstream crossing of Sunset Boulevard	*81
Just downstream of upstream crossing of Sunset Boulevard	*103

PROPOSED BASE (100-YEAR) FLOOD ELEVATION—Continued

Source of flooding and location	# Depth in feet above ground. *Elevation in feet (NGVD)
Millikin Bay:	
At mouth	*62
About 2800 feet upstream of Sunset Boulevard	*100
Millikin Bay Tributary:	
At mouth	*85
Just upstream of 1st Street	*96
Walker Creek:	
About 1900 feet downstream of Sunset Boulevard	*69
Just downstream of Seaboard Coast Line Railroad	*77
Just upstream of Seaboard Coast Line Railroad	*87
About 1.7 miles upstream of Seaboard Coast Line Railroad	*97
Little McMillen Creek:	
About 1.0 mile downstream of Grantham Road	*46
Just upstream of 1st Street	*62
Maps available for inspection at the City Hall, Jesup, Georgia.	
Swainsboro (City), Emanuel County (FEMA Docket No. 6912)	
Crooked Creek:	
Just downstream of Old Nunez Road	*201
Just downstream of Empire Expressway	*219
Just upstream of Empire Expressway	*225
Just downstream of Meadowlake Parkway	*244
Just upstream of Meadowlake Parkway	*250
Just downstream of Mabel Avenue	*264
Just upstream of Mabel Avenue	*271
Just downstream of Covena Road	*284
Tributary No. 1:	
At mouth	*251
Just downstream of Lakewood Drive	*256
Just upstream of Lakewood Drive	*268
Tributary No. 2:	
At mouth	*271
About 300 feet upstream of Herrington Street	*288
Hughes Prong Canoochee Creek:	
About 2100 feet downstream of East Main Street	*234
About 2600 feet upstream of East Main Street	*242
Hughes Prong Canoochee Creek Tributary:	
Just upstream of East Main Street	*247
Just downstream of State Route 56	*266
Yam Grandy Creek Tributary:	
Just upstream of Holloways Pond Dam	*251
About 1400 feet upstream of Ponderosa Drive	*290
Maps available for inspection at the City Hall, 101 Main Street, Swainsboro, Georgia.	
Winder (city), Barrow County (FEMA Docket No. 6912)	
Cedar Creek:	
About 1.1 miles downstream of confluence of Tributary No. 1	*776
Just downstream of Winder Dam	*836
Tributary No. 1:	
At mouth	*821
Just downstream of Sims Road	*840
Just upstream of Sims Road	*848
Tributary No. 2:	
At mouth	*827
Just downstream of Langford Street	*888
Maps available for inspection at the City Hall, Winder, Georgia.	
IDAHO	
Jefferson County (FEMA Docket No. 6912)	
Snake River (near Roberts):	
At County Road (at Jefferson/Bonneville County border)	*4,758
Approximately 2,000 feet above County Road Bridge	*4,759
Approximately 6,000 feet above County Road Bridge	*4,761
Approximately 3,700 feet above County Road Bridge	*4,764
Snake River (near Heise):	
At Heise Bridge	*4,991
Approximately 5,000 feet above Heise Bridge	*4,999

PROPOSED BASE (100-YEAR) FLOOD ELEVATION—Continued

Source of flooding and location	# Depth in feet above ground. *Elevation in feet (NGVD)
At Dry Bed Headgate	*5,004
Approximately 7,500 feet above Dry Bed Headgate	*5,017
Dry Bed (at Heise):	
At Poplar Road	*4,987
Approximately 2,000 feet above Poplar Loop Bridge	*4,990
Approximately 5,000 feet above Poplar Loop Bridge	*4,996
At Dry Bed Headgate	*5,000
Dry Bed (near Rigby):	
At US Highway 20	*4,856
At UPRR Bridge	*4,860
At County Road 300 East	*4,879
Diversion Canal approximately 4,500 feet above County Road 300 East	*4,887
At State Highway 48	*4,921
Maps are available for review at the Jefferson County Planning and Zoning Commission, County Courthouse, Rigby, Idaho.	
ILLINOIS	
Forsyth (village), Macon County (FEMA Docket No. 6909)	
Stevens Creek:	
Just upstream of Weaver Avenue	*657
About 2,600 feet upstream of Weaver Avenue	*658
Maps available for inspection at the Village Hall, 424 Elwood, Forsyth, Illinois.	
KANSAS	
Geary County (unincorporated areas) (FEMA Docket No. 6912)	
Smoky Hill River Overflow:	
Just upstream of East 6th Street	*1,074
At diversion from Smoky Hill River	*1,083
Kansas River:	
About 0.85 mile downstream of Henry Drive	*1,066
At mouth of Smoky Hill River	*1,070
Smoky Hill River:	
At mouth	*1,070
About 1.0 mile upstream of U.S. Highway 77	*1,090
Republican River:	
At confluence with Smoky Hill River	*1,070
About 3.0 miles upstream of Washington Street	*1,077
Milford Lake: At shoreline	*1,181
Geary County Lake: At shoreline	*1,206
Lyon Creek:	
At confluence with Smoky Hill River	*1,087
At confluence of Carry Creek	*1,148
Maps available for inspection at the County Courthouse Annex, Junction City, Kansas.	
Pottawatomie County (unincorporated areas) (FEMA Docket No. 6912)	
Kansas River:	
At downstream County boundary	*931
Approximately 800 feet downstream of confluence of Lost Creek	*952
Approximately 1,200 feet downstream of confluence of downstream Sand Creek	*991
At upstream County boundary	*1,012
Big Blue River:	
At confluence with Kansas River	*1,009
Approximately 800 feet downstream of Rocky Ford Dam	*1,019
At upstream County boundary	*1,028
Cedar Creek:	
At confluence with Big Blue River	*1,017
Approximately 1.75 miles upstream of confluence with Big Blue River	*1,038
Approximately 1.0 mile downstream of State Route 13 Bridge	*1,060
Approximately 300 feet downstream of State Route 13 Bridge	*1,091
Willard Creek:	
At downstream County boundary	*943
Approximately 60 feet downstream of Durink Street Bridge	*963

PROPOSED BASE (100-YEAR) FLOOD ELEVATION—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 830 feet upstream of Durink Street Bridge	*973
East Unnamed Creek:	
At confluence with Kansas River	*976
Approximately 30 feet upstream of U.S. Routes 24 and 40	*998
Approximately 280 feet downstream of Lilac Lane	*1,006
Approximately 0.7 mile upstream of State Route 99	*1,018
Rock Creek:	
Approximately 4,200 feet downstream of State Route 99	*1,003
Upstream side of County Road 541	*1,049
Approximately 3.6 miles upstream of County Road 541	*1,079
At State Route 99	*1,141
Approximately 1.6 miles downstream of County Road 1464	*1,190
Downstream side of County Road 1464	*1,221
Approximately 0.7 mile upstream of County Road 1464	*1,233
Maps available for inspection at the County Courthouse, Westmoreland, Kansas.	
KENTUCKY	
Perryville (city), Boyle County (FEMA Docket No. 6906)	
Chaplin River:	
About 0.5 mile downstream of Second Street	*845
About 0.5 mile upstream of Third Street	*857
Maps available for inspection at the City Hall, Perryville, Kentucky.	
Whitesburg (city), Letcher County (FEMA Docket No. 6909)	
North Fork Kentucky River:	
About 1.06 miles downstream of confluence of Sandlick Creek	*1,124
About 1.4 miles upstream of Palisade Drive	*1,177
Maps available for inspection at the City Hall, Whitesburg, Kentucky.	
LOUISIANA	
Basile (town), Evangeline Parish (FEMA Docket No. 6912)	
Basile Coulee:	
At downstream corporate limits	*37
Approximately 60 feet upstream of West Railroad Street	*41
At upstream corporate limits	*45
Tributary No. 1:	
At downstream corporate limits	*35
At upstream corporate limits	*35
Tributary No. 2:	
At confluence with Tributary No. 1	*35
Approximately 800 feet upstream of confluence with Tributary No. 1	*43
Bayou Barwick Tributary:	
At downstream corporate limits	*44
Approximately 28 feet upstream of East Stagg Avenue	*44
Maps available for inspection at the Town Hall, Basile, Louisiana.	
Calcasieu Parish (Unincorporated Areas) (FEMA Docket No. 6640)	
Sabine River:	
Cutoff Island	*8
Approximately 1.8 miles north of U.S. Route 90	*11
Pruitt Bluff	*13
Cooper Lake	*15
Approximately 2.5 miles upstream of Cooper Lake	*16
Gulf of Mexico:	
Intersection of Intracoastal Waterway & Vinton Drainage Canal	*7
Vinton Canal east of Ged Lake	*7
Clear Marais	*9
Bayou Chopique:	
At confluence of Spring Gully	*9
Dugas Road (downstream side)	*10
Calcasieu River:	
At Calcasieu Ship Channel and Intracoastal Waterway	*12
Moss Lake	*11
Indian Marias	*10
Coon Island	*9
Downstream of confluence with West Fork Calcasieu River	*10
Intracoastal Waterway: At south bank of State Route 384	*12
Maps available for inspection at the Office of Parish Planning and Development, Calcasieu Parish Police Jury, Lake Charles, Louisiana.	
Iowa (town), Calcasieu Parish (FEMA Docket No. 6912)	
Lateral 14:	
Downstream corporate limits	*16
Approximately 100 feet upstream of upstream corporate limits	*24
Lateral 14-4:	
At confluence with Lateral 14	*20
Upstream corporate limits	*21
Lateral 14B:	
Approximately 105 feet downstream of downstream corporate limits	*16
Upstream side of State Route 383 (South Thompson Avenue)	*21
Lateral 14B-2:	
At confluence with Lateral 14B	*16
Approximately 0.59 mile upstream of U.S. Route 90 (West Fourth Street)	*20
Lateral 14-3:	
At confluence with Lateral 14-4	*20
Upstream side of East Miller Street	*22
Lateral 14-1:	
At confluence with Lateral 14	*18
Approximately 900 feet upstream of confluence with Lateral 14	*19
Lateral 14-2:	
At confluence with Lateral 14	*18
Approximately 70 feet upstream of West Miller Street	*20
Maps available for inspection at the Town Hall, Thomas Highway, Iowa, Louisiana.	
Krotz Springs (town), Landry Parish (FEMA Docket No. 6909)	
Latania Bayou:	
At downstream corporate limits	*17
Approximately 115 feet upstream of Ninth Street	*23
Approximately 1,060 feet upstream of Eighth Street	*26
Atchafalaya River: Entire length affecting community	*39
West Atchafalaya Floodway: Entire length affecting community	*29
Maps available for inspection at the Town Hall, Krotz Springs, Louisiana.	
MAINE	
Eastport (city), Washington County (FEMA Docket No. 6903)	
Atlantic Ocean:	
Shoreline at Old State Route 190 (extended)	*15
Shoreline at Deep Cove Road (extended)	*18
Shoreline at Capon Avenue (extended)	*21
Shoreline at Custom Street (extended)	*23
Shoreline approximately 0.75 mile northeast of intersection of Old Route 190 with State Route 190	*26
Maps available for inspection at the City Manager's Office, City Hall, 78 High Street, Eastport, Maine.	
Fairfield (town), Somerset County (FEMA Docket No. 6912)	
Kennebec River:	
At downstream County boundary	*92
Upstream side of Interstate Route 95 (northbound)	*102
Approximately 100 feet upstream of Shamut Dam	*120
Approximately .8 mile upstream of Shamut Dam	*121
At State Route 23	*125
At upstream corporate limits	*126
Martin Stream:	
At U.S. Route 201 (State Route 23)	*124
Downstream side of State Route 104 (Middle Road)	*146
At the confluence of Alder Brook	*193
Approximately 1 mile downstream of Maine Central Railroad	*212
Upstream side of Maine Central Railroad	*216
Approximately 0.9 mile upstream of Martin Stream Road	*223
Maps available for inspection at the Code Enforcement Office, Fairfield, Maine.	
Waterville (city), Kennebec County (FEMA Docket No. 6912)	
Kennebec River:	
Approximately 0.59 mile downstream of confluence of Trafton Road Brook	*55
Downstream of Lockwood Dam	*62
Upstream of Lockwood Dam	*66
Approximately 0.34 mile downstream of Scott Paper Company Dam	*71
Downstream side of Scott Paper Company Dam	*79
Upstream side of Scott Paper Company Dam	*88
Approximately 0.45 mile upstream of confluence of Holland Brook	*92
Messalonskee Stream:	
At confluence with Kennebec River	*57
Upstream side of Union Gas Project Dam	*76
Upstream of State Routes 11 and 137 Bridge	*77
Downstream side of Automatic Project Dam	*83
Upstream side of Automatic Project Dam	*100
Upstream side of North Street Bridge	*105
Approximately 0.6 mile upstream of confluence of Fish Brook	*106
Maps available for inspection at the City Engineer's Office, Waterville, Maine.	
MASSACHUSETTS	
Marion (town), Plymouth County (FEMA Docket No. 6903)	
Buzzard's Bay:	
State Route 105 and western corporate limits	*15
East side of U.S. Route 6 at Sippican River	*16
Intersection of Doran Way and South Street	*15
Bass Point Road extended to shoreline	*20
Hermitage Road extended to shoreline	*18
Intersection of Front Street and Vine Street	*15
Intersection of Front Street and Island Wharf Road	*17
Front Street extended to shoreline	*20
Intersection of Holly Road and Delano Road	*15
Rodgers Drive extended east to shoreline	*20
Approximately 1,700' southwest on North Drive from Point Road	*15
Sippican Lane extended to shoreline	*17
Richardson Road extended southwest to shoreline	*21
Intersection of Rocky Knoor Lane and Soloman Road	*14
Approximately 500' northeast along Holly Pond Road from intersection of Holly Pond Road and Indian Cove Road	*17
Aucoot Avenue extended to shoreline	*20
Intersection of Bay Road and Cabana Road	*18
Bay Road extended to shoreline	*20
Entire shore of Bird Island	*22

PROPOSED BASE (100-YEAR) FLOOD ELEVATION—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the Town Office, Marion, Massachusetts.	
MICHIGAN	
Au Sable (township), Iosco County (FEMA Docket No. 6909)	
Au Sable River:	
At mouth	*584
About 1,400 feet upstream of River Road	*585
Lake Huron: Shoreline	*584
Maps available for inspection at the Township Hall, 311 Fifth Street, Oscoda, Michigan.	
Blissfield (village), Lenawee County (FEMA Docket No. 6912)	
River Raisin:	
Approximately 125 feet downstream of Blissfield Dam	*685
Upstream side of Adrian Street Bridge	*687
Maps available for inspection at the Village Hall, 117 West Adrian Street, Blissfield, Michigan.	
Hamlin (township), Mason County (FEMA Docket No. 6909)	
Lake Michigan: Along shoreline	*584
Hamlin Lake: Within community	*595
Maps available for inspection at the Township Hall, 3775 North Jebavy Drive, Ludington, Michigan.	
Hillsdale (city), Hillsdale County (FEMA Docket No. 6909)	
St. Joseph River:	
About 2,800 feet downstream of Mechanic Street	*1,068
About 400 feet upstream of South Street	*1,088
About 450 feet upstream of South Street	*1,097
About 800 feet upstream of Griswold Street	*1,097
Baw Beese Lake: Within community	*1,099
Maps available for inspection at the City Hall, Corner of Broad and Hillsdale, Hillsdale, Michigan.	
Sebewaing (village), Huron County (FEMA Docket No. 6909)	
Saginaw Bay: Within community	*584
Sebewaing River:	
At mouth	*584
At confluence of State Drain	*593
State Drain: Within community	*593
Maps available for inspection at the Village Hall, 108 West Main, Sebewaing, Michigan.	
Summit (town), Mason County (FEMA Docket No. 6909)	
Lake Michigan: Along shoreline	*584
Bass Lake: Along shoreline	*584
Maps available for inspection at the Township Hall, 6019 South U.S. 31, Ludington, Michigan.	
MINNESOTA	
Carver County (unincorporated areas) (FEMA Docket No. 6909)	
Minnesota River:	
About 3.7 miles downstream of County Highway 9	*725
About 500 feet upstream of State Highway 25	*732
South Fork Crow River:	
About 700 feet upstream of county boundary	*934
Just downstream of County Highway 30	*952
Mapes Creek: Within community	*935
Maps available for inspection at the Planning and Zoning Office, 600 East Fourth Street, Chaska, Minnesota.	
Sibley County (unincorporated areas) (FEMA Docket No. 6909)	
Minnesota River:	
About 1,300 feet downstream of State Highway 25	*730
About 0.8 mile upstream of State Highway 93	*784
Maps available for inspection at the Planning and Zoning Office, Gaylord, Minnesota.	
MISSISSIPPI	
Pass Christian (city), Harrison County (FEMA Docket No. 6912)	
Johnson Bayou (Canal No. 1)	
Just upstream of Espy Avenue	*12
About 0.5 mile upstream of Espy Avenue	*16
Maps available for inspection at the City Hall, Pass Christian, Mississippi.	
MISSOURI	
Bigelow (village), Holt County (FEMA Docket No. 6909)	
Missouri River: Within community	*866
Maps available for inspection at the Sportman Lodge, Bigelow, Missouri.	
Big Lake (village), Holt County (FEMA Docket No. 6909)	
Missouri River:	
At Intersection of U.S. Highway 159 and State Highway 111	*861
About 1.2 miles south of intersection of State Highway 111 and State Highway 118	*866
Maps available for inspection at the City Building, Big Lake, Missouri.	
Chariton County (unincorporated areas) (FEMA Docket No. 6909)	
Missouri River:	
About 0.4 mile downstream of confluence of Little Chariton River	*628
About 6.7 miles upstream of confluence of Grand River	*651
Maps available for inspection at the County Courthouse, Keytesville, Missouri.	
Corning (town), Holt County (FEMA Docket No. 6909)	
Missouri River: Within community	*879
Maps available for inspection at the Town Clerk's Residence, Rt. 1, Corning, Missouri.	
Craig (city), Holt County (FEMA Docket No. 6909)	
Missouri River: Within community	*871
Maps available for inspection at the City Hall, Craig, Missouri.	
Forest City (city), Holt County (FEMA Docket No. 6909)	
Missouri River:	
At Intersection of Burlington Northern railroad and B Street	*850
At Intersection of Burlington Northern railroad and Collins Street	*851
Maps available for inspection at the Mayor's Office, City Hall, Forest City, Missouri.	
Fortescue (town), Holt County (FEMA Docket No. 6909)	
Missouri River: Within community	*861
Maps available for inspection at the Chairman's Home, Fortescue, Missouri.	
Gasconade County (unincorporated areas) (FEMA Docket No. 6912)	
Missouri River:	
About 0.78 mile downstream of eastern County Boundary	*513
At western County Boundary	*528
Maps available for inspection at the Emergency Operations Center, County Courthouse, (Basement Floor), Hermann, Missouri.	
Holt County (unincorporated areas) (FEMA Docket No. 6909)	
Missouri River:	
At confluence of Nodaway River	*833
At northern county boundary	*885
Maps available for inspection at the County Clerk's Office, Oregon, Missouri.	
Lake St. Louis (city), St. Charles County (FEMA Docket No. 6909)	
Pereque Creek:	
Just downstream of North Outer Road	*491
Just downstream of Lake St. Louis Dam	*492
Just upstream of Lake St. Louis Dam	*505
About 1.2 miles upstream of U.S. Highway 40	*516
Maps available for inspection at the City Hall, 1000 Lake St. Louis Boulevard, Lake St. Louis, Missouri.	
Mound City (city), Holt County (FEMA Docket No. 6909)	
Missouri River:	
At the intersection of Interstate 29 and Burlington Northern railroad	*866
About 1,000 feet west of intersection of Highway N and North Street	*867
Maps available for inspection at the City Hall, 205 East Sixth Street, Mound City, Missouri.	
Pattonsburg (town), Daviess County (FEMA Docket No. 6912)	
Big Creek:	
About 3,400 feet downstream of Norfolk Southern Railway	*779
About 1,000 feet upstream of U.S. Highway 69	*783
Grand River:	
Just upstream of U.S. Highway 69	*779
About 550 feet upstream of County Road	*782
Maps available for inspection at the City Office, Second and Z Highway, Pattonsburg, Missouri.	
Perry County (unincorporated areas) (FEMA Docket No. 6909)	
Mississippi River:	
At southern county boundary	*370
About 2.0 miles upstream from confluence of Old River	*393
Apple Creek:	
About 2.7 miles downstream of U.S. Highway 61	*368
About 1.7 miles upstream of U.S. Highway 61	*420
Maps available for inspection at the County Courthouse, 15 West Ste. Maries, Perryville, Missouri.	
Vandalia (city), Audrain County (FEMA Docket No. 6912)	
Tributary A:	
Just downstream of State Highway F	*740
Just downstream of U.S. Highway 54	*743
Just upstream of U.S. Highway 54	*748
Just downstream of Illinois Central Gulf Railroad	*748
Just upstream of Illinois Central Gulf Railroad	*757
About 1,300 feet upstream of Illinois Central Gulf Railroad	*757
Tributary B:	

PROPOSED BASE (100-YEAR) FLOOD ELEVATION—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Just downstream of Galloway Road	*743
Just downstream of Illinois Central Gulf Railroad	*754
Just upstream of Illinois Central Gulf Railroad	*762
About 1,800 feet upstream of Illinois Central Gulf Railroad	*762
Maps available for inspection at the City Hall, 200 East Park Street, Vandalia, Missouri.	
MONTANA	
Lake County (unincorporated areas) (FEMA Docket No. 6909)	
Lower Swan River:	
Approximately 100 feet upstream of the Flathead County line	*3,034
Approximately 800 feet upstream of Johnson Creek at Swan Lake	*3,073
Upper Swan River:	
At downstream limit of detailed study	*3,095
Approximately 3,120 feet downstream of the confluence with Whitetail Creek	*3,120
Approximately 4,350 feet downstream of the confluence with South Woodward Creek	*3,172
At confluence with Cedar Creek	*3,233
Approximately 120 feet downstream of the confluence with Lion Creek	*3,358
At the confluence with Jim Creek	*3,417
Approximately 320 feet upstream of the confluence with Alder Creek	*3,430
At Missoula County Line	*3,503
Maps are available for inspection at the Lake County Planning Division, County Courthouse, Polson, Montana.	
NEBRASKA	
Saline County (unincorporated areas) (FEMA Docket No. 6912)	
Big Blue River:	
About 0.6 mile downstream of County Road (at upstream extraterritorial limits of DeWitt)	*1,294
Just upstream of State Highway 41	*1,317
At northern county boundary	*1,372
Maps available for inspection at the County Courthouse, Wilber, Nebraska.	
NEVADA	
Lincoln County (unincorporated areas) (FEMA Docket No. 6912)	
Meadow Valley Wash (near Caliente):	
Approximately 100 feet upstream of State Route 55 crossing which is located approximately 4.75 miles south of the City of Caliente	*4,192
Approximately 1.22 miles downstream of State Route 55 crossing which is located approximately 2.5 miles south of the City of Caliente	*4,235
Approximately 500 feet upstream of State Route 55 crossing which is located approximately 2.5 miles south of the City of Caliente	*4,288
Approximately 1.18 miles downstream of Union Pacific Railroad	*4,313
Approximately 700 feet downstream of Union Pacific Railroad	*4,353
Maps are available for review at the Lincoln County Courthouse, Main Street, Pioche, Nevada.	
NEW JERSEY	
Bound Brook (borough), Somerset County (FEMA Docket No. 6903)	
Middle Brook:	
Upstream side of CONRAIL bridge (3rd upstream crossing)	*40
Approximately 600 feet upstream of State Route 28	*53
Approximately 1,750 feet upstream of State Route 28	*61
Green Brook:	
At downstream corporate limits	*34
Approximately 300 feet upstream of the upstream corporate limits	*36
Maps available for inspection at the Municipal Building, 230 Hamilton Street, Bound Brook, New Jersey.	
NEW YORK	
Fayette (town), Seneca County (FEMA Docket No. 6909)	
Seneca Lake: Entire shoreline within community	*449
Seneca River:	
At eastern corporate limits	*448
Upstream side of State Route 96A	*449
Cayuga Lake: Entire shoreline within community	*386
Maps available for inspection at the Town Clerk's Office, 2932 Route 96, Waterloo, New York.	
Lodi (town), Seneca County (FEMA Docket No. 6909)	
Sececa Lake: Entire shoreline within community	*449
Maps available for inspection in c/o of Louis Jennings, Town Clerk, East Seneca Street (10 a.m.–4 p.m., Monday-Friday).	
Ovid (town), Seneca County (FEMA Docket No. 6909)	
Cayuga Lake: Entire shoreline within community	*386
Seneca Lake: Entire shoreline within community	*449
Maps available for inspection in c/o of Cynthia J. Xavier, Town Clerk, 7122 Orchard Street, Ovid, New York.	
Pamelia (town), Jefferson County (FEMA Docket No. 6906)	
Kelsey Creek:	
Approximately 150' downstream of CONRAIL bridge	*395
Downstream side of State Route 37	*402
Downstream side of U.S. Route 11	*415
Maps available for inspection at the Pamelia Town Hall, Jenkins Road, Pamelia, New York.	
Starkey (town), Yates County (FEMA Docket No. 6909)	
Seneca Lake: Entire shoreline within community	*449
Maps available for inspection at the Town Hall, 40 Seneca Street, Dundee, New York.	
Torrey (town), Yates County (FEMA Docket No. 6909)	
Seneca Lake: Entire shoreline within community	*449
Keuka Lake Outlet:	
Confluence with Seneca Lake	*449
Downstream side of CONRAIL bridge	*459
At upstream side of Route 14 Bridge	*473
Maps available for inspection at the Torrey Town Clerk's Office, Geneva Street, Dresden, New York.	
Varick (town), Seneca County (FEMA Docket No. 6909)	
Seneca Lake: Entire shoreline within community	*449
Cayuga Lake: Entire shoreline within community	*386
Maps available for inspection at the Town Clerk's Home, 1736 Route 336, Romubus, New York.	
NORTH CAROLINA	
Banner Elk (town), Avery County (FEMA Docket No. 6912)	
Elk River:	
Just upstream of Mill Pond Dam	*3,643
About 250 feet upstream of State Road 1341	*3,696
Whitehead Creek:	
Just upstream of State Road 194	*3,436
About 1,650 feet upstream of Old Turnpike Road	*3,524
Shawneehaw Creek:	
About 3,120 feet downstream of Dogwood Road	*3,668
About 1,100 feet upstream of Balsam Road	*3,748
Hanging Rock Creek:	
At mouth	*3,656
About upstream of State Road 1337	*3,712
Horse Bottom Creek:	
At mouth	*3,686
About 0.36 mile above mouth	*3,713
Sugar Creek:	
At mouth	*3,680
About 0.48 mile upstream of mouth	*3,724
Maps available for inspection at the Town Hall, Banner Elk, North Carolina.	
Calabash (town), Brunswick County (FEMA Docket No. 6912)	
Calabash River: At the intersection of Oak Street and River View Drive	*13
Maps available for inspection at the Town Hall, Route 7, Shalotte, North Carolina.	
NORTH DAKOTA	
Enderlin (city), Ransom County (FEMA Docket No. 6909)	
Maple River:	
At upstream face of County Road 55	*1,075
At downstream face of State Highway 46	*1,086
At a point 1,720 feet north of a point 800 feet northwest along Soo Line Railroad from its crossing with State Highway 46	*1,090
South Branch Maple River:	
At a point 200 feet downstream from the downstream face of Railway Street	*1,080
At upstream face of Railway Street	*1,082
At a point 800 feet west of a point 200 feet south along County Road 5 from its intersection with County Road 14	*1,089
Maps are available for review at City Hall, 325 Railway Street, Enderlin, North Dakota 85072.	
OHIO	
Belmont County (FEMA Docket No. 6912)	
Ohio River:	
At river mile 108.5	*647
At river mile 90.7	*659
Wheeling Creek:	
At downstream County boundary	*659
Approximately 100 feet upstream of Township Route 326	*716
Approximately 150 feet upstream of Barton-Blaine Road (3rd upstream crossing)	*779
Approximately 0.63 mile upstream of St. Clairesville-Barton Road	*804
McMahon Creek:	
Approximately 350 feet at downstream County boundary	*656
Upstream side of Fowke Road	*693
Approximately 100 feet upstream of Neffs Sandhill Road	*730
Wegee Creek:	
At confluence with Ohio River	*654
Approximately 1,900 feet upstream of Wegee Road (3rd upstream crossing)	*690
Approximately 200 feet upstream of Wegee Road (4th upstream crossing)	*757
Captina Creek:	
Approximately 1,800 feet at downstream County boundary	*647
Downstream side of State Route 148 (1st upstream crossing)	*757
Upstream side of CONRAIL	*776
Approximately 0.86 mile upstream of Pugh Ridge Road	*830

PROPOSED BASE (100-YEAR) FLOOD ELEVATION—Continued

Source of flooding and location	# Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the Sanitary Sewer District Office, Belmont County, Ohio.	
Brookside (village), Belmont County (FEMA Docket No. 6912)	
Wheeling Creek:	
At downstream corporate limits	*659
At upstream corporate limits	*659
Maps available for inspection at the Town Hall, 875 National Road, Brookside, Ohio.	
Garfield Heights (city), Cuyahoga County (FEMA Docket No. 6909)	
Mill Creek:	
About 800 feet downstream of Broadway	*790
Just downstream of McCracken Road	*842
Maps available for inspection at the City Hall, 5555 Turney Road, Garfield Heights, Ohio.	
Pike County (unincorporated areas) (FEMA Docket No. 6912)	
Scioto River:	
About 2.0 miles downstream of U.S. Route 23	*567
About 0.5 mile upstream of confluence of Mutton Run	*593
Maps available for inspection at the County Engineer's Office, County Courthouse, Waverly, Ohio.	
Piketon (village), Pike County (FEMA Docket No. 6912)	
Scioto River:	
About 0.8 mile downstream of U.S. Route 23	*567
About 0.7 mile upstream of U.S. Route 23	*569
Maps available for inspection at the Municipal Building, Piketon, Ohio.	
Port Washington (village), Tuscarawas County (FEMA Docket No. 6912)	
Tuscarawas River:	
About 0.8 mile downstream of Saint Clairsville Street	* 812
About 0.4 mile upstream of Saint Clairsville Street	* 815
Maps available for inspection at the Clerk's Residence, 400 West Main Street, Port Washington, Ohio.	
Waverly (city), Pike County (FEMA Docket No. 6912)	
Scioto River:	
About 1,100 feet downstream of Bridge Street	* 572
About 1.1 miles upstream of Norfolk Southern Railway	* 575
Maps available for inspection at the Municipal Building, 201 North Street, Waverly, Ohio.	
OKLAHOMA	
Luther (town), Oklahoma County (FEMA Docket No. 6912)	
Deep Fork:	
At downstream corporate limits	*876
Upstream side of 206th Street	*894
At upstream corporate limits	*903
Wildhorse Creek:	
At confluence with Deep Fork	*894
Approximately 120 feet downstream of 178th Street	*907
Maps available for inspection at 119 South Main Street, Luther, Oklahoma.	
Tishomingo (city), Johnston County (FEMA Docket No. 6909)	
Pennington Creek:	
At downstream corporate limits	*640
Upstream side of Twelfth Street	*644
Approximately 100 feet upstream of New Low Water Dam	*660
Approximately 1,000 feet downstream of upstream corporate limits	*665
Pennington Creek Tributary 1:	
Downstream side of Kemp Avenue	*640
100 feet downstream of State Route 22	*651
Maps available for inspection at 201 South Capitol Street, Tishomingo, Oklahoma.	
Wyandotte (town), Ottawa County (FEMA Docket No. 6906)	
Lost Creek: Approximately 250 feet upstream of Lost Creek County Highway	*758
Wyandotte Ditch:	
At Pine Street	#1
At 3rd Street	#1
Maps available for inspection at the Town Hall, Wyandotte, Oklahoma.	
Wynnewood (city), Garvin County (FEMA Docket No. 6912)	
Savage Creek:	
At downstream corporate limits	*875
Upstream side of Kean Street	*885
Upstream side of Chickasaw Street	*891
Downstream side of State Route 29	*891
Upstream side of State Route 29	*894
Downstream side of Clayton Avenue	*897
Downstream side of Cox Avenue	*903
Upstream corporate limits	*907
Approximately 190 feet upstream of corporate limits	*908
Maps available for inspection at 207 West Robert S. Kerr, Wynnewood, Oklahoma.	
OREGON	
Enterprise (city), Wallowa County (FEMA Docket No. 6912)	
Wallowa River:	
At upstream side of Fish Hatchery Road Bridge	*3,749
At upstream side of Hurricane Creek Bridge	*3,769
At southern corporate limit of City of Enterprise	*3,777
Prairie Creek:	
At downstream corporate limit of City of Enterprise	*3,717
At upstream side of Montclair Street Bridge	*3,744
At upstream side of River Street Bridge	*3,757
At upstream side of Wallowa Lake Highway	*3,773
At southeastern corporate limit of City of Enterprise	*3,790
Maps are available for inspection at Wallowa County Planning Department, County Courthouse, 101 South River Street, Enterprise, Oregon.	
Joseph (city), Wallowa County (FEMA Docket No. 6912)	
Wallowa River:	
At upstream side of Wallowa Avenue Bridge	*4,146
At upstream side of Park Street Bridge	*4,165
At western corporate limit near Third Street	*4,189
At southwestern corporate limit of City of Joseph	*4,226
Maps are available for inspection at Wallowa County Planning Department, County Courthouse, 101 South River Street, Enterprise, Oregon 97828.	
Prairie City (city), Grant County (FEMA Docket No. 6912)	
John Day River:	
At western corporate limit of Prairie City	*3,506
At confluence of Dixie Creek	*3,510
At upstream side of Bridge Street Bridge	*3,523
At upstream side of Main Street Bridge	*3,525
At eastern corporate limit of Prairie City	*3,535
Dixie Creek:	
At confluence with John Day River	*3,510
At upstream side of Lumber Mill Access Road	*3,525
At upstream side of U.S. Highway 26 Bridge	*3,534
At Fourth Street	*3,542
At northern corporate limit of Prairie City	*3,588
Maps are available for inspection at City Recorder's Office, City Hall, 133 Bridge Street, Prairie City, Oregon.	
Wallowa (city), Wallowa County (FEMA Docket No. 6912)	
Wallowa River:	
500 feet downstream of Highway 82 Bridge	*2,879
At upstream side of State Highway 82 Bridge	*2,882
At upstream side of Union Pacific Railroad Bridge	*2,916
At upstream side of Troy Road Bridge	*2,923
At southeastern corporate limit of City of Wallowa	*2,935
Maps are available for inspection at Wallowa County Planning Department, County Courthouse, 101 South River Street, Enterprise, Oregon.	
Wallowa County (FEMA Docket No. 6912)	
Wallowa River (at Wallowa):	
550 feet downstream of Highway 82 Bridge	*2,879
At upstream side of State Highway 82 Bridge	*2,882
At upstream side of Union Pacific Railroad Bridge	*2,916
At upstream side of Troy Road Bridge	*2,923
At southeastern corporate limit of City of Wallowa	*2,935
Wallowa River (from Enterprise to Wallowa Lake):	
900 feet downstream of confluence of Hurricane Creek	*3,699
At upstream side of Hurricane Creek Road Bridge	*3,769
At upstream side of County Road 572 Bridge	*3,882
At upstream side of Russel Lane	*4,069
At upstream side of Wallowa Avenue Bridge	*4,146
200 feet downstream of Wallowa Lake Dam	*4,353
Wallowa River (South Channel):	
At convergence with main channel of Wallowa River	*3,761
At upstream side of Hurricane Creek Road Bridge	*3,776
At upstream side of Union Pacific Railroad Bridge	*3,791
At divergence from main channel of Wallowa River	*3,809
Wallowa River (Upstream of Wallowa Lake):	
At mouth at Wallowa Lake	*4,384
At upstream side of Wallowa Lake State Park Access Road	*4,404
At confluence of East Fork Wallowa River	*4,465
50 feet above confluence of B.C. Creek	*4,584
Lostine River:	
At township line between Township 1 and 2 South	*3,666
At confluence of Bitter Creek	*3,681
At bridge 1,050 feet downstream of Lostine River Road Bridge	*3,723
At upstream side of Lostine River Road Bridge	*3,747
150 feet downstream of confluence of Silver Creek	*3,925
PENNSYLVANIA	
Bath (borough), Northampton County (FEMA Docket No. 6912)	
Monocacy Creek:	
At downstream corporate limits	*406
Upstream side of Main Street	*427
Upstream side of Creek Road	*449
Approximately 25 feet upstream of corporate limits	*466
Maps available for inspection at the Borough Office, 250 East Northampton Street, Bath, Pennsylvania 18014.	

PROPOSED BASE (100-YEAR) FLOOD ELEVATION—Continued

Source of flooding and location	# Depth in feet above ground. *Elevation in feet (NGVD)
Chalfont (borough), Bucks County (FEMA Docket No. 6912)	
West Branch Neshaminy Creek:	
Upstream side of Butler Avenue	
Confluence with Tributary No. 1	*247
Upstream corporate limits	*249
Tributary No. 1 to West Branch Neshaminy Creek:	*250
Confluence with West Branch Neshaminy Creek.	
Maps available for inspection at the Borough Building, 40 North Main Street, Chalfont, Pennsylvania.	*249
Chestnuthill (township), Monroe County (FEMA Docket No. 6912)	
McMichael Creek:	
At downstream corporate limits	*623
Approximately 75 feet upstream of T-434	*649
Upstream side of T-432	*706
Upstream side of LR 45099	*780
Upstream side of T-378	*814
Approximately 1.4 miles upstream of T-378	*880
Upstream side of LR 45067	*938
Approximately 0.2 mile upstream of State Route 715 (3rd upstream crossing)	*1,019
Pohopoco Creek:	
At downstream corporate limits	*703
Upstream side of T-445	*732
Approximately 50 feet upstream of T-447	*758
Downstream side of T-439	*798
At second upstream crossing of LR 45066	*841
Upstream side of LR 45066 (3rd upstream crossing)	*900
Approximately 350 feet downstream of LR 45055	*961
Approximately 0.3 mile upstream of LR 45055 (1st upstream crossing)	*991
Sugar Hollow Creek:	
At confluence with Pohopoco Creek	*803
Approximately 65 feet upstream of LR 45042 (1st upstream crossing)	*843
Upstream side of LR 45042 (2nd upstream crossing)	*876
Approximately 725 feet upstream of T-459	*900
Approximately 0.9 mile upstream of T-459	*982
Weir Creek:	
At downstream corporate limits	*696
Upstream side of Hickory Lane	*705
At T-430	*734
Maps available for inspection at the Township Building, Chestnuthill, Pennsylvania.	
Eldred (township), Monroe County (FEMA Docket No. 6912)	
Buckwha Creek:	
At downstream corporate limits	*490
Approximately 1,550 feet downstream of Chestnut Ridge Road	*521
Approximately 0.4 mile upstream of Chestnut Ridge Road	*532
Chapple Creek:	
At confluence with Buckwha Creek	*510
Approximately 1,775 feet upstream of LR 45004	*560
At upstream side of T-361	*624
Upstream side of T-365	*694
At Bollinger Road	*731
Pine Creek:	
At confluence with Princess Run	*691
Approximately 1,400 feet upstream of T-370 (1st upstream crossing)	*750
At T-370 (2nd upstream crossing)	*805
Princess Run:	
At confluence with Buckwha Creek	*532
Upstream side of LR 45003 (1st upstream crossing)	*573
Upstream side of LR 45003 (2nd upstream crossing)	*642
Approximately 0.8 mile upstream of LR 45003 (2nd upstream crossing)	*680
Upstream side of T-369	*721
Upstream side of Princess Run Road	*746
Maps available for inspection at the Eldred Township Building, Eldred, Pennsylvania.	
Fayette (township), Juniata County (FEMA Docket No. 6909)	
Lost Creek:	
Approximately 1,200 feet downstream of State Route 35	*560
Downstream side of State Route 35	*566
Approximately 500 feet upstream of State Route 35	*569
Little Lost Creek:	
Approximately 2,900 feet downstream side of State Route 35	*612
Upstream side of State Route 35	*629
Upstream side of County Route 235	*640
Approximately 1,350 feet upstream of LR34034	*655
Maps available for inspection at c/o Ms. Joyce Hart, Township Secretary, R.D. 1, Cocolamus, Pennsylvania.	
Greenwood (township), Juniata County (FEMA Docket No. 6909)	
Cocolamus Creek:	
At downstream corporate limits	*475
Approximately 1,575 feet upstream of downstream corporate limits	*481
Maps available for inspection at the Township Building, Route 235, Greenwood, Pennsylvania.	
Hamilton (township), Monroe County (FEMA Docket No. 6906)	
McMichael Creek:	
At downstream corporate limits	*458
At upstream side of first downstream crossing of Manor Drive	*473
At upstream side U.S. Route 209	*509
At upstream side Bush Lane	*515
At upstream side of first downstream crossing of Township Route 221	*567
At downstream side Legislative Route 45085	*620
Appenzell Creek:	
At confluence with McMichael Creek	*484
At Business Route 209	*538
Lake Creek:	
At confluence with McMichael Creek	*550
At Meadow Lake Road	*558
Kattle Creek:	
At confluence with Appenzell Creek	*493
Approximately 0.5 mile upstream of Legislative Route 164	*533
Maps available for inspection at the Hamilton Township Building, Sciota, Pennsylvania.	
Hatfield (township), Montgomery County (FEMA Docket No. 6912)	
West Branch Neshaminy Creek:	
Upstream side of Countyline Road at downstream corporate limits	*269
Upstream side of State Route 309	*276
Confluence with Unionville Tributary	*282
Colmar Tributary:	
Confluence with West Branch Neshaminy Creek	*272
A point approximately 800 feet downstream of Walnut Street	*274
Unionville Tributary:	
Confluence with West Branch Neshaminy Creek	*282
Upstream side of Lexington Road	*299
Confluence with Tributary to Unionville Tributary	*311
Downstream side of U.S. Route 309 at the upstream corporate limits	*343
Tributary to Unionville Tributary:	
Confluence with Unionville Tributary	*311
Approximately 320 feet upstream of the confluence with Unionville Tributary	*313
North Hatfield Tributary:	
Upstream side of Unionville Pike	*330
Approximately 925 feet upstream of Bergey Road	*370
Maps available for inspection at the Hatfield Township Building, School Road and Chestnut Street, Hatfield, Pennsylvania.	
Lack (township), Juniata County (FEMA Docket No. 6909)	
Tuscarora Creek:	
Approximately 1,300 feet downstream of confluence with George Creek	*685
Approximately 160 feet upstream of Legislative Route 34001	*704
Maps available for inspection at the Township Secretary's Office, East Waterford, Pennsylvania.	
Ross (township), Monroe County (FEMA Docket No. 6912)	
Aquashicola Creek:	
At downstream corporate limits	*576
At upstream side of Faulstick Road	*603
At upstream side of Tittle Road	*614
At downstream side of Mount Eaton Road	*634
Buckwha Creek:	
Approximately 1.2 miles upstream of downstream corporate limits	*615
Approximately .5 mile downstream of Township Route 378	*653
Lake Creek:	
At downstream corporate limits	*641
Approximately 1,000 feet upstream of Legislative Route 45004	*686
Lake Creek Tributary:	
At confluence with Lake Creek	*662
At downstream side of Old State Route 115	*690
Princess Run:	
At downstream corporate limits	*757
Approximately 500 feet upstream of Stone Hill Lane	*904
Maps available for inspection at the Municipal Building (Garage), Saylorsburg, Pennsylvania.	
Starrucca (borough), Wayne County (FEMA Docket No. 6912)	
Shadigee Creek:	
Confluence with Starrucca Creek	*1,296
Downstream side of Cemetery Road	*1,325
At State Route 365	*1,348
Starrucca Creek:	
Downstream corporate limits	*1,269
Downstream side of LR 57054	*1,302
Downstream side of Buck Road	*1,349
Approximately .5 mile upstream of Buck Road	*1,360
Maps available for inspection at the Starrucca Garage, Box 36, Starrucca, Pennsylvania.	
Tuscarora (township), Juniata County (FEMA Docket No. 6909)	
Tuscarora Creek:	
Approximately 2,400 feet downstream of LR 34068	*607
Upstream side of LR 34068	*611
Upstream corporate limits	*613
Laurel Run:	
Approximately 2,000 feet downstream of T-309 (extended)	*603
Downstream side of T-309 (extended)	*633
Approximately 1,350 upstream of State Route 75	*698
Laurel Run (east):	
Side channel approximately 900 feet upstream of Flint Hollow Road	*610
Side channel approximately 600 feet downstream of State Route 75	*665
Laurel Run (west):	
Side channel approximately 100 feet upstream of State Route 75	*678
Side channel approximately 1,200 feet upstream of State Route 75	*695

PROPOSED BASE (100-YEAR) FLOOD ELEVATION—Continued

Source of flooding and location	# Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection in c/o Elleanor Page, Township Secretary, R.D. #1, Honey Grove, Pennsylvania.	
Washington (township), Armstrong County (FEMA Docket No. 6912)	
Allegheny River:	
Approximately 0.4 mile downstream of Lock and Dam No. 8	*806
Downstream side of Lock and Dam No. 9	*827
Approximately 2,000 feet upstream of Huling Run	*838
Maps available for inspection at the Washington Township Building, R.D. 1, Cowansville, Pennsylvania.	
Washington (township), Dauphin County (FEMA Docket No. 6906)	
Wiconisco Creek:	
At downstream corporate limits	*469
Approximately 375 feet upstream of U.S. Route 209	*474
Approximately 673 feet downstream of State Route 225	*514
Approximately 1,640 feet upstream of State Route 225	*520
Approximately 160 feet downstream of Motter Road	*554
Approximately 240 feet upstream of Legislative Route 22035	*577
Maps available for inspection at the Township Building, Manors Road, Washington, Pennsylvania.	
West Perry (township), Snyder County (FEMA Docket No. 6909)	
West Branch Mahantango Creek:	
Approximately 240 feet downstream of Legislative Route 34010	*618
Upstream side of State Route 35	*639
Approximately 300 feet upstream of Township Route 306	*665
Maps available for inspection at Mr. Elmer Apple's Residence, Township Secretary, Star Route, Richfield, Pennsylvania.	
SOUTH CAROLINA	
Clemson (city), Pickens and Anderson Counties (FEMA Docket No. 6912)	
Eighteenmile Creek:	
About 0.45 mile downstream of Pendleton Road	*701
About 0.7 mile upstream of Central Road	*714
Tributary No. 1:	
At mouth	*709
About 0.77 mile upstream of Downs Loop	*750
Tributary No. 2:	
At mouth	*704
Just downstream of Clarendon Drive	*745
Twelvemile Creek Tributary:	
Just upstream of Old Central Road	*670
About 0.38 mile upstream of Old Central Road	*674
Maps available for inspection at the City Hall, Amtrak Building, Elm Street/Highway 123, Clemson, South Carolina.	
Hampton County (FEMA Docket No. 6912)	
Tributary to Coosawhatchie River:	
At upstream side of State Road 68	*64
Approximately .4 mile downstream of upstream County boundary	*79
Approximately 0.5 mile downstream of State Highway 363	*86
Approximately 800 feet upstream of State Highway 363	*97
Sanders Branch:	
At upstream side of State Road 593	*53
At Mixson Street (extended)	*61
At upstream corporate limits	*63
House Fork:	
At confluence with Sanders Branch	*54
Approximately .8 mile upstream of confluence with Sanders Branch	*68
Approximately 550 feet downstream of State Highway 68	*75
Maps available for inspection at the County Administrator's Office, 201 Jackson Street West, Hampton, South Carolina.	
TENNESSEE	
Cocke County (unincorporated areas) (FEMA Docket No. 6909)	
French Broad River:	
About 0.7 mile downstream of the confluence of Clay Creek	*1,001
About 2.0 miles upstream of Good Hope Branch	*1,063
Pigeon River:	
At mouth	*1,017
Just downstream of Greasy Cove Road	*1,179
Sinking Creek:	
At mouth	*1,031
Just upstream of Norfolk Southern Railway	*1,036
Just downstream of the upstream crossing of U.S. Route 411	*1,112
Just upstream of the upstream crossing of U.S. Route 411	*1,120
At Carson Springs Road	*1,493
Cosby Creek:	
Just downstream of Ball Park Road	*1,321
Just downstream of State Route 32	*1,649
Indian Camp Creek:	
At mouth	*1,403
About 1.4 miles upstream of mouth	*1,547
Maps available for inspection at the County Executive's Office, County Courthouse, Newport, Tennessee.	
Fayetteville (city), Lincoln County (FEMA Docket No. 6912)	
Elk River:	
About 2.6 miles downstream of Old Huntsville Highway	*665
About 7.1 miles upstream of confluence of Norris Creek	*680
Norris Creek:	
At mouth	*670
About 1.2 miles upstream of Louisville and Nashville Railroad	*681
Wells Creek:	
About 1,500 feet downstream of Liberty Road	*673
Just upstream of Private Road	*689
Cotton Mill Branch:	
At mouth	*677
About 0.47 mile upstream of Mount Drive	*704
Boonshill Road Branch:	
About 1,100 feet downstream of Private Drive	*665
Just downstream of Old Boonshill Road	*674
Maps available for inspection at the Municipal Building, Fayetteville, Tennessee.	
Lewisburg (city), Marshall County (FEMA Docket No. 6912)	
Big Rock Creek:	
About 0.85 mile downstream of Nashville Highway (U.S. Route 31A)	*701
About 800 feet downstream of Old Lake Road	*748
Snake Creek:	
About 500 feet downstream of Nashville Highway (U.S. Route 31A)	*693
About 500 feet upstream of Finley Beech Road	*738
About 0.6 mile upstream of U.S. Route 431	*788
Just downstream of Louisville and Nashville Railroad	*799
Snell Branch:	
At mouth	*703
Just downstream of Ellington Parkway	*705
Just upstream of Ellington Parkway	*711
Just downstream of Louisville and Nashville Railroad	*728
Just upstream of Louisville and Nashville Railroad	*733
Just downstream of Heil Quaker Avenue	*733
Just upstream of Heil Quaker Avenue	*738
About 1,400 feet upstream of Heil Quaker Avenue	*742
Collins Creek:	
At mouth	*726
About 600 feet upstream of Ellington Parkway	*752
Loyd Branch:	
At mouth	*736
About 1,700 feet upstream of Wnite Drive	*820
Capps Branch:	
At mouth	*713
About 1.08 miles upstream of Old Belfast Road	*823
Maps available for inspection at the City Hall, Lewisburg, Tennessee.	
Marshall County (unincorporated areas) (FEMA Docket No. 6912)	
Snake Creek:	
At mouth	*693
Just upstream of Louisville and Nashville Railroad	*800
Snell Branch:	
At mouth	*703
Just downstream of Ellington Parkway	*705
Just upstream of Ellington Parkway	*711
Just downstream of Louisville and Nashville Railroad	*728
Just upstream of Louisville and Nashville Railroad	*733
Just downstream of Heil Quaker Avenue	*733
Just upstream of Heil Quaker Avenue	*738
About 1,400 feet upstream of Heil Quaker Avenue	*742
Collins Creek:	
At mouth	*726
Just downstream of Springplace Road	*779
Big Rock Creek:	
About 2.9 miles downstream of Nashville Highway (U.S. Route 31A)	*693
Just downstream of New Lake Road	*758
Loyd Branch:	
At mouth	*736
About 1,700 feet upstream of White Drive	*820
Capps Branch:	
At mouth	*713
About 1.08 miles upstream of Old Belfast Road	*823
Maps available for inspection at the County Courthouse, Lewisburg, Tennessee.	
Mount Pleasant (city), Maury County (FEMA Docket No. 6912)	
Sugar Fork:	
About 1,050 feet downstream of State Route 6 Bypass	*608
Just downstream of U.S. Route 43	*612
Just upstream of U.S. Route 43	*618
Sugar Creek:	
Just upstream of U.S. Route 43	*618
About 600 feet upstream of Arrow Mine Road	*652
Maps available for inspection at the City Hall, Mount Pleasant, Tennessee.	
Newport (town), Cocke County (FEMA Docket No. 6909)	
Pigeon River:	
About 1.9 miles downstream of McMahan Street	*1,034
About 0.8 mile upstream of Broadway	*1,067
Sinking Creek:	
At mouth	*1,031
About 0.43 mile upstream of Broadway	*1,056
Maps available for inspection at the City Hall, Newport, Tennessee.	
Shelbyville (city), Bedford County (FEMA Docket No. 6912)	
Duck River:	

PROPOSED BASE (100-YEAR) FLOOD ELEVATION—Continued

Source of flooding and location	# Depth in feet above ground. *Elevation in feet (NGVD)
About 1.1 miles downstream of confluence of Flat Creek	*727
About 0.5 mile upstream of confluence of Holland Branch	*744
Holland Branch:	
About 450 feet downstream of Depot Street	*744
Just upstream of Blue Ribbon Parkway	*766
Tributary B:	
At mouth	*766
About 0.38 mile above mouth	*777
Big Spring Creek:	
Just downstream of Madison Street	*737
About 550 feet upstream of Cedar Street	*759
Little Hurricane Creek:	
About 1,160 feet downstream of Midland Road	*751
About 400 feet upstream of Main Street	*761
Pettus Branch: Within community	*731
Flat Creek:	
About 1.0 mile downstream of Cannon Boulevard	*729
About 0.74 mile upstream of Cannon Boulevard	*738
Bomar Creek:	
About 700 feet downstream of confluence of Tributary A	*750
Just downstream of Eagle Boulevard	*770
Tributary A:	
At mouth	*754
Just downstream of Madison Street	*763
Just upstream of Madison Street	*770
Just upstream of Ledbetter Road	*782
Maps available for inspection at the City Hall, 109 Lane Parkway, Shelbyville, Tennessee.	
TEXAS	
Archer County (FEMA Docket No. 6909)	
Holliday Creek:	
Confluence with Lake Wichita	*986
Downstream side of FM 1954	*1,005
Holliday Creek Tributary:	
Confluence with Holliday Creek	*999
Downstream side of U.S. Route 82 and 277	*1,018
Pecan Creek:	
Confluence with lake Wichita	*986
At FM 1954	*1,004
Lake Wichita: Entire shoreline within community	*986
Maps available for inspection at the County Courthouse, Archer City, Texas.	
Arlington (city), Tarrant County (FEMA Docket No. 6912)	
Cottonwood Creek:	
Approximately 1,740 feet downstream of Timberlake Drive	*528
Approximately 1,740 feet upstream of Susan Drive	*558
South Fork Cottonwood Creek:	
Approximately 1,300 feet downstream of Forum Drive	*557
Approximately 1,560 feet upstream of State Route 360, Right Frontage Road	*597
Fish Creek:	
Upstream side of Watson Road	*540
Approximately 100 feet downstream of Nathan Lowe Road	*583
Approximately 2,160 feet upstream of Matlock Road	*616
Stream FC-1:	
At confluence with Fish Creek	*549
Approximately 500 feet upstream of confluence with Fish Creek	*550
Approximately 1.1 miles upstream of New York Avenue	*586
Stream FC-2:	
At confluence with Fish Creek	*571
Approximately 1.8 miles upstream of confluence with Fish Creek	*604
Lynn Creek:	
Approximately 820 feet downstream of Webb-Lynn Road	*552
Upstream side of Nathan Lowe Road	*610
Approximately 160 feet upstream of Matlock Road	*624

PROPOSED BASE (100-YEAR) FLOOD ELEVATION—Continued

Source of flooding and location	# Depth in feet above ground. *Elevation in feet (NGVD)
Bowman Branch:	
Approximately 1.5 miles downstream of Webb Ferrel Road	*542
Approximately 1.8 miles upstream of Mansfield Webb Road	*609
Stream BB-1:	
At confluence with Bowman Branch	*576
Approximately 0.8 mile upstream of confluence with Bowman Branch	*601
Johnson Creek:	
At downstream corporate limits	*509
Upstream side of Randol Mill Road	*542
Approximately 200 feet upstream of Texas and Pacific Railroad	*562
Approximately 850 feet upstream of East Mitchell Street	*575
Approximately 100 feet downstream of West Park Row	*583
Upstream side of Arkansas Lane	*613
Approximately 850 feet downstream of Matlock Road	*629
Upstream side of Matlock Road	*632
Approximately 100 feet upstream of High Point Road	*656
Stream JC-1:	
At downstream corporate limits	*502
0.85 mile upstream of corporate limits	*533
Stream JC-2:	
At confluence with Johnson Creek	*588
Approximately 400 feet upstream of East Tucker Boulevard	*610
Stream JC-3:	
At confluence with Johnson Creek	*612
Approximately 0.6 mile upstream of Station Drive	*645
West Fork Trinity River:	
Approximately 1.1 miles downstream of confluence of Stream WF(A)-1	*464
Downstream side of U.S. Route 157	*468
Approximately 250 feet upstream of confluence of Stream WF(A)-2	*475
Approximately 1.5 miles upstream of confluence of Stream WF(A)-2	*478
Stream WF(A)-1:	
At confluence with West Fork Trinity River	*465
Upstream side of Forest Oak	*532
Approximately 60 feet upstream of Stadium Road	*556
Stream WF(A)-2:	
At confluence with West Fork Trinity River	*475
Approximately 120 feet upstream of North Cooper Street	*509
Village Creek:	
At confluence with West Fork Trinity River	*479
At confluence of Rush Creek	*490
Approximately 850 feet downstream of State Route 303	*500
Approximately 1,600 feet upstream of confluence of Stream VC(A)-2	*506
Stream VC(A)-1:	
Approximately 0.7 mile downstream of West Lamar Boulevard	*479
Approximately 2,000 feet downstream of West Lamar Boulevard	*486
Downstream side of West Lamar Boulevard	*492
Approximately 50 feet upstream of Fielder Road	*545
Rush Creek:	
Approximately 0.6 mile downstream of Pioneer Parkway (State Route 303)	*500
At confluence of Kee Branch	*540
Approximately 550 feet upstream of Interstate Route 20	*566
Approximately 100 feet downstream of Kennedale Sublett Road	*597
Approximately 0.5 mile upstream of Willow Oak	*654
Stream RC-1:	
At confluence with Rush Creek	*491
Approximately 100 feet upstream of Bowen Road	*562
Stream RC-1-A:	
At confluence with Stream RC-1	*529
Approximately 70 feet upstream of Bowen Road	*562
Pantego Branch:	

PROPOSED BASE (100-YEAR) FLOOD ELEVATION—Continued

Source of flooding and location	# Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 600 feet upstream of confluence with Rush Creek	*500
Approximately 1,820 feet upstream of Park Springs Boulevard	*533
Stream RC-2:	
At confluence with Rush Creek	*517
Approximately 60 feet upstream of Arkansas Lane	*562
Kee Branch:	
At confluence with Rush Creek	*540
Upstream side of Poly Webb Road	*589
Upstream side of Kennedale Sublett Road	*639
Stream KB-1:	
At confluence with Kee Branch	*571
Approximately 530 feet upstream of Green Oaks Boulevard	*605
Sublett Creek:	
At confluence with Rush Creek	*604
Approximately 1.3 miles upstream of U.S. Route 287	*671
Stream VC(A)-2:	
At confluence with Village Creek	*506
Approximately 0.7 mile upstream of confluence with Village Creek	*564
Maps available for inspection at the City Hall, 200 West Abrahams, Arlington, Texas.	
Cross Roads (town), Denton County (FEMA Docket No. 6906)	
Lewisville Lake: Upstream and downstream corporate limits	*537
Maps available for inspection at Jim Cundall's Violin Shop, Mosley Road, Aubrey, Texas.	
Granbury (city), Hood County (FEMA Docket No. 6912)	
Brazos River:	
Approximately 1 mile downstream of confluence of Rough Creek	*697
Approximately 1,000 feet upstream of State Route 426 (Pearl Street)	*699
Rough Creek: Upstream and downstream of State Route 144	*697
Lambert Branch:	
Confluence with Brazos River	*698
Upstream of Moore Street	*718
Confluence of Stream LB-2	*733
Approximately 1,100 feet upstream of Park Street	*747
2,500 feet downstream of Highway 377 Business Route	*765
Downstream of Highway 377 Business Route	*787
Downstream of southern corporate limits	*790
Stream LB-1:	
Confluence with Lambert Branch	*720
At downstream corporate limits	*722
Stream LB-2:	
Confluence with Lambert Branch	*733
Downstream of Ables Street	*750
Upstream of Walters Drive	*760
Downstream side of U.S. Route 377	*774
Maps available for inspection at the City Hall, 116 West Bridge Street, Granbury, Texas.	
Jacksboro (city), Jack County (FEMA Docket No. 6909)	
Stream LCC-1:	
Confluence with Little Cleveland Creek	*1,020
Downstream side of Wichita Street	*1,041
Approximately 50 feet upstream of Archer Street	*1,084
Stream LCC-1 Diversion Channel:	
Confluence with Stream LCC-1	*1,041
Divergence of Stream LCC-1	*1,049
Stream LCC-2:	
Downstream corporate limits	*1,054
Approximately 50 feet upstream of upstream corporate limits	*1,085
Lost Creek:	
Downstream corporate limits	*983
Confluence of Stream LC-3	*1,032

PROPOSED BASE (100-YEAR) FLOOD ELEVATION—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 100 feet upstream Abandoned Chicago Rock Island Pacific Railroad	*1,051
Lake Jacksboro Spillway Channel:	
Confluence with Lost Creek	*983
Lake Jacksboro Spillway	*1,023
LC-1:	
Upstream side of County Road	*1,034
Upstream corporate limits	*1,044
Stream LC-2:	
Confluence with Lost Creek	*1,025
Approximately 2,000 feet upstream of confluence with Lost Creek	*1,070
Stream LC-3:	
Confluence with Lost Creek	*1,032
Approximately 200 feet upstream of upstream corporate limits	*1,092
Stream LC-4:	
Confluence with Lost Creek	*1,040
Downstream side of West Belnap Street	*1,071
Rock Quarry Reservoir:	
Confluence with Stream LC-3	*1,075
Divergence from Stream LC-3	*1,084
Maps available for inspection at the City Hall, Archer Street, Jacksboro, Texas.	
Navasota (city), Grimes County (FEMA Docket No. 6912)	
Cedar Creek:	
Approximately 370 feet downstream of downstream corporate limits	*185
At upstream side of 5th Street bridge	*200
At upstream side of Brosig Avenue bridge	*221
At upstream corporate limits	*249
Cedar Creek Tributary 1:	
At confluence with Cedar Creek	*230
At upstream corporate limits	*248
West Tributary of Sandy Creek:	
At downstream corporate limits	*219
Upstream side of Old Huston Road	*224
At upstream corporate limits	*259
Maps available for inspection at the Department of Public Works, 204 East McAlpin, Navasota, Texas.	
UTAH	
Duchesne (city), Duchesne County (FEMA Docket No. 6909)	
Strawberry River: At South Boundary Street	*5,498
Duchesne River: 120 feet upstream from center of Centre Street	*5,518
Indian Creek: 100 feet upstream from confluence with Strawberry River	*5,514
Maps are available for review at the Planning Department, 165 S. Center, Duchesne, Utah 84066.	
City of Manti, Sanpete County (FEMA Docket No. 6909)	
South Creek:	
Intersection of Main Street (U.S. Highway 89) and 300 South Street	#1
Intersection of 200 South Street and 400 West Street	#1
Intersection of 400 South Street and 400 West Street	#1
Maps are available for inspection at Office of City Recorder, 50 South Main Street, Manti, Utah.	
WASHINGTON	
Asotin (city), Asotin County (FEMA Docket No. 6909)	
Asotin Creek:	
140 feet downstream of State Highway 129 (First Street)	*752
Above Second Street	*761
Above Costley Lane Bridge	*775
At Western corporate limits, 660 feet above Costley Lane Bridge	*777

PROPOSED BASE (100-YEAR) FLOOD ELEVATION—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Asotin Creek Right Overbank: Between First and Second Streets	#1
Maps available for inspection at City Hall, 130 Second Street, Asotin, Washington.	
Asotin County (FEMA Docket No. 6909)	
Grande Ronde River:	
700 feet above center line of Snake River	*834
Approximately 1.1 miles above center line of Snake River	*848
Approximately 2.1 miles above center line of Snake River and 170 feet from Section Line between Sections 23 & 24	*863
Asotin Creek:	
140 feet downstream of State Highway 129 (First Street)	*752
Above Costley Lane Bridge	*775
At upstream side of Morgan Road Bridge	*815
At Unnamed Bridge approximately 1.2 miles above Morgan Road Bridge	*891
120 feet below confluence of George Creek	*937
Maps are available for inspection at the Asotin County Courthouse, 135 Second Street, Asotin, Washington.	
WEST VIRGINIA	
Greenbrier County (FEMA Docket No. 6906)	
Howard Creek:	
Approximately 400 feet upstream of confluence with Greenbrier River	*1,688
Approximately 0.16 mile upstream of Interstate Route 64	*1,755
Downstream side of dam	*1,823
Approximately 0.4 mile upstream of upstream County boundary	*1,878
Meadow River:	
At Chessie System	*2,392
Approximately 1.5 miles upstream of CONRAIL crossing	*2,409
Wades Creek:	
At downstream County boundary	*1,899
Upstream side of County Route 60-25	*1,933
Downstream side of Eastbound Interstate 64	*1,998
Sewell-Little Sewell Creek:	
Confluence with the Meadow River	*2,393
Approximately 0.5 mile upstream of County Route 60-32	*2,402
Dry Creek:	
At the downstream County boundary	*1,888
Approximately 0.7 mile upstream of County boundary	*1,920
Approximately 1.2 miles upstream of County boundary	*1,942
Maps available for inspection at the County Courthouse, 200 North Court Street, Lewisburg, West Virginia.	
WYOMING	
Evanston (city), Uinta County (FEMA Docket No. 6909)	
Bear River:	
Approximately 4000 feet downstream of Avenue C at corporate limits	*6,698
Just downstream of Holland Drive	*6,727
Approximately 100 feet upstream of County Road	*6,738
Approximately 150 feet upstream of Route 89	*6,744
Just downstream of Interstate 80	*6,766
Approximately 3000 feet upstream of Interstate 80	*6,785
Maps are available for inspection at the Assistant Engineer's Office, 33 Independence Circle, Evanston, Wyoming.	

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The modified base (100-year) flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. Any appeals of the proposed base flood elevations which were received have been resolved by the Agency.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
ARIZONA	
Tucson (city), Pima County (FEMA Docket No. 6903)	
Agua Caliente Wash:	
At confluence with Tanque Verde Wash	*2,555
On Tanque Verde Road, 1,700 feet east of intersection with Powder Horn Drive	*2,594
Alamo Wash:	
On East Fort Lowell Road, 360 feet west of intersection with Arcadia Boulevard	*2,428
At intersection of Golf Links Road and Avenida del Sol	*2,673
Alvernon Wash:	
60 feet southeast of intersection of Kleindale Road and Alvernon Way	*2,397
180 feet south of intersection of East Grant Road and Alvernon Way	*2,445
Arcadia Wash:	
400 feet upstream of confluence with Alamo Wash	*2,448
490 feet northeast of intersection of East 22nd Street and Van Buren Avenue	*2,590
Arroyo Chico:	
200 feet west of intersection of 13th Street and South Campbell Avenue	*2,438
80 feet downstream of La Jolla Circle	*2,532
Cemetery Wash:	
300 feet downstream of North Oracle Road	*2,325
80 feet downstream of North Stone Avenue	*2,339
Cholla Wash:	
At confluence with West Branch Santa Cruz River	*2,375
540 feet west of intersection of San Marcos Boulevard and Camino Santiago	*2,430
Christmas Wash:	
180 feet east of intersection of North Jackson Boulevard and Roger Road	*2,351
150 feet west of intersection of East Fort Lowell and North Country Club Roads	*2,402
Citation Wash:	
At confluence with Arroyo Chico	*2,459
100 feet east of point 160 feet south of intersection of 17th Street and South Country Club Road	*2,478
Columbus Wash:	
At confluence with Alvernon Wash	*2,412
120 feet south of intersection of East Grant Road and Columbus Boulevard	*2,454
Earp Wash:	
500 feet downstream of Irvington Road	*2,536
Just west of intersection of Bantam and Country Club Roads	*2,569
Enchanted Hills Wash:	
100 feet upstream of confluence with West Branch Santa Cruz River	*2,394
1,400 feet upstream of unnamed road that is approximately 0.5 mile upstream of La Cholla Boulevard	*2,512
Flowing Wells Wash:	
On downstream face of La Cholla Boulevard bridge	*2,273
At intersection of Erma Avenue and Fort Lowell Road	*2,313
Gardner Lane Area:	
At north end of Freeway Airport Runway	#1
On Gardner Lane, 600 feet west of intersection with Interstate Highway 10	#2
Hidden Hills Wash:	

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
1,100 feet downstream of Wrightstown Road	*2,541
Approximately 400 feet northwest of intersection of East Broadway Boulevard and Harrison Road	*2,703
High School Wash:	
100 feet upstream of North 2nd Avenue	*2,387
90 feet west of intersection of East 6th Street and Norton Avenue	*2,449
Kennison Wash:	
6,090 feet east of a point 500 feet north of intersection of Stella Road and Manitoba Avenue	*2,698
400 feet north of a point 400 feet east of intersection of Kolb and Irvington Roads	*2,754
Navajo Wash:	
300 feet downstream of North Oracle Road	*2,324
On west side of Mountain Avenue, 370 feet south of intersection with East Fort Lowell Road	*2,369
Naylor Wash:	
300 feet west of a point 100 feet south of intersection of Camino De La Colina and Alvernon Way	*2,511
80 feet downstream of Swann Road	*2,552
Pantano Wash:	
1,750 feet east of intersection of East Grant and Wilmot Roads	*2,492
2,600 feet west from a point 210 feet north of intersection of Pantano Road and 4th Street	*2,553
Pima Wash:	
At confluence with Rillito Creek	*2,297
160 feet north of a point 300 feet west of intersection of North Oracle Road and Genematas Drive	*2,315
Rillito Creek:	
70 feet west of a point 1,100 feet north of intersection of Rillito Lane and Kerland Avenue	*2,295
400 feet west of a point 1,300 feet north of intersection of Cactus Boulevard and Allen Road	*2,355
Robb Wash:	
Just upstream of Pima Street	*2,549
1,100 feet upstream of East Speedway Boulevard	*2,592
Rose Hill Wash:	
400 feet east of a point 720 feet south of intersection of Glenn Street and Sahuara Avenue	*2,462
60 feet south of intersection of East Broadway and Langly Drive	*2,596
San Juan Wash:	
At confluence with West Branch Santa Cruz River	*2,381
1,600 feet of intersection of 33rd Street and San Jose Drive	*2,417
Santa Clara Wash:	
300 feet downstream of Oahu Avenue	*2,489
Just downstream of San Fernando Road	*2,522
Santa Cruz River:	
1,360 feet south of a point 2,500 feet west of intersection of West Sunset Road and Interstate Highway 10	*2,219
On downstream face of El Camino del Curo bridge	*2,236
Tanque Verde Creek:	
900 feet south of a point 200 feet west of intersection of Tanque Verde and Bears Path Roads	*2,522
At Ford site on dirt road that extends north along Tanque Verde Creek from intersection of East Speedway Boulevard and Houghton Road	*2,576
Maps are available for review at the Department of Transportation, Engineering Division, Tucson City Hall, Tucson, Arizona 85726.	
MASSACHUSETTS	
Acton (town), Middlesex County (FEMA Docket No. 6902)	
Nagog Brook:	
At confluence with Nashoba Brook	*144
Approximately 60 feet downstream of Nagog Pond Dam	*218
Butter Brook:	
At confluence with Nashoba Brook	*174
Upstream corporate limits	*177
Nashoba Brook:	
Upstream side of State Route 27	*173
Upstream corporate limits	*181
Inch Brook:	
At confluence with Fort Pond Brook	*207
Approximately 1,275 feet upstream of confluence with Fort Pond Brook	*207
Guggins Brook:	
At confluence with Inch Brook	*207
Upstream corporate limits	*207
Fort Pond Brook:	
Upstream side of Boston & Maine Railroad (4th upstream crossing)	*207
Upstream corporate limits	*207
Grassy Pond Brook:	
At confluence with Fort Pond Brook	*204
Approximately 100 feet upstream of State Route 2	*217
Maps available for inspection at the Town Engineer's Office, Acton, Massachusetts.	
NEW YORK	
Rockland (town), Sullivan County (FEMA Docket No. 6730)	
Willowemoc Creek:	
Confluence with Beaver Kill	*1,277
Upstream of State Route 17 westbound bridge (second upstream crossing)	*1,316
Upstream side of Hazel Road	*1,341
Upstream side of State Route 17 westbound bridge (fourth upstream crossing)	*1,367
Downside side of covered bridge	*1,400
Upstream side of County Route 178	*1,431
Approximately 0.93 mile downstream of confluence of Sprague Brook	*1,480
Confluence of Sprague Brook	*1,510
Approximately 1,000' upstream of Parkston Road	*1,547
Beaver Kill:	
Confluence of Willowemoc Creek	*1,277
Approximately 110' upstream of corporate limits	*1,308
Stewart Brook:	
Confluence with Willowemoc Creek	*1,293
Approximately 0.5 mile downstream of Huber Road (extended)	*1,340
Approximately 1,450' upstream of Huber Road (extended)	*1,394
Cattail Brook:	
Confluence with Willowemoc Creek	*1,422
Upstream of Hoos Road	*1,469
Approximately 1,170' upstream of Shandelee Road	*1,524
Little Beaver Kill:	
Confluence with Willowemoc Creek	*1,422
Approximately 1.0 mile upstream of confluence with Willowemoc Creek	*1,428
Upstream of County Route 146	*1,467
Upstream of Old Liberty Road	*1,492
Approximately 220' upstream of corporate limits	*1,517
Sprague Brook:	
Confluence with Willowemoc Creek	*1,510
Upstream side of Grooville Road	*1,566
Approximately 0.38 mile upstream of Grooville Road	*1,610
Approximately 0.77 mile upstream of Grooville Road	*1,659
Maps available for inspection at the Town Hall, Main Street, Rockland, New York.	
TEXAS	
Burleson (city), Johnson and Tarrant Counties (FEMA Docket No. 6903)	
Village Creek:	
Approximately 500 feet downstream of the most downstream corporate limits	*659
At the most upstream corporate limits	*806
Quil Miller:	
At the confluence with Village Creek	*661
Approximately 60 feet upstream of Interstate Route 35 Frontage Road	*725
Hurst Creek:	
At the confluence with Quil Miller Creek	*675
Approximately 1.4 miles upstream of County Route 601A	*721
Bypass Creek:	
At downstream corporate limits	*721
At upstream corporate limits	*725
North Creek:	
At the confluence with Village Creek	*672
Approximately 400 feet downstream of McAllister Road	*746
Little Booger Creek:	
At the confluence with Village Creek	*689
Approximately 0.9 mile upstream of Southwest Thomas Road	*748
Shannon Creek:	
At the confluence with Village Creek	*718
Approximately 840 feet upstream of the corporate limits	*751
South Shannon Creek:	
At the confluence with Shannon Creek	*723
Approximately 0.9 mile upstream of County Route 920	*785
Stream VC-8:	
At the confluence with Village Creek	*758
Approximately 160 feet upstream of the confluence of Stream VC-8A	*777
Stream VC-8A:	
At the confluence with Stream VC-8	*776
Approximately 450 feet upstream of the most upstream corporate limits	*778
Willow Creek:	
At the confluence with Village Creek	*770
At the most upstream corporate limits	*793
Maps available for inspection at 141 West Renfro, Burleson, Texas.	

Harold T. Duryee,

Administrator, Federal Insurance Administration.

Issued: September 16, 1987.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Endangered Status For Eriastrum Densifolium ssp. Sanctorum (Santa Ana River Woolly-star) and Centrostegia leptoceras (Slender-horned Spineflower)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determined two plants, *Eriastrum densifolium* ssp. *sanctorum* (Santa Ana River woolly-star) and *Centrostegia leptoceras* (slender-horned spineflower), to be

endangered species. *Eriastrum densifolium* ssp. *sanctorum* occurs patchily on the higher floodplain terraces of the Santa Ana River from Redlands east to the mouth of the Santa Ana Canyon in San Bernardino County, southern California. A disjunct stand occurs on Lytle Creek in the city of San Bernardino. *Centrostegia leptoceras* is currently known from five small isolated populations. The total area occupied by this species is less than 4 hectares (10 acres). Historic and present threats facing these plants include encroaching developments within the floodplain, sand and gravel mining, grazing by domestic animals, and competition from exotic plants. This rule implements the protection and recovery provisions of the Endangered Species Act (Act) of 1973, as amended, for these two plants.

DATES: The effective date of this rule is October 28, 1987.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Lloyd 500 Building, 500 N.E. Multnomah Street, Suite 1692, Portland, Oregon 97232.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne S. White, Chief, Division of Endangered Species, at the above address (503/231-6131 or FTS 429-6131).

SUPPLEMENTARY INFORMATION:

Background

Eriastrum densifolium ssp. *sanctorum* was first collected by Hall. This subspecies was described as *Gilia densifolia* var. *sanctorum* by Milliken (1904) and renamed as *Huegelia densifolia* var. *sanctorum* by Jepson (1925). Wooton and Standley (1913) proposed the replacement of *Huegelia* with *Eriastrum*; Mason (1945) accepted the new genus name. *Centrostegia leptoceras* was first collected by Lobb in 1849. It was described by Gray in 1870 (Torrey and Gray 1870); and then placed in the genus *Chorizanthe* by Watson (1877). Goodman (1934) transferred it back to *Centrostegia*.

Eriastrum densifolium ssp. *sanctorum* is a shrub occasionally reaching one meter (3.3 feet) in height. This plant has gray-green stems and leaves. The bright blue flowers are up to 30 millimeters (1.4 inches) long and are contained in heads of about 20 blossoms each. *Centrostegia leptoceras* is a small prostrate annual. The diameter of the basal rosette of a mature plant varies between about 3 and 10 centimeters (1.4 and 4.5 inches). The flowering stalks are from 5 to 15 centimeters (2.3 to 6.8 inches) in length, and bear three-lobed bracts at the nodes. The leaves and bracts turn bright red with age. One to three involucres containing several flowers each occur at an axil and are 4 to 6 millimeters (0.2 to 0.3 inches) long (Munz 1974).

Eriastrum densifolium ssp. *sanctorum* is endemic to the Santa Ana River drainage of southern California. Formerly this subspecies was a conspicuous shrub in the alluvial fan scrub community on the higher floodplain terraces of the Santa Ana River and its tributaries in Orange, Riverside and San Bernardino Counties. The range of elevations occupied by this plant was from about 150 to 600 meters (500 to 2,000 feet) (Craig 1934, Mason 1945).

Centrostegia leptoceras was formerly more widespread, and occurred on old sandy benches or floodplain terraces containing alluvial fan scrub vegetation in Los Angeles, San Bernardino, and Riverside Counties (Munz 1974). This plant is currently known from only five localities, totaling less than 4 hectares (10 acres) in extent, in San Bernardino and Riverside Counties (Krantz 1984).

Alluvial fan scrub receives little natural disturbance. Sheet flood flows probably occur once every one to two hundred years, and such scouring appears to maintain this plant community. The perennial vegetative cover where *Eriastrum densifolium* spp. *sanctorum* and *Centrostegia leptoceras* occur is relatively low (seldom over 50 percent); annual cover is also fairly low (Zembal and Kramer 1984). The plant community is characterized by old *Juniperus californica* (California juniper), *Cercocarpus betuloides* (mountain mahogany) and *Eriodictyon trichocalyx* (Yerba Santa). *Eriastrum densifolium* spp *sanctorum* is found in disjunct stands within this habitat, and tends to occupy areas with slight surface disturbance (Zembal and Kramer 1984). Conversely, *Centrostegia leptoceras* exists almost exclusively in small isolated areas lacking any evidence of surface disturbance (Reveal and Krantz 1979; Krantz 1984).

The Secretary of the Smithsonian Institution, as directed by section 12 of the Act, prepared a report on those native U.S. plants considered to be endangered, threatened, or extinct in the United States. This report (House Document No. 94-51), which included *Centrostegia leptoceras* but not *Eriastrum densifolium* ssp. *sanctorum*, was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) accepting the report as a petition within the context of Section 4(c)(2) of the Act (petition acceptance is now governed by Section 4(b)(3)(A)) and giving notice of its intention to review the status of the plant taxa named therein, including *Centrostegia leptoceras*. On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant species, including *Centrostegia leptoceras*, to be endangered species pursuant to section 4 of the Act. This list was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94-51 and the July 1, 1975, **Federal Register** publication. General comments on the 1976 proposal were summarized in an April 26, 1978, **Federal Register** publication (43 FR 17909).

In 1978, amendments to the Endangered Species Act required that all proposals over two years old be withdrawn. A 1-year grace period was given to those proposals already more than 2 years old. Subsequently, on December 10, 1979, the Service published a notice (44 FR 70796) of the withdrawal of the portion of the June 16, 1976, proposal that had not been made final, along with four other proposals that had expired. This notice of withdrawal included *Centrostegia leptoceras*.

The Service published an updated notice of review for plants on December 15, 1980 (45 FR 82840). This notice included *Centrostegia leptoceras* and *Eriastrum densifolium* ssp. *sanctorum*. On February 15, 1983, the Service published a notice (48 FR 6752) of its prior finding that the listing of these two species may be warranted in accordance with section 4(b)(3)(A) of the Act as amended in 1982. Such a finding requires the petition to be recycled, pursuant to section 4(b)(3)(C)(i) of the Act. On October 13, 1983, October 12, 1984, and again on October 11, 1985, further findings were made that the listing of *Centrostegia leptoceras* and *Eriastrum densifolium* ssp. *sanctorum* was warranted, but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act. The proposed rule to list both species as endangered was published in the **Federal Register** on April 9, 1986 (51 FR 12180).

Summary of Comments and Recommendations

In the April 9, 1986, proposed rule (51 FR 12180) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State and Federal agencies, county governments, landowners, scientific organizations,

and other interested parties were contacted and requested to comment. Newspaper notices that invited public comment were published in the Los Angeles Times (May 7, 1986), the Los Angeles Herald Examiner (May 6, 1986), the San Bernardino Sun Telegram (May 6, 1986), the San Jacinto Valley Register (May 5, 1986), and the Riverside Press Enterprise (May 8, 1986). A public hearing was requested by the Environmental Management Agency of Orange County and was held on July 7, 1986. The public comment period was reopened for an additional 30 days on June 24, 1986 (51 FR 22955).

Oral and written comments were received from a total of 16 agencies and individuals. Nine commenters supported the proposed rule, two suggested that the rule be split—listing *Eriastrum densifolium* ssp. *sanctorum* separately from *Centrostegia leptoceras*. One commenter, a representative of a sand and gravel mining company, opposed the listing of *Eriastrum densifolium* ssp. *sanctorum*. No other opposing testimony was received. The written comments and oral testimony received (from five individuals) at the public hearing are grouped below and discussed by issue.

Issue 1: Critical habitat should be designated for these species.

Reponse: The Service believes that the danger posed by designating critical habitat would outweigh the potential benefits. As discussed in the "Summary of Factors Affecting the Species" section below under Factor "B," both species could be adversely affected by curiosity seekers. Designation of critical habitat would increase the degree of threat facing these species.

Issue 2: A question was raised regarding the applicability of a Habitat Conservation Plan for *Eriastrum densifolium* ssp. *sanctorum* and *Centrostegia leptoceras*. This plan was suggested as an early means of designing recovery actions.

Reponse: A Habitat Conservation Plan is specifically defined in section 10(a) of the Act. It provides for the preservation of certain areas of an animal species' habitat and grants a permit to developers for incidental take (as defined in section 9 of the Act). The prohibition of take only applies for plants that are deliberately removed from lands under Federal jurisdiction; consequently, plants are not protected from incidental take. Such taking of plants on lands under Federal jurisdiction is addressed through the consultation process as described in section 7 of the Act. Therefore, as defined in section 10(a) of the Act, it would not be appropriate to design a Habitat Conservation Plan for these two species. However, the Service recognizes the importance of establishing management objectives for conserving and enhancing endangered species, and anticipates developing a recovery plan for these two plants.

Issue 3: It would be more appropriate to work towards propagation of these species than to fine tune their status (e.g., go through the listing process). *Eriastrum densifolium* ssp. *sanctorum*, for example, could be established in Orange County.

Response: The Service will pursue actions to improve the status of these species following listing during the recovery process. Recovery efforts may include establishing the plants in portions of their historic range where they have been extirpated; however, recognition of their endangered status via listing under the Act is an appropriate step in this process.

Issue 4: The listing of these plants may result in delays and increased costs to portions of the Santa Ana Mainstem project. The Service should evaluate the impacts of this U.S. Army Corps of Engineers (COE) project on the two plants, and specifically address required mitigation. Potential recovery actions and their effects on the Santa Ana River project should also be addressed.

Response: The COE's Santa Ana River Mainstem project is presently in Phase I. Phase II will not commence until there is congressional authorization. During Phase II specific project impacts and compensation or mitigation measures will be determined. Because the project is in its early stage and information is lacking, it would be premature for the Service to determine mitigation measures. Given that the COE is responsible for this project, it also would be inappropriate for the Service to provide information on project design. In general, the Service is concerned that certain project features (dam and borrow pit locations) may directly remove some individuals of *Eriastrum densifolium* ssp. *sanctorum*. Indirect effects such as increased urban development in the floodplain below the proposed Upper Santa Ana River Dam could adversly affect both species. Representatives of the Service and the COE have been and will continue to work together in the design of this project and remain optimistic about their ability to resolve these issues. When it is appropriate, the procedures described in Section 7 of the Act will be followed.

Issue 5: Centrostegia leptoceras and *Eriastrum densifolium* ssp. *sanctorum* are different species and listing actions ought to be handled separately.

Response: *Centrostegia leptoceras* and *Eriastrum densifolium* ssp. *sanctorum* occur in alluvial fan scrub. Their remaining ranges overlap, and historic ranges have been reduced due to similar causes. Therefore, the Service believes it is appropriate to list them jointly.

Issue 6: Eriastrum densifolium ssp. *sanctorum* may not qualify for Federal listing because it is too widespread, it is not vulnerable to competition from exotics as it is a taller shrub, it is not grazed upon by rabbits, and it occurs on disturbed sites.

Response: A species need not meet every listing criterion to be endangered. The total remaining range of *Eriastrum densifolium* ssp. *sanctorum* occurs in the drainage of the Santa Ana River of San Bernardino County. The range of this plant has been significantly reduced (see Factor "A" in the "Summary of Factors Affecting the Species" section). Most of the areas on which the plant occurs have been proposed for sand and gravel mining in the recent past.

Although adult *Eriastrum densifolium* ssp. *sanctorum* shrubs have been found in some places dominated by exotic species, seedlings have not been found in these sites. Transect data revealed that this plant occurs in relatively open areas where the total vegetation cover is usually less than 50 percent (Zembal and Kramer 1984). It is likely that this species requires full sun for growth and seed germination. Establishment of exotics in areas with stands of *Eriastrum densifolium* ssp. *sanctorum* may not adversely affect these mature plants; however, self-sustaining populations with all age classes represented have not been found in areas dominated by weedy exotics such as *Bromus* and *Brassica*.

The Service is not aware of any studies on the effects of herbivory on either species.

Eriastrum densifolium ssp. *sanctorum* has rarely been found in disturbed sites. Seedlings of this plant have sprouted in a few places that had been scraped or bulldozed. Some of the adult plants recovered after one locality west of Orange Street had been superficially scraped. In these cases, there was a nearby source of seed from mature plants. It appears that on occasion human-caused disturbance mimics natural disturbance required for seed germination. Most former alluvial fan scrub habitats that have been adversely affected by discing, scraping, or sand and gravel operations do not contain *Eriastrum densifolium* spp. *sanctorum*. However, recent success in transplanting this plant offers some

hope that habitat restoration is possible. It will be important to determine the extent of seed set and germination in these transplanted patches of *Eriastrum densifolium* spp. *sanctorum*.

Issue 7: The Service's notification of the public on this proposal was inadequate.

Response: The Service went through an extensive notification process to make the public aware of this proposal; this process satisfied the requirements of the Act and is described at the beginning of this section.

Issue 8: Several commenters requested the exact locations of these plants.

Response: For the reasons discussed under Issue 1 above and in the section dealing with Critical Habitat below, the Service believes that giving exact locations would increase the degree of threat facing these species.

Issue 9: Increased persistent flooding could result in the extinction of the plants.

Response: These plants occur naturally on the higher floodplain terraces, and are probably adapted to a certain range of flood conditions. Too high a frequency of flooding may result in the extirpation of some populations. However, elimination of all flood flows also appears to eliminate the plants; some flooding appears to maintain the sparsely vegetated conditions under which these plants thrive.

In summary, no substantive comments or data received in response to the proposal indicated that *Eriastrum densifolium* ssp. *sanctorum* or *Centrostegia leptoceras* are more widespread or less vulnerable to disturbance or degradation of habitat than previously thought. Some anecdotal evidence was presented suggesting that *Eriastrum densifolium* ssp. *sanctorum* has recovered from disturbance at certain sites; however, Service personnel who are familar with this plant's habitat and range believe these sites represent exceptional cases. Both species occupy restricted ranges that are vulnerable to encroaching development.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Eriastrum densifolium* ssp. *sanctorum* and *Centrostegia leptoceras* should be classified as endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their applications to *Eriastrum densifolium* (Benth.) Mason ssp. *sanctorum* (Milliken) Mason and *Centrostegia leptoceras* Gray are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range. Eriastrum densifolium* ssp. *sanctorum* once occurred on the higher floodplain terraces along the Santa Ana River and its tributaries in Orange, Riverside, and San Bernardino Counties. It has been extirpated from Orange and Riverside Counties. In Orange County, urban development, citrus groves, horse stables, and urban parks occur to the edge of the Santa Ana River. In Riverside County, the higher floodplain terraces contain urban neighborhoods, ranches and agriculture, and sand and gravel mines. The terraces that have not been built upon or converted to agriculture have been overgrazed. In San Bernardino County where the Santa Ana River has been channelized (mostly with earthen banks), urban and agricultural developments occur to its edge. *Eriastrum densifolium* ssp. *sanctorum* now occurs in isolated stands along the Santa Ana River in San Bernardino County between 360 and 630 meters (1,200 and 2,000 feet) in elevation. One disjunct population remains on Lytle Creek at 360 meters (1,200 feet) in elevation. Approximately 720 hectares (1,800 acres) remain (Krantz 1986 pers. comm.).

Centrostegia leptoceras once occurred in alluvial fan scrub of Los Angeles, San Bernardino, and Riverside Counties. Currently it is known from 5 localities totaling less than 4 hectares (10 acres) in extent. Populations occur adjacent to Lytle Creek, the Santa Ana River, Temescal Creek, and the San Jacinto River (Krantz 1984). A population also remains adjacent to Bautista Creek in Riverside County. The alluvial fan scrub of Los Angeles County has been replaced by the ever-expanding cities of the Los Angeles Basin. Most former San Bernardino localities have been overtaken by urbanization or san and gravel mines.

Extant populations of *Eriastrum densifolium* ssp. *sanctorum* and *Centrostegia leptoceras* in San Bernardino County are further threatened by proposed sand and gravel mines. The BLM is preparing a management plan for these areas. Proposed land uses in the plan include the conservation of these plants, sand and gravel mining, shooting ranges and other activities. In addition, an indirect effect of flood-control dams proposed by the COE in the Upper Santa Ana River Canyon and Lytle Creek could be relaxation of zoning restrictions that now apply to floodplain development. Such zoning changes could allow increased urbanization downstream from the dams and lead to the extinction of *Eriastrum densifolium* ssp. *sanctorum* and to the extirpation of *Centrostegia leptoceras* in San Bernardino County. In Riverside County, the San Jacinto River Temescal Creek and Bautista Canyon drainages are also sites of urbanization and agricultural developmnts. These activities have reduced the range of *Centrostegia leptoceras* on these drainages. Off-road vehicle activity and trash dumping has adversely affected some areas supporting *Centrostegia leptoceras*.

B. *Overutilization for commercial, recreational, scientific, or education purposes.* Neither of these species is known to have suffered as a result of collecting or other utilization. However, *Eriastrum densifolium* ssp. *sanctorum* is extremely attractive when in flower and could be sought by collectors, and *Centrostegia leptoceras* is found on easily distrubed sites that could be damaged by curiosity seekers.

C. *Disease or predation.* Historically, cattle grazing affected many of the areas once supporting *Eriastrum densifolium* ssp. *sanctorum* and *Centrostegia leptoceras*. In some areas, plant species composition was undoubtedly altered significantly by grazing animals. Although grazing may have contributed to the extirpation of these species in some places, areas that are now grazed are so altered that they no longer appear to be capable of supporting either plant, even if grazing were the cease. Grazing does not appear to be a threat in those areas still supporting these species.

D. *The inadequacy of existing regulatory mechanisms.* The California Fish and Game Commission has listed both species as endangered. This designation gives these plants some protection from take, but not habitat destruction. Under the California Endangered Species Act of 1985, State lead agencies are required to consult with the Department of Fish and Game when their projects may affect State-listed species. In the case of *Eriastrum densifolium* ssp. *sanctorum* and *Centrostegia leptoceras*, few (if any) State projects are anticipated. A general prohibition exists against destroying or removing vegetation on BLM land without a permit to do so. The County of San Bernardino has required some sand and gravel operators to avoid populations of *Eriastrum densifolium*

ssp. *sanctorum* and conduct transplant efforts. However, these regulations have not been effective in reducing habitat loss.

E. *Other natural or manmade factors affecting its continued existence.* *Eriastrum densifolium* ssp. *sanctorum* and *Centrostegia leptoceras* do not occur in areas dominated by weedy exotics such as *Bromus rubens* and *Brassica geniculata.* As a prostrate annual that apparently requires full sun and can only tolerate minimal, if any, disturbance, *Centrostegia leptoceras* is especially sensitive to invasion of taller annual species. All known localities of this plant are near areas dominated by weedy exotics. Some herbicide spraying by the San Bernardino County Department of Agriculture for vegetation control may have inadvertently reduced the quality of habitat of these species (Gardner, San Bernardino County Agriculture Commission 1986 pers. comm.).

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these species in determining to make this rule final. Based on this evaluation, the preferred action is to list *Eriastrum densifolium* ssp. *sanctorum* and *Centrostegia leptoceras* as endangered. This preference reflects the strong likelihood that without the protection of the Endangered Species Act of 1973, as amended, these plant species would become extinct throughout their ranges.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for these species at this time. Two of the five localities for *Centrostegia leptoceras* are in Federal ownership. *Eriastrum densifolium* ssp. *sanctorum* occurs on Federal lands; however, it is a conspicuous and attractive shrub. Designation of critical habitat for *Eriastrum densifolium* ssp. *sanctorum* and *Centrostegia leptoceras* would likely focus attention upon these plants and their rare and vulnerable status, and might encourage vandalism or taking for collections or commercial purposes. As mentioned above, *Eriastrum densifolium* ssp. *sanctorum* is an attractive shrub when flowering and could easily be subjected to horticultural collecting if its habitat were closely identified through publication of maps and descriptions. *Centrostegia leptoceras,* although not a likely horticultural subject, is confined to extremely localized sites that could easily be disturbed by foot traffic if they were made known to curiosity-seekers. All involved parties and landowners will be notified of the location and importance of protecting these species habitats. The potential danger posed to these species by designating critical habitat outweighs the minimal protection that such designation would provide. Therefore, it would not be prudent to determine critical habitat for these plants at this time.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provided for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat if any is being designated. Regulations implementing this Interagency Cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal Agency must enter into formal consultation with the Service.

Two Federal agencies have proposed projects that may affect *Eriastrum densifolium* ssp. *sanctorum* and *Centrostegia leptoceras.* The COE, Los Angeles District, has proposed to construct dams on the Upper Santa Ana River Canyon and Lytle Creek Canyon. The Service is concerned that these dams might increase urbanization and agricultural developments in areas occupied by *Eriastrum densifolium* ssp. *sanctorum* and *Centrostegia leptoceras,* and physically alter flooding conditions necessary to maintain these plants. The Service will continue to work with the COE in protecting this plant. The COE is concerned about the survival of these plants and has expressed support for conserving them. The BLM has proposed to develop a habitat management plan for lands occupied by these plants. Competing interests such as sand and gravel mining and shooting ranges may be included in the BLM's plan. One of its goals is to provide for the protection of these plants on its land (Baier 1986). Listing of *Eriastrum densifolium* ssp. *sanctorum* and *Centrostegia leptoceras* will provide further encouragement to the BLM to conserve these plants.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plant species. All trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export any endangered plant, transport it in interstate or foreign commerce in the course of commercial activity, sell or offer it for sale in interstate or foreign commerce, or remove it from areas under Federal jurisdiction and reduce it to possession. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. Because transplant techniques have been recently developed for *Eriastrum densifolium* ssp. *sanctorum,* and because it is an attractive shrub, trade permits may be sought for this plant. It is anticipated that few trade permits would ever be sought or issued for *Centrostegia leptoceras* since the species is not common in cultivation or in the wild. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235–1903).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to Section 4(a) of the Endangered Species Act of 1973, as

amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

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Author

The primary author of this final rule is Karla J. Kramer, U.S. Fish and Wildlife Service, 24000 Avila Road, Laguna Niguel, California 92656.

List of Subjects in 50 CFR Part 17

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

Regulations Promulgation

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*); Pub. L. 98–625, 100 Stat. 3500 (1986), unless otherwise noted.

2. Amend § 17.12(h) by adding the following, under family names indicated, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
*	*	*	*	*		
Polemoniaceae—Phlox family:						
Eriastrum densifolium ssp. *sanctorum*	Santa Ana River woolly-star	U.S.A. (CA)	E	291	NA	NA
*	*	*	*	*		
Polygonaceae—Buckwheat family:						
Centrostegia leptoceras	Slender-horned spineflower	U.S.A. (CA)	E	291	NA	NA
*	*	*	*	*		

Dated: September 21, 1987.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87–22374 Filed 9–25–87; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 61225-7052]

Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: In-season adjustment and notice of closure to directed fishing.

SUMMARY: NOAA announces the apportionment of amounts of Alaska groundfish to the domestic annual processing (DAP) portion of the domestic annual harvest (DAH) under provisions of the fishery management plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area and the closure of the Aleutian Islands area to directed fishing for sablefish. Groundfish are apportioned according to the regulations implementing the FMP. The intent of these actions is to assure optimum use of these groundfish while conserving sablefish stocks.

DATES: Effective: September 23, 1987. Comments will be accepted through October 8, 1987.

ADDRESSES: Comments should be mailed to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802, or be delivered to Room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Janet E. Smoker (Resource Management Specialist, NMFS), 907–586–7230.

SUPPLEMENTARY INFORMATION: The FMP governs the groundfish fishery in the exclusive economic zone under the Magnuson Fishery Conservation and Management Act. The FMP was developed by the North Pacific Fishery Management Council (Council) and implemented by rules appearing at 50 CFR 611.93 and Part 675. The total allowable catches (TACs) for various groundfish species are apportioned initially among DAH, reserves and total allowable level of foreign fishing (TALFF). The reserve amount, in turn, is to be apportioned to DAH and/or TALFF during the fishing year, under 50 CFR 611.93(b) and 675.20(b). As soon as practicable after April 1, June 1, August 1 and on such other dates as are necessary, the Secretary of Commerce apportions to DAH all or part of the reserve that he finds will be harvested by U.S. vessels during the remainder of the year, except that part or all of the reserve may be withheld if an apportionment would adversely affect

the conservation of groundfish resources or prohibited species.

The initial specifications of domestic annual processing (DAP) for 1987 were based on the needs of the U.S. industry as projected by the Director, Alaska Region, NMFS (Regional Director). Certain species, including sablefish, are considered fully utilized by DAP and bycatch amounts only were made available to JVP and TALFF. After fifteen percent of TAC was placed in the nonspecific reserve, as required at 50 CFR 675.20(a)(3), the initial interim specification for the Aleutian Islands area sablefish DAP was determined to be 3,317 mt (52 FR 785, January 9, 1987). The current status of nonspecific reserve is 47,071 mt and will be further reduced to 46,471 mt by this action.

In the Aleutian Islands area, several catcher/processors and several U.S. longliners delivering fish to shoreside plants are conducting directed fisheries for sablefish. The estimated catch through September 5 is 3,250 mt. The Regional Director estimates that the entire Aleutian Islands sablefish TAC, 4,000 mt, will be taken by the directed DAP fishery by late September. When the Aleutian Islands area sablefish TAC is taken, current regulations require that all domestic vessels operating in the Aleutian Islands area discard sablefish in the same manner as prohibited species. Thus, sablefish taken in fisheries for other groundfish species and discarded as required by regulation would be wasted for the remainder of the year.

TABLE 1.—BERING SEA/ALEUTIANS REAPPORTIONMENTS OF TAC (MT)

Current This Action Revised:				
Sablefish (Aleutian Islands)	DAP	3,317	+600	3,917
TAC 4,000; EY 4,000	JVP	83		83
	TALFF	0		0
Total	DAP	336,123	+600	336,723
TAC 2,000,000	JVP	1,484,110		1,484,110
	TALFF	132,696		132,696
	RESERVES	47,071	−600	46,471

The following action is taken by this notice to reapporation specifications in the BSA fisheries.

To the BSA DAP

To allow continued DAP fisheries for sablefish in the Aleutian Islands area, 600 mt of the nonspecific reserve is apportioned to the Aleutian Islands sablefish DAP. This is the maximum reserve amount that can be apportioned to the Aleutian Islands sablefish TAC without exceeding the initial TAC. The Secretary is providing that 500 mt of the reserve apportionment amount is to be used for bycatch only, as set out below.

This apportionment does not result in overfishing of the sablefish stock, as the resulting TAC is 4,000 mt, equal to the equilibrium yield (EY).

Notice of Closure to Directed Fishing

Under 50 CFR 675.20(a)(7), when the Regional Director determines that the remaining amount of the TAC of any target species is necessary for bycatch in fisheries for other groundfish species during the remaining fishing year, the Secretary will publish a notice in the **Federal Register** prohibiting directed fishing for that species for the remainder of the fishing year. The Regional Director has determined that the estimated amount of Aleutian Islands area sablefish DAP (500 mt) remaining after September 19, will be needed for bycatch in DAP fisheries conducting directed fisheries in the Aleutian Islands area for up to 10,000 mt of other groundfish species during the remainder of the year. Therefore, in order to prevent wastage and encourage the full utilization of all sablefish harvested, directed fishing for sablefish by DAP fishermen in the Aleutian Islands area must cease effective noon, Alaska Daylight Time, September 23, 1987.

Thus, U.S. vessels participating in DAP fisheries may continue fishing for other groundfish species and retain sablefish provided that their catch, take or harvest of sablefish does not exceed 20 percent of their take as defined at 50 CFR 675.2. DAP fishermen should note, however, that DAP fisheries should rarely experience bycatches of sablefish in excess of 5 percent, and many DAP fisheries should have bycatches of less than 1 percent. If higher bycatches occur, and the remaining sablefish TAC is taken prior to the end of the year, sablefish would become a prohibited species. Under this circumstance, the Secretary could, under 50 CFR 675.20(a)(9), limit directed fishing for other groundfish by any method including area closures, gear restrictions or prohibition of directed fishing on certain species in order to prevent overfishing of sablefish.

Classification

This action is taken under the authority of 50 CFR 611.93(b), 675.20(b) and 675.20(a)(7) and complies with Executive Order 12291.

The Assistant Administrator for Fisheries finds for good cause that it is impractical and contrary to the public interest to provide prior notice and comment. Immediate effectiveness of this notice is necessary to prevent wastage and encourage the full utilization of all sablefish harvested. However, interested persons are invited to submit comments in writing to the address above for 15 days after the effective date of this notice.

List of Subjects in 50 CFR Part 675

Fish, Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 et seq.

Dated: September 23, 1987.

Bill Powell,

Executive Director, National Marine Fisheries Service.

[FR Doc. 87-22331 Filed 9-23-87; 4:51 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 52, No. 187
Monday, September 28, 1987

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

9 CFR Part 51

[Docket No. 85-122]

Animals Destroyed Because of Brucellosis

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We propose to increase the amount of Federal indemnity for brucellosis exposed bison and certain brucellosis exposed cattle destroyed during herd depopulation. Cattle affected by this action would be nonregistered cattle other than dairy cattle. The increased indemnity is necessary to give herd owners sufficient financial incentive to depopulate their herds and would help eradicate brucellosis in the United States.

DATE: Consideration will be given only to comments postmarked or received on or before October 28, 1987.

ADDRESSES: Send your comments to Steven B. Farbman, Assistant Director, Regulatory Coordination, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that they are in response to Docket No. 85-122. Written comments we receive may be inspected in Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. H. E. Metcalf, Senior Staff Veterinarian, Program Planning Staff, VS, APHIS, USDA, Room 841, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8713.

SUPPLEMENTARY INFORMATION:

Background

Brucellosis is a serious, infectious disease of animals and man caused by bacteria of the genus *Brucella*. In cattle, the disease causes abortion, infertility, and low milk yields. The Secretary of Agriculture is authorized to cooperate with the States to eradicate and prevent the interstate spread of brucellosis. To encourage livestock owners to cooperate with the National State-Federal Brucellosis Eradication Program, Title 9, Code of Federal Regulations, Part 51 (referred to below as the regulations), provides for Federal indemnity for animals destroyed because of brucellosis.

Under the regulations, owners are eligible for Federal indemnity for cattle and bison destroyed as brucellosis reactors and, under certain conditions, for cattle and bison destroyed because of exposure to brucellosis. Federal indemnity may be paid for cattle and bison destroyed because of exposure to brucellosis only if the cattle and bison are female calves or are destroyed during herd depopulation. However, 40 to 60 percent of herd owners offered herd depopulation decline, many choosing instead to have their animals destroyed only if the animals are later identified as brucellosis reactors. The amount of Federal indemnity authorized for brucellosis exposed cattle and brucellosis exposed bison destroyed during herd depopulation equals the amount authorized for cattle and bison destroyed as brucellosis reactors.

Brucellosis exposed cattle and brucellosis exposed bison have a high probability of contracting brucellosis, and may, in fact, be contagious before they react to an official test for brucellosis. The incubation period varies in cattle and bison. Usually cattle and bison develop a positive reaction to the blood test for brucellosis within 3 to 12 weeks after infection, but some may not do so for 8 months or longer. Meanwhile, the exposed cattle and bison are potential transmitters of the disease. Most herds known to be affected are made up of nonregistered cattle other than dairy cattle. In most States, owners are eligible for Federal indemnity of only $50 a head for bison and for nonregistered cattle, other than dairy cattle, that are destroyed during herd depopulation because of exposure to brucellosis. This amount is inadequate for most owners to consider depopulation. We therefore propose to increase the amount of Federal indemnity for these brucellosis exposed cattle and for brucellosis exposed bison destroyed during herd depopulation. This action would provide financial incentive for owners to depopulate in a timely manner, reducing the risk of the disease spreading.

Owners of brucellosis exposed cattle and brucellosis exposed bison destroyed during herd depopulation now are eligible for Federal indemnity in the following amounts: In all States except Alaska, Hawaii, Puerto Rico, and the Virgin Islands of the United States, up to $250 for any registered cattle, $250 for any nonregistered dairy cattle, $50 for any nonregistered cattle other than dairy cattle, and $50 for any bison; and in Alaska, Hawaii, Puerto Rico, and the Virgin Islands of the United States, up to $250 for any registered cattle, $250 for any nonregistered dairy cattle, $150 for any nonregistered cattle other than dairy cattle, and $150 for any bison. We propose the following rates of Federal indemnity for brucellosis exposed cattle and brucellosis exposed bison destroyed during herd depopulation: In all States except Alaska, Hawaii, Puerto Rico, and the Virgin Islands of the United States, up to $250 for any registered cattle, $250 for any nonregistered dairy cattle, $150 for any nonregistered cattle other than dairy cattle, and $150 for any bison; and in Alaska, Hawaii, Puerto Rico, and the Virgin Islands of the United States, up to $250 for any cattle or bison.

We propose to specify that Federal indemnity payments would be made at the rates in effect at the time the Deputy Administrator approves the herd for depopulation. This action would remove any incentive for herd owners to delay depopulation in anticipation of an increase in Federal indemnity rates.

We also propose to amend § 51.7 by extending the time that may be granted owners of registered cattle to present registration papers. The regulations now provide that in cases where registration papers are unavailable or where the cattle are less than 1 year old and not registered, the Veterinarian in Charge may grant owners up to 30 days to present the papers. The Deputy Administrator may grant an additional 30 days. We have found that the 30 days granted by the Veterinarian in Charge usually is not long enough and that extensions of time are routinely requested. We propose to allow the Veterinarian in Charge to grant owners up to 60 days to present papers, and to

allow the Deputy Administrator to grant an extension longer than 60 days.

Miscellaneous

We propose to add definitions to § 51.1 for "recognized slaughtering establishment" and "specifically approved stockyard." Footnote 1 in § 51.6, which refers readers to § 78.1 of this chapter for definitions of these terms, would be removed.

We also propose to correct present footnote 1 in § 51.3 (proposed footnote 3), which now begins as follows: "The Deputy Administrator shall authorize payment of Federal indemnity by the Department at the applicable maximum percent in § 51.3(a)(1) and (2) and the maximum per head rates in § 51.3(a)(3)". This footnote, which reflects a system of indemnity payments based on market values for slaughter and replacement, was revised by an interim rule published in the **Federal Register** on November 26, 1982 [47 FR 53320–53325, Docket No. 82–061], and affirmed March 27, 1985 [50 FR 11992–11993, Docket No. 83–107]. The footnote was revised to read as follows: "The Deputy Administrator shall authorize payment of Federal indemnity by the Department at the applicable maximum per head rate in § 51.3". This revision was necessary because the interim rule established an indemnity system based on flat, per head rates for cattle and bison destroyed because of brucellosis. Indemnity payments for swine destroyed because of brucellosis were already based on flat, per head rates. The current regulations should contain the footnote as it was revised by the rule on March 27, 1985.

In addition, we propose to make several nonsubstantive changes to clarify the regulations.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this proposed rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this proposed rule would have an effect on the economy of less than $100 million; would not cause a major increase in costs or prices for consumers, individuals, industries, Federal, State or local government agencies or geographic regions; and would not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under the proposed rule, owners of brucellosis exposed cattle and brucellosis exposed bison destroyed during herd depopulation would be eligible for Federal indemnity amounting to an increase of $100 over the present rates for bison and nonregistered cattle other than dairy cattle. We estimate that we will offer herd depopulation for fewer than 500 of the approximately 1.6 million herds of cattle and bison in the United States in the coming year.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that the proposed rule would not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

Information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) and have been assigned OMB control number 0579–0067.

Executive Order 12372

The 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 Part 3015, Subpart V.)

List of Subjects in 9 CFR Part 51

Animal diseases, Bison, Brucellosis, Cattle, Hogs, Indemnity payments.

Accordingly, we propose to amend 9 CFR Part 51 as follows:

PART 51—ANIMALS DESTROYED BECAUSE OF BRUCELLOSIS

1. The authority citation would continue to read as follows:

Authority: 21 U.S.C. 111–113, 114, 114a, 114a–1, 120, 121, 125, 134b; 7 CFR 2.17, 2.51, and 371.2(d).

2. In § 51.1, the definition of "Department" would be removed and two new definitions would be added in alphabetical order to read as follows:

§ 51.1 Definitions.

* * * * *

Recognized slaughtering establishment. Any slaughtering establishment operating under the Federal Meat Inspection Act (21 U.S.C. 601 through 695) or a State meat inspection act.[1]

* * * * *

Specifically approved stockyard. Premises approved by the Deputy Administrator, in accordance with § 78.44 of this chapter, for assembling cattle or bison for sale.[2]

* * * * *

§ 51.3 [Amended]

3. In § 51.3, footnotes 1 and 2 and the references to them would be redesignated footnotes 3 and 4, respectively.

4. In § 51.3, all references to "Department" would be revised to read "United States Department of Agriculture".

5. In § 51.3, paragraph (a)(2) would be revised to read as follows:

§ 51.3 Payment to owners for animals destroyed.

(a) * * *

(2) *Herd depopulation*—(i) *Eligibility.* The Deputy Administrator may authorize payment of Federal indemnity [3] by the United States Department of Agriculture to any owner whose herd of cattle or bison is destroyed because of brucellosis. The United States Department of Agriculture shall pay Federal indemnity for brucellosis exposed cattle or brucellosis exposed bison in the herd only when the Deputy Administrator determines that destruction of all cattle and bison in the herd will contribute to the brucellosis eradication program. Owners must furnish proof of destruction [4] to the

[1] The names and addresses of recognized slaughtering establishments may be obtained from the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, Washington, DC 20250.

[2] Notices containing lists of specifically approved stockyards are published in the **Federal Register**. Lists of specifically approved stockyards also may be obtained from the State animal health official, State representatives, or Veterinary Services representatives.

[3] The Deputy Administrator shall authorize payment of Federal indemnity by the United States Department of Agriculture at the maximum per head rates in § 51.3: (a) As long as sufficient funds appropriated by Congress appear to be available for this purpose for the remainder of the fiscal year; (b) in States or areas not under Federal quarantine; (c) in States requesting payment of Federal indemnity; and (d) in States not requesting a lower rate.

[4] The Veterinarian in Charge shall accept any of the following documents as proof of destruction: (a) A postmortem report; (b) a meat inspection certification of slaughter; (c) a written statement by a State representative, Veterinary Services representative, or accredited veterinarian attesting to the destruction of the animal; (d) a written, sworn statement by the owner or caretaker of the animal attesting to the destruction of the animal; (e) a permit (VS Form 1–27) consigning the animal from a farm or livestock market directly to a recognized slaughtering establishment; or (f) in unique situations where the documents listed above are not available, other similarly reliable forms of proof of destruction.

Veterinarian in Charge prior to payment of Federal indemnity. The United States Department of Agriculture shall pay Federal indemnity for brucellosis reactor cattle and brucellosis reactor bison in accordance with paragraph (a)(1) of this section.

(ii) *Amount of Federal indemnity.* Payments of Federal indemnity shall be made at the rates in effect at the time the Deputy Administrator approves depopulation for the herd. In all States except Alaska, Hawaii, Puerto Rico, and the Virgin Islands of the United States, the amount of Federal indemnity shall not exceed $250 for any registered cattle, $250 for any nonregistered dairy cattle, $150 for any nonregistered cattle other than dairy cattle, and $150 for any bison. In Alaska, Hawaii, Puerto Rico, and the Virgin Islands of the United States, the amount of Federal indemnity shall not exceed $250 for any cattle or bison.

* * * * *

§ 51.6 [Amended]

6. In § 51.6, footnote 1 and the references thereto would be removed.

7. In § 51.6, footnote 2 and the reference thereto would be redesignated as "5" and would be revised to read

"[5] Markets are approved by the Deputy Administrator in accordance with § 76.18 of this chapter.".

8. In § 51.7(a), in the last sentence, "Department" would be revised to read "United States Department of Agriculture".

9. In § 51.7, paragraph (b) would be revised to read as follows:

§ 51.7 Claims for indemnity.

* * * * *

(b) Claims for indemnity for registered cattle shall be accompanied by the cattle's registration papers issued in the name of the owner. If the registration papers are unavailable or if the cattle are less than 1 year old and are not registered at the time the claim for indemnity is submitted, the Veterinarian in Charge may grant a 60-day extension or the Deputy Administrator may grant an extension longer than 60 days for the presentation of registration papers.

Done at Washington, DC, this 23rd day of September, 1987.

J.K. Atwell,

Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc. 87-22263 Filed 9-25-87; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87-NM-105-AD]

Airworthiness Directives; Airbus Industrie A310-203, -221, and -222 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes an airworthiness directive (AD), applicable to all Airbus Industrie Model A310 series airplanes, that would require inspection, modification, and repair, if necessary, of the rear pressure bulkhead. This proposal is prompted by reports of cracks detected in the attachment angles during the fatigue test of the rear pressure bulkhead. This condition, if not corrected, could eventually lead to failure of the bulkhead.

DATE: Comments must be received no later than October 27, 1987.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-105-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Golder, Standardization Branch, ANM-113; telephone (206) 431-1967. 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) oy submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-105-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The Direcion Général de L'Aviation Civile—France (DGAC) has, in accordance with existing provisions of a bilateral airworthiness agreement, notified the FAA of cracks detected in certain rear pressure bulkhead attachment angles during the fatigue test on certain Airbus Industrie Model A310 series airplanes. The cracks are attributed to fatigue. This condition, if not detected and corrected, could lead to failure of the bulkhead attachment.

Airbus Industrie has issued Service Bulletin A310-53-2024, Revision 1, dated June 20, 1986, which describes procedures for the inspection and repair of cracks in the rear pressure bulkhead attachment angles and Service Bulletin A310-53-2025, dated April 21, 1986, which describes procedures for modification of the attachment of the rear pressure bulkhead to frame (FR) 80/82. The DGAC has classified these service bulletins as mandatory.

This airplane model is manufactured in France and type certificated in the United States under the provisions of § 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 inspection of the rear pressure bulkhead, and repair, if necessary, in accordance with the service bulletins previously mentioned.

It is estimated that 3 airplanes of U.S. registry would be affected by this AD,

that it would take approximately 590 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 $70,800.

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 further 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, Model A310 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:

PART 39—[AMENDED]

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.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Airbus Industrie: Applies to certain Model A310 series airplanes, as listed in Service Bulletin A310-53-2025, dated April 21, 1986, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent failure of the rear pressure bulkhead, accomplish the following:

A. Prior to the accumulation of 6,000 landings time in service or within the next 3,000 landings after the effective date of this AD, whichever occurs later, accomplish the following:

1. Inspect the rear pressure bulkhead for cracks, using x-ray procedures, in accordance with paragraph 2., Accomplishment Instructions, of Airbus Industrie Service Bulletin A310-53-2024, Revision 1, dated June 20, 1986. If any cracks are detected, repair prior to further flight in accordance with paragraph 2.C., Repair, of the service bulletin.

2. Modify the attachment of the rear pressure bulkhead to FR 80/82 in accordance with paragraph 2., Accomplishment Instructions, of Airbus Industrie Service Bulletin A310-53-2025, dated April 21, 1986.

B. On airplanes that were modified in accordance with paragraph A.2., above, after the accumulation of 6,000 landings, repeat the x-ray inspection of the rear pressure bulkhead required by paragraph A.1., above, within 6,000 landings after modification, and thereafter at intervals not to exceed 12,000 landings.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, 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 for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this proposal who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. 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 August 26, 1987.

Frederick M. Isaac,

Deputy Director, Northwest Mountain Region.

[FR Doc. 87-22223 Filed 9-25-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 87-NM-122-AD]

Airworthiness Directives; British Aerospace Model H.S. 748 Series Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes an airworthiness directive (AD), applicable to British Aerospace (BAe) Model H.S. 748 series airplanes, that would require modifying the overwing escape hatch locking mechanism. This proposal is prompted by reports of hatches not being properly closed and locked or the hatch locking mechanisms being strained by mishandling. This condition, if not corrected, could lead to escape hatches opening and becoming detached from the airplane during flight.

DATE: Comments must be received no later than October 30, 1987.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-122-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from British Aerospace, Inc., P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Golder, Standardization Branch, ANM-113; telephone (206) 431-1967. 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: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-122-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The United Kingdom Civil Aviation Authority (CAA) has, in accordance with existing provisions of a bilateral

airworthiness agreement, notified the FAA of an unsafe condition which may exist on British Aerospace Model H.S. 748 series airplanes. There have been numerous reports of overwing escape hatches opening and detaching from airplanes in flight due to hatches not being properly locked prior to flight. This condition, if not corrected, could lead to decompression due to the door leaving the airplane in flight with associated damage to the airplane and possible injuries to people on board and on the ground.

British Aerospace has issued Service Bulletin 52/127, dated May 29, 1985, which describes a modification to the overwing escape hatch locking device, which consists of installing a replacement for the existing hatch locking mechanism that allows visual identification of the hatch locked/unlocked status. With this modification installed, it will no longer be necessary to raise a cover to determine if the lock is engaged. The United Kingdom CAA has classified the BAe service bulletin as mandatory.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of § 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 overwing escape hatch locking mechanism be modified in accordance with the service bulletin previously mentioned.

It is estimated that 2 airplanes of U.S. registry would be affected by this AD, that it would take approximately 33 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 $2640.

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 further certified under the criteria of the Regulatory Flexibility Art 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 ($1,320). 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:

PART 39—[AMENDED]

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.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

British Aerospace: Applies to Model H.S. 748 series airplanes, as listed in British Aerospace Service Bulletin 52/127, dated May 29, 1985, certificated in any category. Compliance required within 5 months after the effective date of this AD, unless previously accomplished:

To prevent the loss of the overwing escape hatch during flight, due to improper locking, accomplish the following:

A. Replace the escape hatch locking mechanism with P/N 1OD14062 locking mechanism assembly, in accordance with the instructions in British Aerospace Service Bulletin No. 52/127, dated May 29, 1985.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

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

All persons affected by this directive who have not already received the appropriate service document from the manufacturer may obtain copies upon request to British Aerospace, Inc., P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This document 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 September 16, 1987.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-22222 Filed 9-25-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 87-NM-108-AD]

Airworthiness Directives; Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to supersede two existing airworthiness directives (AD), applicable to certain Boeing Model 737 series airplanes, which currently require inspection for cracking of the forward service doorway aft frame and repair, if necessary. This proposal would combine the inspections required by both AD's and add inspections of the frame support structure for the lower four door stop fittings. This action is prompted by several reports of cracks of the door stop support structure for the door stops on the aft frame. This condition, if not corrected, could result in the loss of pressurization.

DATE: Comments must be received no later than October 27, 1987.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-108-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. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Owen E. Schrader, Airframe Branch, ANM-120S; telephone (206) 431-1923. 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 (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-108-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

On December 30, 1986, the FAA issued AD 87-01-U6, Amendment 39-5509 (52 FR 517; January 7, 1987), which requires inspection for cracks and repair, if necessary, of the aft frame of the forward service door in the area of the upper two door stops fittings.

After the issuance of AD 87-01-06, additional service experience indicated that cracks also could occur in the frame around the lower door stop fittings (Number 3-6), as well as in the backup structure for these door stops. On May 6, 1987, the FAA issued AD 87-10-03, Amendment 39-5621 (52 FR 17935; May 13, 1987), to require inspection and repair, if necessary, of the forward service door aft frame in the area of the lower four door stop fittings.

Recent reports indicate that the supporting structure must also be inspected for cracks. Therefore, the FAA has determined that the areas required to be inspected in accordance with AD 87-01-06 and AD 87-10-03 must be expanded to include the support structure for the lower four stops. This action is necessary to ensure the structural integrity of the door support structure.

The FAA has reviewed and approved Boeing Alert Service Bulletin 737-53A1108, Revision 2, dated August 13, 1987, which describes procedures for inspection, repairs, and terminating action, for cracks in the forward service door aft frame and the door stop support structure.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would require inspections and repairs, as necessary, of the forward galley doorway aft frame around the six door stops, and their support structure, in accordance with the service bulletin previously mentioned, and would supersede AD 87-01-06 and AD 87-10-03. It would also provide terminating action for the required repetitive inspections.

It is estimated that 450 airplanes of U.S. registry would be affected by this AD, that it would take approximately 6 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 the AD on U.S. operators is estimated to be $108,000.

For these reasons, 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 further 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, Model 737 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

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 (14 CFR 39.13) as follows:

PART 39—[AMENDED]

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.

§ 39.13 [Amended]

2. By superseding AD 87-01-06, Amendment 39-5509 (52 FR 517; January 7, 1987), and AD 87-10-03, Amendment 39-5621 (52 FR 17935; May 13, 1987), with the following new airworthiness directive:

Boeing: Applies to Model 737 series airplanes, as listed in Boeing Alert Service Bulletin 737-53A1108, Revision 2, dated August 13, 1987, certificated in any category. Compliance required as indicated, unless previously accomplished.

To ensure structural integrity of the forward service door support structure, accomplish the following:

A. Prior to the accumulation of 25,000 landings or within the next 125 landings after the effective date of this AD, or 250 landings since the last inspection, whichever occurs later, perform a close visual inspection around the six door stop fittings of the forward service doorway aft frame in accordance with Boeing Alert Service Bulletin 737-53A1108, Revision 2, dated August 13, 1987, or later FAA-approved revisions. Repeat the inspections at intervals not to exceed 250 landings until the inspection required by paragraph B., below, is accomplished. If cracks are found, prior to further flight, perform a visual inspection for cracks in the intercostals and stringers, which support these door stops. Parts found cracked must be repaired prior to further flight in accordance with the aforementioned service bulletin.

B. Prior to the accumulation of 25,000 landings or within the next 4,500 landings after the effective date of this AD, whichever occurs later, perform an internal visual inspection for cracks in the intercostals and stringers, which support these door stops, in accordance with Boeing Alert Service Bulletin 737-53A1108, Revision 2, dated August 13, 1987, or later FAA-approved revisions. Parts found cracked must be repaired before further flight in accordance with the aforementioned service bulletin. Repeat the inspection at intervals not to exceed 9,000 landings.

C. The repetitive inspections required by paragraph B., above, may be terminated after the intercostals and stringers have been modified in accordance with the terminating action specified in Paragraph III of the "Accomplishment Instructions" of Boeing Alert Service Bulletin 737-53A1108, Revision 2, dated August 13, 1987, or later FAA-approved revisions, or incorporation of a modification approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

D. An alternate means of compliance or adjustment of the compliance time, which provide an acceptable level of safety and which has the concurrence of an FAA Principal Maintenance Inspector, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

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

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the Boeing Commercial

Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on August 26, 1987.

Frederick M. Isaac,

Deputy Director, Northwest Mountain Region.

[FR Doc. 87-22224 Filed 9-25-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 87-ANM-22]

Proposed Alteration of VOR Federal Airways; Montana

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to change the descriptions of several Federal Airways located in the vicinity of Missoula, MT. Changes to instrument flight procedures to the Missoula Airport now require the Salt Lake City Air Route Traffic Control Center (ARTCC) controllers to position arriving aircraft on published routes or approach transition prior to transfer of control to the Missoula Air Traffic Control Tower. This action would be compatible with the new instrument approach procedures thus expediting the traffic in the Missoula terminal area and increasing flight safety.

DATE: Comments must be received on or before November 6, 1987.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Northwest Mountain Region, Attention: Manager, Air Traffic Division, Docket No. 87-ANM-22, Federal Aviation Administration, 17900 Pacific Highway South, C-68966, Seattle, WA 98168.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9250.

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, aeronautical, 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. 87-ANM-22." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484. 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 Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the descriptions of VOR Federal Airways V-2, V-120, V-257 and V-343 located in the vicinity of Missoula, MT. Changes to the instrument flight procedures at the Missoula Airport now require the Salt Lake City ARTCC to position arriving aircraft on a published route prior to transfer of control to the Missoula Air Traffic Control Tower. This procedure involves radar vectors at altitudes compatible with the instrument approach procedures. This proposed action would reduce the vectoring requirement, thereby reducing the controller workload and improving traffic flow. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

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

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

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

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

§ 71.123 [Amended]

2. Section 71.123 is amended as follows:

V-2 [Amended]

By removing the words "Mullan Pass, ID; 5 miles, 53 miles, 91 MSL, Missoula, MT; 6 miles, 84 MSL, Drummond, MT; 11 miles, 84

MSL," and by substituting the words "Mullan Pass, ID; Missoula, MT; Drummond, MT;"

V-120 [Amended]

By removing the words "Mullan Pass, 5 miles, 55 miles, 95 MSL, 43 miles, 125 MSL," and by substituting the words "Mullan Pass;"

V-257 [Amended]

By removing the words "22 miles, 85 MSL"

V-343 [Revised]

From Dubois, ID; Bozeman, MT; to Drummond, MT.

Issued in Washington, DC, on September 15, 1987.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87-22230 Filed 9-25-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 141 and 177

Proposed Customs Regulations Amendments Relating to Tariff Designation on Entry Documents

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations to require that if a person has received written notice from a Customs official of the Customs designation of the duty/statistical reporting number for imported articles, the person filing an entry summary (Customs Form 7501), or other applicable Customs forms, must provide that designation as stated in the notice. If the person fails to comply with this requirement Customs may subject the person to a claim for monetary penalty under 19 U.S.C. 1592. Compliance with the requirement would not constitute waiver of the person's right to protest liquidation of the entry. By providing written notice to a person, and requiring that person to provide the Customs designation of the duty/statistical reporting number as stated in the notice, Customs will be better able to carry out its statutory responsibility to ascertain the proper classification and rate of duty applicable to imported merchandise.

DATE: Comments must be received on or before November 27, 1987.

ADDRESS: Comments (preferably in triplicate) may be addressed to, and inspected at, the Regulations Control Branch, Room 2324, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Robert J. Pisani, or Charles D. Ressin, Entry Procedures and Penalties Division, (202-566-8317).

SUPPLEMENTARY INFORMATION:

Background

Section 484(a)(1)(B), Tariff Act of 1930, as amended (19 U.S.C. 1484(a)(1)(B)), provides that an importer of record shall file with Customs, documentation which, among other things, enables a Customs officer to properly assess duties on the merchandise, collect accurate statistics, and determine whether any other applicable requirement of law is met. Further, Section 500, Tariff Act of 1930, as amended (19 U.S.C. 1500), requires the appropriate Customs officer to "ascertain the classification and rate of duty applicable to (imported) merchandise." In accordance with 19 U.S.C. 1484(a)(1)(B), § 141.61(e), Customs Regulations (19 CFR 141.61(e)), requires the filing of the applicable statistical reporting information required by the General Statistical Headnotes, Tariff Schedules of the United States Annotated ("TSUSA"), and places the responsibility for providing the information on the person filing the form.

It has now been determined necessary to propose to amend § 141.61(e), Customs Regulations, to require that any person who has received written notice from a Customs official of the Customs designation of the duty/statistical reporting number, must provide that designation to Customs on the entry summary (Customs Form 7501), or other applicable forms. The complete designation number must be placed in Block 30 of Customs Form 7501. If the person does not provide the Customs designation of the duty/statistical reporting number, the person may be subject to liability under Section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592).

Customs has been reluctant to impose a penalty under 19 U.S.C. 1592 if the only material falsity upon entry involves supplying an incorrect tariff designation. Customs reluctance stems, in part, from the requirement of 19 U.S.C. 1500 placing the obligation on Customs to "ascertain the classification and rate of duty applicable to (imported) merchandise." Because of substantial increases in annual import volume, however, more accurate reporting data are required to enable Customs to carry out its statutory responsibilities. The need for importer cooperation has become particularly necessary since the adoption of the Automated Commercial System (ACS) which considerably increases Customs reliance upon information contained in the entry documents filed by the importer.

Accordingly, Customs believes it is necessary (1) to assert the authority of the Secretary of the Treasury under 19 U.S.C. 1484 if a person, or agent, has received written notice from a Customs official of the Customs designation of the duty/statistical reporting number for specific merchandise and (2) to advise importers that a claim for monetary penalty may be assessed if, after notice, another designation is provided.

By providing written notice to a person, and requiring that person to provide the Customs designation of the duty/statistical reporting number as stated in the notice, Customs will be better able to carry out its statutory duty under 19 U.S.C. 1500. Furthermore, the written notice requirement will assist Customs in establishing one of the levels of culpability necessary to constitute a violation under 19 U.S.C. 1592 in appropriate cases.

Compliance with the requirement to provide the Customs designation of the duty/statistical reporting number would not constitute, in any way, a waiver of a persons right to challenge Customs determination by filing a protest under Section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514), and Part 174, Customs Regulations (19 CFR Part 174)

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to Customs. 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 2324, Customs Headquarters, 1301 Constitution Avenue NW., Washington, DC 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

E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Paperwork Reduction Act

Furnishing the tariff designation number is subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501). The information is furnished on the Customs Form 7501 which has been submitted to and approved by OMB under control number 1515–0065.

Drafting Information

The principal author of this document was Marvin M. Amernick, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Parts 141 and 177

Entry and entry summary documentation, Statistical reporting number, Administrative rulings.

Proposed Amendments

It is proposed to amend Parts 141 and 177, Customs Regulations (19 CFR Parts 141 and 177), as set forth below.

PART 141—ENTRY OF MERCHANDISE

1. The authority citation for Part 141 continues to read as follows:

Authority: 19 U.S.C. 66, 1448, 1484, 1624.

2. It is proposed to revise § 141.61 (e)(2) and (e)(5) to read as follows:

§ 141.61 Completion of entry and entry summary documentation.

* * * * *

(e) *Statistical information.* * * *

* * * * *

(2) *Responsibility.* The person filing the form is responsible for providing the information required by paragraph (e)(1) of this section.

(i) (A) *Classification information-importer.* If the person filing the form is an importer, and that importer receives written notice as defined in paragraph (e)(2)(i)(B) of this section, from a Customs official of the Customs designation of the duty/statistical reporting number for the specific merchandise, the importer shall record only that number in the designated location on the form for the merchandise subject to the notice and any other entries of identical merchandise.

(B) *Written notice.* Written notice provided to the person must state the Customs designation of the duty/statistical reporting number. The term "Written notice" includes, but is not limited to:

(*1*) Customs rulings issued pursuant to 177.8 of this chapter and decisions on requests for internal advice issued pursuant to § 177.11 of this chapter;

(*2*) A protest decision issued pursuant to Part 174 of this chapter;

(*3*) A notice of action (Customs Form 29);

(*4*) An entry rejection notice; or

(*5*) An advice letter.

(C) *Classification information-Customs broker.* If the person filing the form is a customs broker and that customs broker has received, or has actual knowledge that its importer-client has received, written notice of the information described in paragraph (e)(2)(i)(A) of this section, with regard to specific merchandise, the broker shall record only that number in the designated location on the form for the merchandise subject to the notice and any other entries of identical merchandise.

(ii) *Value information.* If the information required by subparagraph (XIV), (XV), and (XVI), General Statistical Headnote 1(a), TSUSA, cannot be obtained readily, the person filing the form shall provide reasonable estimates of the required information. The acceptance of an estimate for a particular transaction does not relieve the person filing the form from the obligation of obtaining the necessary information for similar future transactions. The district director may require additional documentation to substantiate the statistical information required by paragraph (e)(1) of this section. The importer shall give an appropriate bond for the production of the required documentation, as follows:

(A) Except for merchandise entered for warehouse, the documentation shall be produced within 50 days after the entry summary (or the entry, if there is no entry summary) is required to be filed.

(B) If merchandise is entered for warehouse, the documentation shall be produced within 2 months after the date of withdrawal, except that if an invoice is part of the documentation, the invoice shall be produced within 50 days after the entry summary for warehouse is required to be filed. The district director may grant a reasonable extension of time to produce the required documentation for good cause shown. (See § 141.91(d) for bond requirements relating to failure to produce an invoice and §§ 113.42 and 113.43 of this chapter relating to the time period for the production of documents.).

* * * * *

(5) (i) *Penalty procedures; when not invoked.* Except as provided for in paragraph (e)(5)(ii) of this section, penalty procedures relating to erroneous statistical information shall not be invoked against any person who in good faith attempts to comply with the statistical requirements of the General Statistical Headnotes, TSUSA.

(ii) *Penalty procedures; when invoked.* A failure to comply with the requirements of paragraph (e)(2)(i) of this section shall not be considered to be an act in good faith, and may subject the person to a claim for monetary penalty under section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592). Compliance with this requirement does not constitute a waiver of the person's right to protest liquidation of the entry in accordance with section 514, Tariff Act of 1930, as amended (19 U.S.C. 1514), and Part 174 of this chapter.

* * * * *

PART 177—ADMINISTRATIVE RULINGS

1. The authority citation for Part 177 is revised to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (Gen. Hdnote. 11), 1624.

Section 177.3 also issued under 19 U.S.C. 1481, 1484.

2. It is proposed to amend § 177.8(a)(2) by adding the following after the last sentence:

§ 177.8 [Amended]

(a) * * *

(2) * * *

Also see requirements under Subpart E of Part 141 of this chapter relating to presentation of entry papers.

William von Raab,

Commissioner of Customs.

Approved: September 3, 1987.

Francis A. Keating,

Assistant Secretary of the Treasury.

[FR Doc. 87–22299 Filed 9–25–87; 8:45 am]

BILLING CODE 4820-02-M

VETERANS ADMINISTRATION

38 CFR Part 21

Veterans Education; Entitlement Charges for Refresher, Remedial and Deficiency Course

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: Current regulations do not state how to charge entitlement when a veteran or eligible person is pursuing some courses for which entitlement is charged concurrently with refresher, remedial or deficiency courses for which no charge is made against entititlement. The result has been inconsistent

adjudication of cases by the various Veterans Administration (VA) offices. The proposed regulation specifies the manner in which entitlement charges are to be made, thus eliminating the possibility of nonuniform administration of the program.

DATES: Comments must be received on or before November 9, 1987. Comments will be available for public inspection until November 24, 1987.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, room 132 of the above address between the hours of 8 a.m. to 4:30 p.m., Monday through Friday (except holidays) until November 24, 1987.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Education Policy and Program Administration, Vocational Rehabilitation and Education Service, Department of Veterans Benefits, (202) 233-2092.

SUPPLEMENTARY INFORMATION: On pages 31782 and 31783 of the **Federal Register** of September 5, 1986, there was published a notice of proposed rulemaking to amend Part 21 to provide a specific rule for computing the correct entitlement charge for veterans training under the Vietnam Era GI Bill (38 U.S.C. Chapter 34) and eligible spouses and surviving spouses receiving Dependents' Educational Assistance (38 U.S.C. Chapter 35) who concurrently enroll in courses for which entitlement is charged and courses for which entitlement is not charged.

Interested people were given 30 days to submit suggestions, comments or objections. The VA received three letters. Two were from officials of educational organizations and supported the proposal. One was from a university official and contained two suggestions.

One suggestion was to expand the regulation so that a list of the education programs administered by the VA would appear in 38 CFR 21.1045(c) along with a statement as to whether the revised regulation applied to each program. The university official suggested including vocational rehabilitation (38 U.S.C. Chapter 31), the New GI Bill (38 U.S.C. Chapter 30), the Post-Vietnam Era Educational Assistance Program (38 U.S.C. Chapter 32), the Vietnam Era GI Bill (38 U.S.C. Chapter 34), Dependents' Educational Assistance (38 U.S.C. Chapter 35) and Educational Assistance for Members of the Selected Reserve (10 U.S.C. Chapter 106).

The VA does not believe this is necessary. The 38 CFR 21.1000 series of regulations apply to the education programs described in 38 U.S.C. Chapters 34 and 35. The paragraphs preceding the amended paragraph as well as the amended paragraph itself make this clear. The other chapters either are already adequately covered elsewhere (for example, 38 CFR 21.5072) or they will be covered when the VA publishes regulations implementing 38 U.S.C. Chapter 30 and 10 U.S.C. Chapter 106.

The second suggestion was that rather than make the proposed regulation final, the VA should adopt a rule which would result in a charge against entitlement for all credit hours which count towards a degree.

In most cases this method would result in the same charge against entitlement as the proposed amended regulation. However, in some cases the suggested method would result in a greater entitlement charge than the proposed rule.

The VA evaluated the alternatives, including the one offered by the comment writer and determined that the amended regulation as originally proposed might lend itself to abuse of the Vietnam Era GI Bill and Dependents' Educational Assistance more easily than a regulation modeled after the university official's suggestion. Accordingly, the VA is withdrawing its original proposal and is publishing for comment a new proposed regulation which adopts an alternative approach and takes the suggestion into account. The method used in this propsal would eliminate the potential area of abuse and accomplish the original goal of stating a uniform adjudicatory rule.

The VA has determined that this proposed amended regulation does not contain a major rule as that term is defined by E.O. 12291, entitled Federal Regulation. The regulation will not have a $100 million annual effect on the economy, and will not cause a major increase in costs or prices for anyone. It will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans Affairs has certified that this proposed amended regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), the amended regulation, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because the proposed amended regulation affects only individuals. It will have no significant economic impact on small entities, i.e., small businesses, small private and nonprofit organizations and small governmental jurisdictions.

(The Catalog of Federal Domestic Assistance numbers for the programs affected by this regulation are 64.111 and 64.117)

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs-education, Loan programs-education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: August 25, 1987.

Thomas K. Turnage,

Administrator.

PART 21—[AMENDED]

In 38 CFR Part 21, *Vocational Rehabilitation and Education*, § 21.1045 is amended by revising paragraph (c)(1) and by adding paragraph (c)(3) to read as follows:

§ 21.1045 Entitlement charges.

* * * * *

(c) * * *

(1) For all other courses, after making any adjustments required by paragraph (c)(3) of this section, the VA will make a charge against entitlement.

* * * * *

(3) A veteran or eligible spouse or surviving spouse may concurrently enroll in a refresher, remedial or deficiency course or courses for which paragraph (a)(4) of this section requires no charge against entitlement and in a course or courses for which paragraph (b) of this section requires a charge against entitlement. When this occurs, the VA will charge entitlement for the concurrent enrollment based only on pursuit of the course or courses described in paragraph (b) of this section, measured in accordance with §§ 21.4270 through 21.4275 of this part, as appropriate.

(Authority: 38 U.S.C. 1661, 1677(b))

* * * * *

[FR Doc. 87-22302 Filed 9-25-87; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3268-6]

Approval and Promulgation of Implementation Plans; Texas Lead Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rulemaking.

SUMMARY: As required by section 110(a) of the Clean Air Act (CAA) and the October 5, 1978 (43 FR 46246), promulgation of National Ambient Air Quality Standards (NAAQS) for lead, the State of Texas has submitted revisions to its State Implementation Plan (SIP) for lead for the El Paso area of the State. EPA announced its approval/disapproval action on the El Paso SIP on August 13, 1984 (49 FR 32184). Proposed approval of the State's request for a two year extension of the attainment date for lead NAAQS for a limited area in El Paso. Texas was announced on August 16, 1985 (50 FR 33069). Federal promulgation of a compliance date for the installation of secondary hoods on copper converters at the ASARCO primary smelter in El Paso County was announced on May 20, 1986 (51 FR 18440). This action announces EPA's proposed approval of emission limit revisions to Texas Regulation III, Subchapter B titled Lead from Stationary Sources. Nonferrous Smelters in El Paso County and announces EPA's proposed approval of the Texas Lead SIP for the limited area surrounding the ASARCO facility in El Paso County. A modeling analysis using these proposed revised emission limits now demonstrates attainment by modeling of the NAAQS for El Paso County. Since attainment is now demonstrated and such attainment is within three years of the August 13, 1984, approval of the El Paso lead SIP, the two year extension of the NAAQS attainment date is no longer necessary. The Federal promulgation of the compliance date for the installation of secondary hoods on copper converters as is required by Texas Rule 113.53 is not affected by today's action. The rest of the Texas SIP was previously approved by EPA (except for the Dallas and El Paso part of the SIP) in a **Federal Register** notice published on October 4, 1983 (48 FR 45246).

DATES: Comments must be received on or before October 28, 1987. Public comments on this document are requested and will be considered before taking final action on these SIP revisions.

ADDRESSES: Written comments should be sent to Thomas H. Diggs, Chief, SIP/New Source Review Section, EPA (6T-AN), 1445 Ross Avenue, Dallas, Texas 75202. Copies of the SIP and FPA's evaluation report are available for public review during normal business hours at the following locations: Texas Air Control Board, 6330 Hwy 290 East, Austin, Texas 78723, and EPA, Region 6, Library, 12th Floor, Allied Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202.

FOR FURTHER INFORMATION CONTACT: Jim Callan, State Implementation Plan/New Source Section, Air Programs Branch, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas, 75202, telephone (214) 655-7214 or FTS 255-7214.

SUPPLEMENTARY INFORMATION:

I. Background

On October 5, 1978, the NAAQS for lead was promulgated by EPA (43 FR 46246). Both the primary and secondary standards were set at a level of 1.5 micrograms of lead per cubic meter of air (ug lead/m^3) averaged over a calendar quarter. As required by section 110 of the CAA, and the October 5, 1978, promulgation of the NAAQS for lead, each State must submit a SIP which will provide for attainment and maintenance of the lead NAAQS within three years from the date of approval of the plan. Section 110(e) of the CAA allows EPA to grant up to a two-year extension of the lead NAAQS attainment date if the Governor of a State requests it for a specified area of the State, and if the State's SIP provides a proper justification for the need for a two year extension (explained below).

On June 12, 1980, the Governor of Texas submitted to EPA the State's SIP for attainment and maintenance of the NAAQS for lead. On October 4, 1983 (48 FR 45246). EPA approved the Texas lead SIP except for the part of the SIP concerning the Dallas and El Paso areas. On June 20, 1984, the Governor of Texas submitted to EPA the State's Lead SIP for El Paso County. On August 13, 1984 (49 FR 32184), EPA approved the Texas lead SIP and regulations for El Paso County, except for a disapproval of the compliance date for the installation of secondary hoods on copper converters (explained in the August 13 **Federal Register** notice), and except for a no-action on the lead NAAQS attainment date for El Paso County. ASARCO petitioned EPA to reconsider the compliance date disapproval, but the petition was denied and the compliance date was Federally promulgated to be August 13, 1987, on May 20, 1986 (51 FR 18440). On August 16, 1985 (50 FR 33069), the EPA proposed approval of the State's request for a two year extension of the lead NAAQS attainment date for a limited area around the primary lead smelter in El Paso County, Texas, and explained that the attainment date for the main part of El Paso County will be August 13, 1987. As a condition to full approval of this request, however, the State was required to consider production curtailments and similar alternative measures that might result in attainment within three years. In a September 11, 1985, letter to the EPA, the Texas Air Control Board (TACB) submitted its follow up study plan outlining its intention to (1) reevaluate emission rates based on stack test results from the ASARCO facility to determine if attainment can be demonstrated through dispersion modeling, and (2) revise current SIP control requirements determined to be inadequate to provide an attainment demonstration. ASARCO conducted stack tests at the ASARCO lead smelter indicating that actual emissions were lower than those listed in the current SIP. On January 8, 1987, TACB submitted to EPA a draft proposed revision to the current SIP in which lower lead emission limits are required. Modeling was conducted by ASARCO's consultant, TRC, using the ASARCO facility's revised emission rates. The modeling results were submitted to the TACB on March 13, 1987, and to the EPA on May 15, 1987. However, EPA's review of the State's submittal raises two concerns. The first concern is the potential impact of emissions from the zinc plant on ambient lead levels. This is important since the zinc plant's shutdown is not enforceable. The second concern is an inconsistency in the options used in the modeling. Both concerns are addressed in today's notice. Analysis of the submitted modeling shows that attainment of the lead NAAQS will result at these lower proposed emission rates, and it is judged that resolving these two concerns will not adversely affect the attainment demonstration.

Todays notice calls for the adoption of lower revised emission limits at the El Paso facility. This notice also proposes final approval of the Lead SIP based upon demonstration of NAAQS attainment through modeling.

The TACB is parallel-processing this proposed revision for final submittal by the Governor to the EPA.

II. Summary of SIP Revision

The TACB submitted to the EPA a draft revision to the lead SIP for El Paso County in a letter dated January 8, 1987. In that letter, the TACB requested a revision of the lead emission limits for certain vent gas streams based on stack tests conducted by ASARCO indicating that lead emissions at the site were lower than the emissions documented in the current SIP. Previous technical analysis by the staff of the TACB has shown that lead emissions from the smelter operated by ASARCO and from the use of leaded gasoline in automobiles and other gasoline-powered vehicles account for most of the measured lead concentrations in El Paso. The smelter is the principal contributor to lead concentrations at the ambient monitors closest to the smelter where the highest concentrations have been measured as determined by modeling and by analyses of the monitor filters. Since the use of leaded gasoline is projected to continue to decline with the phase-out of older vehicles and since the smelter is the greatest contributor to the concentrations, the control strategy for attainment of the lead standard is based primarily on lead emission reductions at the ASARCO facility. TACB Regulation III, Subchapter B, Lead from Stationary Sources, Nonferrous Smelters in El Paso County, requires Reasonably Available Control Technology (RACT) measures for the smelting of lead, copper, and zinc to control lead emissions from fugitive sources and point sources (stacks). All point sources (stacks) at the smelter are equipped with RACT, including baghouses, electrostatic precipitators (ESP's), or ESP's followed by an acid plant.

Prior to September 15, 1985, ASARCO's El Paso Operations included copper, lead, and zinc primary smelting. On September 15, 1985, lead smelting was suspended temporarily and zinc smelting was suspended permanently due to poor economic market conditions.

An earlier letter from the Governor of Texas dated June 20, 1984, requested that a two-year extension of the lead NAAQS attainment date be granted by EPA for a limited area around the ASARCO smelter in El Paso, as allowed by section 110(e) of the CAA. The Governor's letter explained that, despite the application of state-of-the-art controls to all stacks and stringent controls on all significant fugitive sources at the ASARCO smelter, values slightly above the lead NAAQS were predicted by dispersion modeling for areas in Texas in the vicinity of the smelter when the smelter is operating at maximum production. The State provided justification for the request for the two-year extension in the attachments to the Governor's letter. The State explained that Texas Regulation III, as adopted by the TACB on February 17, 1984, requires the implementation of lead emission control measures at the ASARCO lead and copper smelter in El Paso. The Regulation III provisions ensure that: (A) All point sources (stacks) at ASARCO having the potential to emit significant quantities of lead have emission limitations requiring the use of RACT such as baghouses, electrostatic precipitators, or scrubbers, and (B) all significant sources of fugitive lead emission are controlled by RACT methods such as enclosure or local hooding of emission points with routing to a ventilation system, and paving, cleaning, wetting and/or chemical treatment of plant roads and open unpaved plant property. With these controls already required, the TACB explained that additional control studies were needed and that this would warrant an extension of the attainment date.

On August 16, 1985, the EPA announced its proposed approval of the attainment date extension. EPA noted that final approval of the extension request would require the State to consider production curtailments and similar alternative measures that might result in attainment within three years. The State had committed to studying the emission reduction methods necessary to demonstrate attainment of the lead standard. In a letter to the EPA dated September 11, 1985, TACB outlined a scheduled plan of emission reduction studies, investigating both additional controls and production curtailments. In a December 19, 1985, letter to the EPA, the TACB recommended that production curtailment not be further considered and that the modeling based on monitored stack emissions data be analyzed to demonstrate attainment of the standard.

ASARCO submitted an April 1986 draft report to the TACB entitled "Model Analysis of Revised Stack Emissions in Support of Revised State Implementation Plan for Lead in El Paso, Texas" evaluating monitored emissions from its primary smelter. In an August 5, 1986, letter to the TACB, ASARCO requested a revision to the lead SIP based on the emission limits documented in the report. After reviewing the draft report TACB identified discrepancies between ASARCO's modeling input and that used by the TACB staff in the latest SIP submittal. These discrepancies were addressed in a December 8, 1986, letter to ASARCO from its consultant, TRC Environmental Consultants, Inc. On May 15, 1987, the TACB submitted modeling analysis performed by TRC showing attainment of the NAAQS. The State of Texas now requests that the lower revised limits be incorporated in the SIP and that attainment of the NAAQS be considered demonstrated by modeling at those limits.

III. Review of SIP Revision

The TACB's draft SIP revision request leaves the existing Subchapter B of TACB Regulation III unaltered except for amending Table 113.71(1), Lead Emission Limits for Certain Vent Gas Streams at Nonferrous Smelting Operations. Emission limits stated in pounds of lead per hour are revised for the Lead and Copper Ore Conveying Baghouse, Lead Ore Unloading Building Baghouse, Lead and Copper Ore Bedding Building Baghouse (Total), Copper Ore Unloading Building Baghouse, and the Copper Converter Building Ventilation Baghouse stacks. These revised limits allow a total lead emission rate of 25.8 lb/hr for the vent gas streams addressed in Table 113.71(1). This results in a 26% reduction in emission limits from those allowed in the current TACB regulation. An increase in lead emission limits is requested for the Copper Ore Unloading Building Baghouse and Copper Converter Building Ventilation Baghouse stacks.

ASARCO contracted TRC to revise the ambient air quality impact analysis. Following the submittal and revision of a draft report, a final report was submitted. Emission rates which were consistent with the revised limits in Table 113.71(1) where used in the revised modeling. Both the Industrial Source Complex Model-Long Term (ISC-LT) and Valley-Bid were utilized. Fugitive emission rates modeled remained the same as in the previous SIP analysis. Stack emission rates were revised in the modeling analysis consistent with revisions in TACB regulation 113.71(1). Stack sampling also revealed differences in stack exit parameters from those used in the original SIP, and changes in the modeling parameters were made accordingly.

Air Quality Impact Analysis

The previous air quality analysis performed by the TACB showed that for most of El Paso County, Texas and for all affected areas in the State of New Mexico, which is across the Rio Grande

River immediately to the northwest, the lead National Ambient Air Quality Standard would be attained and maintained under the final Texas lead SIP of August 13, 1984. However, the previous modeling identified an area of potential monitored violation in an area conterminous to the smelter.

The lead air quality impact analysis which supports this demonstration of attainment and maintenance was separated into two evaluations based on the type of terrain. In other words, the model known as Valley was applied to assess ASARCO lead emission impact on those receptors in complex terrain areas, and the ISC–LT was used for evaluating the lead air quality impact in the other area surrounding the smelter.

In general there are four elements considered in the application of an air quality model: (1) Input of the sources of the emissions, (2) selection of a meteorological data set which best represents dispersion and transport in the area, (3) identification of receptors, and (4) choice of model options. The consideration of the source data in both the ISCLT and Valley model analyses was acceptable. The sources of emissions were adequately characterized. For example, sources in ISCLT were properly represented as point, area or volume. Source emissions were also adequately considered regarding the effects of aerodynamic downwash and deposition.

Long-term modeling often involves the use of statistically summarized meteorological data. In this case four years of meteorological data on a calendar quarter basis for the period 1976 through 1979 were applied. The development of the meteorological data base required special processing in the following respects: (1) Merge on-site 75 foot tower wind data measured at the ASARCO facility with cloud data from the El Paso Airport to develop stability class, (2) adjust wind speed with height, and (3) deal with missing and invalid data.

Two separate receptor networks were prepared for each of the models, ISCLT and Valley, considering terrain height. An evaluation was performed in order to ensure that the receptor networks were representative of the areas of expected maximum concentrations.

In regard to selecting model options, as in other aspects of air quality modeling, the guideline provides for some degree of standardization to ensure consistency while allowing the flexibility needed to assure the technically best analysis for each regulatory application. For the case of the El Paso lead SIP air quality analysis, the recommended regulatory version of the ISCLT model (UNAMAP 6) was not fully applied. The concern is primarily with the model option chosen for plume rise and consideration of stack tip downwash. The regulatory option was not selected. It is believed that this results in air quality estimates which do not ensure consistency and are not reflective of the technically best analysis.

Before finalizing this revision to the SIP, the ISCLT modeling will be reworked using the recommended regulatory option, (The Valley modeling is fully acceptable; an equivalent version of Valley was used including acceptable options such as bouyancy induced dispersion). It is judged to be very unlikely that the revised analysis will show results different from the current analysis which predicts that no concentration will exceed the lead standard in the ambient air around the smelter. Moreover it is expected that the revised analysis will provide air quality estimates which are close to those in the current modeling. The details of the modeled results are provided in the evaluation report.

Effects of Revision

This revision to TACB Regulation III and the EL Paso Lead SIP changes only the emission limits pertaining to stacks at the ASARCO facility. These changes result in a net reduction in the SIP's allowed lead emission limits. Modeling at these lower revised limits (predicts) shows attainment of the NAAQS for lead based on 16 consecutive quarters of meteorological data and maximum plant operating rates, and typical operating parameter conditions. Approval of this revision will demonstrate that the lead NAAQS around the ASARCO facility will be attained. As this is not a revision of the control technology, it will be in effect immediately upon approval by the TACB.

IV. EPA Reasons for Approval

EPA proposes to approve the State's request for an emission limit revision to the lead SIP for El Paso County by demonstration of attainment by modeling. EPA also announces proposed approval of the Texas Lead SIP for the limited area surrounding the ASARCO facility in El Paso County. Prior to final approval of this SIP revision however, the State is required to submit reworked ISCLT modeling incorporating the regulatory option. Also, the State must either provide modeling of the zinc plant emissions for EPA review or provide an enforceable mechanism to ensure the permanency of the zinc plant's shut down. Upon adoption of the lower emission limits by the State, EPA judges that attainment in the limited area around the ASARCO facility will be demonstrated, and that this demonstration will not be adversely affected by the impact of the zinc plant and the regulatory option modeling. The ASARCO El Paso facility has shown through stack testing analysis that its lead emissions from certain gas streams are lower than those limits documented in the current SIP. ASARCO is not committing to any additional controls, but is simply committing to lower emission limits. Reduction of lead emissions at the ASARCO facility and the Lead-phasedown-in-gasoline Federal program are the joint methods of attaining the NAAQS. The TACB has studied all sources of lead emissions in the ambient air in the El Paso area and has determined that control of lead emissions from the major nonferrous smelter is the only means available to reduce emissions adequately to attain the primary NAAQS for lead in El Paso County. Texas Regulation III requirements provide for the installation and implementation of all fugitive emission control equipment and work place practices determined to be feasible and reasonable for the smelter. All point sources (stacks) at the smelter are already equipped with RACT, including baghouses, electrostatic precipitators (ESP's), or ESP's followed by an acid plant. Baghouses currently represent state-of-the-art in particulate control equipment. The August 16, 1985 (50 FR 33069), proposed approval of the State's request for a two year extension to the attainment date for the lead NAAQS for the limited area in El Paso was to allow the TACB time to evaluate extra control measures. Rather than pursuing production curtailments, the TACB chose to tighten emission limits and model using these revised limits to demontrate attainment. As noted above, the EPA proposes to approve this tightening of lead emission limits. Before publishing final approval, the State will submit modeling to include the regulatory option in the ISCLT model. Also, since the permanency of the shutdown of the zinc plant is not currently enforceable, the State must either provide modeling of the zinc plant emissions for EPA evaluation or provide an enforceable mechanism to ensure the permanency of the zinc plant's shutdown status. EPA judges that the addition of the ambient levels contributed by the zinc plant and the regulatory option to the modeling previously submitted will still demonstrate attainment of the lead standard. This will result in a demonstration of attainment of the lead

NAAQS, and a proposal to complete the El Paso Lead SIP approval of August 13, 1984.

EPA is soliciting public comments on this notice and on issues relevant to EPA's proposed action. Comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the address above.

The revisions are being proposed under a procedure called "parallel processing" (47 FR 27073). If the proposed revisions are substantially changed in areas other than those identified in this notice, EPA will evaluate those changes and may publish a revised NPR. If no substantial changes are made other than those areas cited in this notice, EPA will publish a Final Rulemaking Notice on the revisions. The final rulemaking action by EPA will occur only after the SIP revisions have been adopted by Texas and submitted to EPA for incorporation into the SIP. Parallel processing will reduce the time necessary for final approval of these SIP revisions by 3 to 4 months.

Proposed Action

EPA proposes to approve the State's request for a revision of the stack lead emission limits in the Texas Lead SIP for El Paso. Upon approval of these tightened emission limits by the State, attainment of the NAAQS for lead will be demonstrated by modeling for the limited area surrounding the ASARCO facility in El Paso County. This action proposes EPA's approval of the part of the Texas Lead SIP for El Paso that was not previously approved on August 13, 1984 (49 FR 32184). However, as indicated above, in order for EPA to fully approve this emission limit revision, the SIP revisions must have been fully adopted by Texas and submitted to EPA for incorporation in the SIP. Also, to fully approve the demonstration, the air quality modeling analysis must be reworked to address two concerns raised in today's notice.

The Regional Administrator hereby issues this notice setting forth EPA's proposed approval of the request for a revision of the lead emission limits for the vent gas stacks in the Texas Lead SIP for El Paso, announces EPA's proposed approval of the portion of the Texas Lead SIP for El Paso that was not previously approved on August 13, 1984 (49 FR 32184), and advises the public that interested persons may participate by submitting written comments to the Region 6 office. Comments received on or before the date listed in the **DATES** section will be considered. Comments received will be available for public inspection at the EPA Region 6 Office listed in the **ADDRESSES** section of this notice.

The Administrator's final decision to approve or disapprove the request will be based on the comments received, and if the request meets the requirements of section 110(a) of the Clean Air Act and 40 CFR Part 51.

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

Under 5 U.S.C. 605(b) the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entitites. (See 46 FR 8709.)

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen oxides, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, and Intergovernmental Relations.

Authority: 42 U.S.C. 7401–7642.

Date: June 29, 1987.

Robert E. Layton Jr.,

Regional Administrator.

[FR Doc. 87–22289 Filed 9–25–87; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 584

[Docket No. 83-05; Notice 4]

Splash and Spray Suppression Devices

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Request for comments; notice of public meetings.

SUMMARY: The Surface Transportation Assistance Act of 1982 declares that visibility on wet roads should be improved by using practicable and reliable means for reducing splash and spray generated by truck tractors, trailers, and semitrailers. To carry out this directive, the statute specified that the Department of Transportation shall establish:

(1) Minimum performance standards for spray suppression devices to be installed on truck tractors, trailers, and semitrailers;

(2) Installation standards for spray suppression devices to be installed on all new truck tractors, trailers and semitrailers used on the Interstate system beginning one year after the standards are established under paragraph (1); and

(3) Installation standards for spray suppression devices to be installed on all truck tractors, trailers, and semitrailers in service on the Interstate system beginning four years after the standards are established under paragraph (1).

To carry out the first two provisions listed above, NHTSA published a proposal in the April 12, 1985 issue of the **Federal Register**. The agency tentatively concluded in that proposal that the only splash and spray suppression devices that might be practicable and reliable at that time were spray suppressant flaps and side skirts. Accordingly, NHTSA proposed that spray suppressant flaps achieve a certain level of spray reduction, as measured in a spray tunnel, and that new truck tractors, trailers, and semitrailers have spray suppressant flaps and side skirts installed at specified positions beginning one year after the final rule was published. The agency noted in that proposal, however, its misgivings about proceeding with the rulemaking at that time. Both the testing conducted before publication of the agency's proposal and subsequent research and testing have shown that installation of the proposed spray suppressant flaps and side skirts on truck tractors, trailers, and semitrailers would *not* reduce spray sufficiently so that drivers on wet roads would experience satisfactory visibility under normal wet weather conditions.

The Highway Safety Act of 1987 amended the Surface Transportation Assistance Act. The law now provides that DOT must establish final minimum standards for splash and spray suppression devices not later than April 2, 1988, *unless* DOT has determined that there is no available technology that can *significantly* reduce splash and spray from truck tractors, semitrailers, and trailers and can *significantly* improve visibility of drivers. Any determinations of significant reductions in splash and spray and significant visibility improvements must be based on testing on highways, at test facilities, and in laboratories to take into account possible wind and rain conditions.

This notice seeks public comment on the agency's analysis of currently available data indicating that neither the proposed devices nor any alternative devices can significantly reduce splash and spray or significantly improve visibility for drivers when taking into account possible wind and rain conditions. Additionally, this notice seeks any data, in addition to those

which have been analyzed by the agency, that any member of the public believes demonstrate that some splash and spray suppression device significantly reduces splash and spray and significantly improves driver visibility. These data should include the relevant test data for the highways, test facilities, and laboratories where the device has been tested and explain how the testing accounted for possible wind and rain conditions.

DATES: *Public Meeting—Deadline for Arranging Oral Presentation.* Persons wishing to make oral presentations at the public meetings should contact Mr. Kenneth Rutland (whose address and telephone number are provided under the heading "For Further Information Contact") by October 16, 1987, so that any necessary time limitations and special equipment, such as projectors, can be discussed and final arrangements can be made.

Public Meeting—Deadline for Submitting Outline of Oral Presentation. A general outline of each planned oral presentation should be submitted to Mr. Rutland by October 23, 1987.

Public Meeting(s): Public meeting(s) to receive oral comments will be held on November 13, 1987, in Washington, DC, at 9:00 am and on November 9, 1987, in Columbus, Ohio at 9:00 am.

Public Comments: All written comments on this notice must be received by NHTSA on or before November 27, 1987.

Proposed Effective Date: If the agency determines that some splash and spray suppression device has been shown to significantly reduce splash and spray and significantly improve driver visibility, it would require, without further request for comments, that such devices be installed on new vehicles manufactured on or after April 2, 1989.

ADDRESSES: *Public Meeting(s):* Public meetings will be held at the following locations: Federal Aviation Administration Auditorium, 800 Independence Avenue, SW., Washington, DC 20591.

Holiday Inn, Columbus Airport, 750 Stelzer/James Road, Columbus, Ohio 43219.

These facilities are accessible to the handicapped.

Public Comments: Written comments on this notice must refer to Docket No. 83–05; Notice 4, and be submitted to: Docket Section, NHTSA, Room 5109, 400 Seventh Street, SW., Washington, DC 20590. Docket hours are 8:00 am to 4:00 pm Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth W. Rutland, Office of Vehicle Safety Standards, NHTSA, 400 Seventh Street SW., Washington, DC 20590 (202–366–5275).

SUPPLEMENTARY INFORMATION:

1. Statutory Background for this Rulemaking

As originally enacted, section 414 of the Surface Transportation Assistance Act of 1982, (49 U.S.C. 2314), read as follows:

(a) The Congress declares that visibility on wet roadways on the Interstate system should be improved by reducing, by a practicable and reliable means, splash and spray from truck tractors, semitrailers, and trailers.

(b) The Secretary shall by regulation—

(1) Within one year of the date of the enactment of this title, establish minimum standards with respect to the performance and installation of splash and spray supression devices for use on truck tractors, semitrailers, and trailers.

(2) Within one year after the date on which the standards are established under paragraph (1) of this subsection, require that all new truck tractors, semitrailers, and trailers operated on the Interstate system be equipped with any splash and spray suppression device which satisfies the standards established pursuant to paragraph (1) of this subsection; and

(3) Within four years after the date on which the standards are established under paragraph (1) of this subsection, require that all truck tractors, semitrailers, and trailers operated on the Interstate system be equipped with any splash and spray suppression device which satisfies the standards established pursuant to paragraph (1) of this subsection.

* * * * *

In response to this statutory mandate, NHTSA reviewed the research conducted since 1960 on the problem of truck splash and spray, and initiated some additional research of its own. After the review of past research was completed, but before the additional agency research efforts were finished, NHTSA published a notice of proposed rulemaking on April 12, 1985; 50 FR 14632.

That notice stated, "The only devices which current research indicates might be both practicable and reliable for use on existing vehicle designs are spray suppressant flaps and side skirts." 50 FR 4634. Spray suppressant flaps are flaps that hang down behind the tires and are designed to absorb some of the energy in the oncoming stream of water from the tires, contain and channel most of the water out of the area where spray could be formed, or otherwise reduce the formation of spray clouds behind those tires. Side skirts are flat surfaces that hang down from the side of a vehicle above and round the tires and are designed to prevent the water coming off the top of the wheel wells and tires from forming into spray clouds alongside the wheels. Other devices that had been considered during the research to reduce splash and spray included conventional fenders and mudflaps, a DOT spray protector, and air and water deflectors. However, none of these alternative splash and spray suppression devices had been demonstrated to be an effective means of improving visibility with current truck designs, as was discussed in the proposal.

Section 414(b) of the Surface Transportation Assistance Act of 1982 was amended on April 2, 1987, when Congress enacted the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Pub. L. 100–17). Title II of this Act is referred to as The Highway Safety Act of 1987, and section 205 in Title II of this Act amended section 414(b) to read as follows:

(b) The Secretary shall by regulation—

(1) Within one year of the date of the enactment of the Highway Safety Act of 1987, establish final minimum standards with respect to the performance and installation of splash and spray suppression devices for use on truck tractors, semitrailers, and trailers unless the Secretary has determined that there is no available technology which—

(A) Can significantly reduce splash and spray from truck tractors, semitrailers, and trailers, and

(B) Can significantly improve visibility of drivers, as demonstrated during testing on highways, at test facilities, and in laboratories to take into account possible wind and rain conditions.

(2) Within one year after the date on which the standards are established under paragraph (1) of the subsection, require that all truck tractors, semitrailers, and trailers operated on the Interstate system be equipped with any splash and spray suppression device which satisfies the standards established pursuant to paragraph (1) of this subsection; and

(3) Within four years after the date on which the standards are established under paragraph (1) of the subsection, require that all new truck tractors, semitrailers, and trailers operated on the Interstate system be equipped with any splash and spray suppression device which satisfies the standards

established pursuant to paragraph (1) of this subsection.

* * * * *

NHTSA interprets this statutory change as follows. This agency is required to issue final minimum standards for the performance and installation of splash and spray suppression devices by April 2, 1988, *unless* the agency determines that no available technology has been demonstrated during testing on highways, at test facilities, and in laboratories, which testing accounts for possible wind and rain conditions, to *significantly* reduce splash and spray from trucks and *significantly* improve driver visibility as a result of reducing splash and spray. If no available technology can be demonstrated to satisfy these statutory criteria by April 2, 1988, the agency would determine that no available technology has been demonstrated to satisfy the statutory criteria, and terminate this rulemaking action. If the agency were to make such a determination, its statutory obligations under section 414 would be completed. Any subsequent rulemaking actions with respect to splash and spray suppression devices would have to be based on authority granted to the agency under other statutes, most notably the National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1381 *et seq.*). This notice seeks public comment on the agency analyses to date and seeks any data purporting to demonstrate that any available splash and spray suppression device will significantly reduce splash and spray from trucks and significantly enhance driver visibility.

2. Tentative Conclusions from Analysis of Data for Spray Suppressant Flaps and Side Skirts

As described above, the 1985 proposal focused exclusively on spray suppressant flaps and side skirts as the potentially practicable and reliable devices to be required on trucks to improve visibility on wet roads. It is important, however, to emphasize that these devices were only *potentially* practicable and reliable means of improving visibility. The prior research and the agency's new research had reached somewhat conflicting conclusions about how consistently effective the devices were at improving visibility.

The first major research effort examining the proposed devices was sponsored by the Federal Highway Administration in 1977 at Fort Stockton, Texas. This study concluded that a combination of spray suppressant flaps and side skirts was the most effective of the tested devices at suppressing spray. NHTSA's own testing of spray suppressant flaps and side skirts in 1983 raised some significant questions about the ability of these devices to reduce spray sufficiently so that the difference would be perceptible to the unaided eye. Testing sponsored by the Motor Vehicle Manufacturers Association (MVMA) in 1984 concluded that trucks fitted with a combination of spray reduction devices, including devices not proposed to be required, can reduce splash and spray by as much as 50 percent over trucks that use the standard hard rubber flaps typically now in use. The MVMA study cautioned that test results could not be repeated consistently, that no specific combination of devices was found best for all vehicles, and that these devices can decrease, but not eliminate splash and spray. After examining these research results, NHTSA stated, "This mixed pattern of research results leaves the agency with misgivings about the appropriateness of proceeding with rulemaking at this time." 50 FR 14634.

Additional and significant MVMA test data were received after the comment closing date for the notice of proposed rulemaking, as were two other comments containing field test data concerning the effectiveness of the proposed devices. Since NHTSA believed that the data in the late-filed comments could significantly affect its analysis in this rulemaking, the agency reopened the comment period to invite the public to analyze and comment on these data. 51 FR 5383; February 13, 1986. Seventeen more comments on the splash and spray rulemaking were submitted during this reopened comment period.

After a thorough review of the available data, NHTSA has tentatively concluded that the proposed spray suppressant flaps and side skirts would *not* significantly reduce truck splash and spray and would *not* significantly improve driver visibility, for several reasons. First, both the NHTSA tests and the two sets of MVMA tests indicate that the proposed devices only marginally reduce the amount of spray produced by the vehicle. That is, the laser transmissometers used to measure the density of the spray clouds produced by the tractor-trailer combinations showed that those spray clouds were generally less dense when the vehicles were equipped with the proposed devices than when the vehicles were equipped with conventional mudflaps.

This finding, by itself, does not establish that the proposed devices could significantly improve driver visibility, however. Transmissometer-measured increases in the transmission of light through spray clouds do not directly translate into increases in visibility, i.e., the ability of the unaided eye of the typical motorist to see through those clouds. Just as a photometer can measure slight increases in the amount of light in an essentially dark room that are insufficient to improve a person's ability to see objects within the room, so a transmissometer can detect reductions in the density of a spray cloud that are insufficient to improve the ability of motorists to see the road ahead. The recent statutory amendments make clear that the law is intended to require splash and spray suppression devices *only* if those devices can be shown to significantly reduce splash and spray from large trucks so that motorists can see the road and traffic ahead significantly better than is true at present.

Even with the measured reductions in spray cloud density, the spray clouds that resulted from vehicles equipped with the proposed devices were still too dense to allow acceptable visibility. The available data on this topic indicate that 40 percent or greater light transmission, as measured by the laser transmissiometers, is necessary for observers to rate visibility as satisfactory. On the upwind side of the test trucks in the most recently completed MNMA study, the 40 percent transmission level was met or exceeded in 21 of 48 test runs by trucks equipped with convential mudflaps. When those trucks were equipped with flaps measured as achieving a 75 percent visibility rating in the spray tunnel with side skirts at the positions NHTSA proposed for one year after publications of a final rule, the 40 percent level was met or exceeded in 26 of 48 test runs. When equipped with the 75 percent flaps and side skirts at all positions proposed to be required four years after publication of the final rule, the 40 percent level was met or exceeded in 23 of 48 test runs.

The data for the downwind side of the test trucks were much simpler. Regardless of whether those trucks were equipped with conventional mudflaps, the one year devices, or the four year devices, not one test run ever met or exceeded the level needed for satisfactory visibility.

Several points should be noted in connection with these test results. First, the upwind side of trucks does not present nearly the same degree of visibility problems as the downwind side does. Satisfactory visibility was present more than one-third of the time

on the upwind side of the test trucks without using any spray suppression devices, while it was never present on the downwind side. Second, the proposed devices would offer marginal visibility improvements on the less problematic upwind side of trucks. Using the 40 percent level for satisfactory visibility, drivers would experience satisfactory visibility about 44 percent of the time without any additional spray suppression devices, 54 percent of the time with the proposed one year devices, and 48 percent of the time with the proposed four year devices. Third, the proposed devices would never result in satisfactory visibility on the downwind side of the trucks. Thus, the net effect of requiring these devices would be to offer motorists only marginal visibility improvements on the upwind side of the trucks, while never resulting in satisfactory visibility on the downwind side of trucks.

Based on these results, NHTSA does not believe it could determine that the proposed devices would significantly reduce splash and spray and significantly improve driver visibility even on test tracks under conditions designed to limit the impacts of the environmental factors that influence the effectiveness of the proposed devices. However, NHTSA's statutory mandate is not so limited. Instead, the agency is required to determine whether any devices will significantly reduce splash and spray and significantly improve driver visibility, as demonstrated during testing on highways, at test facilities, and in laboratories *to take into account possible wind and rain conditions.* When these environmental conditions are taken into account, the potential effectiveness of the proposed devices is further reduced.

The proposed spray suppressant flaps and skirts appear to have their potential effectiveness sharply diminished in the presence of cross winds. Both NHTSA's on testing and the testing sponsored by MVMA showed that cross winds significantly reduce the effectiveness of the proposed devices. According to data compiled by the National Weather Service, the mean wind velocity for the vast majority of the United States is 8 mph or greater. When winds of that or greater velocity are present at cross winds for vehicles equipped with the proposed devices, the already marginal effectiveness of the proposed devices is further reduced.

Additionally, the data show that the amount of spray generated by a vehicle is significantly greater when the vehicle is driven at speeds in excess of 55 mph, as compared with the spray generated with the vehicle is driven at 55 mph. When tractor-trailers are driven at speeds above 55 mph, the data show that the spray generated is increased to such a level that none of the proposed devices can reduce the spray sufficiently for drivers on the Interstate system to experience satisfactory visibility. When these real would reductions of potential effectiveness for the proposed devices are considered along with the only marginal effectiveness shown by the devices under controlled test conditions, the agency must tentatively conclude that the proposed devices would *not* significantly reduce splash and spray and significantly improve driver visibility under the conditions set forth in the law.

The only data received by the agency purporting to show that the proposed devices would result in visibility improvements were submitted by Schlegel, one of the manufacturers of the proposed devices. These data consisted of visual observations of truck spray in the State of Oregon. In this study, Oregon State police and weighmasters filled out rating forms to assess visibility on wet roads while passing marked trucks, almost all of which were equippped with spray suppression devices. The observer was then instructed to find an unmarked tractor-trailer and perform a similar rating. The study collected 868 pairs of ratings between March 1985 and March 1986.

After examining these data, NHTSA does not believe that the Oregon study shows that the proposed devices would significantly improve driver visibility on wet roads. On the contrary, NHTSA believes these Oregon data support the agency's conclusions that the proposed devices have a marginal effect on the amount of spray produced by tractor-trailers, and that enviromental and operating conditions have a very large effect on visibility.

This agency belief is based on the following observations about the Oregon study:

1. The test results were dominated by the presence of trucks equipped with aeroaids, devices that were not proposed to be required. Almost 84 percent of the marked trucks were equipped with aeroaids. The data from the 1985 MVMA testing and the agency analysis of that data indicate that aeroaids alone may improve visibility more than the proposed devices. In the Oregon study, it is impossible to segregate the extent to which the observed visibility improvements were attributable to the proposed devices from the improvements resulting solely from aeroaids.

2. The treated trucks were typically driven at lower speeds than the untreated trucks. Only 6 percent of the treated trucks were travelling above 55 mph, while 22 percent of the untreated trucks exceeded 55 mph. This is significant, because both the 1978 FHWA testing at Fort Stockton and the 1984 MVMA testing have shown that spray generation increases as vehicle speed increases. The Oregon study itself showed that observers rated the spray much higher as vehicle speed rose. Therefore, it seems very likely that some of the observed visibility improvements were a result of the untreated trucks travelling at a higher speed than the treated trucks, and not the effectiveness of the proposed devices at reducing spray.

3. The Oregon study's analysis of visibility improvements for trucks equipped with the proposed devices and aeroaids shows relatively small improvements. The study asked observers to use a visibility rating scale from 1 ("very good") to 8 ("very poor"). The observers made their ratings for each test in two positions relative to the measured vehicles. One rating was before passing, when the observers were clear of all spray, and the second visibility rating was made while passing the measured vehicle. The "visibility while passing" rating was subtracted from the "visibility before passing" rating to calculate the difference in these ratings for both treated and untreated vehicles. The mean visibility difference ratings of the various spray suppressant treatments were calculated, and the highest mean visibility difference for either treated or untreated trucks was 0.27 points. Considering that an 8 point system was used, a difference of well under 0.5 points indicates that the proposed devices have a very minor impact on visibility. If anything, the agency believes this finding is consistent with the other data showing that the proposed devices can, at best, marginally reduce the amount of spray generated by tractor-trailers.

4. Even assuming that the study were controlled for significant variables, and NHTSA does not believe it was, as explained in points 1 and 2 above, there is no indication that the difference would result in any meaningful visibility improvements for drivers in normal wet weather conditions. For instance, if the baseline visibility were rated as "adequate" or better, an increase of 0.27 points would not enhance the visibility of drivers on the wet roads. On the other hand, if the baseline visibility were

rated as less than "adequate", an increase of 0.27 points still leaves drivers with less than adequate visibility.

5. The multiple regression evaluations performed by the Oregon study's author demonstrate little correlation between spray suppression treatment and visibility ratings. The author himself stated that the correlation was "quite low ($r = 0.12$), although statistically significant." Further, the author's multiple regression equations based on spray ratings showed that the amount of rainfall had a much greater effect on the spray ratings (explaining 29 percent of the variation) than did the spray suppressant devices (explaining 14 percent of the variation).

Accordingly, the agency believes that the results from the Oregon tests are generally consistent with the results of the MVMA tests. The proposed spray suppression devices might marginally reduce the amount of spray generated in some instances, but they do not do so consistently nor do they *significantly* reduce the amount of splash and spray. Moreover, both studies indicate that the effectiveness of the proposed devices is extremely sensitive to vehicle operating conditions. The MVMA study identified vehicle speed and cross winds as two important factors that greatly reduce the effectiveness of the proposed devices. The Oregon study adds the amount of rainfall to that list of factors.

Therefore, NHTSA has tentatively determined that the proposed devices would not significantly reduce the amount of splash and spray generated by large trucks and would not significantly improve driver visibility, under the conditions set forth in the law. Public comment is specifically requested on the agency's analysis of the available data and on this tentative determination. All comments will be fully considered before the agency makes its final statutory determination with respect to the proposed devices.

NHTSA has prepared an addendum to the preliminary regulatory evaluation for this proposed rulemaking action. This addendum summarizes the agency's analysis of the available data on splash and spray suppression devices. Copies of this addendum have been placed in Docket No. 83-05, Notice 4. Any interested person may obtain a copy of this addendum by writing to: NHTSA Docket Section, Room 5109, 400 Seventh Street SW., Washington, DC 20590, or by calling the Docket Section at (202) 366-4949.

3. Request for Data on Splash and Spray Suppression Devices Other than the Proposed Devices

The agency has focused its efforts almost exclusively on evaluating the potential effectiveness of the proposed spray suppressant flaps and side skirts, since those were the devices that would have been required if the notice of proposed rulemaking were adopted as a final rule. However, the amended language in section 414 requires the agency to determine that no available technology has been demonstrated during testing on highways, at test facilities, and in laboratories, which testing takes into account possible wind and rain conditions, to *significantly* reduce splash and spray and *significantly* improve driver visibility.

The data available to the agency at this time indicate that no splash and spray suppression device other than the proposed devices has been demonstrated during testing to significantly reduce splash and spray and significantly improve driver visibility. The alternative splash and spray suppression devices about which the agency has the most testing information are aerodynamic devices called "aeroaids". When attached to a truck tractor that is pulling a semitrailer called a "van" and when there is little or no crosswind present, these devices have been found to improve visibility to a degree that would generally be helpful to motorists. However, the available test data for aeroaids indicate that the devices offer no visibility improvements when transverse perpendicular crosswinds reach speeds of only 8 mph. Additionally, aeroaids have been tested only with van semitrailers. It appears from engineering analysis applying principles of aerodynamics that aeroaids would not provide any visibility improvements if the truck tractors were coupled with non-van trailers or semitrailers. Given these data, and considering the full range of vehicles specified in section 414 of the Surface Transportation Act, as amended, as well as the full range of weather conditions, NHTSA could not now determine that aeroaids have been demonstrated to significantly reduce splash and spray and significantly improve visibility.

As noted above, however, the agency has not focused its efforts on examining the potential visibility improvements available from aeroaids. With respect to all other technologies available for reducing splash and spray, the agency has very little test data. To allow the agency to fully consider all data that is currently available, this notice specifically invites any persons that have test data for aeroaids or any other currently available splash and spray suppression technology to submit such data to the agency. It is important that these data be provided as soon as possible, to allow the agency to comply with the one year deadline in the law for making a determination whether any available technology has been demonstrated to significantly reduce splash and spray and significantly improve driver visibility. All data that are received during this comment period will be analyzed and evaluated in connection with this comment period, the agency will use the data that are currently available as the basis for its determination.

4. Public Meetings

Public meetings will be held on November 13, 1987, in Washington, DC, and on November 9, 1987, in Columbus, Ohio, at the times and addresses specified near the beginning of this notice. The agency invites interested members of the public to participate in these meetings and to comment on all of the issues raised in this notice.

No opportunity will be afforded the public to directly question participants in the meetings. However, persons desiring that questions be addressed to a particular participant may submit those questions to the presiding panel of Department officials for its consideration. The members of the panel may address those questions as well as questions of their own to any person making an oral presentation at the meetings.

Persons wishing to make oral presentations at the public meetings should contact Mr. Ken Rutland (whose address and telephone number are provided near the beginning of this notice) by October 16, 1987, so that any necessary time limitations and special equipment, such as projectors, can be discussed and final arrangements can be made. A general outline of each planned oral presentation should be submitted to Mr. Rutland by October 23, 1987. Persons whose presentations will include slides, motion pictures, or other visual aids should submit copies of the visual aids for the record at the meeting. Oral presentations will be limited to between five and 15 minutes, depending on the number of persons desiring to make presentations. If the number of requests for oral presentations exceeds the available time, the agency may ask prospective witnesses having similar views or belonging to similar types of groups or occupations to combine their presentations.

Persons making oral presentations are requested but not required to submit 25 written copies of the full text of their presentation to Mr. Rutland, no later than the day before the meetings begin. If time permits, persons who have not requested time in advance, but would like to make a statement, will be afforded an opportunity to do so at the end of each day's schedule. Copies of all written statements will be placed in the docket for this notice. A verbatim transcript of the public meetings will be prepared and also placed in the NHTSA docket as soon as possible after the meetings. A schedule of the persons making oral presentations at the meeting will be available at the designated meeting area at the beginning of each public meeting.

Written Comments

Interested persons are invited to submit comments on this request. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR Part 512.

All comments received before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before an after the date. To the extent possible, comments filed after the closing date will also be considered. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Issued on: September 23, 1987.

Diane K. Steed,

Administrator.

[FR Doc. 87-22312 Filed 9-23-87; 4:48 pm]

BILLING CODE 4910-59-M

Notices

Federal Register
Vol. 52, No. 187
Monday, September 28, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Resumption of Tobacco Estimates by Class and Type

The National Agricultural Statistics Service (NASS) is publishing this notice to announce plans to resume the publication of tobacco acreage and production estimates by class and type in all forecast months.

Since March of 1982, when NASS announced a number of program reductions, estimates for all classes and types have only been shown in the August *Crop Production* report and end-of-year *Crop Production* annual summary, usually released about mid-January.

The recent program change means that class and type estimates will now be shown in the February *Prospective Plantings* and July *Crop Production* acreage reports and all other monthly *Crop Production* reports normally containing tobacco forecasts as well as the end-of-year *Crop Production* annual summary. The first class and type estimates, under the new program, will be published in the October 8, 1987 *Crop Production* report.

Questions and comments on these changes to the tobacco estimating program should be directed to John Witzig, Chief, Crops Branch, NASS/USDA, Room 5175-S, Washington, DC 20250-2000; telephone (202) 447-2127.

Dated: September 21, 1987.

Charles E. Caudill,

Administrator.

[FR Doc. 87-22330 Filed 9-25-87; 8:45 am]

BILLING CODE 3410-20-M

ARMS CONTROL AND DISARMAMENT AGENCY

Performance Review Board; Membership

AGENCY: Arms Control and Disarmament Agency.

ACTION: Notice of membership of Performance Review Board.

SUMMARY: In accordance with 5 U.S.C. 4314(c)(4), the U.S. Arms Control and Disarmament Agency announces the appointment of Performance Review Board members.

EFFECTIVE DATE: December 4, 1987.

FOR FURTHER INFORMATION CONTACT: Nancy Aderholdt, Director of Personnel, U.S. Arms Control and Disarmament Agency, Washington, DC 20451 (202) 647-2034.

The following are the names and present titles of the individuals appointed to the register from which Performance Review Boards will be established by the U.S. Arms Control and Disarmament Agency. Each individual will serve a one year renewable term beginning on the effective date of this notice. Specific Performance Review Boards will be established as needed from the register.

These appointments supercede those in the announcement published at 51 FR 43402 on December 2, 1986.

Name and Title

David Emery—Deputy Director
Manfred Eimer—Assistant Director, Verification and Intelligence Bureau
Lynn Hansen—Assistant Director, Multilateral Affairs Bureau
Michael Gukin—Counselor
William Montgomery—Administrative Director
Thomas Graham, Jr.—General Counsel
Mary E. Hoinkes—Deputy General Counsel
Louis Nozenso—Deputy Assistant Director, Strategic Programs Bureau
Norman Wulf—Deputy Assistant Director, Nuclear and Weapons Control Bureau
William Staples—Executive Secretary
R. Lucas Fischer—Division Chief, Strategic Affairs Division, Strategic Affairs Division, Strategic Programs Bureau
Alfred Lieberman—Division Chief, Operations and Analysis Division, Verification and Intelligence Bureau
Joerg Menzel—Division Chief, Nuclear Safeguards and Technology Division, Nuclear and Weapons Control Bureau
Stanley Riveles—Division Chief, Theatre Affairs Division, Strategic Programs Bureau
Michael Rosenthal—Division Chief, International Nuclear Affairs Division, Nuclear and Weapons Control Bureau
Owen J. Sheaks—Division Chief, Science & Technological Division, Multilateral Affairs Bureau
Robert Summers—Division Chief, Verification Division, Verification and Intelligence Bureau

William J. Montgomery,

Administrative Director.

[FR Doc. 87-22278 Filed 9-25-87; 8:45 am]

BILLING CODE 6820-32-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 363]

Resolution and Order Approving the Application of the Economic Development Council for the Peoria Area, for a Special-Purpose Subzone for the Chrysler Plant in Belvidere, IL, Adjacent to the Chicago Customs Port of Entry

Proceedings of the Foreign-Trade Zones Board, Washington, DC.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a through 81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the EDC, Inc., the Economic Development Council for the Peoria Area, grantee of FTZ 114, filed with the Foreign-Trade Zones Board (the Board) on October 21, 1985, requesting special-purpose subzone status for the automobile manufacturing plant of Chrysler Corporation in Belvidere, Illinois, adjacent to the Chicago Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant of Authority to Establish a Foreign-Trade Subzone in Belvidere, IL, Adjacent to the Chicago Customs Port of Entry

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a through 81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board's regulations (15 CFR 400.304) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, The EDC, Inc., the Economic Development Council for the Peoria Area, grantee of Foreign-Trade Zone 114, has made application (filed October 21, 1985, Docket No. 39–85, 50 FR 45446) in due and proper form to the Board for authority to establish a special-purpose subzone at the automobile manufacturing plant of Chrysler Corporation in Belvidere, Illinois, adjacent to the Chicago Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations are satisfied;

Now, therefore, in accordance with the application filed October 21, 1985, the board hereby authorizes the establishment of a subzone at the Chrylser plant in Belvidere, Illinois, designated on the records of the Board as Foreign-Trade Subzone No. 114B at the location mentioned above and more particularly described on the maps and drawings accompanying the application, said grant of authority being subject to the provisions and restrictions of the Act and the Regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Activation of the subzone shall be commenced within a reasonable time from the date of issuance of the grant, and prior thereto, any necessary permits shall be obtained from Federal, State, and municipal authorities.

Officers and employees of the United States shall have free and unrestricted access to and throughout the foreign-trade subzone in the performance of their official duties.

The grant shall not be construed to relieve responsible parties from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said subzone, and in no event shall the United States be liable therefor.

The grant if further subject to settlement locally by the District Director of Customs and District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer or his delegate at Washington, DC, this 18th day of September 1987, pursuant to Order of the Board.

Foreign-Trade Zones Board.

Paul Freedenberg,

Assistant Secretary of Commerce for Trade Administration, Chairman, Committee of Alternates.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 87–22325 Filed 9–25–87; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[Application #84-A0024]

Export Trade Certificate of Review; Gerhardt's Inc.

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of issuance of an amended Export Trade Certificate of Review.

SUMMARY: The Department of Commerce has issued a second amendment to the export trade certificate of review of Gerhardt's Inc. granted on September 20, 1984 (49 FR 37821, September 26, 1984 and 49 FR 38964, October 2, 1984). The first amendment was granted on August 30, 1985, effective as of July 15, 1985 (50 FR 36126, September 5, 1985). The second amendment consists of: (1) A change of the certificate holder from Gerhardt's, Inc. to Gerhardt Holding Company, Inc. (GHC), due to an organizational restructuring of Gerhardt's, Inc.; (2) the addition of the original certificate holder Gerhardt's, Inc. and two other subsidiaries of GHC as members to the certificate, and changes in the description of some original members to the certificate; (3) the addition of "taking title to goods" to "Export-Related Services;" (4) the change of one product listing under "Products" from "electrical governors" to "electronic governors;" and (5) the addition of the establishment of the resale price of Products in Export Trade under "Export Trade Activities and Methods of Operation." This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: George Muller, Acting 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. 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 Amended Certificate

Export Trade

1. Products

Diesel fuel injection systems; hydraulic, mechanical, pneumatic and electronic governors; automatic lubrication systems; turbochargers; starters, generators and alternators; industrial ignition systems; oilfield engines and parts; and engine accessories, instruments and test devices.

2. Export-Related Services

To facilitate Export Trade in the Products, GHC and its Members intend to provide advice concerning, and/or to arrange for financing, including letters of credit, insurance, shipping, utilization of brokers, customer requirements, including bidding requirements, as well as, to provide engineering, technical and retrofitting services and training and marketing advice concerning the

Products in connection with export transactions, and to take title to Products in Export Trade.

Export Markets. The Export 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).

Members. Gerhardt's, Inc. (Louisiana); Gerhardt's, Inc. (Texas); Gerhardt's, Inc./New Mexico d/b/a/ Gerhardt's, Inc. (Texas); Gerhardt's International, Inc. (U.S. Virgin Islands); Gerhardt's, Inc. (California); and Gerhardt, S.A. de C.V. (Mexico).

Export Trade Activities and Methods of Operation. GHC and its Members may:

1. Enter into nonexclusive agreements with individual suppliers to act as an Export Intermediary for Products in Export Trade.

2. Enter into agreements with individual suppliers of Products wherein:

a. GHC or any Member may agree to serve as the exclusive Export Intermediary for Products in any Export Market and, in addition, may agree not to represent any competitors of such supplier for Products in any Export Market; and/or

b. The supplier may agree not to sell, directly or indirectly through any other intermediary, into the Export Markets in which GHC or any Member exclusively represents the supplier as an Export Intermediary.

3. Enter into nonexclusive agreements with individual entities in which those entities agree to act as Export Intermediaries for GHC and its Members for Products in Export Trade.

4. Enter into agreements with individual Export Intermediaries whereby:

a. GHC and its Members may agree to deal in Products in Export Markets exclusively through such Export Intermediaries; and/or

b. Such Export Intermediaries may agree not to represent GHC's or its Members' competitors in the sale of Products in any Export Markets or not to buy Products from GHC's or its Members; competitors for resale in any Export Markets.

5. In connection with the sale of Products to Export Markets, purchase Products from suppliers at prices lower than those charged by such suppliers to other purchasers of the Products.

6. Refuse to sell Products to purchasers located in Export Markets.

7. Establish the resale price of Products in Export Trade.

A copy of each certificate 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, NW., Washington, DC 20230.

Date: September 21, 1987.

George Muller,

Acting Director, Office of Export Trading Company Affairs.

[FR Doc. 87-22311 Filed 9-25-87; 8:45 am]

BILLING CODE 3510-DR-M

[A-588-706]

Initiation of Antidumping Duty Investigation; Butadiene/Acrylonitrile Copolymer Synthetic Rubber From Japan

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating an antidumping duty investigation to determine whether imports of butadiene/acrylonitrile copolymer synthetic rubber (nitrile rubber) from Japan are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether imports of this product materially injure, or threaten material injury to, a U.S. industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before October 15, 1987, and we will make ours on or before February 8, 1988.

EFFECTIVE DATE: September 28, 1987.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC, 20230, telephone (202) 377-1769.

SUPPLEMENTARY INFORMATION:

The Petition

On September 1, 1987, we received a petition filed in proper form by Uniroyal Chemical Company, Inc., on behalf of the U.S. industry producing nitrile rubber. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petitioner alleges that imports of nitrile rubber from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a U.S. industry.

Petitioner's estimate of United States price was based on statements by its customers that also purchase Japanese nitrile rubber. Petitioner made adjustments for ocean freight, U.S. inland freight, commissions and general expenses, and interest for inventory costs in the U.S.

Petitioner based the foreign market value on information obtained in Japan listing quoted prices for medium acrylonitrile grade rubber. Petitioner made adjustments for differences in quantity, overhead and indirect expenses, freight, and interest cost.

Based on a comparison of United States prices and foreign market value, petitioner alleges dumping margins ranging from 39 to 240 percent.

Petitioner also alleges that "critical circumstances" exist with respect to imports of nitrile rubber from Japan.

After analysis of petitioner's allegation and supporting data, we conclude that a formal investigation is warranted.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation, and whether it contains information reasonably available to the petitioner supporting the allegations.

We examined the petition on nitrile rubber from Japan and found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether imports of nitrile rubber from Japan are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination by February 8, 1988.

Scope of Investigation

The product covered in this investigation is nitrile rubber, not containing fillers, pigments, or rubber-processing chemicals, provided for in item 446.15 of the *Tariff Schedules of the United States* (TSUS) and currently classifiable under Harmonized System (HS) item number 4002.59.00. For purposes of this investigation, nitrile rubber refers to the synthetic rubber

that is made from the polymerization of butadiene and acrylonitrile and that does not contain any type of additive or compounding ingredient having a function in processing, vulcanization, or end use of the product.

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. Congress is considering legislation to convert the United States to this harmonized system by January 1, 1988. In view of this, we will be providing both the appropriate TSUS item numbers and the appropriate HS item numbers with our product descriptions on a test basis, pending Congressional approval. As with the TSUS, the HS item numbers are provided for convenience and customs purposes. The written description remains dispositive as to the scope of the product coverage.

We are requesting petitioners to include the appropriate HS item numbers as well as the TSUS item numbers in all new petitions filed with the Department. A reference copy of the proposed Harmonized System schedule is available for consultation in the Central Records Unit, Room B-099, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Additionally, all customs offices have reference copies, and petitioners may contact the Import Specialist at their local customs office to consult the schedule.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonproprietary information. We will also allow the ITC access to all privileged and business proprietary information in our files, provided it confirms in writing that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by October 15, 1987, whether there is a reasonable indication that imports on nitrile rubber from Japan materially injure, or threaten material injury to, a U.S. industry. If its determination is negative the investigation will terminate; otherwise it will proceed according to the statutory and regulatory procedures.

This notice is published pursuant to section 732(c)(2) of the Act.

September 21, 1987.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 87-22320 Filed 9-25-87; 8:45 am]

BILLING CODE 3510-DS-M

[A-427-030]

Final Results of Antidumping Duty Administrative Review; Large Power Transformers From France

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On July 29, 1987, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on large power transformers from France. We have not changed the final results from those presented in our preliminary results of review.

EFFECTIVE DATE: September 28, 1987.

FOR FURTHER INFORMATION CONTACT: Laurie A. Lucksinger or David P. Mueller, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-1130/2923.

SUPPLEMENTARY INFORMATION:

Background

On July 29, 1987, the Department of Commerce ("the Department") published in the **Federal Register** (52 FR 28323) the preliminary results of its administrative review of the antidumping finding on large power tansformers from France (37 FR 11772, June 14, 1972). The Department has now completed that review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of large power transformers ("transformers"); that is, all types of transformers rated 10,000 kVA (kilovolt/amperes) or above, by whatever name designated, used in the generation, transmission, distribution, and utilization of electric power. The term "transformers" includes, but is not limited to, shunt reactors, autotransformers, rectifier transformers, and power rectifier transformers. Not included are combination units, commonly known as rectiformers, if the entire integrated assembly is imported in the same shipment and entered on the same entry and the assembly has been ordered and invoiced as a unit, without a separate price for the transformer portion of the assembly. Transformers covered by this finding are currently classifiable under items 682.0755, 682.0765, and 682.0775 of the Tariff Schedules of the United States Annotated. These products are currently classifiable under Harmonized System item numbers 8504.22.00, 8504.23.00, 8504.34.00, 8504.40.00, 8504.50.00, and 8505.50.00.

The review covers one exporter of French large power transformers to the United States, Alsthom-Atlantique ("Alsthom"), and the period June 1, 1983 through May 31, 1986.

Final Results of the Review

We gave interested parties an opportunity to comment on the preliminary results. We received no comments. We determine to assess antidumping duties for merchandise manufactured by Alsthom according to these results:

Period	Margin (percent)
6/1/83-5/31/84	1.82 [1]
6/1/84-5/31/86	72.85

[1] No shipments during the period.

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. The Department will issue appraisement instructions on Alsthom directly to the Customs Service.

Further, as provided by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties of 72.85 percent shall be required on shipments of large power transformers manufactured by Alsthom.

For any future shipments of this merchandise from a new exporter or manufacturer not covered in this or prior administrative reviews, whose first shipments occurred after May 31, 1986 and who is unrelated to Alsthom or any other previously reviewed firm, a cash deposit of 1.82 percent shall be required on shipments of large power transformers from France.These deposit requirements are effective for all shipments of French large power transformers entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a).

Date: September 18, 1987.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 87-22321 Filed 9-25-87; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-404]

Final Results of Antidumping Duty Administrative Review; Neoprene Laminate From Japan

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On July 16, 1987, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on fabric expanded neoprene laminate from Japan. The review covers two manufacturers/exporters of this merchandise to the United States and the period March 15, 1985 through June 30, 1986.

We gave interested parties an opportunity to comment on the preliminary results. We received comments from the petitioner, Rubatex Corporation, and one respondent, Heiwa Rubber Industries. Based on our analysis of comments received and correction of certain clerical errors, we have changed the final results from those presented in the preliminary results of review.

EFFECTIVE DATE: September 28, 1987.

FOR FURTHER INFORMATION CONTACT: Anne S. D'Alauro or Maureen Flannery, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-2923/5255.

SUPPLEMENTARY INFORMATION:

Background

On July 16, 1987, the Department of Commerce published in the **Federal Register** (52 FR 26712) the preliminary results of its administrative review of the antidumping duty order on fabric expanded neoprene laminate ("FENL") from Japan. The Department has now completed the administrative review in accordance with section 751 of the Tariff Act of 1930 ("The Tariff Act").

Scope of the Review

Imports covered by the review are shipments of FENL currently provided for in items 355.81, 355.82, 350.50 and 359.60 of the Tariff Schedules of the United States Annotated. These products are also currently classifiable under item numbers 5906.91.20, 5906.99.20, 5911.10.20, 5906.91.25, 5906.99.25 and 5602.10.00 of the Harmonized system.

The review covers two manufacturers/exporters of Japanese FENL, and the period March 15, 1985 through June 30, 1986.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received comments from the petitioner and one respondent.

Petitioner's Comments

Comment 1: Petitioner claims that, for the two shipments to the United States for which Heiwa had not received payment, the Department should assign a zero purchase price rather than consider the sales to represent bad debt. Petitioner argues that, since the respondent continued to sell to this customer, these sales were the equivalent of free goods.

Department's position: The failure of a customer to pay its bills is considered to constitute bad debt. It is the Department's policy to consider bad debt as an indirect selling expense. As the basis of comparison for this review is purchase price, there is no authority to adjust for indirect selling expenses.

We do not regard the fact that the exporter continued to sell to the non-paying buyer as constituting acceptance of the situation by the exporter. The record shows the exporter changed the terms of payment to protect himself against further failure to pay by this customer. For the final results of review, we included these sales in the analysis at their contracted sale price, and used the best information available to determine the credit expense for these sales.

Comment 2: Petitioner argues that the Department erred in using Yamamoto Corporation's rate of 3.09 percent from the fair value investigation as the best information available for this review. Petitioner cites the appreciation of the yen against the dollar as the reason that Yamamoto's margin should be significantly higher during the current review. In addition, the petitioner argues that, but for the penal nature of the application of best information otherwise available, there is little incentive for a foreign manufacturer with low margins to cooperate in the administrative review process.

Department's position: Unless the facts of a case indicate otherwise, the Department generally uses for best information available for a non-responsive firm the higher of (1) that firm's prior rate, or (2) the highest rate for any responsive firm during the period of review. Thus, contrary to petitioner's argument, there is an incentive for a firm with an initial low rate to cooperate in future antidumping annual reviews.

For this review, the petitioner provided no evidence to support its allegation that the prior rate for Yamamoto does not represent the best information available. Therefore, consistent with past practice, we conclude that the prior rate does constitute the best information available.

Heiwa's Comment

Heiwa states that the weighted average foreign market value used for comparison for April 1986 is not representative of the average selling price because it is based on one sales transaction of a limited quantity. It argues that this sale price is aberrational when compared with the weighted average of the previous and following months for the same product, and recommends the use of the weighted average price from March 1986 as the basis of FMV for this product.

Department's position: We disagree. Review of the sales data does not show the April 1986 sale to be outside the normal course of trade by reason of quantity or selling price. The sale is, therefore, appropriately used as the basis of FMV for this month.

Final Results of Review

As a result of our review of the comments received and correction of clerical errors, we determine that the following margins exist:

Manufacturer/Exporter	Margin (percent)
Heiwa Rubber Industries	0.29
Yamamoto Corp.	3.09

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for in section 751(a) of the Tariff Act, a cash deposit of estimated antidumping duties of 3.09 percent shall be required for shipments by Yamamoto Corporation. Since the margin for Heiwa Rubber Industries is less than 0.5 percent and, therefore, *de minimis* for cash deposit purposes, the Department shall not require a cash deposit for this firm. For any future entries of this merchandise from a new exporter not covered in this or prior administrative reviews, whose first shipments occurred after June 30, 1986 and who is unrelated to any reviewed firm, no cash deposit shall be required. These deposit requirements are effective for all shipments of Japanese fabric expanded neoprene laminate entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a).

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 87-22322 Filed 9-25-87; 8:45 am]

BILLING CODE 3510-DS-M

[A-337-001]

Preliminary Results of Antidumping Duty Administrative Review; Sodium Nitrate From Chile

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request from Sociedad Quimica y Minera de Chile, S.A., the respondent, the Department of Commerce has conducted an administrative review of the antidumping duty order on sodium nitrate from Chile. The review covers one exporter of this merchandise to the United States and the period March 1, 1986 through February 28, 1987. The review indicates the existence of dumping margins for the firm during the period.

As a result of the review, the Department has preliminarily determined to assess dumping duties equal to the calculated differences between United States price and foreign market value.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: September 28, 1987.

FOR FURTHER INFORMATION CONTACT: Linda Pasden or Robert Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC. 20230; telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On July 9, 1987, the Department of Commerce ("the Department") published in the **Federal Register** (52 FR 25897) the final results of its last administrative review of the antidumping duty order on sodium nitrate from Chile (48 FR 12580, March 25, 1983). Sociedad Quimica y Minera de Chile, S.A., the respondent, requested in accordance with § 353.53a(a) of the Commerce Regulations that we conduct an administrative review. We published a notice of initiation of antidumping duty administrative review on April 22, 1987 (52 FR 13628). The Department has now conducted that administrative review in accordance with seciton 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

The United States has developed a system of tariff classification based on the international harmonized system of Customs nomenclature. Congress is considering legislation to convert the United States to this Harmonized System ("HS") by January 1, 1988. In view of this, we will be providing both the appropriate Tariff Schedule of the United States Annotated ("TSUSA") item numbers and the appropriate HS item numbers with our product descriptions on a test basis, pending Congressional approval. As with the TSUSA, the HS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

We are requesting petitioners to include the appropriate HS item number(s) as well as the TSUSA item number(s) in all new petitions filed with the Department. A reference copy of the proposed Harmonized System schedule is available for consultation at the Central Records Unit, Room B-099, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC. 20230. Additionally, all Customs offices have reference copies and petitioners may contact the Import Specialist at their local Customs office to consult the schedule.

Imports covered by the review are shipments of industrial grade sodium nitrate (98 percent or more pure), currently classifiable under item 480.2500 of the TSUSA and under HS item number 3102.50.00.

The review covers one exporter of this merchandise to the United States, Sociedad Quimica y Minera de Chile, S.A. ("SQM"), and the period March 1, 1986 through February 28, 1987.

United States Price

In calculating United States price the Department used exporter's sales price, as defined in section 772 of the Tariff Act. Exporter's sales price was based on the delivered or f.o.b. packed or unpacked price to an unrelated purchaser in the United States. Where applicable, we made deductions for discounts, foreign inland freight, marine insurance, ocean freight, handling charges, U.S. brokerage charges, credit, and indirect selling expenses. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act, since sufficient quantities of such or similar merchandise were sold in the home market at or above the cost of production to provide a basis for comparison. Home market price was based on the delivered or the f.o.b. packed price with adjustments, where applicable, for inland freight, credit, differences in packing, and for indirect selling expenses to offset U.S. selling expenses. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that a margin of 1.54 percent exists for SQM for the period March 1, 1986 through February 28, 1987.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice, may request disclosure within 5 days of the date of publication, and may request a hearing within 8 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review, including the results of its analysis of issues raised in any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between

United States price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for by section 751(a)(1) of the Tariff Act and based on the above margin, a cash deposit rate of estimated antidumping duties of 1.54 percent shall be required for all shipments by SQM of industrial sodium nitrate. For any future entries of this merchandise from a new exporter or manufacturer not covered in this or prior administrative reviews, whose first shipments occurred after February 28, 1987 and who is unrelated to any previously reviewed firm, a cash deposit of 1.54 percent shall be required. These deposit rates are effective for all shipments of Chilean industrial sodium nitrate entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a).

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

Date: September 18, 1987.

[FR Doc. 87-22323 Filed 9-25-87; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Coastal Zone Management; Federal Consistency Appeal by the South Essex Sewerage District, Massachusetts, From an Objection by the Massachusetts Coastal Zone Management Office

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of appeal.

On July 29, 1987, the Department of Commerce received a letter from the South Essex Sewerage District, Massachusetts, (Appellant) filing a Notice of Appeal under section 307(c)(3)(A) of the Coastal Zone Management Act of 1972, 16 U.S.C. 1456(c)(3)(A), and the Department of Commerce's implementing regulations, 15 CFR Part 930, Subpart H (1987). The appeal is taken from an objection by the Massachusetts Coastal Zone Management Office to Appellant's consistency certification for its proposed modification of secondary treatment requirements for discharge into marine waters off Marblehead, Massachusetts, under the Federal Water Pollution Control Act (revised section 301(h) Application for Waiver of Secondary Treatment). Appellant simultaneously submitted supporting information.

Appellant has been given until October 27, 1987, to submit any other data or information it wishes. After expiration of that date, public comments will be solicited by a notice in the **Federal Register** and a local newspaper.

FOR ADDITIONAL INFORMATION CONTACT: Stephanie S. Campbell, Office of the Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1825 Connecticut Avenue, NW., Suite 603, Washington, DC 20235 (202) 673-5200.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance)

Dated: September 22, 1987.

Daniel W. McGovern,

General Counsel.

[FR Doc. 87-22269 Filed 9-25-87; 8:45 am]

BILLING CODE 3510-08-M

Coastal Zone Management; Federal Consistency Appeal by the Town of Swampscott, MA, From an Objection by the Massachusetts Coastal Zone Management Office

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Notice of Appeal.

On July 27, 1987, the Department of Commerce received a letter from the Town of Swampscott, Massachusetts, (Appellant) filing a Notice of Appeal under section 307(c)(3)(A) of the Coastal Zone Management Act of 1972, 16 U.S.C. 1456(c)(3)(A), and the Department of Commerce's implementing regulations, 15 CFR Part 930, Subpart H (1987). The appeal is taken from an objection by the Massachusetts Coastal Zone Management Office to Appellant's consistency certification for its proposed modification of secondary treatment requirements for discharge into marine waters off Swampscott under the Federal Water Pollution Control Act (revised section 301(h) Application for Waiver of Secondary Treatment). Appellant indicated in the notice of appeal that it would submit supporting information within fifteen days. On August 10, 1987, Appellant accordingly submitted supporting information.

Appellant has been given until October 27, 1987, to submit any other data or information it wishes. After expiration of that date public comments will be solicited by a notice in the **Federal Register** and a local newspaper.

FOR ADDITIONAL INFORMATION CONTACT: Stephanie S. Campbell, Office of the Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1825 Connecticut Avenue NW., Suite 603, Washington, DC 20235, (202) 673-5200.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance)

Date: September 22, 1987.

Daniel W. McGovern,

General Counsel.

[FR Doc. 87-22270 Filed 9-25-87; 8:45 am]

BILLING CODE 3510-08-M

Coastal Zone Management; Federal Consistency Appeal by Jay C. Poole From an Objection by the South Carolina Coastal Council

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of appeal.

On July 20, 1987, the Department of Commerce received a letter from Jay C. Poole (Appellant) filing a Notice of Appeal under section 307(c)(3)(A) of the Coastal Zone Management Act of 1972, 16 U.S.C. 1456(c)(3)(A), and the Department of Commerce's implementing regulations, 15 CFR Part 930, Subpart H (1987). The appeal is taken from an objection by the South Carolina Coastal Council to Appellant's consistency certification for U.S. Army Corps of Engineers Permit Application No. 86-2c-367, under section 10 of the River and Harbor Act of 1899 and section 404 of the Federal Water Pollution Control Act, for excavation of a boat slip and construction of a bulkhead, with associated backfill, in wetlands along the Black River in Georgetown County, South Carolina. Some of the backfill has already been placed.

If Appellant perfects that appeal by filing the supporting data and information required by the Department's implementing regulations, public comments will be solicited by a notice in the **Federal Register** and a local newspaper.

FOR ADDITIONAL INFORMATION CONTACT: Stephanie S. Campbell, Office of the Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, 1825 Connecticut Avenue NW., Suite 603, Washington, DC 20235, (202) 673-5200.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance)

Date: September 22, 1987.

Daniel W. McGovern,

General Counsel.

[FR Doc. 87-2227 Filed 9-25-87; 8:45 am]

BILLING CODE 3510-08-M

Joint Meeting; National Marine Fisheries Service and U.S. Fish and Wildlife Service; Emergency Striped Bass Research Study

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The National Marine Fisheries Service and the U.S. Fish and Wildlife Service will hold a joint meeting to discuss progress on the Emergency Striped Bass Research Study as authorized by the amended Anadromous Fish Conservation Act (Pub. L. 96-118).

DATE: The meeting will convene on Friday, November 13, 1987, at 10:00 a.m., and will adjourn at approximately 3:00 p.m. The meeting is open to the public.

ADDRESS: National Marine Fisheries Service, Room 928, Universal Building South, 1825 Connecticut Avenue NW., Washington, DC 20235.

FOR FURTHER INFORMATION CONTACT: David G. Deuel, Office of Fisheries Conservation and Management, National Marine Fisheries Service, Washington, DC 20235 Telephone: (202) 673-5359.

Dated: September 23, 1987.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management.

[FR Doc. 87-22282 Filed 9-25-87; 8:45 am]

BILLING CODE 3510-22-M

[P406]

Application for Permit, Marine Mammals; Dr. R.H. Defran

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 through 1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant: Dr. R.H. DeFran, Cetacean Behavior Laboratory, Department of Psychology, San Diego, California 92182.

2. Type of Permit: Scientific Research.

3. Name and Number of Marine Mammals: Bottlenose dolphin (*Tursiops truncatus*) 200.

4. Type of Take: The animals may be inadvertently harassed while being photographed and censused, of the two hundred animals up to twenty will be neonates.

5. *Location of Activity:* The research will take place in the following areas: (1) San Diego Study Area: Broad Area—Coastal waters between Oceanside and the United States/Mexican Border; Core Area—The coastal waters between La Jolla and South Carlsbad State Beach; (2) Ventura-Santa Barbara Study Area: Broad Area—Coastal waters between the Santa Barbara Marina and the Ventura Marina; (3) Santa Barbara Channel Islands Study Area; Broad Area—The coastal waters surrounding the Santa Barbara Channel Islands including: San Miguel, Santa Rosa, Santa Cruz, Anacapa, Santa Barbara, San Nicholas, Santa Catalina and San Clemente; (4) Orange County—Los Angeles County Study Area; Broad Area—Coastal waters of Orange County and Los Angeles County; and (5) Point Conception—Monterey Study Area: Broad Area—Coastal waters between Point Conception and Monterey Bay.

6. *Period of Activity:* 3 Years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1825 Connecticut Avenue, NW., Room 805, Washington, DC; and

Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731-7415.

Date: September 21, 1987.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 87-22281 Filed 9-25-87; 8:45 am]

BILLING CODE 3510-22-M

COMMODITY FUTURES TRADING COMMISSION

New York Cotton Exchange Proposed Option Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity option contract.

SUMMARY: The New York Cotton Exchange ("NYCE") has applied for designation as a contract market in options on Five-Year U.S. Treasury Note futures. The Director of the Division of Economic Analysis of the Commodity Futures Trading Commission ("Commission"), acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposal for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before October 28, 1987.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581.

Reference should be made to the NYCE Five-Year U.S. Treasury Note futures option contract.

FOR FURTHER INFORMATION CONTACT: Naomi Jaffe, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, (202) 254-7227.

SUPPLEMENTARY INFORMATION: The NYCE commenced trading in the Five-Year Treasury Note futures contract, which underlies the proposed option contract, on May 6, 1987. Since then, trading volume in the futures contract has averaged over 9,000 contracts per week, and the cumulative trading volume in the underlying futures contract has exceeded the total annual trading volume requirement of Commission Regulation 33.4(a)(5)(iii). One expiration in this future contract took place in June 1987, without any apparent problems, and a second expiration (September 1987) will have

taken place by the end of the comment period for this proposed option on a futures contract.

Copies of the terms and conditions of the proposed futures option contract will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254-6314.

Other materials submitted by the NYCE in support of the application for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commissions's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the terms and conditions of the proposed futures contract, or with respect to other materials submitted by the NYCE in support of the application, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581, by the specified date.

Issued in Washington, DC, on September 22, 1987.

Paula A. Tosini,

Director, Division of Economic Analysis.

[FR Doc. 87-22265 Filed 9-25-87; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Meeting; Historical Advisory Committee

1. In accordance with section 10(A)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following committee meeting:

Name of Committee: Department of the Army Historical Advisory Committee.

Date: 22-23 October 1987.

Place: Conference Room, National Guard Association Building, 1 Massachusetts Avenue, NW., Washington, DC.

Time: 22 October, 1300-1600; 23 October, 0900-1200, 1330-1500.

Proposed Agenda:

22 October—Review of historical activities.

23 October—Discussion of activities and executive session of the Committee.

Purpose of meeting: The Committee will review the past year's historical activities based on reports and manuscripts received throughout the year and formulate recommendations through the Chief of Military History to the Chief of Staff, U.S. Army and the Secretary of the Army for advancing the purpose of the Army Historical Program.

2. Meetings of the Advisory Committee are open to the public. Due to space limitations, attendance may be limited to those persons who have notified the Advisory Committee Management Office in writing, at least five days prior to the meeting of their intention to attend the 22-23 October meeting.

3. Any members of the public may file a written statement with the Committee before, during, or after the meeting. To the extent that time permits the Committee Chairman may allow public presentations of oral statements at the meeting.

4. All communications regarding this Advisory Committee should be addressed to Dr. David F. Trask, Chief Historian, U.S. Army Center of Military History, Washington, DC 20314-0200.

Dated September 4, 1987.

David F. Trask,

Chief Historian.

[FR Doc. 87-22245 Filed 9-25-87; 8:45 am]

BILLING CODE 3710-08-M

Intent To Grant A Limited Exclusive Patent License to Houston Biotechnology Inc.

The Department of the Army announces its intention to grant Houston Biotechnology Incorporated, a corporation of the State of Delaware, a limited exclusive license under U.S. patent application serial no. 06/911,689, filed September 25, 1986, entitled "Phospholipid Compositions and Their Effective Use as Anti-Tumor Agents" by M. Jett-Tilton, et al.

The proposed limited exclusive license will comply with the terms and conditions of 35 U.S.C. 209 and the Department of Commerce's regulations at 37 CFR Part 404. The proposed license may be granted unless, within 60 days from the date of this notice, the Department of the Army receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest. All comments and materials must be submitted to the Patent Counsel, Walter Reed Army Institute of Research, Washington, DC 20307-5100.

For further information concerning this notice, contact: Lieutenant Colonel Francis A. Cooch, Patent Counsel, Building T-20, Room 206E, Walter Reed Army Institute of Research, Washington, DC 20307-5100, Telephone no. (Area Code 202) 576-4369/4370.

[FR Doc. 87-22248 Filed 9-25-87; 8:45 am]

BILLING CODE 3710-08-M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 87-339; FCC 87-274]

Common Carrier Services; Establishment of a Program to Monitor the Impact of Joint Board Decisions

AGENCY: Federal Communications Commission.

ACTION: Report and order adopting Recommendation.

SUMMARY: The Commission adopted the recommendation of the Federal-State Joint Board in CC Docket No. 80-286 to establish a program to monitor the impact of Joint Board decisions.

EFFECTIVE DATE: August 18, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Alexander Belinfante, Industry Analysis Division, Common Carrier Bureau, (202) 632-0745.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's report and order, CC Docket No. 87-339, adopted August 18, 1987, and released August 26, 1987.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC. 20037.

Summary of Report and Order

On May 28, 1987, the Docket No. 80-286 Joint Board released a Recommended Decision and Order [1] describing a proposed monitoring program. It recommended that a series of quarterly reports be issued for the next five years, beginning in September 1987. The information in these reports is

[1] Not published in the Federal Register.

to fall into eight categories: (1) Subscribership and penetration levels; (2) lifeline assistance plans, including both our subscriber line charge waiver and Link-Up programs; (3) costs and high cost assistance; (4) network usage and growth; (5) rates and revenues; (6) bypass; (7) pooling and rate deaveraging; and (8) jurisdictional shifts in revenue requirements.

By this Report and Order, the Commission has adopted the Joint Board's recommendations. A new open docket is established to implement the program. comments are and materials can be submitted at any time in this docket, but comments are especially solicited during the period from August 28, 1987, through October 28, 1987.

William J. Tricarico,

Secretary.

[FR Doc. 87-21409 Filed 9-25-87; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Item Submitted for OMB Review

The Federal Maritime Commission hereby gives notice that the following has been submitted to OMB for review pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et. seq.). Requests for information, including copies of the collection of information and supporting documentation, may be obtained from John Robert Ewers, Director, Bureau of Administration, Federal Maritime Commission, 1100 L Street, NW., Room 12211, Washington, DC 20573, telephone number (202) 523-5866. Comments may be submitted to the agency and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for the Federal Maritime Commission, within 15 days after the date of the **Federal Register** in which this notice appears.

Summary of Item Submitted for OMB Review

46 CFR Part 581

The Federal Maritime Commission requests clearance for an amendment to its final regulations to enforce the service contracts provisions of section 8(c) of the Shipping Act of 1984. The rule defines service contract records and requires that ocean common carriers and conferences amend their service contracts to contain a description of the shipment records which will be maintained to support the contract. It also requires respondents to submit such to the Commission within 30 days after a Commission request for the production of documents. Provisions requiring that records be located in the United States or a certification that service contract records will be produced if located outside the United States have been stayed indefinitely, pending Commission assessment of the respondents' compliance with production requests.

To comply with this amendment, the Commission estimates approximately 100 respondents and 1700 annual manhours. Total estimated annual cost to the Government for this amendment is $2188; estimated annual cost to the public is $39,000.

Joseph C. Polking,

Secretary.

[FR Doc. 87-22286 Filed 9-25-87; 8:45 am]

BILLING CODE 6730-01-M

Agreement(s) Filed; Kerr Steamship, Inc.

The Federal Martime Commission hereby gives notice of the filing of the following agreemeant(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-200038.

Title: Port of Houston Terminal Agreement.

Parties:

Port of Houston Authority (Port)

Kerr Steamship, Inc. (Kerr)

Synopsis: The proposed agreement provides for Kerr to perform freight handling services at Port's Wharves and Transit Sheds Number 19 and 20, and allocates space within the facility to accommodate cargo of ships assigned to berth at the facility by Port.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: September 23, 1987.

[FR Doc. 87-22285 Filed 9-25-87; 8:45 am]

BILLING CODE 6730-01-M

Sea-Land Service, Inc., et al.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Rom 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 212-010286-014.

Title: South Europe/U.S.A. Pool Agreement.

Parties:

Compania Transatlantica Espanola, S.A.
Costa Line (Costa Container Lines, S.p.A., Genoa)
Evergreen Maritime Corporation
Farrell Lines, Inc.
"Italia" de Navigazione, S.p.A.
Jugolinija
Lykes Lines (Lykes Bros. Steamship Co., Inc.)
A.P. Moller-Maersk Line
Nedlloyd Lines (Nedlloyd Lijnen B.V.)
Sea-Land Service, Inc.
Trans Freight Lines
Zim Israel Navigation Company, Ltd.

Synopsis: The proposed amendment would establish a second pool period extending from May 1, 1988 through December 31, 1988 and would provide that prior to July 1, 1988, the parties will meet to review the agreement's effectiveness and to assess the fairness and value of the basic pool shares. In addition, it would also establish liquidated damages for withdrawal by a member prior to December 31, 1988 and would provide for renegotiation by Lykes Lines of its basic pool shares and withdrawal provisions should the members fail to reach agreement with Lykes.

Agreement No.: 217-011149.

Title: CCNI-TNE Space Charter Agreement.

Parties:

Compania Chilena de Navegacion Interoceanica, S.A.
Transportes Navieros Ecuatorianos

Synopsis: The proposed agreement would permit the parties to charter

space on each other's vessels and to utilize related equipment in the trade between U.S. Atlantic and Gulf ports and Chilean ports and their inland and coastal points and between U.S. Atlantic ports (excluding Florida) and Ecuadorian ports and their inland and coastal points.

Agreement No.: 206-011150.
Title: Atlantic Westbound Stabilization Agreement.
Parties:
South Europe/U.S.A. Freight Conference
North Europe-U.S. Atlantic Conference
North Europe-U.S. Gulf Freight Association

Synopsis: The proposed agreement would permit the parties to agree upon rates, service contract terms and other matters in the trade from ports in Germany (East and West), Belgium, the Netherlands, France, Italy and Yugoslavia, and from all points in Continental Europe (except points in Spain and Portugal) via such ports, to U.S. Atlantic and Gulf ports and to Continental U.S. interior and coastal points via such U.S. Atlantic and Gulf ports.

By Order of the Federal Maritime Commission. I06Joseph C. Polking,
Secretary.

Dated: September 22, 1987.

[FR Doc. 87-22287 Filed 9-25-87; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities Under OMB Review

September 17, 1987.

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—Nancy Steele—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3822)

OMB Desk Officer—Robert Fishman—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503 (202-395-7340).

Proposal to approve under OMB delegated authority the revision of the following report:

1. Report title: Statement of Purpose for an Extension of Credit Secured by Margin Stock.

Agency form number: FR U-1.
OMB Docket number: 7100-0115.
Frequency: Recordkeeping requirement.
Reporters: Commercial Banks.
Annual reporting hours: 94,637.
Small businesses are affected.

General description of report

This information collection is mandatory [15 U.S.C. 78g, 78w] and is not given confidential treatment.

A purpose statement is required to be completed by a bank and borrower whenever credit is secured directly or indirectly by any margin stock in an amount exceeding $100,000. It is used to determine the purpose of the loan proceeds, serve as an evidentiary tool to ascertain the intention of the parties involved, and document the securities serving as collateral.

Board of Governors of the Federal Reserve System, September 22, 1987.
William W. Wiles,
Secretary of the Board.

[FR Doc. 87-22234 Filed 9-25-87; 8:45 am]
BILLING CODE 6210-01-M

Change in Bank Control, Acquisitions of Shares of Banks or Bank Holding Companies; James K. Caldwell, et al.

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 13, 1987.

A. **Federal Reserve Bank of Chicago** (David S. Epstein, Assistant Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *James K. Caldwell,* Whitewater, Wisconsin; to acquire 1330 Class B Common voting shares of CBE, Inc., Elkhorn, Wisconsin.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Ronald E. Brown,* Broken Arrow, Oklahoma; to acquire 15.55 percent of the voting shares of American State Bancshares, Inc., Broken Bow, Oklahoma, and thereby indirectly acquire American State Bank, Broken Bow, Oklahoma.

2. *Lonnie M. Jarman,* Oklahoma City, Oklahoma; to acquire 68.75 percent of the voting shares of Mustang Community Ban Corp, Inc., Mustang, Oklahoma, and thereby indirectly acquire Mustang Community Bank, Mustang, Oklahoma.

Board of Governors of the Federal Reserve System, September 22, 1987.
James McAfee,
Associate Secretary of the Board.

[FR Doc. 87-22235 Filed 9-25-87; 8:45 am]
BILLING CODE 6210-01-M

Acquisitions of Companies Engaged in Permissible Nonbanking Activities; Cook Investment, Inc., et al.

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing,

identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than October 13, 1987.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoening, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Cood Investment, Inc.*, Beatrice, Nebraska; to acquire Charter West Agency, Inc., West Point, Nebraska, and thereby engage in leasing real and personal property pursuant to section 225.25(b)(5) of the Board's Regulation Y.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *La Jolla Bancorp*, San Diego, California; to acquire H.D. McNee Realty Advisers, Inc., San Diego, California, and thereby engage in mortgage loan servicing, mortgage loan origination services, real property consulting services, long term mortgage financing and property management services pursuant to § 225.25(b)(1) of the Board's Regulation Y. These activities will be conducted in San Diego County, California. *Comments on this application must be received by October 15, 1987.*

Board of Governors of the Federal Reserve System, September 22, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-22236 Filed 9-25-87; 8:45 am]

BILLING CODE 6210-01-M

Applications To Engage de Novo in Permissible Nonbanking Activities; Society for Savings Bancorp, Inc., et al.

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 a 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 Baord of Governors not later than October 15, 1987.

A. **Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Society for Savings Bancorp, Inc.*, Hartford, Connecticut; to engage *de novo* through its subsidiary, Fidelity Acceptance Corporation, Minneapolis, Minnesota, in the sale of single interest property and casualty insurance assuring repayment of an outstanding extension of credit pursuant to § 225.25(b)(8)(ii) of the Board's Regulation Y.

B. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Compagnie Financiere de Suez*, Paris, France, and Banque Indosuez, Paris, France; to engage *de novo* through their subsidiaries Locasuez America, Inc., New York, New York, and LSA Leasing Corp., Louisville, Kentucky, in making or acquiring commercial loans and other extensions of credit; leasing real and personal property; acting as agent, broker or advisor with respect to such financing and leasing activities; and servicing loans and other extensions of credit pursuant to §§ 225.25 (b)(1), (b)(4), and (b)(5) of the Board's Regulation Y.

2. *Continental Bancorp*, Philadelphia, Pennsylvania; to engage *de novo* through its subsidiary, CB Brokerage Service, Inc., Philadelphia, Pennsylvania, in providing securities brokerage services, related securities, credit activities, and incidental activities such as offering custodial services, individual retirement accounts, and cash management services, if the securities brokerage services are restricted to buying and selling securities solely as agent for the account of customers pursuant to § 225.25(b)(15) of the Board's Regulation Y.

3. *Keycorp*, Albany, New York, and Key Bancshares of New York Inc., Albany, New York; to engage *de novo* through their subsidiary, Key Bank Life Insurance Ltd., Phoenix, Arizona, in underwriting, as reinsurer, of credit life and credit accident and health insurance directly related to extensions of credit by their subsidiaries pursuant to § 225.25(b)(8)(i) of the Board's Regulation Y. Comments on this application must be received by October 19, 1987.

4. *U.S. Trust Corporation*, New York, New York; to engage *de novo* through its subsidiary, U.S. Trust Company of California, National Association, Los Angeles, California, in performing the functions or activities that may be performed by a trust company (including activities of a fiduciary, agency, or custodial nature) and to act as investment or financial adviser pursuant to §§ 225.25 (b)(3) and (b)(4) of the Board's Regulation Y.

C. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Hibernia Corporation*, New Orleans, Louisiana; to engage *de novo* through its subsidiaries, Hibernia Mortgage Corporation of Alabama, Birmingham, Alabama; Hibernia Mortgage Corporation of Florida, Orlando, Florida; and Hibernia Mortgage Corporation of Tennessee, Memphis, Tennessee; in the activity of making, acquiring and/or servicing loans or other extensions of credit for each company's account or for the account of others such as would be made by a mortgage company, including, but not limited to residential mortgage loans for one to four family dwelling units in the communities within which each company will operate pursuant to § 225.25(b)(1) of the Board's Regulation Y. These activities will be conducted in the states of Alabama, Florida and Tennessee.

2. *Northwest Georgia Financial Corporation*, Dallas, Georgia; to engage *de novo* in providing data processing and data transmission services, facilities, and data bases by any technological means to its subsidiaries and other banks pursuant to § 225.25(b)(7) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, September 22, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-22237 Filed 9-25-87; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules; Tandy Corp., et al.

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requries that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: SEPTEMBER 19, 1987 AND SEPTEMBER 16, 1987

Name of acquiring prson, name of acquired person, name of acquired entity	PMN No.	Date terminated
(1) Smiths Industries Public Limited Co., Lear Siegler Holdings Corp., Lear Siegler Instrument and Avionic Systems Corp	87-2043	09/03/87
(2) Meshulam Riklis, Eli Lilly and Co., Eli Lilly and Co.	87-2200	09/03/87
(3) LEP Group plc, Profit Systems Inc., Profit Systems Inc.	87-2239	09/03/87
(4) Tandy Corp., Citicorp, Citibank (Maryland), N.A.	87-2281	09/03/87
(5) Subaru of America, Inc., Automotive Imports, Inc., d/b/a/ Subaru Inter-Mountain, Automotive Imports, Inc., d/b/a Subaru Inter-Mountain	87-2283	09/03/87
(6) William Collins PLC, The News Corporation Limited, Harper Holdings Corp.	87-2284	09/03/87
(7) John M. Harber III, Allied-Signal Inc., Combustion Power Co. & GWF Power Systems Co., Inc.	87-2285	09/03/87
(8) CRH PLC, William H. Lane, Big River Industries, Inc., Bayou Ash, Inc., Big River	87-2290	09/03/87
(9) Atari Corp., Wilfred Schwartz, The Federated Group, Inc.	87-2295	09/03/87
(10) Fletcher Challenge Limited, George S. Schuchart, Wright Schuchart, Inc.	87-2298	09/03/87
(11) HealthEast, American Healthcare Management, Inc., American Healthcare Management, Inc.	87-2272	09/04/87
(12) Roxboro Investments (1976) Ltd., H.H. Robertson Co.,H.H. Robertson Co.	87-2234	09/08/87
(13) James W. Wilson, Jr., Grand Metropolitan Public Limited Co., Diversified Products Corp., Diversified Products, Ltd.	87-2259	09/08/87
(14) First Executive Corp., Medco Containment Services, Inc., Medco Containment Services Inc.	87-2311	09/08/87
(15) Martin J. Wygod, Medco Containment Services, Inc., Medco Containment Services, Inc.	87-2312	09/08/87
(16) Paine Webber Income Properties Eight Ltd. Partnership, Marriott Corp., Marriott Suites Hotel	87-2278	09/09/87
(17) PACCAR Inc., Norcliffe Co., Norcliffe Co.	87-2291	09/10/87
(18) Cablevision Systems Corp. (Charles F. Dolan, UPE), Adams-Russell Co., Inc., Adams-Russell Co., Inc.	87-2187	09/11/87
(19) Alan Evelyn Clore, Rorer Group Inc., Rorer Group Inc.	87-2265	09/11/87
(20) Foote, Cone & Belding Communications, Inc., Measured Marketing Services, Inc., Krupp/Taylor USA	87-2273	09/11/87
(21) Measured Marketing Services, Inc., Foote, Cone & Belding Communications, Inc., Krupp/Taylor FCB, Inc.	87-2274	09/11/87
(22) Saratoga Partners, L.P., Daniel Floeck, Sr., Hi-Lo Auto Supply Companies, Inc.	87-2293	09/11/87
(23) John A. Kaneb, Astroline Corp., Astroline Corp.	87-2296	09/11/87
(24) Bechtel Investments, Inc., Cost Plus, Inc., Cost Plus, Inc.	87-2300	09/11/87
(25) The Northwestern Mutual Life Insurance Co., Pierce Manufacturing Inc., Pierce Manufacturing Inc.	87-2302	09/11/87
(26) The Marcade Group, Inc., Europe Craft Imports, Inc., Europe Craft Imports, Inc.	87-2319	09/11/87
(27) Cookson Group Plc, Boruch B. Frusztajer, Polyclad Laminates, Inc.	87-2271	09/14/87
(28) SmithKline Beckman Corp., National Patent Development Corp., International Hydron Corp.	87-2277	09/14/87
(29) Richard J. Howling, National Medical Enterprises, Inc., National Medical Enterprises, Inc.	87-2282	09/14/87
(30) South Timbers Limited Partnership, Royal Dutch Petroleum Co., Shell Oil Co.	87-2317	09/14/87
(31) Centex Corp., Crosland Homes, Inc., Crosland Homes, Inc.	87-2343	09/14/87
(32) West Timbers Limited Partnership, Royal Dutch Petroleum Co., Shell Oil Co.	87-2350	09/14/87
(33) The Henley Group, Inc., Itel Corp., Itel Corp.	87-2229	09/15/87
(34) Borden, Inc., Laura Scudder's, Inc., Laura Scudder's, Inc.	87-2269	09/15/87
(35) Philips Industries, Inc., Dearborn Fabricating and Engineering Corp., Dearborn Fabricating and Engineering Corp.	87-2327	09/15/87
(36) Lowe Howard-Spink & Bell Plc, GDL Inc., GDL Inc.	87-2340	09/15/87
(37) The Estate of Alfred L. Kaskel, Kansas City Southern Industries, Kansas City Southern Industries	87-2216	09/16/87
(38) The Quaker Oats Co., Peter J. Taggares, Sr., Chef-Reddy Foods Corp.	87-2267	09/16/87
(39) Philip Morris Companies, Inc., Charles Freihofer Baking Co., Inc., Charles Freihofer Baking Co., Inc.	87-2292	09/16/87

FOR FURTHER INFORMATION CONTACT:

Sandra M. Peay, Contact Representative, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, DC 20580, (202) 326-3100.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 87-22260 Filed 9-5-87; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Senior Executive Service; Performance Review Board Membership

Title 5, U.S. Code, section 4314(c)(4) of the Civil Service Reform Act of 1978, Pub. L. 95-454, requires that the appointment of Performance Review Board members be published in the **Federal Register.**

The following persons will serve on the Performance Review Boards or Panels which oversee the evaluation of performance appraisals of Senior Executive Service members of the Department of Health and Human Services:

Federal Performance Review Board Members

Richard H. Adamson, Ph.D.
Duane F. Alexander, M.D.
Michele W. Applegate
Loran D. Archer
William H. Aspden, Jr.
Joseph H. Autry, M.D.
Gerald L. Barkdoll
Joyce T. Berry, Ph.D.
Katherine L. Bick, Ph.D.

Windell R. Bradford
Hugh C. Cannon
Ronald H. Carlson
Bruce A. Chabner, M.D.
Vivian Chang, M.D., M.P.H.
Philip S. Chen, Jr., Ph.D.
Stephan E. Chertoff
Winston M. Cobb
Rhoda M. Davis
John L. Decker, M.D.
Walter R. Dowdle, Ph.D.
John C. Eberhart, Ph.D.
Jo Eleanor Elliott
William L. Engles
Anthony S. Fauci, M.D.
Gail F. Fisher, Ph.D.
Bartlett S. Fleming
Barbara J. Gagel
John I. Gallin, M.D.
Murray Goldstein, M.D.
Donald E. Goldstone, M.D.
Frederick K. Goodwin, M.D.
Phillip Gorden, M.D.
Carolyn D. Gray
Jerome C. Green, M.D.
Richard C. Greulich, Ph.D.
Gerald B. Guest, D.V.M.
George E. Hardy, Jr.
Louis B. Hays
George R. Holland
Vernon N. Houk, M.D.
Robert A. Israel
Barry L. Johnson, Ph.D.
John H. Kelso
Roland E. King
Eugene Kinlow
Jin H. Kinoshita, Ph.D.
Ruth L. Kirschstein, M.D.
Irwin J. Kopin, Ph.D.
Carl Kupfer, M.D.
Richard P. Kusserow
Paula Kuzmich
James D. Lawrence
Claude J. Lenfant, M.D.
Joseph R. Leone
Arthur S. Levine, M.D.
Donald A.B. Lindberg, M.D.
Harald A. Loe, D.D.S.
Mary Frances Lowe
John D. Mahoney
Joel D. Mangel
Jaime L. Manzano
Jack N. Markowitz
Jack W. Martin
Larry G. Massanari
Warren Master
S. Anthony McCann
Thomas S. McFee
Henry Metzger
Gerald F. Meyer
J. Donald Miller, M.D.
Donald N. Mings
Larry D. Morey
Joseph A. Mottola
John A. Norris
Abner L. Notkins, M.D.
Jack Orloff, M.D.
Delores L. Parron, Ph.D.
Betty H. Pickett, Ph.D.
Julie C. Ponquinette, M.D.
Arnold W. Pratt, M.D.
Alan S. Rabson, M.D.
David P. Rall, M.D.
Joseph E. Rall, M.D.
William F. Raub, Ph.D.
Everett R. Rhoades
Richard J. Riseberg
William A. Robinson, M.D.
Martin Rodbell, Ph.D.
Jesse Roth, M.D.
Thomas Scarlett
Sandra H. Shapiro
Gordon M. Sherman
Lawrence E. Shulman, M.D.
Barbara S. Sledge
Vivian L. Smith
Marvin Snyder, Ph.D.
Dale W. Sopper
Dennis D. Tolsma
Robert L. Trachtenberg
Carl W. Tyler, Jr., M.D.
Craig K. Wallace, M.D.
Barbara S. Wamsley
Daniel F. Whiteside, D.D.S.
Robert A. Whitney, Jr., D.V.M.
T. Franklin Williams, M.D.
Frank E. Young, M.D.

Date: September 21, 1987.

Thomas S. McFee,

Assistant Secretary for Personnel Administration.

[FR Doc. 87-22264 Filed 9-25-87; 8:45 am]

BILLING CODE 4150-04-M

Alcohol, Drug Abuse, and Mental Health Administration

Reestablishment of Psychopathology and Clinical Biology Research Review Committee

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776) and the Anti-Drug Abuse Act of 1986, (Pub. L. 99-570, section 501(j)), the Administrator, Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA), announces the reestablishment, effective September 21, 1987 of the following committee:

Psychopathology and Clinical Biology Research Review Committee, NIMH.

The duration of this committee is continuing unless formally determined by the Administrator, ADAMHA, that termination would be in the best public interest.

Date: September 22, 1987.

Donald Ian Macdonald,

Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 87-22254 Filed 9-25-87; 8:45 am]

BILLING CODE 4160-20-M

Centers for Disease Control

Grant with Morehouse School of Medicine; Availability of Funds for Fiscal Year 1987

Introduction

The Centers for Disease Control (CDC) announces the availability of funds in Fiscal Year 1987 for a grant to support the Morehouse School of Medicine (MSM) to identify reasons for elevated numbers of low birthweight infants born to black women, including factors that contribute to the 2-fold excess of low birthweight infants born to college educated black women. This is not a formal request for applications. Assistance will be provided only to MSM for the support of this project. No other applications are solicited or will be accepted.

Authority

This grant is authorized under section 301(a) (42 U.S.C. 241(a)) of the Public Health Service Act, as amended. The Catalog of Federal Domestic Assistance Number is 13.283.

Background

National Infant Mortality Surveillance Project (NIMS) data, as well as other studies, show that low birthweight (LBW) among black infants is a major reason for their 2-fold higher infant mortality compared to white infants. This relationship is found regardless of maternal education. For example, among infants born to better educated women, the discrepancy between white and black infant mortality rates is even greater than among less educated women. NIMS data indicate that among infants born to college-educated women, black infants experienced a 4-fold excess of live births weighing less than 500 grams compared to white infants. Similarly, among infants born to college-educated women, black infants had a 3.4-fold excess of live births weighing between 500 and 999 grams compared to white infants. These differences account for a great deal of the 2-fold increase in infant mortality for black infants compared with white infants. The reasons for this excess of low birthweight among blacks who should have good access to care are not clear, but if explained may provide prevention strategies for other groups at risk for low birthweight.

Because MSM serves minority high risk populations and trains health care providers to serve this population, it has established the need to identify risk factors for low birthweight as a priority for improving health care services. MSM

is interested in collaborating with CDC in this area as an extension of research capacity building previously established between the two institutions. In addition, as part of its plan to develop a regional center for preventive medicine and health promotion, MSM will use information from the low birthweight study to develop interventions targeted at reducing infant mortality and morbidity and to disseminate them through community programs for minority groups.

Reasons for Single Source Award

The MSM is part of the Atlanta University Center (AUC), a cluster of four undergraduate colleges, two graduate schools, and a medical school, which makes AUC the largest association of private historically black colleges and universities in the United States. Spelman College, one of only two predominantly black women's colleges in the United States, is a member of the Atlanta University Center and has an enrollment of approximately 1,200 undergraduates. Two of the other undergraduate colleges, Clark College and Morris Brown College, are co-educational and have a combined undergraduate female enrollment of approximately 2,000. This provides unique access to an expansive pool of black female university graduates. Agnes Scott College, a private predominantly white women's college, is also located in Metropolitan Atlanta. The combination of MSM, Spelman College, and Agnes Scott College, as well as the other predominantly black AUC colleges, provides a unique environment to compare offspring of women educated at comparable private colleges and to collaborate with minority researchers who are familiar with health care issues peculiar to minority populations. Rapid followup of study participants is assured because the Atlanta Metropolitan area has absorbed a significant number of graduates of both the Atlanta University Center and other area universities and colleges.

Review Requirements

This program is not subject to review under Executive Order 12372, Intergovernmental Review of Federal Programs.

Availability of Funds

A total of $150,000 will be available in Fiscal Year 1987 to fund this grant. It is expected that the grant will begin on or before September 30, 1987, and continue for a period not to exceed 18 months. Funding from a single appropriation is considered necessary.

Information

Information on this program may be obtained from Henry Cassell, Grants Specialist, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road NW., Room 321, Atlanta, Georgia 30305.

Dated: September 22, 1987.

Robert L. Foster,

Acting Director, Office of Program Support Centers for Disease Control.

[FR Doc. 87-22356 Filed 9-25-87; 8:45 am]

BILLING CODE 4160-18-M

Health Resources and Services Administration

Advisory Council Meetings for October, 1987

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory bodies scheduled to meet during the month of October 1987:

Name: Subcommittee on Physician Manpower of the Council on Graduate Medical Education.

Time: October 5, 1987 8:00 a.m.—5:00 p.m.

Place: Conference Room G, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Open for entire meeting.

Purpose: The subcommittee reviews and analyzes currently applicable studies of under and oversupply of physician manpower giving special attention to number and distribution of specialists, primary care physicians and residents. It also is concerned with studies and recommendation regarding the number of undergraduate medical students as well as the need for improving physician manpower data.

The subcommittee will draft a chapter for the first report of the Council. Recommendations will concern the outlook for supply, appropriate Federal policies and suggestions for voluntary action by hospitals, medical and osteopathic schools and accrediting bodies regarding physician supply, and shortages and excesses.

Agenda: Agenda items include: (1) Discussion of preliminary subcommittee conclusions regarding current and future adequacy of aggregate physician supply; (2) discussion of subcommittee preliminary conclusions regarding current and future adequacy of primary care physician supply; (3) discussions of preliminary recommendations to the Council regarding current and future adequacy of aggregate and primary care physician supply in the U.S.; and (4) discussion of a draft set of principles for the Council.

Anyone requiring information regarding the subject Subcommitte should contact Jerald Katzoff, Subcommittee Principal Staff Liaison, Division of Medicine, Bureau of Health Professions, Room 4C-25, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857 Telephone (301) 443-6364.

Name: Subcommittee on Foreign Medical Graduates of the Council on Graduate Medical Education.

Time: October 5, 1987 8:30 a.m.—5:00 p.m.

Place: Conference Room I, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Open for entire meeting.

Purpose: The Subcommittee reviews and analyzes existing data and information on alien and U.S. foreign medical graduates in training and in practice regarding adequacy of existing data bases, effect of existing policies and procedures regarding distribution, service delivery and international relations.

The Subcommittee will draft a chapter for the first report of the Council. Recommendations will concern the appropriate Federal policies and efforts to be carried our voluntarily by hospitals, schools of medicine and osteopathy, licensing, certifying, and accrediting bodies with respect to issues relating to foreign medical graduates.

Agenda: Agenda items include (1) panel discussion of the difference treatment of Medical school graduates based on citizenship and/or Country of medical education; (2) review and acceptance of COGME principles; and (3) development of conclusions and recommendations for the foreign medical graduate chapter of the first report to the Secretary and Congress.

Anyone requiring information regarding the subject Subcommittee should contact Magdalena Miranda, Subcommittee Principal Staff Liaison, Division of Medicine, Bureau of Health Professions, Room 4C-25, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857 Telephone (303) 443-3626.

Name: Subcommittee on Graduate Medical Education Programs and Financing of the Council on Graduate Medical Education.

Time: October 5, 1987 8:00 a.m.—5:00 p.m.

Place: Conference Room H, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Purpose: The subcommittee identifies the issues and problems in current methods of financing and support. Assesses the implications of alternative financing policies on medical education programs, service delivery, cost containment, physician supply & distribution, and shortages and excesses of physicians.

Analyzes existing information and data on current and alternative medical education programs of hospitals, schools of medicine and osteopathy, and accrediting bodies; federal policies regarding medical education programs; and their impact on the supply and distribution of physicians.

The subcommittee will draft a chapter for the first report of the Council. Recommendations will concern the appropriate Federal policies and efforts to be carried out voluntarily by hospitals, schools of medicine and osteopathy and accrediting bodies with respect to medical education programs.

Agenda: Agenda items include Discussions of (1) studies of use of and transition to ambulatory care settings in medical education programs; (2) Federal policy-related activities in the financing of graduate medical education; (3) subcommittee preliminary conclusions regarding appropriate federal policies on the financing of graduate medical education; (4) preliminary recommendations to the Council regarding appropriate Federal policies on the financing of graduate medical education; and (5) a draft set of principles for the Council.

Anyone requiring information regarding the subject Subcommittee should contact F. Lawrence Clare, M.D. Subcommittee Principle Staff Liaision, Division of Medicine, Bureau of Health Professions, Room 4C-25, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857 Telephone (301) 443-6326.

Name: Council on Graduate Medical Education.

Time: October 6, 1987 8:30 a.m.—4:30 p.m.

Place: Conference Room G-H, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Open for entire meeting.

Purpose: Provides advice and recommendations to the Secretary and to the Committees on Labor and Human Resources, and Finance of the Senate and the Committees on Energy and Commerce and Ways and Means of the House of Representatives, with respect to (A) the supply and distribution of physicians in the United States; (B) current and future shortages of physicians in medical and surgical specialties and subspecialties; (C) issues relating to foreign medical graduates; (D) appropriate Federal policies regarding (A), (B), and (C) above; (E) appropriate efforts to be carried out by medical and osteopathic schools, public and private hospitals and accrediting bodies regarding matters in (A), (B), and (C) above; (F) deficiencies in the needs for improvements in, existing data bases concerning supply and distribution of, and training programs for physicians in the United States.

Agenda: Agenda items include presentations on graduate medical education (GME) financing issues and on recent GME developments in the State of New York; Reports from the Administrator, Health Resources Administration; update on plans for public hearing scheduled for November 19-20, 1987, review of Council set of principles, and reports from the three subcommittees focusing on preliminary conclusions and recommendations. A Public comment period is also included as part of the agenda.

Anyone requiring information regarding the subject Council should contact Mr. Paul Schwab, Executive Secretary, Council on Graduate Medical Education, Health Resources and Services Administration, Room 14-05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-2033.

Agenda Items are subject to change as priorities dictate.

Date: August 24, 1987.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 87-22406 Filed 9-25-87; 9:12 am]

BILLING CODE 4160-15-M

Social Security Administration

Meeting; Disability Advisory Council

AGENCY: Social Security Administration, HHS.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92-463), this notice announces the schedule, proposed agenda, and location of a forthcoming meeting of the Disability Advisory Council (the Council). The Council published a notice of meetings in the **Federal Register** on December 24, 1986 at 51 FR 46724. The notice announced the schedule of regular meetings to be held by the Council. The Council is scheduling an additional regular meeting for October.

Date: October 29, 1987, 8:00 a.m. to 5:00 p.m.

Place: Hubert H. Humphrey Building, Room 337-339A, 200 Independence Avenue, SW., Washington, DC 20201.

Agenda: Approve Final Report.

FOR FURTHER INFORMATION CONTACT: W. Douglas Badger, Executive Director, Disability Advisory Council, P.O. Box 17064, Baltimore, Maryland 21203, (301) 965-4643.

SUPPLEMENTARY INFORMATION: The Council is established and governed by the provisions of section 12102 of Pub. L. 99-272. The Council is chaired by Dr. John E. Affeldt.

This meeting is open to the public to the extent that space is available. Anyone wishing to submit his or her views and/or questions for consideration by the Council should send them to the Executive Director of the Council at the address shown above.

A transcript of the Council meeting is available to the public on an at-cost-of duplication basis. The transcript can be ordered from the Executive Director of the Council.

Date: September 22, 1987.

W. Douglas Badger,

Executive Director, Disability Advisory Council.

[FR Doc. 87-22257 Filed 9-25-87; 8:45 am]

BILLING CODE 4190-11-M

Redelegations of Authorities to the Position of Social Insurance Claims Examiner (Disability), Located in the Guam Social Security Office, for Adjudication of Disability Claims From Individuals in the Northern Mariana Islands

Public Law 94-241 provided approval of a covenant between the United States (U.S.) and the Northern Mariana Islands (NMI) to establish the conditions by which the NMI would become a U.S. Comonwealth. With this convenant having been established and approved, and with the termination of the existing Trusteeship Agreement, the NMI officially became a U.S. Commonwealth on January 1, 1987.

Under its new political status, the NMI has the statutory authority that States have to make disability determinations under the Social Security Act, as amended (the Act). Accordingly, the Social Security Administration (SSA) has been in consultation with the NMI Government to provide it with the opportunity to perform this function. Previously, this function was performed by an SSA employee, in the position of Social Insurance Claims Examiner (Disability) located in the Guam Social Security office (commonly referred to as

the Federal Disability Examiner in Guam), under formal authorities redelegated to that position. These authorities covered disability determinations under Titles II and XVI of the Act, nondisability determinations under these titles required in connection with adjudication of disability claims, procurement of medical/psychological examinations and other medical evidence necessary for disability determinations and claimant travel and advance of funds for medical/psychological examinations.

However, the NMI Government has decided that the Federal Disability Examiner in Guam should continue to perform all aspects of the disability determination function for disability claims filed by individuals in the NMI. This requires exercise of all authorities previously redelegated to this position. Accordingly, notice is hereby given that the Commissioner of Social Security has reaffirmed existing redelegations of the following authorities to the position of Federal Disability Examiner in Guam, as necessary for adjudication of NMI disability claims:

A. Authorities Under Title II of the Act

1. Authority to make determinations of disability and authority to make findings of fact and decisions relating to periods of disability, under section 221(g) of the Act.

2. Authority to review determinations of disability and authority to take action in such cases reviewed, as provided under section 221(c) of the Act.

3. Authority to make findings of fact and decisions which constitute initial determinations under title II of the Act, as defined in 20 Code of Federal Regulations (CFR) 404.902, under section 205(b) of the Act.

4. Authority to make findings of fact and decisions which do not constitute initial determinations under Title II of the Act, as defined in 20 CFR 404.903, under section 205(b) of the Act.

B. Authorities Under Title XVI of the Act

1. Authority to make findings of fact and decisions regarding the existence, absence, duration or continuation of disability or blindness, under section 1614 of the Act.

2. Authority to make findings of fact and decisions affecting Supplemental Security Income (SSI) claimants, under sections 1602, 1611 through 1616, 1631 and 1633 of the Act.

3. Authority to make findings of fact and decisions as to the presumption that individuals applying for SSI benefits are disabled or blind, within the meaning of section 1614 of the Act, prior to completion of a formal determination of disability or blindness, and authority to authorize payment of benefits to such individuals presumptively eligible for not more than 3 months, under sections 1614(a), 1631(a)(4)(B) and 1633 of the Act.

4. Authority to determine whether individuals eligible for SSI payments, and medically determined to be drug addicts or alcoholics, are complying with the terms and conditions of appropriate available treatment, under section 1611(e)(3) of the Act.

5. Authority to review initial determinations and make reconsideration determinations in cases involving SSI claimants who are in disagreement with determinations under section 1631(c) of the Act, including authority to make findings as to whether good cause exists for failure to request reconsideration of an initial determination within 60 days after receiving notice of such determination.

C. Authority Under Titles II and XVI of the Act

Authority to approve travel and advance of funds for claimants who attend medical/psychological examinations requested by the Federal Disability Examiner in Guam, in connection with disability determinations, not to exceed a total amount of $500, under sections 201(j) and 1631(h) of the Act.

D. Authorities Under Title III of the Federal Property and Administrative Services Act of 1949, as Amended, and Implementing Regulations

1. Authority to purchase services of physicians and psychologists to perform medical or psychological examinations of disability claimants, not to exceed a total amount of $500 in any transaction, under pertinent provisions of the above law and regulations.

2. Authority to purchase medical evidence of record, laboratory tests and any other medical tests necesary for disability determinations, not to exceed a total amount of $500 in any transaction, under pertinent provisions of the above law and regulations.

Conditions

(1) Further redelegations are not authorized.

(2) The above authorities must be exercised in accordance with all pertinent provisions of law, regulations, operating instructions and other relevant requirements.

This action is effective on the date that this notice is published in the **Federal Register**. I affirm and ratify any actions by persons in the position of Federal Disability Examiner in Guam which may constitute the exercise of any of the above authorities before that date.

Dated: September 16, 1987.

Dorcas R. Hardy,

Commissioner of Social Security.

[FR Doc. 87-22258 Filed 9-25-87; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

September 18, 1987.

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection and related forms and explanatory material may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau Clearance Officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone (202) 395-7340.

Title: 25 CFR Part 31, Subchapter E, *Federal School for Indians.*

Abstract: The student enrollment application is needed to determine a student's enrollment eligibility for Indian students desiring to attend Bureau operated or Bureau funded schools. The application contains background information on students, such as schools previously attended, tribe affiliation, census number, degree of Indian blood, and language spoken in the home. The information collection will involve individual students, parents and/or guardians.

Bureau Form Number: BIA-6248.

Frequency: Upon enrollment.

Description of Respondents: Students, parents or guardians.

Annual Responses: 15,000.

Annual Burden Hours: 7,504 hours.

Bureau Clearance Officer: Cathie Martin, (202) 343-3577.

Ronal D. Eden,

Acting Deputy to the Assistant Secretary/ Director, Indian Affairs (Indian Education Programs).

[FR Doc. 87-22244 Filed 9-25-87; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[ID-010-07-4331-12]

Restricted Vehicle Use Closure Order; Idaho

AGENCY: Bureau of Land Management, Idaho, Interior.

ACTION: Notice of restricted vehicle use closure order.

SUMMARY: Notice is hereby given in accordance with Title 43 CFR Group 8000—Outdoor Recreation and in conformance with the principles established by the National Environmental Policy Act of 1969 and the Federal Land Policy and Management Act of 1976, that approximately 3,694 acres of public land located within the Hagerman Fauna Sites National Natural Landmark in Twin Falls County, Idaho, are closed to motorized vehicles except on designated roads.

Careful review and analysis in cooperation with other agencies, professionals in the field of paleontology, and the public has determined that use of this area by motorized vehicles operated off-road is causing severe damage to the scientific and other natural features. Continued off-road use by motorized vehicles will continue to cause damage to paleontological specimens and geologic features of international importance and to the terrain, soil, vegetation, and visual values of the area. An early closure, published in the **Federal Register** of April 30, 1985, was an emergency closure. This Notice implements the closure decision of the Jarbidge Resource Management Plan which was approved March 23, 1987.

All forms of motorized vehicles, including those used for outdoor recreation purposes, mining exploration, farming operations, scientific investigations, and resource management are excluded from the area except for use on designated roads.

The intended effect of this action is to eliminate the unnecessary and undue degradation of the natural values of the Hagerman National Natural Landmark.

SUPPLEMENTARY INFORMATION: The closure applies to all public lands administered by the Bureau of Land Management within the area known commonly as the Hagerman Fossil Beds (and officially designated as the Hagerman Fauna Sites National Natural Landmark). The area is bounded on the east by Lower Salmon Falls Reservoir on the Snake River, on the west by developed farms, on the south by a fense line along or through sections 3, 4, and 5, T. 8 S., R. 13 E., B.M., and on the north by a fence line through Sections 8, 9, and 10, T. 7 S., R. 13 E., B.M., Idaho.

The legal description of the area is:

Boise Meridian, Idaho

T. 7 S., R. 13 E.,
- Sec. 9, SE¼SW¼, E½SE¼, SW¼SE¼;
- Sec. 10, lots 3 and 6, NW¼SE¼, SW¼;
- Sec. 15, lot 4;
- *Sec. 16, lots 1, 2, 4, and 5, W½NE¼, NW¼, N½SW¼, SW¼SW¼;
- Sec. 17, E½E½, SW¼NE¼, NE¼SW¼, NW¼SE¼;
- Sec. 20, E½E½;
- Sec. 21, lots 2 to 4, inclusive, 7, and 8, W½W½, SE¼NW¼, NE¼SW¼;
- Sec. 28, lots 2, 3, 6, and 7, NW¼NW¼;
- Sec. 29, E½E½, S½SW¼, W½SE¼;
- Sec. 32;
- Sec. 33, lots 2, 3, 6, and 7, SW¼SW¼.

T. 8 S., R. 13 E.,
- Sec. 3, lots 4 and 5, SW¼;
- Sec. 4, lots 2 to 4, inclusive, and 6, SW¼NE¼, S½NW½, S½;
- Sec. 5, lots 1 to 4, inclusive, S½N½.

*Section 16 is owned by the Idaho Parks and Recreation Department. The area is managed the same as the Federal lands in accordance with a Memorandum of Understanding between the Bureau of Land Management and the Idaho Department of Parks and Recreation.

All lands within the above described areas administered by the Bureau of Land Management are closed to vehicle use except on designated roads on a year-round basis until further notice. Signs will be posted to identify the exterior boundaries and to mark road open and/or closed to motorized use. A map of the closure areas is posted at the Twin Falls and Hagerman Post Offices, Twin Falls County Courthouse, and at the Boise District Office located at 3948 Development Avenue, Boise, Idaho 83705. Cooperation of all will be sincerely appreciated.

Temporary exceptions are authorized to the listed controls for any fire, emergency, or law enforcement vehicle while it is being used for emergency purposes, any vehicle in official use, and any vehicle whose use is expressly authorized by the Bureau of Land Management.

FOR FURTHER INFORMATION CONTACT: Further information is available at the Bureau of Land Management, Boise District Office, 3948 Development Avenue, Boise, Idaho 83705, phone (208) 334-1582.

Gene L. Schloemer,

Associate District Manager.

Date: September 14, 1987.

[FR Doc. 87-22019 Filed 9-25-87; 8:45 am]

BILLING CODE 4310-GG-M

[ID-050-4410-08-2411]

Meeting; Shoshone District Advisory Council

AGENCY: Bureau of Land Management (BLM); Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda for a meeting of the Shoshone District Advisory Council.

DATE: Tuesday, October 20, 1987.

ADDRESS: BLM District Office, 400 West F Street, Shoshone, Idaho 83352.

FOR FURTHER INFORMATION CONTACT: K. Lynn Bennett, District Manager, Shoshone District Office, P.O. Box 2B, Shoshone, Idaho 83352. Telephone (208) 886-2206 or FTS 554-6110.

SUPPLEMENTARY INFORMATION: The proposed agenda for the meeting includes the following items:

Updates of District Activities

Field Tour of Blaine County Projects

The Shoshone District Advisory Council is established under section 309 of the Federal Land Policy and Management Act of 1976 (Pub. L. 94-579; 43 U.S.C. 1701 *et seq.*) as amended. Operation and administration of the Council will be in accord with the Federal Advisory Committee Act of 1972 (Pub. L. 92-463; 5 U.S.C. Appendix 1) and Department of the Interior regulations, including 43 CFR Part 1784.

The meeting will be open to the public. Anyone may present an oral statement before the Council at 9:00 a.m. or may file a written statement with the Council regarding matters on the agenda. Oral statements will be limited to ten minutes. Anyone wishing to make an oral statement should notify the District Manager by October 19, 1987. Records of the meeting will be available in the Shoshone District Office for public inspection or copying within 30 days after the meeting.

K. Lynn Bennett,

District Manager.

[FR Doc. 87-22247 Filed 9-25-87; 8:45 am]

BILLING CODE 4310-GG-M

[ID-050-07-4322-14]

Shoshone District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management (BLM), Interior.

SUMMARY: This notice sets forth the schedule and proposed agenda for a meeting of the Shoshone District Grazing Advisory Board.

DATE: Monday, October 19, 1987, at 9:00 a.m.

ADDRESS: BLM District Office, 400 West F Street, Shoshone, Idaho 83352.

FOR FURTHER INFORMATION CONTACT: K Lynn Bennett, District Manager, Shoshone District Office, P.O. Box 2B, Shoshone, Idaho 83352. Telephone (208) 886-2206 or FTS 554-6110.

SUPPLEMENTARY INFORMATION: The proposed agenda for the meeting includes the following items: (1) Review of proposed range betterment projects (8100) and (2) update on district activities.

Operation and administration of the Board will be in accord with the Federal Advisory Committee Act of 1972 (Pub. L. 92-463; 5 U.S.C. Appendix 1) and Department of Interior regulations, including 43 CFR Part 1984

The meeting will be open to the public. Anyone may present an oral statement between 10:00 and 11:00 a.m. or may file a written statement regarding matters on the agenda. Oral statements will be limited to ten minutes. Anyone wishing to make an oral statement should notify the Shoshone District by October 16, 1987. Records of the meeting will be available in the Shoshone District Office for public inspection or copying within 30 days after the meeting.

K Lynn Bennett,

District Manager.

[FR Doc. 87-22246 Filed 9-25-87; 8:45 am]

BILLING CODE 4310-GG-M

[OR-020-07-4410-08: GP7-290]

Intent To Prepare a Resource Management Plan for the Drewsey and Riley Planning Units of the Burns District, OR

AGENCY: Bureau of Land Management, Interior.

ACTION: Opportunity for public comment; notice of intent to prepare a Resource Management Plan (RMP).

SUMMARY: In accordance with 43 CFR 1601.3-1, notice is hereby given that the Bureau of Land Management, Burns District, Oregon intends to prepare a Resource Management Plan for the Drewsey and Riley Planning Units. The RMP includes the 1.1 million acres in the Riley Planning Unit, 0.7 million acres in the Drewsey Planning Unit. The subject area is located in portions of Harney, Lake and Malheur Counties.

The purpose of the RMP is to update land use planning decisions to be consistent with current conditions and trends, as required by the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1701).

DATES: Comments are due by November 2, 1987.

FOR FURTHER INFORMATION CONTACT: Joshua L. Warburton, District Manager, Burns District Office, 74 South Alvord, Burns, Oregon 97720 (Telephone 503-573-5241).

SUPPLEMENTARY INFORMATION: Issues proposed to be included in the RMP include: (1) Livestock grazing management; (2) land tenure adjustment; (3) wildlife forage demands and habitat condition; (4) fire management; and (5) special management areas (including consideration of areas of critical environmental concern).

Resource management programs to be represented on the interdisciplinary team preparing the RMP and Environmental Impact Statement (EIS) include: Wildlife, wild horses, recreation, wilderness, cultural, watershed, minerals, lands and realty, range, botanical, threatened and endangered plants and animals, fire management, and land use planning.

More detailed information on planning criteria, issues and preliminary management alternatives is available at the Burns District Office and has also been mailed to known interested individuals and parties. The comment period on preliminary issues and planning criteria for the RMP and associated EIS will close November 2. Other public participation activities will include a 90-day review of the draft RMP/EIS and an open house or public meeting to receive comments and answer questions. Dates, times and location will be announced through local media and mailing to interested parties. Planning documents will be available for inspection at the Burns District Office during normal working hours.

Dated: September 8, 1987.

Donald R. Cain,

Burns Associate District Manager.

[FR Doc. 87-22253 Filed 9-25-87; 8:45 am]

BILLING CODE 4310-33-M

[AA-630-07-4113-02]

Information Collection Submitted for OMB Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20505, 202-395-7340.

Title: 43 CFR Part 3260, Geothermal Resources Operations

Abstract: Data submitted by geothermal lessees and operators issued for agency approval of specific and/or additional operations on a well and to report the completion and/or progress of such additional work

Bureau Form Numbers: 3260-1, 3260-2, 3260-3, 3260-4, 3260-5

Frequency: Nonrecurring, on occasion, and monthly

Description of Respondents: Lessees and operators of Federal geothermal leases and Indian geothermal contracts subject to BLM oversight

Annual Responses: 835

Annual Burden Hours: 1,775

Bureau Clearance Officer: Rick Iovaine 202-653-8853.

Date: September 22, 1987.

Robert H. Lawton,

Assistant Director, Energy and Mineral Resources.

[FR Doc. 87-22279 Filed 9-25-87; 8:45 am]

BILLING CODE 4310-84-M

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone

number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone 202-395-7340.

Title: Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan

Abstract: Sections 507(b), 508(a) and 516(b) of Pub. L. 95-87 require applicants for underground mine permits to provide a description of each existing structure proposed to be used in the mining and reclamation operation and a compliance plan for structures proposed to be modified or constructed for use in the operation. This information is used by the regulatory authority in determining if the applicant can comply with the applicable performance and environmental standards

Bureau Form Number: None

Frequency: On occasion

Description of Respondents: Underground coal mining operators

Annual Responses: 500

Annual Burden Hours: 178,604

Bureau clearance officer: Darlene Grose-Boyd (202) 343-5447

Date: August 21, 1987.

Donald Hinderliter,

Acting, Assistant Director for Budget and Administration.

[FR Doc. 87-22239 Filed 9-25-87; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF JUSTICE

[Civil Action No. 85-4475]

Pollution Control; Consent Decree in Action to Enjoin Discharge of Water Pollutants; Alberts Plating Works, Inc.

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a consent decree in *United States* v. *Alberts Plating Works, Inc.*, Civil Action No. 85-4475, was lodged with the United States District Court for the Eastern District of New York on August 20, 1987. The consent decree establishes a compliance program for two New York plants owned and operated by Albert Plating Works, Inc. to bring the plants into compliance with the Clean Water Act, 33 U.S.C. 1251 *et seq.*, and the applicable pretreatment regulations relating to the discharge of pollutants and requires payment of a civil penalty of $37,500.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530 and should refer to *United States* v. *Alberts Plating Works, Inc.*, D.J. Ref. No. 90-5-1-1-2472.

The consent decree may be examined at the office of the United States Attorney, Eastern District of New York, U.S. Courthouse, 225 Cadman Plaza East, Brooklyn, New York 11201; at the Region II office of the Environmental Protection Agency, 27 Federal Plaza, New York, New York 10278; and the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.60 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87-22240 Filed 9-25-87; 8:45 am]

BILLING CODE 4410-01-M

[Civil Action No. 87-3398]

Pollution Control; Consent Decree in Action to Enjoin Discharge of Water Pollutants; Allan Finishing Corp.

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a consent decree in *United States v. Allan Finishing Corp.*, Civil Action No. 87-3398, was lodged with the United States District Court for the District of New Jersey on August 13, 1987. The consent decree establishes a compliance program for the New Jersey plant owned and operated by Allan Finishing Corp. to bring the plant into compliance with the Clean Water Act, 33 U.S.C. 1251 *et seq.*, and the applicable pretreatment regulations relating to the discharge of pollutants and requires payment of a civil penalty of $60,483.

The Department of Justice will rceive for thirty (30) days from the date of publication of this notice, written comments relating to the consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530 and should refer to *United States v. Allan Finishing Corp.*, D.J. Ref. No. 90-5-1-1-2538.

The consent decree may be examined at the office of the United States Attorney, District of New Jersey, 502 Federal Bldg., 970 Broad St., Newark, NJ. 07102; at the Region II office of the Environmental Protection Agency, 27 Federal Plaza, New York 10278; and the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.80 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

August 6, 1987.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87-22241 Filed 9-25-87; 8:45 am]

BILLING CODE 4410-01-M

[Civil Action No. 86-0675]

Pollution Control; Consent Decree in Action to Enjoin Discharge of Water Pollutants; Continental Connector Corp.

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a consent decree in *United States* v. *Continental Connector Corp.*, Civil Action No. 86-0675, was lodged with the United States District Court for the Eastern District of New York on August 28, 1987. The consent decree establishes a compliance program for the New York plant owned and operated by Continental Connector Corp. to bring the plant into compliance with the Clean Water Act, 33 U.S.C. 1251 *et seq.*, and the applicable pretreatment regulations relating to the discharge of pollutants and requires payment of a civil penalty of $51,000.00.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530 and should refer to *United States* v. *Continental Connector Corp.*, D.J. Ref. No. 90-5-1-1-2539.

The consent decree may be examined at the office of the United States Attorney, Eastern District of New York, U.S. Courthouse, 225 Cadman Plaza East, Brooklyn, New York 11201; at the Region II office of the Environmental Protection Agency, 27 Federal Plaza, New York, New York 10278; and the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.60 (10 cents per page

reproduction charge)— payable to the Treasurer of the United States.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 87-22242 Filed 9-25-87; 8:45 am]

BILLING CODE 4410-01-M

[Civil Action No. 87-649-B]

Lodging of Consent Decree Pursuant to the Clean Air Act; Natural Gas Pipeline Co. of America

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on September 11, 1987, a proposed consent decree in *United States of America v. Natural Gas Pipeline Company of America.*, Civil Action No. 87-649-B, was lodged with the United States District Court for the Southern District of Iowa.

The proposed consent decree resolves a judicial enforcement action brought by the United States against Natural Gas Pipeline Company of America ("NGPL") for violations of the Clean Air Act. The complaint filed by the United States alleged that the defendant violated the National Emission Standard for Hazardous Air Pollutants (NESHAP) for asbestos during demolition and renovation activities that took place at defendant's facility in Harper, Iowa.

The proposed consent decree enjoins NGPL from violating the asbestos NESHAP in the future. The proposed consent decree also requires NGPL to pay a civil penalty of $24,500 to the United States Treasury.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Natural Gas Pipeline Company of America.*, D.J. Ref. 90-5-2-1-1079.

The proposed consent decree may be examined at the office of the United States Attorney, Southern District of Iowa, 115 U.S. Courthouse, Des Moines Iowa 50309, and at the Region VII office of the Environmental Protection Agency, Office of Regional Counsel, Attention: Henry Rompage, 726 Minnesota Avenue, Kansas City, Kansas 66101. A copy of the proposed consent decree may also be examined at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 1521, Ninth Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land & Natural Resources Division, Department of Justice.

Roger J. Marzulla,

Acting Assistant Attorney General, Land and Natural Resources Division, U.S. Department of Justice, 10th and Pennsylvania NW., Washington, DC 20530.

[FR Doc. 87-22243 Filed 9-25-87; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree Pollution Control; Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act; Derby, CT

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a consent decree in *United States v. City of Derby, Connecticut,* Civil Action No. N-86-67 (EBB), was lodged with the United States District Court for the District of Connecticut on September 17, 1987. The Decree requires payment of $200,000 in four annual installments, plus interest at 7% per annum on the remaining balance, in satisfaction of the claims for recovery of response costs pursuant to section 107 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9607, and a civil penalty pursuant to section 3008 of the Resource Conservation and Recovery Act, 42 U.S.C. 6928.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530 and should refer to *United States v. City of Derby, Connecticut,* D.J. Ref. No. 90-11-3-109.

The consent decree may be examined at the office of the United States Attorney, District of Connecticut, U.S. Courthouse, 141 Church Street, New Haven, Connecticut 06510; at the Region I office of the Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Massachusetts 02203; and the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.30 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

Roger J. Marzulla,

Acting Assistant Attorney General Land and Natural Resources Division.

[FR Doc. 87-22298 Filed 9-25-87; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Importation of Controlled Substances, Registration of Sigma Chemical Co.

By Notice dated July 23, 1987, and published in the **Federal Register** on July 29, 1987; (52 FR 28361), Sigma Chemical Company, 3500 Dekalb Street, St. Louis, Missouri 63178, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Methadone (9250)	II
Pethidine (meperidine) (9230)	II

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as an importer of the basic classes of controlled substances listed above is granted.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

Dated: September 22, 1987.

[FR Doc. 87-22295 Filed 9-25-87; 8:45 am]

BILLING CODE 4410-09-M

Importation of Controlled Substances; Registration of Mallinckrodt, Inc.

By Notice dated March 26, 1987, and published in the **Federal Register** on April 3, 1987; (52 FR 10824), Mallinckrodt, Inc., Department C.B., Mallinckrodt and Second Streets, St. Louis, Missouri 63147, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Raw opium (9600)	II
Opium plant form (9650)	II
Concentrate of poppy straw (9670)	II

No comments or objections have been received. Therefore, pursuant to Section 1008 (a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations 1311.42, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Gene R. Haislip,

Deputy Assistant Administrator Office of Diversion Control Drug Enforcement Administration.

Dated: September 22, 1987.

[FR Doc. 87-22296 Filed 9-25-87; 8:45 am]

BILLING CODE 4410-09-M

Application, Importation of Controlled Substances; Diagnostic Products Corp.

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(h)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on August 13, 1987, Diagnostic Products Corporation, 5700 West 96th Street, Los Angeles, California 90045, made application to the Drug Enforcement Administration to be registered as an importer of a urine-based tri-level control preparation containing the basic classes of controlled substances listed below:

Drug	Schedule
Methaqualone (2565)	I
Tetrahydrocannabinols (7370)	I
Amphetamine, its salts, optical isomers, and salts of its optical isomers (1100).	II
Secobarbital (2315)	II
Phencyclidine (7471)	II
Codeine (9050)	II
Benzoylecgonine (9180)	II
Methadone (9250)	II
Morphine (9300)	II

As to the basic classes of controlled substances listed above for which application for registration has been made, any other applicant therefore, and any existing bulk manufacturer registered therefore, may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, DC 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than October 28, 1987.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745-43746 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I and II are and will continue to be required to demonstrate to the Deputy Assistant Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e), and (f) are satisfied.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

Dated: September 22, 1987.

[FR Doc. 87-22294 Filed 9-25-87; 8:45am]

BILLING CODE 4410-09-M

[Docket No. 86-49]

Revocation of Registration, Denial of Application; Thomas Parker Elliott, D.O.

On May 13, 1986, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), directed an Order to Show Cause to Thomas Parker Elliott, D.O. (Respondent) of 2133 West Bay Drive, Largo, Florida 33540. The Order to Show Cause sought to revoke DEA Certificate of Registration AE7940441 and to deny any pending applications for renewal of such registration under 21 U.S.C. 823(f) and 824(a). The statutory predicate for the proposed revocation and denial was that the registration of Respondent would be inconsistent with the public interest as defined in 21 U.S.C. 823(f) and as evidenced by, but not limited to, the following: (1) During the period from July 13, 1979, to September 7, 1984, Dr. Elliott issued to ten individuals at least 1,380 prescriptions, primarily for Schedule II narcotic controlled substances, which prescriptions were not issued for a legitimate medical purpose in the usual course of his professional practice as an osteopathic physician; and (2) on July 22, 1985, Respondent entered a plea of nolo contendere to an information charging him with delivery of a controlled substance in violation of the Florida Comprehensive Drug Abuse Prevention and Control Act and, on September 18, 1985, in the Circuit Court of Pinellas County, Florida, he was placed on probation for a period of three years. The crimes with which he was charged were felony offenses relating to controlled substances. Although the court withheld adjudication, such withholding of adjudication on these charges constitutes a final judgment of the trial court, subject to review, and is a conviction within the meaning and intent of 21 U.S.C. 824(a)(2). See *United States* v. *Hartsfield*, 387 F. Supp. 16 USDC M.D. Fla. 1975); *United States* v. *Cook*, 10 M.J. 138 (U.S. Mil. App. 1981); *Matter of Stephen Granet Rosen, D.D.S.*, DEA Docket No. 84-44, 50 FR 46844 (1985).

In a letter dated June 11, 1986, Respondent, proceeding through counsel, requested a hearing on the issues raised in the Order to Show Cause. The matter was placed on the docket of Administrative Law Judge Francis L. Young. Following prehearing procedures, a hearing was held in Tampa, Florida, on November 5, 1986. On March 30, 1987 Judge Young issued his Opinion and recommended Ruling, Findings of Fact, Conclusions of Law and Decision. No exceptions were filed and on June 29, 1987, the Administrative Law Judge transmitted the record to the Administrator. The Administrator has considered the record in its entirety and, pursuant to 21 CFR 1316.67, hereby issues his final order in this matter based upon findings of fact and conclusions of law as hereinafter set forth.

The Administrative Law Judge found that Respondent is an osteopathic physician who came to the attention of the Pinellas County, Florida, Sheriff's Office in April 1982 in connection with an investigation of some of Respondent's prescriptions which were determined to have been forged. In August 1983, the Sheriff's Office received complaints from pharmacies concerning what certain pharmacists felt were an overabundance of Respondent's prescriptions for Schedule II controlled substances. Subsequent investigation did reveal an unusually large number of prescriptions for Schedule II substances written by Respondent. Schedule II prescriptions written by Dr. Elliott were found at approximately 60% of the 270

pharmacies investigated in Pinellas County.

A detective for the Pinellas County Sheriff's Office interviewed an individual who had been arrested in 1984 for trafficking in Schedule II opiates and who was attempting to negotiate a plea agreement. This individual stated that when he wanted Dilaudid on his frequent visits to Pinellas County, he sought out Respondent, since Respondent was known to him as "the man to see in the County when one wanted to obtain Dilaudid." In July 1984, the investigators took prescription profiles and other information about some of Respondent's patients to two highly-respected osteopathic physicians in the area. The doctors examined the prescriptions and the profiles and stated that, on the face of the prescriptions, they appeared to be excessive for an osteopathic physician practicing medicine in good faith in Pinellas County. The doctors stated that the Schedule II analgesics prescribed by Respondent were highly addictive and should only be used in the treatment of terminal cancer patients or chronic acute pain patients. However, they were unable to formulate a definite opinion without first seeing the related medical records for the patients.

The medical records of Dr. Elliott's patients were then obtained pursuant to a search warrant. After examining the records, the two physicians opined that, while all 23 of the patients were being overprescribed, 10 of them, in particular, would not fit into the category of being terminally ill or experiencing chronic pain. With respect to those 10 patients, the doctors concluded that Dr. Elliott was not practicing medicine in good faith in the course of professional practice. In the opinion of a third osteopathic physician, all 23 had been illegally overprescribed.

The investigators prepared profiles for 10 of the Respondent's patients, listing not only the prescriptions found by investigators at local pharmacies, but also the information as to prescriptions written according to Respondent's own office records. The entries on this profile list prescriptions written by Dr. Elliott from July 13, 1979, to September 7, 1984. They list a total of 1,385 prescriptions, primarily for Schedule II controlled substances, written by the Respondent for the 10 named individuals over that period. One of the patients received a total of 474 prescriptions: 243 for Percodan, 198 for Dilaudid and 10 for Tyloz, all Schedule II narcotics; 17 for Tuinal, a Schedule II barbiturate sedative; and 6 for Desoxyn, a Schedule II stimulant containing methamphetamine. Although Dr. Elliott testified that he began prescribing Desoxyn on March 2, 1984, for the treatment of this patient's narcolepsy (a predisposition to excessive sleepiness), just one month earlier, on February 2, 1984, Respondent had prescribed Tuinal, a sedative, for this same patient. Throughout the period during which he was receiving Desoxyn for his "narcolepsy," this patient was also receiving prescriptions from Respondent for Percodan and Tylox, both of which have a sedative effect.

On February 8, 1985, Respondent was arrested. He was charged in a Florida State Court with 10 counts of unlawful prescribing, one count for each of the 10 persons mentioned above. Dr. Elliott entered a plea of nolo contendere to one of the 10 counts.

On August 20, 1985, pursuant to a Florida procedure, adjudication was withheld and the Respondent was placed on probation for three years. The offense charged in the count to which the Respondent pled is a second degree felony carrying a 15-year maximum penalty. The conditions of probation imposed by the court prohibit Respondent from prescribing any Schedule II drug. That order was dated August 20, 1985, and was filed on September 18, 1985.

On July 17, 1986, Dr. Elliott executed an application for renewal of his DEA registration. On that application, he applied for continued authorization to handle Schedule II narcotic and non-narcotic substances, as well as those in other schedules, without revealing the restrictive condition of his court probation.

The Administrative Law Judge concluded that there is a lawful, statutory basis for the revocation of Dr. Elliott's DEA registration pursuant to 21 U.S.C. 824(a)(2). He has been convicted of a controlled substance-related felony in a Florida State court. The court's order withholding adjudication of guilt and placing defendant on probation constitutes such a conviction. *Stephen Granet Rosen, D.D.S.* Docket No. 84-44, 50 FR 46844 (1985); *Delaney v. State*, 190 So. 2d 579 (Fla. 1966); *United States v. Hartsfield*, 387 F. Supp. 16 USDC, (M.D. Fla., 1975). A conviction entered following a plea of nolo contendere is no less a conviction. *Sokoloff v. Saxbe*, 501 F.2d 571 (2nd Cir. 1974); *Noell v. Bensinger*, 586 F.2d 544 (5th Cir. 1978).

Judge Young concluded that Respondent's experience in the handling controlled substances clearly warrants finding that his continued registration is inconsistent with the public interest. Respondent prescribed enormous quantities of highly addictive drugs to 10 individuals over a period of several years. Such prescribing of these substances can be justified medically only in cases of terminal illness, such as cancer, or for chronic, severe and incapacitating pain. No such justifying circumstances existed in cases of the 10 patients discussed in Respondent's testimony at the hearing. Respondent's prescribing was not done in good faith and in accordance with competent medical practices in the osteopathic field, according to three reputable osteopathic physicians practicing in the same area as Respondent.

The Administrative Law Judge recommended that Respondent's DEA registration be revoked and any pending applications for registration denied. The Administrator adopts the Recommended Ruling, Findings of Fact, Conclusions of Law and Decision of the Administrative Law Judge in its entirety. Dr. Elliott's prescribing practices have been highly irresponsible. A doctor showing the degree of irresponsibility in dispensing controlled substances found in this record cannot be entrusted with a DEA registration. Respondent's retaining his registration would be wholly inconsistent with the public interest.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100 (b), hereby orders that DEA Certificate of Registration AE7940441, previously issued to Thomas Parker Elliott, D.O. be, and it hereby is, revoked. The Administrator further orders that any pending applications for registration be, and they hereby are, denied. This order is effective October 28, 1987.

John C. Lawn,

Administrator.

Date: September 22, 1987.

[FR Doc. 87-22293 Filed 9-25-87; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances, Registration; Western Fher Laboratories, Inc.

By Notice dated April 21, 1987, and published in the **Federal Register** on April 27, 1987; (52 FR 13883), Western Fher Laboratories, Inc., Carretera 132, KM 25.3, P.O. Box 7468, Ponce, Puerto Rico 00732, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of Phenmetrazine and its salts (1631), a basic class of controlled substance listed in Schedule II.

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and Title 21, Code of Federal Regulations, § 1301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic class of controlled substance listed above is granted.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

Dated: September 22, 1987.

[FR Doc. 87-22297 Filed 9-25-87; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget

Background

The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review

As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and questions

Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue NW, Room N-1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS). Office of Management and Budget, Room 3208, Washington, DC 20503 (Telephone (202) 395-6880).

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Extension

Employment and Training Administration

Statement of Selected Workloads and Expenditures of Federal Funds for Unemployment Compensation for Federal Employees and Unemployment Compensation for Ex-servicepersons
1205-0162; ETA 191
Quarterly
State or local governments
53 respondents; 1,272 burden hours; 1 form.

Federal agencies must reimburse the Federal Employees Compensation Account for the amount expended for benefits to former Federal employees (UCFE/UCX). The report informs ETA of the amount to bill to each Federal agency as well as specific information on expenditures in the SESAs.

Reinstatement

Occupational Safety and Health Administration

Occupational Exposure to Noise
OSHA 238
1218-0048
Recordkeeping; On Occasion
Business and other for-profit; Federal agencies or employees, small businesses or organizations
311,094 respondents; 5,823,286 burden hours; 1 form.

This standard requires employers to establish and maintain accurate records of employee exposure to noise and audiometric testing performed in compliance with the provisions of the standard. These records are used by the physician, employer, employee and the Government to determine whether occupation-related hearing-loss has occurred, to prevent further deterioration of hearing and to determine the effectiveness of the employer's hearing conservation program.

Signed at Washington, DC, this 23rd day of September, 1987.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 87-22328 Filed 9-25-87; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL COUNCIL ON PUBLIC WORKS IMPROVEMENT

Open Public Meeting

The National Council on Public Works Improvement will hold a meeting open to the public on October 19, 1987, from 1:00 p.m. to 4:00 p.m. in Conference Room 4830 of the U.S. Department of Commerce, Main Entrance at 14th Street between Constitution and Pennsylvania Avenues, Washington, DC. If you are interested in attending this meeting, for security purposes you must contact the Council office at 653-0298, so a list of attendees can be provided to the Commerce Department security personnel.

The Council will meet with Advisory Group members to provide them with a progress report of the Council's work.

The National Council on Public Works Improvement was created by Congress to report to the President and the Congress on the state of the nation's infrastructure.

Nancy S. Rutledge,

Executive Director.

[FR Doc. 87-22256 Filed 9-25-87; 8:45 am]

BILLING CODE 6115-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Plenary Meeting XVI of the President's Committee on the Arts and the Humanities; National Endowment for the Arts

Thursday, October 15, 1987 has been designated by the President's Committee on the Arts and the Humanities for Plenary Meeting XVI. A morning meeting has been scheduled at 9:30 a.m. in the Douglas Dillion Board Room at the Metropolitan Museum of Art in New

York City to discuss the potential effects of the current art market on institutions. The Honorable C. Douglas Dillon will lead the discussion. Panelists are Philippe de Montebello, Eugene Thaw, Hilton Kramer, and John Marion. Activities of the President's Committee will be reviewed and progress reported in an afternoon session from 2:00 p.m. until 3:30 p.m. Reports will be made by Dr. Frank Stanton on the *Liberal Arts and the Corporate Workplace Survey*, Rawleigh Warner on the *New York and the World* secondary education project, Roger Stevens on the *Fund for New American Plays*, Stanley Freehling on the *Invest in the American Collection* conservation forum, Leonard Silverstein and George Gould on tax reform, and Karen Munro on the *Initiative for State Humanities* Councils. Because space is limited, reservations must be made in advance by calling 202-682-5409 or 212-883-7026.

The Committee, charged with exploring ways to increase private support for the arts and the humanities, has generated private funds which augment their operational costs and support projects and programs which have been initiated by the President's Committee.

For further information individuals may call (202) 682-5409.

August 21, 1987.

Yvonne M. Sabine,

Acting Director, Council and Panel Operation, National Endowment For the Arts.

[FR Doc. 87-22238 Filed 9-25-87; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Order To Import Licensees (South African Uranium); Eldow International Co., et al

Pursuant to Commission decision, the public is advised that the Nuclear Regulatory Commission has issued immediately effective orders to all holders of nuclear material import licenses that amend their import licenses to prohibit their use for the import of uranium ore or uranium oxide produced or manufactured in South Africa. The licensees affected are:

Edlow International Co., Docket No. 11002967, License No. ISNM-82020
Transnuclear, Inc., Docket No. 11003111, License No. ISNM-83005
Westinghouse Electric Corp., Docket No. 11002348, License No. ISNM-81001
Edlow International Co., Docket No. 11000168, License No. IU-78019
International Energy Associates Ltd., Docket No. 11003688, License No. ISNM-84012
Separative Work Unit Corp., Docket No. 11002597, License No. ISNM-82016
Braunkohle Transport, USA, Docket No. 11003204, License No. ISNM-83011
Advanced Nuclear Fuels Corp., Docket No. 11003365, License No. ISNM-83025
Phibro-Salomon, Inc., Docket No. 11002933, License No. ISNM-82015
New York Nuclear Corp., Docket No. 11003097, License No. ISNM-83003
Transnuclear, Inc., Docket No. 11002593, License No. ISNM-81017

The generic provisions of the orders follow.

On October 2, 1986, Congress enacted the Comprehensive Anti-Apartheid Act of 1986 (the Act). Section 309 of the Act, which became effective on December 31, 1986, prohibits the import into the United States of (1) uranium ore and (2) uranium oxide that is produced or manufactured in South Africa. Section 303 of the Act prohibits the import of any article which is grown, produced, marketed, or otherwise imported into the United States by a parastatal organization of South Africa.

As an interim step to comply with the statutory deadline of the Act, on December 31, 1986, the Commission promulgated an amendment to 10 CFR Part 110 that required a specific license for all imports of South Africa origin uranium.

On June 12, 1987, the Commission granted a petition for leave to intervene and a hearing request to a number of petitioners who had requested that eight applications to import South African uranium be denied. CLI-87-6, 25 NRC ____, 52 FR 23091 (June 17, 1987). These same petitioners had also requested that proceedings be instituted to revoke eleven existing NRC import licenses to the extent that the existing license authorize the importation of special nuclear material and source material of South African origin. The central issues for these proceedings were the types of South African uranium products which should be barred from import into the United States under the Act.

Following written briefs submitted by the petitioners and other interested parties, in a Decision on September 21, 1987, the Commission held, *inter alia*, that the Act bars the import of all South African and Namibian uranium ore and uranium oxide, but does not bar other forms of uranium such as uranium hexafluoride or uranium ore and uranium oxide that have been substantially transformed into other forms of uranium in countries other than South Africa. CLI-87-9, 26 NRC ____ (1987).

In another Decision on this same date (CLI-87-10, 26 NRC ____ (1987)), the Commission held that the Director, Office of Government Affairs, should review the eleven existing licenses being challenged and promptly issue, effective immediately, orders to amend, suspend, or revoke those licenses, in accord with its Decision in CLI-87-9.

In view of the foregoing, and pursuant to section 53a., 62, 161b., 161i., and 182 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 C.F.R. Part 110, it is hereby ordered effective immediately that:

License No. ISNM82015 is amended by the addition of the following license condition:

No form of uranium produced, manufactured, marketed, or otherwise exported by a parastatal organization of South Africa or Namibia shall be imported into the United States under this license. Uranium ore and uranium oxide produced or manufactured in South Africa or Namibia also shall not be imported into the United States under this license, but uranium hexafluoride or other forms of uranium are not barred from import. Uranium that has been substantially transformed in countries other than South Africa or Namibia is not barred from import into the United States.

The licensee or any other person whose interest is adversely affected by this Order may request a hearing on this Order. Any request for hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, within 30 days of the date of this Order. A copy of the request shall also be sent to the Assistant General Counsel for Enforcement, Office of the General Counsel at the same address. Any request for a hearing shall not stay the immediately effectiveness of this order.

If a hearing is to be held concerning this Order, the Commission will issue an Order designating the time and place of hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order shall be sustained. Persons requesting a hearing should specify with particularity (1) their interest in having a hearing, (2) how that interest may be affected by the results of a hearing, and (3) all issues they seek to raise.

For the Nuclear Regulatory Commission.

Marvin R. Peterson,

Assistant Director for International Security, International Programs, Office of Governmental and Public Affairs.

Dated at Washington, DC, this 23d day of September, 1987.

[FR Doc. 87-22315 Filed 9-25-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-255]

Exemption; Consumers Power Co. (Palisades Plant)

I

The Consumers Power Company (the licensee) is the holder of Provisional Operating License No. DPR-20 which authorizes operation of the Palisades Plant. This license provides, among other things, that it is subject to all rules, regulations and Orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facility comprises one pressurized water reactor at the licensee's site located in Van Buren County, Michigan.

II

10 CFR Part 50, Appendix J, section III.A.6.(b) states:

> If two consecutive periodic Type A tests fail to meet the applicable acceptance criteria in III.A.5.(b), notwithstanding the periodic retest schedule of III.D, a Type A test shall be performed at each plant shutdown for refueling or approximately every 18 months, whichever occurs first, until two consecutive Type A tests meet the acceptance criteria in III.A.5.(b), after which time the retest schedule specified in III.D may be resumed.

Palisades Plant has failed the acceptance criteria for the last three Type A tests because of leakage through containment penetrations. The Type A test is a test of the entire containment building and is normally performed every three to four years, such that three tests are conducted every ten-year period. Containment penetrations are also testable by local leak rate tests (Type B and Type C tests) which are required every refueling outage and at least every two years.

III

By letter dated August 22, 1986, the licensee requested an exemption to the requirements of section III.A.6.(b) proposing an aggressive "Local Leak Rate Testing—Corrective Action Plan" in lieu of more frequent Type A tests. The licensee has stated that the failures of the Type A tests were the result of Type B and C penalty additions to the test results. The NRC staff confirmed this statement by reviewing the test reports and notes that the licensee has proposed and implemented a corrective action program consistent with NRC Office of Inspection and Enforcement Information Notice No. 85-71, issued August 22, 1985. This Information Notice provides guidance to licensees that states in circumstances as described above "* * * the general purpose of maintaining a high degree of containment integrity might be better served through an improved maintenance and testing program for containment penetration boundaries and isolation valves. In this situation, the licensee may submit a Corrective Action Plan with an alternative leakage test program proposal as an exemption request for NRC staff review. If this submittal is approved by the NRC staff, the licensee may implement the corrective action and alternative leakage test program in lieu of the required increase in Type A test frequency incurred after the failure of two successive Type A tests." In addition, the NRC staff notes that the results of the Type A tests, neglecting the addition of the penalties for the penetration leakages determined from the Type B and C tests, do not indicate any deterioration of the containment building and are typical of results of similar containment tests in the industry. Therefore, the NRC staff concludes that the Corrective Action Plan, including an augmented local leak rate test program and trending program, if properly carried out, would more efficiently detect and correct the types of excess leakage that have occurred in the past (i.e., penetration leakage). Further, the staff sees no benefit to be gained by requiring a Type A test at this time since new equipment to correct the problems experienced during the January 1986 Type A test will not be available before June 1, 1988. The staff finds that for these circumstances, the licensee should be granted exemption from the 18-month restriction and further, that if the Type A test performed at the next refueling outage meets the acceptance criteria of Appendix J indicating the success of the Corrective Action Plan, the schedule for Type A tests may revert to that required under Section III.D of Appendix J. The Corrective Action Plan will continue in effect at least until the augmented local leak rate testing program produces consistently satisfactory results.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the requested exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Further, the Commission finds that special circumstances are present in that application of the regulation and in these particular circumstances would not serve the underlying purpose of the rule and is not necessary to achieve the underlying purpose of the rule, in that, as discussed in section III., the proposed alternative better meets the purpose of correcting excess leakage and confirming low leakage on a more frequent test schedule. The exemption provides only temporary relief from the applicable regulation and the licensee has made good faith efforts to comply with the regulation by implementing an alternative program to achieve the underlying purpose of the rule. Therefore, the Commission hereby grants the following exemption from the requirements of section III.A.6.(b) of Appendix J to 10 CFR Part 50:

1. The 18-month limit on the interval between the January 1986 Type A test and the next required Type A test is waived provided that the licensee appropriately implements the Local Leak Rate Testing Corrective Action Plan described in its letter dated August 22, 1986;

2. If the results of the next Type A test meet the acceptance criteria of section III.A.5.(b), the next required test shall be in accordance with the requirements of section III.D.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the environment (52 FR 32979).

A copy of the Commission's concurrently issued Safety Evaluation related to this action is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20555, and at the local public document room located at the Van Zoeren Library, Hope College, Holland, Michigan 49428. A copy may be obtained upon written request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects—III, IV, V and Special Projects.

This exemption is effective upon issuance.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,

Director, Division of Reactor Projects—III, IV, V, and Special Projects.

Dated at Bethesda, Maryland, this 17th day of September, 1987.

[FR Doc. 87-22317 Filed 9-25-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 30-01267, 70-01717; License Nos. 06-06941-01, SNM-1504; EA 87-93]

Order Imposing a Civil Monetary Penalty; Norwalk Hospital

I

Norwalk Hospital (the "licensee") Norwalk, Connecticut 06856, is the holder of Byproduct Material License Nos. 06-06941-01 and SNM-1504 (the "licenses") issued by the Nuclear Regulatory Commission (the "Commission" or "NRC") which authorize the licensee to possess and use radioactive materials for diagnostic and therapeutic medical procedures. The licenses were issued on November 22, 1960, were most recently renewed on May 10, 1983, and are due to expire on June 30, 1988.

II

An NRC safety inspection of the licensee's activities under the licenses was conducted on April 28, 1987. During the inspection, the NRC staff determined that the licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty was served upon the licensee by letter dated June 25, 1987. The Notice stated the nature of the violations, the provisions of the NRC's requirements that the licensee had violated, and the amount of the civil penalty proposed for the violations. The licensee responded to the Notice of Violation and Proposed Imposition of Civil Penalty by letter dated August 7, 1987.

III

After consideration of the licensee's response and the statements of fact, explanation, and argument for mitigation contained therein, the Deputy Executive Director for Regional Operations has determined that the penalty proposed for the violations designated in the Notice of Violation and Proposed Imposition of Civil Penalty should be imposed.

IV

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended (Act), 42 U.S.C. 2282, and 10 CFR 2.205, it is hereby ordered that:

The licensee pay a civil penalty in the amount of Two Thousand Five Hundred Dollars ($2,500) within 30 days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555.

V

The licensee may request a hearing within 30 days of the date of this Order. A request for a hearing shall be clearly marked as a "Request for an Enforcement Hearing" and shall be addressed to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555, with a copy to the Regional Administrator, Region I.

If a hearing is requested, the Commission will issue an Order designating the time and place of the hearing. If the licensee fails to request a hearing within 30 days of the date of this Order, the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether the licensee was in violation of the Commission's requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalty referenced in section II above, and

(b) Whether, on the basis of such violation, this Order should be sustained.

For the Nuclear Regulatory Commission.

James M. Taylor,

Deputy Executive Director for Regional Operations.

Dated at Bethesda, Maryland, this 21st day of September 1987.

Appendix—Evaluations and Conclusions

On June 25, 1987, a Notice of Violation and Proposed Imposition of Civil Penalty (NOV) was issued for violations identified during a routine NRC inspection. Norwalk Hospital responded to the Notice on August 7, 1987. In its response, the licensee does not specifically deny any of the cited violations, but does appear to question the appropriateness of the NRC citing three of the violations. The licensee also requests that the Severity Level be reduced or eliminated. The NRC's evaluation and conclusion regarding the licensee's arguements are as follows:

I. Restatement of Violations

A. 10 CFR 20.201(b) requires that each licensee make such surveys as may be necessary to comply with all sections of Part 20, and are reasonable under the circumstances to evaluate the extent of radiation hazards that may be present. As defined in 10 CFR 20.201(a), "survey" means an evaluation of the radiation hazards incident to the production, use, release, disposal, or presence of radioactive materials or other sources of radiation under a specific set of conditions.

Contrary to the above, a survey was not made to evaluate the extent of radiation hazards incident to waste disposal under 10 CFR 20.301, which describes the authorized means of disposing of licensed material contained in waste. Specifically, on April 28, 1987, a vial containing 125 microcuries of licensed material was disposed in the normal trash, and prior to disposal, a survey was not made to evaluate the presence of radioactive material.

B. 10 CFR 20.203(e)(1) requires that each room in which licensed materials are used or stored and which contain any radioactive materials (other than natural uranium or thorium) in an amount exceeding 10 times the quantity specified in Appendix C of Part 20 shall be conspicuously posted with a sign or signs bearing the radiation caution symbol and the words "Caution Radioactive Material."

Contrary to the above, on April 28, 1987, the brachytherapy storage and mold preparation area contained radioactive material in excess of 10 times the amounts specified in Appendix C of Part 20, namely, a 150 millicurie cesium-137 calibration source and a 900-microcurie strontium-90 calibration source, and the room was not posted with a "Caution Radioactive Material" sign.

C. Condition 17 of License No. 06-06941-01 requires that licensed material be possessed and used in accordance with statements, representations and procedures contained in the license application dated April 12, 1983.

1. Block 10 of this application requires that, prior to using a survey meter, the technologist check the meter to verify that it is operational, including a response check with a source of radioactivity.

Contrary to the above, on April 28, 1987, a technologist using a survey meter did not first verify that the survey meter was operational. Specifically, she did not perform a response check of the meter with a source of radioactivity.

2. Block 10 of this application requires that the dose calibrator be calibrated in accordance with procedures contained in Appendix D, section 2, of Regulatory Guide 10.8.

a. Item A.1 of Appendix D, section 2, requires that the dose calibrator

linearity be determined at installation and quarterly thereafter.

Contrary to the above, the dose calibrator linearity test had not been performed for the 3rd quarter of 1985 and the 2nd quarter of 1986.

b. Item C of Appendix D, section 2, requires that the daily constancy test be performed before each day's use of the instrument.

Contrary to the above, on April 28, 1987, a technologist used the dose calibrator to assay a technetium-99m generator elution for molybdenum content, and the constancy test was not performed until after that assay.

C. Item C of Appendix D, section 2, requires that a comparison be made between the measured dose calibrator output reading and the decay corrected activity and that the percent deviation be recorded.

Contrary to the above, from April 1, 1987 until April 28, 1987, no comparison was made between the measured dose reading and the decay corrected activity and the percent deviation was not calculated and recorded.

3. Block 15 of this application requires that radioactive material be used in accordance with Appendix G of Regulatory Guide 10.8.

a. Item 1 of Appendix G, requires that laboratory coats or other protective clothing be worn at all times in areas where radioactive materials are used.

Contrary to the above, on April 28, 1987, a technologist performed work with radioactive material in the hot lab, and at the time, the technologist did not wear a laboratory coat or other protective clothing.

b. Item 5.b of Appendix G, prohibits the storage of food, drink, or personnel effects in areas where radioactive materials are used or stored.

Contrary to the above, as of April 28, 1987, food was stored in the brachytherapy storage and mold preparation room, a place where radioactive material is used and stored.

c. Item 8 of Appendix G requires that TLD finger badges be work during elution of generators and preparation, assay, and injection of radiopharmaceuticals.

Contrary to the above, on April 28, 1987, a technologist eluted a generator, and prepared and assayed radiopharmaceuticals, without wearing the required TLD finger badge.

4. Block 17 of this application requires that surveys be performed in accordance with the "Area Survey Procedures" in Appendix I of Regulatory Guide 10.8.

a. Item 3 of Appendix I requires that a weekly survey, including wipes, be performed of selected areas and the results of these surveys be documented.

Contrary to the above, between December 1986, and April 1987, wipes of selected areas were only performed on a monthly basis.

b. Item 5 of Appendix I requires that a permanent record be kept of all survey results.

Contrary to the above, daily surveys were conducted but a record was not maintained for November 11, 12, 13, 14, 1986; the week of November 17, 1986; the week of November 24, 1986; December 11, 12, 15, 1986 and for the month of March 1987.

Collectively, these violations have been categorized in the aggregate as a Severity Level III problem (Supplements IV and VI)

Cumulative Civil Penalty—$2,500—assessed equally among the violations.

II. Summary of Licensee Response

The licensee, in its response, does not specifically deny any of the violations. However, the licensee does appear to question the appropriateness of citing Violations C.2.a, C.2.b, and C.2.c. With regard to Violation C.2.a, the licensee argues that the calibrations were performed, but are missing from the records. The licensee also claims that over the five year period since the last inspection, only two quarterly calibrations could not be found. With regard to Violation C.2.b, the licensee argues that the technician did perform a constancy check after the equipment was used, but prior to patient use, and that reviewing prior data indicates constancy checks have been performed on a daily basis. With regard to Violation C.2.c, the licensee states that performing a decay correction from month to month is redundant, since the half life of the radioactive material is 30 years, and that an annual decay correction suffices given the ±5% control limits of the constancy test. While the licensee admits that the tolerance ranges from the March use sheet were not transferred to the April use sheet, it argues that this does not imply that the constancy check was performed improperly but that the technologists, aware that the activity changed imperceptibly, simply applied the March control limit to the April observations.

The licensee also requests that the NRC reduce or eliminate the Severity Level, stating that it is the judgement of its chief physicist and an outside consulting physicist that Severity Level III conditions did not exist.

III. NRC Evaluation of Licensee Response

With respect to the licensee's claims concerning Violation C.2.a, the NRC notes that the license requires linearity tests be performed quarterly with no exceptions. The NRC can not accept the licensee's argument that the calibrations were performed but are missing from the records. The licensee had maintained records of all other linearity tests performed between January 1985, and April 1987, as a regular practice. As documentation was missing only for tests performed for the 3rd quarter of 1985 and 2nd quarter of 1986, the NRC concludes that this lack of documentation indicates that these two tests were not performed. With respect to the licensee's arguments regarding Violation C.2.b, Item C of Appendix D, Section 2 of Regulatory Guide 10.8 requires that the test for constancy be performed before each day of use of the instrument. As the licensee admits that the constancy check was performed after the equipment was used, a violation occurred. With respect to the licensee's arguments regarding Violation C.2.c, the inspectors asked the licensee's physicist if a comparison had been made between the measured value and decay corrected calibrated activity, and were informed that the expected values had not been calculated and documented as required by Appendix D, Section 2 of Regulatory Guide 10.8. Therefore, the NRC concludes that the violation occurred as stated in the Notice of Violation.

With respect to the licensee's request to reduce or eliminate the Severity Level, the licensee provides no basis for its request. The NRC recognizes that each violation, if considered individually, would normally be classified at Severity Level IV. However, the violations, when considered collectively, are appropriately classified as a Severity Level III problem because collectively they demonstrate a lack of management control over the licensee's radiation safety program.

IV. NRC Conclusion

The licensee has not provided an adequate basis for withdrawing any of the violations or for reducing the Severity Level of the violations. The NRC has concluded that the violations collectively represent a breakdown in management control of the radiation safety program, occurred as stated in the Notice of Violation, and were appropriately classified in the aggregate as a Severity Level III problem. Therefore, the NRC concludes that the

proposed civil penalty in the amount of $2,500 should be imposed.

[FR Doc. 87-22318 Filed 9-25-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-267]

Environmental Assessment and Finding of No Significant Impact; Public Service Company of Colorado

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of exemptions from the requirements of Appendix R to 10 CFR Part 50 to the Public Service Company of Colorado (the licensee) for the Fort St. Vrain Nuclear Generating Station located in Weld County, Colorado.

Environmental Assessment

Identification of Proposed Action

The proposed action would grant exemptions from certain requirements of sections III.G and III.J of Appendix R to 10 CFR Part 50, which relate to fire protection features for ensuring that systems and associated circuits used to achieve and maintain safe shutdown are free of fire damage and to the provision of emergency lighting. The exemptions are technical since the licensee must demonstrate that fire protection and emergency lighting configurations meet the specific requirements of section III.G and III.J or that alternate fire protection and emergency lighting configurations can be justified by an acceptable analysis.

The Need for the Proposed Action

The proposed exemptions are needed because the features described in the licensee's request regarding the existing and proposed fire protection at the plant would result in a net benefit to the public health and safety that compensates for any decrease in safety that may result from the granting of this exemption request.

Environmental Impacts of the Proposed Action

The proposed exemptions will provide a degree of fire protection such that there is no increase in the risk of fires at Fort St. Vrain. Consequently, the probability of fires has not been increased and the post-fire radiological releases will not be greater than previously determined nor does the proposed exemption otherwise affect radiological plant effluents. Therefore, the Commission concludes that there are not significant radiological environmental impacts associated with the proposed exemption.

With regard to potential nonradiological impacts, the proposed exemption involves features located entirely within the restricted areas as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed exemption.

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the licensee's letter dated April 1, 1985 (P-85113). The letter is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Greely Public Library, City Complex Building, Greely, Colorado.

Dated at Bethesda, Maryland, this 16th day of September, 1987.

For the Nuclear Regulatory Commission.

Jose A. Calvo,

Director, Project Directorate—IV, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 87-22319 Filed 9-25-87; 8:45 am]

BILLING CODE 7590-01-M

Application for Licenses To Export Nuclear Facilities or Materials; Nissho Iwai and Transnuclear, Inc.

Pursuant to 10 CFR 110.70 (b) "Public notice of receipt of an application" please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses. Copies of the applications are on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, NW., Washington, DC.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register.** Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, the Secretary, U.S. Nuclear Regulatory Commission, and the Executive Secretary, U.S. Department of State, Washington, DC. 20520.

In its review of applications for licenses to export production or utilization facilities, special nuclear materials or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility or material to be exported. The information concerning these applications follow.

NRC EXPORT APPLICATIONS

Name of applicant, date of application, date received, application No.	Material type	Material in kilograms		End use	Country of destination
		Total element	Total isotope		
Nissho Iwai, 9-1-87, 9-11-87, XSNMO1778, Amend. 05	Enriched Uranium.	Add'l 85.560	Add'l 38.500	Add'l fuel for JMTR Research Reactor.	Japan.
Transnuclear, Inc., 9/17/87, 9/17/87, XSNMO2353	Enriched Uranium.	38.095	35.543	Fuel for HFR-Petten Research Reactor.	The Netherlands.

For the Nuclear Regulatory Commission.

Marvin R. Peterson,

Assistant Director for International Security, Office of Governmental and Public Affairs.

Dated this 22d day of September 1987, at Bethesda, Maryland.

[FR Doc. 87-22316 Filed 9-25-87; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-15995; 812-6656]

Greater Washington Investors, Inc. Application;

September 21, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("the 1940 Act").

Applicant: Greater Washington Investors, Inc. ("GWI").

Relevant 1940 Act Sections: Exemption requested under sections 6(c) and 57(c) from the provisions of sections 12(d), 17(a), 18(a), 19(b), 57(a)(1), (2), and (3), 60 and 61 and under section 17(d) and Rule 17d-1, approving certain transactions.

Summary of Application: Applicants seek an order to permit the establishment and operation of a wholly-owned subsidiary under the terms of the proposed reorganization in which Applicant will transfer assets, including its small business investment company license, in exchange for all of the common stock of the subsidiary.

Filing Date: The application was filed on March 19, 1987 and amended on June 17, August 14, 1987, and September 9, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on October 13, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also sent it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicant, 5454 Wisconsin Avenue, Chevy Chase, Maryland 20815.

FOR FURTHER INFORMATION CONTACT: Fran Pollack, Staff Attorney (202 272-3024 or Karen L. Skidmore, Special Counsel (202) 272-3023 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier, (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. GWI is a corporation which was organized under the laws of the District of Columbia on August 26, 1959. GWI is a closed-end, non-diversified, management investment company and is registered with the SEC under section 8(b) of the 1940 Act. GWI is also licensed by the Small Business Administration ("SBA") as a small business investment company ("SBIC") under the Small Business Investment Act of 1958 (the "1958 Act"). GWI has elected to be regulated as a business development company under the 1940 Act by filing a notification of election with the SEC.

2. GWI operates as a "venture capital" company, principally furnishing capital to industry, financing promotional enterprises, and purchasing securities of issuers for which no ready market is in existence. GWI also makes available significant managerial assistance to the issuers of such securities. GWI seeks to change its structure and operations to enable it to: (1) Make investments that would not be permitted under the 1958 Act, and (2) increase its ability to obtain funds for investment in its business ventures.

3. Under a proposed plan of reorganization, GWI intends to transfer certain of its assets (initially approximately twenty-five percent), including its license to operate as an SBIC, to a newly formed and wholly-owned subsidiary, Greater Washington Investments, Inc. ("Investments"). In return, Investments would assume certain indebtedness of GWI to the SBA, and would issue to GWI all of its outstanding capital stock. After the transfer of assets and liabilities, Investments would carry on the SBIC activities previously conducted by GWI while GWI would engage in a broader range of investment activities. Investments would operate as an SBIC and as a registered investment company. GWI will contiue to operate as a business development company.

4. GWI presently contemplates that it may from time to time make additional investments in Investments either as contributions to capital, purchases of additional stock or loans following GWI's initial contribution. It is not contemplated that Investments would purchase or otherwise acquire any of the capital stock of GWI. In addition, Investments would from time to time pay dividends and make other distributions to GWI with respect to its investments in Investments's stock, including capital gains dividends subject in each case to the requirements of the 1958 Act and regulations thereunder. GWI intends to cause Investments to qualify and elect to be taxed as a regulated investment company and accordingly, Investments would be required to pay out as dividends substantially all of its so-called "investment company taxable income." GWI intends to continue to qualify and elect to be taxed itself as a "regulated investment company" and accordingly, would be required to pay out as dividends substantially all of its so-called "investment company taxable income." Investments may also from time to time make loans or other advances to GWI other than on account of purchases of Investments' stock. GWI and Investments might also from time to time invest in securities of the same issuer, simultaneously or sequentially, in the same or different securities of such issuer, and deal with such investments separately or jointly. GWI or Investments might also from time to time purchase all or a portion of portfolio investments held by the other in order to enhance the liquidity of the selling company.

5. GWI's proposed reorganization could be deemed to violate a number of the provisions of the 1940 Act if the requested exemptions are not granted. The proposed transaction may be prohibited by sections 12(d)(1)(A) and 12(d)(1)(C). As a business development company, the provisions of section 12 would apply to GWI through section 60. Under the proposed reorganization, GWI, a business development company, will acquire all of the capital stock of Investments, a closed-end investment company, thereby potentially violating both sections 12(d)(1) (A) and (C). In addition, in the future GWI may make loans or advances to Investments, and Investments may make loans or advances to GWI. Those transactions also might be considered acquisitions of securities prohibited by sections 12(d) and 60.

6. Section 17(a) may prohibit the proposed transaction because GWI will be an affiliated person of Investments and Investments will be affiliated person of GWI (as defined in sections

2(a)(3) of the 1940 Act). As a business development company, the substantially identical provisions of section 57(a) of the 1940 Act would apply to GWI. Portfolio companies of GWI Investments may also be affiliated persons of GWI or Investments by reason of ownership of five percent or more of such portfolio company's voting securities. Accordingly, any exchange of securities between GWI and Investments, and between either or both of them and their portfolio companies, could constitute an affiliated transaction prohibited by sections 17(a) and 57(a) of the 1940 Act.

7. Section 17(d) of the 1940 Act and Rule 17d-1(a) may prohibit transactions whereby GWI and Investments invest in securities of the same issuer and deal with such investments separately or jointly. As a business development company, the substantially identical provisions of section 57(a)(1), (2) and (3) of the 1940 Act would apply to GWI. As noted above, GWI and Investments would each be affiliated persons of the other. Therefore, investments by both in portfolio companies of either in which the other is or is proposed to beome an investor may be prohibited by section 17(d), Rule 17d-1 and section 57(a) of the 1940 Act.

8. GWI has also requested relief from those provisions of the Act governing capital structure. The proposed transaction will not meet the asset coverage requirements of section 18 of the 1940 Act. However, section 18(k) provides special exemptions from these provisions for SBIC's. In addition, for companies which have elected to be regulated as business development companies, the asset coverage requirement is reduced to 200 percent for all senior securities. As it currently is organized, GWI is entitled to the 18(k) exclusion for its SBA-guaranteed debentures, SBA-guaranteed debt being excluded from the asset coverage requirements. Following the proposed reorganization, Investments, as an SBIC, would be entitled to the section 18(k) exclusion and thus would not need any asset coverage for its SBA-guaranteed debentures. However, GWI, since it would no longer be an SBIC, would be subject to the asset coverage requirements of section 18(a) (as modified by section 61(a)), without the benefit of the 18(k) exclusion, with respect to senior securities it directly issued, as well as the senior securities issued by Investments, its wholly-owned subsidiary, of which GWI would be deemed to be the indirect issuer. Therefore, GWI is seeking an exemption for both itself and Investments to permit the issuance of senior securities only to the following extent: (1) GWI and Investments could issue and sell to banks, insurance companies and other financial institutions their secured or unsecured promissory notes or other evidences of indebtedness in consideration of any loan, or any extension or renewal thereof made by private arrangement, provided that: (a) Such notes or evidences of indebtedness were not intended to be publicly distributed, (b) such notes or evidences of indebtedness could not be convertible into, exchangeable for or accompanied by any options to acquire any equity security (except that with respect to GWI, these restrictions shall not be applicable except to the extent they are applicable generally to business development companies), and (c) immediately after the sale or issuance of such notes or evidences of indebtedness, GWI and Investments on a consolidated basis and individually would have 200 percent asset coverage, except that any SBA-guaranteed debenture would not be considered senior securities requiring asset coverage; and (2) in addition, (a) Investments may obtain financing through the issuance of SBA-guaranteed debentures on such basis and in such amount as the SBA might from time to time permit for SBIC's; (b) Investments may borrow from GWI and vice-versa, and such borrowings would not be considered senior securities requiring asset coverage; and (c) GWI may guarantee any borrowing of Investments without the guarantee being considered a senior security requiring asset coverage.

9. It is contemplated that Investments will pay dividends and other distributions on a regular basis of long-term capital gains which may violate section 19(b) and Rule 19b-1. Permitting distributions by Investments to GWI more often than once a year will permit GWI to more efficiently manage its internal cash flow which could result in administrative savings.

Applicant's Legal Conclusions

1. Rule 60a-1 under the 1940 Act would permit GWI to acquire the securities of Investments which is operated as a wholly-owned subsidiary of the business development company.

2. If GWI were to continue to operate as one company, transactions with portfolio affiliates whether controlled or not controlled would be permissible without Commission approval by virtue of section 57(a) of the 1940 Act and Rule 57b-1 thereunder. Moreover, transactions between business development companies or investment companies and their downstream affiliates are exempt from the prohibitions of sections 57(a), 17(a), and 17(d) of the 1940 Act by virtue of Rules 17a-6 and 57b-1. Therefore, Investments should be permitted to invest in downstream affiliates of GWI and vice versa. It is the intent of this request only to permit GWI and Investments to carry on their businesses as otherwise permitted by the 1940 Act, if GWI and Investments were a single company.

3. If GWI and Investments were one combined company, Rule 17d-1(d)(5) under the 1940 Act would exempt transactions under section 17(d) of the 1940 Act and Rule 17d-1 between them and their downstream affiliates and if they were one combined business development company such transactions would be exempted by Rule 57b-1 of the 1940 Act. It is reasonable and fair to exempt GWI and Investments from the provisions of section 17(d) of the 1940 Act and Rule 17d-1 thereunder to the extent that GWI would not be subject to such provisions had it remained a single company.

4. With respect to the exemptions from sections 17 (a) and (d) and 57(a) (1), (2), and (3), since Investments will be a wholly-owned subsidiary of GWI and since no officers or directors of either Investments or GWI or any controlling persons of other "upstream affiliates" of GWI will have any prohibited financial interest in the transactions described, there can be no overreaching on the part of any person and no harm to the public interest will occur in transactions solely between GWI and Investments.

5. With respect to the section 18(a) exemption, the net effect of application of the "asset coverage" requirements on a consolidated basis as to GWI and Investments following the reorganization, if relief is not obtained, could be to restrict the ability of Investment to obtain financing through the issuance of SBA-guaranteed debentures from that which would be available to GWI if the proposed reorganization were not affected. Accordingly, no harm to the public interest will occur if the section 18(a) exemption is obtained.

6. Since the section 19(b) exemption relates solely to dividends from Investment to GWI, it is patently an internal matter and does not affect the public interest.

7. The issuance of the exemptive order requested is clearly within the authority of the Commission under sections 6(c) and 57(c). If the requested exemptive order is granted, GWI will be able to achieve several goals that would be both beneficial to its shareholders and in the public interest. The proposed

reorganization is intended to permit GWI to engage in an expanded scope of operations, beyond that permitted to be engaged in by an SBIC while at the same time retaining its SBIC operations and the benefits available to its shareholders through the SBIC program. The formation of the wholly-owned subsidiary to operate as an SBIC would be in the best interests of the shareholders of GWI. The proposed reorganization also would be consistent with the congressional intent and the policies underlying the 1940 Act and the Small Business Incentive Act of 1980 (the "1980 Act"). The exemptions requested herein coincide with the principle purpose of the 1940 Act, as amended by the 1980 Act, to remove regulatory burdens on venture capital companies while assuring adequate protection of the interests of investors in such companies.

8. The position of GWI's shareholders basically will be unchanged except that their interest in the SBIC subsidiary will be indirect. Since Investments will be a wholly-owned subsidiary of GWI and since, in all material respects, its shareholders will have the same rights with respect to Investments that they currently have with respect to GWI, the shareholders of GWI will retain substantially all of GWI while gaining the opportunity to share in GWI's successes as a business development company not limited to SBIC investments.

Applicant's Conditions

If the requested order is granted, the Applicant agrees to be subject to the following conditions:

1. GWI will at all times own and hold beneficially and of record all of the outstanding capital stock of Investments; Investments will at all times be wholly owned by GWI and will therefore never have public shareholders.

2. Investments will not change any of its fundamental investment policies or engage in any of the activities described in section 13(a) of the 1940 Act unless so authorized by a vote of the majority of the outstanding voting securities of GWI.

3. No person will serve or act as an investment adviser to Investments subject to section 15 of the 1940 Act, unless shareholders and directors of both GWI and Investments have given the necessary approval.

4. No person shall serve as a director of Investments who shall not have been elected as a director of GWI at its most recent annual meeting.

5. For purposes of section 17 analysis, Investments will always be collapsed into GWI which has currently elected business development company status (and not vice versa), and, without further order of the Commission, will never be separated in order to produce a greater advantage.

6. GWI will not issue, and it will not permit Investments to issue, any senior security unless it and Investments, on an unconsolidated basis, and it on a consolidated basis, meet the 200 percent asset coverage test under the conditions described in the application.

7. GWI will file with the Commission and provide to its shareholders the financial statements required by the 1940 Act and other Federal securities laws, on a consolidated basis as to GWI and Investments, and on an unconsolidated basis with respect to Investments.

8. No officers or directors of either Investments or GWI or any controlling persons or other "upstream affiliates" of GWI will have any prohibitive financial interest in the transactions described in this notice and the application.

9. GWI will cause Investments to conduct its operations in compliance with the provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-22277 Filed 9-25-87; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-15997; 812-6731]

IDS Certificate Co., Application;

September 21, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("1940 Act").

Applicants: IDS Certificate Company ("IDSC"), IDS Financial Corporation ("IDS") (collectively "Applicants").

Relevant 1940 Sections: An amended exemptive order is requested pursuant to sections 6(c) and 17(d) of the 1940 Act from the provisions of sections 12(d)(3), 17(a) and 17(d) of the 1940 Act and Rule 17d-1 thereunder.

Summary of Application: Applicants seek an extension of the maturity date of a promissory note from IDS to IDSC that has been approved in earlier exemptive orders.

Filing Date: The application was filed on May 21, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on October 13, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant(s) with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, IDS Tower 10, Minneapolis, MN 55440.

FOR FURTHER INFORMATION CONTACT: Joyce M. Pickholz, Staff Attorney (202) 272-3046, or Curtis R. Hilliard, Special Counsel (202) 272-3030 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commerical copier who can be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

Applicants' Representatives

1. IDSC, formerly known as Investors Syndicate of America, Inc., a registered face amount certificate company, and its parent, IDS, formerly IDS Financial Services, Inc., sought and received Commission approval in 1981 for IDSC to sell to IDS a block of securities bearing substantial unrealized depreciation (Investment Company Act Release No. IC-12060, November 27, 1981). IDS then sold the securities on the open market thereby realizing a loss of tax purposes. The price IDS agreed to pay for the securities was the higher of book or market value.

2. IDS paid IDSC an amount equal to book value for the securities by paying cash equal to the market value and a promissory note (the "Note"), at 15% per annum, for the balance. The Note is due December 31, 1988. The Note becomes immediately due and payable if IDS defaults, if any other indeptedness of IDS is in default, if IDS becomes insolvent or if IDS' consolidated net worth (less IDSC's net worth) becomes less than $150 million. Morevover, if IDSC's qualified assets were to fall below the amount required by the 1940 Act, IDSC could accelerate an amount of the Note's principal sufficient to cover the projected deficiency.

3. Market conditions changed before IDS could sell the securities with the result that IDS did not realize the entire taxable loss it originally sought. Therefore, in 1982, IDS, IDSC and IDS Life Insurance Company, an affiliate, sought and received an amendment to the original order (Investmernt Company Act Release No. IC-13040, February 18, 1983). In this amended order, the Commission permitted additional private placement securities to be sold by IDSC to IDS at book value. IDS, in turn, sold the securities to IDS Life Insurance Company at market value incurring a loss.

4. IDS now seeks an extension of the Note from December 31, 1988 to December 31, 1991. All other terms and conditions of the Note would continue including the 15% per annum rate.

5. The amendment currently sought is necessary and appropriate in the public interest and consistent with the protection of investors because IDSC will keep a creditworthy, high interest bearing asset on its books. The Note from IDS bears interest at 15%, well in excess of current market rates. Timely payment of the Note would mean IDSC would have to invest the proceeds in investments bearing a much lower rate of interest. Also, the qualified reserves of IDSC that back its publicly held certificates are not affected by the extension of the Note because the Note is not included in the reserve calculations. The principal of the Note would nevertheless be available either through an acceleration of the Note or a pledge, assignment or transfer thereof, if needed to increase the reserves. While this provision offers a measure of added safety, IDSC is in no present jeopardy of having inadequate reserves. At March 31, 1987, assets on deposit exceeded certificate liabilities by $27.6 million. Neither IDS or IDSC has any reason to believe principal acceleration would be necessary during the life of the Note as extended.

6. IDSC and its certificates holders have the additional assurance of a very creditworthy investment. IDS is required under the terms of the Note to maintain a net worth of at least $150 million, less IDSC's net worth. At March 31, 1987, its consolidated net worth (less IDSC's net worth) was approximately $545.2 million. Moreover, IDSC is intimately familiar with IDS, IDS's parent American Express Company, and the business of each. More than with any other of its investments, IDSC is in a position to monitor the quality of the investment.

7. ISC and IDSC recognize that both parties will benefit from the requested relief. Through the extension, IDS will be able to continue to use its capital for continuing and expanding business operations. As of March 31, 1987, the balance of the Note was $40.1 million. If the Note was paid on December 31, 1988, IDSC would receive approximately $14.6 million. The benefits to IDS, however, do not change the fact that IDSC and its certificate holders receive material benefits from the Note extension. IDS has in good faith regularly and timely paid interest on the Note and also sought to reduce the Note's principal.

8. The requested relief is within the purpose fairly intended by the policy and provisions of the Act because it clearly does not involve overreaching by affiliates. The terms are fair and reasonable and will work to the advantage of the certificate holder investors as well as IDSC.

9. The IDSC Board of Directors has approved the Note extension, subject to Commission approval.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-22276 Filed 9-25-87; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-15999; File No. 812-6742]

Application; The Manufacturers Life Insurance Co. of America et al.

Date: September 22, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

Applicants: The Manufacturers Life Insurance Company of America ("Company"), Separate Account Two of The Manufacturers Life Insurance Company of America ("Account Two") and ManEquity, Inc.

Relevant 1940 Act Sections: Exemption requested pursuant to section 6(c) from sections 26(a) and 27(c)(2).

Summary of Application: Applicants seek an order to permit the deduction of mortality and expense risk charges under certain variable annuity contracts ("Contracts").

Filing Date: The application was filed on June 1, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on October 19, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. The Company and Account Two, Three Mellon Bank Center, Philadelphia, PA 19102. ManEquity, Inc., 9085 East Mineral Circle, Suite 300, Englewood, CO 80112.

FOR FURTHER INFORMATION CONTACT: Staff Attorney Clifford E. Kirsch (202) 272-3032 or Special Counsel Lewis B. Reich (202) 272-2061 (Office of Insurance Products and Legal Compliance).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 253-4300).

Applicants' Representations and Statements

1. The Company is a stock life insurance company organized under the laws of Pennsylvania in 1977. Account Two is a separate account of the Company established under the laws of Pennsylvania for the purpose of funding variable annuity contracts. The assets of Account Two will be invested in shares of ManuLife Series Fund, Inc., a Maryland corporation registered under the 1940 Act as a diversified open-end management investment company. Account Two is registered under the 1940 Act as a unit investment trust. ManEquity, Inc., an indirect wholly-owned subsidiary of The Manufacturers Life Insurance Company, will be the principal underwriter of the variable annuity contracts funded through Account Two.

2. The Contracts provide for the deduction of an administration fee equal to 2% of the total Contract value (up to a maximum of $30) on any Contract anniversary that the total Contract value is less than $25,000 and for the deduction of that fee on a pro-rata basis upon full surrender of a Contract on a date other than a Contract anniversary if on the date of full surrender the total Contract value is less than $25,000. The fee will be deducted from the fixed

portion of the Contract and, if necessary, from the value of the Contract in Account Two.

3. In addition, the Contracts provide for a withdrawal charge (contingent deferred sales charge) to be assessed in some circumstances when a cash withdrawal is made from a Contract or a Contract is surrendered in full. Amounts surrendered or withdrawn during a Contract year which exceed 10% of the total Contract value as of the most recent Contract anniversary will be subject to a withdrawal charge based upon when the purchase payments to which such amounts are deemed attributable were made, as follows:

Number of complete contract years elapsed since purchase payment was made-	Withdrawal charge (percent)
0	8
1	7
2	6
3	5
4	4
5	3
6	2
7	1
8	0

For purposes of determining the withdrawal charge applicable to a full surrender or cash withdrawal, any amount surrendered or withdrawn, other than an amount not subject to a withdrawal charge by reason of a 10% free-withdrawal provision, will be deemed to be a liquidation of a purchase payment, and the oldest previously unliquidated purchase payment will be deemed to have been liquidated first, then the next oldest and so forth. In no event will the sum of the withdrawal charges exceed 9% of total purchase payments made.

4. Finally, the Company proposes to deduct from the assets of Account Two a charge at an annual rate of 1.00% as compensation for the mortality and expense risks it assumes under the Contracts. The mortality risk assumed is the risk that annuitants may live for longer periods of time than the periods indicated in the mortality tables on which the Company calculated the annuity tables in the Contracts and the risk that mortality will cause a Contract to terminate prematurely before the assumed annuitization date. The expense risk assumed is that expenses in administering the Contracts will be greater than the Company estimated. Of the 1.00% charge, .10% is for the mortality risk and .90% is for the expense risk.

5. Applicants seek an exemption from sections 26(a) and 27(c)(2) of the 1940 Act to the extent necessary to permit the issuance and sale of the Contracts providing for such mortality and expense risks charge. Applicants represent that the 1.00% which the Company proposes to charge is within the range of industry practice for comparable annuity products. This representation is based upon an analysis made by the Company of publicly available information about selected similar industry products, taking into consideration such factors as any contractual right to increase charges above current levels, the existence of other charges, the number of transfers permitted without charge and the nature of the free withdrawal provisions. The Company will maintain at its service office, available to the Commission, a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, the comparative survey made.

6. Applicants acknowledge that the withdrawal charge to be made under the Contracts is expected to be insufficient to cover all costs relating to the distribution of the Contracts and that if a profit is realized from the mortality and expense risks charge, all or a portion of such profit may be offset by distribution expenses not reimbursed by the withdrawal charge. In such circumstances a portion of the mortality and expense risks charge might be viewed as providing for a portion of the costs relating to distribution of the Contracts. Notwithstanding the foregoing, the Company has concluded that there is a reasonable likelihood that the proposed distribution financing arrangements made with respect to the Contracts will benefit Account Two and the Contractowners. The basis for such conclusion is set forth in a memorandum which will be maintained by the Company at its service office and will be available to the Commission. Moreover, the Company represents that Account Two will invest only in an underlying mutual fund which undertakes, in the event it should adopt any plan under Rule 12b-1 to finance distribution expenses, to have such plan formulated and approved by a board of directors, a majority of the members of which are not "interested persons" of such fund within the meaning of section 2(a)(19) of the Act.

For the Commission, by the Division of Investment Mangement, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-22274 Filed 9-25-87; 8:45am]

BILLING CODE 8010-01-M

[Release No. IC-15998; File No. 812-6763]

Application; The Manufacturers Life Insurance Co. of America, et al.

September 22, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

Applicants: The Manufacturers Life Insurance Company of America ("Company"), Separate Account One of The Manufacturers Life Insurance Company of America ("Account One") and ManEquity, Inc.

Relevant 1940 Act Sections: Exemption requested pursuant to section 6(c) from sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act and Rule 6e-2(b)(15) thereunder.

Summary of Application: Applicants seek an order to permit the sale of shares of ManuLife Series Fund, Inc. to both variable annuity and variable life insurance separate accounts of the Company.

Filing Date: The application was filed on June 18, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on October 19, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. The Company and Account One, Three Mellon Bank Center, Philadelphia, PA 19102. ManEquity, Inc., 9085 East Mineral Circle, Suite 300, Englewood, CO 80112.

FOR FURTHER INFORMATION CONTACT: Staff Attorney Clifford E. Kirsch (202) 272-3032 or Special Counsel Lewis B. Reich (202) 272-2061 (Office of Insurance Products and Legal Compliance).

SUPPLEMENTARY INFORMATION: Following is a summary of the application, the complete application is available for a fee from either the SEC's Public Reference Branch in person or the

SEC's commercial copier (800) 231-3282 (in Maryland (301) 253-4300).

Applicants' Representations and Statements

1. The Company is a stock life insurance company organized under the laws of Pennsylvania in 1977. It is authorized to do business in the District of Columbia and all States of the United States except New York. The Company is an indirect wholly-owned subsidiary of The Manufacturers Life Insurance Company, a mutual life insurance company based in Toronto, Canada.

2. Account One is a separate account of the Company established under the laws of Pennsylvania. Account One is used for certain scheduled premium variable life insurance contracts issued by the Company. Assets of Account One are invested in shares of ManuLife Series Fund, Inc. ("Fund"), a Maryland corporation registered under the 1940 Act as a diversified open-end management investment company. Account One is registered under the 1940 Act as a unit investment trust. ManEquity, Inc., also an indirect wholly-owned subsidiary of The Manufacturers Life Insurance Company, is the principal underwriter of the variable life insurance contracts participating in Account One. Pursuant to the provisions of Rule 6c-3 under the 1940 Act, the Company, Account One and ManEquity are relying on the provisions of Rule 6e-2 for the necessary exemptive relief to issue the contracts participating in Account One.

3. The Company proposes to issue certain variable annuity contracts which will be funded by Separate Account Two of The Manufacturers Life Insurance Company of America ("Account Two"), also a separate account of the Company established under the laws of Pennsylvania. Assets of Account Two will be invested in shares of the Fund. The Company has also established two additional separate accounts to fund flexible premium variable life insurance contracts, the assets of which are or will be invested in shares of the Fund. The variable life insurance policies funded by such accounts are or will be issued in reliance on the provisions of Rules 6c-3 and 6e-3(T) under the 1940 Act.

4. Since Fund shares will not be sold exclusively to variable life insurance separate accounts of the Company, Applicants request exemption from sections 9(a), 13(a), 15(a) and 15(b) of the Act and paragraph (b)(15) of Rule 6e-2 to the extent necessary to permit the sale of Fund shares to both variable annuity and variable life insurance separate accounts subject to the provisions of clauses (i) through (iv) of Rule 6e-2(b)(15) and the undertakings set forth below.

5. Applicants assert that there is no policy reason why the exemptions provided by paragraph (b)(15) of Rule 6e-2 should not apply solely because Account Two and other variable annuity separate accounts of the Company as well as Account One and other variable life insurance separate accounts invest in Fund shares. Applicants will comply with the following conditions:

(1) The Board of Directors of the Fund, constituted with a majority of disinterested directors, will monitor the Fund for the existence of any material irreconcilable conflict between the interests of variable annuity contractholders investing in the Fund and interests of holders of variable life insurance contracts investing in the Fund.

(2) The Company agrees that it will be responsible for reporting any potential or existing conflicts to the directors of the Fund.

(3) If a material irreconcilable conflict arises, the Company will, at its own cost, remedy such conflict up to and including establishing a new registered management investment company and segregating the assets underlying the variable annuity contracts and the variable life insurance contracts.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-22275 Filed 9-25-87; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2290]

Declaration of disaster Loan Area; Pennsylvania

Lancaster and Lehigh counties and the adjacent counties of Berks, Carbon, and Northampton in the State of Pennsylvania constitute a disaster area because of damage from flash flooding which occurred on September 8, 1987. applications for loans for physical damage may be filed until the close of business on November 19, 1987, and for economic injury until the close of business on June 20, 1988, at the address listed below:

Disaster Area 2 Office, Small Business Administration, 120 Ralph McGill Blvd., 14th floor, Atlanta, Georgia 30308.

or other locally announced locations.

The interest rates are:

	Percent
Homeowners With Credit Available elsewhere	8.000
Homeowners Without Credit Available elsewhere	4.000
Businesses With Credit available elsewhere	8.000
Businesses Without Credit Available elsewhere	4.000
Businesses (EIDL) Without Credit Available elsewhere	4.000
Other (Non-Profit Organizations Including Charitable and Religious Organizations)	9.000

The number assigned to this disaster is 229006 for physical damage and for economic injury the number is 655300.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008).

Date: September 18, 1987.

James Abdnor,

Administrator.

[FR Doc. 87-22255 Filed 9-25-87; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ending September 18, 1987

The following agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 408, 409, 412, and 414. Answers may be filed within 21 days of date of filing.

Docket No. 45143 R-1—R-29

Parties: Members of International Air Transport Association.

Date filed: Sept. 17, 1987.

Subject: Mid-Atlantic—Europe Fares.

Proposed effective date: October 1, 1987.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 87-22326 Filed 9-25-87; 8:45 am]

BILLING CODE 4910-62-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed During the Week Ending September 18, 1987

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et seq.*). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following

the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket No. 45144

Date filed: September 18, 1987.

Due date for answers, conforming applications, or motion to modify scope: October 16, 1987.

Description: Application of Interamericana De Aviacion, S.A. pursuant to section 402 of the Act and Subpart Q of the Regulations applies for a foreign air carrier permit authorizing it to engage in nonscheduled, including charter, foreign air transportation of property and mail between Miami, Florida and points in Venezuela, via certain optional intermediate points and areas, with all flights to the U.S. originating or terminating in Venezuela.

Docket No. 45142

Date filed: September 17, 1987.

Due date for answers, conforming applications, or motions to modify scope: October 15, 1987.

Description: Application of Aer Turas Teoranta pursuant to Section 402 of the Act and Subpart Q of the Regulations, for renewal of its foreign air carrier permit to engage in charter air transportation of property and mail, between any point in Ireland, on the one hand, and any point in the United States, its territories and possessions, on the other hand.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 87-22327 Filed 9-25-87; 8:45 am]

BILLING CODE 4910-62-M

Coast Guard

[CGD 87-072]

Meeting; Subcommittee on Marine Occupational Safety and Health, Chemical Transportation Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Subcommittee on Marine Occupational Safety and Health of the Chemical Transportation Advisory Committee (CTAC). The meeting will be held on Wednesday, November 4, 1987 in Room 6319, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC. The meeting is scheduled to begin at 9:00 a.m. and end at 4:00 p.m.

In addition to subcommittee discussions concerning old and new business, the agenda for the meeting will include a morning presentation reviewing Coast Guard efforts to develop a comprehensive occupational safety and health program for marine hazardous chemical workers. The presentation will be given by a representative from Southwest Research, Inc., the Coast Guard's primary project contractor in this effort. During the afternoon session, public reports generated during the multi-year research and development effort will be available for review and discussion by subcommittee participants interested in specific aspects of the development.

FOR FURTHER INFORMATION CONTACT: Lieutenant Joseph Ocken or Mr. Mike Morrissette, U.S. Coast Guard Headquarters (G-MTH-1), 2100 Second Street SW., Washington, DC 20593, (202) 267-1217.

Dated: September 22, 1987.

J.W. Kime,

Rear Admiral, U.S. Coast Guard, Chief Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 87-22306 Filed 9-25-87; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

[Summary Notice No. PE-87-25]

Petition for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued; American Airlines, et al.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: October 19, 1987.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. _____, 800 Independence Avenue SW., Washington, DC 20591.

FOR FURTHER INFORMATION: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-3132.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on September 22, 1987.

Denise D. Hall,

Manager, Program Management Staff.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
25259	American Airlines	§§ 121.411(a)(1), (a)(2), (a)(3), and (a)(6), 121.411(b) and 121.413(b) and (c).	To allow petitioners to utilize Aeroformation pilot simulators/flight instructors for the purpose of training petitioner's initial cadre of pilots in the Airbus Industrie A300-600R type airplane in Toulouse, France, without those instructors holding appropriate U.S. certificates and ratings and without their meeting all of the applicable training requirements of Subpart N of Part 121 of the FAR. *Partial Grant, September 10, 1987.*

PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought
21882	China Airlines Limited	§§ 61.77(a) and (b), 63.23 (a) and (b)	To allow the issuance of U.S. special purpose pilot and flight engineer certificates to petitioner's airmen, without meeting the requirement that they hold a current foreign certificate or license issued by a foreign contracting State to the Convention on International Civil Aviation (ICAO). *Granted, September 10, 1987.*
25192	Eastern Air Lines, Inc	§§ 121.665, 121.697(a), (b), (c), and (d)	To allow petitioner to substitute a computer application signature for the signed load manifest required by these sections. *Granted, September 3, 1987.*
25008	Melvin M. Aman, et al	§ 121.383(c)	To allow petitioner and 38 other current and former pilots (petitioners) to continue to serve as a pilot in Part 121 air carrier operations after reaching their 60th birthday. Subsequent to the submission of the petition four of the petitioners have requested that their names be withdrawn. *Denied, September 8, 1987.*
25351	USAir	§§ 121.371 (a) and 121.378	To allow petitoner to use foreign vendors to perform inspection repair, and overhaul work on airframe, engines, components, and equipment on petitioner's fleet of British aerospace BAC 1-11, Boeing 737-300, 737-200, and McDonnell-Douglas DC-9-30 aircraft, where such foreign vendors are the original equipment manufacturers of such equipment.
25309	City of Pasadena	§ 45.29	To allow the petitioner to operate certain aircraft with the registration numbers placed on non-standard configuration.
25301	Condon & Forsyth	§§ 25.853 and 121.312(b)	To allow Airborne Express to operate certain aircraft without complying with the seat cushion flammability requirements in §§ 25.853 and 121.312(b).

[FR Doc. 87-22232 Filed 9-25-87; 8:45 am]

BILLING CODE 4910-13-M

Closing of Flight Service Station at Paso Robles, CA

Notice is hereby given that on or about September 25, 1987, the Flight Service Station at Paso Robles, California, will be closed. Services to the general aviation public of Paso Robles, formerly provided by this office, will be provided by the Flight Service Station in Hawthorne, California. This information will be reflected in the next reissuance of the FAA Organization Statement.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354)

Arlene B. Feldman,

Acting Director, Western-Pacific Region.

Issued in Lawndale, California, on September 15, 1987.

[FR Doc. 87-22233 Filed 9-25-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Public Information collection Requirements Submitted to OMB for Review

Date: September 22, 1987.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0710
Form Number: 5500, 5500-C, 5500-R, Schedules B (5500) and Schedule P (5500)
Type of Review: Revision
Title: Annual Return/Report of Employee Benefit Plan, Return/Report of Employee Benefit Plan and Associated Schedules

Description: Forms 5500, 5500-C and 5500-R 4 annual information returns filed by employee benefit plans. The IRS uses this data to determine if the plan appears to be operating properly as required under the law or whether the plan should be audited.

Respondents: Businesses or other for-profit, Small businesses or organizations
Estimated Burden: 926,811 hours

Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 87-22251 Filed 9-25-87; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: September 22, 1987.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New
Form Number: 8645
Type of Review: New Collection
Title: Soil and Water Conservation Plan Certification

Description: Form 8645 is used to certify that conservation expenses claimed as a deduction on Schedule F, (Form 1040) are part of an approved plan for their farm area. The approved plan requirement comes under Code section 175(c)(3).

Respondents: Farms
Estimated Burden: 8,500 hours
OMB Number: 1545-0016
Form Number: 706-A
Type of Review: Revision
Title: United States Additional Estate (and Generation-Skipping Transfer) Tax Return

Description: Form 706-A is used by individuals to compute and pay the additional estate (and GST) taxes due under Code section 2032(c). IRS uses the information to determine that the taxes have been properly computed. The form is also used for the basis election of section 1016(c)(1).

Respondents: Individuals or households
Estimated Burden: 857 hours
OMB Number: 1545-0098
Form Number: 1045
Type of Review: Revision

Title: Application for Tentative Refund

Description: Form 1045 is used by individuals, estates, and trusts to apply for a quick refund of taxes due to carryback of a net operating loss, unused general business credit, or claim of right adjustment under section 1341(b). The information obtained is used to determine the validity of the application.

Respondents: Individuals or households, Farms, Businesses or other for-profit, Small businesses or organizations

Estimated Burden: 798,262 hours

OMB Number: 1545-0122

Form Number: 1118

Type of Review: Revision

Title: Computation of Foreign Tax Credit-Corporations

Description: Form 1118 is used by domestic and foreign corporations to claim a credit against tax for taxes paid to foreign countries. Schedule F (Form 1118) is used to reduce foreign taxes paid by corporations on foreign oil extraction income. The IRS uses Form 1118 and Schedule F (Form 1118) to determine if the corporation has computed the foreign tax credit correctly.

Respondents: Businesses or other for-profit

Estimated Burden: 175,590 hours

OMB Number: 1545-0242

Form Number: 6197

Type of Review: Extension

Title: Gas Guzzler Tax

Description: Form 6197 is used to compute tax on gas-guzzler automobiles under section 26 U.S.C. 4064. Tax is reported quarterly on Form 720. One Form 6197 is filed when production and sales of a model year is ended. Autos not meeting certain standards are taxable. IRS uses the information to verify computation of tax and compliance with the law.

Respondents: Individuals or households, Businesses or other for-profit, Small businesses or organizations

Estimated Burden: 90 hours

OMB Number: 1545-0582

Form Number: 1139

Type of Review: Revision

Title: Corporation Application for Tentative Refund

Description: Form 1139 is used by corporations to apply for a quick refund of taxes due to a net operating loss, net capital loss, unused business credit, or claim of right adjustment under section 1341(b). The information obtained is used to determine the validity of the application.

Respondents: Farms, Businesses or other for-profit, Small businesses or organizations

Estimated Burden: 6,738 hours

OMB Number: 1545-0704

Form Number: 5471, Schedules M, N, and O

Type of Review: Revision

Title: Information Return with Respect to a Foreign Corporation

Description: Form 5471 and its related schedules are used by U.S. persons that have an interst in a foreign corporation. The form is used to report income from the foreign corporation. The form and schedules are used to report a U.S. person's acquisition of a 5% interest in a foreign corporation; and to report income and deductions of a foreign personal holding company. The IRS uses Form 5471 to determine if U.S. persons have correctly reported income from the foreign corporation.

Respondents: Individuals or households, Businesses or other for-profit

Estimated Burden: 135,306 hours

Clearance Officer: Garrick Shear (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224,

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

U.S. Customs Service

OMB Number: 1515-0021

Form Number: 3499

Type of Review: Reinstatement

Title: Application and Approval to Manipulate, Examine, Sample or Transfer Goods

Description: Customs Form 3499 is used by importers or consignees as an application to request examination, sampling, repacking, or the transfer of merchandise under Customs supervision; manipulation of merchandise in a bonded warehouse; and an application for abandonment or destruction of merchandise in bond.

Respondents: Businesses or other for-profit, Small businesses or organizations

Estimated Burden: 13,740 hours.

Clearance Officer: B. J. Simpson (202) 566-7529, U.S. Customs Service, Room 6426, 1301 Constitution Avenue NW., Washington, DC 20229.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 87-22252 Filed 9-25-87; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: September 23, 1987.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB review enlisted and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0971.

Form Number: 1040-ES.

Type of Review: Revision.

Title: Estimated Income Tax for Fiduciaries.

Description: Form 1040-ES is used by fiduciaries of estates and trusts to make estimated tax payments if their estimates tax is $500 or more. IRS used the data to credit taxpayers' accounts and to determine if the estimated tax has been properly computed and timely paid.

Respondents: Businesses or other for-profit, Small businesses or organizations.

Estimated Burden: 264,375 hours.

Clearance Officer: Garrick Shear, (202) 535-4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 87-22310 Filed 9-25-87; 8:45 am]

BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains an extension and lists the following

information: (1) The department or staff office issuing the form, (2) the title of the form, (3) the agency form number, if applicable, (4) a description of the need and its use, (5) how often the form must be filled out, (6) who will be required or asked to report, (7) an estimate of the number of responses, (8) an estimate of the total number of hours needed to fill out the form, and (9) an indication of whether section 3504(h) of Pub. L. 96–511 applies.

ADDRESSES: Copies of the forms and supporting documents may be obtained from Patti Viers, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233–2146. Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503, (202) 395–7316.

DATE: Comments on the information collection should be directed to the OMB Desk Officer by November 27, 1987.

Dated: September 23, 1987.

By direction of the Administrator.

Frank E. Lalley,

Director, Office of Information Management and Statistics.

Extension

1. Department of Veterans Benefits
2. Report of Accidental Injury in Support of Claim for Compensation or Pension
3. VA Form 21–4176
4. This information is used to determine the veteran's eligibility for compensation and pension benefits.
5. On occasion
6. Individuals or households
7. 4,400 responses
8. 2,200 hours
9. Not applicable.

[FR Doc. 87–22301 Filed 9–25–87; 8:45 am]

BILLING CODE 8320–01–M

Veterans Administration Wage Committee; Meetings

The Veterans Administration, in accordance with Pub. L. 92–463, gives notice that meetings of the Veterans Administration Wage Committee will be held on:

Thursday, October 8, 1987, at 2:30 p.m.
Thursday, October 22, 1987, at 2:30 p.m.
Thursday, November 5, 1987, at 2:30 p.m.
Thursday, November 19, 1987, at 2:30 p.m.
Thursday, December 3, 1987, at 2:30 p.m.
Thursday, December 17, 1987, at 2:30 p.m.
Wednesday, December 30, 1987, 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: September 21, 1987.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 87–22300 Filed 9–25–87; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 187
Monday, September 28, 1987

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).

THE COMMISSION OF FINE ARTS

The Commission of Fine Arts next scheduled meeting is Thursday, October 22, 1987 at 10:00 AM in the Commission's offices at 708 Jackson Place, NW., Washington, DC 20006 to discuss various projects affecting the appearance of Washington, DC, including buildings, memorials, parks, etc.; also matters of design referred by other agencies of the government. Handicapped persons should call the offices (566-1066) for details concerning access to meetings.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Mr. Charles Atherton, Secretary, Commission of Fine Arts, at the above address or call the above number.

Dated in Washington, DC September 22, 1987.

Charles H. Atherton,

Secretary.

[FR Doc. 87-22353 Filed 9-24-87; 11:31 am]

BILLING CODE 6330-01-M

COUNCIL ON ENVIRONMENTAL QUALITY

Date: September 24, 1987.

DATE, TIME, PLACE: Tuesday, October 6, 1987, 1:00 pm, Council on Enfironmental Quality Conference Room, First Floor, 722 Jackson Place, NW., Washington, DC 20503.

STATUS: Open.

MATTERS TO BE CONSIDERED.

1. The Council on Environmental Quality has held a series of public meetings on the issues of stratospheric ozone depletion and global warming. To date, the speakers have concentrated on the scientific aspects of these problems.

At this meeting, the Council will be hearing a presentation by Dr. Margaret Kripke, Chairman of the Department of Immunology, University of Texas Cancer Center. Dr. Kripke will address the human health implications of stratospheric ozone depletion.

The discussion will be limited to Dr. Kripke, the Council, and Council staff. Questions from the public will not be entertained.

2. Other matters may be discussed.

FOR FURTHER INFORMATION CONTACT: Lucinda Low Swartz, Deputy General Counsel, Council on Environmental Quality, 722 Jackson Place, NW., Washington, DC 20503. Telephone: (202) 395-5754.

A. Alan Hill,

Chairman.

[FR Doc. 87-22341 Filed 9-24-87; 10:16 am]

BILLING CODE 3125-01-M

MERIT SYSTEMS PROTECTION BOARD

TIME AND DATE: 1:30 p.m., Wednesday, September 30, 1987.

PLACE: Eighth Floor, 1120 Vermont Avenue NW., Washington, DC.

STATUS: Closed.

MATTERS TO BE CONSIDERED: *Greene* v. *Department of Health and Human Services,* PH07528510754, PH07528610683, and PH075285C0745; *Marchese* v. *Department of Navy,* PH07528610209; *Covington* v. *Department of Health and Human Services,* DC035182A0591, DC035182A3007, and DC035182A0687; and *Polite* v. *Department of Navy,* AT0315M8710151.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Robert E. Taylor, Clerk of the Board, (202) 653-7200.

Date: September 24, 1987.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 87-22386 Filed 9-24-87; 2:18 pm]

BILLING CODE 7400-01-M

NATIONAL LABOR RELATIONS BOARD

TIME AND DATE: 2:00 p.m., Friday October 2, 1987.

PLACE: Board Conference Room, Sixth Floor, 1717 Pennsylvania Avenue, NW.

STATUS: Open to public observation.

MATTERS TO BE CONSIDERED: Regional Office Boundaries.

CONTACT PERSON FOR MORE INFORMATION: John C. Truesdale, Executive Secretary, National Labor Relations Board, Washington, DC 20570, Telephone (202) 254-9430.

Dated: Washington, DC, September 24, 1987.

By direction of the Board:

John C. Truesdale,

Executive Secretary, National Labor Relations Board.

[FR Doc. 87-22396 Filed 9-25-87; 3:18 pm]

BILLING CODE 7545-01-M

NATIONAL MEDIATION BOARD

TIME AND DATE: 2:00 P.M., Wednesday, October 7, 1987.

PLACE: Board Hearing Room 8th Floor, 1425 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Ratification of the Board actions taken by notation voting during the month of September, 1987.

2. Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Director's office following the meeting.

CONTACT PERSON FOR FURTHER INFORMATION: Mr. Charles R. Barnes, Executive Director, Tel: (202) 523-5920.

Date of Notice: September 23, 1987.

Charles R. Barnes,

Executive Director, National Mediation Board.

[FR Doc. 87-22393 Filed 9-24-87; 2:59 pm]

BILLING CODE 7550-01-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of September 28, October 5, 12, and 19, 1987.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, DC.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of September 28

Thursday, October 1

2:00 p.m.—Discussion of Pending Investigations (CLOSED—Ex. 5 & 7)

3:30 p.m.—Affirmation/Discussion and Vote (*Public Meeting*)

a. Final Broad Scope Rule to Modify General Design Criteria 4 of Appendix A (Tenatative)

b. Alfred J. Morabito's Request for Modification of Order Granting Him a Hearing on Denial of a Senior Reactor Operator's License at Beaver Valley (Tentative)

Friday, October 2

10:00 a.m.—Briefing on Technical Specifications Improvement Project (*Public Meeting*)

Week of October 5—Tenative

Tuesday, October 6

2:00 p.m.—Briefing on Transportation and the Modal Study (*Public Meeting*)

Friday, October 9

10:00 a.m.—Affirmation/Discussion and Vote (*Public Meeting*) (if needed)

Week of October 12—Tentative

Friday, October 16

10:00 a.m.—Briefing on Status of Rancho Seco (*Public Meeting*)

11:30 a.m.—Affirmation/Discussion and Vote (*Public Meeting*) (if needed)

Week of October 19—Tentative

Wednesday, October 21

10:00 a.m.—Briefing on Status of Unresolved Safety/Generic Issues (*Public Meeting*)

2:00 p.m.—Briefing on the Federally Funded Research Development Center (FFRDC) (*Public Meeting*)

Thursday, October 22

10:00 a.m.—Discussion/Possible Vote on Full Power Operating License for Palo Verde-3 (*Public Meeting*)

2:00 p.m.—Briefing on Status of Licensee Fitness for Duty Initiatives (*Public Meeting*)

3:30 p.m.—Affirmation/Discussion and Vote (*Public Meeting*) (if needed)

Note.—Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

To verify the status of meetings call (Recording)—(202) 634-1498.

CONTACT PERSON FOR MORE INFORMATION: Robert McOsker (202) 634-1410.

Robert B. McOsker,

Office of the Secretary.

September 24, 1987.

[FR Doc. 87-22409 Filed 9-24-87; 3:35 pm]

BILLING CODE 7590-01-M

federal register

Monday
September 28, 1987

Part II

Environmental Protection Agency

40 CFR Parts 796 and 797
Toxic Substances Control Act Test Guidelines; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 796 and 797

[OPTS-42095; FRL-3253-4]

Toxic Substances Control Act Test Guidelines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Under the Toxic Substances Control Act (TSCA), EPA proposes to add new test guidelines of general procedures for laboratory testing for an effect or characteristic deemed important for evaluating the fate and environmental hazards of a chemical substance or mixture (test substance). These general guidelines may be utilized in developing chemical-specific TSCA section 4 rules under 40 CFR Part 799.

DATE: Submit written comments on or before November 27, 1987.

ADDRESS: Submit written comments, identified by the document control number (OPTS-42095), in triplicate to: TSCA Public Information Office (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. NE-G004, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, DC 20460, (202)-554-1404.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of September 27, 1985 (50 FR 39252), EPA issued 40 CFR Parts 796, 797, and 798, which codified TSCA test guidelines that were previously prepared by EPA. At that time, EPA stated that new guidelines would be added as the state of the art evolves and the need for new guidelines arises. This document proposes to codify certain new guidelines that may be used to establish test standards in future TSCA section 4 test rules in 40 CFR Part 799. The test guidelines are state-of-the- art methods for generating test data and, when cited in chemical-specific test rules, would assist the Agency in reaching decisions regarding the risk of a particular chemical. These guidelines have been extensively reviewed by both internal and external experts in the disciplines covered by the guidelines.

Codification of these guidelines would not impose any regulatory obligation on any person who may be subject to a TSCA section 4 test rule. Specific guidelines would not become mandatory test standards until they are promulgated as such in individual section 4 rulemakings. Therefore, when promulgated in specific TSCA test rules, the pertinent TSCA guidelines will become the test standards for only that particular section 4 rule. EPA may propose modifications to the various guidelines as they are used for chemical-specific test rules. In each chemical-specific rule, the proposed test standards and any modifications would be subject to public comment.

II. Rulemaking Record

EPA has established a record for this rulemaking, docket number OPTS-42095. This record contains the basic information considered by the Agency in developing this proposal and appropriate **Federal Register** documents.

This record includes the following information:

1. Support documents for each test guideline providing rationales for conditions specified in each guideline.
2. List of experts that reviewed each of the guidelines.
3. Copies of all references cited in the guidelines.

III. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. EPA has determined that this proposed rule is not major because it does not meet any of the criteria set forth in section 1(b) of the Order, i.e., it will not have an annual effect on the economy of at least $100 million, will not cause a major increase in prices, and will not have a significant adverse effect on competition or the ability of U.S. enterprises to compete with foreign enterprises.

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

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (15 U.S.C. 601 *et seq.*, Pub. L. 96-354, September 19, 1980), EPA is certifying that these guidelines, if promulgated, will not have a significant impact on a substantial number of small businesses because: (1) They are not expected to perform testing themselves, or to participate in the organization of the testing effort; (2) they will experience only very minor costs in securing exemption from testing requirements; and (3) they are unlikely to be affected by reimbursement requirements.

C. Paperwork Reduction Act

OMB has approved the information collection requirements contained in this proposed rule under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), and has assigned OMB control number 2070-0033. Submit comments on these requirements to the Office of Information and Regulatory Affairs: OMB, 726 Jackson Place, NW., Washington, DC 20503, marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on the information collection requirements.

List of Subjects in 40 CFR Parts 796 and 797

Chemical fate, Chemicals, Environmental effects, Environmental protection, Hazardous substances, Incorporation by reference, Laboratories, Reporting and recordkeeping requirements.

Date: August 14, 1987.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

Therefore, it is proposed that Chapter I of Title 40 of the Code of Federal Regulations be amended as follows:

PART 796—[AMENDED]

1. In Part 796:

a. The authority citation continues to read as follows:

Authority: 15 U.S.C. 2603.

b. Section 796.3510 is added to Subpart D to read as follows:

§ 796.3510 Hydrolysis as a function of pH and temperature.

(a) *Introduction*—(1) *Background and purpose.* (i) The majority of the earth's surface is covered by water in the form of oceans, seas, rivers, lakes, streams, or ponds. As a result, chemical substances or mixtures (test substances) released to the environment are likely to enter aqueous media and could undergo transformation via hydrolysis. Hydrolysis represents the transformation of a chemical substance by reaction with water into new chemicals different from their precursors. Certain classes of these substances, upon entering aquatic

media, can undergo hydrolysis, which is one of the most common chemical reactions controlling stability and is, therefore, one of the principal chemical transformation pathways of these substances in the environment.

(ii) Since hydrolysis can be such an important chemical degradation pathway for certain classes of chemical substances, it is necessary, in assessing the fate of these chemicals in the environment, to know whether, at what rate, and under what conditions a substance will hydrolyze. Some of these reactions can occur so rapidly that there may be greater concern for the transformation products than for the parent substance. In other cases, a chemical substance will be resistant to hydrolysis under typical environmental conditions; while in other instances, the substance may have an intermediate stability that can result in the need for an assessment of both the parent substance and the transformation products. The importance of hydrolysis in aqueous media in the environment can be determined quantitatively from data on hydrolysis rate constants and half-lives.

(iii) The test guideline in § 796.3500 of this Part was developed to determine hydrolysis rate constants and half-lives of test substances at any pH of environmental concern at 25 °C. However, the temperature of aquatic media in the United States can vary anywhere from near 0 °C in the winter in the northern latitudes to near 30 °C in the summer in the southern latitudes. Thus, the test guideline in this section was developed to determine hydrolysis rate constants and half-lives of substances at any environmentally relevant pH and temperature anywhere in the United States.

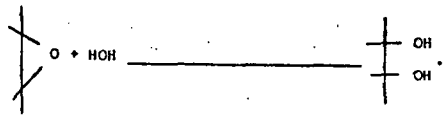
(2) *Definitions and units.* (i) "Hydrolysis" is defined as a reaction of an organic chemical with water such that one or more bonds are broken and the reaction products incorporate the elements of water (H_2O). This type of transformation often results in the net exchange of the group X, in an organic chemical substance RX, for the OH group from water. This reaction can be written as

Equation 1

$$RX + HOH \longrightarrow ROH + HX.$$

Another result of hydrolysis can be the incorporation of both H and OH in a single product. An example of this reaction is the hydrolysis of an epoxide which can be represented by the reaction

Equation 2



(ii) An "elimination reaction" means the reaction of an organic chemical substance RX in water in which the X group (as HX) is lost. These reactions generally follow the same type of rate laws that hydrolysis reactions follow, and, therefore, are also covered in this test guideline.

(iii) A "first-order reaction" means a reaction in which the rate of disappearance of the test substance is directly proportional to the concentration of the test substance and is not a function of the concentration of any other substance present in the reaction mixture.

(iv) A "second-order reaction" means a reaction in which the rate of disappearance of a test substance is directly proportional to the product of the first power of the concentration of the test substance and the first power of the concentration of another species in the reaction mixture.

(v) The half-life "($t_{1/2}$" of a test substance means the time required for the concentration of the test chemical to be reduced to one-half its initial concentration.

(vi) The "pH" of an aqueous solution means the negative decadic logarithm of the activity of the hydronium ion in solution. For practical purposes, the activity of the hydronium ion is taken as the molar concentration of the hydronium ion [H_3O^+]. Thus, pH is defined mathematically as

Equation 3

$$pH = -\log[H_3O^+].$$

(vii) The "ion product of water (K_w)" means the product of the activities of the hydronium and hydroxide ions in solution. For practical purposes, the activity of the hydronium ion is taken as the molar concentration of the hydronium ion [H_3O^+], while the activity of the hydroxide ion is taken as the molar concentration of the hydroxide ion [OH^-]. Thus,

Equation 4

$$K_w = [H_3O^+][OH^-].$$

(viii) The "pK_w" means the negative decadic logarithm of K_w. Thus,

Equation 5

$$pK_w = -\log K_w.$$

(ix) The "specific acid catalyzed rate constant (k_H)" means the second-order rate constant for the hydrolysis of a chemical catalyzed by the hydronium ion (H_3O^+). The units of k_H are in molar^{-1} time^{-1}.

(x) The "specific base catalyzed rate constant (k_{OH})" means the second-order rate constant for the hydrolysis of a chemical substance catalyzed by the hydroxide ion (OH^-). The units of k_{OH} are in molar^{-1} time^{-1}.

(xi) The "neutral water rate constant (k_N)" means the pseudo first-order rate constant for the reaction of a chemical substance with water. The units of k_N are in time^{-1}.

(3) *Principle of the test method*—(i) *Rate of hydrolysis as a function of pH at a fixed temperature.* (A) At a fixed temperature, the rate law for the hydrolysis of a substrate RX can be put in the form—

Equation 6

$$-(d[RX]/dt) = k_h[RX] = k_H[H_3O^+][RX] + k_{OH}[OH^-][RX] + k_N[H_2O][RX],$$

where k_H, k_{OH}, and k'_N are the second-order rate constants for acid and base catalyzed and neutral water processes, respectively. In dilute solutions, such as are encountered in this test guideline, water is present in great excess, and its concentration is, therefore, essentially constant during the course of the hydrolysis reaction. At a fixed pH, the reaction becomes pseudo first-order and the net hydrolysis rate constant k_h is given by the expression—

Equation 7

$$k_h = k_H[H_3O^+] + k_{OH}[OH^-] + k_N,$$

where k_N is now the pseudo first-order neutral water rate constant. Since this is a first-order process, the half-life ($t_{1/2}$) is independent of the concentration of a test substance and is given by the expression—

Equation 8

$$t_{1/2} = 0.693/k_h.$$

At a fixed pH and temperature, equation 6 in this paragraph can be integrated to yield the first-order rate expression—

Equation 9

$$\ln([C_o]/[C_t]) = k_h t,$$

where [C_o] and [C_t] represent the molar concentration of RX, the test substance, at time zero and t, and k_h is the net hydrolysis rate constant.

(B) In order to determine k_h as a function of pH, at a fixed temperature T_j, it is necessary to obtain the values of k_H, k_{OH}, and k_N in equation 7 under

paragraph (a)(3)(i)(A) of this section. This can be accomplished by measuring k_h at three different pH's at a fixed temperature T_j and solving the three equations for k_H, k_{OH}, and k_N. This has been carried out mathematically and the results are summarized below. Equation 7, under paragraph (a)(3)(i)(A) of this section can be written in the following form:

Equation 10

$$K_{h(i)}=k_H[H_3O^+]+k_{OH}[OH^-]+k_N,$$

where i corresponds to the pH at which the hydrolysis rate constant k_h is measured. For the boundary conditions—

Equation 11

$$i=1,\ pH=x$$
$$i=2,\ pH=x+y$$
$$i=3,\ pH=x+y+z.$$

When the lowest pH is 3 and the increments are at least 2—, i.e., if $x>2$, $y>2$, $z>2$, then k_H, k_{OH}, and k_N are given by the following mathematical expressions:

Equation 12

$$k_H=10^x k_{h(1)}-10^x k_{h(2)}+10^{(x-z)}k_{h(3)};$$

Equation 13

$$k_{OH}=10^{(pK_W-x-2y-z)}k_{h(1)}-10^{(pK_W-w-y-z)}k_{h(2)}+10^{(pK_W-x-y-z)}k_{h(3)};$$

Equation 14

$$k_N=-10^y k_{h(1)}+k_{h(2)}-10^{-z}k_{h(3)}.$$

(C) The term pK_w that appears in equation 13 under paragraph (a)(3)(i)(B) of this section can be calculated from equation 5 under paragraph (a)(2)(viii) of this section and the following equation:

Equation 15

$$\log K_w=-(6014/T)-23.65\log T+64.70,$$

where T is the absolute temperature in °K, $T=t+273.2$ and t is the temperature in °C.

(D) For 25 °C and $x=3$, $y=z=4$, the pH values for $i=1$, 2, and 3 correspond to 3, 7, and 11 (using equation 11 under paragraph (a)(3)(i)(B) of this section); $pK_w=14.00$ (using equation 1 under paragraph (a)(2)(viii) of this section and equation 15 under paragraph (a)(3)(i)(C) of this section); and equations 12, 13, and 14 under paragraph (a)(3)(i)(B) of this section reduce to the same equations, equation 5 of the test guideline under § 796.3500 of this part, entitled "Hydrolysis as a function of pH at 25 °C."

(E) To experimentally determine k_H, k_{OH}, and k_N at temperature T_j, the three pH's 3, 7, and 11 have been chosen. It should be noted that the pH's need not be precisely 3, 7, and 11, but must be close to these pH values (e.g., pH±0.3). However, the pH must be fixed and measured precisely to ±0.03 pH units. Solutions of test substance are prepared at an initial molar concentration of 10^{-3} M or less in buffered distilled water at pH's 3, 7, and 11 [C_o]. The solutions are placed in a constant temperature bath controlled to ±0.1 °C at temperature t_j(°C), or T_j(K), and the concentration of test substance is measured at regular time intervals [C_t] to provide a minimum of 7 time points between 10 and 80 percent hydrolysis. Linear regression analysis of these data in equation 9 under paragraph (a)(3)(i)(A) of this section gives a slope equal to k_h. From the exact values of the three pH's in equation 11 under paragraph (a)(3)(i)(B) of this section, x, y, and z are calculated. Using the precise values of x, y, and z and the experimental values of $k_{h(i)}$ at the three pH's ($i=1$, 2, 3) in equations 12, 13, and 14 under paragraph (a)(3)(i)(B) of this section, along with pK_w (calculated from equation 5 under paragraph (a)(2)(viii) of this section and equation 15 under paragraph (a)(3)(i)(C) of this section at temperature T_j, k_H, k_{OH}, and k_N can be calculated.

(F) The hydrolysis rate constant at any pH of environmental concern at temperature T_j can be calculated using the values of k_H, k_{OH}, k_N, [H_3O^+], and [OH^-] in equation 7 under paragraph (a)(3)(i)(A) of this section. Finally, the half-life of test substance can be calculated by substituting the value of k_h in equation 8 under paragraph (a)(3)(i)(A) of this section.

(ii) *The rate of hydrolysis as a function of pH and temperature.* (A) In order to calculate k_h at any temperature of environmental concern, it is necessary to determine k_H, k_{OH}, and k_N as a function of the temperature T (K). This can be accomplished by using the Arrhenius equation for the three different rate processes—

Equation 16

$$k_H=A_H\exp(-E_H/RT)$$

Equation 17

$$k_{OH}=A_{OH}\exp(-E_{OH}/RT)$$

Equation 18

$$k_N=A_N\exp(-E_N/RT),$$

where A_H, A_{OH}, and A_N are constants and E_H, E_{OH}, and E_N correspond to the energy of activation for the acid, base, and neutral water processes; T is the absolute temperature in K; and R is the gas constant, which equals 1.99×10^{-3} kcalories/mole or 8.31×10^{-3} kjoules/mole. Equations 16, 17, and 18 in this paragraph are conveniently transformed to the following expressions

Equation 19

$$\ln k_H=\ln A_H-(E_H/R)(1/T)$$

Equation 20

$$\ln k_{OH}=\ln A_{OH}-(E_{OH}/R)(1/T)$$

Equation 21

$$\ln k_N=\ln A_N-(E_N/R)(1/T).$$

(B) Paragraph (a)(3)(i) of this section describes a procedure for determining k_H, k_{OH}, and k_N by measuring k_h at pH's 3, 7, and 11 in buffered distilled water at temperature T_j. These experiments are repeated at two other elevated temperatures T_k and T_l, each temperature being separated by at least 15 °C (15 K). These experiments yield k_H, k_{OH}, and k_N as a function of the temperatures T_j, T_k, and T_l. Using these data in equations 19, 20, and 21 under paragraph (a)(3)(ii)(A) of this section and linear regression analysis, A_H, A_{OH}, A_N, E_H, E_{OH}, and E_N can be determined.

(C) With the appropriate Arrhenius constants A and E in equations 16, 17, and 18 under paragraph (a)(3)(ii)(A) of this section, k_H, k_{OH}, and k_N can be calculated at any environmentally relevant temperature T_m of concern. At a fixed $(pH)_n$ of environmental concern, $[H_3O^+]_n$ and $[OH^-]_n$ can be calculated; and using these results in equation 7 under paragraph (a)(3)(i)(A) of this section along with k_H, and k_{OH}, and k_N, k_h can be calculated. The corresponding half-life can be calculated by using k_h in equation 8 under paragraph (a)(3)(i)(A) of this section.

(4) *Applicability and specificity.* (i) There are several different common classes of organic chemical substances that are subject to transformation by hydrolysis. These classes of substances include alkyl halides, epoxides, ethers, esters, amides, carbamates, phosphoric and phosphonic esters, lactones, and anhydrides. Processes other than nucleophilic displacement by water can also take place. Among these are elimination reactions that exhibit kinetic behavior similar to hydrolysis and are, therefore, also covered in this test guideline. This test guideline is not applicable to the above classes of chemicals which contain functional groups which ionize or protonate and are located close to the hydrolytic reaction center.

(ii) For most test substances, the hydrolysis experiments should be carried out at pH's 3, 7, and 11. However, for a few chemicals, the rate of hydrolysis could be too rapid at pH's 3 and 11 so that measuring the loss of test substance would be too difficult. For these substances, the hydrolysis experiments should be carried out at pH's 5 and/or 9 because the rates are reduced by approximately a factor of 100 relative to pH's 3 and/or 11. At pH's 5, 7, and 9, equations 12, 13, and 14

under paragraph (a)(3)(i)(B) of this section are still applicable. If the rates are still too fast at pH's 5 and/or 9, then the pH's should be adjusted to give rates that are easily measured in the laboratory.

(b) *Test procedures*—(1) *Test conditions*—(i) *Special laboratory equipment.* Special laboratory equipment shall include:

(A) A thermostatic bath that can be controlled to 0.1 °C in the temperature range 10–90 °C;

(B) A pH meter with an accuracy of ±0.03 pH units or better; and

(C) Stoppered volumetric flasks (no grease) or glass ampoules that can be sealed.

(ii) *Purity of water.* Reagent-grade water shall be used (e.g., water meeting ASTM Type IIA standards or an equivalent grade). ASTM Type IIA water is described in ASTM D-1193-77, "Standard Specification for Reagent Water." This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies may be obtained from (insert the name of standard producer or publisher and address). Copies may be inspected at Rm. NE-G004, Environmental Protection Agency, 401 M St., SW., Washington, DC, or at the Office of the Federal Register, 1100 L St., NW., Rm. 8301, Washington, DC.

(iii) *Sterilization.* It is required that all glassware be sterilized, aseptic conditions be used in the preparation of all solutions, and aseptic conditions be used in carrying out all hydrolysis experiments to minimize or eliminate biodegradation. Glassware can be sterilized in an autoclave or by any other suitable nonchemical methods.

(iv) *Temperature controls.* All hydrolysis experiments must be carried out at a temperature controlled to ±0.1 °C.

(v) *Volatile chemical substances.* If a test substance is volatile, it is extremely important to take special precautions when carrying out hydrolysis experiments, especially at very high temperatures. Thus, the reaction vessels must be effectively sealed. Sealed tubes or tubes with gas-tight Mininert valves are recommended for elevated temperature studies. At lower temperatures, volumetric flasks or tubes with Teflon-lined screw caps can often be used successfully. Volumetric or other glass-stoppered flasks should be used without grease. In addition, the reaction vessel should be almost completely filled, and when conducting the hydrolysis experiments, especially at elevated temperatures, it is extremely important to submerge the reaction vessel completely below the fluid in the constant-temperature bath.

(vi) *pH.* (A) It is recommended that all hydrolysis experiments be performed at pH's of approximately 3, 7, and 11 but fixed precisely to ±0.03 pH units. Buffers listed in paragraph (b)(2)(i)(A) of this section are strongly recommended.

(B) In order to measure the pH accurately, the pH meter must be calibrated with NBS primary and secondary standards. In addition, some hydrophobic test substance could adsorb to the surface of the glass electrode in the pH meter and cause anomalous kinetic results. Hence, for these hydrophobic substances, the glass electrode should be checked for contamination.

(vii) *Concentration of solutions of test substances.* It is required that the concentration of the test substance be less than one-half its solubility in water and not greater than 10^{-3} M.

(viii) *Buffers.* For certain test substances, buffers may catalyze the hydrolysis reaction. If this is suspected, then hydrolysis rate determinations must be carried out with the appropriate buffers and the same experiments must be repeated at buffer concentrations lowered by at least a factor of five. If the hydrolysis reaction produces a change of greater than 0.03 pH units in the lower concentration buffers at the end of the measurement time, then the test substance concentration must be lowered by at least a factor of five. Alternatively, test substance concentration and buffer concentration may be both lowered simultaneously by a factor of five. A sufficient criterion for minimization of buffer catalysis is an observed equality in the hydrolysis rate constant of two different solutions differing in buffer or test substance concentration by a factor of five.

(ix) *Light sensitive test chemicals.* The solution absorption spectrum should be employed to determine whether a particular test chemical is potentially subject to photolytic transformation upon exposure to light. The absorption spectrum can be obtained by using the test guideline under § 796.1050 of this Part, entitled "Absorption in aqueous solution: ultraviolet/visible spectra." For substances that absorb light of wavelengths greater than 290 nm, it is recommended that the experiments be carried out by wrapping the reaction vessels with aluminum foil, by the use of amber or red colored glassware, by the use of amber or red safelights, or any other suitable technique which will eliminate the possibility of photolytic transformation.

(x) *Substances susceptible to oxidation.* If a test substance is suspected of being susceptible to oxidation with air, the following experiments should be performed. At a fixed pH and temperature, the rate of hydrolysis should be determined with and without purging the reaction solutions with purified argon or nitrogen gas. If the rate constant k_h measured in the unpurged solution is faster than the rate constant in the purged solution, then air oxidation may be occurring and all reaction solutions should be purged before all hydrolysis rate measurements are performed. For volatile test substances, the buffer solution must be purged before adding the test substance.

(xi) *Chemical analysis of solutions of test substance.* In determining the concentration of the test substance in solution, the most applicable analytical method may be employed. Chromatographic methods are recommended because of their compound specificity in analyzing the parent chemical without interferences from impurities. Whenever practicable, the chosen method should have a precision within ± 5 percent. The test guideline requires that the specific analytical technique utilized be completely described.

(2) *Preparations*—(i) *Reagents and solutions*—(A) *Buffer solutions.* (*1*) Prepare buffer solutions using reagent-grade chemicals and reagent-grade water as follows:

(*i*) pH 3: Use 500 mL of 0.100 M potassium hydrogen phthalate ($KHC_8H_4O_4$) and 223 mL of 0.100 M hydrochloric acid, diluted to 1.000 L with water.

(*ii*) pH 5: Use 250 mL of 0.100 M potassium hydrogen phthalate and 113 mL of 0.100 M sodium hydroxide, diluted to 500 mL with water.

(*iii*) pH 7: Use 500 mL of 0.100 M potassium dihydrogen phosphate (KH_2PO_4) and 291 mL of 0.100 M sodium hydroxide, diluted to 1.000 L with water.

(*iv*) pH 9: Use 250 mL of 0.0250 M borax ($Na_2B_4O_7$) and 23 mL of 0.100 M hydrochloric acid, diluted to 500 mL with water.

(*v*) pH 11: Use 500 mL of 0.0500 M sodium bicarbonate ($NaHCO_3$) and 227 mL of 0.100 M NaOH, diluted to 1.000 L with water.

(*2*) Recommended buffers at other pH's are listed in the test guideline under § 796.3500 of this Part.

(B) *Adjustment of buffer concentrations.* (*1*) The concentrations of all the buffer solutions are the maximum concentrations to be employed in carrying out hydrolysis experiments. If the initial concentration

of the test substance is less than 10^{-3} M, it is extremely important that the buffer concentrations be lowered by a corresponding amount, e.g., if the initial concentration of the test substance is 10^{-4} M, then reduce the concentration of the buffers by a factor of 10. In addition, for those reactions in which an acid or base is not a reaction product, then use the minimum buffer concentration necessary for maintaining the pH within ±0.03 units.

(*2*) Check the pH of all buffer solutions with a pH meter at temperature T_j and adjust the pH to the proper value with acid or base, if necessary.

(C) *Preparation of test substance solution.* (*1*) If the test substance is readily soluble in water, prepare an aqueous solution of the test substance in the appropriate buffer and determine the concentration of the test substance [C_o]. Alternatively, a solution of the substance in pure water may be prepared and added to an appropriate buffer solution, and the concentration of the test substance may then be determined. In the latter case, it is important that the aliquot be small enough so that the concentration of the buffer in the final solution and the pH of the solution remain essentially unchanged. Do not employ heat in dissolving the test substance. The final concentration of the test substance must not be greater than one-half its solubility in water and not greater than 10^{-3} M.

(*2*) If the test substance is too insoluble in pure water to permit reasonable handling and reliable analysis, it is recommended that the substance be dissolved in reagent-grade acetonitrile (or reagent-grade ethanol if the hydrolysis experiments are carried out at temperatures above 80 °C), and buffer solution is then added to an aliquot of the acetonitrile (or ethanol) solution. Do not employ heat to dissolve the substance in acetonitrile (or ethanol). The final concentration of the test substance must not be greater than one-half its solubility in water and not greater than 10^{-3} M. In addition, it is extremely important that the final concentration of acetonitrile (or ethanol) be 1 volume percent or less.

(3) *Performance of the test.* (i) Prepare the test substance solution as described in paragraph (b)(2)(i)(C) of this section at pH's of approximately 3, 7, and 11. Measure the pH of each solution to ± 0.03 pH units at temperature T_j, where T_j corresponds to the temperature of the constant temperature bath where the hydrolysis experiments will be carried out. Record the exact values of the three pH's and the temperature, T_j, of the constant temperature bath to 0.1 °C (0.1 K) or less. For each kinetic experiment at each pH: measure the initial concentration of the test substance [C_o] in duplicate; measure the concentration of test substance in duplicate at regular time intervals [C_t] to provide a minimum of 7 time points with the extent of hydrolysis between 10 and 80 percent; and repeat each rate measurement once. Five of the 7 time points should be between 20 and 70 percent hydrolysis. Rates should be rapid enough so that 70 to 80 percent of the test substance hydrolyzes within 1 week.

(ii) If the pH at the end of the concentration measurements has changed by more than 0.03 units from the initial pH, repeat the experiments using a solution having a test substance concentration lowered sufficiently to keep the pH variation within 0.03 pH units.

(iii) Repeat the above experiments at two elevated temperatures, T_k and T_l, each temperature separated by at least 15 °K (15 °C).

(4) *Analytical methodology.* Select an analytical method that is most applicable to the analysis of the test substance (paragraph (b)(1)(xi) of this section).

(c) *Data and reporting*—(1) *Treatment of results*—(i) *Rate of hydrolysis as a function of pH at a fixed temperature.*

(A) The objective of this set of experiments is to determine k_H, k_{OH}, and k_N of the test substance at a fixed temperature T_j, from the rates of hydrolysis at the three pH's (3, 7, and 11). This can be accomplished by the following steps.

(*1*) Hydrolysis experiments shall be carried out at three pH's at a fixed temperature T_j, and the molar concentration of test substance is measured as a function of the time. These data are used to determine $k_{h(i)}$ at the three pH's (i.e., pH's 3, 7, and 11 corresponding to i=1, 2, 3), and using these data in equation 9 under paragraph (a)(3)(i)(A) of this section and linear regression analysis with ln([C_o]/[C_t]) as the dependent variable and t as the independent variable, the slope of the best straight line is obtained. The slope of this line is $k_{h(i)}$.

(*2*) From equation 11 under paragraph (a)(3)(i)(B) of this section and the exact values of the pH's (measured precisely to 2 decimal places), calculate the values of x, y, and z.

(*3*) Calculate the value of pK_w, at T_j, from the value of log K_w from equation 15 under paragraph (a)(3)(i)(C) of this section and $pK_w = -\log K_w$.

(*4*) Using 12, 13, and 14 under paragraph (a)(3)(i)(B) of this section and the values of $k_{h(1)}$, $k_{h(2)}$, $k_{h(3)}$, x, y, z, and pK_w, calculate k_H, k_{OH}, and k_N.

(B) [Reserved]

(ii) *Rate of hydrolysis as a function of pH and temperature.* The objective of this set of experiments is to determine the rate of hydrolysis and half-life of the test substance at any pH and temperature of environmental concern.

(A) *The rate constants k_H, k_{OH}, and k_N as a function of temperature.* Hydrolysis experiments shall be carried out at three pH's at three different temperatures T_j, T_k, and T_l and k_H, k_{OH}, and k_N are calculated as described in paragraph (c)(1)(i) of this section. Using these data in equations 19, 20, and 21 under paragraph (a)(3)(ii)(A) of this section and linear regression analysis, A_H, A_{OH}, A_N, E_H, E_{OH}, and E_N can be calculated. For example, consider the experimental data for k_H at T_j, T_k, and T_l. Using linear regression analysis of these data in equation 19 with ln k_H as the dependent variable and (1/T) as the independent variable (with T in K), the slope and y-intercept can be calculated. From equation 19, the slope is equal to (E_H/R); and using the value of $R = 8.3 \times 10^{-3}$ kjoules/mole, E_H can be calculated. From equation 19, the y-intercept is equal to ln A_H; hence, A_H can be calculated.

(B) *Rate of hydrolysis and the half-life in the environment.* The calculation of the rate of hydrolysis and the half-life of the test substance at any temperature T_m and $(pH)_n$ of environmental concern can be accomplished by the following steps.

(*1*) Using equations 16, 17, and 18 under paragraph (a)(3)(ii)(A) of this section and the values of A_H, A_{OH}, A_N, E_H, E_{OH}, and E_N determined above, calculate k_H, k_{OH}, and k_N at any temperature T_m of environmental concern.

(*2*) Calculate the ion product of water, K_w, and T_m using equation 15 under paragraph (a)(3)(i)(C) of this section.

(*3*) At a given $(pH)_n$ of environmental concern, $(pH)_n$ is equal to $-\log [H_3O^+]_n$ and $[OH^-]_n$ is equal to $K_w/[H_3O^+]_n$. From the value of $(pH)_n$, calculate $[H_3O^+]_n$; and from the value of K_w calculated from step (*2*) and $[H_3O^+]_n$, calculate $[OH^-]_n$.

(*4*) Calculate k_h using the values of $[H_3O^+]_n$, $[OH^-]_n$, k_H, k_{OH}, and k_N in equation 7 under paragraph (a)(3)(i)(A) of this section.

(*5*) Calculate the half-life, $t_{1/2}$, by substituting the value of k_h in equation 8 under paragraph (a)(3)(i)(A) of this section.

(2) *Test data report*—(i) *Test conditions.* Report the following:

(A) The name, structure, purity of the test substance, and whether the

substance absorbs light at lambda >290 nm;

(B) The type of reaction vessels used;

(C) The exact pH's and temperature used for each experiment;

(D) The type of solvent, if used, to solubilize the test substance and the percent by volume;

(E) The initial and final pH for each experiment;

(F) A description of the buffers used if they are not listed in this test guideline; and

(G) If buffer effects were observed, describe how they were minimized or eliminated.

(ii) *Specific analytical and recovery procedures.* (A) Provide a detailed description or reference for the analytical procedures, including the calibration data and precision; and

(B) If extraction methods were used to separate the solute from the aqueous solution, provide a description of the extraction method as well as the recovery data.

(iii) *Test data report.* Report the following:

(A) The initial molar concentration [C_o] of test substance for each replicate and the mean value for each hydrolysis experiment (i.e., at pH's corresponding to i=1, 2, 3, and at temperatures T_j, T_k, T_l);

(B) The two separate values of the molar concentration [C_t] and the mean value for each time point for each hydrolysis experiment (i.e., at pH's corresponding to i=1, 2, 3, and temperatures T_j, T_k, T_l);

(C) The value of $k_{h(i)}$ and the correlation coefficient for each set of experiments at temperatures T_j, T_k, T_l;

(D) The average value of $k_{h(i)}$ from the two separate experiments at temperatures T_j, T_k, T_l;

(E) The calculated values of k_H, k_{OH}, and k_N at T_j, T_k, T_l (in K) in tabular form;

(F) Using the appropriate data from paragraph (c)(2)(iii)(E) of this section, report the values of A and E and the correlation coefficient for each process (e.g., A_H, E_H, and the correlation coefficient, etc.); and

(G) If the compound was susceptible to oxidation, report the data under paragraph (c)(2)(iii) (A) through (F) of this section for the purged solutions.

(d) *References.* For additional background information on this test guideline, the following references should be consulted:

(1) American Society Testing and Materials, Annual Book of Standards, Part 31, Standard specification for water, Philadelphia, PA, pp. 20–22, 1979.

(2) U.S. Environmental Protection Agency. Section 796.3510 Technical Support Document, "Hydrolysis as a Function of pH and Temperature." 1986.

PART 797—[AMENDED]

2. In Part 797:

a. The authority citation continues to read as follows:

Authority: 15 U.S.C. 2603.

b. New Subpart D, consisting at this time of §§ 797.2900, 797.3050, 797.3100, 797.3700, and 797.3775, is added to read as follows:

Subpart D—Microcosm Guidelines

Sec.

797.2900 Rhizobium-legume chronic toxicity test.
797.3050 Generic freshwater microcosm test.
797.3100 Site-specific aquatic microcosm test.
797.3700 Soil microbial community toxicity test.
797.3775 Soil-core microcosm test.

Subpart D—Microcosm Guidelines

§ 797.2900 Rhizobium-legume chronic toxicity test.

(a) *Purpose.* This guideline is intended for use in developing data on the toxicity of chemical substances and mixtures ("test substances") subject to environmental effects test regulations under the Toxic Substances Control Act (TSCA) (Pub. L. 94–469, 90 Stat. 2003, 14 U.S.C. 2601 *et seq.*). The guideline prescribes tests using commercially important terrestrial plants and their nitrogen-fixing bacterial symbionts to develop data on the phytotoxicity of test substances. The United States Environmental Protection Agency (EPA) will use data from these tests in assessing the hazard of a test substance to the environment.

(b) *Definitions.* The definitions in section 3 of TSCA and Part 792—Good Laboratory Practice Standards of this Chapter apply to this test guideline. The following definitions also apply:

"EC X" means the experimentally-derived test substance concentration that is calculated to affect X percent of the test effect (e.g., EC_{50}).

"Germination" means the resumption of active growth by a plant embryo.

"Legume" means a member of the pea family (Leguminosae) and includes many species of great economic importance.

"N fixation" means the conversion of elemental nitrogen to nitrates by *Rhizobium* which colonize legume root nodules.

"*Rhizobium*" means a genus of symbiotic bacteria that forms nodules on the roots of certain legumes.

"Support media" means the quartz sand used to support the plant.

"Symbiont" means either of two organisms participating in a symbiotic relationship.

"Symbiosis" means the close union of two dissimilar organisms in a mutually beneficial relationship.

(c) *Test procedures*—(1) *Summary of the test.* Seeds of a legume species are inoculated with their specific *Rhizobium* symbiont and planted in sand irrigated with a nutrient solution. The test substance is applied to the plant-bacteria complex via the nutrient solution or is adsorbed to the support media, resulting in continuous exposure to the test substance from the time the seed (or seedling, if appropriate) is planted to maturity of the plant. After significant leaf development has occurred (usually after several weeks during which the *Rhizobium*-infected plants are irrigated at regular intervals with the nutrient solution), all plants are harvested for analysis. Effects are evaluated by comparing plant yield, nodule production, and N-fixation in plants exposed to the test substance to those plants not exposed (negative controls) to the test substance.

(2) *Application of test substance.* (i) Deionized or glass-distilled water shall be used in making stock solutions of a water-soluble test substance. Sufficient quantities of each concentration should be made as needed to minimize storage time and disposal volume. A measured portion of the stock solution shall be added to the nutrient solution just before beginning the test.

(ii) A test substance that is insoluble in water, but which can be suspended in an aqueous solution by a carrier, should be added, with the carrier, to the nutrient solution. The carrier should be soluble in water, nontoxic to plants, and used in the minimum amount required to dissolve or suspend the test substance. There are no preferred carriers; however, acetone, gum arabic, polyethylene glycol, ethanol, and others have been used extensively in testing herbicides, plant growth regulators, fungicides, and other chemical substances that affect plants. Carrier controls shall be included in the experimental design and tested simultaneously with the test substance.

(iii) A water-insoluble test substance for which no nontoxic, water-soluble carrier is available should be dissolved in an appropriate volatile solvent. The stock solution of the test substance should be mixed with the support media, then placed in a rotary vacuum apparatus and evaporated, leaving a uniform coating of the test substance on the support media. A weighed portion of support media shall be weighed, the test

substance shall be extracted with the same organic solvent, and the concentration of the test substance shall be determined before the potting containers are filled. Solvent controls shall be included in the experimental design and tested simultaneously with the test substance.

(3) *Selection of initial test substance concentrations.* (i) A preliminary test should be conducted to determine the concentrations of test substance to be used in the definitive test for each *Rhizobium*-legume association. For this purpose, seed germination, the first event in the establishment of a *Rhizobium*-legume symbiotic relationship, may be used.

(ii) If the concentration of test substance to which the *Rhizobium*-legume association is likely to be exposed in nature can be predicted, seeds of the selected legume should be treated with concentrations that are 0.1, 1, and 10 times the anticipated environmental concentration. After a given exposure period, the effects shall be assessed as the sum of the root lengths (mm) of all plants at each test concentration, relative to that evidenced in the controls. Should reasonable predictions of potential environmental exposure concentrations not be possible, seeds of the same legume shall be exposed to a series of widely spaced concentrations (e.g., 0.01, 0.1, 1.0, 10, 100, 1,000 mg/L) of the test substance. After a given period, root lengths shall be compared as previously described. The lowest concentration tested in the series, exclusive of controls, should be at the analytical detection limit of the test substance. The upper concentration, for water-soluble test substances, should not exceed 50 percent of the saturation concentration.

(iii) The seed-germination test consists of exposing a minimum of 15 seeds of one legume species (representing the plant host in the selected *Rhizobium*-legume association) to each concentration of test substance and to the control. Seeds, placed between sheets of filter paper moistened with varying concentrations of test substance, should be incubated in darkness at room temperature (approximately 22 °C) in petri dishes, allowing adequate room for linear root growth. When 65 percent of the control seeds have germinated and developed roots at least 20 mm long, the test may be terminated.

(iv) No replicates are required and nominal concentrations are acceptable.

(4) *Definitive test.* (i) The purpose of the definitive test is to determine whether the test substance is toxic to the selected *Rhizobium*-legume association and, if so, to delineate its concentration response curves and EC_{50}s for each of three variables of the test system used.

(ii) Since the anticipated fate of the test substance involves soil or soil water, and the mechanism of toxicity depends upon root exposure, the test substance shall be applied in nutrient solution to the support media or coated on the support media for water-insoluble test substances for which no nontoxic, water-soluble carrier is available. The test substance should be chemically stable in the nutrient solution.

(iii) Seeds of legume species that are subject to attack by mold (e.g., clovers) may be washed with ethanol before being planted.

(iv) Seeds should be mixed with a small amount of moist commercial peat previously inoculated with the desired *Rhizobium* species. Seeds of some legumes (e.g., *Trifolium repens*, white clover) may be planted immediately in pots (0.3 g dry seed/pot) filled to within 2.5 cm of the top with support media of clean, coarse (0.5 to 1.0 mm diameter) sand, while others (e.g., *Phaseolus vulgaris*, bush bean), once inoculated with *Rhizobium*, should be allowed to germinate for as many as 6 days in darkness between moist paper towels before being planted, one seedling per pot. The support media shall be irrigated with the nutrient solution before planting occurs. Unless it is necessary to adsorb the test substance to the support media, the nutrient solution shall contain the desired concentration of test substance.

(v) Six replicate pots of seed for each of at least five concentrations of test substance, exclusive of controls, should be used in the definitive test. For each *Rhizobium*-legume association tested, the concentration range should be selected to define, as closely as possible, the concentration-response curve between the EC_{10} and EC_{90}.

(vi) Pots shall be irrigated regularly (for example, 30 minutes every hour) with nutrient solution, preferably using a system in which water flows from the bottom of the pot upward. Irrigation shall be suspended for 6 to 8 hours before N-fixation measurement. Nutrient solution should be replaced with fresh solution at least once every 2 weeks. If the test substance is rapidly degraded under test conditions, it may be necessary to replace the nutrient solution more frequently.

(vii) Every test shall include controls consisting of the same dilution water, conditions, procedures, bacteria from the same culture, and seed from the same lot used in the exposed groups, except that none of the test substance shall be added. If a carrier solvent is needed to dissolve or suspend the test substance, a carrier control shall also be included.

(viii) Alternative planting methods may be required when the test substance is highly volatile. An impervious barrier of polyethylene film, a modification of the double pot method, a glass plate, or other appropriate apparatus should be used to prevent volatilization from the root zone. Seeds should be germinated in the dark at approximately 22 °C, and the barrier should be positioned such that the shoots pass through holes in the barrier. A ring of nontoxic, inert, pliable putty should be used to seal the holes around the stems. Control pots should be handled identically to the test pots but with no exposure to the test substance.

(ix) The definitive test consists of exposing the selected *Rhizobium*-legume association to at least five concentrations of the test substance, using a minimum of six replicate pots for each concentration and control, followed by measurements and analyses of N-fixation, nodulation performance, and plant yield. The duration of the test should be 3 to 7 weeks from the date of planting, depending on the legume used.

(x) Plants should be observed daily. All visible effects of the test substance on plant growth and morphology, such as stunting, discoloration, chlorosis, or necrosis of the leaves shall be noted.

(xi) To measure N-fixation for a small-to-moderate-sized legume species (e.g., *T. repens*, white clover), each pot shall be enclosed in an airtight chamber. To enhance the reduction of acetylene (C_2H_2), the chambers may be flushed with an inert gas (evacuating the N_2-containing air) before introducing the C_2H_2. Following exposure to C_2H_2 for a period of time sufficient to yield a linear production of ethylene (C_2H_4), gas samples shall then be withdrawn and analyzed for C_2H_4 as an index of N-fixation, using gas chromatography. Should the *Rhizobium*-legume association selected for the test use a larger species of legume (e.g., *P. vulgaris*, bush bean), plant roots may be removed, washed with distilled water, and placed in an airtight plastic jar. Gas samples shall then be withdrawn and analyzed for C_2H_4 after an appropriate incubation period (as above) in the presence of C_2H_2. Using the test conditions and clover and bean species recommended, incubation periods of 5 hours and 1 hour, respectively, are suitable for N-fixation determinations. Optimal incubation times for other species in containers of other sizes may be different.

(xii) Nodulation performance shall be assessed by counting the cumulative number of root nodules on the plants from each treatment group. Yield shall be recorded as the total dry (70 °C, 48 hours) biomass (tops and roots) per pot.

(xiii) The assignment of pots to test substance concentrations shall be random. In addition, placement of groups of pots (six per group, all within each group receiving nutrients and test substance from the same source) shall be randomized, to the extent possible, in the greenhouse or growth chamber.

(xiv) Irradiation measurements should be taken at the top of the plant canopy and the mean, maximum, and minimum values determined over the plant-growing area. These measurements should be taken daily, but shall be taken at least at the start and completion of the test. If the test is conducted in a greenhouse facility, hourly measurements of irradiation should be recorded and presented as daily total irradiance including representative hourly curves for clear-sky conditions and cloudy days.

(xv) Temperature shall be monitored continuously at the top of the plant canopy, while humidity shall be measured at least once during each light and dark period.

(xvi) For chamber-grown plants, measurements of carbon dioxide concentrations should be made at the top of the plant canopy on a "continuous basis."

(5) [Reserved]

(6) *Analytical measurements*—(i) *Test Substance.* Stock solutions of test substance should be diluted with glass distilled or deionized water to obtain the test solutions. Standard analytical methods, if available, should be used to establish concentrations of these solutions and should be validated before beginning the test. An analytical method is not acceptable if likely degradation products of the test substance, such as hydrolysis and oxidation products, give positive or negative interference. The pH of these solutions should also be measured before use.

(ii) *Numerical.* Entire plants (tops and roots) should be dried and weighed, and numbers of root nodules should be counted for the definitive test. Means and standard deviations of ethylene production (from acetylene reduction assay), plant yields, and nodulation should be calculated and plotted for each treatment and control. Appropriate statistical analyses should provide a goodness-of-fit determination for the concentration response curves.

(d) *Test conditions*—(1) *Test species*—(i) *Selection.* (A) A species of the genus *Trifolium* (e.g., *T. repens,* white clover) is the preferred legume for this test. The specific complementary species of *Rhizobium* shall be obtained from a reliable source of bacterial cultures.

(B) As an alternative, other legume species (e.g., *Phaseolus vulgaris,* bush bean) of economic or ecologic importance to the region of impact may be selected for testing. The rationale for selecting alternative species should be provided.

(ii) *Seed selection.* Information on seed lot, the seed year, or growing season collected and germination percentage should be provided by the source of the seed. Only untreated seed (not treated with fungicides, repellants, etc.) taken from the same lot and year or season of collection shall be used in a given test. In addition, all seed of a species used in a test should be of the same size class, and that size class which contains the most seed should be selected and used in a given test. Any damaged seed shall be discarded.

(2) *Facilities*—(i) *Apparatus.* (A) Greenhouse or environmental chambers shall provide adequate environmental controls to meet the carbon dioxide, humidity, irradiation, photoperiod, and temperature specifications. Chambers shall be designed to prevent escape of internal air into the external environment other than through appropriate filtering material or media to prevent contamination of the external environment with the test substance.

(B) Laboratory facilities for testing should include non-porous floor covering, absorbent bench covering with non-porous backing, and adequate disposal facilities to accommodate plant nutrient, test, and wash solutions containing the test substance at the end of each run, and any bench covering, lab clothing, or other contaminated materials.

(ii) *Containers and support media.* (A) For each run, at least 36 to 42 potting containers (6 per concentration of test substance, 6 for the control, and 6 if a carrier control is necessary) will be needed. Containers used in each experiment shall be of equal size and volume and possess the same configuration. Potting containers should be filled with support media to within 2.5 cm of their tops. Perlite, vermiculite, native soils, etc. should not be used for root support. A cellulose sponge plug in the pot drain hole will prevent the loss of sand during drainage.

(B) Six or seven 25-L carboys (one per concentration of test substance and one for controls; another if a carrier control is necessary) will serve as reservoirs from which nutrient solution will be delivered, under air pressure, to the appropriate tray of potting containers. An automatic system design is recommended (See the following Figure 1.

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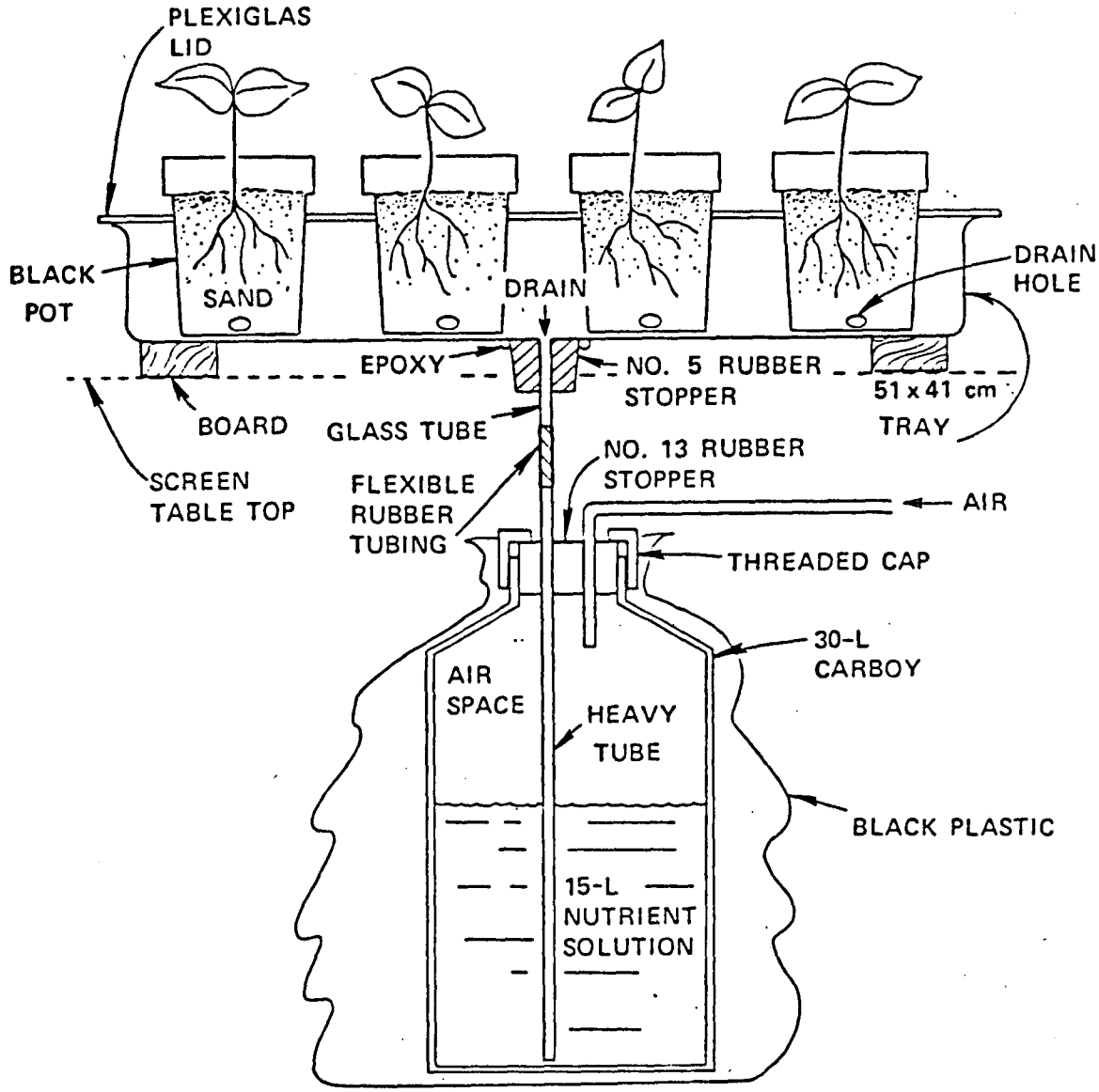
FIGURE 1--CROSS-SECTIONAL DIAGRAM OF A REPRESENTATIVE TRAY UNIT AND THE NUTRIENT SOLUTION RESERVOIR FOR IRRIGATING POTTED PLANTS.



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(C) Each series of six replicate pots (per test concentration, control, and, if applicable, carrier control) may be placed in a large tray into which the appropriate nutrient solution will be delivered (see Figure 1 in paragraph (d)(2)(ii)(B) of this section). Trays should be constructed of an inert material to which adsorption of the test substance will be minimal, e.g., glass, Teflon, polyethylene or linear high-density polypropylene. Each tray may then be covered with a plexiglas sheet bearing six holes to accommodate the pots, keeping them upright and properly spaced.

(iii) *Cleaning and sterilization.* (A) Potting and receiving containers, nutrient storage containers, and support media shall be cleaned before use. All equipment should be washed according to good standard laboratory procedures to remove any residues remaining from manufacturing or prior use. A dichromate solution shall not be used for cleaning pots or other containers.

(B) Support media shall be discarded at the end of the test. Disposal shall conform to existing regulations.

(iv) *Nutrient media.* (A) The recommended medium for growth and establishment of the *Rhizobium*-legume association consists of the following:

Chemical	Amount (mg/L)
K_2SO_4	801
KH_2PO_4	272
$CaCl_2$	416
$MgSO_4 \cdot 7H_2O$	493
Fe	8.3
H_3BO_3[a]	2.9
$MnCl_2 \cdot 4H_2O$[1]	1.8
$ZnSO_4 \cdot 7H_2O$[1]	0.22
$H_2MoO_4 \cdot H_2O$[1]	0.02
$CuSO_4 \cdot 5H_2O$[1]	0.08

[1] A single stock solution containing 1,000X concentrations of each of these trace elements should be prepared in advance. One ml of stock solution/L of nutrient solution yields the required amount of each.

For certain legumes (e.g., *Phaseolus vulgaris*, bush bean), growth in this medium will be enhanced by the addition, after 2 weeks, of 50 mL of a nitrate supplement (18.2 g of KNO_3/L and 28.3 g of $Ca(NO_3)_2 \cdot 4H_2O$/L) to the 15 L of nutrient solution.

(B) The pH of the nutrient medium shall be maintained within a range of 4 to 7.

(C) Nutrient solution levels in 25-L carboys shall be maintained at 15-L throughout the experiment by replacing transpired water with distilled water, and by complete replacement with fresh solution at least twice a week.

(D) Nutrient solutions shall be transported by inert tubing from the carboys to the trays of pots at regular intervals. A timer-activated air pump is recommended for maintaining a controlled irrigation schedule.

(3) *Test parameters.* Environmental conditions shall be maintained as follows:

(i) If a growth chamber is used, the carbon dioxide concentration should be 350±50 ppm.

(ii) Irradiation, measured at 1 meter from the source, at 350±50 $\mu E/m^2/sec$. at 400 to 700 nm.

(iii) Photoperiods of 16 hours light and 8 hours darkness.

(iv) Optimum temperature for growth and N-fixation for the species used. For example, the optimum range for clover is 15 to 25 °C.

(v) Relative humidity in growth chambers should approach 70±5 percent during light periods and 90±5 percent during dark periods.

(vi) pH range of 5 to 8.

(e) *Reporting.* (1) The final report should include, but not necessarily be limited to, the following information.

(i) Name and address of the facility performing the study and the dates on which the study was initiated and was completed, terminated, or discontinued.

(ii) Objectives and procedures stated in the approved protocol, including any changes in the original protocol.

(iii) Statistical methods used for analyzing the data.

(iv) The test substance identified by name, Chemical Abstracts Service (CAS) number or code number, source, lot or batch number, strength, purity, and composition or other appropriate characteristics.

(v) Stability of the test and, if used, control substances under the conditions of administration.

(vi) A description of the methods used, which should include the following:

(A) Description of greenhouse or environmental chamber conditions, including type, size, and carbon dioxide concentration (applicable to chambers), temperatures, humidity, photoperiod, and lighting intensity.

(B) Description of nutrient solution including source of any unusual component(s).

(C) Description of delivery system including a diagram if the design is complex.

(D) Method(s) used to determine the placement of potting containers in the test trays and the assignment of test concentrations to particular trays of pots to ensure randomization of exposure.

(E) Frequency, duration, and methods of observations.

(vii) A description of the test system used, including the scientific names and sources of the test species (legume and bacterial), and histories of the species (e.g., percentage of plants germinating, seed size class, and culture history of *Rhizobium* strain used).

(viii) The number or total weight (for smaller species) of seeds tested per concentration, number of replicates, description of carriers, any seed sterilization procedures used, and times of exposure.

(ix) Concentration of the test substance in nutrient solution and in the support media when the test substance is soluble in water or solubilized with a carrier; the concentration of carrier solvent in nutrient solution when carrier is used; the quantity of test substance per unit weight of root support media when the substance is coated on the sand.

(x) pH of the nutrient solution when fresh and when replaced. The reported results should include:

(A) The results of the preliminary test and measurements. Species and concentrations of test substance used, and observed effects on seed germination, should be stated.

(B) For the definitive test, the species, concentrations of test substance used, and the following:

(*1*) Mean plant yield (g dry wt/pot), cumulative nodule count (per pot), and C_2H_4 production (nmol/g dry wt/hour and nmol/pot/hour) for untreated controls and for each concentration of the test substance used.

(*2*) Visible effects, if any, of the test substance on the intact plants (tops, roots, and nodules).

(xi) A description of all circumstances that may have affected the quality or integrity of the data.

(xii) The name of the sponsor, study director, principal investigator, names of other scientists or professionals, and the names of all supervisory personnel involved in the study.

(xiii) A description of the transformations, calculations, or operations performed on the data, a summary and analysis of the data, and a statement of the conclusions drawn from the analysis. Results of the analysis of data should include the concentration response curves with 95-percent confidence limits, the results of a goodness-of-fit test (e.g., chi-square test), and EC_{50}'s.

(xiv) The signed and dated reports of each of the individual scientists or other professionals involved in the study including each person who, at the

request or direction of the testing facility or sponsor, conducted an analysis or evaluation of data or specimens from the study after data generation was completed.

(xv) The locations where all specimens, raw data, and the final report are stored.

(xvi) The statement prepared and signed by the quality assurance unit.

§ 797.3050 Generic freshwater microcosm test.

(a) *Purpose.* This guideline is intended for use in developing data on the chemical fate and/or ecological effects of chemical substances and mixtures ("test substances") subject to environmental effects testing regulations under the Toxic Substances Control Act (TSCA) (Pub. L. 94–469, 90 Stat. 2003, 15 U.S.C. 2601 et seq.) This guideline prescribes methodologies to predict the potential fate and/or effects of a chemical substance in freshwater ecosystems using various types of microcosms, i.e., standardized aquatic microcosm, naturally derived mixed-flask culture microcosm, or naturally derived pond microcosm, with and without sediment. The microcosms contain freshwater algae and zooplankton with an assortment of unidentified bacteria and fungi. The United States Environmental Protection Agency (EPA) will use data from this test in assessing the potential hazard of a chemical substance to freshwater ecosystems.

(b) *Definitions.* The definitions in section 3 of TSCA and the definitions in Part 792—Good Laboratory Practice Standards—of this chapter apply to this guideline. The following definitions also apply to this guideline:

"Aseptic" means free from contaminating organisms, e.g., aseptic transfer of an algal culture into a sterilized tube via a sterile inoculating loop.

"Axenic" means free from other living organisms. An axenic culture (pure culture) of algae contains only one species of algae, no bacteria, and no fungi.

"Batch culture" means a culture of organisms that use only the initial supply of nutrients in the culture medium. Without replenishment of nutrients, concentrations of nutrients decline and waste products accumulate in the culture medium with the increase in numbers of organisms.

"Bioconcentration factor (BCF)" means the ratio of the concentration of the test substance in an organism or tissue (i.e.,the biota) to the concentration in microcosm water or sediment, as specified.

"Carrier" means the organic solvent, solubilizer and/or other substance used to disperse the test substance into microcosm water.

"Detritivore" means an organism (e.g., ostracod) that feeds on detritus, i.e., dead organic matter.

"Ecosystem" means a community of organisms and its interrelated physical and chemical environment functioning as a unit.

"EC–X" means the experimentally derived test substance concentration, in the aqueous phase, that is calculated to affect X percent of the test species.

"Generic microcosm" means a general representation of an aquatic ecosystem in which a microcosm is maintained under constant laboratory conditions and no attempt is made to simulate the physical/chemical environment of the natural system.

"Gnotobiotic" means a culture or community containing only known species or organisms.

"Grazer" means an animal that grazes or feeds on growing plants, e.g., daphnids, rotifers, and some protozoa.

"Herbivore" means an animal that feeds on plants, synonymous with grazer.

"Linear contrast" means the statistical comparison of the means of two treatment groups, e.g., the control and another treatment group.

"Medium" means the chemically-defined culture solution used in the microcosms.

"Microcosm" means a miniaturized model of a natural ecosystem.

"Naturally-derived" means using an assortment of organisms and/or water and sediment collected from one or more natural freshwater ecosystems.

"Net daytime production" means the increase in dissolved oxygen (DO) concentration in microcosm water during the light phase of the photoperiod.

"Nighttime respiration" means the decline in dissolved (DO) concentration during the dark phase.

"Semi-continuous culture" means an algae culture that is periodically harvested by partial draining and replenished with an equal volume of fresh nutrient solution.

"Standardized aquatic microcosm" (SAM) means a culture of a community containing known species of algae and aquatic invertebrates, but containing uncharacterized species of protozoa and microorganisms.

"Treatment group" means the replicate microcosms that receive the same amount (if any) of the test substance; controls are treatment groups that receive none of the test substance.

"Unialgal culture" means the cultivation or growth of a single species of algae; each species of algae is established and maintained in a separate culture.

"Xenic" means a culture or community containing one or more kinds of unidentified organisms.

(c) *Test procedures*—(1) *Summary of the test.* (i) In preparation for the test, a sufficient number of containers for the test plus an appropriate number of extra containers shall be filled with appropriate volumes of nutrient medium or natural water, numbers and types of organisms, and, in some cases, natural or artificial sediment. Microcosm components shall be allowed to interact and adjust to one another for a specified period of time. Then, after culling microcosms which deviate most from the group as a whole, microcosms shall be randomly assigned to treatment groups and to specific locations in the test area.

(ii) The test shall be started by applying the test substance to the microcosms. Appropriate control groups shall be established. Microcosms shall be sampled and/or monitored for changes in one or more attributes at specified intervals during the exposure period or the recovery period or both. The means of the attributes should be compared using suitable statistical methods to assess the fate or effects of the test substance. Dose-response curves should be plotted for appropriate attributes.

(iii) Microcosms should be monitored for at least 6 weeks after the test substance is applied. Monitoring may be terminated earlier if all test parameters in the treatment microcosms treated with the test substance remain the same as the control microcosms for 2 weeks after the application of test substance (the last application in the case of multiple applications).

(2) *Administration of test substance.* (i) When possible, it is preferred that a test substance be radiolabeled so that its residues can be rapidly and accurately measured by radioassay.

(ii) A test substance that is soluble in water should be dissolved in distilled water to make a stock solution of known concentration; a nominal concentration of test substance could be established in the microcosm by adding a measured volume of stock solution and thoroughly dispersing it by adequate stirring.

(iii) A test substance that is insoluble in water, but that is soluble in relatively non-toxic, water-miscible solvents, such as acetone, shall be dissolved in the minimum volume of carrier solvent required to form a homogenous stock

solution of known concentration. At the beginning of the test, a measured portion of stock solution shall be added to microcosm water and dispersed to form a homogeneous suspension. Carrier controls should be included in the experimental design and monitored simultaneously with microcosms treated with test substance.

(iv) A test substance that is insoluble in both water and water-miscible solvents should be dissolved in more than one carrier, for example, consisting of a lipophilic solvent and an emulsifier, and then a measured portion of stock solution should be dispersed into microcosm water to form a homogeneous suspension.

(v) In the pond microcosm, where stirring is hampered by the macrophyte vegetation and the potential siltation of natural sediment, the stock solution of test substance may be mixed thoroughly with 1 or 2 liters of water taken from the microcosm, and then poured slowly back into the microcosm while the microcosm water is gently stirred.

(vi) Sufficient quantities of stock solution should be made as needed to minimize storage time and disposal volume.

(vii) If the test substance is a formulated preparation, the strength of the active ingredient (AI) in the preparation and the concentration of the test substance in microcosm water should be specified in terms of percent AI.

(viii) The nominal concentration of test substance in both stock solution and microcosm water should be confirmed by chemical analyses at the beginning of the exposure period.

(3) *Range-finding test.* (i) A range-finding test may be conducted to establish if definitive testing is necessary and, if it is necessary, to establish concentrations of the test substance for the definitive test.

(ii) Culled, old control, or newly established microcosms should be exposed for 2 weeks to a series of test substance concentrations (e.g., 0.1, 1.0, 10, and 100 μg/L). Controls should also be used. The exposure period may be shortened if sufficient data are gathered in a shorter time.

(iii) The lowest test substance concentration in a test series, exclusive of controls, should be the lowest concentration which can be analytically quantified. The highest concentration should be 100 μg/L or the maximum water solubility of the test substance at ambient temperature. Replicates are not needed, and nominal concentrations of the test substance are acceptable for range-finding. If all calculated EC_{50}s for all species are greater than 100 μg/L or less than the analytical detection limit, definitive testing is not necessary. However, replicates and measured concentrations of the appropriate dose are needed to substantiate this result.

(iv) A range-finding test is not necessary if data on environmental concentrations of the test substance are available from monitoring studies, or environmental releases of the test substance are known or can be predicted from models, and the objective of the test is to bracket environmental concentrations which result from the releases. Otherwise, a range-finding test is advisable since microcosm response can differ significantly from single species tests.

(4) *Definitive test*—(i) *Purpose.* The purpose of the definitive test is to determine the potential ecological effects and/or fate of a test substance released into the freshwater environment.

(ii) *Concentration.* At least three concentrations of test substance, exclusive of controls, shall be tested. The concentration range selected shall define the dose-response curves for major microcosm species between EC_{10} and EC_{90}, unless a known environmental or release concentration is being bracketed. A minimum of six replicate microcosms shall be used for each concentration.

(iii) *Controls*—(A) *General requirements.* Each test shall include controls consisting of the same nutrient medium or natural water, types of biological groups, kind and amount of sediment (if present), and otherwise shall be treated the same as exposed groups, except that none of the test substance is added. If a carrier is used to dissolve or suspend the test substance, additional controls containing the carrier shall also be included in the test to determine any effect of the carrier on the microcosms.

(B) *Standardized aquatic microcosm.* To demonstrate the health of standardized microcosms in use, untreated controls shall meet the criteria specified below; otherwise, test data may be rejected by EPA, unless adequately justified.

(*1*) On day 28, the following criteria should be met in the static microcosms:

(*i*) At least 90 percent reduction in nitrate (NO_3) concentration;

(*ii*) Algal biomass in each mL of medium has exceeded $2{,}000\times10^4$ $(\mu m)^3$;

(*iii*) Oxygen gain has exceeded 4 mg/L (ppm);

(*iv*) Population density of daphnids, including members of all size groups, has exceeded 85 *Daphnia* per 100 mL;

(*v*) Coefficient of variation for each microcosm attribute within ±0.5 more than 50 percent of the time except as noted; coefficient of variation should not be calculated for any nitrate concentration below 2 μM or for oxygen gain below 1 mg/L (ppm); and

(*vi*) pH values in late-afternoon between 6 and 10; coefficient of variation among replicate microcosms within ±0.05 more than 50 percent of the time.

(*2*) From day 28 to the conclusion of the test, the performance of control microcosms should always meet the following criteria:

(*i*) Algal biomass exceeds 100×10^4 $(\mu m)^3$ per mL;

(*ii*) Positive oxygen gain in daytime;

(*iii*) Daphnid population density exceeds 15 *Daphnia* per 100 mL;

(*iv*) More than 50 percent of the time, the coefficient of variation is within ±0.5 among replicates of control microcosms for algal biomass, daphnid population density, and for oxygen gain above 1.00 mg/L (ppm); and

(*v*) pH values in late-afternoon between 6 and 9, and coefficient of variation for pH values among control replicates within ±0.05 more than 50 percent of the time.

(*3*) When control microcosms fail to meet the above criteria, adequate statistical justification is required for EPA acceptance of test data.

(iv) *Initiation and maintenance of microcosms*—(A) *Standardized aquatic microcosm.* The standardized microcosm shall be initiated and maintained as follows:

(*1*) At least 36 glass jars (or more if extra controls are needed) shall be filled with 3 liters of culture medium, 200 g of acid-washed silica sand, 0.5 g of rinsed chitin, and 0.5 g of cellulose powder, and then sterilized in an autoclave as specified in (d)(2)(ii)(A)(*2*) of this section.

(*2*) On day 0, at least 30 of the 36 autoclaved jars containing sterilized culture media shall be inoculated with 10 species of algae at 10^3 cells/mL for each species. Algal cultures are then covered and incubated on a white table under adequate illumination.

(*3*) On day 4, algae cultures shall be examined for algal abundance, pH, oxygen gain, and other variables and then each jar of algal culture shall be stocked with five species of animals, which include both grazers and detritivores. The numbers of microinvertebrates to be added to each liter of algal culture are 110 *Hypotrich* protozoans and 30 *Philodina* rotifers. The volume of media with protozoa and rotifers should not exceed 5 mL. The macroinvertebrates to be stocked into each microcosm include:

(*i*) Sixteen daphnids consisting of 3 adults with embryos, 3 adults without embryos, and 10 juveniles;

(*ii*) Six ostracods; and

(*iii*) Twelve amphipods consisting of 3 mating pairs (if possible) and 6 juveniles.

(*4*) On day 7, the 30 microcosms shall be reexamined and any outliers should be culled. At least 24 microcosms shall be selected for the test. The following attributes of microcosms should be used in the selection of the 24 microcosms:

(*i*) Dissolved oxygen gain in the daytime;

(*ii*) pH value (pre-light);

(*iii*) Abundance of daphnids and the presence of ostracods and amphipods; and

(*iv*) Abundance of *Selenastrum* and *Chlamydomonas*.

(*5*) Selected microcosms shall be randomly assigned to one of the treatment groups including the controls, and then located on the support table in a six-block design as follows:

(*i*) Initially, each of the 24 selected microcosms (the number of microcosms for a typical test) shall be randomly assigned to one of the four treatment groups (including the control), appropriately labeled, and then treated with appropriate concentrations of the test substance except that the control microcosm does not receive the test substance.

(*ii*) Then, each of the six microcosms in each of the four treatment groups shall be randomly assigned to one of the six block groups on the table; therefore, each block group has four microcosms, one from each treatment group.

(*iii*) Finally, each of the four microcosms in each block group shall be randomly assigned to one of the four specific locations within that block on the table.

(*iv*) To facilitate the handling of microcosms during the test, a series of new numbers should be assigned to the microcosms according to their ordered locations on the table.

(*6*) The test substance shall be added after sampling on experiment day 7 (paragraph (c)(4)(iv)(A)(*4*) of this section).

(*7*) The standardized microcosm should be sampled and examined at least once every 7 days after the test substance is added and reinoculated as follows:

(*i*) After sampling and enumeration on each Friday, any microcosm that is underpopulated (<three individuals) with mature macroinvertebrates shall be reinoculated with reproductive age adults so that each microcosm contains at least three individual amphipods, daphnids, and ostracods.

(*ii*) About 0.05 mL (1 drop) of dense hypotrich protozoan culture and the same volume of dense *Philodina* rotifer culture should be added to each microcosm after each examination.

(*iii*) Each microcosm shall be reinoculated every 7 days with about 0.05 mL of an algal mixture that is prepared by pooling equal volumes of monoculture from each of the 10 algal species.

(B) *Naturally-derived mixed-flask microcosm.* The mixed-flask microcosm shall be initiated and maintained as follows:

(*1*) A culture medium shall be prepared from fresh refrigerated stock solution (warmed to ambient temperature before measuring) in sufficient volume to fill each container with 950 mL of culture medium from the same stock solution.

(*2*) Stock cultures, which are derived from biotic samples collected from a variety of ecosystems, shall be at least 3 months old before they are inoculated into the microcosms.

(*3*) Each microcosm shall contain 50 mL of inoculum, 950 mL of culture medium, and 50 mL of acid-washed sand, and shall be randomly assigned to one of the four treatment groups, including controls.

(*4*) Inoculum in each 50-mL beaker should be placed under microcosm water with the beaker and then decanted into the microcosm water to avoid exposing the zooplankton to the air during inoculation and cross-seeding.

(*5*) Microcosms are placed in the environmental chamber according to a randomized block design.

(*6*) All microcosms shall be cross-seeded at least twice per week for 3 weeks following inoculation. Cross-seeding should be performed by collecting a 50-mL aliquot of a homogeneous suspension from each microcosm, carefully pooling and mixing them together and then returning a 50-mL aliquot of the mixture to each microcosm.

(*7*) Each microcosm should be reinoculated weekly with a 50-mL inoculum.

(*8*) Following weekly reinoculation, distilled water should be added to each microcosm to return the volume to 1 L to compensate for loss of water through evaporation.

(*9*) The test substance (and carrier, if needed) should be introduced into appropriate microcosms 6 weeks following initial inoculation of the system.

(C) *Naturally-derived pond microcosm.* The pond microcosms shall be initiated and maintained as follows:

(*1*) All microcosm components, including water, sediment and biota, should be collected from a single ecosystem, preferably on the same day they are to be used. A shallow pond is the best source of material for pond microcosms, but littoral zones of lakes, or slow-moving rivers, may be acceptable alternatives.

(*2*) Water should be collected before sediment. At least 60 liters of water should be collected from the pond for each microcosm.

(*3*) Sediment should be collected from the upper 26 cm of the pond bottom and placed in appropriate containers for transportation. Stones, twigs, and other large debris should be removed before the sediment is placed in microcosm containers. At least 12 L of sediment are required for each microcosm.

(*4*) If a macrophyte community is present in the pond, a portion should be collected from the bottom and placed in an appropriate container. All organisms naturally associated with the macrophyte community may be included in the samples except crayfish. At least 100 gm of the macrophytes shall be needed for each microcosm. If macrophyte communities are unavailable in the pond, filamentous algae communities may be collected instead if present.

(*5*) Water, sediment, and biota should be protected from bright sunlight and extreme temperatures, and placed, as soon as possible, in an environmental chamber that is set at a temperature equal to that of the pond water.

(*6*) The glass aquaria should be positioned in the environmental chamber before filling.

(*7*) Approximately twelve L of sieved sediment should be placed in each aquarium, resulting in a layer of sediment about 6.7 cm thick. Sediment in each transportation container should be equally divided among all microcosms.

(*8*) If interstitial water sampling is planned, two suitable water collectors, such as a glass diffuser, should be embedded in the sediment of each microcosm. The fritted-glass disk of the air diffusers should be positioned 4 cm below the sediment surface which is then leveled and smoothed.

(*9*) Approximately fifty-five L of pond water should be slowly added to each aquarium. Pond water in each transportation container should be equally divided among all microcosms. To minimize resuspension of sediment during water filling, a plastic film may be used to cover the sediment layer and a simple diffuser should be used to dissipate the kinetic force of the water

flow. The diffuser may be made of the bottom half of a 4-L polyethylene jug with holes punched around the perimeter.

(*10*) One hundred grams of drained macrophytes or filamentous algae from the source, such as *Elodea canadensis*, should be planted in the sediment in each microcosm.

(*11*) After macrophytes are planted, 1 to 2 L of water remaining in the macrophyte collection container should be added to each microcosm as an additional source of biota.

(*12*) The microcosm should be incubated in the environmental chamber for at least 4 weeks before the test substance is applied.

(*13*) Distilled water should be added to the microcosms periodically to compensate for the loss of water through evaporation. If a significant volume of microcosm water is removed in sampling, it should be replaced with an equal volume of dechlorinated tap water or well water.

(v) *Sampling procedures*—(A) *Ecological effects.* Sampling of microcosms for routine monitoring and final sampling can be performed as follows:

(*1*) Each species of macroinvertebrates, including daphnids, ostracods, and amphipods, in the microcosm can be counted visually if the numbers of animals are less than 20 and the water is clear enough for counting. When a dense population or turbid water hampers direct counting of all macroinvertebrates in the microcosm, a series of 100-mL subsamples shall be taken out of the standardized microcosm for enumeration of each macroinvertebrate species until 20 of each invertebrate are counted or 6 subsamples are removed, whichever occurs first. Water samples should be quickly captured and confined in a wide-mouth sampler before removal. Periphyton shall be scraped from the glass surface and thoroughly dispersed into the culture media preceding sampling of the water column. Zooplankton should be counted in the mixed-flask microcosm by removing a series of 25 mL subsamples. Four such samples are usually sufficient. In the pond microcosm, zooplankton population should be measured twice per week. They are captured with a 2-L beaker that is submerged rapidly into the microcosm water, concentrated on a 80-um mesh plankton bucket, stained, and preserved. Population density for three groups of zooplankton, (i.e., cladocera, copepod, and rotifers) should be counted in the pond microcosm; major groups of zooplankton should be identified according to genus, or species if possible.

(*2*) The population density of protozoa and rotifiers shall be determined in standardized aquatic microcosms, a water sample of up to 2 mL shall be dispersed in a 0.01, 0.1, or 0.2 mL aliquot on counting plates (e.g., Palmer cell with water depth of 4 mm) at 12 times magnification under a stereomicroscope. The total volume of aliquots examined should contain at least 50 individuals per species.

(*3*) The population density of each algal species can be counted twice per week. In the standardized aquatic microcosm, at least 50 cells shall be counted for each known algal species from a series of up to 35 fields on the counting chamber under the microscope. If species cannot be identified, then the major genus of the phytoplankton and periphyton should be identified for the following groups of algae: diatoms, green algae, euglenoid, and blue-green algae.

(*4*) Filamentous algae in the algal mat should be examined every 7 days with a microscope to detect the potential extinction of any inoculated algae and the possible presence of contaminant algal species.

(*5*) The biomass of primary producers should be estimated twice per week with *in vivo* fluorescence or optical density of chlorophyll *a* in acetone solution.

(*6*) The rate of uptake of dissolved inorganic carbon-14 by phytoplankton should be measured every 7 days as follows:

(*i*) Primary productivity in each microcosm should be measured in duplicate bottles under the same light intensity as that intensity over the microcosm, with a set of two duplicate bottles placed in the dark as controls.

(*ii*) Dissolved inorganic carbon-14 shall be kept sterile before the test. For example, it may be kept in a sealed ampule and then autoclaved.

(*iii*) About 100 mL of water should be taken from each microcosm, sieved through a 440-μm nylon screen and then placed in a 125-mL conical flask.

(*iv*) The sieved phytoplankton suspension in each flask should be shaken vigorously and poured into a set of four 16.5-mL test tubes until water rises to the rim of each tube, which is then sealed with a serum stopper.

(*v*) About 10 μCi of carbon-14 labeled sodium bicarbonate (specific activity about 1.0 μCi/1.0 μg) per milliliter of alkaline aqueous solution should be maintained at pH 9.5, packed in a glass ampule, and sterilized after the ampule is sealed.

(*vi*) About 1 μCi of $NaH^{14}CO_3$ in 0.1 mL aqueous solution should be injected into each of the four 16.5 mL test tubes. Two of the tubes shall be immediately placed in the dark inside a light-tight box while the other two should be exposed to the same level of light intensity as that prevailing over the microcosms. All tubes should be vigorously shaken during the 2-hour incubation.

(*vii*) After incubation, the phytoplankton culture in each tube should be filtered through a 0.45 um filter membrane over a vacuum flask. The membrane filter and the phytoplankton retained on its surface shall be dried and stored in a desiccator over silica gel before the radioassay.

(*viii*) Immediately before liquid scintillation counting, each filter membrane with the phytoplankton materials should be fumed over concentrated hydrochloric acid for at least 90 seconds to remove remaining inorganic carbon-14, and then placed in a counting vial for radioassay.

(*ix*) The counting rate for each liquid scintillation counting vial that holds the particulate matter from one of the incubation tubes should be properly calibrated for quenching effects.

(*x*) If the absolute rate of carbon assimilation (besides the relative carbon-14 uptake) is desired, the total dissolved inorganic carbon shall be determined. The total content of dissolved inorganic carbon in the microcosm, which affects the specific activity of carbon-14 (added as sodium bicarbonate) in the incubation tube, shall be measured simultaneously with measurement of carbon-14 uptake rate. Total carbon dioxide content is usually calculated from measured values of total carbonate alkalinity and pH in the microcosm water. It can also be measured by gas chromatography if the buffering capacity of the microcosm medium interferes with the alkalinity-pH method.

(*7*) The content of chlorophyll *a* in microcosm water should be measured weekly as follows:

(*i*) A sample of microcosm water, from 30 to 60 mL depending on the standing crop of algae, shall be sieved through a 0.3 mm nylon screen to remove any macroinvertebrates among the phytoplankton.

(*ii*) Sieved microcosm water shall be filtered under suction through a 0.45 um filter pad, which is covered with a fine powder of magnesium carbonate at about 10 mg/cm^2 of filter area. Following filtration, phytoplankton on the filter pad shall be immediately

extracted for chlorophyll *a* or temporarily stored at −30 °C.

(*iii*) Retained on the filter pad, the phytoplankton and magnesium carbonate shall be placed in a glass, pestle-type homogenizer with 3 to 5 mL of 90 percent acetone and then homogenized at 500 rpm for about 1 minute.

(*iv*) After each homogenate is transferred to a graduated centrifuge tube equipped with a cap, the homogenizer and its pestle shall be rinsed 2 to 3 times with 90 percent acetone before its next use. The final volume of pooled homogenate and washes shall be adjusted to 15.0 mL.

(*v*) After the cap is fastened, the centrifuge tube with its contents shall be allowed to stand in a dark, cold (below 10 °C) place for at least 1 hour, and then centrifuged at 4,000–5,000 g for approximately 10 minutes. Any turbid supernatant shall be recentrifuged if its absorbance at 750 um exceeds 0.005 at 1 cm of light path.

(*vi*) Without disturbing the precipitate, the supernatant in the centrifuge tube shall be poured or pipetted into a tube, capped, placed in a dark place, and warmed to room temperature before quantification of chlorophyll *a* by a fluorometric or spectrophotometric method.

(*vii*) In spectrophotometry, the bandwidth of each monochromatic light should be 3 nm or less. The absorbance (A) of the acetonic extract shall be measured at 750, 663, 645, and 630 nm against a 90 percent acetone blank. The concentration of chlorophyll *a* in the acetonic extract (μg/mL) should be calculated from the length of the optical path (cm) and the absorbance at each of the four wave lengths using the formula:

$$[\text{Chlorophyll } a] = m11.64\,(A663-A750) - 2.16\,(A645-A750) + 0.10\,(A630-A750)\% \text{ (light path)}.$$

(*viii*) The concentration of chlorophyll *a* in a water sample (μg/L) is calculated by multiplying the concentration in the extract by the volume of the extract (in milliliters), and dividing the product by the total volume of the water sample (in liters).

(*8*) At least twice each week, the peak and troughs on the diel curve of DO in microcosm water can be measured to estimate oxygen gain and loss resulting from daytime photosynthesis and nighttime respiration, respectively. The morning measurement of DO should be taken immediately before the light is turned on, while the afternoon measurement should be taken in the late afternoon or evening after the DO concentration in each microcosm has reached the peak in its diel cycle. At least once during the early part of the study, DO readings should be taken hourly during the light cycle to determine when the peak occurs. The net daytime community production, which is the gain in DO during the 12-hour photophase, should be calculated as the difference between the DO concentration at the end of the photophase and the DO concentration at the end of the preceding dark phase. The net nighttime community respiration, which is the loss of DO in the microcosm during the dark phase, should be calculated as the difference between the DO concentration at the end of the photophase and the DO concentration at the end of the following dark phase.

(*9*) The pH values of microcosm water should be read to 0.01 unit after the pH meter is calibrated with standard buffers of pH 7 and pH 10, and the pH probe should be rinsed very thoroughly between readings. The pH value should be taken at the same time day on scheduled sampling dates after addition of the test substance to the microcosm as, for example, 0, 1, 2, 3, 5, 7, 10, 14, 21, 28, 35, and 42 days after addition of the test substance. It is preferable to take the pH reading at the end of the dark phase to reflect community respiration or at the end of the photophase to reflect photosynthetic activity.

(*10*) Dissolved nutrients in the microcosms should be monitored at least twice each week for the first 4 weeks and at least once every 7 days thereafter; the samples should be filtered through a 0.45 μm membrane and kept frozen before they are analyzed by standard analytical methods for soluble reactive phosphorus, ammonia, nitrite, and nitrate.

(*11*) Net daytime community production and net nighttime community respiration should be measured on scheduled sampling dates as, for example, days 0, 1, 2, 3, 5, 7, 10, 14, 21, 28, 35, and 42 after addition of the test substance.

(*12*) Biomass decomposition rate, represented by the decomposition rate of ^{14}C-glucose in 15 mL of microcosm suspension, can be measured on scheduled sampling dates as, for example, days 0, 1, 2, 3, 5, 7, 10, 14, 21, 28, and 35, after addition of the test substance to the microcosms. Sampling for biomass decomposition (^{14}C-glucose decomposition) shall precede reinoculation if both occur on the same day. The ^{14}C-glucose decomposition should be performed as follows:

(*i*) A 15 mL water sample should be collected in a 50 mL flask.

(*ii*) A glucose solution that contains 0.15 μCi radioactivity in 0.3 mL of distilled water should be added to the flask.

(*iii*) The flask should be immediately sealed with a specially designed serum stopper, which is fitted with a plastic center well containing a 2 x 5 cm strip of chromatographic paper, and then shaken gently for approximately 15 minutes in the dark.

(*iv*) The heterotrophic activity should be stopped by injecting 1.0 mL of 2N sulfuric acid into the flask. A CO_2 trapping agent, such as carbosorb, should then be immediately injected onto each filter paper under the stopper after the acidification to collect the evolving carbon dioxide.

(*v*) The flask should be gently shaken for at least 2 hours, and the ^{14}C activity in the filter paper should be counted with a liquid scintillation counter.

(*vi*) The percentage deviation in the counts per minute (CPM) of the treatment from the control should be calculated.

(*13*) Total alkalinity, dissolved organic carbon, and specific conductivity of microcosm water can be measured weekly.

(*14*) Interstitial water in the sediment, if present, can be collected weekly to be analyzed for ammonium-nitrogen content. The first 5-mL water sample from the embedded gas diffuser, as specified in the pond microcosm, shall be discarded, and the second sample of 10 mL shall be filtered before chemical analysis.

(*15*) Any extinction of macrophytes, such as *Elodea canadensis* in the pond microcosm, in treated microcosms can be noted during the test, and biomass of macrophytes should be determined at the end of the test.

(*16*) The extinction and reappearance of benthic fauna, such as insects, snails, and oligochaetes, can be observed weekly in those microcosms containing natural sediments.

(*17*) Water-borne bacteria can be counted weekly.

(B) *Chemical fate.* Sampling should be performed according to the following procedures:

(*1*) The initial concentration of test substance in microcosm water shall be determined by chemical analysis of samples that are taken immediately after the test substance is thoroughly dispersed in microcosm water.

(*2*) The dissolved test substance, its total residue, or both should be measured in the filtrate of microcosm water semiweekly immediately after the test substance is applied and at least once more during the first week,

measured at least once during the second week, and then measured biweekly until the end of the test. The filtrate may be substituted with unfiltered microcosm water if the test substance is partitioned into the particulate fraction in such a high proportion that the chemical concentration in the filtrate fraction falls below the analytical detection limit for the test substance using the most practical analytical method.

(*3*) The concentration of test substance in macrophyte shoots, if present, can be measured biweekly if the sample is less than 5 percent of biomass.

(*4*) Distribution of the test substance among compartments of microcosms can be determined at the end of the test; the components may include:

(*i*) Macrophytes, subdivided into roots, shoots, and leaves;

(*ii*) Phytoplankton;

(*iii*) Zooplankton;

(*iv*) Benthic fauna;

(*v*) Sediment core, sectioned into 1-cm subcores; and

(*vi*) Periphyton, if any.

(5) [Reserved].

(6) *Analytical measurements*—(i) *Chemical.* Standard analytical methods should be used in performing analyses. The analytical method used to measure the amount of test substance in a sample should be validated by appropriate laboratory practices before beginning the test. An analytical method is not acceptable if likely degradation products of the test substance, such as hydrolysis and oxidation products, give positive or negative interference which cannot be systematically identified and mathematically corrected.

(ii) *Numerical.* (A) The following data shall be obtained from the standardized microcosm test:

(*1*) Abundance of each species of alga and macroinvertebrate;

(*2*) Abundance of each type of microscopic animal (i.e., protozoa and rotifers);

(*3*) Net daytime production;

(*4*) Net nighttime respiration;

(*5*) Chlorophyll *a* concentration;

(*6*) Water pH;

(*7*) Nutrients (at least nitrate) in water.

(B) The following data shall be obtained from the mixed-flask microcosm test:

(*1*) Abundance of phytoplankton and zooplankton;

(*2*) Net daytime production (DO gain);

(*3*) Net nighttime respiration (DO loss);

(*4*) Chlorophyll *a* concentration;

(*5*) Water pH;

(*6*) Carbon-14 glucose decomposition rate.

(C) The following data shall be obtained for the pond microcosm:

(*1*) Abundance of phytoplankton and zooplankton;

(*2*) Abundance of each type of benthic fauna;

(*3*) Net daytime production;

(*4*) Net nighttime respiration;

(*5*) Chlorophyll *a* concentration;

(*6*) Water pH, alkalinity, conductivity, and dissolved oxygen;

(*7*) Concentrations of the test substance in each compartment of the microcosm;

(*8*) Bioconcentration factor.

(D) Means and standards deviations of each chemical and biological attribute specified in paragraphs shall be calculated for the replicates of each treatment and control groups.

(E) EC_{50} values and their 95 percent confidence limits should be calculated for each of the appropriate attributes for the time between application of the test substance and recovery from test substance treatment, if data are adequate for statistical analysis. Otherwise, EC_x should be calculated as the percent deviation of an attribute in a treatment group from that in the control.

(F) Appropriate statistical analyses (e.g., Dunnett's procedure) shall be performed to determine whether significant differences in attributes exist between the carrier (if appropriate) and carrier-free controls and between the control and treated groups, and between microcosms receiving different concentrations of test substance.

(G) For the pond microcosm, appropriate statistical analyses should be performed to determine whether significant differences in the amount and in the bioconcentration factor of the test substance exist between treated different compartments within treated microcosms and between treated microcosms receiving different treatments.

(d) *Test conditions*—(1) *Test species*—(i) *Selection.* (A) The organisms inoculated into the standardized microcosm shall include 10 algal species; one protozoa, rotifer, daphnid, ostracod, and amphipod species; and an uninvited assortment of unidentified heterotrophs, such as bacteria and fungi. (*1*) The following 10 species of algae shall be included:

(*i*) *Anabaena cylindrica;*

(*ii*) *Ankistrodesumus* sp.;

(*iii*) *Chlamydomonas reinhardi;*

(*iv*) *Chlorella vulgaris;*

(*v*) *Lyngbya* sp.;

(*vi*) *Nitzschia kutzigiana;*

(*vii*) *Scenedesmus obliquus;*

(*viii*) *Selenastrum capricornutum;*

(*ix*) *Stigeoclonium* sp.;

(*x*) *Ulothrix* sp.

(*2*) *Daphnia magna* should be included. Species identity of the test daphnids should be verified using appropriate systematic keys.

(3) Amphipods, *Hyalella azteca,* also named *H. knickerbockeri,* should be used in the test. Mating pairs and the young are inoculated into the microcosm.

(*4*) Ostracods chosen should be either *Cypridopsis* or *Cyprinotus* sp. Only adults should be used.

(5) Protozoa should belong to the order *Hypotrichida,* and the culture should be 72 hours old when it is inoculated into the microcosm.

(*6*) Rotifers should belong to the *Philodina* sp.

(B) Inoculum for the mixed-flask microcosm test shall at least contain the following:

(*1*) Two species of single-celled green algae or diatoms;

(*2*) One species of filamentous green alga;

(*3*) One species of nitrogen-fixing blue-green alga;

(*4*) One species of grazing macroinvertebrate;

(*5*) One species of benthic, detritus-feeding macroinvertebrate;

(*6*) Bacteria and protozoa.

(C) The following broad groups of biota shall be included in the pond microcosm:

(*1*) Macrophyte;

(*2*) Phytoplankton;

(*3*) Periphyton;

(*4*) Zooplankton;

(*5*) Benthic animals.

(ii) *Source.* (A) Each unialgal culture that is a part of the 10-species composite inoculum for all standardized microcosms in a test should be of the same batch that in turn is subcultured to the exponential growth phase from a single source. Before the test, at least two successive subcultures outside the microcosm are required to acclimate the algal monoculture from agar slant to microcosm medium. A semicontinuous culture system is recommended for culture of unicellular algae. *Anabaena, Ankistrodesumus, Selenastrum,* and *Lyngbya* should be cultured in batch culture before they are inoculated into microcosms. Recommended procedures for culturing algae as well as the other organisms used in this test are described by Taub and Read (1984) under paragraph (f)(2) of this section.

(B) The original stock culture for the mixed-flask microcosm shall be collected from a variety of natural ecosystems. Then, new stock culture should be added to the old stock

cultures at least twice each year. To prepare the inoculum for microcosms, samples from several different aged stock cultures should be mixed together. Stock cultures should be at least 3 months old to be used as a source of microcosm inoculum. Distilled water should be added to the stock cultures in the open aquaria as needed to replace losses by evaporation. Aquatic organisms collected from a variety of natural ecosystems should be inoculated into culture medium to start stock cultures.

(C) Organisms for the pond microcosm should be obtained from the same natural ponds that supply the water and sediment used in the microcosm.

(2) *Facilities*—(i) *Apparatus.* (A) The environmental chambers or room housing the microcosms shall provide adequate environmental controls to meet temperature, irradiation, photoperiod, and air circulation requirements. Chambers shall be designed to prevent escape of contaminated internal air into the external environment by using appropriate filtering devices to prevent contamination of the external environment with the test substance.

(B) Laboratory facilities where the test substance is handled should have nonporous floor covering, absorbent bench covering with impermeable backing, and adequate disposal facilities to accommodate liquid waste (e.g., test and waste solutions containing the test substance at the end of each test), and solid wastes (e.g., bench covering, lab clothing, disposable glassware, or other contaminated materials).

(C) The test substance should be stored in a room separate from stock cultures and microcosms.

(D) A large autoclave capable of sterilizing several 1-gallon microcosm containers shall be used. An autoclave large enough for sterilizing culture medium in a 20-L (5 gallon) carboy is desirable.

(E) The dimensions of the bench space for the gnotobiotic microcosms shall be at least 2.6×0.85 m and should have a white top or white covering.

(F) Standard laboratory equipment and, if the test substance is radiolabeled, a liquid scintillation counter for radioassays is required.

(G) For the standardized and mixed-flask microcosm tests, a special sampler shall be used to capture macroinvertebrates from the microcosm. The sampler should be taller than the microcosm to reach the bottom of the jar, have a large diameter for free passage of water into the sampler, and a rubber stopper attached to a long glass rod to stir the water before sampling and to seal the bottom of the sampler for transferring water out of the microcosm after the sample is taken.

(ii) *Containers and media*—(A) *Standardized microcosm.*

(*1*) The containers used in each standardized microcosm test shall be new glass jars with the capacity of at least 1 gallon (3.8 liters). The jars should be at least 25 cm in height and 16.0 cm in diameter, with an opening 10.6 cm in diameter. The new jars should be washed with diluted (1:10) hydrochloric acid, flushed with tap water, and then rinsed with distilled water before use.

(*2*) Each standardized microcosm should contain at least 3 liters of a medium, such as Taub's T82MV, in addition to an artificial sediment made of silica sand (200 g) enriched with chitin (0.5 g) and cellulose (0.5 g). Before use, the sand should be washed with diluted (1:10) hydrochloric acid for 2 hours, repeatedly rinsed with clean water until the pH rises to 7, and then dried in an oven at 120 °C. The crude chitin from commercial sources should be rinsed with distilled water, air-dried, ground in a blender, and sifted through a 0.4 mm sieve. The cellulose powder, which is also packing material for chromatographic columns, is commercially available.

(B) *Naturally derived mixed-flask microcosm.* Hard-glass containers (e.g., 1-liter Pyrex® beakers), should be selected for testing organic substances in mixed-flask microcosms. Polypropylene beakers may be used for testing inorganic substances.

(C) *Naturally derived pond microcosm.* For the pond microcosm test, 72-L glass aquaria (60 cm L×30 cm W×40 cm D) should be used as containers. About 12 L of sieved sediment and 55 L of pond water should be added to each container.

(D) *Materials and equipment.* Materials and equipment that contact test solutions should be selected to minimize sorption of test substances from the microcosm and should not contain substances that can be leached into aqueous solution in quantities that can affect test results.

(iii) *Cleaning and sterilization.* Microcosm containers, stock culture containers, nutrient storage containers, and all other glassware should be cleaned before use. All glassware and equipment should be washed according to good standard laboratory procedures to remove any residues remaining from manufacturing or previous use. A dichromate solution should not be used for cleaning glassware. In the standardized microcosm, all glass containers and equipment for culturing and testing organisms should be sterilized by autoclave where possible. DO and pH probes may be cleaned with ethanol and thoroughly rinsed with distilled water before use. All sampling devices should be sterilized before each test; sampling devices in contact with lake water or sediment should be sterilized after each use.

(iv) *Nutrient media.* (A) Taub's T82MV in Taub and Read (1984) under paragraph (f)(2) of this section, medium is recommended for use in the standardized microcosm. It consists of the following compounds in Table 1:

TABLE 1.—NUTRIENT MEDIUM,[1] TAUB T82MV

Compound	Molecular weight	Concentration		
		mM	Element	mg/liter
$NaNO_3$	85.0	0.5	N	7.0
$MgSO_4 \cdot 7H_2O$	246.5	0.1	Mg	2.43
KH_2PO_4	136.0	0.04	P	1.23
NaOH	40.0	0.099	Na	2.27
$CaCl_2 \cdot 2H_2O$	147.0	1.0	Ca	40.0
NaCl	58.5	1.5	Na	34.5
$Al_2(SO_4)_3 \cdot 18H_2O$	666.5	0.0048	Al	0.26
$Na_2SiO_3 \cdot 9H_2O$	284.0	0.80	Na	36.8
			Si	22.4
Trace Metals:		μM		
$FeSO_4 \cdot 7H_2O$	278.0	1.12	Fe	0.0625

TABLE 1.—NUTRIENT MEDIUM,[1] TAUB T82MV—Continued

Compound	Molecular weight	Concentration		
		mM	Element	mg/liter
EDTA	292.0	1.42	EDTA	0.4145
H_3BO_3	61.8	0.75	B	0.008
$ZnSO_4 \cdot 7H_2O$	287.5	0.025	Zn	0.0015
$MnCl_2 \cdot 4H_2O$	197.9	0.25	Mn	0.0135
$Na_2MoO_4 \cdot 2H_2O$	242.0	0.025	Mo	0.0024
$CuSO_4 \cdot 5H_2O$	249.7	0.005	Cu	0.00032
$Co(NO_3)_2 \cdot 6H_2O$	291.0	0.0025	Co	0.00015
Vitamins:		μM		
Calcium pantothenate	476.5	1.47		0.70
Cyanocobalamin (B_{12})	1,355.4	0.000022		0.00003
Thiamin (B_1)	337.3	0.18		0.06
Riboflavin (B_2)	376.4	0.11		0.04
Nicotinamide	122.1	1.06		0.13
Folic Acid	441.4	0.75		0.33
Biotin	244.3	0.12		0.03
Putrescine	161.1	0.19		0.03
Choline	181.7	2.75		0.50
Inositol	216.2	5.09		1.10
Pyridoxine monohydrochloride	205.7	2.43		0.50

[1] pH adjusted to 7.0 with diluted (1:10) HC1.

(B) The recommended medium for growth and establishment of stock cultures for the mixed-flask microcosm is Taub's T82, which is the same as T82MV without vitamins. The modified Taub's #36 medium (Leffler 1981) under paragraph (f)(1) of this section used in the early protocol development is also adequate.

(C) There is no need to add nutrients to pond microcosms.

(3) *Test parameters.* (i) Environmental conditions for the microcosms shall be maintained as follows:

(A) Temperature within 21 to 25 °C (23±2 °C),

(B) Photoperiod of 12 hours light and 12 hours darkness, and

(C) Standard deviation of light intensities among the microcosms within ±10 percent of the mean and a light intensity of 150 $\mu Em^{-2}sec$ for this test.

(ii) [Reserved]

(e) *Reporting.* (1) The final report shall include, but not necessarily be limited to, the following information:

(i) Name and address of the facility performing the study and the dates on which the study was initiated and was completed, terminated, or discontinued.

(ii) Objectives and procedures stated in the approved protocol, including any changes in the original protocol.

(iii) Statistical methods used for analyzing the data.

(iv) The test substance identified by name, Chemical Abstract Service (CAS) number or code number, source, lot or batch number, strength, purity, and composition, or other appropriate characteristics.

(v) Stability of the test substance under the conditions of administration.

(vi) A description of the methods used, including the facilities and supporting equipment.

(vii) A description of the test system used, including: microcosm dimensions and water volume, sediment type and volume if used, temperature, photoperiod, and light intensity over the water surface.

(viii) A description of the organisms included in the microcosms representing various functional groups that are essential for the maintenance of a healthy microcosm.

(ix) A description of the nutrient media, if applicable.

(x) A description of the experimental design, treatment concentrations and media, and pattern of administration.

(xi) The materials, the methods, and the results of any range-finding test.

(xii) For the definitive test, reported results should include:

(A) For the standardized microcosm, a description of the following ecological effects and the fate of the test substance in the biota:

(*1*) Phytoplankton abundance, in numbers per mL, for each species;

(*2*) Population density of rotifers and protozoans, in numbers per mL, for each species;

(*3*) Abundance of daphnids, in numbers per liter, for each size group (small, medium, and large);

(*4*) Abundance of amphipods, in numbers per microcosm, for each size group (small and large);

(*5*) Abundance of ostracods, in numbers per microcosm;

(*6*) Relative abundance of phytoplankton in microcosms;

(*i*) Optical density at 440 nm, as an index of the particulate materials, including phytoplankton.

(*ii*) Content of chlorophyll *a*.

(*iii*) *In vivo* fluorescence.

(*7*) Concentrations of major mineral nutrients, such as orthophosphate, ammonia, nitrite, and nitrate in the filtrate of microcosm water,

(*8*) Primary productivity, as measured by ^{14}C-uptake methods,

(*9*) Community production and respiration, measured by the three-point methods (the net gain in dissolved oxygen during the photophase is the photosynthetic production of phytoplankton, while the loss of dissolved oxygen during the dark phase is an indicator of community respiration).

(*10*) Carrier effects when a carrier is used. Assessed by comparing biological variables in carrier controls to those in plain-water controls.

(*11*) Chemical effects assessed by comparing biological data in treated microcosms to that in plain-water controls or in combined controls for both the carrier and plain water.

(B) For the mixed-flask microcosm, a description of the following ecological effects and the fate of the test substance in biota:

(*1*) Phytoplankton abundance for the entire community or standing crop for each of the major species, in number of plants per mL.

(*2*) Zooplankton abundance for the community or standing crop for each life

stage of the major species, in numbers of animals per liter.

(3) Type and total number of the benthic organisms, or the standing crop for each species of benthic organism, in numbers of organisms per m^2.

(4) Carrier effects when carrier is used.

(5) Chemical effects assessed by comparing treated microcosms to controls.

(6) EC_{50} values for the test substance expressed in terms of pH change, net daytime community production, net nighttime community respiration, and decomposition rate of organic matter.

(7) Concentration of test substance residues in aquatic organisms or in specific tissues.

(8) The Bioconcentration factors of the test substance or its total residues.

(9) Effect of the initial concentration of the test substance on its bioconcentration factor.

(C) For the pond microcosm, a description of the following ecological effects and fate of the test substance in biota:

(1) Phytoplankton abundance for the entire community or standing crop for each of the major species, number of phytoplankton per mL or chlorophyll *a* concentration.

(2) Chlorophyll *a* content of periphyton and the major groups of periphytons, such as diatoms, green algae, blue-green algae, and euglenoid, if possible, genus or species names.

(3) Abundance of macrophytes in the microcosm calculated by estimating the volume of microcosm water occupied by the macrophytes and determining the standing crop of the macrophytes, including tops and roots.

(4) Zooplankton abundance for the community or standing crop for each life stage of the major species, in number of animals per liter.

(5) Type and total number of benthic organisms, or standing crop for each species of benthic organism, in number of organisms per square meter.

(6) Concentration of major dissolved nutrients, such as ammonium-nitrogen, nitrate and nitrite, and orthophosphate, in microcosm water.

(7) Carrier effects when carrier solvent is used.

(8) Chemical effects assessed by comparing treated microcosms to controls.

(9) The median effect concentration (EC_{50}) and its 95-percent confidence limit if the concentration of test substance causes partial reduction in any biological attribute in enough treatment groups. If the partial reduction occurs in only a few treatment groups, indicate the percentage reduction of biological abundance caused by the concentration of test substance (EC_x).

(10) Element cycling such as ammonium-nitrogen content, in $\mu g/L$.

(11) Maximum and minimum diel DO concentration on sampling date.

(12) Net daytime production and net nighttime respiration, in mg/L of DO change.

(13) Ratio of production to respiration (P/R ratio).

(14) Concentrations of the test substance in both particulate and dissolved fractions of the water column.

(15) Concentration of test substance in representative species of zooplankton and benthos.

(16) Concentration of test substance in periphyton.

(17) Vertical distribution of the test substance in the sediment core.

(18) Concentrations of the test substance in total biota.

(19) Concentrations of the test substance which may include its transformation products, at steady state in the water column and sediment profile, and the amount in the periphyton on the glass surface.

(20) Effect of the test substance concentration applied to the microcosm on the residual concentration of the test substance in each compartment.

(21) Bioconcentration factors of the test substance or its total residues.

(22) Effect of the initial concentration of test substance on its bioconcentration factors.

(D) A description of any circumstance that may have affected the quality or integrity of the data, including reporting and explaining any significant excursions from normal for microcosm parameters during the test.

(xiii) The name of the sponsor, study director, principal investigator, names of other scientists or professionals, and the names of all supervisory personnel involved in the study.

(xiv) A description of the transformations, calculations, or operations performed on the data, and a statement of the conclusion drawn from the analysis.

(xv) The signed and dated reports of each of the individual scientists or other professionals involved in the study, including each person who, at the request or direction of the testing facility or sponsor, conducted an analysis or evaluation of data or specimens from the study after data generation was completed.

(xvi) The locations where all specimens, raw data, and the final report are stored.

(xvii) The statement prepared and signed by the quality assurance unit.

(f) *Literature references.* For additional background information on this guideline, the following references should be consulted:

(1) Leffler, J.W. "Tentative protocol of an aquatic microcosm screening test for evaluating ecosystem-level effects of chemicals," Final report, EPA Contract No. 68-01-5043 (Subcontract No. T6411(7197)025 with EPA Office of Toxic Substances, Washington, DC (1981). Available from J.V. Nabholz, TS-796, Environmental Effects Branch, Health and Environmental Review Division, Office of Toxic Substances, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460-0001.

(2) Taub, F.B., and Read, P.L. "Standardized aquatic microcosm protocol," Draft final report, U.S. Food and Drug Administration Contract No. 223-83-7000 with FDA, Washington, DC 20204 (1986). Available from Dr. B.L. Hoffmann, U.S. FDA, HFF-304, Rm. 5157, 200 C Street, SW., Washington, DC 20204.

§ 797.3100 Site-specific aquatic microcosm test.

(a) *Purpose.* This guideline is intended for use in developing site-specific data on the chemical fate and ecological effects of chemical substances and mixtures ("test substances") subject to environmental effects test regulations under the Toxic Substances Control Act (TSCA) (Pub. L. 94-469, 90 Stat. 2003, 15 U.S.C. 2601 *et seq.*). This guideline prescribes methodologies to predict the potential fate and/or effects of either organic or inorganic substances in a natural aquatic ecosystem using a microcosm made of an indigenous water column and sediment core. This test system is capable of evaluating organic chemical substances, either soluble or insoluble, which may form either air-water surface films or aggregates which sink to bottom sediments. The United States Environmental Protection Agency (EPA) will use data from this test in assessing the potential hazard of a chemical substance to a particular natural aquatic system (natural system).

(b) *Definitions.* The definitions in section 3 of TSCA and Part 792—Environmental Effects Testing Good Laboratory Practice Standards, of this Chapter, apply to this test guideline. The following definitions also apply to this guideline:

"Benthic community" or benthos means numbers, species composition, size range, and feeding types of organisms present in the sediment of the natural system.

"Benthic subsystem" means an undisturbed core collected from the natural system and placed in the microcosm.

"Bioaccumulation factor" or "bioconcentration factor" means the ratio of the concentration of the test substance in an aquatic organism (i.e., biota) to the associated exposure concentration of the test substance from the food particles and the surrounding exposure medium (i.e., water or sediments).

"Carrier" means the organic solvent, solubilizer and/or other substance used to disperse the test substance into microcosm water.

"Chemical residues" means the test substance and its transformation products retained in the water, sediment, surface film, biota, and glass surfaces of the microcosm during the experiment period.

"Exposure concentration" means the concentration of test substance in the water or the sediment in which the aquatic organisms live.

"Natural aquatic system" or "natural system" means a particular geographic location consisting of a water column and its associated benthic component.

"Radioactivity budget" or "radioactivity mass balance" means a quantitative relationship among the input, retention, and export of radioactivity in a microcosm after applying a radiolabeled test substance into the microcosm. The amount of radioactivity added to the microcosm during the test usually is equal to the sum of the radioactivity remaining in the microcosm compartments and the radioactivity exported from the microcosm with the departed water, surface film, and exhaust air.

"Ratio of benthic surface area to water volume" means the ratio obtained by dividing the calculated benthic surface area of the natural system by the best estimate of water volume of the system.

"Sediment" means the bottom substrate existing at the mean water depth within the natural system during the period of the test.

"Site-specific aquatic microcosm" means a miniaturized mimic of a specific natural aquatic system.

"Stick protector" means a partially submerged glass cylinder within which surface film is removed.

"Water column" means the water within the natural system or the microcosm tank.

"Water flow rates over the sediment surface" means the rate of average water flow over the surface of the sediment as measured in the natural system or in the microcosm tank.

"Water replacement" or "replacement water" means the natural water added to the microcosm at specific intervals to simulate water turnover rate.

"Water turbulence" means the average water motion in the water column of the natural system or the microcosm tank during the test.

"Water turnover rate" or "residence time" means the time required for one complete water replacement or exchange within the natural system.

(c) *Test procedures*—(1) *Summary of the test.* A site-specific microcosm is constructed with an indigenous water column and the intact sediment core associated with it. The water and sediment retain their associated organisms in the pelagic and benthic components, respectively, of the natural aquatic system. Environmental variables such as temperature, water turbulence, and water turnover rate are manipulated to be similar to the conditions found in the natural aquatic system. After the test substance is initially introduced into the microcosm, the fate of the test substance as well as properties indicative of the structure and function of the microcosm are monitored for at least 30 days. Effects of the test substance on the abundance and diversity of aquatic life, and on elemental cycling in the microcosm are determined by comparisons with microcosms that do not contain the test substance.

(2) *Administration of test substance.* (i) Only test substances that are resistant to photolysis (i.e., $t_{1/2}=30$ days) should be tested in this microcosm system.

(ii) All the test substance added to the microcosms during the study shall be accounted for by mass balance. If the test substance is degradable (not persistent), then it is recommended that the test substance be radiolabeled.

(iii) Test substances can be either gases, liquids, or solids and may or may not be soluble in water.

(A) If the test substance is soluble in water, it should be dissolved in distilled water to make a stock solution of known concentration. Measured portions of the stock solution shall be added to the water in the microcosms and thoroughly dispersed by adequate stirring.

(B) If the test substance is insoluble in water but soluble in a relatively nontoxic, water-miscible solvent such as acetone, it should be dissolved in the minimum volume of carrier solvent required to form a homogeneous stock solution of known concentration. A measured portion of the stock solution should be dispersed into the microcosm water at the beginning of the test to form a homogeneous suspension. Carrier controls shall be included in the experimental design and monitored simultaneously with the microcosms treated with the test substance.

(C) If the test substance is a solid and is insoluble in either water or a suitable carrier, it should be ground to a fine powder, weighed to achieve the mass required, and added to a 1-liter aliquot of the test water contained in a 2-liter separatory funnel. The separatory funnel should be shaken vigorously to achieve as homogeneous a suspension as possible and then the suspension should be added to the microcosm water.

(D) If the test substance is a liquid, the measured portion should be added to 1 liter of the microcosm water contained in a 2-liter separatory funnel, and shaken to achieve as homogenous a suspension as possible. The suspension should then be mixed and added to the microcosm tanks.

(E) The amount of test substance remaining in the separatory funnel must be determined by suitable solvent extraction and analyses to accurately determine the amount added to the microcosms.

(iv) Sufficient quantities of the stock solution should be made as needed to minimize storage time and disposal volume.

(v) A test substance that is insoluble in both water and water-miscible carriers should be dissolved in more than one carrier, for example, consisting of a lipophilic solvent and an emulsifier, and then a measured portion of stock solution should be dispersed into the microcosm water to form a homogeneous suspension.

(vi) The method and pattern of applying a test substance to microcosms should reasonably reflect the release pattern expected in the natural system. If the input of the test substance to the natural system is other than a one dose application (i.e., multiple application, runoff), the test substance must be added to the microcosm tank in the same manner as the initial dose and each time there is a microcosm water replacement, but only in quantities sufficient to achieve the desired test concentrations in the replacement water.

(3) *Selection of treatment concentration.* (i) Range-finding tests are not recommended, but may be needed to determine treatment concentrations.

(ii) Initially, the microcosms should be treated with concentrations of the test substance that are 0.1, 1, and 10 times as high as the average ambient concentration of the test substance

observed or predicted in the natural system.

(iii) The test substance should be tested in concentrations of 1, 10, and 100 μg/L, if reliable data on observed or predicted average ambient concentrations are not available.

(4) *Definitive test.* (i) The purpose of the definitive test is to determine the potential fate and ecological effects of a test substance in a specific aquatic ecosystem.

(ii) At least three concentrations of the test substance, exclusive of controls, shall be tested for at least 30 days. A minimum of five replicate microcosms shall be used for each concentration. All tanks within a given airtight compartment shall be treated with the same concentration of the test substance.

(iii) A minimum of five control microcosms shall be used in the test for each water-soluble test substance. For those test substances that require a carrier, two of the five control microcosms shall be designated carrier controls and treated with the carrier leaving the remaining microcosms as carrier-free controls.

(iv) Two tests are recommended for each test substance. One should be performed in the summer and another in the winter if the fate and ecological effects of the test substance are expected to vary significantly with seasons.

(v) Microcosms should be installed and maintained in the following manner:

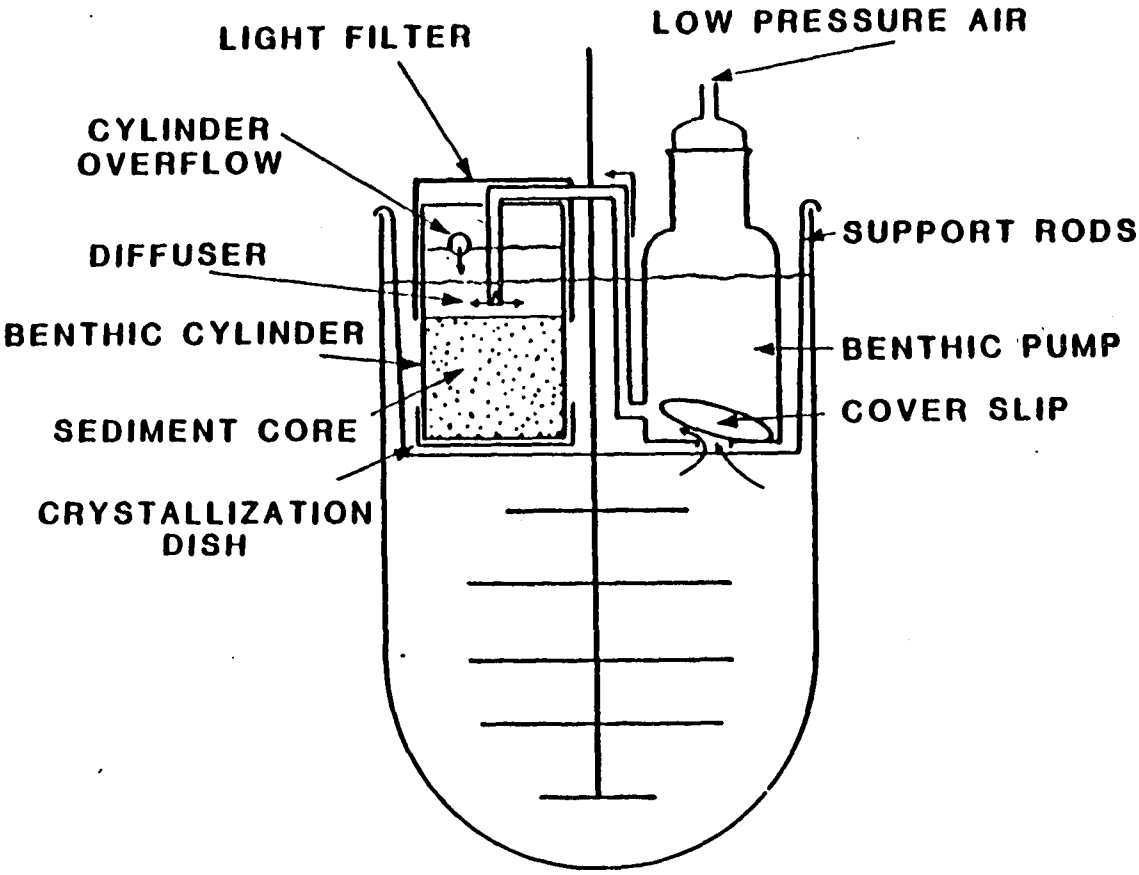
(A) All microcosm tanks should be placed in a water bath maintained within ±1 °C of the ambient water temperature in the natural system. Water may be pumped from the natural system into the water bath to regulate the temperature in the microcosms if the test laboratory is nearby.

(B) Water for the microcosm shall be collected from the natural system, at mid-tide for estuaries, by hand bucketing or non-destructive pumping, e.g., diaphragm pump. If the natural water column in the natural system is stratified, the microcosm water should contain subsamples taken from various depths.

(C) Water samples should be transported to the test facility in glass containers. On arrival at the test facility, water in each container shall be distributed equally among microcosms to a prescribed volume of approximately 140 liters. Plankton samples must be collected from each microcosm tank and analyzed to ensure homogeneous distribution.

(D) Each sediment core shall be collected undisturbed from the natural system by inserting a glass cylinder into the sediment and extracting the core from a prescribed location. The bottom of the core is sealed by seating it in a crystallization dish slightly larger than the cylinder (in the following Figure 1). It is desirable to use scuba divers to inspect the uniformity of the benthic component in the natural system, to select representative cores of appropriate length to preserve intact habitats, and then to collect the cores with as little disturbance as possible.

FIGURE 1--EXPERIMENTAL MICROCOSM (not drawn to scale)



(E) The ratio of benthic surface area to water volume in the microcosm should be made equal to that ratio in the natural system being simulated. Because the water volume in the microcosm is fixed, the desired ratio is obtained by selecting benthic cylinders with the appropriate inner diameter.

(F) The benthic cylinder housing the sediment core shall be mounted in the microcosm tank so that the overflow port of the box is 5 cm above the water level in the tank (see Figure 1 in paragraph (c)(4)(v)(D) of this section). Any disturbed sediment shall be allowed to settle for at least 30 minutes before starting water circulation in the benthic box and water turbulence in the microcosm tank.

(G) The benthic pump shall be mounted beside the benthic cylinder with the outlet diffuser of the pump submerged below the surface of the water (overflow port of the cylinder) but above the sediment surface (see Figure 1 in paragraph (c)(4)(v)(D) of this section). The rate of water flow over the sediment surface in the microcosm tank shall be adjusted to be equivalent to the average water flow rate over the sediment surface in the natural system.

(H) The light intensity over the microcosms shall be adjusted to produce an abundance of phytoplankton statistically equivalent to that in the natural system. Preliminary tests should be performed to establish the proper light intensity over the microcosms and should be done with all the microcosm equipment and facilities (i.e., water bath, tank paddle, benthic cylinder and pump) in place. The preliminary tests should be performed at several light intensities for at least 14 days. The photoperiod in both preliminary and definitive tests shall be set once every 7 days to match the actual photoperiod within 0.5 hour in the location of the natural system.

(I) The light intensity on the surface of the sediment core in the microcosms

shall be adjusted to the level that is equivalent to the average light intensity on the sediment surface in the natural system. Light intensity can be adjusted by covering the upper portion of the benthic cylinder with a screen, such as a nylon net, or other spectrally-neutral light filters.

(J) The speed of the stirring paddle installed in the microcosm tanks shall be adjusted to generate a water turbulence level statistically equivalent to that in the natural system, as measured in the gypsum dissolution method. This method measures the turbulence level by the average dissolution of pure gypsum. Weight loss shall be at least 5–10 percent. This may take several hours depending on temperature and turbulence. Dissolution rates shall be measured and water turbulence should be adjusted in the microcosms before each test.

(K) Any resuspended sediment that settles on the bottom of a microcosm tank shall be collected with a tubing pump and returned to the benthic cylinders when water turnover is simulated.

(L) Water turnover in the natural system shall be simulated in the microcosm as follows:

(*1*) A measured portion of the water in each microcosm tank shall be replaced at least three times every 7 days with water newly collected from the natural system;

(*2*) The water replacement shall match the water turnover rate observed in the natural system;

(*3*) Water replacement shall be scheduled immediately after sampling of microcosm water and shall occur on the same day.

(*4*) The volume of microcosm water to be removed each time should be the difference between the calculated volume to be replaced and the total volume of water samples removed to keep the water volume at 140 L.

(M) If the test substance accumulates in a thin film on the surface of water in the microcosm tank, a portion of the film should be removed with a filter pad or other absorbent material prior to removal of the volume of water to be replaced. This simulates the surface film advective transport from the natural system. The area (cm^2) of surface film to be removed should be equal to the product of (a) the ratio of the replacement water volume to total tank volume ratio, and (b) the surface area of the tank water minus (c) the area displaced by the benthic pump and cylinder.

$$\text{Film area removed} = \frac{\text{Replacement water}}{\text{Total tank volume}} \times \left[\text{Tank water surface area} - \left(\text{Benthic pump area} + \text{Benthic cylinder area}\right)\right]$$

(vi) Sampling procedures for the study of chemical fate should be performed as follows:

(A) Water samples should be taken at approximately 0, 1, 2, 3, 6, 12, and 24 hours after the initial application of the test substance. Thereafter, samples should be taken before each water replacement. Water samples should be collected through a slick protector within which the surface film has been removed. Samples may be taken more frequently to follow the fate of a chemical substance that is disappearing from the system at a relatively rapid rate. The samples should be collected at a location at least 3 cm from the side of the tank and 10 cm below the water surface while both the stirring paddle and the benthic pump are in operation.

(B) If the test substance accumulates in a thin film on the water surface, it should be sampled with a filter pad before each water replacement. The quantity of a radiolabeled test substance absorbed onto the filter membrane can be easily determined with liquid scintillation counting assuming all radioactivity represents the original form of the test substance. If the test substance has degraded, the percentage of the total radioactivity that is the test substance should be determined.

(C) Samples of selected zooplankton species in the microcosm should be collected once every 7 days to be analyzed for the test substance and, if practical, for its transformation products.

(D) Air samples should be collected once every seven days with a suitable sampler. For example, an inverted crystallization dish equipped with inlet and outlet tubes on the side may be placed above the water surface to collect air samples for chemical analysis; fresh air could be drawn by a vacuum pump at the end of the sampling train, entering the modified dish through the inlet tube, sweeping over the water surface, and carrying any volatilized forms of the test substance through the outlet tube to a suitable trap for subsequent quantification. Under the inverted dish, air flow over the water surface should be adjusted to match the flow rate over the rest of the water surface in the microcosm. The duration for each sample collection should be kept as short as possible.

(E) The quantity of test substance adsorbed onto the glass surfaces of the microcosm above and below the water surface should be sampled and estimated as follows:

(*1*) For estimates of the test substance adsorbed onto the glass of the microcosm tanks below the surface, glass rods of known surface area should be suspended in the water column, and removed periodically from the water and placed in a scintillation counting vial for radioassay. If a surface film is present, glass rods should be removed through a slick protector. If possible, the estimated quantity of the radiolabeled chemical substance on the glass surfaces using the glass rod method should be verified with extraction of the test substance from all subsurface glass surfaces whenever a microcosm is sacrificed during the test.

(*2*) A portion of the interior microcosm tank wall extending from the water surface to the lip of the tank should have an appropriate absorbent material attached to it. This material should be removed and extracted at the conclusion of the test to provide an estimate of the amount of the test substance adsorbed to the tank walls above the water.

(*3*) Any unlabeled test substance on the glass surface shall be thoroughly extracted and quantified after the water and sediment are removed from the microcosm.

(F) The quantities of the test substance in the benthic component should be determined as follows: (*1*) One of the five replicate microcosm

tanks for each of the three treatments should be randomly selected for sampling and samples of the core contents shall be collected on day 10; another of the remaining replicate microcosm tanks should be selected for sampling and samples shall be collected on day 20. The three remaining treated replicates and the controls shall be sampled at the end of the test on day 30.

(*2*) Three sediment subcores, at least 25 cm in diameter x 7 cm in depth, shall be collected from each benthic component to determine the vertical distribution of the test substance in the benthic component, i.e., concentration of test substance in each centimeter of the sediment core.

(*3*) Before triplicate sediment subcores are taken, the surface film (if present) on both the microcosm tank and the benthic cylinder should be removed with suitable tools such as a suction skimmer or a sheet of absorbent material, and then the water in both the tank and the benthic cylinder should be drained.

(*4*) Samples of each of the major animal species in the benthic component should be analyzed for the test substance and its transformation products, if possible.

(vii) Sampling procedures for ecological effects study should be performed as follows: (A) Water samples from microcosms should be taken as described in paragraphs (c)(4)(vi) (A) and (B) of this section.

(B) When water replacement and ecological effects sampling occur on the same day, biological samples shall be taken first.

(C) Samples of at least 2 mL of water should be collected daily from the microcosms and such samples shall be analyzed for enumeration and identification of phytoplankton.

(D) Samples of at least 2 liters of water should be collected from the microcosms at least twice each week and such samples shall be analyzed for enumeration and identification of zooplankton and transient larval forms. The water samples shall be collected at a rate sufficient to overcome the zooplankters' avoidance reaction and should be screened through a 20-uM plankton net. The retained organisms should be rinsed into a Petri dish and preserved for subsequent determination of population density and species composition.

(E) The ammonium-nitrogen concentration in the water column of the microcosms and the natural system should be determined once every 7 days.

(F) Population densities of phytoplankton and zooplankton in the natural system should be determined at least twice each week, and ammonium-nitrogen concentration in natural water should be measured at least once every 7 days. This can be done conveniently at the time for water replacement.

(G) The flux rate of ammonium-nitrogen between the benthic component and its associated water column should be determined weekly by stopping the benthic pump for a period of 1 to 3 hours. Ammonia concentrations in water above the benthic component should be measured at the beginning and end of this period. The flux rate should be expressed as the weight of ammonium-nitrogen produced by each square meter of sediment surface area per hour.

(H) The abundance and diversity of benthos shall be determined. Benthic animals shall be captured by sieving the wet sediment through a 0.5 mm screen. All animals retained on the screen should be identified and counted. Similar characterization of the benthic community of the natural system shall be established at the time of the experiment.

(5) [Reserved]

(6) *Analytical measurements*—(i) *Instrumental methods.* Atomic absorption and gas chromatography are preferrable to colorimetric methods for quantitative analyses of metals and organic compounds, respectively. Liquid scintillation counting is recommended for quantitative analysis of radiolabeled test substances, and high-pressure liquid chromatography is recommended in conjunction with liquid scintillation counting for separation and quantification of the test substance and its transformation products.

(ii) *Chemical.* (A) A stock solution of the test substance shall be prepared just before use, and its nominal concentration and purity shall be confirmed by chemical analysis. Standard analytical methods, if available, shall be used to determine the chemical concentration in microcosm samples and stock solution. The analytical methods used to measure all environmental samples shall be validated before the beginning of the test.

(B) Concentrations of the test substance, and its transformation products, if possible, shall be measured for the following components of the microcosm:

(*1*) Air.

(*2*) Surface film, if present.

(*3*) Water column, both particulate and dissolved fractions.

(*4*) Various layers of the benthic component.

(*5*) Representative species of zooplankton.

(*6*) Representative benthic organisms.

(*7*) Glass surfaces above and below the water surface.

(C) If a radiolabeled test substance is used, a complete budget of all radioactivity shall be calculated, including the amount of radioactivity added to the microcosm, removed by gas transport and water replacement, and remaining among the compartments of the microcosm.

(iii) *Numerical.* (A) Mean and standard deviations of biological attributes shall be calculated for each treatment and control. The following information shall be determined: Abundance of phytoplankton, zooplankton, and each type of benthic fauna. If the species of plankton can be identified, abundance shall be calculated for each one.

(B) Statistical analyses shall be performed to determine: (*1*) Whether significant differences exist in biological attributes between:

(*i*) The control microcosms and the natural system.

(*ii*) The carrier control and the carrier-free control.

(*iii*) The control and the microcosms treated with the test substance.

(*2*) Whether significant differences exist in the amount, export, and bioconcentration of the test substance among:

(*i*) Different compartments of the microcosms receiving the same treatment, and

(*ii*) The microcosms receiving different treatments.

(d) *Test conditions*—(1) *Test species.* (i) The organisms tested shall include the indigenous fauna and flora representing both the pelagic and benthic communities of the natural system, except the macrofauna.

(ii) Neither acclimation nor supplemental food is necessary for the test organisms.

(2) *Facilities*—(i) *Supporting equipment.* (A) The capacity of the water bath used to maintain the water temperature and the flow rate of the water through the water bath shall be such that the water temperature in all microcosms will be kept within ±1 °C of the ambient water temperature in the natural system.

(B) "Cool white" fluorescent light should uniformly illuminate the water surface of all microcosms. The fluorescent lights should be mounted on a canopy above the microcosm tanks, (in the following Figure 2). The desired, uniform light intensity is achieved by wrapping the fluorescent lamps with aluminum foil.

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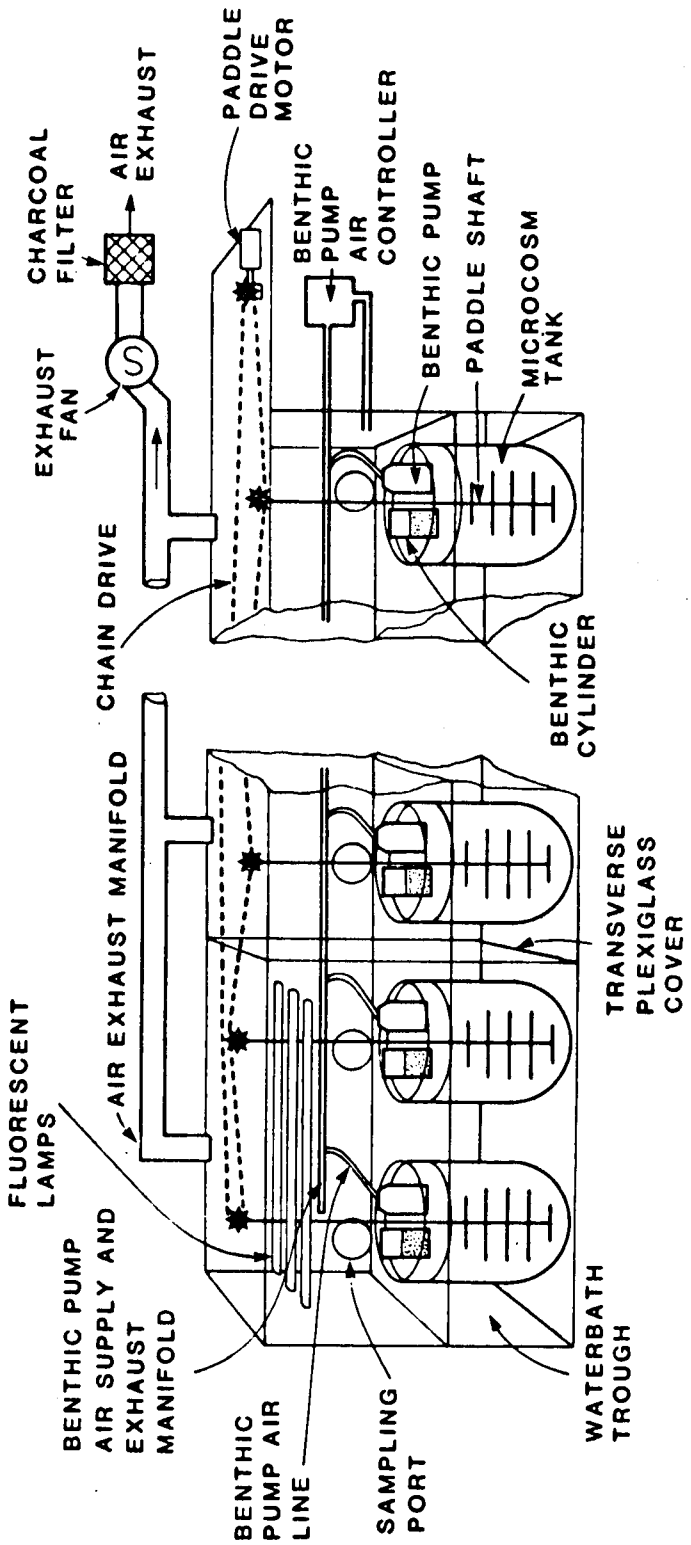
FIGURE 2--EXPERIMENTAL MICROCOSM FACILITY



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(C) In the room containing the microcosms, no light source except that specifically for the microcosms shall be allowed.

(D) To match the water turbulence in the natural system, the water turbulence level in the microcosms should be controlled by the speed of an electric motor that is mounted with its chain drive and drive shafts above the canopy and controls the speed of all stirring paddles (see Figure 2 in paragraph (d)(2)(i)(B) of this section).

(E) The gypsum dissolution method measures the water turbulence level by the average dissolution rate (i.e., weight loss/time) of cubes (2.5 cm x 1.5 cm x 1.0 cm) of pure gypsum ($CaSO_4$) suspended in the microcosm tank or in the natural system. Gypsum cubes from the same source and lot should be used for the entire set of dissolution tests in the microcosms and in the natural system.

(F) The airspace between the canopy and water bath should be enclosed and sealed with acrylic plastic sheets to facilitate containment of the test substance transported into the gas phase (atmosphere) from the water (see Figure 2 in paragraph (d)(2)(i)(B) of this section).

(*1*) The enclosed volume under the canopy and above the water bath should be divided into relatively airtight compartments with Plexiglas ® panels mounted transversely to the module and extending approximately 5 cm below the water surface of the water bath.

(*2*) Each airtight compartment should have its own air outlet to the exhaust, a removable front cover to facilitate setting up and filling the microcosm tanks, and hinged ports in the front cover to provide access to the tanks during testing.

(G) Airflow over the water surface (microcosms and water bath) in each compartment should be maintained by a manifold connected to an exhaust fan which draws the air from all compartments through its outlet tube and then vents the exhaust air through a charcoal filter and a stack outside the laboratory building (see Figure 2 in paragraph (d)(2)(i)(B) of this section).

(ii) *Microcosm.* Each microcosm is a multi-trophic level model that combines pelagic and benthic communities similar to those existing in the natural system.

(A) Hard glass (e.g., Pyrex®) containers are preferred to soft glass or plastic ones for the testing of organic chemicals.

(B) For each experiment, at least 20 microcosm tanks shall be required. Each tank, about 140 L in capacity shall hold enough water and sediment to support the quantity of benthic invertebrates present in the benthic subsystem, such as a medium-sized shellfish, for 30 days or more.

(C) The benthic cylinder, up to 30 cm tall, shall have an inner diameter that makes the ratio of the sediment surface area to water volume in the microcosm equal to that in the natural system.

(D) The benthic cylinder, which holds the sediment core, should be sealed at the bottom end with a crystallization dish.

(E) The benthic pump (Figure 1 of this section) should be an all-glass, air displacement pump. It shall be large enough to provide the appropriate water flow rate over the sediment surface.

(F) To minimize disturbance of the sediment core by the discharge from the benthic pump, a diffuser shall be attached to the water outlet tube of the benthic pump to direct the outgoing water into several horizontal streams over the sediment surface.

(G) If the test substance forms a thin film covering the microcosm water surface, a 6-cm length of glass cylinder, or surface film protector, should be partially submerged in the water to provide a sampling port for uncontaminated water samples after the surface film inside the cylinder is removed.

(iii) *Cleaning.* Microcosm tanks, benthic cylinders, crystallization dishes, benthic pumps, support rack, slick protectors, and glass rods should be cleaned before use. All equipment should be washed according to standard laboratory practices to remove any residues remaining from manufacturing or previous use. A dichromate solution should not be used for cleaning glass containers. Solvents and/or high temperature (450 °C for 8 hours) combustion may be necessary to ensure the ultimate cleanliness of the microcosms and associated glass components. If cleansing solvents are used, disposal should conform to existing federal regulations.

(3) *Test parameters.* Environmental conditions in the microcosm shall simulate the natural aquatic system as closely as possible.

(e) *Reporting.* (1) The final report shall include, but not necessarily be limited to, the following information:

(i) Name and address of the facility performing the study and the dates on which the study was initiated and was completed, terminated, or discontinued.

(ii) Objectives and procedures stated in the approved protocol, including any changes in the original protocol.

(iii) Statistical methods employed for analyzing data.

(iv) The test substance identified by name, Chemical Abstracts Service (CAS) number or code number, source, lot or batch number, strength, purity, and composition or other appropriate characteristics.

(v) Stability of the test substance under the conditions of administration.

(vi) A description of the methods used, including: (A) Description of microcosm facilities and supporting equipment; and

(B) Description of natural system being simulated, including boundaries of natural system, pelagic community, benthic community, sediment type, water quality, history of natural system, light regime, ratio of benthic surface area to the water volume, water turbulence rate, water flow rate over sediment surface, water turnover rate, light intensity over sediment surface, seasonal attributes (e.g., water temperature), and ecological attributes (e.g., productivity).

(vii) A description of the test system used, including: microcosm tank size, sediment core size, ratio of benthic surface area to water volume, light intensity on water surface, light intensity on sediment surface, water flow rate over sediment surface, and water turbulence.

(viii) A description of the experimental design, treatment concentrations, and methods and pattern of administration. The report results should include:

(A) The results of the preliminary tests.

(B) For the definitive test, various ecological effects and chemical fate parameters may include:

(*1*) *Ecological effects.* (*i*) Phytoplankton abundance, in numbers per mL, for the community or for each species.

(*ii*) Zooplankton and transient larval forms abundances, in numbers per liter, for the community or for each life stage of each species.

(*iii*) Number of organisms in the benthic community or, if known, in each species, expressed in numbers per m^2. Indicate the categories of benthic organisms if species identification is not feasible.

(*iv*) Concentrations of major nutrients, such as ammonium-nitrogen, in the water column.

(*v*) Carrier effects when a carrier solvent is used.

(*vi*) Assessment of microcosm realism by comparing the biological attributes in the natural system to that in the control microcosms.

(*vii*) Effects of the test substance are assessed by comparing the treated microcosms to carrier controls.

(*2*) *Chemical fate.* (*i*) The concentrations of test substance in

representative species of zooplankton and benthic organisms.

(*ii*) The amount of test substance transported to the atmosphere.

(*iii*) The amount of test substance adsorbed onto the glass surface of the microcosm.

(*iv*) The vertical distribution of the test substance in the sediment core of the benthic component.

(*v*) The uptake and biotransformation of the test substance in biota.

(*vi*) A mass balance consisting of the total quantity of the test substance added to the microcosm, the quantities exported from the microcosm and the quantities remaining in the microcosm.

(*vii*) Concentrations of the test substance and its transformation products, at steady state in the water column and sediment core, and the amount on the glass surfaces both above and below the water surface and on the surface film, if present.

(*viii*) The effect of treatments on the residual concentrations of the test substance in each ecosystem compartment.

(*3*) *Transport of test substance and its transformation products.* (*i*) Amount of test substance and transformation products exported from the microcosm through the air, water replacement, and removal of surface film.

(*ii*) The effect of the treatments on the export rate of test substance and transformation products from each ecosystem compartment and on the total amount of test substance being exported.

(*4*) *Bioaccumulation potential of test substance in aquatic organisms.* (*i*) The concentrations of test substance residues in aquatic organisms (mass of test substance per kilogram wet weight).

(*ii*) The bioaccumulation factor for selected benthos as well as water column species, such as zooplankton.

(*iii*) The effect of the treatments concentration on the bioaccumulation factor.

(ix) A description of all circumstances that may have affected the quality or integrity of the data.

(x) The name of the sponsor, study director, principal investigator, names of other scientists or professionals, and the names of all supervisory personnel involved in the study.

(xi) A description of the transformations, calculations, or operations performed on the data, a summary and analysis of the data, and a statement of the conclusions drawn from the analysis.

(xii) The signed and dated reports of each of the individual scientists or other professionals involved in the study, including each person who, at the request or direction of the testing facility or sponsor, conducted an analysis or evaluation of data or specimens from the study after data generation was completed.

(xiii) The locations where all specimens, raw data, and the final report are stored.

(xiv) The statement prepared and signed by the quality assurance unit.

§ 797.3700 Soil microbial community toxicity test.

(a) *Purpose.* This guideline is intended for use in developing data on the toxicity of chemical substances and mixtures ("test substances") subject to environmental effects test regulations under the Toxic Substances Control Act (TSCA) (Pub. L. 94–469, 90 Stat. 2003, 14 U.S.C. 2601 *et seq.*). The guideline prescribes a test using natural soil samples to develop data on the toxicity of test substances to microbial populations indigenous to the soil. The United States Environmental Protection Agency (EPA) will use data from these tests in assessing the hazard of a test substance to the environment.

(b) *Definitions.* The definitions in section 3 of TSCA and Part 792—Good Laboratory Practice Standards, of this chapter, apply to this guideline. The following definitions also apply:

"Ammonification" means conversion of organic nitrogen compounds to ammonia (NH_3) or ammonium (NH_4) compounds, performed by a variety of microorganisms in soil and water.

"Carbon dioxide (CO_2) efflux" means the evolution of CO_2 gas from substrates mineralized by microbial action; indicative of respiration.

"EC X" means the experimentally-derived test substance concentration that is calculated to affect X percent of the test species.

"kiloPascal (kPa)" means a unit of pressure in the meter-kilogram-second system equivalent to one newton per square meter (i.e., one Pa) x 1,000; used as a measure of water availability in soils.

"Mineralization" means the complete or ultimate degradation by microorganisms of organic material to form inorganic end-products, e.g., carbon dioxide, water, chloride, ammonium, nitrates, or orthophosphate.

"Nitrification" means the oxidation of ammonium salts to nitrites (NO_2) and nitrates (NO_3), performed by relatively specialized microorganisms.

"Surface soil" means that layer of soil representing the top 15 cm of the area to be sampled, excluding the litter horizon.

(c) *Test procedures*—(1) *Summary of the test.* Surface soil is sieved and supplemented with ground, dry alfalfa. The test substance, if soluble, is added as a solution to moisten the soil, or is added in a manner that best simulates its anticipated mode of entry in nature. All soil samples are then incubated in darkness at approximately 22 °C. On days 5 and 28 after introduction of the test substance, samples are analyzed for NH_3 and NO_3 content to establish ammonification and nitrification values, respectively, and for CO_2 efflux as an indication of microbial respiration.

(2) *Application of test substance.* (i) Deionized or glass-distilled water shall be used in making stock solutions of a water-soluble test substance. Sufficient quantities of each concentration should be made as needed to minimize storage time and disposal volume. A constant volume of the stock solution shall be added at the beginning of the test to each soil sample designated to receive the test substance.

(ii) A test substance that is insoluble in water, but which can be suspended in an aqueous solution by a carrier, should be added, with the carrier, to those soil samples designated to receive the test substance. The carrier should be soluble in water, nontoxic to microbial life at the concentration applied, and used in the minimum amount required to dissolve or suspend the test substance. There are preferred carriers; however, acetone, gum arabic, ethanol, and others have been used extensively in testing herbicides, plant growth regulators, fungicides, and other chemical substances that affect plants. Any such carrier may be used for this test, providing it neither enhances nor inhibits the activities of the soil microbes. Carrier controls shall be included in the experimental design and tested simultaneously with the test substance.

(iii) A water-insoluble test substance for which no nontoxic, water-soluble carrier is available should be dissolved in an appropriate volatile solvent. The solution should be mixed with the ground alfalfa soil supplement, then placed in a rotary vacuum apparatus and evaporated, leaving a uniform coating of the test substance on the alfalfa. A portion of the alfalfa shall be weighed and the test substance shall be extracted with the same organic solvent. Then the test substance shall be assayed before the alfalfa is mixed with the soil in the test containers. Solvent controls (i.e., alfalfa treated only with solvent) shall be included in the experimental design and tested simultaneously with the test substance.

(iv) If the test substance is not readily soluble in water or in another commonly-used carrier, and is known to

be applied or transported in nature directly to the soil as a previously prepared liquid or powder, it should be mixed, in its liquid or dry form, directly into the soil samples. Mixing must be thorough, however, to ensure equal distribution of the test substance throughout each test sample.

(3) *Range-finding test.* (i) A range-finding test shall be conducted to establish (A) if definitive testing is necessary and (B) the concentrations of test substance to be used in the definitive test.

(ii) If the maximum concentration of test substance to which the soil microbial community is likely to be exposed in nature can be predicted, soil samples should be treated with concentrations that are 0.1, 1, and 10 times the anticipated environmental exposure concentration. On days 5 and 28 after introduction of the test substance, the effects of treatment shall be assessed as the CO_2 efflux rate and the NO_3 and NH_3 concentrations per gram of dry soil in treated samples, relative to untreated controls and, if applicable, carrier controls, and to values in freshly sieved (pretreatment) soil. Should reasonable predictions of anticipated environmental exposure concentrations not be possible, soil samples shall be exposed to a series of widely-spaced concentrations (e.g., 1, 10, 100, 1,000, 10,000 $\mu g/g$) of the test substance. In general, the highest concentration in the series should not be less than 1,000 $\mu g/g$, although for water-soluble test substances, it is recommended that levels not exceed 50 percent of the saturation concentration. As before, CO_2 efflux and NO_3 and NH_3 concentrations shall be compared with controls.

(iii) The test shall consist of exposing at least two samples of soil from the same source to each concentration of test substance and to each control, with the exception of the controls for which one sample will suffice. To be appropriate for this guideline, a soil shall possess a pH of 4 to 8, an organic matter content between 1 and 8 percent, a cation exchange capacity greater than 7 meq/100g, and consist of less than 70 percent sand. Soils to which fertilizer or pesticide(s) have been applied within the past 24 months should be avoided. Soil collections shall be restricted to the surface soil. Large objects shall be removed manually, and the remaining soil allowed to air-dry until sievable (approximately 12 percent water content), after which it is passed through a 2-mm mesh screen. For each sample, an amount of soil equivalent to approximately 50 g oven-dry weight shall be placed in an inert container. Wide-mouth jars (for example, glass canning, 0.5 pint or 110-mL capacity) are adequate for this purpose. At least one of these samples, considered to be the control, should be extracted immediately to determine NH_3 and NO_3 content (see paragraph (c)(4)(vii) of this section). Alfalfa, dried and ground to pass through a 0.6-mm mesh screen, shall be added (0.3 g) to each remaining sample and the sample shall be thoroughly mixed. Water content of the soil shall be adjusted to approximately 10 kPa by adding distilled water containing the desired concentration of test substance (in carrier, if necessary). If insoluble in both water and commonly used carriers, the test substance should be mixed into the soil as a solid and the appropriate amount of water added subsequently. The test containers may be covered with 0.13 μm (0.5 mil) polyethylene to minimize water loss, yet permit gas exchange, or left open and watered to their original weight every 7 days. Regardless, the test substance shall be applied only during the original watering.

(iv) Controls shall receive an equal volume of water without the test substance. If a carrier solvent is required to dissolve or suspend the test substance, a carrier control (i.e., solvent in water without the test substance) shall also be included. Should the test substance be a powder that is mixed directly into soil and subsequently moistened with distilled water, the control shall receive an equal volume of such water only. All samples shall be incubated in darkness at 22 °C (or at the temperature to which the microorganisms are most accustomed in their soil environment).

(v) Of the soil samples prepared for each concentration of test substance or control, one sample shall be assayed after 5 days of exposure to the test substance for NH_3 and NO_3 content, and then discarded. A second sample shall be analyzed the same day for CO_2 evolution and then reincubated (dark, 22 °C). On day 28, after exposure to the test substance, all remaining (reincubated) samples shall be assayed first for CO_2 efflux and then again for nitrogen content.

(vi) The test substance shall be chemically stable in distilled water or in any chemical substance used as a carrier.

(vii) No replicates are required, and nominal concentrations are acceptable unless definitive testing is not required.

(viii) Definitive testing is not necessary if the highest concentration of test substance tested (but not less than 1,000 $\mu g/g$) results in less than a 50-percent reduction of ammonification, nitrification, and CO_2 evolution; or if that concentration representing the analytical detection limit (if tested) results in greater than a 50-percent reduction of NH_3 and NO_3 content of the soil and of CO_2 generation.

(4) *Definitive test.* (i) The purpose of the definitive test is to determine whether the test substance is toxic to the community of microorganisms residing in a particular soil and, if so, to delineate its concentration-response curves and EC_{50}s for each of three variables (CO_2 evolution and NH_3 and NO_3 soil content) that indicate the capacity of the soil microbial community to decompose organic matter and release plant nutrients.

(ii) Preparations for the test shall be made as described for the range-finding test (see paragraphs (c)(3) (iii) through (v) of this section) except that more samples of each soil source to be tested are required. As before, at least two series of soil samples should be prepared for each concentration; one series to be analyzed 5 days after exposure, the other to be analyzed on the 28th day after exposure. Series replicates of at least five concentrations of test substance, exclusive of controls, shall be used for each of the two series. For each soil source tested, the concentration range should be selected to define, as closely as possible, the concentration-response curve between the EC_{10} and EC_{90} for each variable.

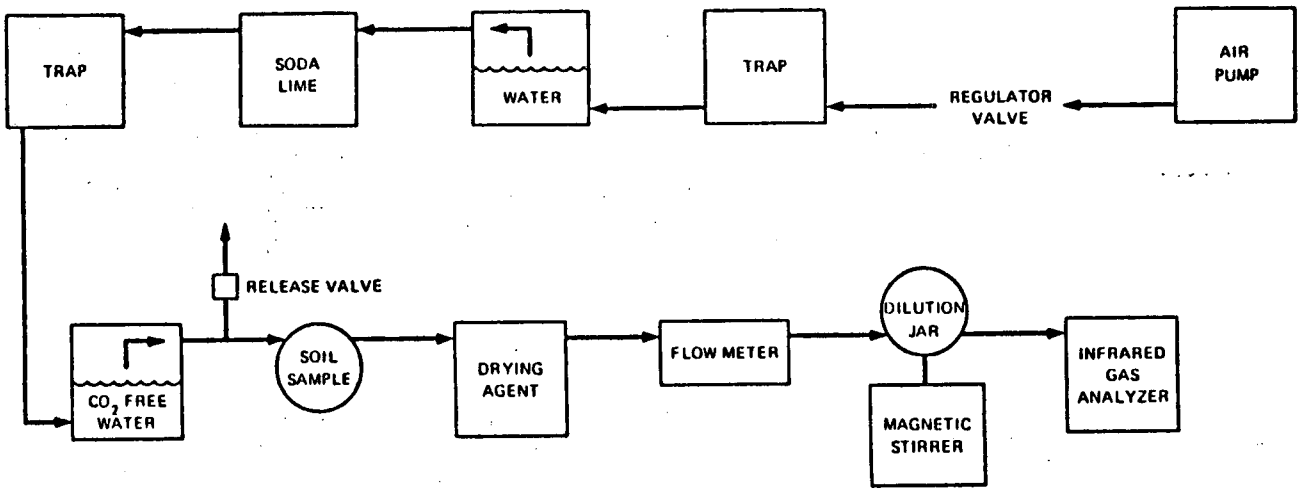
(iii) Every test shall include controls consisting of the same distilled water, soil, and alfalfa supplement used in the treated soil samples, that none of the test substance is added. Environmental conditions shall likewise be the same. If a carrier is needed to dissolve or suspend the test substance, a carrier control shall also be included.

(iv) Test containers may be covered with polyethylene film (0.13-μm; 0.5-mil) to prevent water loss. Control containers should be handled identically to the test containers except that none of the test substance is added.

(v) The definitive test consists of testing soil (containing the natural microbial population) from a particular source with the test substance (see paragraph (c)(3)(iii) of this section). For a particular test substance, a test is the exposure of the selected soil to two identical series of five concentrations of the test substance in a minimum of five replicate containers per concentration, and includes appropriate controls, with analyses of CO_2, NH_3, and NO_3 on the 5th and 28th days after exposure to the test substance.

(vi) To measure CO_2 efflux, each container of test substance and control container is closed with a two-hole stopper fitted with Teflon tubes and twistcock connectors for attachment to the measurement apparatus. The apparatus (see Figure 1 in this paragraph) shall deliver a stream of humid, CO_2-free air to the test system, and the effluent air shall be dried, diluted, and delivered for infrared gas analysis (IRGA). The period of incubation should be adjusted to match the CO_2 efflux rate with the detection capability of the IRGA, and may vary from one to 77 hours. In lieu of IRGA, CO_2 may be trapped in a hydroxide solution and titrated, or measured gas-chromatographically.

FIGURE 1--FLOW DIAGRAM FOR THE IRGA METHOD OF DETERMINING CO_2 EVOLUTION FROM SOIL SAMPLES



(vii) Accumulation of inorganic nitrogen is measured by extracting each soil sample with 80 mL of 1 *N* potassium chloride (KC1). After adding KCl and shaking each container by hand to suspend the soil, sample containers shall be placed on a rotary shaker at high speed for 1 hour, then shaken again by hand to resuspend the soil. Samples shall be filtered (Whatman #42 low-nitrate filter paper) and the extract (filtrate) shall be analyzed for NO_3 and NH_3. Being rapid and precise, standard Autotechnicon analysis techniques are recommended. Acceptable alternative methods are available, however.

(viii) The assignment of soil containers to test substance concentrations shall be random. In addition, placement of the containers in the incubation chamber shall be randomized.

(ix) Temperature in the incubation chamber shall be monitored continuously.

(5) [Reserved]

(6) *Analytical measurements*—(i) *Chemical.* For readily aqueous-soluble test substances, stock solutions of the test substance shall be diluted with glass-distilled or deionized water to obtain the test solutions. Standard analytical methods shall be used to establish concentrations of these solutions and shall be validated before beginning the test. An analytical method is not acceptable if likely degradation products of the test substance, such as hydrolysis and oxidation products, give positive or negative interference. The pH of these solutions shall also be measured before use.

(ii) *Numerical.* CO_2 efflux rates ($\mu g/g$ of dry soil/hr) and NO_3 and NH_3 concentrations ($\mu g/g$ of dry soil) in treated samples should be determined and compared with values obtained from untreated controls, carrier controls (if a carrier is used), and from the freshly sieved, pretreatment soil. The significance of differences between means may be established using Duncan's Multiple Range Test. Means and standard deviations should be plotted for each treated sample and each control. Appropriate statistical analyses should provide a goodness-of-fit determination for the concentration-response curves.

(d) *Test conditions*—(1) *Test species.* (i) No particular species of test organisms are recommended for use in this test due to the emphasis placed on maintaining the natural state of the soil samples and their resident populations of microorganisms. The test organisms

are, therefore, those that occur naturally in the soil, and no others are to be introduced.

(2) *Facilities*—(i) *Apparatus.* (A) Test chambers shall provide adequate space and controls necessary to incubate numerous soil samples in total darkness at a constant temperature for prolonged periods of time. Chambers shall be designed to prevent escape of internal air into the external environment other than through appropriate filtering material or media to prevent contamination of the external environment with the test substance.

(B) Laboratory facilities for test substance determinations should include nonporous floor covering; absorbent bench covering with nonporous backing, and adequate disposal facilities to accommodate test and wash solutions containing the test substance at the end of each test, and any bench covering, lab clothing, or other contaminated materials.

(ii) *Containers.* For each test, at least 60 to 70 soil containers (two series of 5 per concentration of test substance, two series of 5 for the control, and two series of 5 if a carrier control is necessary) shall be used. In addition, soil to be extracted immediately as the control is most easily handled in an identical container. All containers used in each experiment shall be of equal size and volume, possess the same configuration, and shall be made of the same inert material.

(iii) *Cleaning and sterilization.* (A) Soil containers and test solution storage containers shall be cleaned before use. All equipment should be washed according to good standard laboratory procedures to remove any residues remaining from manufacturing or prior use. A dichromate solution shall not be used for cleaning containers.

(B) If cleaning and rinsing of previously used soil containers has been thorough, the effects of any microorganisms remaining on the interior surface of the containers should be insignificant in the presence of the new test soil. Sterilization should not be necessary, but is considered an acceptable option.

(C) Soil treated with the test substance and solvent control soil shall be discarded at the end of the experiment. Disposal shall conform to applicable federal regulations.

(3) *Test parameters.* Environmental conditions shall be maintained as follows:

(i) Constant incubation temperature of 22 °C (or that temperature to which the microorganisms are most accustomed in nature).

(ii) Total darkness during incubation to prevent photosynthesis by algae or the growth of moss.

(e) *Reporting.* (1) The final report shall include, but not necessarily be limited to, the following information.

(i) Name and address of the facility performing the study and the dates on which the study was initiated and was completed, terminated, or discontinued.

(ii) Objectives and procedures stated in the approved protocol, including any changes in the original protocol.

(iii) Statistical methods used for analyzing the data.

(iv) The test substance identified by name, Chemical Abstracts Service (CAS) number or code number, source, lot or batch number, strength, purity, and composition or other appropriate characteristics.

(v) Stability of the test and, if used, control substances under the conditions of administration.

(vi) A description of the methods used, which should include the following:

(A) Description of environmental conditions, including type and size of incubation chamber and temperature used.

(B) Description of test diluent/solvent if other than distilled water, e.g., if carrier is required.

(C) Description of experimental design and/or arrangement of equipment, including a diagram, if complex.

(D) Method(s) used to determine the placement of soil containers in the incubation chamber and the assignment of test concentrations to containers to ensure randomization of exposure.

(E) Frequency and methods of adding water to soil containers during the test period.

(vii) A description of the test system used, including the source of the test soil, the type of ecosystem from which it was removed, its chemical and physical characteristics (mechanical analysis), and any available geological information including soil type (classification).

(viii) A description of the amount of soil tested per concentration, number of replicates, carrier (if any), and incubation periods.

(ix) The concentration of the test substance per unit dry weight of test soil when the test substance is dissolved in water, solubilized with a carrier, or coated on the alfalfa supplement and/or mixed into the soil.

(x) pH of the test solution applied to the soil samples. The reported results should include:

(A) The results of the range-finding test expressed as μg of CO_2 evolved/g of dry soil/hr, and μg of each of NH_3 and NO_3 present/g of dry soil, in treated and untreated samples. If the range-finding test indicated that the highest concentration of the test substance tested (but not less than 1,000 $\mu g/g$) had no effect on the test system, report the results by soil source and type and state that the test substance has a low potential for adversely affecting microbial functions in such soils. If the range-finding test indicated a greater than 50-percent reduction of the endpoints of the test at a concentration of the test substance that represents the analytical detection limit (if tested), report the results by soil source and type and state that the test substance is toxic to microbial life in such soils at concentrations at or below the analytical detection limit used in this study.

(B) For the definitive test, the soil source and type, concentrations of test substance used ($\mu g/g$ dry soil), and data for the same variables used in the range-finding test (see paragraph (e)(1)(x)(A) of this section) shall be reported.

(xi) A description of all circumstances that may have affected the quality or integrity of the data.

(xii) The name of the sponsor, study director, principal investigator, names of other scientists or professionals, and the names of all supervisory personnel involved in the study.

(xiii) A description of the transformations, calculations, or operations performed on the data, a summary and analysis of the data, and a statement of the conclusions drawn from the analysis. Results of the analysis of data should include the concentration-response curves with 95-percent confidence limits, the results of a goodness-of-fit test, e.g., chi-square test, and EC_{50}'s.

(xiv) The signed and dated reports of each of the individual scientists or other professionals involved in the study including each person who, at the request or direction of the testing facility or sponsor, conducted an analysis or evaluation of data or specimens from the study after data generation was completed.

(xv) The locations where all specimens, raw data, and the final report are stored.

(xvi) The statement prepared and signed by the quality assurance unit.

(2) [Reserved]

§ 797.3775 Soil-core microcosm test.

(a) *Purpose.* This guideline is intended for use in developing data on the toxicity and fate of chemical substances and mixtures ("test substances") subject to environmental effects test regulations

under the Toxic Substances Control Act (TSCA) (Pub. L. 94–469, 90 Stat. 2003, 14 U.S.C. 2601 *et seq.*). This guideline prescribes tests using soil-core microcosms to provide information on the potential fate and ecological effects of chemical substances released to a specific terrestrial ecosystem. The United States Environmental Protection Agency (EPA) will use data from these tests in assessing the hazard of a test substance to the environment.

(b) *Definitions.* The definitions in section 3 of TSCA and Part 792—Good Laboratory Practice Standards, of this chapter, apply to this test guideline. The following definitions also apply:

"Bioconcentration factor (BCF)" means the ratio of the concentration of test substance in plant tissue (i.e., biota) to that in soil.

"Biota" means the organisms in the soil at the time of extraction of the core and the natural vegetation or crop species introduced as the autotrophic component. Biota includes all heterotrophic and carnivorous invertebrates in the soil and all soil and plant bacteria, fungi, and viruses.

"Carrier" means the organic solvent, solubilizer and/or other substance used to disperse the test substance into microcosm water.

"Soil-core" means an intact, undisturbed (nonhomogenized) core that is extracted in situ from a soil type typical of the region or site of interest and that is of sufficient depth to allow a full growing season for the natural vegetation or the crops selected, without causing the plants to become significantly root bound.

"Soil-core microcosm" means a physical miniaturized model of an interacting community of autotrophs, omnivores, herbivores, carnivores, and decomposers within an intact soil profile.

(c) *Test procedures*—(1) *Summary of the test.* The purpose of the soil-core microcosm test is to determine the potential fate and ecological effects of a chemical substance, including its transformation products, released to a specific terrestrial ecosystem. A soil core, as shown in the following Figure 1, containing biota typical of the region of interest, is treated with the test substance under controlled conditions in either a growth chamber or greenhouse. The test is usually continued for a minimum of 12 weeks from first application of the test substance to final harvest. Single or multiple applications of the test substance may be chosen, depending on the expected mode of introduction of the test substance into the environment. Leachate, soil, and plant samples are analyzed to evaluate the environmental fate of the test substance. Ecological effects of the substances are evaluated on the basis of measurements of primary productivity and nutrient loss, as well as on determinations of BCFs and observations of plant condition.

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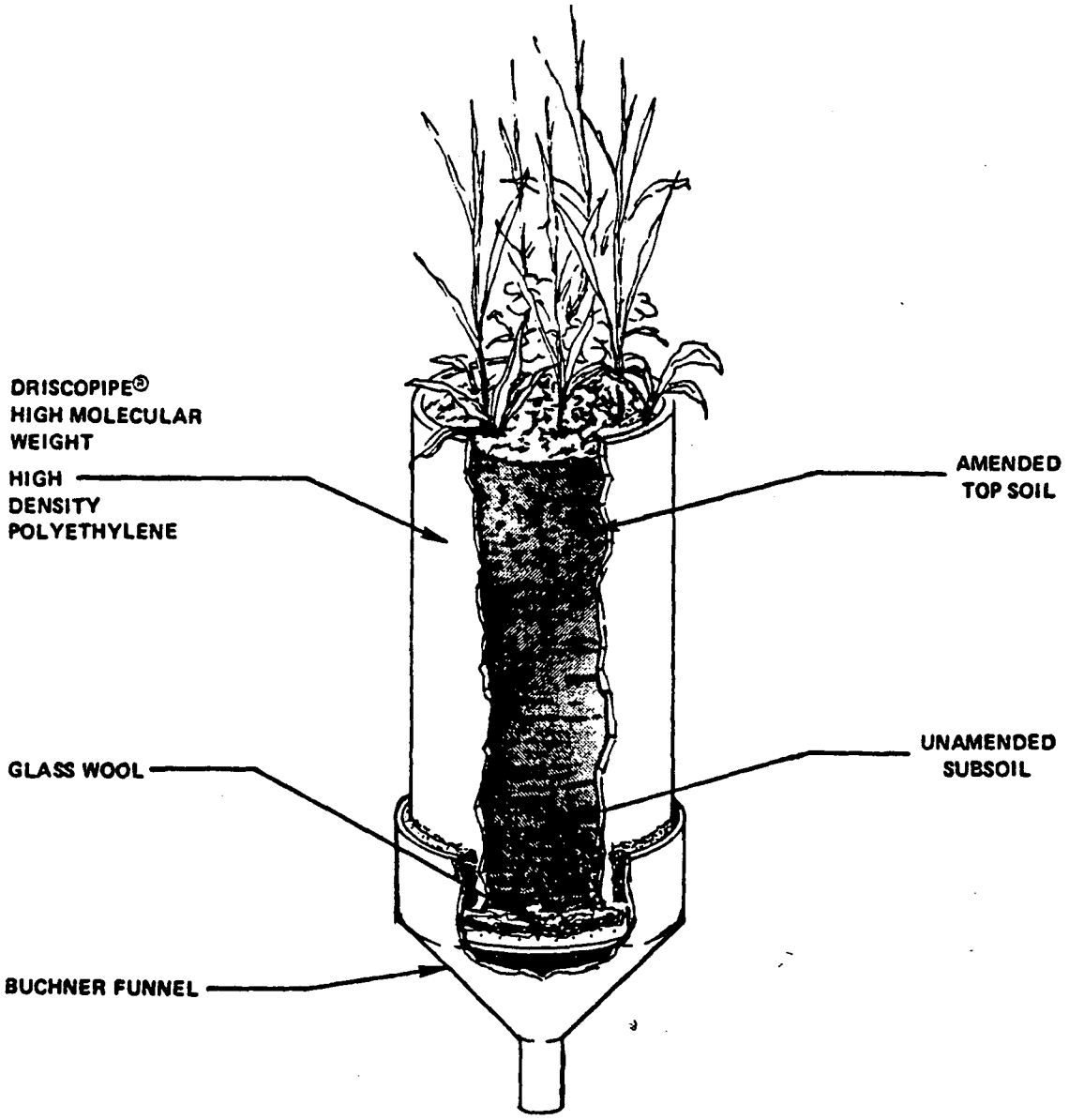
FIGURE 1--MICROCOSM STRUCTURE AND MATERIALS



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(2) *Application of the test substance.* (i) Whenever possible, the test substance should be radiolabeled. The label may be ^{14}C, stable isotopes such as ^{15}N, or other suitable labels and, if possible, should be located in a portion (or portions) of the molecule known or expected to persist and/or have biological activity. For single chemical substances, two or more portions of the molecule may need to be labeled; in the case of mixtures, each component must be labeled and studied separately.

(ii) The test substance should be applied in a form which is reasonably consistent with the form in which it is expected to be released into the environment. The method and pattern of application should also reflect the actual or predicted field situation.

(A) If the primary mode of exposure to the test substance is anticipated to be by addition of pH-adjusted, reverse osmosis (RO) water or rainwater containing appropriate concentrations of the substance, the following procedure is recommended.

(*1*) Test substances which are likely to be released into the environment as a liquid or powder, and which can be mixed with water, should be applied as a single dose of liquid in a volume sufficient to bring the A horizon of the soil surface of the microcosm to field capacity.

(*2*) Water simulating rainfall or leaching should be filtered rainwater from the site being evaluated or purified (i.e., reverse osmosis) untreated laboratory water with a known chemical composition.

(*3*) The volume of reverse osmosis (RO) water or rainwater required for laboratory microcosms may be determined on-site using a microcosm of the same soil type without vegetation. The volume selected shall be identical for all microcosms and be sufficient to bring the A horizon of the soil surface to field capacity.

(*4*) Carriers other than water should not be used unless they are likely to be released into the environment with the test substance. If a carrier is necessary, acetone or ethanol should be considered; however, the use of carriers should be avoided unless they are essential to produce a realistic exposure.

(B) Several typical methods of application are suggested for particular types of test substances:

(*1*) If the test substance is likely to be a contaminant of irrigation water, it should be applied periodically, such as daily or weekly, in proportionate concentrations, such that the total amount applied equals the desired level of treatment.

(*2*) If the test substance does not mix with water, it should be applied as evenly as possible to the top of the microcosm. If the microcosm is simulating an agricultural system, the test substance should be mixed into the topsoil before planting.

(*3*) If the test substance is normally sprayed on growing plants, the desired amount should be mixed with the volume of water necessary to wet the soil surface and wet the plants to the point at which they begin to drip. A chromatography sprayer should be used to spray plants that are past the seedling stage. The manufacturer's recommendations for field spraying the test substance should be followed as closely as possible, and the test should be terminated at least 8 weeks after plants are sprayed.

(C) Water solubility and dissociation constant(s) of the test substance and soil pH must be considered in determining the formulation of the test substance.

(*1*) The treatment concentrations should bracket the known or expected environmental concentration of the test substance. However, if the environmental concentration is unknown and cannot be estimated, the maximum concentration of the substance in solution should not exceed half of saturation.

(*2*) [Reserved].

(3) *Range-finding test.* (i) A range-finding test may be conducted if definitive testing is necessary and to determine the concentrations of test substance to be used in the definitive test.

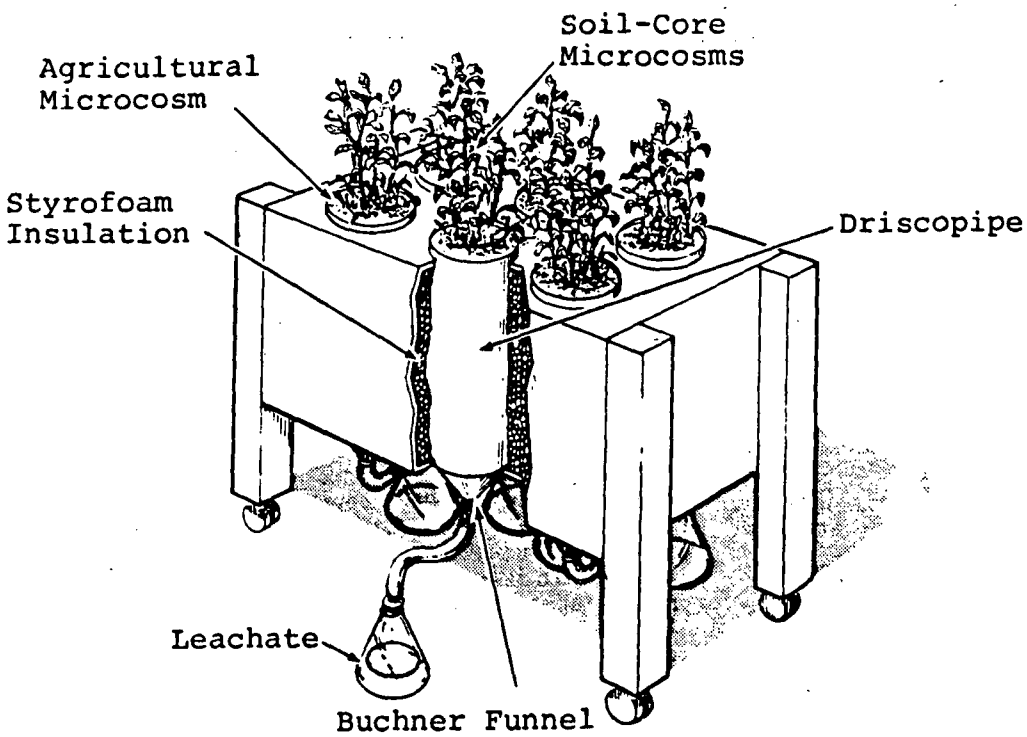
(ii) Physicochemical information supplied for the test substance should be used to tailor the general range-finding test procedures to the specific substance.

(iii) Phytotoxicity and/or bacteriostatic action, if known, should be considered in selecting exposure concentrations for the range-finding test. Only one concentration greater than that known to cause at least a 50-percent change in plant growth or a 50-percent change in bacterial growth/respiration should be tested. Also, the lowest concentration to be used should not be lower than a factor of 10 times the analytical detection limit in soil and 100 times the analytical detection limit in water.

(iv) The range-finding test should last at least 4 weeks from first application of the test substance to plant harvest. At the beginning of the test, microcosms should be treated with a minimum of five concentrations of the test substance. Three replicate microcosms are used for each concentration and for the control, resulting in a total of at least 18 microcosms. Concentrations typically used for treatment are 0.1, 1.0, 10, and 100 mg/L (ppm), if actual environmental concentrations are not known and cannot be predicted. If appropriate, 1,000 μg of test substance per g of top 15 cm of dry soil should also be used. The bulk density (g/cm^3) of the dry soil should be used to calculate the exposures. Depending on the expected mode of release of the test substance, each recommended concentration may be applied as a single dose or may be divided into multiple doses. In either case, the total amount of test substance applied for any given concentration must be the same.

(v) Each microcosm cart, in the following Figure 2, holding one replicate of each test substance concentration and a control, should be moved once per 7 days in the greenhouse to minimize location-induced effects.

FIGURE 2--ARRANGEMENT OF MICROCOSMS IN STYROFOAM CART



(vi) Losses of calcium, potassium, nitrate-nitrogen, orthophosphate, ammonium-nitrogen, and dissolved organic carbon (DOC) should be measured in soil leachates. Leachate should be collected in acid-washed, 500-mL flasks attached to the end of the Buchner funnel by inert plastic tubing. Leaching is induced by adding a volume of rainwater or RO water above that necessary to bring the soil profile to field capacity. The volume of additional water needed to induce leaching in a specific core should be determined when the cores are extracted from the field. The volume of rainwater or RO water needed should be recorded. Flasks to collect the leachate may be supported by a wooden board fastened under the microcosm cart. The volume of leachate should be recorded and the pH determined using a glass electrode. Samples should be centrifuged at low speed (e.g., 5,000 rpm) and filtered through a 0.45-micron filter. The sample should be divided into two aliquots and stored in the dark at 4 °C with blanks consisting of distilled water and reference standards in quantities sufficient for instrument calibration.

(vii) At the termination of the range-finding test, soil samples should be collected from the top, middle, and bottom of the 60-cm soil cores. If the radiolabeled test substance or its transformation products are not detected in the deeper soil samples by liquid scintillation counting, soil samples at the end of the definitive test should be taken nearer the top of the soil column.

(viii) If no discernible effects of the test substance are detected during the range-finding test at one-half of saturation or 1,000 μg/g (whichever is higher), including visible effects of plant injury, no definitive test is necessary.

(4) *Definitive test.* (i) The purpose of the definitive test is to determine the potential fate and ecological effects of a test substance, including its transformation products, in a site-specific natural grassland or agricultural ecosystem.

(ii) Chemical substances with high vapor pressures or high Henry's law constants should not be tested in the soil-core microcosm as prescribed in this guideline.

(iii) Soil cores (17-cm diameter by 60-cm deep) shall be extracted from either a natural grassland ecosystem or a typical agricultural soil in the region of interest. The intact system should be extracted with a specially designed, steel extraction tube, as shown in the following Figure 3, and a backhoe. Disturbances during extraction and preparation of the soil core should be minimized.

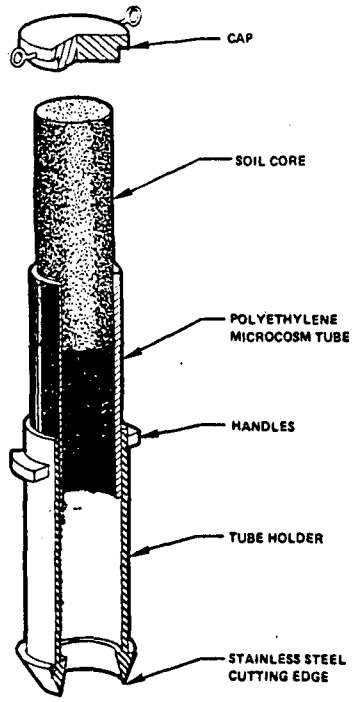


FIGURE 3--DIAGRAM OF MICROCOSM EXTRACTION TUBE

(iv)(A) For an agricultural microcosm, the soil which is plowed (generally, the top 15 cm of soil) should be moved aside and saved. Once the core is cut by the leading edge of the driving tube, it should be forced up into the microcosm tube or Driscopipe® as demonstrated in Figure 1 in paragraph (c)(1) of this section. The Driscopipe® should then contain a 45-cm core of subsoil. The homogenized topsoil that was saved should be backfilled into the upper 15 cm of the microcosm tube after it has been returned to the laboratory.

(B) A mixture of grasses and broad leaves (e.g., legumes) should be included in the agricultural microcosm. Seeds from two or three species of grasses or legumes that are typically grown together as an agricultural crop in the region of interest should be chosen and planted. The rate of seed application should duplicate standard farming practice for the region of interest. Seeds should be planted evenly and covered to an appropriate depth with soil.

(v)(A) For a natural grassland microcosm, the vegetation covering the natural grassland ecosystem shall be clipped to a uniform height before the core is extracted. Natural plant cover should be sufficiently diverse to be representative of plant species in the region of interest.

(B) The soil core from the grassland ecosystem should be removed as a single unit (soil and Driscopipe®) from the extraction tube, taken to the laboratory, and placed on a Buchner funnel covered by a thin layer of glass wool. The funnel and tube should be washed with acid (50-percent conc. HNO_3) before use and then rinsed with RO water.

(vi) Six microcosms are typically contained in a moveable cart which is packed with Styrofoam® beads, as shown in Figure 2 in paragraph (c)(3)(v) of this section.

(vii) An appropriate random process shall be used, such as completely randomized, randomized block, or Latin-square design, to assign microcosms to different concentrations of the test substance.

(viii) The method and pattern of application and the form of the test substance used should approximate a reasonable scenario of how the substance is expected to be released at the site in question (see paragraph (c)(2)(ii) of this section).

(ix) At the beginning of the test, microcosms shall be treated with at least three concentrations of the test substance. Ten replicate microcosms shall be used for each of the three concentrations and for the control, for a total of 40 microcosms. The treatment concentrations should be selected to produce a 20- to 25-percent change in plant productivity in each treatment based on results from the range-finding test. The ten replicate microcosms in each treatment group should be used as five replicate pairs.

(x) Microcosms that have been paired for analysis shall be placed in different carts to ensure that environmental conditions are as uniform as possible.

(xi) The structure, materials, and treatment of control microcosms shall be the same as that of exposed microcosms except that none of the test substance is applied.

(xii) Microcosms should be watered as dictated by a predetermined water regime based on site history with either reverse osmosis (RO) water or with rainwater that has been collected from the region of interest, filtered, and stored in a cooler at 4 °C. Care shall be taken to provide sufficient water for normal plant functions without over-watering. If the test substance is applied as an aerosol or powder, plants should be sprinkled immediately after treatment to avoid resuspension of particulates and reduce the potential for cross-contamination of exposure concentrations.

(xiii) Data regarding solubility of the test substance in water and its capacity to sorb to soils should be used, along with the results of the range-finding test, to help determine the appropriate regime for soil leachate collection and analysis. Microcosms should be leached, as described in paragraph (c)(3)(vi) of this section, at least twice before application of the test substance and once every 2 or 3 weeks after such application. The frequency of rainfall in the region of interest should be considered when a leaching regime is selected. Water to leach the microcosm should be added to each microcosm over an 8 to 12-hour period to avoid waterlogging the soil surface. To ensure that all test microcosms will leach within a 2-day period, at least 15 percent more soil cores should be extracted than are required for the tests. When the microcosms are leached before planting, those which do not leach, leach too quickly, or take longer than 2 days to produce 100 mL of leachate after the soil has been brought to field capacity shall be discarded.

(xiv) Light intensity measurements should be taken daily, but shall be taken at least at the beginning and end of the test.

(xv) Temperatures shall be monitored continuously at the top of the plant canopy.

(xvi) Plants shall be carefully monitored for changes in physical appearance, such as stunting, discoloration, or chlorosis and/or necrosis of the leaves.

(xvii) To measure plant primary productivity, plants from the natural grassland or agricultural microcosm shall be harvested at the end of the test period (a minimum of 12 weeks) and, possibly, once or twice during that period, depending on the types of plants grown. For example, vigorously growing grasses may be sampled during the middle of the test. Plants should be clipped to approximately 2.5 cm above the soil surface. Harvested plants should be stored in separate paper bags for each microcosm, and air-dried, oven-dried, or both soon after harvest. The test may be extended beyond 12 weeks to accommodate plant species which take longer to reach the desired maturity (e.g., seed production). Plant productivity, depending on the plant species, may be measured as total yield and/or yield by plant part, e.g., total biomass or grain. Minimally, plant productivity shall be measured as oven-dry weight expressed in g/m^2; in the grassland microcosms, monocotyledons and dicotyledons should be separated for both plant productivity measurements and radiochemical assay.

(xviii)-(xix) [Reserved]

(xx) Nutrient losses should be sampled in soil leachates. Nutrients to be measured should be selected based on the properties of the test substance

and the results of the range-finding test (see paragraph (c)(3)(vi) of this section).

(xxi) Samples of soil leachate, plant tissue (including roots and shoots), and soil from three depths should be analyzed for radioactivity, and identification and quantification of the test substance. The three soil depths should be selected based on soil sorption of the test substance and results from the range-finding test. These depths should be relatively close to the soil surface (1 to 2 cm) for radiolabeled chemicals that are strongly sorbed to soils. If any isotope appears in the leachate during the range-finding test, the depth selection should be lower in the soil profile. The entire soil layer should be taken as the sample, and then subsamples should be homogenized and extracted with solvents appropriate for the test substance. Additional extraction steps, such as acidification and extraction with non-polar solvents, Sohxlet extractions with polar and/or nonpolar solvents, alkaline or acid hydrolysis with or without heat, detergent extractions, or protease digestion may be necessary. The ^{14}C in the soil or plant samples which cannot be extracted should be oxidized and analyzed as $^{14}CO_2$ and reported as bound residue. Extracts and the oxidized or dissolved samples should be counted by ^{14}C liquid scintillation.

(xxii) Soil invertebrates and microbes may be sampled at the end of the test.

(5) [Reserved]

(6) *Analytical measurements*—(i) *Chemical.* (A) Standard analytical methods, if available, shall be used to establish actual concentrations of solutions of the test substance and shall be validated before beginning the test. An analytical method is not acceptable if likely degradation products of the test substance, such as hydrolysis and oxidation products, cause positive or negative interference. The pH of these test solutions should also be measured before use.

(B) The fate or final distribution of the test substance and its transformation products shall be determined by methods appropriate to the test, including sensitivity factors adequate to verify exposure and distinguish between the test substance, its transformation products, and naturally occurring materials present in the test system. Whenever possible, this should involve use of a radiolabeled test substance, and subsequent analysis of the primary microcosm compartments and soil leachate for radioactivity and chemical identity.

(C) Identification and quantification of the test substance or its transformation products, expressed as a percent of the original application, in various compartments of the microcosm should be performed using gas-liquid chromatography (GLC), thin-layer chromatography (TLC) or high-pressure liquid chromatography (HPLC). TLC autoradiography using no-screen x-ray film for chromatographed fractions which are found to be radioactive by liquid scintillation counting may be most cost-effective. However, whenever possible, the identity of the test substance and its transformation products in fractions which are found to be radioactive by liquid scintillation counting should be verified by GLC, HPLC, or other appropriate methods. Also, the concentration of the test substance and transformation products should be verified by an alternative chromatographic method (e.g., HPLC or GLC) with known standards.

(D) Standard techniques suitable for nutrient analysis may include atomic absorption spectrophotometry for calcium and potassium, and a Technicon Autoanalyzer II for nitrate-nitrogen, orthophosphate, DOC, and ammonium-nitrogen.

(ii) *Numerical*—(A) *Experimental design.* Analysis of variance (ANOVA) calculations should be performed to test for position effects within the carts and within the environmental area where the test is performed. If these tests are significant at the 5-percent level ($P < 0.05$), this should be accounted for in subsequent statistical analyses.

(B) *Productivity.* (*1*) The effects of different concentrations of the test substance on productivity can be evaluated initially by using side-by-side histograms displaying calculated means (expressed in g/m^2), variances, 95-percent confidence intervals, and two standard errors for air-and oven-dried biomass collected from control and treatment groups. Early evaluation will indicate whether logarithmic or some other transformation of the data is necessary for graphic display and analysis. Pair-wise comparisons may be necessary for variables which were measured only once during the 12-week test.

(*2*) Biomass data should be analyzed by ANOVA and least significant differences multiple-range procedures. The level of significance for all tests should be at the 5-percent level. Where treatment effects and interactions between and among various factors are important, a two-way ANOVA or factorial analysis should be performed.

(*3*) Regression/correlation analysis should be performed on plant productivity results. Obvious recording or reporting errors in the data should be excluded but noted in the final report. If substantial data are excluded, deficiencies in quality control may necessitate repeating the test. Once outlying values have been detected and removed from further statistical evaluations, regression models or probit analysis should be used to estimate the concentration at which 50 percent of the productivity observed in controls occurred in the treated groups (EC_{50}). Ordinary linear-least-squares-regression analysis should initially be performed, and predicted responses in each group should be compared using a Student t-test (one-sided). If productivity appears to be bimodal when compared to controls, a two-sided Student t-test may be necessary. It may also be necessary to transform the data or fit a quadratic or cubic least-squares-regression model to the data for this type of response. Positional effects should be included in the data. Computer software packages such as SAS (Statistical Analysis System) or BMCP (Biomedical Computer Program) may be useful.

(C) *Plant injury.* Statistical analyses of the effects of the test substance and transformation products on the appearance of plants are not necessary unless there is a clearly identifiable pattern of effects. If deemed necessary, types of injury should be ranked by severity. A non-parametric test, such as the Kruskal-Wallis test, should then be performed.

(D) *Nutrient losses.* (*1*) Based on the nutrients selected for analysis in soil leachate, the total cumulative loss of each nutrient from each microcosm shall be calculated by multiplying the concentration of the nutrient collected at each sampling time by the total volume leached from that microcosm for that collection date and adding the product to the previous sum of total loss.

(*2*) Means (+/−SE) of the cumulative nutrient losses for each treatment concentration for each collection date should be plotted as a function of days after seeding for the agricultural microcosm or days after application of the test substance for the natural grassland microcosm. Zero loss should be the starting point. If there was no leachate for any microcosm during a particular collection period, the data point should be recorded as zero so that no data are considered missing.

(*3*) A one-way ANOVA should be performed on total cumulative nutrient loss data at the end of the test, to evaluate effects of different concentrations of the test substance. A multiple-range procedure, such as Duncan's, should be used to determine which specific treatment means are different from each other.

(4) Regression and/or correlation analysis comparing losses of each nutrient analyzed versus plant productivity should be performed.

(E) *Chemical fate analysis.* (1) At the end of the test, the mass balance or final distribution of the test substance and its transformation products in above-and below-ground plant tissues, selected depths through the soil profile, and losses through soil leaching and gaseous transport shall be calculated for each concentration of the substance tested.

(2) Calculations should be based on measured radioactivity in a specific compartment of the microcosm, on a per-gram basis, times the total weight or volume of test substance in that compartment, expressed as dry weight when appropriate. All calculations should be corrected for radioactive decay (as appropriate) that has occurred since the beginning of the test. Quantities of the test substance and its transformation products should be expressed as a percent of the original application of the test substance.

(3) Statistical analyses shall be performed for each exposure concentration on any differences in distribution of the test substance in the primary compartments of the microcosm and in soil leachate. Multi-compartmental modeling and multivariate analysis of variance may also prove useful in assessing the fate of a test substance and its transformation products.

(4) The time to reach steady-state loss through leaching and the time to initiate leaching shall be calculated for each exposure concentration.

(F) *Radioactivity budget.* Calculation of a complete mass balance of all radioactivity should be performed as follows:

(1) Total radioactivity added per microcosm should be calculated based on the decay rate of the radioactive label (e.g., ^{14}C), the total amount of radioactive label added to the test substance initially, the length of time between formulation and microcosm exposure (radioactive decay), and the particular concentration of the test substance added to the microcosm.

(2) Total radioactivity removed from the microcosm should be calculated based on the following data:

(i) Soil leachate concentration times the volume of soil leachate lost per collection date;

(ii) Calculated gaseous losses of the test substance; and

(iii) The type of radiolabel and rate of radioactive decay of that label during the test.

(3) Total radioactivity remaining in the microcosm can be calculated based on analysis of the radioactivity in each of the following primary compartments:

(i) Above-ground plant tissues;

(ii) Below-ground plant tissues, i.e., cleaned of soil particles; and

(iii) The soil profile.

(G) *Bioconcentration.* The ratio of the amount of radioactivity in above-ground plant tissues to the amount in the top 15 cm of soil should be calculated on a concentration-per-unit, dry-weight basis. Side-by-side histograms of the BCFs should be compared for statistical differences.

(H) *Soil organisms.* Appropriate statistical methods shall be used to evaluate the distribution and abundance of soil invertebrates and function of the soil microbial community with respect to treatment concentrations.

(d) *Test conditions*—(1) *Test species*—(i) *Selection.* Biota shall be included in the microcosm. A mixture of two or three species of grasses or broad leaves, such as legumes, representative of the area or region where the test substance is expected to be released or applied to crops or soil, should be included in the agricultural microcosm. Chosen species shall be compatible and able to grow to maturity in the limited surface area of the microcosm. Thus, large crops such as corn or sorghum cannot be used under these guidelines.

(ii) *Seed selection.* Information on seed lot, seed year, or growing season collected and germination percentage shall be provided by the source of the seed. Only untreated seed (not treated with fungicides, repellants, etc.) taken from the same lot and year or season of collection shall be used in a given test. In addition, all seed of a species used in a test should be of the same size class, and that size class which contains the most seed should be selected and used in a given test. Any damaged seed shall be discarded.

(2) *Facilities*—(i) *Apparatus.* (A) The greenhouse or growth chamber shall provide adequate environmental controls to meet light and temperature specifications.

(B) Laboratory facilities for test substance determinations should include: Nonporous floor covering; absorbent bench covering with nonporous backing; and adequate disposal facilities to accommodate radiolabeled test solutions and wash solutions containing the test substance at the end of each test, and any bench covering, lab clothing, or other contaminated materials; appropriate equipment for analytical determinations; drying ovens; refrigerators; and standard laboratory glassware.

(C) A specially designed steel extraction tube and a backhoe are needed to extract soil cores.

(ii) *Containers and supporting equipment.* (A) For the definitive test, at least 18 microcosms are required. The three basic materials used for a single microcosm are: a 60-cm-long Driscopipe® tube (17.5 cm diameter), a 186 mm-diameter porcelain Buchner funnel, and a thin layer of glass wool (see Figure 1 in paragraph (c)(1) of this section). Containers used in each test shall be of equal size and volume and possess the same configuration.

(B) Three mobile carts shall be used to hold 18 microcosms. The carts should be designed to hold adequate Styrofoam® beads for insulation in Figure 2 under paragraph (c)(3)(v) of this section.

(iii) *Cleaning.* All equipment used in the test shall be cleaned before use and should be washed according to good standard laboratory practices, to remove any residues remaining from manufacture or use. A dichromate solution should not be used for cleaning containers. Disposal of all detergents and acids that have been used to clean the Driscopipe®, funnels, and laboratory glassware, and disposal of all liquid and solid samples and remaining undisturbed portions of the test system shall conform to applicable existing federal regulations.

(3) *Test parameters.* Microcosms shall be kept in a greenhouse or environmental chamber with controlled environmental conditions.

(i) The temperature shall approximate outdoor temperatures that occur during a typical growing season in the region of interest.

(ii) The photoperiod and intensity of light typical for the growing season in the region of interest shall be simulated. Light for the test system can be supplied by artificial lighting suitable for plant growth in either an environmental chamber or greenhouse or can be the natural photoperiod occurring in a greenhouse. If the test is performed in an environmental chamber, the daily photoperiod for the microcosm shall be at least the average monthly incident radiation (quantity and duration) for the month in which the test is being performed, with a cycle equivalent to the natural photoperiod.

(e) *Reporting.* (1) The report shall include, but not necessarily be limited to, the following information:

(i) Name and address of the facility performing the study and the dates on which the study was initiated and was completed, terminated, or discontinued.

(ii) Objectives and procedures stated in the approved protocol, including any changes in the original protocol.

(iii) Statistical methods used for analyzing the data.

(iv) The test substance identified by name, Chemical Abstracts Service (CAS) number or code number, source, lot or batch number, strength, purity, and composition or other appropriate characteristics, such as water solubility and vapor pressure at 25 °C.

(v) Stability of the test substance and, if used, control substances under the conditions of administration.

(vi) A description of the methods used, including:

(A) Greenhouse or environmental chamber conditions, including type and size, temperature, photoperiod, and light intensity.

(B) Source, any special treatment, and chemical composition of the water used.

(C) Method and equipment used to extract the soil core.

(D) Randomization procedures used to position microcosms and assign test concentrations to particular microcosms.

(E) Frequency, duration, and methods of observations.

(vii) A description of the test system used, including:

(A) The soil core, including chemical, biological, and physical characteristics, source, soil type, and when applicable, identification of plant species included in the natural vegetation or the scientific names and sources of the agricultural plants selected and histories of the species, e.g., percentage of seeds germinating and seed size class.

(B) Planting procedures and any special handling of seed before planting.

(C) Number or total weight (for smaller species) of seeds tested per concentration (in agricultural microcosm).

(viii) A description of the experimental design, test substance concentrations, method and pattern of application, replicates, controls, and carriers. The reported results should include:

(A) Results of the range-finding test and measurements.

(B) Results of the definitive test including:

(*1*) Visible effects of the test substance on intact plants.

(*2*) Total productivity and/or yield by plant part (e.g., total biomass or grain) expressed as g/m^2 oven-dry weight.

(*3*) Losses of selected nutrients in leachates.

(*4*) Percent distribution of the test substance and its transformation products in the primary compartments of the microcosm, including above- and below-ground plant tissues and selected depths through the soil profile expressed as dry weight, and in soil leachate expressed as g/m^2. Losses via gaseous transport should be estimated and expressed as mg/m^3.

(*5*) A radioactivity budget including total radioactivity added to, removed from (via soil leaching, gaseous transport, and radioactive decay), and remaining in each microcosm (plant tops and roots and selected soil depths).

(*6*) Bioconcentration of the test substance in above-ground plant tissue expressed as the ratio of the concentration in plant tissue to the concentration in the top 15 cm of dry soil.

(ix) A description of all circumstances that may have affected the quality or integrity of the data.

(x) The name of the sponsor, study director, principal investigator, names of other scientists or professionals, and the names of all supervisory personnel involved in the study.

(xi) A description of the transformations, calculations, or operations performed on the data, a summary and analysis of the data, and a statement of the conclusions drawn from the analysis. Results of the analysis of data should include the concentration response curves with 95-percent confidence limits, the results of a goodness-of-fit test, e.g., chi-square test, and EC_{50}'s.

(xii) The signed and dated reports of each of the individual scientists or other professionals involved in the study including each person who, at the request or direction of the testing facility or sponsor, conducted an analysis or evaluation of data or specimens from the study after data generation was completed.

(xiii) The locations where all specimens, raw data, and the final report are stored.

(xiv) The statement prepared and signed by the quality assurance unit.

(2) [Reserved]

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federal register

Monday
September 28, 1987

Part III

Department of Education

34 CFR Part 628

Endowment Challenge Grant Program; Final Regulations

DEPARTMENT OF EDUCATION

34 CFR Part 628

Endowment Challenge Grant Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary issues final regulations for the Endowment Challenge Grant Program, formerly called the Endowment Grant Program. The regulatory changes conform the regulations to the changes made to the statute governing the Endowment Challenge Grant Program, Parts C and D of Title III of the Higher Education Act of 1965 (HEA), as amended by the Higher Education Amendments of 1986, Pub. L. 99-498.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the U.S. Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Dr. Caroline J. Gillin, Institutional Aid Programs, U.S. Department of Education, L'Enfant Plaza, Post Office Box 23868, Washington, DC 20026. Telephone: (202) 732-3308.

SUPPLEMENTARY INFORMATION:

A. Background

The Endowment Challenge Grant Program is one of several programs authorized by Title III of the HEA and known collectively as the Institutional Aid Programs. Under the Endowment Challenge Grant Program, the Secretary awards grants to eligible institutions of higher education to enable them to establish or increase endowment funds. Grantees must match the Federal grant funds that they receive. The Federal grant and the institutional match are called the endowment fund corpus. Institutions must invest and may not spend the endowment fund corpus for a 20-year grant period. When the grant expires, the institution may use the endowment fund corpus for any educational purpose.

In general, a grantee may spend up to 50 percent of the endowment fund income earned before the date of each proposed expenditure. Endowment fund income is an amount equal to the difference between the total value of the endowment fund and the endowment fund corpus. The total value of the endowment fund includes the endowment fund corpus plus appreciation (or minus depreciation, if applicable), cumulative interest and dividends. A grantee may use that 50 percent of endowment fund income to defray any expenses necessary to operate the institution. A grantee must invest the other 50 percent of endowment fund income for the entire grant period. When the grant expires, the grantee may use all the income for any educational purpose.

B. Explanation of Changes

The Higher Education Amendments of 1986, Pub. L. 99-498, amended the authorizing statute governing the Endowment Challenge Grant Program, Parts C and D of Title III of the HEA, in several areas. The Secretary is amending the regulations in the following areas: Institutional eligibility, limitations on the receipt of endowment challenge grants, and the penalty for use of the endowment fund corpus.

The Secretary published final regulations for the Endowment Challenge Grant Program in the **Federal Register** of April 8, 1987, 52 FR 11256. In the preamble to those final regulations, the Secretary stated that regulations addressing institutional eligibility for the Endowment Challenge Grant Program would be published when the regulations for the Strengthening Institutions and the Strengthening Historically Black Colleges and Universities Programs were published. The regulations for these programs were published in the **Federal Register** of August 14, 1987, 52 FR 30526, and 30536. In addition, the Secretary believes that the Endowment Challenge Grant Program regulations published on April 8, 1987 were not clear regarding the statutory limitation on how often an institution is eligible to receive an endowment challenge grant and the penalty for a grantee's use of endowment fund corpus. These regulations clarify those matters.

Waiver of Notice of Proposed Rulemaking

In accordance with section 431(b)(2)(A) of the General Education Provisions Act, 20 U.S.C. 1231(b)(2)(A), and the Administrative Procedure Act, 5 U.S.C. 553, it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, these regulations only include provisions implementing mandatory statutory changes to the Endowment Challenge Grant Program required by the Higher Education Amendments of 1986, Pub. L. 99-4.98 and clarifications of existing regulations. Therefore, the Secretary has determined that publication of a proposed rule is unnecessary and contrary to the public interest under 5 U.S.C. 553(b)(B).

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the Order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities. The changes made in these regulations will not create any additional burden on small institutions that will participate in the program.

Paperwork Reduction Act of 1980

The regulations have been examined under the Paperwork Reduction Act of 1980 and have been found to contain no information collection requirements.

Assessment of Educational Impact

The Secretary has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 628

Colleges and universities, Education, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Number 84.031—Endowment Challenge Grant Program)

Dated: September 9, 1987.

William J. Bennett,

Secretary of Education.

The Secretary amends Part 628 of Title 34 of the Code of Federal Regulations as follows:

PART 628—[AMENDED]

1. The authority citation for Part 628 continues to read as follows:

Authority: 20 U.S.C. 1065a, unless otherwise noted.

2. Section 628.2 is revised to read as follows:

§ 628.2 Which institutions of higher education are eligible to apply for an endowment challenge grant?

An institution of higher education is eligible to apply for an endowment challenge grant if—

(a) It qualifies as an eligible institution for the Strengthening Institutions Program under 34 CFR 607.2;

(b) It qualifies as an eligible institution for the Strengthening Historically Black Colleges and

Universities Program under 34 CFR 608.2;

(c) It would have qualified as an eligible institution for the Strengthening Institutions Program if 34 CFR 607.2(a)(3) referred to a postgraduate degree rather than a bachelor's degree;

(d) It would have qualified as an eligible institution for the Strengthening Historically Black Colleges and Universities Program if 34 CFR 608.2(a)(4)(i) referred to a postgraduate degree rather than a bachelor's degree; or

(e) It qualifies as an institution that makes a substantial contribution to graduate or postgraduate medical educational opportunities for minorities and the economically disadvantaged.

(Authority: 20 U.S.C. 1064)

3. In § 628.4, paragraphs (a) and (b) are revised to read as follows:

§ 628.4 How often is an institution eligible to receive an endowment challenge grant?

(a) Except as provided in paragraphs (b) and (c) of this section, an institution is eligible to receive an endowment challenge grant in a fiscal year, even if it has already received another endowment challenge grant in a previous fiscal year, as long as it does not receive endowment challenge grants in more than two fiscal years out of any five consecutive fiscal years.

(b) An institution that receives an endowment challenge grant in excess of $1,000,000 is ineligible to receive another endowment challenge grant in any amount for a period of ten years from the date it received the grant in excess of $1,000,000.

* * * * *

4. In § 628.5, paragraph (a)(2) is removed and reserved, paragraph (a)(3) is removed and paragraph (a)(1) is revised to read as follows:

§ 628.5 What regulations apply to the Endowment Challenge Grant Program?

(a) The following regulations apply to the Endowment Challenge Grant Program:

(1) The regulations in this Part 628.

(2) [Reserved]

* * * * *

5. In § 628.6, the introductory text is revised to read as follows:

§ 628.6 What definitions apply to the Endowment Challenge Grant Program?

The following definitions apply to the regulations in this part:

* * * * *

6. In § 628.48, paragraph (a)(2) is removed, paragraph (a)(1) is redesignated as paragraph (a)(2) and a new paragraph (a)(1) is added to read to follows:

§ 628.48 What happens if a grantee fails to administer the endowment grant in accordance with applicable regulations?

(a) * * *

(1) Withdraws or spends any part of the endowment fund corpus in violation of § 628.44(a)(1);

* * * * *

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federal register

Monday
September 28, 1987

Part IV

Department of Labor

Occupational Safety and Health Administration

29 CFR Part 1926

Revision of Construction Industry Test and Inspection Records; Final Rule

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1926

[Docket No. S-020A]

Revision of Construction Industry Test and Inspection Records

AGENCY: Occupational Safety and Health Administration (OSHA); Labor.

ACTION: Final rule.

SUMMARY: The Occupational Safety and Health Administration (OSHA) hereby revises three construction industry recordkeeping requirements to minimize the paperwork burdens imposed on employers and to clarify what information is required. The final rule eliminates certain requirements under which an employer must prepare and maintain written records. The revised provisions require, instead, that the employer simply prepare a certification record at the time the required work (inspection or test) is done, which includes the date the inspection or test was performed; the signature of the person who performed the work; and the identity of the equipment or machinery that was inspected or tested. OSHA has determined that the implementation of this final rule will minimize the paperwork burden on employers as required by the Paperwork Reduction Act of 1980, without reducing the protection of employee safety and health.

DATES: These revisions will become effective October 28, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3647, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 523-8148.

SUPPLEMENTARY INFORMATION:

I. Background

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) was enacted to minimize the Federal paperwork burden and maximize the efficiency and usefulness of Federal information-gathering activities. That Act set goals for the phased reduction of Federal information-gathering burdens. The Paperwork Reduction Act also required the Office of Management and Budget (OMB) to promulgate regulations which would guide the Federal agencies in their compliance efforts. OMB has published implementing regulations at 5 CFR Part 1320 and has issued supplemental directives.

In addition, section 8(d) of the Occupational Safety and Health Act (the OSH Act) states that "Any information obtained by the Secretary * * * under this Act shall be obtained with a minimum burden upon employers. * * *"

In an effort to meet these statutory goals, OSHA conducted a comprehensive review of the OSHA standards to identify all recordkeeping requirements. OSHA then analyzed each of the 38 requirements identified to determine which recordkeeping burdens could be reduced.

Each requirement was reviewed to determine:

—What kind of information was required;
—How this information would be used;
—Whether this information was collected by other authorities (e.g. pursuant to state and local law or regulation);
—Whether this record would provide information that a compliance officer would not otherwise ascertain at the time of inspection; and,
—Which requirements contributed directly to employee safety and health.

On the basis of this careful review and analysis, OSHA identified 22 provisions in the standards found in 29 CFR Parts 1910, 1915, and 1926 that, in its opinion, did not directly contribute to worker safety and health and, therefore, unnecessarily burdened employers with requirements that they prepare and maintain records of tests, inspections, and maintenance checks.

In particular, OSHA determined that the recordkeeping requirements in question were adopted because the Agency wanted the employer to provide evidence that the required tests and inspections had been performed. Having made that determination, OSHA compared the purposes for the recordkeeping requirements with their language and found that they required more information than OSHA needed to determine if equipment or machinery was safe to operate. Therefore, OSHA determined that revisions were appropriate.

OSHA also identified as appropriate for deletion, a duplicative recordkeeping provision and another which dealt with concerns outside OSHA's jurisdiction.

On January 3, 1986, OSHA published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** (51 FR 312) to revise the 22 provisions in question and to revoke the other two provisions. The NPRM included three recordkeeping requirements in the existing Construction Safety and Health Standards, 29 CFR Part 1926. The three recordkeeping requirements in question are § 1926.550(b)(2)—Cranes and derricks; § 1926.552(c)(15)—Material hoists, personnel hoists and elevators; and § 1926.903(e)—Underground transportation of explosives.

OSHA determined during the NPRM comment period that it had not formally consulted with the Advisory Committee on Construction Safety and Health (ACCSH) regarding those three proposed revisions as required by section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333). The Agency, therefore, withdrew the three construction recordkeeping requirments from consideration when it issued a Notice of Informal Public Hearing on March 14, 1986 (51 FR 8844). The remaining 19 provisions were revised through the publication of a Final Rule in the September 29, 1986, **Federal Register** (51 FR 34552).

On April 29, 1986, OSHA formally consulted with the ACCSH to obtain the Committee's recommendations on revising the three recordkeeping requirements which, as has been discussed above, were removed from consideration for revision in the March 14, 1986 hearing notice. The transcript of the Advisory Committee meeting is Exhibit 2 in Docket S-020A.

On April 14, 1987, OSHA published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** (52 FR 12120) to revise the three construction provisions in question. In the preamble to the NPRM, a discussion of the Advisory Committee's recommendations concerning this revision effort can be found. In the NPRM, OSHA proposed to eliminate certain requirements for written, detailed records and reports and replace them with provisions under which employers would prepare a certification record at the time the required test or inspection was performed. The certification record would include the date the test or inspection was performed, the signature of the person who performed the test or inspection, and the identity of the equipment or machinery which was tested or inspected.

The NPRM established a 60-day period, which ended June 15, 1987, for submission of written comments and hearing requests. There were six comments received on the NPRM and no hearing requests.

As stated above, OSHA adopted the recordkeeping requirements in question to provide assurance that employers have performed the required tests and inspections. OSHA has determined, based on its 15 years of experience

enforcing those requirements, that requiring an employer to maintain detailed test or inspection records does not add to compliance with the test and inspection requirements. Therefore, OSHA is revising the pertinent requirements so that employers are required to prepare a contemporaneous certification record, as provided herein.

The contemporaneous certification record can be kept in any manner which provides the required information. For example, a list of the pieces of equipment which were inspected would have to be signed and dated only once if the same person performed all of the inspections or tests on the same date. With such a list, the person performing the inspections or tests would not have to sign and date a separate record identifying each piece of equipment.

If employers keep track of their inspections or tests with automated data processing, and if, as above, the same person performed all of the inspections or tests on the same date, compliance can be achieved by having that person sign and date a printout of equipment identifiers. The signed and dated computer printout would, of course, have to be maintained, until superseded, and made available for review at the time of an OSHA inspection.

Employer can comply with this certification requirement in the manner which least disrupts their operations. They may find that they need to place a tag on the equipment in question or they may find that the addition of an entry to a checklist or log they already maintain will suffice. Some employers may even find that they do not need to change their recordkeeping methods to comply with these revised requirements.

OSHA estimates that the revisions will reduce its imposed paperwork burden by approximately 670,000 hours and that employers will save approximately $1.8 million annually. In addition, employers will gain clear guidance as to what information must be included when verifying compliance.

OSHA has determined that the revisions will not reduce the protection of employee safety and health since the testing and inspection requirements will remain in effect. OSHA believes that a certification record will provide evidence of compliance with the pertinent testing or inspection requirements which is equivalent to that provided by the detailed records formerly required.

OSHA will continue to review its recordkeeping requirements in an effort to ensure that they provide the necessary protection for employees while imposing the minimum burden on employers.

II. Discussion of Issues Raised in the Comments

A. General Comments

OSHA received six comments in response to the Notice of Proposed Rulemaking. Four of the comments pertained to the proposed recordkeeping revisions in general. Those comments are discussed below. The comments which refer to individual provisions are discussed in the Summary and Explanation.

The New York State Conference of the International Union of Operating Engineers (Ex. 3–2) opposed the revision of the recordkeeping requirements in §§ 1926.550(b)(2) and 1926.552(c)(15). The Operating Engineers felt that OSHA was inviting "falsification of equipment inspections by unscrupulous contractors," and that the recordkeeping provisions are invaluable in preventing serious accidents. In addition, they commented that "the primary tool for inspecting a crane, a components checklist, was being replaced by a meaningless scrap of paper." The Operating Engineers, however, did not submit information to support their positions.

Concerns regarding record falsification, the value of records in preventing accidents, and the use of checklists were raised as concerns in the rulemaking relating to certain recordkeeping requirements in the General Industry and Maritime Standards (51 FR at 34553). OSHA will address these three issues in turn.

First, in the earlier rulemaking, OSHA responded to commenters' concerns regarding employer error and dishonesty by adopting the suggestion that "contemporaneous certification" would provide the necessary assurance of compliance, because a record prepared at the time work is performed is more likely to be accurate.

Second, at the public hearing held to develop the record for the earlier rulemaking, the International Union of Operating Engineers testified regarding the value of records in preventing accidents involving cranes used in general industry. This testimony also dealt with false recordkeeping. Excerpts from the Agency's discussion of that testimony in the final rule for the previous recordkeeping revisions (50 FR 34553) follows:

> Commenters who opposed the proposal, such as the United Brotherhood of Carpenters and Joiners of America [Exs. 4–4, 4–7 and 14 and Tr. 55–56] and the International Union of Operating Engineers [Exs. 4–12 and 16 and Tr. 69–70 and 73–77], have stated that the retention of currently required records is essential, or at least beneficial, to employee protection. The opponents stated that access to records enables workers to verify compliance with the substantive requirements of the standards. They, however, did not document a single instance where a hazardous situation was detected and cited or abated because an employee examined records.
>
> The International Union of Operating Engineers, for example, testified [Tr. 121–124] that having the record of a previous inspection would be beneficial to a crane operator who was inspecting equipment. However, the union witness added that, even without the record, a good inspection would be done * * *.
>
> Indeed, the Operating Engineers presented testimony at the hearing [Tr. 92–93] which indicated that a crane operator provided with inspection record information would inspect the crane anyway and not rely on the inspection record when deciding whether or not the equipment was in safe condition. Also, the Operating Engineers provided examples of "bogus" recordkeeping to explain why a written record of a test or inspection would not provide assurance that the equipment in question was safe.

OSHA notes that the Operating Engineers also testified that in at least two cases violations of recordkeeping requirements led to serious accidents. However, neither their testimony nor their post-hearing submission substantiated the existence of a causal relationship (51 FR at 34553). In the absence of evidence that the specific crane test or inspection records are necessary, OSHA has determined that compliance with the test or inspection provisions will not be affected by the shift to certification.

Finally, regarding the use of a checklist as a certification record, OSHA has specifically stated that "Employers can comply with this certification requirement in the manner which least disrupts their operations . . . they may find that the addition of an entry to a checklist or log they already maintain will suffice" (52 FR at 12121). In addition, OSHA observes that the regulations have never required that employers use a checklist to comply with the crane test or inspection requirements. Accordingly, if an employer has used a checklist, it was for purposes other than to comply with OSHA regulations. Therefore, OSHA does not expect that employers would stop using a checklist simply because OSHA has revised its requirement for information to verify compliance. Once again, OSHA emphasizes that the requirements to test or inspect the critical crane components are unchanged.

Another commenter, the National Institute for Occupational Safety and Health (NIOSH), concurred with the

substitution of certification records for detailed records. NIOSH also suggested, in general, that

—OSHA require employers to keep their certification records on file for 12 months from time of preparation so that employers will have more information on which to base equipment use decisions;
—The certification records indicate whether the inspected or tested equipment passed or failed; and,
—Sections 1926.550(b)(2) and 1926.903(e) contain the requirement already in § 1926.552(c)(15) that a "competent person," as defined in § 1926.32(f), shall perform the requisite tests and inspections.

OSHA believes that compliance with the proposed requirement for record retention will provide the necessary assurance that the employer has complied with the test or inspection requirements. The Agency does not believe that retaining the certifications for a longer period would be useful, becuase the required information would not include any of the details which might assist an employer in making decisions. Furthermore, OSHA reiterates that it adopted the recordkeeping provisions in question solely in order to obtain verification of compliance. Therefore, the suggested change, even if it provided useful information, is not relevant to the Agency's concern.

OSHA also believes that the suggested addition of pass/fail information is unnecessary because it would not contribute to verification of compliance with the test or inspection requirements. Indeed, regardless of any previous test or inspection experience, OSHA requires that employers perform the scheduled tests and inspections so that any equipment defects would be discovered. In addition, in the case of cranes, the ANSI B30.5–1968, as referenced in § 1926.550(b)(2), specifies that any "critical" crane components found to be defective be repaired or removed from service.

In addition, as OSHA stated in the final rule for the earlier recordkeeping revisions, "Just because a particular piece of equipment was in safe condition 29 days ago does not mean it is in safe condition today" [51 FR at 34554]. Regardless of the outcome of a previous inspection or test, OSHA requires the employer to conduct each scheduled test and inspection with such thoroughness that it will disclose any deficiency.

Thus, there is no need to make a written notation that the equipment or machinery passed or failed. If equipment or machinery failed the inspection or test, then it is unsafe and must be repaired or replaced. Otherwise, its use is prohibited by other construction regulations.

OSHA notes that NIOSH's suggestion for use of the term "competent person" in §§ 1926.550(b)(2) and 1926.903(e) is not related to the purpose of this rulemaking. Accordingly, OSHA has not made the suggested changes. OSHA further observes, however, that § 1926.20(b)(2) of the general safety and health provisions for construction already requires that employers designate competent persons to perform workplace inspections. Also, as regards § 1926.550(b)(2), OSHA notes that the general requirements for cranes and derricks, § 1926.550(a)(5), provide that the employer must designate a competent person to inspect all equipment and make sure that the equipment is in safe operating condition. OSHA believes, therefore, that the above-cited existing provisions already address the concern expressed by NIOSH.

OSHA is aware that some employers keep records for purposes other than complying with the OSHA standards and may desire to keep records beyond what OSHA requires. Indeed, OSHA has no objection if employers feel they need certification records which, for example, cover an extended period, such as 12 months, or which state whether the equipment passed or failed a test or inspection.

The Associated General Contractors of America (AGC) (Ex. 3–4) and Bechtel Construction, Inc. (Ex. 3–6) expressed support for the proposed changes. The Bechtel Construction, Inc. stated that, "We are pleased that the agency is making meaningful, cost effective changes * * *" The AGC stated that "AGC believes that all recordkeeping requirements for construction should be included in future proposals. If an employer is permitted to certify that he has performed certain requirements pertaining to a particular standard, there should be no differentiation." Again, OSHA reiterates that it will continue its efforts to identify provisions where the recordkeeping burdens could be reduced without reducing employee protection.

III. Summary and Explanation

Section 1926.550(b)(2)—Crawler, locomotive and truck cranes.

The final rule revises the recordkeeping portion of the provision and requires the employer to prepare a certification record. The certification record must contain the date the inspection was performed, the signature of the person who performed the inspection and the identity of the crane inspected. The final rule does not alter the existing requirements to comply with the crane inspection procedures of the ANSI B30.5–1968.

The final rule is identical to the proposed rule. In the proposed rule OSHA explained that the existing rule requires compliance with the provisions of ANSI B30.5–1968, Safety Code for Crawler, Locomotive and Truck Cranes. Section 5–2.1.5 of ANSI B30.5–1968 requires that written, dated, and signed inspection reports and records be prepared monthly on critical items such as brakes, crane hooks and ropes. The latest ANSI standard, B30.5–1982, Mobile and Locomotive Cranes, in Section 5–2.1.5 contains slightly different wording with regard to the recordkeeping requirements. It requires a dated record for periodic inspections of critical items. Neither edition of ANSI B30.5 specifies the information to be included in the record or report. Both editions are in Exhibit 2 of Docket S–020A.

OSHA received three comments on this provision. the California Department of Industrial Relations (CAL/OSHA) and the Tennessee Valley Authority (TVA) (Exs. 3–1 and 3–5) suggested that OSHA revise the existing standard to require compliance with the 1982 edition of ANSI B30.5 instead of the 1968 edition. CAL/OSHA also suggested that OSHA require the modification of cranes put in service before 1968 to comply with B30.5–1968, to the extent feasible. OSHA observes that these comments pertain to matters outside the scope of this rulemaking. Therefore, it would be necessary for OSHA to initiate a separate rulemaking proceeding in order to act on the CAL/OSHA and TVA suggestions.

In addition, NIOSH suggested that OSHA add the word "critical" to specify which crane items were covered by paragraph (b)(2). OSHA, however, believes that the suggested change is not within the scope of this rulemaking and that the standard already clearly states its requirements. The term "critical," which appears in Section 5–2.1 of ANSI B30.5–1968, effectively differentiates those crane components which are to be inspected at frequent or periodic intervals from those which need not be inspected at specified times. The 1982 edition uses the same language. Therefore, OSHA believes that no further revision of this provision is necessary.

OSHA has determined that the revised standard will not reduce the protection of employee safety and health because the existing inspection requirements are retained and employers are still required to correct

any defects found at the time of inspection.

Section 1926.552(c)(15)—Material hoists, personnel hoists and elevators.

The final rule revises the recordkeeping portion of the provision and requires the employer to prepare a certification record. The revised standard eliminates unnecessary recordkeeping burdens, and clarifies what information is to be recorded. The certification record must contain the date the work was performed, the signature of the person who performed the inspection and test, and the identity of the hoist that was inspected and tested. The final rule does not alter the inspection and test requirements of this paragraph.

In the proposed rule, OSHA explained that the existing standard requires the employer to inspect and test all hoist functions and safety devices at least every three months following assembly and erection. A similar inspection and test is required following major alterations of an existing installation. The existing standard further requires that records be maintained. However, the existing standard does not state what information should be kept on the record.

CAL/OSHA (Ex. 3–1) recommended adoption of the proposed revision because it felt, "this change clarifies the inspection test information that is to be recorded and the file retention time."

OSHA has determined that the revised standard will not reduce the protection of employee safety and health because the existing testing and inspection requirements are retained. Employers are still required to detect any defects in hoist functions or safety devices during these tests and inspections and to correct them.

Section 1926.903(e)—Underground transportation of explosives.

The final rule revises the recordkeeping requirements of this provision and requires the employer to prepare a certification record. The revised standard clarifies what information the employer must record. The certification record must contain the date the inspection was performed, the signature of the person who checked the electrical system and the identity of the truck inspected. The final rule retains the inspection requirements.

In the proposed rule, OSHA explained that the existing standard requires employers to conduct a weekly check of the electrical systems of trucks used to transport explosives underground to detect failure which may constitute electrical hazards. The standard further provides that a written record of the inspection must be kept, but does not state what information this written record must contain.

OSHA received one comment on this paragraph. CAL/OSHA (Ex. 3–1) suggested that OSHA extend the existing inspection requirements to cover vehicles other than trucks. CAL/OSHA was concerned that other vehicles might be used to transport explosives underground or might emit explosive vapors. OSHA notes that the suggestion falls outside the scope of this rulemaking. The Agency has not proposed any changes to the pertinent inspection requirements. Therefore, OSHA would have to initiate a separate rulemaking proceeding in order to act on CAL/OSHA's suggestion.

OSHA has determined that the revised standard will not reduce employee safety and health because it retains the requirement that employers conduct the weekly check of covered electrical systems.

IV. Regulatory Impact Assessment and Regulatory Flexibility Assessment

OSHA has determined that this rule is not a "major rule" under 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 on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, no regulatory impact analysis is required.

Based on a review of the relevant information, OSHA concludes that a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 603, 605), is not necessary. OSHA estimates that the construction industry expends approximately $2.2 million annually in complying with the recordkeeping provisions which will be revised by this rule. OSHA also estimates that compliance costs after this rule is promulgated will be approximately $430,000 annually. Therefore, the compliance cost differential will be $1.8 million. This total economic impact will generally be distributed over numerous construction firms, so OSHA concludes that this rule will not have a significant economic impact on a substantial number of small entities.

V. OMB Approval Under the Paperwork Reduction Act

The revised provisions require that employers prepare certifications. Under the terms of 5 CFR 1320.7(k)(1), certifications are not subject to the Paperwork Reduction Act or its implementing regulations. Hence, OMB approval under the Paperwork Reduction Act is not required.

VI. State Plan States

The 25 States and territories with their own OSHA-approved occupational safety and health plans must revise their existing standards within six months of the publication date of the final standard or show OSHA why there is no need for action, e.g., because an existing State standard covering this area is already "at least as effective" as the revised Federal standard. These States and territories are: Alaska, Arizona, California, Connecticut [1], Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, New York [1], North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Virgin Islands, Washington, and Wyoming.

Authority

This document was prepared under the direction of John A. Pendergrass, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Accordingly, pursuant to sections 6(b), 8(c), 8(d) and 8(g) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655, 657), section 107 of the Construction Safety Act (40 U.S.C. 333), Secretary of Labor's Order No. 9–83 (48 FR 35736) and 29 CFR Part 1911, OSHA amends 29 CFR Part 1926 as set forth below.

Signed at Washington, DC this 23rd day of September, 1987.

John A. Pendergrass,

Assistant Secretary of Labor.

List of Subjects in 29 CFR Part 1926

Certification, Occupational safety and health, Recordkeeping, Safety.

PART 1926—SAFETY AND HEALTH REGULATIONS FOR CONSTRUCTION

1. The authority citation for Subpart N of Part 1926 continues to read as follows:

Authority: Sec. 107, Contract Work Hours and Safety Standards Act (Construction Safety Act) (40 U.S.C. 333); secs. 4, 6, 8,

[1] Plan covers only State and local government employees.

Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), or 9–83 (48 FR 35736), as applicable.

2. In § 1926.550, paragraph (b)(2) is revised to read as follows:

§ 1926.550 Cranes and derricks.

* * * * *

(b) * * *

(2) All crawler, truck, or locomotive cranes in use shall meet the applicable requirements for design, inspection, construction, testing, maintenance and operation as prescribed in the ANSI B30.5–1968, Safety Code for Crawler, Locomotive and Truck Cranes. However, the written, dated, and signed inspection reports and records of the monthly inspection of critical items prescribed in section 5–2.1.5 of the ANSI B30.5–1968 standard are not required. Instead, the employer shall prepare a certification record which includes the date the crane items were inspected; the signature of the person who inspected the crane items; and a serial number, or other identifier, for the crane inspected. The most recent certification record shall be maintained on file until a new one is prepared.

* * * * *

3. In § 1926.552, paragraph (c)(15) is revised to read as follows:

§ 1926.552 Material hoists, personnel hoists and elevators.

* * * * *

(c) * * *

(15) Following assembly and erection of hoists, and before being put in service, an inspection and test of all functions and safety devices shall be made under the supervision of a competent person. A similar inspection and test is required following major alteration of an existing installation. All hoists shall be inspected and tested at not more than 3-month intervals. The employer shall prepare a certification record which includes the date the inspection and test of all functions and safety devices was performed; the signature of the person who performed the inspection and test; and a serial number, or other identifier, for the hoist that was inspected and tested. The most recent certification record shall be maintained on file.

* * * * *

PART 1926—[AMENDED]

4. The authority citation for Subpart U of Part 1926 continues to read as follows:

Authority: Sec. 107, Contract Work Hours and Safety Standards Act (Construction Safety Act) (40 U.S.C. 333); secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), or 9–83 (48 FR 35736), as applicable.

5. In § 1926.903, paragraph (e) is revised to read as follows:

§ 1926.903 Underground transportation of explosives.

* * * * *

(e) Trucks used for the transportation of explosives underground shall have the electrical system checked weekly to detect any failures which may constitute an electrical hazard. A certification record which includes the date of the inspection; the signature of the person who performed the inspection; and a serial number, or other identifier, of the truck inspected shall be prepared and the most recent certification record shall be maintained on file.

* * * * *

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Part V

Department of Labor

Occupational Safety and Health Administration

29 CFR Part 1910

Revision of Telecommunications Training Records; Final Rule

DEPARTMENT OF LABOR

29 CFR Part 1910

[Docket No. S-020B]

Revision of Telecommunications Training Records

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Final rule.

SUMMARY: The Occupational Safety and Health Administration (OSHA) hereby revises the recordkeeping requirements in the training provisions of the Telecommunications Standard (29 CFR 1910.268(c)), in order to minimize the paperwork burdens imposed on employers and to clarify what information is required. The final rule eliminates the requirement that the employer prepare a written description of the training program. It also revises the requirement that the employer maintain a record of employees trained, substituting a requirement that the employer prepare a certification record to demonstrate compliance with the training requirements. This certification record will be prepared at the time the training is completed and will include the identity of the employee trained, the signature of the employer or the person who conducted the training, and the date the training was completed. OSHA believes that this action will minimize the paperwork burden on employers, as intended by the Paperwork Reduction Act of 1980, without reducing the protection of employee safety and health.

DATES: This revision will become effective October 28, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3647, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 523-8148.

SUPPLEMENTARY INFORMATION:

I. Background

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) was enacted to minimize the Federal paperwork burden and maximize the efficiency and usefulness of Federal information-gathering activities. That Act set goals for the phased reduction of Federal information-gathering burdens. The Paperwork Reduction Act also required the Office of Management and Budget (OMB) to promulgate regulations which would guide the Federal agencies in their compliance efforts. OMB has published implementing regulations at 5 CFR Part 1320 and has issued supplemental directives.

In addition, section 8(d) of the Occupational Safety and Health Act (the OSH Act) states that "Any information obtained by the Secretary * * * under this Act shall be obtained with a minimum burden upon employers * * *."

In an effort to meet these statutory goals, OSHA conducted a comprehensive review of the OSHA standards to identify all recordkeeping requirements. OSHA then analyzed each of the 38 requirements identified to determine which recordkeeping burdens could be reduced.

Each requirement was reviewed to determine:

—What kind of information was required;

—How this information would be used;

—Whether this information was collected by other authorities (e.g., pursuant to State and local law or regulation);

—Whether this record would provide information that a compliance officer would not otherwise ascertain at the time of inspection; and,

—Which requirements contributed directly to employee safety and health.

On the basis of this careful review and analysis, OSHA identified 22 provisions in the standards found in 29 CFR Parts 1910, 1915, and 1926 that, in its opinion, did not directly contribute to worker safety and health and, therefore, unnecessarily burdened employers with requirements that they prepare and maintain records of tests, inspections, and maintenance checks.

In particular, OSHA determined that the recordkeeping requirements in question were adopted because the Agency wanted the employer to provide evidence that the required tests and inspections had been performed. Having made that determination, OSHA compared the purposes for the recordkeeping requirements with their language and found that they required more information than OSHA needed. Therefore, OSHA determined that revisions were appropriate.

OSHA also identified, as appropriate for deletion, a duplicative recordkeeping provision and another which dealt with concerns outside OSHA's jurisdiction.

On January 3, 1986, OSHA published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** (51 FR 312) to revise the 22 provisions in question and to revoke the other two provisions. The three construction industry recordkeeping requirements which were proposed for revision were removed from consideration for revision in the March 14, 1986, Notice of Public Hearing (51 FR 8844), because OSHA determined that it had not formally consulted with the Advisory Committee on Construction Safety and Health (ACCSH) regarding them. These three provisions have subsequently been formally reviewed by ACCSH and are the subject of a separate rulemaking. A public hearing was held on April 15, 1986, on the nineteen remaining provisions and they were revised by publication of a Final Rule in the September 29, 1986, **Federal Register** (51 FR 34552).

OSHA indicated in that Final Rule that it would continue its efforts to identify provisions where the recordkeeping burdens could be reduced without reducing worker protection (51 FR 34553). Consistent with this statement, OSHA reviewed the recordkeeping requirements in the training provisions of the Telecommunications Standard (§ 1910.268(c)). Currently, this standard requires that an employer develop a training program which includes a list of the subject courses and the types of personnel to be trained. The employer is also required to provide OSHA, upon request, with a written description of the program and a record of the employees trained. OSHA determined that this paragraph required more information than was needed to demonstrate compliance with the training requirement.

Based on that determination, OSHA published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on April 14, 1987 (52 FR 12116). The Agency proposed to revise paragraph (c) of the existing standard so that employers would be required to prepare certification records to demonstrate that employees had been trained as required by the standard.

The NPRM established a 60-day period, which ended June 15, 1987, for submission of written comments and hearing requests. OSHA received four comments on the NPRM and no hearing requests. Those comments will be discussed in the Summary and Explanation section.

As OSHA noted in the NPRM, the Telecommunications Standard already specifies the elements to be included in the training program. Therefore, OSHA determined that requiring employers to write out descriptions of their training programs was redundant and unnecessarily burdensome. In addition, OSHA notes that employers have generally complied with the "written description" requirement by simply preparing a course outline for each subject listed in the training program.

The "written description," therefore, actually provided less information than would be gained from reading § 1910.268.

OSHA has also determined that employers should not be required to list the types of personnel to be trained because the stated purpose of existing paragraph (c) is to "insure that employees do not engage in the activities to which this section applies until such employees have received proper training; * * *." Therefore, the key concern is whether a given employee will be performing work covered by § 1910.268, not whether that employee has a particular job title.

In addition, OSHA has determined that the existing standard does not clearly state what constitutes a "record." The final rule clarifies the requirement so that an employer can comply by preparing a certification record which contains the identity of the employee(s) trained, the signature of the employer or the person providing the training, and the date of the training. The certification record is to be prepared when the training has been completed and will be maintained on file for review by the OSHA Compliance Officer at the time of an inspection.

As stated above, OSHA adopted the recordkeeping requirements in question to provide assurance that employees were trained as required by the standard. OSHA has determined, based on its 15 years of experience enforcing similar types of requirements, that the written documents currently required under this standard are not necessary to verify compliance with the training requirements. Therefore, OSHA is revising the pertinent requirements so that employers are required to prepare a contemporaneous certification record, as provided herein.

The contemporaneous certification record can be kept in any manner which provides the required information. For example, a list of the employees who were trained would have to be signed and dated only once if all the employees were trained on the same date. With such a list, the employer or the person performing the training would not have to sign and date a separate record for each trained employee. In addition, employers may find that they need only to sign an entry in the employee's personnel file which indicates the date the training was received. Some employers may find that they do not need to change their recordkeeping methods at all to comply with these revised requirements.

If the employer keeps track of training with automated data processing, and several employees are trained on the same date, compliance can be achieved by having the person who conducted the training, or the employer, sign and date a printout which identifies the persons trained. The computer printout would, of course, have to be maintained and made available for review at the time of an OSHA inspection.

OSHA estimates that the revision will reduce its imposed paperwork burden by about 21,000 hours and that employers in the telecommunications industry would save approximately $164,000 annually. In addition, employers will gain clear guidance as to what information must be included when the employer verifies compliance.

OSHA has determined that the revision will not reduce the protection of employee safety and health, since the requirement in § 1910.268(c) to train employees will not be changed. OSHA believes that a certification record will provide evidence of compliance with the pertinent training requirement which is equivalent to that provided by the specific records formerly required.

OSHA will continue to review its recordkeeping requirements in an effort to ensure that they provide the necessary protection for employees while imposing the minimum burden on employers.

II. Summary and Explanation

The final rule is identical to the proposed rule. In the proposed rule OSHA explained that the existing provisions of paragraph § 1910.268(c) require the employer to train employees in the precautions and safe practices required by the standard before the employer assigns employees to perform work covered by the standard. To demonstrate compliance with the training requirements, employers are required to prepare a written description of their training program, including a list of subject courses and the types of personnel to be trained. As explained in the Background section, above, OSHA determined that requiring a "written description" of the training program is redundant and unnecessary because the written description is not an elaboration of how the training will be accomplished; but, rather, a brief description of what subject areas would be covered. Therefore, the Agency has concluded that the "written description" requirement does not provide any information which the Agency could use to verify compliance with the pertinent training requirements of the standard.

In addition, under the existing standard, employers are required to prepare and maintain a record of employees who have received such training. OSHA agrees that recording the identity of employees who have been trained provides useful information by which to verify compliance with the training requirements. Therefore, the Agency has retained this provision as part of the certification requirement.

The final rule revises the recordkeeping provisions of the telecommunication standard by requiring employers to prepare a certification record which indicates that employees have been trained as required by the standard. This certification record must contain the identity of the person trained, the signature of the employer or the person who conducted the training, and the date the training was completed. The final rule does not alter the existing requirement to train employees, but eliminates the requirement to prepare a written description of the training program.

The California Department of Industrial Relations (CAL/OSHA) (Ex. 3-1) recommended adoption of the proposal and also suggested that OSHA add "Work area protection and traffic control" to the list of subjects covered by the training. OSHA observes that this suggested addition relates to matters outside the scope of this rulemaking. Therefore, it would be necessary to initiate a separate rulemaking proceeding in order to act on CAL/OSHA's recommendation.

The Connecticut Union of Telephone Workers, Inc. (CUTW) (Ex. 3-2) commented that "In order to guarantee that employees received adequate safety training, employers should continue to maintain a written description of their training program * * *." The CUTW supported their comment by explaining that "Maintaining up to date safety training records is one small step toward accomplishing this end" and that "These records are necessary for OSHA to determine whether employers are providing adequate training * * *." CUTW further stated that "In order for employees to be made aware of how this standard affects them, each training program should continue to include a list of the subject courses and the types of personnel (job titles) required to receive the instruction." The CUTW did not, however, submit any information, examples, or evidence to demonstrate that worker safety would be endangered if the training program (including the list of subject courses and types of personnel required to receive the instruction) were not written down. Nor did the CUTW submit any evidence to demonstrate that worker safety would be endangered if the employer were

allowed to prepare and maintain a certification record to demonstrate that the employee had been trained. The CUTW, also, did not explain how requiring the training program to be written would "* * * guarantee that employees received adequate safety training * * *." In the absence of information supporting the CUTW position, the Agency adheres to its determination explained above, that the deleted information requirements were not needed to verify compliance. OSHA reiterates that the requirement to train employees is not being altered by this revision.

The National Institute for Occupational Safety and Health (NIOSH) (Ex. 3–3) agreed with the certification approach to determining compliance, but recommended that the certification record include the signature of the employee trained and either a table of contents or course agenda for the training program.

As has been explained above, OSHA believes that the proposed revision will provide the necessary assurance that employers have complied with the training requirements. As with the CUTW, NIOSH has presented no evidence to substantiate the view that the recordkeeping requirements it recommends are necessary for the protection of employee safety and health. In particular, the Agency has determined that requiring the identity of trained employees on the certification record provides adequate assurance of compliance, so that also requiring the trained employees to sign the certification record is unnecessary.

Further, with regard to NIOSH's suggestion that the employee sign the training certification record, OSHA believes that the responsibility for demonstrating compliance with the training requirement should remain with the employer or the person who conducts the training. OSHA notes that employers, not employees, are required to ensure that the training requirements are followed, so trained employees are not the appropriate parties to prepare the certification of compliance.

The NIOSH suggestion that the certification record include a table of contents or course agenda would, if adopted, require employers to, in effect, continue to prepare "written descriptions" of the training programs. As has already been discussed above, OSHA had determined that such a requirement is unnecessary.

In addition, NIOSH recommended that OSHA replace the term "artificial respiration" with the more precise and commonly used term "cardio-pulmonary resuscitation (CPR)." OSHA notes that this suggestion falls outside the scope of the rulemaking. Therefore, it would be necessary for OSHA to initiate a separate rulemaking proceeding in order to act on NIOSH's recommendation.

The National Arborist Association, Inc. (NAA) (Ex. 3–4) raised two concerns related to matters outside the scope of this rulemaking. To act on either of these matters would require OSHA to initiate a separate rulemaking proceeding. The first concern was that, on one hand, the proposed standard would require that employees be "trained" before working, while, on the other hand, it would permit "on-the-job training." The NAA stated that, given the apparent conflict in the proposed regulatory language, "trainees are allowed to receive on-the-job training, but are not allowed to receive it by performing covered work!" The Agency observes that the pertinent regulatory language is not proposed for revision and, therefore, will be not changed by this final rule. As a point of clarification, however, OSHA does not consider employees receiving on-the-job training to be engaged in activities for which they have not received the required training.

The NAA also stated that the certification requirement would be too burdensome for its members because they must train large numbers of transient workers at many different times and locations. OSHA notes that although it is concerned with reducing paperwork burdens, it cannot exempt employers from complying with this standard simply because employers find any paperwork to be "too burdensome." OSHA observes that the NAA's comment could just as well be addressed to the existing recordkeeping requirements as to the revised requirement. Indeed, if anything, the NAA's members have had heavier recordkeeping burdens under the existing requirements than they will have under the new certification record provision. Accordingly, OSHA believes that the NAA's members, like other employers subject to this standard, will find that this revision provides the appropriate relief from unnecessary recordkeeping burdens.

OSHA has determined that the revised standard will not reduce the protection of employee safety and health because the existing requirement that employers train their employees before they engage in activities covered by § 1910.268 has not been revised.

III. Regulatory Impact Assessment and Regulatory Flexibility Assessment

OSHA has determined that this rule is not a "major rule" under 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 on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, no regulatory impact analysis is required.

Based on a review of the relevant information, OSHA concludes that a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 603, 605), is not necessary. OSHA estimates that the telecommunications industry expends approximately $204,000 annually to comply with the recordkeeping requirement which will be revised by this rule. OSHA also estimates that compliance costs after this rule is promulgated will be approximately $40,000 annually. Therefore, the compliance cost savings will be $164,000. This total economic impact will generally be distributed over numerous employers, so OSHA concludes that this rule will not have a significant economic impact on a substantial number of small entities.

IV. OMB Approval Under the Paperwork Reduction Act

The revision requires that employers prepare a certification. Under the terms of 5 CFR 1320.7(k)(1), certifications are not subject to the Paperwork Reduction Act or its implementing regulations. Hence, OMB approval under the Paperwork Reduction Act is not required.

V. State Plan States

The 25 States and territories with their own OSHA-approved occupational safety and health plans must revise their existing standards within six months of the publication date of the final standard or show OSHA why there is no need for action, e.g., because an existing State standard covering this area is already "at least as effective" as the revised Federal standard. These States and territories are: Alaska, Arizona, California, Connecticut [1], Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, New York [1], North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia,

[1] Plan covers only State and local government employees.

Virgin Islands, Washington, and Wyoming.

Authority

This document was prepared under the direction of John A. Pendergrass, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

Accordingly, pursuant to sections 6(b), 8(c), 8(d) and 8(g) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655, 657), Secretary of Labor's Order No. 9-83 (48 FR 35736), and 29 CFR Part 1911, OSHA amends 29 CFR Part 1910 as set forth below.

Signed at Washington, DC, this 23rd day of September, 1987.

John A. Pendergrass,

Assistant Secretary of Labor.

List of Subjects in 29 CFR Part 1910

Certification, Occupational safety and health, Recordkeeping, Safety, Telecommunications, Training.

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

1. The authority citation for Subpart R of Part 1910 continues to read as follows:

Authority: Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12-71 (36 FR 8754), 8-76 (41 FR 25059) or 9-83 (48 FR 35736), as applicable.

Sections 1910.261, 1910.262, 1910.265, 1910.266, 1910.267, 1910.268, 1910.274, and 1910.275 also issued under 29 CFR Part 1911.

2. In § 1910.268, paragraph (c) is revised to read as follows:

§ 1910.268 Telecommunications.

* * * * *

(c) *Training.* Employers shall provide training in the various precautions and safe practices described in this section and shall insure that employees do not engage in the activities to which this section applies until such employees have received proper training in the various precautions and safe practices required by this section. However, where the employer can demonstrate that an employee is already trained in the precautions and safe practices required by this section prior to his employment, training need not be provided to that employee in accordance with this section. Where training is required, it shall consist of on-the-job training or classroom-type training or a combination of both. The employer shall certify that employees have been trained by preparing a certification record which includes the identity of the person trained, the signature of the employer or the person who conducted the training, and the date the training was completed. The certification record shall be prepared at the completion of training and shall be maintained on file for the duration of the employee's employment. The certification record shall be made available upon request to the Assistant Secretary for Occupational Safety and Health. Such training shall, where appropriate, include the following subjects:

(1) Recognition and avoidance of dangers relating to encounters with harmful substances and animal, insect, or plant life;

(2) Procedures to be followed in emergency situations; and,

(3) First aid training, including instruction in artificial respiration.

* * * * *

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H.J. Res. 134/Pub. L. 100-114

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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1987. The CFR volume issued as of Apr. 1, 1980, should be retained.

[3] No amendments to this volume were promulgated during the period July 1, 1985 to June 30, 1986. The CFR volume issued as of July 1, 1985 should be retained.

[4] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[5] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[6] No amendments to this volume were promulgated during the period Oct. 1, 1985 to Sept. 30, 1986. The CFR volume issued as of Oct. 1, 1985 should be retained.