9-10-85
Vol. 50 No. 175
Pages 36861-36982

federal register

Tuesday
September 10, 1985

Selected Subjects

Air Pollution Control
Environmental Protection Agency

Animal Drugs
Food and Drug Administration

Aviation Safety
Federal Aviation Administration

Banks, Banking
Farm Credit Administration

Communications Equipment
Federal Communications Commission

Food Additives
Food and Drug Administration

Government Procurement
Defense Department

Hazardous Wastes
Environmental Protection Agency

Milk Marketing Orders
Agricultural Marketing Service

Postal Service
Postal Service

Nuclear Materials
Nuclear Regulatory Commission

Railroad Unemployment Insurance
Railroad Retirement Board

CONTINUED INSIDE

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

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

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

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

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

Selected Subjects

Contents

Federal Register
Vol. 50, No. 175
Tuesday, September 10, 1985

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

CFR PARTS AFFECTED IN THIS ISSUE

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

Federal Register
Vol. 50, No. 175
Tuesday, September 10, 1985

Presidential Documents

Title 3—

The President

Executive Order 12532 of September 9, 1985

Prohibiting Trade and Certain Other Transactions Involving South Africa

By the authority vested in me as President by the Constitution and laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), the Foreign Assistance Act (22 U.S.C. 2151 *et seq.*), the United Nations Participation Act (22 U.S.C. 287), the Arms Export Control Act (22 U.S.C. 2751 *et seq.*), the Export Administration Act (50 U.S.C. App. 2401 *et seq.*), the Atomic Energy Act (42 U.S.C. 2011 *et seq.*), the Foreign Service Act (22 U.S.C. 3901 *et seq.*), the Federal Advisory Committee Act (5 U.S.C. App. I), Section 301 of Title 3 of the United States Code, and considering the measures which the United Nations Security Council has decided on or recommended in Security Council Resolutions No. 418 of November 4, 1977, No. 558 of December 13, 1984, and No. 569 of July 26, 1985, and considering that the policy and practice of apartheid are repugnant to the moral and political values of democratic and free societies and run counter to United States policies to promote democratic governments throughout the world and respect for human rights, and the policy of the United States to influence peaceful change in South Africa, as well as the threat posed to United States interests by recent events in that country,

I, RONALD REAGAN, President of the United States of America, find that the policies and actions of the Government of South Africa constitute an unusual and extraordinary threat to the foreign policy and economy of the United States and hereby declare a national emergency to deal with that threat.

Section 1. Except as otherwise provided in this section, the following transactions are prohibited effective October 11, 1985:

(a) The making or approval of any loans by financial institutions in the United States to the Government of South Africa or to entities owned or controlled by that Government. This prohibition shall enter into force on November 11, 1985. It shall not apply to (i) any loan or extension of credit for any educational, housing, or health facility which is available to all persons on a nondiscriminatory basis and which is located in a geographic area accessible to all population groups without any legal or administrative restriction; or (ii) any loan or extention of credit for which an agreement is entered into before the date of this Order.

The Secretary of the Treasury is hereby authorized to promulgate such rules and regulations as may be necessary to carry out this subsection. The initial rules and regulations shall be issued within sixty days. The Secretary of the Treasury may, in consultation with the Secretary of State, permit exceptions to this prohibition only if the Secretary of the Treasury determines that the loan or extension of credit will improve the welfare or expand the economic opportunities of persons in South Africa disadvantaged by the apartheid system, provided that no exception may be made for any apartheid enforcing entity.

(b) All exports of computers, computer software, or goods or technology intended to service computers to or for use by any of the following entities of the Government of South Africa:

(1) The military;

(2) The police;

(3) The prison system;

(4) The national security agencies;

(5) ARMSCOR and its subsidiaries or the weapons research activities of the Council for Scientific and Industrial Research;

(6) The administering authorities for the black passbook and similar controls;

(7) Any apartheid enforcing agency;

(8) Any local or regional government or "homeland" entity which performs any function of any entity described in paragraphs (1) through (7).

The Secretary of Commerce is hereby authorized to promulgate such rules and regulations as may be necessary to carry out this subsection and to implement a system of end use verification to ensure that any computers exported directly or indirectly to South Africa will not be used by any entity set forth in this subsection.

(c)(1) Issuance of any license for the export to South Africa of goods or technology which are to be used in a nuclear production or utilization facility, or which, in the judgment of the Secretary of State, are likely to be diverted for use in such a facility; any authorization to engage, directly or indirectly, in the production of any special nuclear material in South Africa; any license for the export to South Africa of component parts or other items or substances especially relevant from the standpoint of export control because of their significance for nuclear explosive purposes; and any approval of retransfers to South Africa of any goods, technology, special nuclear material, components, items, or substances described in this section. The Secretaries of State, Energy, Commerce, and Treasury are hereby authorized to take such actions as may be necessary to carry out this subsection.

(2) Nothing in this section shall preclude assistance for International Atomic Energy Agency safeguards or IAEA programs generally available to its member states, or for technical programs for the purpose of reducing proliferation risks, such as for reducing the use of highly enriched uranium and activities envisaged by section 223 of the Nuclear Waste Policy Act (42 U.S.C. 10203) or for exports which the Secretary of State determines are necessary for humanitarian reasons to protect the public health and safety.

(d) The import into the United States of any arms, ammunition, or military vehicles produced in South Africa or of any manufacturing data for such articles. The Secretaries of State, Treasury, and Defense are hereby authorized to take such actions as may be necessary to carry out this subsection.

Sec. 2. (a) The majority of United States firms in South Africa have voluntarily adhered to fair labor principles which have benefitted those in South Africa who have been disadvantaged by the apartheid system. It is the policy of the United States to encourage strongly all United States firms in South Africa to follow this commendable example.

(b) Accordingly, no department or agency of the United States may intercede after December 31, 1985, with any foreign government regarding the export marketing activity in any country of any national of the United States employing more than 25 individuals in South Africa who does not adhere to the principles stated in subsection (c) with respect to that national's operations in South Africa. The Secretary of State shall promulgate regulations to further define the employers that will be subject to the requirements of this subsection and procedures to ensure that such nationals may register that they have adhered to the principles.

(c) The principles referred to in subsection (b) are as follows:

(1) Desegregating the races in each employment facility;

(2) Providing equal employment opportunity for all employees without regard to race or ethnic origin;

(3) Assuring that the pay system is applied to all employees without regard to race or ethnic origin;

(4) Establishing a minimum wage and salary structure based on the appropriate local minimum economic level which takes into account the needs of employees and their families;

(5) Increasing by appropriate means the number of persons in managerial, supervisory, administrative, clerical, and technical jobs who are disadvantaged by the apartheid system for the purpose of significantly increasing their representation in such jobs;

(6) Taking reasonable steps to improve the quality of employees' lives outside the work environment with respect to housing, transportation, schooling, recreation, and health;

(7) Implementing fair labor practices by recognizing the right of all employees, regardless of racial or other distinctions, to self-organization and to form, join, or assist labor organizations, freely and without penalty or reprisal, and recognizing the right to refrain from any such activity.

(d) United States nationals referred to in subsection (b) are encouraged to take reasonable measures to extend the scope of their influence on activities outside the workplace, by measures such as supporting the right of all businesses, regardless of the racial character of their owners or employees, to locate in urban areas, by influencing other companies in South Africa to follow the standards specified in subsection (c) and by supporting the freedom of mobility of all workers, regardless of race, to seek employment opportunities wherever they exist, and by making provision for adequate housing for families of employees within the proximity of the employee's place of work.

Sec. 3. The Secretary of State and the head of any other department or agency of the United States carrying out activities in South Africa shall promptly take, to the extent permitted by law, the necessary steps to ensure that the labor practices described in section (2)(c) are applied to their South African employees.

Sec. 4. The Secretary of State and the head of any other department or agency of the United States carrying out activities in South Africa shall, to the maximum extent practicable and to the extent permitted by law, in procuring goods or services in South Africa, make affirmative efforts to assist business enterprises having more than 50 percent beneficial ownership by persons in South Africa disadvantaged by the apartheid system.

Sec. 5. (a) The Secretary of State and the United States Trade Representative are directed to consult with other parties to the General Agreement on Tariffs and Trade with a view toward adopting a prohibition on the import of Krugerrands.

(b) The Secretary of the Treasury is directed to conduct a study to be completed within sixty days regarding the feasibility of minting and issuing gold coins with a view toward expeditiously seeking legislative authority to accomplish the goal of issuing such coins.

Sec. 6. In carrying out their respective functions and responsibilities under this Order, the Secretary of the Treasury and the Secretary of Commerce shall consult with the Secretary of State. Each such Secretary shall consult, as appropriate, with other government agencies and private persons.

Sec. 7. The Secretary of State shall establish, pursuant to appropriate legal authority, an Advisory Committee on South Africa to provide recommendations on measures to encourage peaceful change in South Africa. The Advisory Committee shall provide its initial report within twelve months.

Sec. 8. The Secretary of State is directed to take the steps necessary pursuant to the Foreign Assistance Act and related legislation to (a) increase the amount of internal scholarships provided to South Africans disadvantaged by the apartheid system up to $8 million from funds made available for Fiscal

Year 1986, and (b) increase the amount allocated for South Africa from funds made available for Fiscal Year 1986 in the Human Rights Fund up to $1.5 million. At least one-third of the latter amount shall be used for legal assistance for South Africans. Appropriate increases in the amounts made available for these purposes will be considered in future fiscal years.

Sec. 9. This Order is intended to express and implement the foreign policy of the United States. It is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

Ronald Reagan

THE WHITE HOUSE,
September 9, 1985.

[FR Doc. 85-21793
Filed 9-9-85; 11:59 am]
Billing code 3195-01-M

Editorial Note: For the text of the President's message to Congress and his remarks on signing Executive Order 12532, see the *Weekly Compilation of Presidential Documents* (vol. 21, No. 37).

Rules and Regulations

Federal Register
Vol. 50, No. 175
Tuesday, September 10, 1985

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1036

Milk in the Eastern Ohio-Western Pennsylvania Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rules.

SUMMARY: This action suspends certain provisions of the Eastern Ohio-Western Pennsylvania milk order. It removes the limit on the amount of milk not needed for fluid (bottling) use that may be moved directly from producer farms to nonpool manufacturing plants and still be priced under the order. It also suspends a portion of the pooling standards for a plant operated by a cooperative association.

The action is based on a cooperative association's request considered at a public hearing where a number of proposals were considered concerning diversion limitation requirements and certain standards for pooling plants operated by cooperative associations. The public hearing was held in Strongsville, Ohio, on August 7 and 8, 1985. The suspension is effective beginning for the month of September 1985 and continues until final disposition is made of the hearing proceeding. Based on available information concerning the market's current supply conditions, it is necessary to suspend the provisions in question to accommodate the efficient and orderly disposition of reserve milk supplies that are available to the market.

EFFECTIVE DATE: September 10, 1985.

FOR FURTHER INFORMATION CONTACT: Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-7311.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing: Issued July 19, 1985; published July 24, 1985 (50 FR 30204).

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

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

It is hereby found and determined that beginning for the month of September 1985 and continuing until final disposition is made of the hearing proceeding on proposals to amend the order, the following provisions of the order do not tend to effectuate the declared policy of the Act:

(1) In § 1036.7(d), the words "is not less than 65 percent in any month of September through April and not less than 50 percent in any other month";

(2) In § 1036.13(e), the words "During April through August and";

(3) Section 1036.13(f) in its entirety.

Statement of Consideration

This action is based on the record of a public hearing held on August 7 and 8, 1985, at Strongsville, Ohio, to consider certain proposed amendments to the Eastern Ohio-Western Pennsylvania order. The suspension makes inoperative the provision that a cooperative association must deliver to pool distributing plants at least 65 percent during September through April and 50 percent in any other month of its members' producer milk in order to qualify its plants as pool balancing plants under the order and (2) the provisions limiting the amount of producer milk that a cooperative association or other handlers may divert from pool plants to nonpool plants. The present order now limits a producer's production that may be diverted to nonpool plants during the months of September–March to a quantity not exceeding 40 percent of total producer deliveries to pool plants or, alternatively, on the number of days' production of an individual producer that is actually delivered to a pool plant. The suspension is effective beginning September 1985 and continues until the proceeding on the proposed amendments to the order is completed.

The suspension was requested by Milk Marketing, Inc. (MMI), a cooperative association, at the above-mentioned hearing. The cooperative represents a substantial number of producers supplying milk to the fluid market and operates two pool supply plants under the order. One of these plants serves as a principal outlet for the market's reserve milk supplies.

At the hearing, MMI proposed and supported amendments to relax the pooling and diversion provisions in question. The cooperative testified that such amendments are needed to accommodate the pooling and efficient handling of the expanded reserve milk supplies now on the market. However, because of the time needed to complete any amendatory action, the proponent cooperative requested that the provisions in question be immediately suspended so as to avoid uneconomic movements of milk to pool the milk of its member producers.

Testimony and statistics presented at the hearing indicate that present marketing conditions are considerably different from those existing when the provisions in question were formulated. An indication of the changed market situation is the present upsurge in the market's milk supplies due to a substantial increase in producer receipts for the market. For example, producer receipts in July 1985 were up over 8 percent from July 1984. Also, there has been an increase of over 6 percent in producer receipts during the 4 months of April–July 1985 from the comparable period in 1984. Additional testimony indicated that, although the milk of the cooperative's member producers could continue to be pooled without relaxing the pooling and diversion provisions in question, costly and inefficient changes in milk movements would have to be made in order to do so.

In view of the urgency of the marketing situation concerning the market's current supply conditions, immediate action is necessary to ensure the orderly marketing of the market's reserve milk supplies. This can be accomplished through suspending beginning September 1985 the provisions in question. Such suspension will accommodate the pooling and efficient handling of reserve milk supplies for the market pending the outcome of the hearing proceeding.

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

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area in that without the suspension, substantial quantities of milk of producers who have regularly supplied this market otherwise could be excluded from the market wide pool;

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

(c) The marketing problems that provide the basis for the suspension were fully considered at a public hearing held on August 7 and 8, 1985, where all interested parties had an opportunity to be heard on this matter.

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

List of Subjects in 7 CFR Part 1036

Milk marketing orders, Milk, Dairy products.

PART 1036—[AMENDED]

The authority citation for Part 1036 continues to read as follows:

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

It is therefore ordered, that the following provisions in § 1036.7(d) and in § 1036.13 (e) and (f) of the Eastern Ohio-Western Pennsylvania order are hereby suspended pending completion of proceedings on the issues.

§ 1036.7 [Amended]

(1) In § 1036.7(d), the words "is not less than 65 percent in any month of September through April and not less than 50 percent in any other month";

§ 1036.13 [Amended]

(2) In § 1036.13(e), the words "During April through August and";

(3) Section 1036.13(f) in its entirety.

Effective Date: September 10, 1985.

Signed at Washington, D.C., on September 4, 1985.

Alan T. Tracy,

Deputy Assistant Secretary Marketing and Inspection Services.

[FR Doc. 85–21554 Filed 9–9–85; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR PART 35

Physician's Use of Radioactive Drugs

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to allow physicians to use technetium-99m labeled sulfur colloid for gastroesophageal imaging; technetium-99m labeled sulfur colloid, pertechnetate, and macroaggregated human serum albumin for LeVeen shunt imaging; and technetium-99m labeled pertechnetate for cystography and dacryocystography. Without this amendment, each NRC licensee that wants to use these radioactive materials for these clinical procedures would have to apply to the NRC for permission to do so. This rule allows physicians or hospitals that are now licensed by NRC to use other similar materials to use these drugs without making an application to NRC.

EFFECTIVE DATE: September 10, 1985.

FOR FURTHER INFORMATION CONTACT: Norman L. McElroy, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 427–4108.

SUPPLEMENTARY INFORMATION:

Background

Physicians who want to use certain radioactive materials in the practice of medicine may do so only in accordance with a license issued by the Nuclear Regulatory Commission (NRC) or by States which have an agreement with the NRC to license the use of these materials instead of the NRC.

As new radiopharmaceuticals, radioactive sources, medical devices, and uses of radioisotopes are developed, the NRC considers adding them to one of the groups under which medical licenses are issued. The groups were designed to allow physicians and community hospitals wide access to nuclear medicine services. The groups in § 35.100 contain only radiopharmaceuticals that are the subject of a "New Drug Application" (NDA) that has been approved by the Food and Drug Administration (FDA), or a "Notice of Claimed Investigational Exemption for a New Drug" (IND) that has been accepted by FDA. A licensee authorized to use all the materials listed in a group is referred to as a "group medical licensee."

NRC regulations in § 35.14(b)(6) that apply to the group medical licensees provide that when a physician uses byproduct material for clinical procedures other than those specified in the product labeling or package insert, the physician must follow the product labeling regarding: (1) Chemical and physical form, (2) route of administration, and (3) dosage range. The NRC received requests to amend its regulations, specifically § 35.14(b)(7), to allow physicians to use certain FDA-approved drugs for certain clinical procedures that are not listed in the respective product labels. In response, NRC published a proposed rule on April 22, 1985 (50 FR 15752) that would allow certain group licensees to use these radiopharmaceuticals for these clinical procedures.

The requests that NRC received provided a description of the clinical procedure, a justification for why the regulatory action is needed, the purpose of the clinical procedure, an analysis of the radiation dose, and additional technical and scientific information. Each of the requests is available for inspection at the NRC Public Document Room, 1717 H Street, NW, Washington, DC. In conformance with its policy regarding new clinical procedures for approved drugs that was published on February 3, 1983 (48 FR 5217), NRC reviewed the requests to determine whether the requested regulatory action might result in an unreasonable risk to the health and safety of the public or might endanger life or property. The NRC specifically considered two criteria:

- No unjustified radiation dose to the patient, and
- Demonstration of adequacy of occupational radiation protection measures.

With assistance from its Advisory Committee on the Medical Uses of Isotopes (ACMUI), the NRC determined that the above criteria were met for each of the six clinical procedures.

(NRC published a proposed revision of 10 CFR Part 35, "Medical Use of Byproduct Material" on July 26, 1985; see 50 FR 30616. This minor amendment was completed after the proposed revision

was published and therefore was not included in the proposed revision. This minor amendment will be included in the revision when it is published as a final rule.)

The Clinical Procedures

The six clinical procedures that were listed in the proposed rule are described below.

Technetium-99m labeled sulfur colloid can be administered orally either as a solid or liquid test meal. Following oral administration, technetium-99m sulfur colloid goes from the esophagus to the stomach, small intestine, and the upper large intestine. This clinical procedure permits external imaging which is helpful in assessing gastric emptying, gastroesophageal reflux, and esophageal transit. The gastric emptying procedure is useful in demonstrating the presence and the severity of gastric motor disorder; the gastroesophageal reflux study may demonstrate backward flow in the digestive tract. The esophageal transit study may demonstrate obstructions or abnormal transit time.

A LeVeen shunt is an implanted tube that drains built-up fluid from the peritoneal cavity to a large central vein. Technetium-99m labeled sulfur colloid, pertechnetate, or macroaggregated human serum albumin can be injected into the peritoneal cavity to diagnose shunt malfunction, such as blockage by clot or valve failure, by taking images of the shunt.

A ventriculo-atrial shunt is a tube implanted in patients with hydrocephalus (fluid build-up in the cerebrospinal fluid space in the head). It drains the fluid from the head to the atrial cavity. Technetium-99m labeled sulfur colloid, pertechnetate, or macroaggregated human serum albumin is injected into the shunt system of the patient to localize shunt blockage before performing surgical repair.

A ventriculo-peritoneal shunt is a tube implanted in patients with hydrocephalus. It drains the fluid from the head to the peritoneal cavity. Technetium-99m labeled sulfur colloid, pertechnetate, or macroaggregated human serum albumin is injected into the shunt system of patients to localize shunt blockage before performing surgical repairs.

Cystography is a procedure for patients with bladder problems. A tube is inserted into the bladder of a patient. Technetium-99m pertechnetate is instilled through the tube into the bladder. Images are taken during filling and voiding of the bladder to measure the amount of reflux (backward flow) into the upper tracts, bladder volume at which reflux occurs, drainage time of reflux after voiding, and the remaining urine volume.

Dacryocystography is a procedure for patients whose eyes exhibit excessive teardrops (epiphora). This procedure is performed to assess tear production and drainage in patients, and for nasolacrimal system imaging. Technetium-99m labeled pertechnetate is administered as a sterile eye drop.

Analysis of Comments Received

The NRC received five comment letters that generally endorsed the proposed rule. However, FDA's Radiopharmaceutical Drugs Advisory Committee (RDAC), indicated that there was potential for a drug-induced physiologic reaction in patients undergoing ventriculo-atrial or ventriculo-peritoneal shunt imaging. FDA imposes manufacturing quality control requirements for molybdenum-99/technetium-99m generators that produce pertechnetate and for reagent kits that are used to prepared macroaggregated human serum albumin and sulfur colloid. The pyrogenicity standard that applies to these radiopharmaceuticals is suitable for drugs that are administered orally or by intravenous injection, but is not sufficiently stringent for drugs that might be introduced, either purposefully or inadvertently, into the cerebrospinal fluid space. Furthermore, two of the radiopharmaceuticals that would have been used in ventriculo-atrial and ventriculoperitoneal shunt imaging, macroaggregated human serum albumin and sulfur colloid, are comprised of tiny particles that may adhere to the shunt, rendering the images impossible to interpret. The RDAC endorsed the other four clinical procedures. The RDAC's comments were endorsed by two large medical associations whose members have special expertise in the use of radiopharmaceuticals for imaging. The NRC has not included in this rule ventriculo-atrial and ventriculo-peritoneal shunt imaging because it prefers to defer to FDA in those cases involving potential risk to patient safety stemming from pharmaceutical quality criteria. For the four clinical procedures that are allowed in this rule, no question of risk to patient safety was raised by any commenter.

One commenter did not endorse this rule, saying that it is inappropriate for the NRC to evaluate routes of administration and give the appearance of approving new clinical procedures for FDA-approved radiopharmaceuticals because the NRC is not expert in the area of drug use and safety. Furthermore, for NRC to imply that there may be clinical indication for using a radiopharmaceutical and then to approve a route of administration based only on the criteria of no unjustified dose to the patient and adequate occupational protection does not provide adequate assurance of public health and safety.

The NRC notes that FDA is responsible for assuring that drugs are honestly labeled, and safe when used in accordance with the information provided in the package insert. The FDA does not require that any drug be used in accordance with the instructions in the package insert. A physician may change the physical form of a drug, use a different route of administration, or administer a greater or lesser dosage than suggested in the package insert—all this is considered "the practice of medicine."

However, NRC has a requirement in 10 CFR 35.14(b)(6) that licensees comply with the form, dosage, and route instructions in the package insert when the licensee uses a radiopharmaceutical for a clinical procedure that is not listed on the package insert. The intent of this requirement is to ensure the radiation safety of the patient and worker while allowing some latitude for the physician who is responsible for the patient's care. But for that requirement, a licensee would be free to perform the clinical procedures at issue without any review, as is the case for non-radioactive drugs. By allowing these new uses of approved radiopharmaceuticals, the NRC is not "approving" the drugs or package inserts in the sense that an FDA approval provides assurance to the physician that there is substantial evidence that a drug, when used in accordance with the package insert, is safe and efficacious. This NRC approval only provides assurance that the clinical procedure can be done without untoward radiation dose to the patient or the radiation worker.

NRC has found that good cause exists not to delay the effective date of this rule. To delay the effective date of this rule would be contrary to the public interest because physicians would not be able to immediately provide the additional diagnostic services for patient care described in the rule.

Finding of No Significant Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, that this is not a major Federal action significantly affecting the quality of the human environment and therefore an

environmental impact statement is not required. The NRC has prepared an environmental impact assessment that shows that any detectable effect on the environment is unlikely. The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 1717 H Street, NW, Washington, DC. Single copies of the environmental assessment are available from Mr. McElroy (see **"FOR FURTHER INFORMATION CONTACT"** heading).

Paperwork Reduction Act Statement

This final rule contains no information collection requirements and therefore it is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Regulatory Analysis

The NRC has prepared a regulatory analysis for this rule. The analysis examines the costs and benefits of the alternatives that were considered by the NRC. The analysis is available for inspection at the NRC Public Document Room, 1717 H Street, NW, Washington DC. A single copy may be obtained from Mr. McElroy (see **"FOR FURTHER INFORMATION CONTACT"** heading).

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the NRC certifies that this rule will not have a significant economic impact on a substantial number of small entities. The NRC has prepared a regulatory analysis for this rule that examines the economic impact of this action. The analysis notes that approximately 1900 medical licensees may experience some beneficial impact from the rule. The rule would spare each medical licensee who desires to use the radioactive material in the requested manner the estimated $230 cost of preparing a license amendment request, the $120 amendment fee, and the 60-day delay associated with the amendment of the license.

List of Subjects in 10 CFR Part 35

Byproduct material, Drugs, Health facilities, Health professions, Incorporation by reference, Medical devices, Nuclear materials, Occupational safety and health, Penalty, Radiation protection, Reporting and recordkeeping requirements

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 amendment to 10 CFR Part 35.

PART 35—HUMAN USES OF BYPRODUCT MATERIAL

1. The authority citation for Part 35 continues to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); Sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 35.2, 35.14 (b), (e), and (f), 35.21(a), 35.22(a), 35.24, and 35.31 (b) and (c) are issued under sec. 161(b), 68 Stat. 948, as amended 42 U.S.C. 2201(b); and §§ 35.14(b)(5) (ii), (iii) and (v) and (f)(2), 35.25, and 35.31(d) are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 35.14, paragraph (b)(7) is revised to read as follows:

§ 35.14 Specific licenses for certain groups of medical uses of byproduct material.

* * * * *

(b) * * *

(7) The following radiopharmaceuticals, when used for the listed clinical procedures, are not subject to the restrictions in paragraph (b)(6) of this section:

(i) Technetium-99m pentetate as an aerosol for lung function studies;

(ii) Technetium-99m sulfur colloid as a solid or liquid for gastroesophageal imaging;

(iii) Technetium-99m sulfur colloid, pertechnetate, or macroaggregated human serum albumin for LeVeen shunt imaging;

(iv) Technetium-99m pertechnetate for cystography; and

(v) Technetium-99m pertechnetate for dacryocystography.

* * * * *

Dated at Bethesda, Maryland, this 28th day of August, 1985.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director of Operations.

[FR Doc. 85-21585 Filed 9-9-85; 8:45 am]

BILLING CODE 7590-01-M

FARM CREDIT ADMINISTRATION

12 CFR Part 615

Funding and Fiscal Affairs

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration (FCA), by its Federal Farm Credit Board (Federal Board), amends its regulations concerning the method by which banks for cooperatives' (BC) earnings are to be distributed. The current regulation restricts to 10 percent the amount of net savings that BCs may use to create or maintain reasonable contingency reserves. The amended regulation will increase the amount of net savings that the BCs can use to create or maintain contingency reserves from 10 to 50 percent. The Federal Board believes the BCs need to retain adequate contingency reserves to build their risk capital in view of current economic conditions in order to ensure sound and adequate capitalization.

EFFECTIVE DATE: Thirty days from this publication date, provided either or both Houses of Congress are in session. Notice of the effective date will be published.

FOR FURTHER INFORMATION CONTACT:

Thomas J. Holland, Assistant Director, Office of Examination and Supervision, (703) 883-4452

or

Kenneth L. Peoples, Office of the General Counsel, (703) 883-4024, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090.

SUPPLEMENTARY INFORMATION: In the May 8, 1985 Federal Register (50 FR 19379), FCA published the proposed amendment to its regulation concerning the method by which BCs' earnings can be distributed and invited comments for 60 days ending July 8, 1985. Comments were received from five Farm Credit System institutions and all were in agreement with the proposed regulation. The Federal Board believes that it is necessary to relieve the restriction imposed by the current regulation which limits the banks' abilities to meet their changing capital needs. Therefore, the Federal Board has approved the proposed amendment to 12 CFR 615.5370 to authorize the bank, with bank approval, to retain up to 50 percent of the net savings derived from business done with or for patrons, plus the total amount of any net earnings derived from nonpatronage sources for use in creating or maintaining an unallocated surplus or unallocated reserve account. Additional amounts beyond the 50-percent limit may be added with FCA approval. As required by the existing regulation, FCA will continue to monitor the banks' earnings distribution plans to ensure the banks are operating on a cooperative basis with provisions for sound and adequate capitalization as required by the Farm Credit Act of 1971, as amended.

List of Subjects in 12 CFR Part 615

Accounting, Agriculture, Banks, Banking, Government securities, Investments, Rural areas.

PART 615—FUNDING AND FISCAL AFFAIRS

As stated in the preamble, Part 615 of Chapter VI, Title 12 of the Code of Federal Regulations, is amended as shown:

1. The authority citation for Part 615 continues to read as follows:

Authority: Secs. 5.9, 5.12, 5.18, Pub. L. 92-181, 85 Stat. 619, 620, 621 (12 U.S.C. 2243, 2246, 2252).

Subpart L—Distribution of Earnings

* * * * *

2. Section 615.5370 is amended by revising paragraphs (a) and (c) as follows:

§ 615.5370 Banks for cooperatives' earnings.

(a) Whenever at the end of any fiscal year a bank shall have no outstanding capital stock held by the Governor, the net savings shall first be applied to the restoration of the amount of the impairment, if any, of capital stock, as determined by the bank board. Any remaining net savings or losses shall be distributed as authorized by the bank board. Twenty-five percent of such remaining net savings, or such other percentage as determined by the bank board, derived from business done with or for patrons may be used to maintain an allocated surplus account. Upon approval of the bank board, up to 50 percent of the net savings derived from business done with or for patrons, plus the total amount of any net earnings derived from nonpatronage (including nonmember) sources, may be used to create or maintain an unallocated surplus or unallocated reserve account. Additional amounts beyond the 50-percent limit may be added with the approval of the Farm Credit Administration. The amount so determined shall first be reduced by related income taxes. For purposes of this regulation, all net savings shall be deemed to be from patronage sources unless otherwise determined by the bank. Cash patronage refunds shall not exceed 25 percent of the total amount of net savings allocated or paid to patrons except with Farm Credit Administration approval. Patronage refunds not paid in cash or allocated surplus shall be paid in capital stock and participation certificates as determined by the bank board. A net loss in any fiscal year shall be absorbed on the basis determined by the bank board. Any costs or expenses attributable to a prior year that are used in the computation of current year's net savings shall not be charged to reserves, surplus, or patronage allocations without the approval of the Farm Credit Administration.

* * * * *

(c) The phrase "service fees" as used in section 3.11(c) of the Act refers to loan service fees and not income related to "technical assistance and financially related services" referred to in section 3.7 of the Act. If net savings from "technical assistance and financially related services" become more than incidential, such net savings shall be distributed as patronage to borrowers using such services.

* * * * *

Donald E. Wilkinson,
Governor.

[FR Doc. 85-21548 Filed 9-9-85; 8:45 am]
BILLING CODE 6705-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-ANE-18, Amdt. 39-5133]

Airworthiness Directives; Grob-Werke GmbH G109 Powered Gliders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which revises the flight manual and requires installation of a spin warning placard on Grob G109 powered gliders. The AD is needed to prevent undesirable spinning which could result if the glider is operated in accordance with the originally approved flight manual data.

DATE: Effective September 25, 1985.

Compliance required prior to further flight unless already accomplished.

ADDRESSES: The applicable service information may be obtained from Burkhart Grob of America Incorporated, 1070 Navajo Drive, Bluffton Airport Complex, Bluffton, Ohio 45817.

A copy of the applicable service information is contained in the Rules Docket, FAA, New England Region, Room 311, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Mr. Terry Fahr, ANE-153, Boston Aircraft Certification Office, FAA, New England Region, 12 New England Executive Perk, Burlington, Massachusetts 01803, telephone (617) 273-7103.

SUPPLEMENTARY INFORMATION: As a result of additional flight testing, Grob-Werke GmbH has issued Technical Information TM 817-10/2 dated May 2, 1983, which revises the Flight Manual in regard to prohibiting intentional spins, and revising aft center of gravity, loading limits, and spin recovery technique on Grob G109 powered gliders. Luftfahrt Bundesamt (LBA), who has responsibility and authority to maintain the continuing airworthiness of these powered gliders in the Federal Republic of Germany, has classified Grob-Werke Technical Information TM 817-10/2 dated May 2, 1983, and the actions recommended therein by the manufacturer, as mandatory to assure the continued airworthiness of the affected powered gliders. LBA has issued AD 83-104 Grob dated June 6, 1983, which requires owners of Grob-Werke model G109 powered gliders in the Federal Republic of Germany to accomplish the provisions of Grob-Werke Technical Information TM 817-10/2 immediately after the effective date of AD 83-104 Grob, but not later than July 15, 1983.

The FAA has examined the available information related to the issuance of Grob-Werke Technical Information TM 817-10/2 dated May 2, 1983, and the mandatory classification of this technical information by LBA. Based on the foregoing, the FAA has determined that undesirable spinning may occur on Grob G109 powered gliders. Since this condition is likely to occur on other power gliders of the same type design, an AD is being issued which requires: (1) Revision of the Burkhart Grob Flight Manual in regard to prohibiting intentional spins, and revising aft center of gravity, loading limits, and spin recovery technique, and (2) addition of a spin warning placard. The spin warning placard "AEROBATIC INCLUSIVE SPINNING PROHIBITED" as shown on page 18e of the flight manual is to be replaced by the placard "AEROBATIC MANEUVERS INCLUDING SPINNING PROHIBITED" for clarification, since the intended meaning of the original placard is unclear.

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

Conclusion

The FAA has determined that this regulation involves approximately 38 aircraft, and the approximate cost per aircraft is negligible because the flight manual changes are provided at no cost by the manufacturer and the cost of a placard is minimal. Therefore, I certify

that this action: (1) Is not a "major rule" under Executive Order 12291, and (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT"**.

List of Subjects in 14 CFR 39

Engines, Air transportation, Aircraft, Aviation safety, Incorporation by reference.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the FAA amends § 39.13 of Part 39 of the Federal Aviation Regulations (FAR) as follows:

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

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

2. By adding the following new AD:

Burkhart Grob: Applies to model G109 powered gliders certificated in any category.

Compliance is required as indicated unless already accomplished.

To prevent undesirable spinning, accomplish the following before further flight:

(a) Replace the applicable pages of the flight manual with those contained in Grob-Werke GmbH Technical Information TM 817-10/2 dated May 2, 1983, and revised the wording of the spin warning placard on page 18e to read "AEROBATIC MANEUVERS INCLUDING SPINNING PROHIBITED" instead of "AEROBATIC INCLUSIVE SPINNING PROHIBITED".

(b) Install spin warning placard on the left hand side of the instrument panel which reads "AEROBATIC MANEUVERS INCLUDING SPINNING PROHIBITED".

Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Aircraft Certification Office, AEU-100, FAA, Europe, Africa, and Middle East Office, c/o American Embassy, Brussels, Belgium 09667-1011, telephone 513.38.30.

Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, Brussels Aircraft Certification Office, may adjust the compliance time specified in this AD.

This amendment becomes effective September 25, 1985.

Issued in Burlington, Massachusetts, on August 26, 1985.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 85-21516 Filed 9-9-85; 8:45 am]

BILLING CODE 4910-13-M

RAILROAD RETIREMENT BOARD

20 CFR Parts 302, 322, and 340

Reduction in Benefits Under the Railroad Unemployment Insurance Act

AGENCY: Railroad Retirement Board.

ACTION: Interim final rule.

SUMMARY: The Railroad Retirement Board (Board) hereby adds a new Part 302 to 20 CFR Chapter II and amends Parts 322 and 340 of that chapter. Part 302 provides for the temporary reduction in benefit payments due qualified employees under the Railroad Unemployment Insurance Act. The amendment to Part 322 will eliminate the payment of unemployment benefits to railroad employees who receive or are eligible to receive railroad job protective payments when deprived of employment, and the amendment to Part 340 will speed up collection of debts under the Railroad Unemployment Insurance Act.

EFFECTIVE DATE: Interim final rule effective October 1, 1985.

ADDRESS: Office of Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Walter P. Witkovich, Chief of Adjudication, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611; (312) 751-4810 (FTS 387-4810).

SUPPLEMENTARY INFORMATION: The Railroad Retirement Solvency Act of 1983 (Pub. L. 98-76) amended section 10(d) of the Railroad Unemployment Insurance Act to prohibit the transfer of funds from the Railroad Retirement Account after September 30, 1985 for the purpose of paying benefits under the Railroad Unemployment Insurance Act. In view of this termination of the authority to borrow from the Railroad Retirement Account, the Board has adopted these regulations to describe the procedures that it will adopt and follow in order to continue the payment of unemployment and sickness benefits after September 30, 1985.

These regulations are based upon sections 2(b) and 12(e) of the Railroad Unemployment Insurance Act. Section 2(b) authorizes the Board to pay the benefits due an employee at such intervals as the Board may prescribe. Section 12(e) authorizes the Board to arrange total or partial settlements at such times and in such manner as may appear to the Board to be expedient. In addition, section 8(g) of the Act authorizes the Board to collect contributions from employers at such times and in such manner as may be prescribed by the Board.

These regulations shall take effect October 1, 1985 if legislation amending the Railroad Unemployment Insurance Act is not enacted prior to that date. If legislation is enacted after September 30, 1985, the amounts of any benefits that may not have been paid pursuant to these regulations to eligible persons shall be certified for payment.

The Board has determined that this is not a major rule for purposes of Executive Order 12291. Therefore, no Regulatory Impact Analysis is required. The reporting requirements imposed by these regulations have been approved by the Office of Managment and Budget.

List of Subjects

20 CFR Part 302

Railroad employees, Railroad unemployment insurance, Railroads.

20 CFR Part 322

Railroad employees, Railroad unemployment insurance, Railroads.

20 CFR Part 340

Railroad employees, Railroad unemployment insurance, Railroads, Debt collection.

Title 20 CFR Chapter II is amended as follows:

1. A new Part 302 is added as follows:

PART 302—REDUCTION IN UNEMPLOYMENT AND SICKNESS BENEFITS

Sec.

Authority: 52 Stat. 1097, 1108; 45 U.S.C. 352(b), 362(e), 362(l).

§ 302.1 Purpose.

These regulations describe the specific measures that the Railroad Retirement Board will take to continue the payment of benefits under the Railroad Unemployment Insurance Act after September 30, 1985, the date as of which the Board ceases to have the authority to request the Secretary of the Treasury to transfer funds from the Railroad Retirement Account to the railroad unemployment insurance account for the purpose of paying benefits under the Act. Pursuant to authority in sections 2(b), 12(e) and 12(l) of the Act, the Board hereby directs that the following actions be taken to pay all valid claims for benefits until legislation to amend the Act is enacted.

§ 302.2 Definitions.

As used in this part—

"Account" means the railroad unemployment insurance account established by section 10 of the Act.

"Act" means the Railroad Unemployment Insurance Act, 52 Stat. 1094, as amended; 45 U.S.C. 351 et seq.

"Benefits" means the money payments payable to qualified employees pursuant to section 2(a) of the Act.

"Board" means the Railroad Retirement Board.

"Contributions" means the payments due from employers and employee representatives pursuant to section 8 of the Act.

§ 302.3 Accelerated payment of contributions.

(a) Effective October 1, 1985, notwithstanding any provision of Part 345 of this chapter, the contribution required to be reported on an employer's or employee representative's contribution report shall be computed and paid to the Board, without assessment or notice, in accordance with the provisions of this section. Each employer and employee representative shall continue to file contribution reports as required in Part 345 of this chapter.

(b) Except as provided in paragraph (c) of this section, if at the close of any calendar month the aggregate amount of unpaid contributions is $500.00 or more, the employer or employee representative shall pay to the Board, in accordance with the provisions in paragraph (e) of this section, the unpaid contributions within 15 calendar days after the close of such calendar month. However, this paragraph shall not apply if the employer or employee representative was required to make a payment of contributions pursuant to paragraph (c) of this section with respect to an eighth-monthly period which occurred during the calendar month.

(c) Except as provided in paragraph (b) of this section, if at the close of any eighth-monthly period the aggregate amount of unpaid contributions is $3,000.00 or more, the employer or employee representative shall pay to the Board, in accordance with the provisions in paragraph (e) of the section, the unpaid contributions within 3 banking days after the close of the eighth-monthly period. For the purpose of determining the amount of unpaid contributions at the close of an eighth-monthly period, contributions are to be computed in accordance with the provisions of Part 345 of this chapter with respect to creditable compensation paid during the eighth-monthly period.

(1) "Unpaid contributions at the end of an eighth-monthly period" means that amount of contributions required under the Railroad Unemployment Insurance Act but not paid to the Board before the close of an eighth-monthly period.

(2) "Eighth-monthly period" means the first 3 days of a calendar month, the 4th day through the 7th day of a calendar month, the 8th day through the 11th day of a calendar month, the 12th day through the 15th day of a calendar month, the 16th day through the 19th day of a calendar month, the 20th day through the 22nd day of a calendar month, the 23rd day through the 25th day of a calendar month, or the portion of a calendar month following the 25th day of such month.

(d) If at the close of any calendar quarter the aggregate amount of unpaid contributions is less than $500.00, the unpaid contributions shall be due and payable to the Board at the time fixed for filing the contribution report.

(e)(1)(i) If for the calendar year prior to the calendar year preceding the current calendar year, the aggregate amount of taxes imposed under section 3221 of the Railroad Retirement Tax Act with respect to an employer equalled or exceeded $1,000,000, such employer shall deposit the contributions required to be paid for the current calendar year in accord with instructions issued by the Railroad Retirement Board.

(ii) At the direction of the Board, the Secretary of the Treasury shall credit such contributions to the railroad unemployment insurance account in accordance with section 10 of the Railroad Unemployment Insurance Act and to the railroad unemployment insurance administration fund in accordance with section 11 of the Railroad Unemployment Insurance Act.

(2) Exempt as provided in paragraph (e)(1)(i) of this section, certified or uncertified checks may be tendered as provisional payment of contributions and should be made payable to the Railroad Retirement Board and mailed to the Associate Executive Director for Fiscal Operations, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611. No employer or employee representative who tenders a check as provisional payment may be released from the obligation to make ultimate payment thereof until such check has been duly paid. If a check is not paid by the bank on which it is drawn, the employer by whom such check has been tendered shall remain liable for the payment of the contribution and for all legal penalties and additions which may be attached thereto to the same extent as if such check had not been tendered.

(3) Any employer or employee representative may pay contributions by means of wire transfer as is required for large employers in paragraph (e)(1)(i) of this section.

§ 302.4 Benefit payments.

(a) Effective with respect to days of unemployment and days of sickness in registration periods beginning after September 30, 1985 and continuing for such time as the Board finds necessary, the maximum amount that shall be certified for payment for each day of unemployment or sickness shall be $20.00.

(b) If, at any time after September 30, 1985, the Board finds that the cash balance credited to the account will be insufficient to pay benefits at the rate prescribed in paragraph (a) of this section after that date, all benefit payments and refunds otherwise due shall be suspended. Thereafter, as contributions and refunds of benefits are received and credited to the account, benefit payments shall resume at the rate prescribed in paragraph (a) of this section and shall be made in the order in which compensable claims are received for processing in the bureau of unemployment and sickness insurance.

(c) The Board shall maintain records of the amounts of any benefits not paid to beneficiaries in accordance with this section. The amounts of any benefits not paid to eligible beneficiaries in accordance with this section shall be certified for payment to such beneficiaries at such time as the Board determines that the balance in the railroad unemployment insurance account is sufficient to make such payments, without adversely affecting the ability of the account to pay benefits prospectively at the rate provided in paragraph (a) of this section.

§ 302.5 Sunset provisions.

The regulations contained in this Part shall cease to be effective at such time, following enactment of legislation amending the Railroad Unemployment Insurance Act, as the Board determines that the balance in the railroad unemployment insurance account is sufficient to pay benefits at the full amount provided by law.

PART 322—[AMENDED]

2. The authority citation for Part 322 is revised to read as follows:

Authority: 45 U.S.C. 362l.

3. Part 322 of these regulations is amended by adding at the end of § 322.7(a) the following:

§ 322.7 Allowances resulting from abandonment or coordination of employer facilities.

(a) * * * Pursuant to instructions issued by the Associate Executive Director for Unemployment and Sickness Insurance, any Board office that is adjudicating a claim for unemployment benefits is authorized to deny such claim if that office finds that the employee is receiving or is eligible to receive a monthly dismissal or coordination allowance or any comparable payment of remuneration with respect to any of the days covered by the claim for benefits. It shall be the duty of each employer to provide such information as the Board may need to adjudicate the claim for benefits made by an employee who is receiving or is eligible to receive such allowances or other pay for time lost.

PART 340—[AMENDED]

4. The authority citation for Part 340 is revised to read as follows:

Authority: 45 U.S.C. 362l.

5. Part 340 of these regulations is amended by adding the following new section:

§340.16 Debt collection.

(a) The Associate Executive Director for Unemployment and Sickness Insurance shall take steps to collect all delinquent debts due the Board under the benefit provisions of the Act, except those that have been classed as uncollectible. Such steps shall commence not later than July 1, 1985 and shall include notice to each debtor of the time limit for paying the debt and the consequences of failure to pay on time.

(b) It shall be the duty of every employer or other person paying remuneration for time lost or any sum or damages for personal injury to remit the amount of reimbursement due the Board, if any, within 30 days of the date of the payment of remuneration or damages to an employee. Failure to remit the amount due within 30 days shall subject the employer or other person to interest and penalties, in addition to the principal amount due the Board.

Dated: August 30, 1985.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 85-21574 Filed 9-9-85; 8:45 am]

BILLING CODE 7905-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 83F-0097]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers; Surface Lubricants Used in the Manufacture of Metallic Articles

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of the following four additives as minor components of surface lubricants used in the manufacture of metallic articles that contact food: benzotriazole, polyoxyethylated (5 moles) tallow amine, sodium petroleum sulfonate, and *alpha*-alkyl-*omega*-hydroxpoly(oxyethylene). This action responds to a petition filed by the Ironsides Co.

DATES: Effective September 10, 1985; objections by October 10, 1985. The Director of the Federal Register approves the incorporation by reference of certain publications in 21 CFR 178.3910 effective on September 10, 1985.

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

FOR FURTHER INFORMATION CONTACT: Thomas C. Brown, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of April 22, 1983 (48 FR 17390), FDA announced that a petition (FAP 2B3600) had been filed by Ironsides Co., Columbus, OH 43216, proposing that § 178.3910 (21 CFR 178.3910) of the food additive regulations be amended to provide for the safe use of the following four additives as minor components of surface lubricants used in the manufacture of metallic articles that contact food: benzotriazole; polyoxyethylated (5 moles) tallow amine; sodium petroleum sulfonate, MW 440-450 (CAS Reg. No. 68608-24-4) derived from naphthenic oil having a Saybolt viscosity range of 500 to 600 Saybolt Universal Seconds at 37.8 * C (100 °F); and *alpha*-alkyl-*omega*-hydroxypoly(oxyethylene) produced by the condensation of 1 mole of C_2-C_{15} straight chain primary alcohols with an average of 3 moles of ethylene oxide.

FDA, in the evaluation of the safety of these additives, reviewed the safety of both the additives and the starting materials used to manufacture the additives. Although the four food additive substances listed in this regulation have not been found to cause cancer, two of the additives may contain minute amounts of 1,4-dioxane, a chemical shown to induce cancer in test animals. The two additives, polyoxyethylated (5 moles) tallow amine and *alpha*-alkyl-*omega*-hydroxypoly(oxyethylene), may each contain trace amounts of 1,4-dioxane as a byproduct of the production of the additive. Residual amounts of reactants and manufacturing aids are commonly found as contaminants in all chemical products, including many food additives.

Under section 409(c)(3)(A) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348(c)(3)(A)), the so-called "general safety clause" of the statute, a food additive cannot be approved for a particular use unless a fair evaluation of the data available to FDA establishes that the additive is safe for that use. The concept of safety embodied in the Food Additives Amendment of 1958 is explained in the legislative history of the provision. "Safety requires proof of a reasonable certainty that no harm will result from the proposed use of an additive. It does not—and cannot—require proof beyond any possible doubt that no harm will result under any conceivable circumstances." H.R. Rept. No. 2284, 85th Cong., 2d Sess. 1 (1958). This definition of safety has been incorporated into FDA's food additive regulations (21 CFR 170.3(i)). The anticancer or Delaney clause of the food additives amendment (section 409(c)(3)(A) of the act (21 U.S.C. 348(c)(3)(A))) provides further than no food additive shall be deemed to be safe if it is found to induce cancer when ingested by man or animal.

In the past, FDA has often refused to approve a use of an additive that contained or was suspected of containing even minor amounts of a carcinogenic chemical, even though the additive as a whole had not been shown to cause cancer. The agency now believes, however, that developments in scientific technology and experience with risk assessment procedures make it possible for FDA to establish the safety of additives that contain a carcinogenic chemical, but that have not themselves been shown to cause cancer.

In the preamble to the final rule permanently listing D&C Green No. 6 published in the Federal Register of April 2, 1982 (47 FR 14138), FDA explained the basis for approving the use of a color additive that had not been shown to cause cancer, even though it contains a carcinogenic constituent.

Since that decision, FDA has approved the use of other color additives and food additives on the same basis. FDA fully explained the scientific, legal, and policy underpinnings for those decisions in the advance notice of proposed rulemaking on a policy for regulating carcinogenic chemicals in food and color additives, published in the Federal Register of April 2, 1982 (47 FR 14464).

The agency now believes that the Delaney or anticancer clause is not applicable unless the food additive as a whole is found to cause cancer. An additive that has not been shown to cause cancer, but that contains a carcinogenic constituent, may properly be evaluated under the general safety clause of the statute using risk assessment procedures to determine whether there is a reasonable certainty that no harm will result from the proposed use of the additive.

The agency's position is supported by *Scott* v. *FDA*, 728 F.2d 322 (6th Cir. 1984). That case involved a challenge to FDA's decision to approve the use of D&C Green No. 5, which contains a carcinogenic chemical, but has itself not been shown to cause cancer. Relying heavily on the reasoning in the agency's decision to list this color additive, the United States Court of Appeals for the Sixth Circuit rejected the challenge to FDA's action and affirmed the listing regulation.

FDA estimates that the petitioned uses of polyoxyethylated (5 moles) tallow amine and *alpha*-alkyl-*omega*-hydroxypoly-(oxyethylene) will result in extremely low levels of exposure to these substances. FDA does not ordinarily consider chronic testing to be necessary to determine the safety of the use of such substances (Ref. 2). FDA has not required such testing here, and no data have been submitted that show that these additives are carcinogenic. Therefore, the Delaney anticancer clause has no application to this proceeding. FDA has evaluated the safety of these additives under the general safety clause, using risk assessment procedures to estimate the upper bound limit of risk presented by the carcinogenic chemical that may be present as an impurity in the additive and has concluded that the additives are safe under the proposed conditions of use.

The risk assessment procedures used are similar to the methods used to examine the risk associated with the presence of minor carcinogenic impurities in the additives containing carcinogenic impurities that were evaluated earlier. This risk evaluation of the carcinogenic constituent, 1,4-dioxane, has two aspects: (1) Assessment of the probable exposure to the constituent from the proposed use of the additive, and (2) extrapolation of the risk observed in the animal bioassays to the conditions of probable exposure to humans.

FDA estimated the probable exposure to 1,4-dioxane in the U.S. population, taking into account what fraction of the daily diet might be in contact with surfaces containing polyoxyethylated (5 moles) tallow amine and *alpha*-alkly-*omega*-hydroxypoly(oxyethylene). FDA used data in a carcinogenesis bioassay on 1,4-dioxane conducted for the National Cancer Institute to estimate the upper bound level of lifetime human risk from exposure to 1,4-dioxane stemming from the proposed use of polyoxyethylated (5 moles) tallow amine and *alpha*-alkyl-*omega*-hydroxypoly(oxyethylene). The results of the bioassay on 1,4-dioxane indicated that the material was carcinogenic for female rats under the conditions of the study. The test material caused significantly increased incidences of squamous cell carcinomas and hepatocellular tumors in female rats.

The Center for Food Safety and Applied Nutrition's Cancer Assessment Committee reviewed this bioassay and other relevant data available in the literature and concluded that the findings of carcinogenicity were supported by this information on 1,4-dioxane. The committee further concluded that an estimate of the upper bound limit of lifetime human cancer risk from potential exposure to 1,4-dioxane could be made from the bioassay.

The agency used a quantitative risk assessment procedure (linear proportional model) to extrapolate from the dose used in the animal experiment to the very low doses encountered under the proposed conditions of use. This procedure is not likely to underestimate the actual risk from very low doses and may, in fact, exaggerate it because the extrapolation models used are designed to estimate the maximum risk consistent with the data. For this reason, the estimate can be used with confidence to determine to a reasonable certainty whether any harm will result from the proposed conditions and levels of use of the food additives. FDA estimates that the upper bound limit of individual lifetime risk from potential exposure to 1,4-dioxane at the level considered to be a conservative estimated daily intake is 3.5×10^{-12} or less than 1 in 100 billion. Because of numerous conservatisms in the exposue estimate, lifetime-averaged individual exposure to 1,4-dioxane is expected to be substantially less than the estimated daily intake, and therefore the calculated upper bound risk would be less. Thus, the agency concludes that there is a reasonable certainty of no harm from exposure to 1,4-dioxane that results from the use of polyoxyethylated (5 moles) tallow amine and *alpha*-alkyl-*omega*-hydroxypoly(oxyethylene).

The agency has calculated an estimated daily intake of polyoxyethylated (5 moles) tallow amine and *alpha*-alkyl-*omega*-hydroxypoly(oxyethylene) based on considerations such as migration of the additive under the most severe intended use conditions and estimates of the probable concentration in the daily diet from food-contact articles that contain the subject additives. The estimated daily intakes for these two additives are 0.24 microgram (μg) per day (0.08 part per billion (ppb) in the diet) and 0.75 μg per day (0.25 ppb in the diet), respectively, for a 60 kilogram person.

For the extremely low level of dietary exposure to polyoxyethylated (5 moles) tallow amine (0.08 ppb) and to *alpha*-alkyl-*omega*-hydroxypoly(oxyethylene) (0.25 ppb), the agency believes that the toxicity data submitted by the petitioner satisfy the agency's toxicological testing requirements for these indirect food additives (Refs. 1 and 2). Further, the available information gives no reason to suspect either of the additives to be carcinogens.

The estimated daily intakes of the remaining two food additives, benzotriazole and sodium petroleum sulfonate, are 0.075 μg per day (0.025 ppb in the diet) and 0.24 μg per day (0.08 ppb in the diet), respectively, for a 60-kilogram person. As with the two ethoxylated compounds, these extremely low levels of dietary exposure require only submission of acute oral toxicity data, which have been submitted by the petitioner.

The agency has also considered whether a specification is necessary to control the amount of the constituent, 1,4-dioxane, that might migrate to food. The agency finds that a specification is not necessary for the following reasons: (1) 21 CFR 178.3910 limits residual levels of the total surface lubricant formulation to a very low level, i.e., not to exceed 0.015 milligram per square inch of surface area (the agency would not expect 1,4-dioxane to become a

component of food at other than vanishingly small levels because of its possible presence as a constituent of two of the many possible components utilized in the compounding of surface lubricants for metallic articles); (2) nearly all metallic articles are washed or cleaned of surface residues prior to use or further processing (e.g., application of a coating); and (3) the upper bound limit of lifetime risk from exposure, even under worst case assumptions, is very low, less than 1 in 100 billion.

FDA has evaluated the available toxicity data and the exposure calculation for the additives and has determined that the additives are safe for their proposed use.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (addressed above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. FDA's regulations implementing the National Environmental Policy Act (21 CFR Part 25) have been replaced by a rule published in the **Federal Register** of April 26, 1985 (50 FR 16636, effective July 25, 1985). Under the new rule, an action of this type would require an abbreviated environmental assessment under 21 CFR 25.31a(b)(1).

References

The following references have been placed on display in the Dockets Management Branch (address above) and may be reviewed in that office between 9 a.m. and 4 p.m., Monday through Friday:

1. Carr, G.M., "Carcinogenicity Testing Programs" *in* "Food Safety: Where Are We?" Committee on Agriculture, Nutrition, and Forestry, United States Senate, July 1979, p. 59

2. Kokoski, C.J., "Regulatory Food Additive Toxicology" presented at the "Second International Conference on Safety Evaluation and Regulation of Chemicals," October 24, 1983, Cambridge, MA.

Any person who will be adversely affected by this regulation may at any time on or before October 10, 1985, submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging, Incorporation by reference, Santizing solutions.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commisisoner of Food and Drugs, Part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR Part 178 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10.

2. In § 178.3910(a)(2) by alphabetically inserting four new items in the list of substances to read as follows:

§ 178.3910 Surface lubricants used in the manufacture of metallic articles.

* * * * *

(a) * * *

(2) * * *

List of substances	Limitations
* * * * *	
alpha-Alkyl-omega-hydroxypoly-(oxyethylene) produced by the condensation of 1 mole of C_{16}-C_{18} straight chain primary alcohols with an average of 3 moles of ethylene oxide (CAS Reg. No. 66002-97-1)	
* * * * *	
Benzotriazole (CAS Reg. No. 95-14-7)	
* * * * *	
Polyoxyethylated (5 moles) tallow amine (CAS Reg. No. 61791-26-2)	
* * * * *	
Sodium petroleum sulfonate, MW 440–450 (CAS Reg. No. 68608-24-4) derived from naphthenic oil having a Saybolt viscosity range of 500–600 Saybolt Universal Seconds (SUS at 37.8 °C (100 °F) as determined by ASTM method D88–81, "Standard Test Method for Saybolt Viscosity," which is incorporated by reference. Copies are available from the American Society for Testing Materials, 1961 Race St., Philadelphia, PA 19103, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408	
* * * * *	

* * * * *

Dated: August 14, 1985.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-21113 Filed 9-9-85; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 558

New Animal Drugs for Use in Animals Feeds; Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed for Music City Supplement Co., providing for the manufacture of 5-, 10-, and 20-gram-per-pound tylosin premixes used to make complete feeds for swine, beef cattle, and chickens.

EFFECTIVE DATE: September 10, 1985.

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

SUPPLEMENTARY INFORMATION: Music City Supplement Co., 401 Cowan St., Nashville, TN 37202, is the sponsor of a supplement to NADA 107–958 submitted on its behalf by Elanco Products Co. The supplement provides for the manufacture of new 5- and 20-gram-per-pound tylosin premixes used to make

complete feeds for swine, beef cattle, and chickens for use as in 21 CFR 558.625(f)(1)(i) through (vi). The use of the currently approved 10-gram-per-pound premix is revised to include additional uses in chickens. The supplement is approved and the regulations are amended to reflect the approval.

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

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

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

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

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

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

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

2. Section 558.625 is amended by revising paragraph (b)(51) to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(51) To 017519: 5, 10, 20, and 40 grams per pound, paragraphs (f)(1)(i) through (vi) of this section.

* * * * *

Dated: September 3, 1985.

Marvin A. Norcross,

Acting Associate Director for Scientific Evaluation.

[FR Doc. 85-21513 Filed 9-9-85; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

31 CFR Part 103

Casino Regulations

Correction

In FR Doc. 85-2913 beginning on page 5065 in the issue of Wednesday, February 6, 1985, make the following correction:

§ 103.45 [Corrected]

1. On page 5069, second column, § 103.45 (c)(2)(iv), the second paragraph designated as "(iv)", that reads "(iv) That all but minor violations of the state requirements be reported to Treasury within 15 days of discovery; and" should be removed.

BILLING CODE 1505-01-M

POSTAL SERVICE

39 CFR Part 111

Revocation of Interim E-COM Regulations

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: Pursuant to the Postal Service's decision to discontinue offering E-COM service on September 3, 1985, and the decision of the Governors of the Postal Service to delete the E-COM provisions from the Domestic Mail Classification Schedule and the Rate Schedules, the Postal Service is revoking the interim regulations in the Domestic Mail Manual which governed E-COM service.

EFFECTIVE DATE: September 10, 1985.

FOR FURTHER INFORMATION CONTACT: Edward W. Senft, (202) 245-5780.

SUPPLEMENTARY INFORMATION: On June 11, 1984, the Board of Governors of the Postal Service adopted its Resolution No. 84-5, which directed the Postal Service to discontinue offering E-COM service as a postal service. As part of the discontinuation process, on July 6, 1984, the Postal Service filed, pursuant to Chapter 36, Title 39, United States Code, a request with the Postal Rate Commission for a recommended decision on changes to the Domestic Mail Classification Schedule and the Rate Schedules to delete the provisions concerning E-COM service. An explanation of the Postal Service's proposals and an invitation to participate in Commission Docket No. MC84-2 was published in the **Federal Register** by the Postal Rate Commission on July 17, 1984 (49 FR 28953).

On December 21, 1984, the Postal Rate Commission issued its Opinion and Recommended Decision in Docket No. MC84-2. The Commission recommended that the E-COM provisions be deleted.

On July 10, 1985, pursuant to 39 U.S.C. 3625, the Governors of the Postal Service decided to approve the Commission's recommended decision and order it into effect. The Board of Governors concurrently determined that the changes would become effective at 12:01 a.m. on September 3, 1985. 50 FR 29030 (July 17, 1985).

In accordance with these actions by the Governors and the Board of Governors, the Postal Service discontinued offering E-COM service to the public at 12:01 a.m. on September 3, 1985. The interim regulations in the Domestic Mail Manual concerning E-COM service, which were published in the **Federal Register** on December 23, 1981 (46 FR 62268-73) became obsolete concurrent with the cessation of service. The Postal Service has therefore decided to revoke those regulations.

Accordingly, the Postal Service makes the following amendments of the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 401, 404, 407, 408, 3001-3011, 3201-3219, 3403-3405, 3601, 3621; 42 U.S.C. 1973 cc-13, 1973 cc-14.

CHAPTER 1—DOMESTIC MAIL SERVICES

2. Chapter 1 is amended by removing 115.21(f) and 159.324.

115.2 Opening, Reading, and Searching of Sealed Mail Generally Prohibited.

.21 * * *

f. [Removed]

159.3 Address Correction Service, Address Change Service, and Return

* * * * *

.32 * * *

.324 [Removed].

3. Chapter 3 is amended by removing 326.

320—Classification.

* * * * *

.326 [Removed].

4. Chapter 5 is amended by removing all material in the chapter (510 through 593) and reserving the chapter.

CHAPTER 5—[REMOVED AND RESERVED]

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. Notice of issuance of the transmittal letter will be published in the Federal Register as provided by 39 CFR 111.3.

Fred Eggleston,

Assistant General Counsel, Office of General Law and Administration.

[FR Doc. 85-21256 Filed 9-9-85; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-10-FRL-2893-7]

Approval and Promulgation of State Implementation Plan; Idaho

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: By this Notice EPA is granting a two-year extension of the attainment date for lead in Shoshone County, Idaho, and promulgating revised interim and final emission limits for the federal implementation plan (FIP) for attainment of the national ambient air quality standard (NAAQS) for lead in Shoshone County. This action is being taken pursuant to EPA's reopening of the comment period on February 7, 1985, to obtain further information on the availability of certain technology and to determine whether an extension of the attainment date under section 110(e) of the Clean Air Act (hereinafter the Act) is justified (see 50 FR 5235 and 50 FR 5265).

EFFECTIVE DATE: October 10, 1985.

ADDRESSES: The rulemaking docket, including the FIP and technical support documents, may be examined during normal business hours at:

Central Docket Section, Docket No. 10A-83-15, Environmental Protection Agency, West Tower Lobby, 401 U Street, S.W., Washington, D.C. 20460

Air Programs Branch (10A-83-15), Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101

Idaho Operations Office, Environmental Protection Agency, 422 W. Washington Street, Boise, Idaho 83702

FOR FURTHER INFORMATION CONTACT: David C. Bray, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone (206) 442-4253, (FTS) 399-4253.

SUPPLEMENTARY INFORMATION:

I. Background

Today's action is in response to a Court ordered schedule resulting from a settlement agreement reached on July 26, 1983, between EPA and the Natural Resources Defense Council, Inc. (NRDC) (NRDC v. Ruckelshaus, (D.D.C.)., No. 82-2137). The schedule called for certain states to submit state implementation plans (SIPs) for lead by August 1, 1983. If a SIP was not submitted by a state, EPA was to propose a federal implementation plan by April 1, 1984. The Idaho lead SIP (approved, except for Shoshone County, on May 3, 1984) did not include a control strategy and attainment demonstration for potential emissions from the Bunker Limited Partnership (Bunker Limited) lead smelter in Shoshone County. EPA, therefore, developed a federal implementation plan (FIP) for Shoshone County, proposed it on July 6, 1984 (49 FR 27787), and promulgated it on February 7, 1985 (50 FR 5237).

In a related Federal Register notice (February 7, 1985 (50 FR 5265)), EPA reopened the record on its July 6, 1984, proposal for further comment concerning the availability of control technoloy needed to meet the final emission limits for attaining the ambient lead standard. EPA indicated that, by August 30, 1985, it would publish its final determination concerning the availability of this control technology. At the same time, EPA would state whether or not the area qualifies for an attainment date extension of up to two years. This determination would be made pursuant to section 110(e) of the Act and EPA regulation 40 CFR 51.30, based on whether the technology required to meet the final emission limits is not and will not be available.

II. Study of Available Technology

In February 1985, EPA engaged the services of a contractor to perform the evaluation of available technology for the control of the lead emissions from primary lead and zinc smelters. This contract involved a new visit to the Bunker Limited smelters to obtain an extremely detailed process inventory. The purposes of this site visit were to determine the actual location of the processes and equipment which generate lead emissions, how and where the emissions are released to the atmosphere, and the physical parameters which influence the selection and design of controls for reducing and/or capturing the emissions.

The contractor then evaluated the process and control technologies which are currently in use within the primary metals smelting industry, particularly at lead, zinc, copper and iron and steel smelters, for technologies which would be available for use at the Bunker Limited smelters. Technologies which could be applied to the Bunker Limited facility were selected for evaluation with regard to their effectiveness at reducing emissions at Bunker Limited. From these alternatives, a control strategy was designed which achieved the greatest possible emission reduction through the use of currently available technologies. This control strategy is described in detail in the contractor's report which is included in the docket on this rulemaking and is available for inspection at the locations listed in the ADDRESSES section above. The following is a brief summary of this control strategy:

Ore unloading and handling area—enclose the area to capture emissions, and install a baghouse for removal of captured emissions.

Crushing plant building—patch up leaks and natural vents, install telescopic covers on conveyors, increase roof vent flow to accommodate additional volume due to patch up of leaks, and combine with current controlled process emissions. Route captured emissions to the new ore unloading and handling baghouse for removal.

Blending building—patch up leaks, increase roof vent exhaust rate, and install telescopic covers on conveyors. Install a baghouse for removal of captured emissions.

Bedding building—patch up leaks, increase roof vent exhaust rate, and install telescopic covers on conveyors. Route captured emissions to the new blending building baghouse for removal.

Pelletizing building—patch up leaks, increase roof vent exhaust flow rate, combine the vent emissions with current controlled process emissions, and route to the new blending building baghouse for removal.

Lurgi sinter machine area—patch up and repair sinter machine to minimize leakage emissions, enclose windbox areas, and route vented emissions to a new baghouse for removal. Vaccum sweep and use water spray regularly to collect settled dust in the vicinity of the lurgi sinter machine.

Sinter sizing building—patch up leaks and openings, vent the fugitive

emissions to combine with current controlled process emissions, and route to the new lurgi sinter machine baghouse for removal.

Sinter product storage—replace the current storage and handling system with a new silo system.

Blast furnace building—install a tuyere air system in the blast furnaces to reduce the frequency of furnace upsets, enclose the furnace top area, and route the vented emissions to a new baghouse for removal.

Lead refining building—improve blast furnace bullion and slag tapping hoods to increase capture efficiency, install the currently uncovered drossing kettles with movable hoods to capture emissions, and route all captured emissions to a new baghouse for removal. Reduce emissions material transfer around drossing kettles. Install controls on reverberatory furnace charging and tapping operations and route to new lead refinery baghouse for removal. Improve casting area ventilation system.

Silver refinery building—route vented emissions to the new lead refinery baghouse for removal.

Zinc fuming plant—improve capture of charging emissions and route captured emissions to a new baghouse for removal. Route captured emissions from the slag granulator to the new baghouse for removal. Reduce emissions from waste heat boilers by proper operation and maintenance modifications.

Electric arc furnace building—close enclosure for charging operations to capture emissions, and route captured charging emissions and furnace launder emissions to main baghouse. Route captured emissions from the slag granulator to the new lead refinery baghouse for removal.

Dust handling—all hoppers—enclose hoppers and utilize screw conveyers for moving materials from baghouses. Vacuum sweep or otherwise clean up settled dust in vicinity of hoppers.

Active tailings traffic, ore storage area, tailings area, and parking lot—no change to original control strategy.

EPA received the contractor's draft report in May 1985, and on June 10, 1985 (50 FR 24316), opened a 30-day period to receive public comments on the draft report. EPA received no comments on the draft report, or in response to its February 7, 1985 notice reopening the record for further comment.

III. Extension of Attainment Date for Lead

After the close of the comment period and EPA's review of the draft contractor's report, a subcontractor performed a dispersion modeling analysis to determine the ambient lead levels which would result after the application of this control strategy. This modeling analysis revealed that the ambient lead standard would still be violated in areas of ambient air in the immediate vicinity of the smelter. In order to attain the ambient standard, the in-plant fugitive emissions would have to be reduced by approximately 98 percent, as compared to the approximately 95 percent reduction achievable through application of this control strategy.

Based on the results of the contractor's report, EPA finds that no control technology or process equipment changes are available to make up this shortfall. Also, achieving this reduction through a curtailment of plant operation would not be reasonable in light of the economics involved in reopening the facility. Therefore, EPA has determined that this additional reduction could not be achieved through the use of available technology or other reasonably available alternatives. As such, an extension of the attainment date for lead in Shoshone County is justified under the provisions of section 110(e) of the Act and EPA is hereby granting a two-year extension of the attainment date (to March 11, 1990).

IV. Interim and Final Emission Limits

As was indicated in the February 7, 1985 rulemaking, EPA is requiring the application of available technology within three (3) years of the effective date of that rule (i.e., by March 11, 1988). EPA is therefore revising the emission limits in Table A of 40 CFR 52.689 to reflect the use of available technology. Since EPA is granting a two-year extension of the attainment date, Table A has been retitled to reflect its status as the interim emission limits required by section 110(e)(2)(B) of the Act. EPA is also revising the emission limits in Table B of 40 CFR 52.689 to reflect the more accurate and detailed information on processes and emissions which were obtained from the contractor. These revised emission limits reflect the capture of approximately 98 percent of the in-plant fugitive emissions but are not based on the application of any specific technology or strategy. Table B has also been retitled to reflect its status as the final emission limits for attainment of the lead standard.

As stated in the February 7, 1985, rulemaking, EPA recognizes that if Bunker Limited should alter the operating configuration of the smelter, production levels, or other physical aspects of the plant, a different air poilution control strategy might be needed to attain the lead standard. If Bunker Limited proposes changes in smelter operations that will affect the strategy contained in the FIP, the rule provides for a process for EPA, working with the Company, to revise the control requirements that are being promulgated today. However, if at any time, Bunker Limited declares the smelter complex to be permanently closed, the requirements of this rule will not apply and any future reopening of the smelter would be governed by applicable new source requirements (See 40 CFR 51.24).

V. Summary of Action

In summary, EPA today is granting a two-year extension of the attainment date for lead in Shoshone County, Idaho. EPA is revising the interim emission limits (to be achieved by no later than March 11, 1988) for the Bunker Limited lead smelter to reflect the use of available technology. EPA is revising the final emission limits (to be achieved by no later than March 11, 1990) to be consistent with new information on the smelter's processes and emissions.

Under 5 U.S.C. 605(b), I have reviewed this action and determined that it does not have a significant economic impact on a substantial number of small entities because it affects only one large source.

Under Executive Order 12291, EPA must judge whether or not a regulation is "major" and therefore subject to the requirements of regulatory impact analysis. In accordance with the definition of a major rule (E.O. 12291, section 1(b)), this regulation is not judged to be major because the annual effect on the economy, whether or not the smelter reopens or remains closed, is less then $100 million, the increase in costs or prices for various agents is not major, and the effects on competition, employment, investment, productivity, innovation, and foreign trade are not significant.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget for review.

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 12, 1985. 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, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide Hydrocarbons.

Dated: August 30, 1985.

Lee M. Thomas,

Administrator.

PART 52—[AMENDED]

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

Subpart N—Idaho

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.672 is amended by adding paragraph (f) to read as follows:

§ 52.672 Extensions.

* * * * *

(f) The Administrator hereby extends for 2 years (from March 11, 1988 to March 11, 1990) the attainment date for lead in Shoshone County, Idaho, in the Idaho portion of the Eastern Washington-Northern Idaho Interstate Air Quality Control Region.

3. Section 52.680 is revised to read as follows:

§ 52.680 Attainment dates for national standards.

The following table presents the latest dates by which the national ambient air quality standards are to be attained. These dates reflect the information in Idaho's plan, except where noted.

Air Quality Control Region	Pollutant							
	Particulate matter		Sulfur oxides		Nitrogen dioxide	Carbon monoxide	Ozone	Lead
	Primary	Secondary	Primary	Secondary				
Eastern Idaho Interstate	b	e	e	e	a	a	a	a
Eastern Washington-Northern Idaho Interstate (Idaho):								
1. Shoshone County	b	e	e	e	a	a	a	d
2. Remainder of AQCR (Idaho)	b	e	e	e	a	a	a	a
Idaho Intrastate	e	e	a	a	a	a	a	a
Metropolitan Boise Intrastate:								
1. Boise—Ada County area	e	e	a	a	a	c	a	a
2. Remainder of AQCR	e	e	a	a	a	a	a	a

a. Air quality levels presently below secondary standards.
b. December 31, 1982.
c. December 31, 1986.
d. March 11, 1990.
e. Date not established.

4. § 52.689 is amended by revising paragraph (b)(3)(ii) to read as follows:

§ 52.689 Lead Control Strategy: Shoshone County, Idaho Portion of the Eastern Washington-Northern Idaho Interstate Air Quality Control Region.

* * * * *

(b) * * *

(3) * * *

(ii) The compliance schedule dates in paragraphs (b)(3)(ii)(A) through (b)(3)(ii)(G) apply to all emission limits for point (stack) and process fugitive (building) sources as specified in Table A. The compliance schedule dates applicable to all emission limits for point (stack) and process fugitive (building) sources as specified in Table B shall be twenty-four (24) months later than those in paragraphs (b)(3)(ii)(A) through (b)(3)(ii)(G). The compliance schedule dates in paragraphs (b)(3)(ii)(A) through (b)(3)(ii)(G) shall apply to those smelter sources which are or will be operated. In the event compliance schedule dates pass before a smelter source is restarted, the owners and operators (or their successors and assigns) of the smelter must comply prior to the time the smelter source begins operation, with those requirements for which compliance schedule dates have passed.

* * * * *

2. § 52.689 is amended by revising Tables A and B to read as follows:

* * * * *

TABLE A.—INTERIM EMISSION LIMITS AND EMISSION PARAMETERS FOR LEAD SMELTER

Source	Emission limit (lb/hr)	Emission Parameters [1]				
		Emission height (mAGL)	Exit temperature (°K)	Exit velocity (m/s)	Volume flow (m^3/s)	Stack radius (m)
Point (Stack) Sources:						
Baghouse for Crushing Plant Building	0.81	24.0	306	18.30	79.00	1.17
Baghouse for Blending, Bedding, and Pelletizing Buildings	0.24	24.0	294	18.30	206.00	1.90
Baghouse for Lurgi Sinter Machine and Sinter Sizing Buildings	0.35	24.0	294	18.30	89.00	1.24
Sinter Product Storage Silos	0.09	30.0	294	1.02	0.71	0.47
Baghouse for Blast Furnace Building	0.09	24.0	300	18.30	11.00	0.44
Baghouse for Lead and Silver Refinery Buildings	0.21	24.0	300	18.30	227.54	1.99
Baghouse for Zinc Fuming Plant Building	0.04	24.0	300	18.30	160.50	1.67
Zinc Fuming Plant Main Stack	0.68	61.6	346	13.59	82.47	1.39
Main Lead Smelter Stack	13.74	61.6	327	18.84	248.80	2.05
Process Fugitive (Building) Sources:						
Ore Unloading Area	0.270					
Crushing Plant Building	0.021					
Hammermill Building	0.018					
Blending Building	0.240					
Bedding Building	0.486					
Pelletizing Building	0.003					
Sinter Machine Enclosure	0.764					
Sinter Sizing Building	0.178					
Blast Furnace Enclosure	0.295					
Lead Refinery Building	1.701					
Silver Refinery Building	0.177					
Zinc Fuming Plant Balloon Flue	0.155					
Electric Arc Furnace Building	0.190					
Non-Process Fugitive (Area) Sources:						
Dust Handling of Hoppers from Control Devices	0.590					

TABLE A.—INTERIM EMISSION LIMITS AND EMISSION PARAMETERS FOR LEAD SMELTER—Continued

Source	Emission limit (lb/hr)	Emission Parameters [1]				
		Emission height (mAGL)	Exit temperature (°K)	Exit velocity (m/s)	Volume flow (m^3/s)	Stack radius (m)
Active Tailings and Traffic	0.150					
Ore Storage Area	0.375					
Tailings Area	0.060					
Unpaved Parking Lot	0.006					

[1] These emission parameters were used in EPA's dispersion model to illustrate achievement of the emission reduction necessary to demonstrate attainment of the standard. If other emission parameters are used, they must have characteristics which produce equivalent or greater effective plume height than the stack characteristics indicated in Table A.

TABLE B.—FINAL EMISSION LIMITS AND EMISSION PARAMETERS FOR LEAD SMELTER

Source	Emission Limit (lb/hr)	Emission Parameters [1]				
		Emission height (mAGL)	Exist temperature (°K)	Exist velocity (m/s)	Volume flow (M^3/s)	Stack radius (m)
Point (Stack) Sources:						
Baghouse for Crushing Plant Building	0.87	24.0	305	18.30	79.00	1.17
Baghouse for Blending, Bedding, and Pelletizing Buildings	0.26	24.0	294	18.30	208.00	1.90
Baghouse for Lurgi Sinter Machine and Sinter Sizing Buildings	0.38	24.0	294	18.30	89.00	1.24
Sinter Product Storage Silos	0.09	30.0	294	1.02	0.71	0.47
Baghouse for Blast Furnace Building	0.10	24.0	300	18.30	11.00	0.44
Baghouse for Lead and Silver Refinery Buildings	0.23	24.0	300	18.30	227.54	1.99
Baghouse for Zinc Fuming Plant Building	0.04	24.0	300	18.30	160.50	1.67
Zinc Fuming Plant Main Stack	0.68	61.6	346	13.59	82.47	1.39
Main Lead Smelter Stack	13.74	61.6	327	18.84	246.80	2.05
Process Fugitive (Building) Sources:						
Ore Unloading Area	0.089					
Crushing Plant Building	0.007					
Hammermill Building	0.006					
Blending Building	0.079					
Bedding Building	0.160					
Pelletizing Building	0.001					
Sinter Machine Enclosure	0.251					
Sinter Sizing Building	0.058					
Blast Furnace Enclosure	0.097					
Lead Refinery Building	0.558					
Silver Refinery Building	0.059					
Zinc Fuming Plant Balloon Flue	0.051					
Electric Arc Furnace Building	0.082					
Non-Process Fugitive (Area) Sources:						
Dust Handling of Hoppers from Control Devices	0.194					
Active Tailings and Traffic	0.150					
Ore Storage Area	0.375					
Tailings Area	0.060					
Unpaved Parking Lot	0.006					

[1] These emission parameters were used in EPA's dispersion model to illustrate achievement of the emission reduction necessary to demonstrate attainment of the standard. However, the capture of additional process fugitives will necessarily entail greater volume flows and therefore, greater effective plume heights and lesser ambient impacts than those modeled. If other emission parameters are used, they must have characteristics which produce equivalent or greater effective plume height than the stack characteristics indicated in Table B.

[FR Doc. 85-21639 Filed 9-9-85; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 133

[WH-FRL-2893-1]

Water Pollution Control; Secondary Treatment Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendments.

SUMMARY: This document clarifies the effective date of certain provisions of 40 CFR Part 133, Secondary Treatment Regulation (40 FR 36986, September 20, 1984) which reflected changes required by section 23 of the Municipal Wastewater Treatment Construction Grant Amendments of 1981 and corrects amendments to 40 CFR Part 133 published June 3, 1985 (50 FR 23382). It also provides, for the convenience of the readers, in a separate section the full text of the June 3, 1985 amendments as they should have appeared.

EFFECTIVE DATE: Sections 133.102 and 133.105 which were published September 20, 1984 and which became effective November 5, 1984, should have been characterized as interim rules. These sections plus amendments to §§ 133.101 and 133.103 were adopted as final as of July 7, 1985. Other amendments set forth in today's issue are effective upon publication. The closing date for permittees to request permit modifications to the percent removal requirements (50 FR 23385) has been extended 90 days from the effective date of this notice.

FOR FURTHER INFORMATION CONTACT: James Wheeler, Municipal Facilities Division (WH-595), Environmental Protection Agency, Washington, DC 20460, (202) 382-7369.

List of Subjects in 40 CFR Part 133

Water pollution control.

Dated: August 30, 1985.

Henry L. Longest, II,

Acting Assistant Administrator for Water.

For the reasons set forth in the preamble published June 3, 1985 (50 FR 23382) the EPA amended the percent removal requirements of the secondary treatment regulations. The EPA is today correcting typographical errors to those amendments (40 CFR Part 133) to read as follows:

PART 133—SECONDARY TREATMENT REGULATION

1. The authority for Part 133 continues to read as follows:

Authority: Secs. 301(b)(1)(B), 304(d)(1), 304(d)(4), 308, and 501, Clean Water Act (Federal Water Pollution Control Act) Amendments of 1972, as amended by the Clean Water Act of 1977, and the Municipal

Wastewater Treatment Construction Grant Amendments of 1981; 33 U.S.C. 1311 (b)(1)(B); 1314(d)(1) and (4); 1318; and 86 Stat. 816, Pub. L. 92–500; 91 Stat. 1567, Pub. L. 92–217; 95 Stat. 1623, Pub. L. 97–117.

§ 133.103 [Amended]

2. Section 133.103(d) is amended by changing the reference to "133.05(e)(4)(iii)" to read "133.105(e)(1)(iii)."

For the convenience of the reader the Agency is providing in this section the full text of the June 3, 1985 amendments as they should have appeared.

PART 113—SECONDARY TREATMENT REGULATION

1. The authority section in Part 133 reads as follows:

Authority: Secs. 301(b)(1)(B), 304(d)(1), 304(d)(4), 308, and 501 of the Federal Water Pollution Control Act as amended by the Federal Water Pollution Control Act Amendments of 1972, the Clean Water Act of 1977, and the Municipal Wastewater Treatment Construction Grant Admendments of 1981; 33 U.S.C. 1311(b)(1)(B), 1314(d) (1) and (4), 1318, and 1361; 86 Stat. 816, Pub. L. 92–500; 91 Stat. 1567, Pub. L. 95–217; 95 Stat. 1623, Pub. L. 97–117.

2. Section 133.101 is amended by adding the new paragraphs (m) and (n) as follows:

§ 133.101 Definitions.

* * * * *

(m) "Significantly more stringent limitation" means BOD_5 and SS limitations necessary to meet the percent removal requirements of at least 5 mg/l more stringent than the otherwise applicable concentration-based limitations (e.g., less than 25 mg/l in the case of the secondary treatment limits for BOD_5 and SS), or the percent removal limitations in §§ 133.102 and 133.105, if such limits would, by themselves, force significant construction or other significant capital expenditure.

(n) "State Director" means the chief administrative officer of any State or interstate agency operating an "approved program," or the delegated representative of the State Director.

3. Section 133.102 is not amended by this action, but the percent removal requirements for secondary treatment are restated here for completeness:

§ 133.102 Secondary Treatment.

* * * * *

(a) * * *

(3) The 30-day average percent removal shall not be less than 85%.

(4) * * * (iii) The 30-day average percent removal shall not be less than 85%.

(b) * * *

(3) The 30-day average percent removal shall not be less than 85%.

4. Section 133.103 is amended by adding a new paragraph (d) as follows:

§ 133.103 Special Considerations.

* * * * *

(d) *Less Concentrated Influent Wastewater For Separate Sewers.* The Regional Administrator or, if appropriate, State Director is authorized to substitute either a lower percent removal requirement or a mass loading limit for the percent removal requirements set forth in §§ 133.102(a)(3), 133.102(a)(4)(iii), 133.102(b)(3), 102.105(a)(3), 133.105(b)(3) and 133.105(e)(1)(iii) provided that the permittee satisfactorily demonstrates that: (1) The treatment works is consistently meeting, or will consistently meet, its permit effluent concentration limits but its percent removal requirements cannot be met due to less concentrated influent wastewater, (2) to meet the percent removal requirements, the treatment works would have to achieve significantly more stringent limitations than would otherwise be required by the concentration-based standards, and (3) the less concentrated influent wastewater is not the result of excessive I/I. The determination of whether the less concentrated wastewater is the result of excessive I/I will use the definition of excessive I/I in 40 CFR 35.2005(b)(6) plus the additional criterion that inflow is nonexcessive if the total flow to the POTW (i.e., wastewater plus inflow plus infiltration) is less than 275 gallons per capita per day.

5. Section 133.105 is not amended by this action, but the percent removal for treatment equivalent to secondary treatment is restated here for completeness:

§ 133.105 Treatment Equivalent to Secondary Treatment.

* * * * *

(a) * * *

(3) The 30-day average percent removal shall not be less than 65%.

(b) * * *

(3) The 30-day average percent removal shall not be less than 65%.

(e) * * *

(1) * * *

(iii) The 30-day average percent removal shall not be less than 65%

[FR Doc. 85–21539 Filed 9–9–85; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATION COMMISSIONS

47 CFR Part 83

[PR Docket No. 84–1237; FCC 85–354]

VHF Port Operations and Bridge-to-Bridge Channels

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document requires that all VHF marine radios manufactured 18 months after its release automatically reduce power to one watt when tuned to the bridge-to-bridge channel. This action was recommended by the National Transportation Safety Board to avoid frequent violation of the Commission's rules requiring ship radio operators to reduce power on the navigational channel. The intent of the new rule is to improve the safety of ships by making the power reduction automatic. Another proposed rule permitting Government stations to use five additional VHF port operations channels allocated to non-Government stations is not being adopted because of the existing congestion on these channels which could not accommodate additional Government users.

EFFECTIVE DATE: January 21, 1987.

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 83

Communications equipment, Marine safety, Radio, Ship stations, Telephone, Bridge-to-bridge.

Report and Order (Proceeding Terminated)

In the matter of amendment of Parts 2 and 83 of the rules to allow Government stations to use five additional port operations channels and to require VHF radios to automatically reduce power when tuned to the bridge-to-bridge channel, PR Docket No. 84–1237.

Adopted: July 9, 1985.

Released: July 12, 1985.

By the Commission.

1. In a letter dated April 10, 1984, the U.S. Coast Guard (USCG) requested that the rules be amended to allow Government stations access to five additional port operations channels. On November 29, 1984, the Commission released a Notice of Proposed Rule Making proposing to grant the VSCG's request (49 FR 47625). The same Notice also proposed that all shipboard transmitters capable of operation on the navigational (bridge-to-bridge) channels be required to automatically reduce to one watt or less when tuned to those channels.

2. Comments were filed by: James C. Acheson; American Commercial Barge Line Co. (ACBL); The American Waterways Operators, Inc. (AWO); Crowley Maritime Corporation; John C. Farmer; Lake Carriers' Association; Paul C. Mogensen; Motorola, Inc., National Party Boat Owners Alliance, Inc., New Orleans Port Safety Council; Offshore Marine Service Association; and the U.S. Coast Guard. Reply comments were filed by AWO and Crowley Maritime Corporation.

3. *Port Operations Channels.* The Commission's rules presently allow Government stations to communicate on three of the eleven VHF marine channels which are allocated for non-Government port operations use. Port operations include the movement, handling and safety of ships in or near ports, locks and waterways. Commenter Farmer supports the Coast Guard request and the Lake Carriers' Association has no objection to it. However, ACBL, AWO, Crowley Marine Corporation and Offshore Marine Services Association vigorously oppose Government use of an additional five VHF port operations channels. While sympathetic to the Coast Guard's concerns, they argue that the port operations channels are already heavily congested in most major U.S. port areas. Added utilization of the channels for Government operations is viewed as exacerbating the existing conditions. Rather than providing relief for the Government, these commenters see the proposal resulting in more congestion, interference and delays for all maritime communications users. ACBL notes that the Coast Guard provided no data or specific justification for its request. ACBL suggests that rather than authorize five additional port operations channels for shared non-Government/Government use, the nature of the problem at particular locations should be studied. The specific use contemplated by Government stations and the potential for reciprocal sharing of existing Government allocations in particular port areas could then be addressed.

4. In light of the strong opposition of a significant sector of the concerned maritime industry and the arguments raised in their comments, we believe it is premature to permit shared use of five non-Government port operations channels by Government stations. Additional information and an analysis of the impact on particular port areas is appropriate before we proceed. Therefore, we are not amending the rules as proposed to allow shared Government use on five additional port operations channels. However, we invite those concerned with these issues to investigate the potential for non-Government/Government sharing of additional VHF port operations channels in areas where improved communications capabilities for all maritime users might be achieved.

5. *Bridge-to-bridge Communications.* The Vessel Bridge-to-Bridge Radiotelephone Act of 1972, as amended,[1] requires certain classes of vessels to be equipped with a radio station on the bridge or main control station so that one vessel can communicate with another vessel at close range concerning pertinent navigational matters. In the southern Louisiana section of the Mississippi River, the bridge-to-bridge channel is VHF marine Channel 67 (156.375 MHz). In other U.S. navigable waters, Channel 13 (156.650 MHz) is used for this purpose. VHF shipboard radios are generally authorized to operate at a maximum power of 25 watts. Although our rules currently specify that all ship radio operators must manually reduce power to one watt when their radios are tuned to the navigational frequency, many operators fail to do so, thus impairing the use of these safety channels by others nearby. Therefore, in the Notice we proposed to require automatic power reduction on Channel 13 with the provision of a manual override and solicited comments on including Channel 67. This proposal stemmed from a National Transportation Safety Board recommendation following the collision of the Pisces and the Trademaster on the lower Mississippi River on December 27, 1980. This proposal represents no change in operating procedure; it only provides a means of automatically accomplishing the required procedure. The Notice also proposed that the effective date be 18 months after adoption of an order implementing the changes and that equipment manufactured prior to this cut-off-date be "grandfathered" for ten years.

6. The views of the commenters vary considerably although all agree that something must be done about the excessive use of power on these channels. We have carefully considered all the comments concerning the proposal to require automatic power reduction when a shipboard radio is tuned to a bridge-to-bridge channel. Farmers's suggestion that older transmitters be allowed to be modified to comply with the new rule might be of some benefit to owners of obsolete sets if such modifications could be accurately and inexpensively made. However, the efficacy of such a modification is questionable, and the cost saving is not likely to be substantial. Considering the declining cost of many marine radios and with the proposed ten-year grandfather period, we do not believe this suggestion offers a practical solution.

7. Some commenters recommended increased education and enforcement. However, we tried through a vigorous education and enforcement campaign to increase compliance with the one watt rule. Although these programs have proved effective, such efforts cannot be sustained indefinitely on a national basis. Further, we do not agree with Acheson's suggestion that ships which operate in the Great Lakes be allowed to permanently defeat the power reduction on Channel 13. Many Great Lakes vessels will operate other waterways at some time. Additionally, the United States and Canada are currently discussing the use of Channel 13 as the bridge-to-bridge channel on the Great Lakes.

8. Motorola recommended that we exempt portables because of their decreased range. Portables are typically low power devices, 6 watts or less, and their signal is limited by the height of the antenna. Motorola points out that because of these limitations the effective radiated power from a portable unit is substantially less than that of a fixed ship station. Further Motorola states that the space required for the additional switch and circuit is often not available in a hand-held unit. We have taken these arguments into consideration and agree that because of the limitations inherent to the portable marine radio there is no need to require them to automatically reduce power. In our experience, portables are neither an enforcement problem nor the source of interference on the navigational channel. While we are not requiring portable radios to automatically reduce power on Channel 13 and 67, we encourage manufacturers to provide this feature for the convenience of users where the configuration of the radio permits.

9. As stated in the Notice, in order to provide marine radio manufacturers with enough time to make design changes, to terminate production, and to dispose of stocked equipment which does not comply with the new rule, we proposed that the rule requiring all newly manufactured VHF ship station transmitters to automatically reduce power to one watt or less when tuned to Channel 13 not become effective until 18 months after it is adopted. There was no opposition to this proposal. Therefore, for the reasons indicated in the Notice, the 18 month effective date is being adopted.

10. We also proposed a ten-year "grandfather" period to reduce the impact on pleasure boaters and infrequent radio users. The intent was to allow licensees ample time to depreciate

[1] 33 U.S.C. 1201 et seq.

their radios. Because the average life of a marine radio is seven years, a ten-year "grandfather" period will minimize the impact on pleasure boaters and other vessels not required to be equipped with marine radios. It will also induce a steady decline in the incidences of high power operations on the bridge-to-bridge channel and ultimately ease the detection of violations of this important safety requirement. For the reasons stated above, we are amending the rules to require VHF marine radio transmitters when tuned to Channel 13 to automatically reduce power to one watt or less. We also are allowing 18 months prior to implementation of the new rule's effective date, and an additional ten-year "grandfather" period for the use of equipment manufactured prior to this effective date.

11. Although we did not specifically include Channel 67 in the proposed rules, we requested comments on whether the automatic power limitation should also apply to Channel 67. The lower Mississippi River is one of the busiest waterways in the nation and abuse of the one watt power limit has been common on the bridge-to-bridge frequency used in this area. Some commenters opposed including Channel 67 within the proposed rule. These commenters argue that the use of Channel 67 as the bridge-to-bridge channel in this single area is essentially a local problem, better suited to enforcement and education efforts. They argue that it would be unreasonable to derogate the use of the channel in other waters. The Coast Guard and New Orleans Port Safety Council state that the automatic power reduction feature on Channel 67 would be a step toward improving safety by eliminating a persistent hazard.

12. We believe that Channel 67 should be included in the automatic power reduction rule. This action is consistent with the National Transportation Safety Board's request [2] and is supported by both the U.S. Coast Guard and the New Orleans Port Safety Council. Inclusion of Channel 67 for the lower Mississippi River will result in the same benefits described above which will be derived from automatic power reduction on Channel 13. Recent monitoring by our field offices show relatively low levels of activity on Channel 67 in other U.S. waters. Therefore, any derogation of the use of Channel 67 does not appear to be significant. Although some commenters argued in favor of increased enforcement and education efforts, such efforts cannot be maintained indefinitely. Accordingly, we believe that safety considerations outweigh concerns regarding the use of Channel 67 in other areas.

[2] Marine Accident Report, "Collision of the U.S. Tankship Pisces with the Greek Bulk Carrier Trademaster Mile 124, Lower Mississippi River," December 27, 1980, NTSB-MAR-82-2, (PB82-916402).

Regulatory Flexibility Act—Final Analysis

13. *Need for and Purpose of Rules.* The current requirement that all vessels reduce power to one watt when tuned to a navigational frequency is regularly violated when not constantly enforced. The purpose of ths rule making is to maximize use of the bridge-to-bridge channel to increase the safety of vessels navigating within close proximity of each other.

14. *Issues Raised by the Public in Response to the Initial Analysis.* None.

15. *Alternatives that would lessen impact.* Specific suggestions raised by commenters in the proceeding inclued excluding vessels on the Great Lakes, eliminating the final implementation date, raising the power limitation, and not adopting the rule but increasing enforcement of current regulations. All these alternatives were carefully considered and discussed above. In order for this new rule to be effective and enforceable, it must be simple and clear. The proposed exclusions or exceptions would render such a rule nearly useless. Increased enforcement of the existing rules was the first solution attempted, but such high levels of enforcement activities cannot be maintained indefinitely without seriously depleting the agency's resources elsewhere. Although enforcement will continue, greater resources can not be dedicated in this area in upcoming years.

16. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed on the pubic.

17. Accordingly, it is ordered, that under the authority contained in Sections 4(i) and 303(c) and (r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(c) and (r), the Commission's rules ARE AMENDED as set forth in the attached Appendix, effective January 21, 1987.

18. It is furthr ordered, that a copy of this Report and Order shall be sent to the Chief Counsel for Advocacy of the Small Business Administration.

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

20. Regarding questions on matters covered in this document contact Maureen Cesaitis (202) 632-7175.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Part 83 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 83 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609, unless otherwise noted.

2. Section 83.104 is amended by revising footnote 1 to read as follows:

§ 83.104 Operating controls.

* * * * *

[1] Ship station transmitters, except hand-held portable transmitters, manufactured after January 21, 1987 must automatically reduce the carrier power to one watt or less when tuned to the frequency 156.375 or 156.650 MHz. All ship station transmitters, except portable ship station transmitters, used after January 21, 1997, must automatically reduce power as described above. A manual override device must be provided which when held by the operator will permit full carrier power operation on Channels 13 and 67. Portable ship station transmitters must be capable of reducing power to one watt, but need not do so automatically.

3. Section 83.134 is amended by adding new paragraph (e), revising paragraph (f) and footnotes 1 through 4, and removing footnote 5, to read as follows:

§ 83.134 Transmitter power.

* * * * *

(e) Marine utility ship station transmitters and portable ship station transmitters using G3E emission in the band 156–162 MHz must not exceed a carrier power of 10 watts and must be capable of reducing the carrier power to one watt or less.

(f) Ship station transmitters using G3E emission in the band 156–162 MHz must:

(1) Have a carrier power of a least 8 watts and not more than 25 watts which for type acceptance purposes shall be determined at a primary supply voltage of 13.6 volts DC. ± 1% for equipment designed to employ a conventional 12 volt lead acid storage battery as a source of primary power;

(2) Be capable of reducing the carrier power to one watt or less [1,2].

(3) Automatically redice the carrier power to one watt or less when tuned to the frequency 156.375 or 156.650 MHz [1,2,3,4]. A manual override device must be provided which when held by the operator will permit full carrier power operation on 156.375 or 156.650 MHz.

* * * * *

4. Section 83.351 is amended by adding a sentence to the end of paragraph (b)(36) to read as follows:

§ 83.351 Frequencies available.

* * * * *

(b) * * *

(36) * * * A power of not more than one watt must be used except under emergency conditions.

* * * * *

§ 83.709 [Amended]

5. Section 83.709 is amended by removing paragraph (a), and redesignating paragraphs (b) and (c) as (a) and (b).

6. Section 83.713 paragraphs (b), (d) and (e) are removed, paragraph (c) is redesignated as (b), and paragraph (a) is revised to read as follows:

§ 83.713 Bridge-to-bridge transmitter.

(a) The transmitter referred to in § 83.709 shall be capable of effective transmission of G3E emission on the navigational frequency 156.650 MHz.

* * * * *

7. Section 83.715 is amended by removing the note and its designator in paragraph (c)(7)(iv) and paragraph (d) and revising paragraph (c) introductory text to read as follows:

§ 83.715 Bridge-to-bridge receiver.

* * * * *

(c) The recommended technical standards for the bridge-to-bridge receiver are the following:

* * * * *

[FR Doc. 85-21254 Filed 9-9-85; 8:45 am]

BILLING CODE 6712-01-M

[1] Full duplex tranmitters used only on public correspondence duplex channels and only as additional equipment to a VHF ship station in the Great Lakes and equipped with a transmitter which otherwise meets existing rules, statutes, and international agreements, are not required to reduce to one watt.

[2] If a remote control unit is used with a station transmitter manufactured prior to September 1, 1979, or installed prior to March 1, 1980, the remote control unit need not have the capability of reducing its output power to one watt or less. However, this provision does not waive the requirement to limit transmissions on Channels 13 and 67 to an output power of one watt, or the requirement to use minimum output power of one watt whenever possible.

[3] Unless specifically excluded, applicable to transmitters manufactured after January 21, 1987, and to all transmitters used after January 21, 1997.

[4] Portable transmitters excluded.

Proposed Rules

Federal Register
Vol. 50, No. 175
Tuesday, September 10, 1985

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Summary Notice No. PR-85-8]

Petitions for Rulemaking; Summary of Petitions Received and Dispositions of Petitions Denied or Withdrawn

Correction

In FR Doc. 85-20362 appearing on page 34495 in the issue of Monday, August 26, 1985, make the following correction: In the first column of the table, Docket No. "2476" should read "24676".

BILLING CODE 1505-01-M

14 CFR Part 71

[Airspace Docket No. 85-AGL-12]

Proposed Establishment of Transition Area; Knox, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish the Knox, Indiana, transition area to accommodate a new VOR Runway 18 instrument approach procedure to Starke County Airport.

The intended effect of this action is to ensure segregation of the aircraft using approach procedures in instrument conditions from other aircraft operating under visual weather conditions in controlled airspace.

DATE: Comments must be received on or before October 18, 1985.

ADDRESS: Send comments on the proposal in triplicate to: Federal Aviation Administration, Regional Counsel, AGL-7, Attn: Rules Docket No. 85-AGL-12, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

An informal docket may also be examined during normal business hours at the Airspace, Procedures, and Automation Branch, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The development of a new VOR Runway 18 instrument approach procedure requires that the FAA designate airspace to ensure that the procedure wil be contained within controlled airspace.

The minimum descent altitudes for this procedure may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts will reflect the defined area which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 85-AGL-12." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426-8058.

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

The Proposal

The FAA is considering an amendment to Section 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a transition airspace area near Knox, Indiana.

Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 dated January 2, 1985.

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

List of Subjects in 14 CFR Part 71

Aviation safety/transition areas.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposes to amend Part 71 of the FAR (14 CFR Part 71) as follows:

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

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

2. By amending § 71.181 as follows:

Knox, IN

That airspace extending upward from 700 feet above the surface, within a 6.5 mile radius of Starke County Airport (lat. 41°19'51" N., long. 86°39'44" W.) and within 4 miles each side of the Knox VORTAC 337 radial, extending from the 6.5 mile radius area to 8.5 miles northwest of the airport.

Issued in Des Plaines, Illinois, on August 27, 1985.

Monte R. Belger,

Acting Director, Great Lakes Region.

[FR Doc. 85-21514 Filed 9-9-85; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 33

Enforcement of Nondiscrimination on the Basis of Handicap in Department of Labor Programs

AGENCY: Office of the Secretary, Labor.

ACTION: Proposed rule: Reopening of comment period.

SUMMARY: The proposed rule would implement the 1978 amendment to section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap in programs or activities conducted by the Department of Labor. The Department of Labor today reopens the public comment period for the proposed rule.

DATES: To be assured of consideration, comments must be in writing and must be received on or before October 25, 1985. Comments should refer to specific sections in the regulation. Commenters who responded during the initial comment period need not resubmit their comments.

ADDRESSES: Comments should be sent to William J. Harris, Director, Office of Civil Rights, 200 Constitution Avenue NW., Room N-4603, Washington, DC 20210; Telephone (202) 523-8927.

Comments received will be available for public inspection in Room N-4603, 200 Constitution Avenue NW., from 9:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays. Copies of this notice are available on tape for those with impaired vision. They may be obtained at the above address.

FOR FURTHER INFORMATION CONTACT: Buck Ethredge, Chief, Division of Policy, Standards and Procedures, Office of Civil Rights, 200 Constitution Avenue NW., Washington, DC 20210, Telephone (202) 523-8905 (VOICE) or 523-7090 (TTY).

SUPPLEMENTARY INFORMATION: On July 2, 1985, the Department of Labor published in the Federal Register (50 FR 27298) a proposed rule concerning nondiscrimination on the basis of handicap in programs and activities conducted by the Department. The public comment period of 45 days expired on August 16, 1985. Several commenters requested that the public comment period be extended due to the importance of the subject, and the fact that the previous period was in the summer when many people were out of town.

Accordingly, the period for commenting on the proposed regulation is being reopened.

Signed at Washington, D.C., this 3rd day of September 1985.

William E. Brock,

Secretary of Labor

[FR Doc. 85-21600 Filed 9-9-85; 8:45 am]

BILLING CODE 4510-23-M

Mine Safety and Health Administration

30 CFR Ch. I

Task Force Report on Two-Entry Mining Systems

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of Agency Decision on Task Force Report.

SUMMARY: The Mine Safety and Health Administration (MSHA) will include, as appropriate, recommendations from the Agency's Task Force Report on Two-Entry Mining Systems in the coal mine safety standards currently under review by the Agency.

ADDRESS: Any comment on the Agency decision may be sent to Patricia W. Silvey, Director, Office of Standards, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 621, Ballston Towers #3, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, MSHA, (703) 235-1910.

SUPPLEMENTARY INFORMATION: On January 28, 1985, MSHA established a task force to study two-entry mining systems in underground coal mines. On June 19, 1985, MSHA issued the Task Force Report, which contained 35 recommendations for two-entry longwall mining systems of which only three related solely to two-entry mining systems. The remainder were potentially applicable to all longwall mining systems.

On July 18, 1985, MSHA held a meeting in Denver, Colorado to brief the public on the Agency's Task Force Report. At that meeting and in subsequent response to the report, members of the mining public suggested that the Agency include the recommendations in the appropriate coal mine safety standards under review to afford opportunity for comment through the rulemaking process. The Agency agrees that this approach would allow the opportunity for full evaluation of the recommendations.

In each appropriate rulemaking action, the Agency will specifically solicit comment and data on: (1) The merits of the Task Force recommendations; (2) the applicability of the recommendations to all longwall mining systems; and (3) if relevant, whether the Task Force recommendations would be more appropriate as criteria or as mandatory standards applicable to all mines.

Dated: September 4, 1985.

David A. Zegeer,

Assistant Secretary for Mines Safety and Health.

[FR Doc. 85-21533 Filed 9-9-85; 8:45 am]

BILLING CODE 4510-43-M

POSTAL SERVICE

39 CFR Part 111

Guidance and Procedures on Issuance of or Refusal To Issue Postage Meter Licenses

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The Postal Service proposes to add to its regulations specific guidance to a postmaster in the issuance of or refusal to issue a postage meter license and to establish procedures for a

customer who wishes to appeal a decision refusing to issue a meter license. Procedures similar to those proposed here already apply to the situation where an existing postage meter license is to be revoked. For the sake of consistency and fairness it seems reasonable to aply basically the same procedures when a customer applies for a postage meter licenese.

DATE: Comments must be received on or before October 10, 1985.

ADDRESS: Written comments should be mailed or delivered to the Office of Mail Classification, Rates and Classification Department, Room 8430, 475 L'Enfant Plaza West, SW, Washington, DC 20260–5371. Copies of all written comments will be available for inspection and photocopying between 9:00 a.m. and 4:00 p.m., Monday through Friday, in Room 8430, at the above address.

FOR FURTHER INFORMATION CONTACT: F. E. Gardner (202) 245–5756.

SUPPLEMENTARY INFORMATION: Section 144.21 of the Domestic Mail Manual states that a customer may submit an application for a postage meter license and that on approval of the application, the postmaster will issue a license. There is no specific regulatory guidance for the postmaster to rely on in the issuance or the refusal to issue a license, and no appeal procedures for customers to follow in the event of refusals to which they take exception. Since similar guidance and appeal procedures exist for the revocation of an existing postage meter license, it seems reasonable to provide such guidance and rules for postmasters and customers in dealing with applications for licenses.

Accordingly, although exempt from the requirements of the Administrative Procedure Act (5 U.S.C. 553 (b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed amendments of the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 401, 404, 407, 408, 3001–3011, 3201–3219, 3403–3405, 3601, 3621; 42 U.S.C. 1973cc–13, 1973cc–14.

PART 144—POSTAGE METERS AND METER STAMPS

2. In 144.2 revise .21 to read as follows:

144.2 Meter License

.21 Application

.211 Procedures

A customer may obtain a license to use a postage meter by submitting Form 3601–A, *Application for a Postage Meter License* (or a form supplied by the manufacturer containing the same information and format), to the post office where the metered mail will be deposited. No fee is charged. On approval, the postmaster will issue the license.

.212 Refusing to Issue A Meter License

A postmaster may refuse to issue a meter license under any of the following circumstances:

a. The customer has submitted a falsified application for a license.

b. Within five years immediately preceding submission of the application, the customer violated a regulation relating to the care or use of a meter, resulting in revocation of a meter license.

c. There is substantial reason to believe that the meter will be used in violation of the regulations governing the use of postage meters.

.213 Notification of Refusal to Issue

When a postmaster refuses to issue a meter license pursuant to 144.212, the postmaster will notify the customer in writing, stating the reason.

.214 Appeal Procedures

To appeal the refusal to issue a meter license, a customer must file a written statement of objection within 10 days after notification. The appeal will be sent to the Office of Mail Classification, Washington, DC 20260–5360, for resolution. The Office of Mail Classification will notify the customer of the decision through the postmaster. The postmaster will note the date of the decision on the appeal on the Form 3601–A. Where the refusal to issue a license is sustained by the Office of Mail Classification, a copy of the decision will be retained for a year.

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published if the proposal is adopted.

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 85–21569 Filed 9–9–85; 8:45 am]

BILLING CODE 7710–12–M

39 CFR Part 111

Withdrawal of Proposed Rule on Designating of Serving Post Offices for Acceptance of Electronic Computer Originated Mail (E-COM)

AGENCY: Postal Service.

ACTION: Withdrawal of proposed rule.

SUMMARY: By a document published elsewhere in this issue the Postal Service is revoking the interim regulations in the Domestic Mail Manual which govern E-COM service. Revocation of the interim regulations necessarily requires withdrawal of any proposal to amend those regulations. Such a proposal was published in the **Federal Register** on October 21, 1983 (48 FR 48850), with the comment period extended (48 FR 54081). Accordingly, the Postal Service hereby withdraws the above proposal to amend the interim regulations.

EFFECTIVE DATE: Withdrawal effective September 10, 1985.

SUPPLEMENTARY INFORMATION: The historical background and further reasons for withdrawal of the proposed rule appear elsewhere in this issue in a document revoking the Postal Service's interim regulations governing E-COM service.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 85–21570 Filed 9–9–85; 8:45 am]

BILLING CODE 7710–12–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 262

[WH-FRL-2895-1]

Hazardous Waste Management System; Standards for Hazardous Waste Storage and Treatment Tank System

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule: correction.

SUMMARY: This document corrects a proposed rule for hazardous waste storage and treatment tanks under the Resource Conservation and Recovery Act (RCRA) that appeared in the **Federal Register** on Wednesday, June 26, 1985, (50 FR 26444–26504). This action is necessary to correct typographical errors in citations and cross references.

DATE: Comments on this correction to the proposed rule must be submitted on or before October 10, 1985.

ADDRESSES: Comments may be mailed to the Docket Clerk [Docket No. 3004, Revised Tank System Standards], Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. Comments received by EPA may be inspected in Room S-212(C), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC., from 9:00 am to 4:00 pm, Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: The RCRA/Superfund Hotline, at (800) 424-9346 (toll Free) or (202) 382-3000 in Washington, D.C., or William J. Kline, Office of Solid Waste (WH-565), U.S. Environmental Protection Agency, Washington, D.C., 20460, (202) 382-7917.

SUPPLEMENTARY INFORMATION: In the Federal Register of Wednesday, June 26, 1985, EPA proposed amending 40 CFR 262.34 to require full secondary containment for tanks at generator facilities that are used for accumulation of hazardous waste for 90 days or less. As stated in the preamble (50 FR 26456), EPA believes that there is little difference between these 90-day accumulation tanks and other hazardous waste storage tanks. As such, the Agency proposed to revise the accumulation standards by requiring full secondary containment for tanks, in order to provide better protection of human health and the environment.

During the course of holding public hearings on the proposed standards, it came to EPA's attention that the proposed rule did not clearly indicate the extent to which full secondary containment was being proposed for 90-day accumulation tank facilities. The question is whether full secondary containment for 90-day accumulation tank facilities is required for the tank only, or whether secondary containment is required for the ancillary equipment as well.

Although the chart in the proposal (50 FR 26454) suggested that secondary containment was intended for the entire tank system, and the cost and economic impact analyses (50 FR 26492) include the cost of secondary containment for the tank as well as the ancillary equipment, the cross reference (50 FR 26496) did not specifically include ancillary equipment as being required to be provided with secondary containment.

As for other hazardous waste storage tank systems under interim status and requiring permitting, it was and remains EPA's intention that the requirement for secondary containment for 90-day accumulation tank facilities be applicable to the tank system, i.e., to both the tank as well as the ancillary equipment.

Accordingly, in the Federal Register of Wednesday, June 26, 1985, on page 26496, column one, first paragraph, that portion of proposed § 262.34(a)(2) that reads "§ 265.193(b)-(c)" is corrected to read "§ 265.193(b)-(d)."

Jack W. McGraw,

Acting Assistant Administrator.

[FR Doc. 85-21547 Filed 9-9-85; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF DEFENSE

48 CFR Parts 227 and 252

Department of Defense Federal Acquisition Regulation Supplement; Technical Data

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule and request for comment.

SUMMARY: DoD FAR Supplement Subpart 227.4 and related clauses in DFARS Part 252 are being revised to comply with Pub. L. 98-525, the Defense Procurement Reform Act, 1984, and Pub. L. 98-577, the Small Business and Federal Procurement Competition Enhancement Act. The coverage has now been finalized by the DAR Council and is being published as a proposed rule for public comment.

DATE: Written comments on this proposed rule must be received by October 9, 1985. Please cite DAR Case 84-187 in all correspondence on this subject.

ADDRESS: Interested parties should submit written comments to: Defense Acquisition Regulatory Council, ATTN: Executive Secretary, DASD(P-DARS) c/o OUSDRE(M&RS) Room 3D139 Pentagon, Washington, D.C. 20301-3062.

FOR FURTHER INFORMATION CONTACT: Charles W. Lloyd, Executive Secretary, DAR Council DASD(P-DARS) c/o OUSDRE(M&RS), Room 3D139 Pentagon, Washington, D.C. 20301-3062, Telephone (202) 697-7268.

SUPPLEMENTARY INFORMATION: The proposed coverage consists of a complete rewrite of DFARS Subpart 227.4 to accommodate language in Pub. L. 98-525, the Defense Procurement Reform Act, Pub. L. 98-577, the Small Business and Federal Procurement Competition Enhancement Act. Major changes are as follows:

a. The coverage has been reorganized to group related topics closer together and to clarify the regulation.

b. The phrase "developed at private expense" has been defined. This definition establishes the legitimate proprietary interest of the contracting parties as required by Section 2320 of Pub.L. 98-525.

c. The Definition of "limited rights" has been revised to clarify the Government's right to have an independent third party review limited rights technical data for the Government.

d. New coverage has been added defining license rights and implementing guidance on the acquisition of license rights and directed licensing of technology. Related clauses have been added and revised.

e. The policy in Public Law 98-525, Section 1202(6) has been implemented.

f. New coverage has been added concerning the expiration of limited rights legends and the use of options to acquire rights in technical data.

g. The coverage on computer software has been merged into the coverage on technical data where appropriate.

h. The "predetermination of rights in technical data" procedures have been revised and renamed "prenotification of rights in technical data and computer software."

Regulatory Flexibility Act

The proposed change to DFARS Subpart 227.4 appears not to have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) because it imposes no new requirements which would require such entities to change their business practices, incur additional costs or otherwise affect their competitive position. The rule does not contain information collection requirements which require approval of OMB under 44 U.S.C. 3501 et seq.

List of Subjects in 48 CFR Parts 227 and 252

Government procurement.

Owen L. Green,

Acting Executive Secretary, Defense Acquisition, Regulatory Council.

Therefore, it is proposed that 48 CFR Parts 227 and 252 be amended as follows:

PART 227—PATENTS, DATA AND COPYRIGHTS

1. The authority citation for 48 CFR Part 227 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

2. Subpart 227.4, consisting of sections 227.470 through 227.480, is revised to read as follows:

Subpart 227.4—Rights in Data and Copyrights

Subpart 227.4—Rights in Data and Copyrights

227.470 Scope of subpart.

(a) This subpart sets forth Department of Defense policies and procedures and prescribes solicitation provisions and contract clauses concerning rights in technical data, other data, computer software, and copyrights as well as requirements for the acquisition of technical data and computer software. This subpart also sets forth policies and procedures and prescribes solicitation provisions and contract clauses concerning data, copyrights, and restricted designs unique to the acquisition of construction and architect-engineer services.

(b) This subpart does not encompass rights in computer software acquired under GSA ADP schedule contracts. Such rights are governed by the terms of the GSA contracts.

227.471 Definitions.

"Commercial computer software", as used in this subpart, means computer software which is used regularly for other than Government purposes and is sold, licensed, or leased in significant quantities to the general public at established market or catalog prices.

"Computer", as used in this subpart, means a data processing device capable of accepting data, performing prescribed operations on the data, and supplying the results of these operations; for example, a device that operates on discrete data by performing arithmetic and logic process on the data, or a device that operates on analog data by performing physical processes on the data.

"Computer data base", as used in this subpart, means a collection of data in a form capable of being processed and operated on by a computer.

"Computer program", as used in this subpart, means a series of instructions or statements in a form acceptable to a computer, designed to cause the computer to execute an operation or operations. Computer programs include operating systems, assemblers, compilers, interpreters, data management systems, utility programs, sort-merge programs, and ADPE maintenance/diagnostic programs, as well as applications programs such as payroll, inventory control, and engineering analysis programs. Computer programs may be either machine-dependent or machine-independent, and may be general-purpose in nature or be designed to satisfy the requirements of a particular user.

"Computer software", as used in this subpart, means computer programs and computer data bases.

"Computer software documentation", as used in this subpart, means technical data, including computer listings and printouts, in human-readable form which: (a) Documents the design or details of computer software, (b) explains the capabilities of the software, or (c) provides operating instructions for using the software to obtain desired results from a computer.

"Data", as used in this subpart, means recorded information regardless of the form or method of recording.

"Developed at private expense", as used in this subpart, means that completed development was accomplished without direct Government payment, at a time when no Government contract required performance of the development effort, and was not developed as a part of performing a Government contract. The word "developed", as used in the phrase "developed at private expense", means brought to the point of practical application; i.e., to be considered "developed" an item or component must have been constructed, a process practiced, or computer software used, and in each case it must have been tested so as to clearly demonstrate that it performs the objective for which it was developed. When, in applying these criteria, an item, component, process or software package does not meet the test because the entire item, component, process, or software package was not developed at private expense, separate elements thereof which do meet the criteria will be considered to have been developed at private expense. Further, in applying the foregoing criteria, when an item, component, process or computer software which has been developed at private expense is modified or revised to meet Government requirements specified in a contract, modification of the item, component, process or computer software shall not be considered to have been developed at private expense.

"License rights", (a) as used in section 227.481, i.e., SBIR program contracts, means rights to use, duplicate, or disclose technical data or computer software, in whole or in part and in any manner, for Government purposes only, and to have or permit others to do so for Government purposes only; and

(b) as used elsewhere in this subpart, means rights of the Government to use, duplicate, or disclose, in whole or in part and in any manner, for purposes stated in the contract or in a separate licensing agreement, technical data furnished with limited rights and computer software furnished with restricted rights, and to have or permit others to use such technical data or computer software on behalf of the Government for such purposes.

"Limited rights", (a) as used in section 227.481, i.e., SBIR program contracts, means rights to use, duplicate, or disclose technical data, in whole or in part, by or for the Government, with the express limitation that such technical data shall not, without the written permission of the party furnishing such technical data, be: (1) Released or disclosed in whole or in part outside the Government, (2) used in whole or in part by the Government for manufacture, or in the case of computer software documentation, for preparing the same or similar computer software, or (3) used by a party other than the Government; and

(b) as used elsewhere in this subpart, means rights to use, duplicate, or disclose technical data in whole or in part, by or for the Government, with the express limitation that such technical data shall not, without the written permission of the party furnishing such technical data, be: (1) Released or disclosed in whole or in part outside the Government, (2) used in whole or in part by the Government for manufacture, or in the case of computer software documentation, for reproduction of the computer software, or (3) used by a party other than the Government, except for:

(i) Emergency repair or overhaul work, by or for the Government, where the item or process concerned is not otherwise reasonably available to enable timely performance of the work, *provided*, that the release or disclosure thereof outside the Government shall be made subject to a prohibition against further use, release, or disclosure;

(ii) Release to a foreign government, as the interest of the United States may require, only for information or evaluation within such government or for emergency repair or overhaul work by or for such government under the conditions of paragraph (b)(1) above; or

(iii) Release to a contractor retained by the Government to review technical data, provided that the release or disclosure thereof shall be subject to a prohibition against further use, release, or disclosure.

"Restricted rights", as used in this subpart, means rights that apply only to computer software, and include, as a minimum, the right to—

(a) Use computer software with the computer for which or with which it was acquired, including use at any Government installation into which the computer may be transferred by the Government;

(b) Use computer software with a backup computer if the computer for which or with which it was acquired is inoperative;

(c) Copy computer programs for safekeeping (archives) or backup purposes; and

(d) Modify computer software, or combine it with other software, subject to the provisions that those portions of the derivative software incorporating restricted rights software are subject to the same restricted rights.

In addition, restricted rights include any other specific rights not inconsistent with the minimum rights in paragraphs (a) to (d) above that are listed or described in a contract or in a license agreement made a part of a contract.

"Technical data", as used in this subpart, means recorded information, regardless of the form or method of recording, of a scientific or technical nature. Technical data includes computer software documentation, but does not include computer software or financial, administrative, cost, pricing or management data, or other information incidental to contract administration.

"Unlimited rights", as used in this subpart, means rights to use, duplicate, or disclose technical data or computer software, in whole or in part, in any manner and for any purpose whatsoever, and to have or permit others to do so.

"Unpublished", as used in this subpart, means that which has not been released to the public nor furnished to others without restriction on further use or disclosure. For the purpose of this definition, delivery of limited rights technical data to or for the Government under a contract does not, in itself, constitute release to the public.

227.472 Policy.

(a) The Department of Defense shall acquire only such technical data and computer software and rights therein as are essential to meet the Government's missions, including the interest of the United States in increasing competition and lowering costs by developing and locating alternative sources of supply and manufacture.

(b) Consistent with section 1202(6) of Pub. L. 98-525, the Department of Defense shall not require an offeror, as a condition for obtaining a contract, to provide technical data pertaining to the design, development, or manufacture of existing products or processes developed at private expense and offered or to be offered for sale, license, or lease in substantial quantities to the public at established catalog or market prices; unless such data is necessary for the Government to operate or maintain the product or use the process if obtained as an element of performance under a contract. However, contracting officers may negotiate to obtain such technical data with the right to disclosure and use it if acquisition of the technical data would be advantageous to the Government. Likewise, an offeror's willingness to provide this technical data, along with appropriate rights, may be evaluated as part of a source selection.

(c) There are many purposes for acquiring technical data or computer software and the rights therein. Examples of purposes for which the rights to technical data or computer software may be used are: development of new sources for existing weapon systems, competitive reprocurement purposes, procurement to enhance industrial mobilization, modification, upgrade, non-emergency overhaul, and in-house manufacture. However, before a decision is made to obtain rights in technical data or computer software, in accordance with 227.473-2, the contracting officer shall determine that it is in the best interest of the Government.

(d) Any contract that requires technical data or computer software and rights therein shall identify these items in the contract schedule as separately priced line items, shall provide a separate delivery schedule, when applicable, and shall include the appropriate rights in technical data or computer software clauses.

227.472-1 Rights in technical data and computer software.

(a) *Unlimited Rights Technical Data.* Technical data in the following categories shall be acquired with unlimited rights:

(1) Technical data resulting directly from performance of experimental, developmental, or research work specified as an element of performance in a Government contract or subcontract;

(2) Technical data necessary to enable others to manufacture end-items, components and modifications, or to enable them to perform processes, when the end-items, components, modifications or processes have been, or are being developed under Government contracts or subcontracts in which experimental, developmental or research work was specified as an element of contract performance. This category excludes technical data pertaining to items, components or processes developed at private expense;

(3) Technical data prepared or required to be delivered under any Government contract or subcontract and constituting corrections or changes to Government-furnished data;

(4) Technical data pertaining to end-items, components or processes, prepared or required to be delivered under any Government contract or subcontract, for the purpose of identifying sources, size, configuration, mating and attachment characteristics, and performance requirements ("form, fit and function" data, e.g., specification control drawings, catalog sheets, envelope drawings, etc.);

(5) Manuals of instructional materials prepared or required to be delivered under a Government contract or subcontract for installation, operation, maintenance or training purposes; and

(6) Technical data which is in the public domain or has been or is normally released or disclosed by the contractor or subcontractor without restriction on further disclosure. "In the public domain" means available to the public without copyright or other restriction of any kind.

(b) *Limited Rights Technical Data.* (1) Except as provided in paragraph (a) above, unpublished technical data pertaining to items, components, processes, or computer software developed at private expense will be acquired with limited rights, provided that the data is identified as limited rights data in accordance with paragraph (b)(2) of the clause at 252.227-7013, Rights in Technical Data and Computer Software. A claim to limited rights will be honored only as long as the data continues to meet these requirements.

(2) Technical data pertaining to items, components, or processes developed at private expense may be called for, required, or otherwise furnished in accordance with policy in paragraphs (b)(1), (3), (4), (5), and (6) above and, as such, it will be acquired with unlimited rights.

(3) A subcontractor may furnish limited rights technical data directly to the Government rather than through the prime contractor.

(c) *Unlimited Rights Computer Software.* (1) Computer software in the following categories shall be acquired with unlimited rights:

(i) Computer software resulting directly from or generated as part of the performance of experimental, developmental, or research work specified as an element of performance in a Government contract or subcontract;

(ii) Computer software required to be originated or developed under a Government contract or subcontract, or generated as a necessary part of performing a Government contract or subcontract;

(iii) Computer data bases, prepared under a Government contract or subcontract, consisting of (A) information supplied by the Government, (B) information in which the Government has unlimited rights, or (C) information which is in the public domain;

(iv) Computer software prepared or required to be delivered under this or any other Government contract or subcontract and constituting corrections or changes to Government-furnished software; and

(v) Computer software which is in the public domain or has been or is normally furnished by the contractor or subcontractor without restriction.

(2) When the Government has unlimited rights in computer software, (i) it has the unlimited rights in the associated computer software documentation, and (ii) no payment shall be made to a contractor for using such software in performance of a Government contract or for later delivery to the Government of such software, *Provided, however,* That the contractor shall be entitled to compensation for converting the software into the prescribed form for reproduction and delivery to the Government.

(d) *Restricted Rights Computer Software.* (1) The Department of Defense shall acquire only such rights to use, duplicate, and disclose computer software developed at private expense as necessary to meet Government needs. Such rights should be designed to allow the Government flexibility while, at the same time, adequately preserving the rights of the contractor. Computer software developed at private expense may be purchased or leased. Restrictions may be negotiated with respect to the right of the Government to use, duplicate, or disclose computer software developed at private expense. As a minimum, however, the Government shall have the rights provided in the definition of restricted rights in section 227.471.

(2) Patented or copyrighted computer software will not be subject to any agreement prohibiting the Government from infringing a patent or copyright. Title 28, United States Code, section 1498 provides that the Government is liable only for reasonable compensation for use of a patented invention or for infringement of copyright. However, see section 227.473-2(g).

(3) When computer software is developed at private expense and acquired with restricted rights, the associated computer software documentation will be acquired with limited rights to the extent provided in the definition of limited rights in section 227.471, and will not be used for preparing the same or similar computer software.

(4) Commercial computer software and related documentation developed at private expense may be leased or a license to use may be purchased by the Government subject to the restrictions in (b)(3)(i) of the clause at 252.227-7013, Rights in Technical Data and Computer Software.

(5) A subcontractor may furnish restricted rights computer software directly to the Government rather than through the prime contractor.

(e) *Solicitation Provision and Contract Clause.* The contracting officer shall insert the basic data clause at 252.227-7013, Rights in Technical Data and Computer Software, in solicitations and contracts when technical data is specified to be delivered or computer software may be originated, developed or delivered, *provided* that such clause shall not be used in solicitations and contracts—

(1) When all technical data to be delivered is to be acquired with unlimited rights pursuant to the policy at 227.473-2(a);

(2) When existing works are to be acquired in accordance with section 227.476;

(3) When special works are to be acquired in accordance with section 227.475;

(4) When the work will be performed by foreign sources outside the United States, its territories, possessions, or Puerto Rico;

(5) When performance will be limited solely to architect-engineer services or construction;

(6) When the contract is awarded under the DoD Small Business innovation Research Program (SBIR Program).

(f) *Contract Schedule Items Requiring Experimental, Developmental or Research Work.* The contracting officer, in order to prevent any misinterpretation of the scope of the clause at 252.227-7013, Rights in Technical Data and Computer Software, in the contract, may insert the clause at 252.227-7016, Contract Schedule Items Requiring Experimental, Developmental, or Research Work, in solicitations and contracts when the solicitations and contracts, in whole or in part, call for experimental, developmental, or research work as an element of performance.

227.473 Procedures for technical data and computer software.

227.473-1 Identification of limited rights in technical data and restricted rights in computer software.

(a) *Prenotification of Rights in Technical Data and Computer Software.* (1) In order for the Government to make informed judgments concerning the competitive reprocurement potential of privately developed items, components processes or computer software that may be delivered under a resultant contract, offerors shall identify to the maximum extent practicable in their response to solicitations such privately developed items, components, processes, or computer software and the associated data which they:

(i) intend to deliver with limited or restricted rights;

(ii) intend to deliver with unlimited rights; or

(iii) have not yet determined will be delivered with unlimited, limited or restricted rights.

If delivery of technical data or computer software under the contract is anticipated, the provision at 252.227-7035, Prenotification of Rights in Technical Data and Computer Software, shall be included in the solicitation.

(2) This requirement for prenotification shall not be construed as an agreement concerning rights in technical data or computer software identified by an offeror except as specifically provided by an agreement in a resultant contract.

(b) *Notice of Certain Limited or Restricted Rights.* (1) If continuing information is desired under a contract about a contractor's intention to use in the performance of the contract any item, component, process or computer software for which technical date would be subject to limited rights or computer software would be subject to restricted rights, the contractor may be required to advise the contracting officer of this fact promptly. If possible, the schedule should indicate the specific areas to which limited or restricted rights data is of concern and the notice requirement should only address those areas.

(2) When the provision at 252.227-7035, Prenotification of Rights in Technical Data and Computer Software, is included in a solicitation, the clause at 252.227-7013 with its Alternate I shall be included in any resultant contract.

(3) Under this clause, the contractor is not required to advise the contracting officer as to items, components, processes or computer software for which notice was previously given in the same contract pursuant to the prenotification procedure (see 227.473-1(a)), or with respect to standard commercial items that are manufactured by more than one source of supply. Also, the contractor need not obtain contracting officer approval to use any item, component, process or computer software in the performance of the contract. If Government control on the contractor's use of privately developed items, components, processes or computer software is desired, special provisions must be included in the contract.

(4) Subsequent to contractor notification, if the contracting officer agrees that certain technical data is subject to limited rights or certain computer software is subject to restricted rights, the contracting officer may then determine whether to negotiate for the purchase of unlimited rights in such data or to adopt another suitable alternative. Such alternatives may include modifying the specifications so as not to require or permit use of the privately developed item, component, process or computer software; or negotiating for the acquisition of rights in technical data using any of the methods addressed in 227.473-2.

227.473-2 Obtaining rights in technical data and computer software.

Various techniques for obtaining rights in data are available. These approaches include specific acquisition of unlimited rights in technical data, licensing of rights, obtaining rights through options in the contract and negotiating a time limitation on limited or restricted rights in data. Contract clauses and the schedule establish the type and form of technical data and computer saftware to be delivered.

(a) *Specific Acquisition of Unlimited Rights in Technical Data.* (1) Notwithstanding section 227.472-1 (b) and (d) or any other provisions of this section, the Government may acquire unlimited rights in any limited rights technical data. The contracting officer shall insert the clause at 252.227-7015, Rights in Technical Data—Specific Acquisition, in solicitations and contracts when all technical data is to be acquired with unlimited rights.

(b) *Acquisition of License Rights in Technical Data and Computer Software.* (1) The acquisition of license rights is the acquisition by the Government of a license to use limited rights data or restricted rights computer software for the purpose(s) stated in the contract or in the license agreement under which the data was furnished. License rights do not grant the Government the right to have or permit others to use such data or software unless specifically provided for in the contract or agreement.

(2) Technical data and computer software acquired with license rights shall not be released outside the Government unless the recipient of the data agrees in writing to protect the data from unauthorized disclosure and to use the data only for the purpose(s) for which it was furnished. When license rights technical data or restricted rights computer software is contemplated for use in a future contract, the contracting officer shall include in the solicitation a statement that license rights data is contemplated for use in the proposed action and that recipients of such data shall be required to sign nondisclosure and non-use agreements. Contracting officers may consider for use non-disclosure and non-use agreements provided by the originators of the data. When technical data or computer software is to be acquired under a contract with license rights, the clause at 252.227-7013, Rights in Technical Data and Computer Software, with its Alternate IV shall be included in the contract.

(c) *Direct Licensing.* (1) Another method of enhancing competitive acquisition of items, components, processes, or computer software developed at private expense is to require contractors to directly transfer to another source data and technical assistance to enable the second source to produce the item, component, process or computer software. This method is similar to Leader Company contracting set forth at FAR 17.4 It permits contractors to retain direct control over use of their limited and restricted rights data being transferred to the second source.

(2) When direct licensing is to be used, the clause at 252.227-7036, Direct Licensing, shall be included in the solicitation and contract. This clause may be modified as appropriate to the objectives and circumstances of the specific acquisition.

(d) *Options.* Contracting officers are authorized to include options in contracts to acquire technical data and computer software and rights therein plus options to require contractors to directly license technology to other sources. For example, an option may be included in a contract to acquire unlimited rights in limited rights technical data pursuant to the clause at 252.227-7015, Rights in Technical Data—Specific Acquisition, or to acquire license rights in limited rights technical data pursuant to the clause at 252.227-7013, Rights in Technical Data and Computer Software, with its Alternate IV. An option may also be included in a contract to establish a time period for the expiration of limited rights or restricted rights legends pursuant to the clause at 252.227-7013, Rights in Technical Data and Computer Software, with its Alternate III, or for requiring a contractor to directly license technology, including technical data and computer software, to another manufacturer for the purpose of establishing an additional source of supply pursuant to the clause at 252.227-7036, Direct Licensing.

(e) *Expiration of Limited and Restricted Rights.* (1) Consistent with section 2320(c), Title 10, of the United States Code, the Department of Defense may negotiate a time limitation on limited rights in technical data. Additionally, a time limitation on restricted rights in computer software

may be negotiated. When a time limitation is to be negotiated, the negotiation objective shall not exceed 7 years.

(2) Time limits shall be negotiated on a case-by-case basis. This negotiated period shall balance contractor economic interests in the data with the Government's need for competition and an enhanced defense industrial base. Factors that should be considered in determining a reasonable time period are:

(i) the anticipated Government need for reprocuring or modifying contract items and components.

(ii) the useful life of the technology incorporated in the manufacture, operation and maintenance of these items and components,

(iii) the contractor's return on investment in these items and components, and

(iv) the Government benefits to be realized by competing future acquisitions and modifications of these items and components.

(3) The time period and the type of rights to be obtained by the Government shall be specified in the contract.

(4) If a decision is made to establish a time period for the expiration of limited or restricted rights legends, the clause at 252.227–7013, Rights in Technical Data and Computer Software, with its Alternate III, shall be included in solicitations and any resultant contract. The time period and the expiration date of the legends shall be specified in the contract. Each piece of data furnished under the contract with limited or restricted rights shall be marked with the special legend and expiration date set forth in Alternate III to the basic clause at 252.227–7013, Rights in Technical Data and Computer Software.

(5) If it is determined that only a portion of the limited or restricted rights data delivered under a contract will be acquired with a time period for the expiration of the special legends, the contract shall specifically identify that portion of the data, and Alternate III to the basic clause at 252.227–7013, Rights in Technical Data and Computer Software, may be appropriately modified to limit its application only to that portion.

(f) *Acquisition of Rights in Technical Data Furnished on a Restricted Basis in Support of a Proposal.* When the Government contemplates awarding a contract based upon a proposal that was submitted on a restricted basis, the contracting officer shall ascertain whether to acquire rights to use all or part of the technical data furnished with the proposal. If such rights are to be acquired, the contracting officer shall negotiate with the offeror in accordance with the procedures set forth in section 227.473.

(g) *Acquisition of Rights in Technical Data for Foreign Sources in Contracts to be Performed Outside the United States.* Normally, the clause at 252.227–7032, Rights in Technical Data and Computer Software (Foreign), is used in solicitations and contracts with foreign sources, except that the clause shall not be used in contracts for special works (see section 227.475), contracts for existing works (see section 227.476), or contracts for Canadian purchases (see Subpart 225.71, Canadian Purchases). This clause should be inserted when the Government is to acquire unlimited rights in all technical data, including reports, drawings and blueprints, and all computer software, specified to be delivered to the Government. The clause at 252.227–7013, Rights in Technical Data and Computer Software, shall be inserted when the same rights are to be obtained as would be obtained if contracting with United States firms. Notwithstanding any other provisions in this Subpart, the clause may be modified to meet the requirements necessary for and peculiar to the foreign procurement, *provided* it agrees with the policies and principles in this Subpart.

227.473–3 Other technical data procedures.

(a) *Establishing the Government's Rights to use Technical Data.* All technical data shall be acquired subject to the rights established in the appropriate Rights in Technical Data clauses. Except as provided in FAR Section 48.105 and in FAR Subpart 36.6 no other clauses, directives, standards, specifications or other implementation shall be included, directly or by reference, to enlarge or diminish such rights. The Government's acceptance of technical data subject to limited rights does not impair any rights in such data to which the Government is otherwise entitled or impair the Government's right to use similar or identical data acquired from other sources.

(b) *Marking of Technical Data.* (1) Technical data delivered to the Government shall be marked in accordance with 227.474–4. Each piece of technical data submitted with limited rights shall be marked with—

(i) The authorized restrictive legend,

(ii) An indication (for example, by circling, underscoring, or a note) of that portion of the piece of technical data to which the legend is applicable, and

(iii) An explanation of the indication used to identify limited rights data. The Government shall include such identifying markings on all reproductions thereof, unless the Government cancels such markings pursuant to paragraphs (b)(2) or (b)(3) below.

(2) The contractor has the responsibility to assure that no restrictive markings are placed on data except in accordance with the clause at 252.227–7013, Rights in Technical Data and Computer Software. Copyright notices as specified in Title 17, United States Code, Sections 401 and 402, are not considered restrictive markings. When the clause at 252.227–7013, Rights in Technical Data and Computer Software, is required, the clause at 252.227–7018, Restrictive Markings on Technical Data and Computer Software, shall also be included in the contract. The contractor's procedures required by this clause shall be reviewed periodically by the Contract Administration Office. In addition to the rights afforded to the Government by the clause at 252.227–7018 the following actions are available to insure proper marking of data:

(i) The procedures of the clause at FAR 252.227–14, Validation of Restrictive Markings on Technical Data, may be invoked if the contractor or any subcontractor fails to follow the requirement and procedures of the clause at 252.227–7013, Rights in technical Data and Computer Software, or any alternate, or the clause at 252.227–7025, Rights in Technical Data and Computer Software SBIR Program.

(ii) Failure to follow proper marking procedures may also be deemed to render technical data nonconforming and subject to FAR Section 46.102 and to withholding of payments under the clause at 252.227–7030, Technical Data—Withholding of Payments.

(iii) When a pre-award survey is requested by the purchasing office, the quality assurance review may include as an item of special inquiry an examination of the prospective contractor's procedures for complying with the clause at 252.227–7018, Restrictive Markings in Technical Data and Computer Software.

(iv) The contractor's procedures for complying with the "Restrictive Markings on Technical Data and Computer Software" clause may be reviewed when holding a postaward conference.

(c) *Unmarked or Improperly Marked Technical Data.* (1) Pursuant to the validation procedures of FAR 27.409 and the clause at FAR 52.227–14, Validation of Restrictive markings on Technical Data, the Government has the right to require a contractor or subcontractor to justify in writing the validity of

restrictive markings on technical data delivered or required to be delivered under a contract or subcontract. The contracting officer has the right to require the contractor or subcontractor to furnish clear and convincing evidence to justify the current validity of the marking.

(2) Technical data received without restrictive legends shall be deemed to have been furnished with unlimited rights. However, within six months after delivery of such data the contractor or subcontractor may request permission to place restrictive markings on such data at its own expense and the Government may so permit if the contractor or subcontractor:

(i) demonstrates that the omission of the restrictive markings was inadvertent,

(ii) establishes pursuant to paragraph (c)(1) above that the use of the markings is authorized, and

(iii) relieves the Government of any liability with respect to such technical data.

(3) If technical data is delivered with restrictive markings and the contractor or the subcontractor is not authorized by the terms of the contract to furnish technical data with limited rights, license rights, or with a time period for the expiration of limited rights legends; the technical data shall be used with limited rights, license rights, or with a time period for the expiration of limited rights legends, until such markings may be cancelled or ignored in accordance with the procedures of the clause at FAR 52.227–14, Validation of Restrictive Markings on Technical Data.

227.473–4 Other computer software procedures.

(a) *General.* (1) Except as provided at 227.474–1, Data Requirements, any computer software to be purchased under a contract shall be listed on the Contract Data Requirements List (DD Form 1423). Also, if a contract requires the conversion of data to machine-readable form, the editing or revision of existing programs, or the preparation of computer software documentation, the products of this work, if required to be delivered, shall be included on the DD Form 1423.

(2) The clause at 252.227–7013, Rights in Technical Data and Computer Software, shall be included in every contract under which computer software may be originated, developed, or delivered. This clause establishes the circumstances under which the Government obtains unlimited rights in both technical data and computer software. In negotiated contracts where the clause at 252.227–7013, Rights in Technical Data and Computer Software, is required, the provision at 252.227–7019, Identification of Restricted Rights Computer Software, shall be included in the solicitation. Also, see 227.473–3(b)(2).

(3) Contracts under which computer software developed at private expense is purchased or leased shall explicitly set forth the rights necessary to meet Government needs and restrictions applicable to the Government as to use, duplication and disclosure of the software. Computer software developed at private expense may be needed, or the owner of such software will only sell or lease it, for specific or limited purposes such as for internal agency use, or for use in a specific activity, installation or service location. In any event, the contract must clearly define any restrictions on the right of the Government to use such computer software, but such restrictions will be acceptable only if they will permit the Government to fulfill the need for which such software is being procured. The recital of restrictions may be complete within itself or it may reference the contractor's license or other agreement setting forth restrictions. If referencing is employed, a copy of the license or agreement must be attached to the contract. The minimum rights are provided in the Rights in Technical Data and Computer Software clause at 252.227–7013, and need not be included in the recital.

(4) When computer software developed at private expense is modified or enhanced as a necessary part of performing a contract, only that portion which is recognizable as the original product will be deemed to be computer software developed at private expense.

(5) The scope of the restrictions placed on the Government, or conversely, the scope to which the Government may use such software shall be taken into account in determining the reasonableness of the contract price for the computer software.

(b) *Marking of Computer Software.* (1) Because of the widely-varying restrictions which are likely to be encountered in the purchase or lease of computer software developed at private expense, a standard recital setting forth specific restrictions and rights suitable for all cases is not feasible. If the standard set of restrictions and rights set forth in the clause at 252.227–7013(b)(3)(ii) is not appropriate, contracting officers shall consult counsel when a contractor requests the Government to accept other restrictions on the use of such software.

(2) To apprise user personnel of the restrictions on use, duplication or disclosure agreed to by the Government with respect to privately developed computer software sold or leased to the Government, the contractor is required to place the following legend on such software:

Restricted Rights Legend

Use, duplication or disclosure is subject to restrictions stated in Contract No. with (Name of Contractor).

For commercial computer software and documentation, the contract number may be omitted and replaced by the legend in paragraph (b)(3)(B) of the Rights in Technical Data and Computer Software clause at 52.227–7013, and the contractor's address added. The Government shall include the same restrictive markings on all its reproductions of the computer software unless the Government cancels such markings pursuant to the procedures in 227.473–4(c).

(3) A statement setting forth the restrictions imposed on the Government to use, duplicate, and disclose computer software subject to restricted rights is required to be prominently displayed in human-readable form in the computer software documentation. The reference to the clause at 252.227–7013, Rights in Technical Data and Computer Software, in the Restricted Rights Legend on commercial computer software and documentation satisfies this requirement.

(4) Except as provided in paragraph (a) above, computer software and computer software documentation delivered to the Government pursuant to a contract requirement must be identified with the number of the prime contract and the name of the contractor.

(5) All markings, (notice, legends, identifications, etc.) concerning restrictions on the use, duplication, or disclosure of computer software required or authorized by the terms of the contract under which delivery is made are required to be in human-readable form that can be readily and visually perceived and, in addition, may be in machine-readable form as appropriate and feasible under the circumstances. Such markings shall be affixed by the contractor to the computer software prior to delivery of the software to the Government.

(6) The human-readable markings may be applied to card decks, magnetic tape reels, or disc packs. This may be, in the case of a card deck, on a notice card even though the cards of the deck do not contain printed material, in the case of a card deck packaged in a container

intended as a permanent receptacle for the cards, on the container; in the case of a tape, on the tape reel or on the surface of the leader and trailer of the tape; and in the case of a disc pack, on the hub of the disc.

(c) *Unmarked or Improperly Marked Computer Software.* (1) No restrictive markings shall be placed upon computer software unless restrictions are set forth in the contract prior to delivery of the software. Copyright notices as specified in Title 17, United States Code, Sections 401 and 402 are not considered "restrictive markings." The Government may require the contractor to identify the contractual provision setting forth such restrictions before accepting computer software with restrictive markings. If computer software is received with a restrictive marking, and there is a question whether the marking is authorized by the contract, the software shall be used subject to the asserted restrictions pending written inquiry to the contractor. If no response to an inquiry has been received within 60 days, or if the response fails to identify the restrictions set forth in the contract, the cognizant Government personnel shall cancel or ignore the marking, notify the contractor accordingly in writing, and thereafter use the software with unlimited rights.

(2) Computer software received without a restrictive legend shall be deemed to have been furnished with unlimited rights. However, the contractor may request permission to place restrictive markings on such software at his own expense, and the Government may so permit, if the contractor establishes that the markings are authorized by the contract and demonstrates that the omission was inadvertent. Failure of the contractor to mark such computer software prior to delivery to the Government shall relieve the Government of liability for any use, duplication or disclosure of such computer software.

(3) If computer software authorized by the contract to be furnished with restrictions is received with restrictive markings not in the form prescribed in the contract, the software should be used in accordance with the restrictions provided in the contract and the contractor shall be required by written notice to correct the markings to conform with those specified in the contract. If the contractor fails to correct the markings within 60 days after notice, Government personnel may correct the markings and so notify the contractor.

227.474 Delivery of technical data.

227.474-1 Data requirements.

(a) The clause at 252.227-7031, Data Requirements, shall be included in all solicitations and contracts, except that the clause need not be included in—

(1) any contract, of which the aggregate amount involved does not exceed $25,000 and in any blanket purchase agreement and purchase order utilizing the DD Form 1155 (however, the DD Form 1423 shall be used with orders issued under a basic ordering agreement);

(2) any contract awarded to a contractor outside the United States, except those under Subpart 252.71, Canadian Purchases;

(3) any research or exploratory development contract when reports are the only deliverable item(s) under the contract;

(4) any service type contract, when the contracting officer determines that the use of the DD Form 1423 (Contract Data Requirements List) is impractical for use with respect to records prepared by a contractor in performing operation and maintenance under the contract;

(5) any contract under which construction and architectural drawings and specifications are the only deliverable items;

(6) any contract for commercial items when the only deliverable data is such an item, or would be packaged or furnished with such items in accordance with customary trade practices;

(7) any contract for items containing material which, by virtue of its potentially dangerous nature, requires controls to assure adequate safety to life and property, when the only deliverable data is the Materials Safety Data Sheet (MSDS) submitted in compliance with Federal Standard 313A and the clause at FAR 52.223-3, Hazardous Material Identification and Material Safety Data, and when such clause is included in the contract; or

(8) any contract that has no deliverable data except manuals for training, operation, and maintenance.

(b) The clause at 252.227-7031, Data Requirements, states that the contractor is required to deliver only the data items listed on the DD Form 1423, the data items identified in and deliverable under any contract clause of Subpart 252.2 and FAR Subpart 52.2 and made a part of the contract, and manuals to be utilized in training, operation, and maintenance and covered by a specific contract line item and exhibit.

(c) Other than the data items falling within the exceptions set forth in paragraph (a) above, the data items identified in and deliverable under any contract clause of Subpart 252.2 and FAR Subpart 52.2 made a part of the contract, and manuals covered by specific contract line items; the requirement for delivery of any data items under the contract can be established only by listing such data items on the DD Form 1423. The clause at 252.227-7031, Data Requirements, shall be inserted in all contracts in which the DD Form 1423 is used. The DD Form 1423 need not be used to list data or software requirements falling within the exceptions set forth in paragraph (a) above.

227.474-2 Deferred delivery and deferred ordering.

(a) *Policy.* (1) Technical data and computer software is expensive to prepare, maintain and update. Every effort, therefore, should be made to avoid placing a requirement upon a contractor to prepare and deliver technical data or software unless the need is positively determined. By delaying the delivery of technical data or software until needed for a specific purpose, storage requirements within DD for technical data and computer software items are reduced, the handling of technical data and software superseded by updated versions is greatly decreased and the purchase of technical data or software which may become obsolete by pending hardware changes is minimized.

(2) Economy in the purchase of technical data and software and the probability of greater currency may be achieved by deferring the delivery, and in some cases, deferring the ordering of technical data or software until an operational need is determined, or until stability of design or production is reached during contract performance.

(i) When the need for, but not the time of, delivery can be determined, deferred delivery shall be used. When deferred delivery is used, it is expected that the contractor will price the technical data and software at the time of contracting and incur the cost of preparation prior to the call for delivery. Therefore, it is important that deferred ordering rather than deferred delivery be used where the need for technical data or software is doubtful.

(ii) When it is expected that technical data or computer software may be required, but the precise need at time of contracting has not been determined, deferred ordering shall be used to avoid the cost of preparation, but allow the ordering of the technical data or software at some future point in contract performance should the need arise.

(iii) Whether the technique of deferred delivery or deferred ordering is used, the receipt of technical data or software by the Government should be scheduled to coincide with specific and planned use of technical data or software.

(b) *Deferred Delivery.* Deferred delivery refers to the practice of timing the delivery or technical data or computer software specified in a contract to a firm, operational need. This technique should be used only when a technical data or software requirement can be determined at the time of contracting but the time or place of delivery is not firm. The delivery dates should be scheduled to coincide with the needs of the Government. The contractor, however, must be notified sufficiently in advance of a delivery date to enable him to provide the technical data or software in specified form on time. Thus, in any contract the Government may defer the delivery of all or any portion of the technical data or computer software specified in the contract until the actual need can be determined. The Government may require the contractor to deliver any such data or software, or portions thereof, at any time or within two years after either acceptance of all items (other than data and software) under the contract or termination of the contract, whichever is later. However, the contractor's obligation to deliver technical data pertaining to any item obtained from a subcontractor shall cease two years after the date on which he accepts the item from the subcontractor. Contracting officers may extend, but not shorten this two year period. The Government's rights in deferred delivery data and software are as prescribed in the contract under which the data or software is to be delivered. When the delivery of technical data or computer software is to be deferred in accordance with this subsection, the clause at 252.227–7028, Deferred Delivery of Technical Data or Computer Software, shall be included in the contract.

(c) *Deferred Ordering.* Deferred ordering refers to the practice of delaying the ordering of technical data or computer software generated in the performance of the contract until such time as a need can be established and the requirements can be specifically identified for delivery under the contract. In many instances, it is difficult to determine before contract award exactly what data or software is needed. The information available during that period may suggest the need for some data or software, but further information may be needed to identify the specific data or software items. In these situations, and also when it is desired to delay the ordering of technical data or computer software until such time as the production design becomes firm, the clause at 252.227–7027, Deferred Ordering of Technical Data or Computer Software, shall be included in solicitations and contracts. Under these circumstances, the deliverable technical data or computer software is not listed on the DD Form 1423 until the specific need is determined. Whenever the clause at 252.227–7027, Deferred Ordering of Technical Data or Computer Software, is used, the clause at 252.227–7013, Rights in Technical Data and Computer Software, shall also be included. When data or software items are ordered, the delivery dates shall be negotiated and the contractor shall be compensated for converting the data or software into the prescribed form, for reproduction and delivery to the Government. Compensation to the contractor shall not include the cost of generating such data or software since it was generated in the performance of work for which the Government has already agreed to pay the contractor. Contracting officers may extend, but not shorten the item period for exercise of deferred ordering of technical data or computer software pursuant to the clause at 252.227–7027, Deferred Ordering of Technical Data of Computer Software. To assist in identifying technical data and computer software for deferred ordering a contract may include a requirement to prepare and deliver a Data Accession List which lists all technical data and computer software generated under the contract. A Data Item Description suitable for this purpose is contained in the list of approved Data Item Descriptions.

227.474–3 Technical data certifications.

(a) The provision at 252.227–7028, Certification of Technical Data—Prior Delivery, shall be included in all solicitations which may result in a negotiated contract when information is needed to establish whether an offeror has delivered or is obligated to delivery to the Government under any contract or subcontract the same or substantially the same technical data included in the offer (see 215.406 and FAR 15.406–5(a)). This solicitation provision requires the offeror to submit with the offer a certification as to whether the same or substantially the same technical data included in the offer has been delivered or is obligated to be delivered to the Government under any contract or subcontract. If so, the offeror is required to identify one such contract or subcontract under which such technical data was delivered or will be delivered, and the place of such delivery.

(b) If technical data is required to be delivered under a contract, the clause at 252.227–7037, Certification of Technical Data Conformity, shall be included in solicitations and any resultant contract.

(1) This clause requires the contractor to certify in writing that technical data delivered under the contract is complete, accurate, and complies with all requirements of the contract. The clause states that technical data deliverable under the contract may be reviewed by the Government both before and after Government acceptance. The clause also contains some illustrative examples of such reviews.

(2) If upon delivery the technical data is determined not to be complete, accurate, and in compliance with all requirements of the contract, the contracting officer shall consult with counsel regarding possible civil remedies and criminal sanctions available to the Government.

227.474–4 Identification of technical data.

(a) Technical data that is delivered under a contract shall be marked with the name of the contractor, the contract number and the name of any subcontractor who generated any part of the data. This marking requirement provides the basis for identifying the rights of the contractor and the Government in technical data.

(b) The clause at 252.227–7029, Identification of Technical Data, shall be included in solicitations and in any resultant contract under which technical data is to be delivered. Technical data marked in the manner permitted by paragraph (b)(2) of the clause at 252.227–7013, Rights in Technical Data and Computer Software, complies with this requirement.

272.474–5 Technical data—Withholding of payment.

(a) Timely delivery of technical data, delivery without deficiencies (including having no restrictive markings unless specifically authorized by the contract), and delivery with the required certification are particularly important to the operation and maintenance of equipment, as well as to the competitive procurement of follow-on quantities of contract items and components. The clause at 252.227–7030, Technical Data—Withholding of Payment, is designed to assure timely delivery and proper marking of technical data, delivery without deficiencies, and delivery with the required certification. This clause shall be included in all solicitations and

any resulting contract when it is anticipated that technical data will be delivered under the contract. The clause permits a contracting officer, at any time before technical data is accepted by the Government, to withhold payment not exceeding 10 percent of the total contract price or amount, but also permits the contracting officer to specify a lesser amount if circumstances warrant. A case-by-case determination of the amount to be withheld shall be made by the contracting officer after considering the estimated value of the technical data to the Government. No amount shall be withheld when the failure to make timely delivery, affix proper markings, deliver without deficiencies, or deliver without the required certification arises out of causes beyond the control and without the fault or negligence of the contractor.

(b) Withholding of payment under paragraph (b) of the clause should be accomplished only when the contractor has failed to make timely delivery of technical data, to deliver technical data without deficiencies, or to deliver technical data without the required certification, or when the contracting officer reasonably believes that late delivery, delivery with deficiencies, or delivery without required certification under this contract will occur. The amount of withholding should be based on the estimated value of the technical data to the Government.

227.474-7 Warranties of technical data.

The factors contained in section 246.708, Warranties of Technical Data, shall be considered in deciding whether to provide for warranties of technical data delivered under contracts calling for technical data relating to spare parts is to be delivered. When a warranty of technical data is to be used, the clause at 252.246-7001 shall be included in the solicitation and contract.

227.474-7 Delivery of technical data to foreign governments.

Limited rights include the right of the Government to deliver technical data to foreign governments as the national interest of the United States may require, subject to the same limitations which the Government accepts for itself. When the Government proposes to make technical data subject to limited rights available for use by a foreign government, it will to the maximum extent practicable, give reasonable notice thereof to the contractor or subcontractor whose name appears on the data.

227.475 Contracts for acquisition of special works.

(a) The clause at 252.227-7020, Rights in Data—Special Works, shall be included in all contracts for special works, including technical data and computer software, where ownership and control by the Government is desired. Examples include contracts—(1) primarily for the production of audiovisual works, including motion pictures or television recordings, with or without accompanying sound, or for the preparation of motion picture scripts, musical compositions, sound tracks, translations, adaptions, and the like; (2) for histories of the respective Departments or services or units thereof; (3) for the respective Departments or services or units thereof; (4) for works pertaining to recruiting, morale, training, or career guidance; (5) for surveys of Government establishments; (6) for works pertaining to the instruction or guidance of Government officers and employees in the discharge of their official duties; and (7) primarily for production of technical reports, studies, or similar documents.

(b) Contracts for audiovisual works may include limitations in connection with music licenses, talent releases, and the like which are consistent with the purpose for which the works are acquired.

227.476 Contracts of acquisition of existing works.

(a) *Off-the-Shelf Purchase of Books and Similar Items.* Notwithstanding any other instructions contained in this part, no contract clause contained in this part need be included in contracts for the separate, sole procurement of data, other than motion pictures, in the exact form in which such material exists prior to the initiation of a request for purchase (such as the off-the-shelf purchases of existing products), unless the right to reproduce such technical data is an objective of the contract.

(b) *Purchase of Existing Audiovisual Works.* (1) The clause at 252.227-7021, Rights in Data—Existing Works, shall be used in contracts exclusively for the procurement of existing motion pictures, television recordings, or other audiovisual works. The contract may set forth limitations consistent with the purposes for which the material required by the contract is being procured. Examples of these limitations are—(i) means of exhibition or transmission; (ii) time; (iii) type of audience; and (iv) geographic location. Paragraph (c) of the clause should be modified to make the indemnity coextensive with the rights acquired under paragraph (b) of the clause as limited by the contract.

(2) In contracts which call for the modification of existing motion pictures, television records, or other audiovisual works through editing, translation, or addition of subject matter, the clause at 252.227-7020, Rights in Data—Special Works, appropriately modified, shall be used.

227.477 Contracts limiting Government's right of publication for sale to the general public.

Alternate II may be added to the clause at 252.227-7013, Rights in Technical Data and Computer Software, for use in research contracts when the contracting officer determines, after consultation with counsel, that public dissemination of a work, or certain designated parts of a work, specified to be delivered under the contract, is in the best interest of the Government and would be facilitated by the Government relinquishing its right to publish the work for sale, or to have others publish the work for sale on behalf of the Government. Alternate II shall not be used otherwise.

227.478 Architect-engineer and construction contracts.

227.478-1 General.

This section sets forth policies and procedures, and also prescribes solicitation provisions and contract clauses pertaining to data, copyrights, and restricted designs unique to the acquisition of construction and architect-engineer services.

227.478-2 Acquisition and use of plans, specifications, and drawings.

(a) *Architectural Designs and Data Clauses for Architect-Engineer or Construction Contracts*—(1) *Plans and Specifications and As-Built Drawings.* (i) Except as provided in paragraph (a)(1)(ii) below, insert the clause at 252.227-7022, Government Rights (Unlimited), in solicitations and contracts calling for architect-engineer services and in contracts for construction which also contains requirements for architect-engineer services.

(ii) When the purpose of a contract for architect-engineer services, or, a contract for construction which also contains requirements for architect-engineer services, is to obtain a unique architectural design of a building, a monument, or construction of similar nature, which for artistic, esthetic or other special reasons the Government does not want duplicated by anyone else, the Government may desire to acquire exclusive control of the data pertaining to such design. When the

contracting officer determines that it is desirable to maintain exclusive control over the design and data, the clause at 252.227-7023, Drawings and Other Data to Become Property of Government, shall be included in solicitations and contracts. If the contract is for architect-engineer services, the clause at 252.227-7022 shall be deleted and the clause at 252.227-7023 substituted. If the contract is for construction which also contains requirements for architect-engineer services, only the clause at 252.227-7023 shall be included.

(2) *Shop Drawings for Construction.* In acquiring shop drawings for construction, the Government shall obtain the unlimited right to use and reproduce such drawings, but shall not exclude a similar right in the designer or others. Accordingly, in solicitations and contracts calling for delivery of such drawings, insert the clause at 252.227-7033, Rights in Shop Drawings.

227.478-3 Contracts for construction supplies and research and development work.

The solicitation provisions and contract clauses prescribed in this Subpart for the acquisition of other than construction or architect-engineer services, are applicable when the acquisition is limited to either (a) construction supplies or materials as such, as distinguished from construction as defined in FAR 36.102; (b) experimental, developmental, or research work, or test and evaluation studies of structures, equipment, processes, or materials for use in construction; or (c) both. The right of the Government and others to use, duplicate, or disclose such technical data, other data, or computer software will be determined by "Rights in Technical Data and Computer Software" clause.

227.478-4 Mixed contracts.

When solicitations and resulting contracts call for (a) supplies or materials, (b) experimental, developmental or research work, or (c) both; in addition to calling for construction or architect-engineer work, a contracting officer shall include in the solicitation and resultant contract both the provisions and clauses prescribed in this Subpart for the acquisition of other than construction or architect-engineer services as well as the appropriate provisions and clauses prescribed for construction or architect-engineer services. In such cases, the solicitations and resulting contracts shall clearly indicate which of the solicitation provisions and contract clauses apply only to the supplies or materials being acquired, or to the experimental, developmental, or research work, or to both, and which of the solicitation provisions and contracts clauses apply only to the construction or architect-engineer work.

227.478-5 Approval of restricted designs.

(a) Specifications for construction should allow for maximum latitude in the use of various types of commercially available products, materials, equipment, or processes which will meet objective Government requirements. However, Government requirements may necessitate, or the architect-engineer may contemplate the use of structures, products, materials, equipment, or processes which are available only from a sole source. In such event, the architect-engineer should report to the contracting officer the items known to be sole source, and the reasons therefor, and advise the contracting officer of the extent to which such items are considered necessary to meet the Government's requirements. This will facilitate timely planning and arrangements for the use of sole source items, or where appropriate, consideration of alternate items.

(b) This procedure is not intended to restrict the use of patented or copyrighted items, but is meant to give the Government an opportunity to consider whether the specifications being drawn by the architect-engineer, are unnecessarily restricted to a single item. The procedure is primarly for use in instances where the proposed design is expected to be conventional or standard or where the design may be used in subsequent acquisitions. For this purpose, the clause at 252.227-7024, Notice of Approval of Restricted Designs, may be inserted in architect-engineer contracts.

227.479 Copyrights.

(a) In general, the copyright law gives an owner of a copyright the exclusive rights to—

(1) Reproduce the copyrighted work in copies or phonorecords;

(2) Prepare derivative works;

(3) Distribute copies of phonorecords to the public;

(4) Perform the copyrighted work publicly; and

(5) Display the copyrighted work publicly.

(b) In view of the exclusive rights in paragraphs (a)(1)-(5) above, any technical data, other data, or computer software that is protected under the copyright law is not in the public domain, even though it may have been published, because acts inconsistent with these rights may not be exercised without a license from the copyright owner.

(c) Department of Defense policy allows a contractor to copyright any work of authorship first prepared, produced, originated, developed, or generated under a contract, unless the work is designated a "special work", in which case ownership and control of the work is retained by the Government and the contractor is precluded from asserting any rights or claim to copyright in the work. Department of Defense policy also requires that the contractor grant to the Government and authorize the Government to grant to others a nonexclusive, paid-up, worldwide license for Government purposes, in any work of authorship (other than a "special work") first prepared, produced, originated, developed, or generated in performance of a contract. Additionally, for works in which a contractor already owns a copyright (not first prepared during performance of a contract), Department of Defense policy requires that the contractor grant to the Government and authorize the Government to grant to others the same license acquired by the Government under the contract.

(d) Under the clause at 252.227-7013, Rights in Technical Data and Computer Software, the contractor grants to the Government and authorizes the Government to grant to others a nonexclusive, paid-up worldwide license for Government purposes, under any copyright owned by the contractor in any technical data or computer software prepared for or acquired by the Government under the contract. Under the clause at 252.227-7020, Rights in Data—Special Works, any work first produced in the performance of the contract becomes the sole property of the Government, and the contractor agrees not to assert any rights or establish any claim to copyright in such work. Under this clause, the contractor similarly grants to the Government and authorizes the Government to grant to others a nonexclusive, paid-up, worldwide license for Government purposes in any portion of a work which is not first produced in the performance of the contract, but in which copyright is owned by the contractor and incorporated in the work furnished under the contract.

(e) Under both of the clauses at 252.227-7013 and 252.227-7020, unless written approval of the contracting officer is obtained, the contractor also agrees not to include in any work prepared, produced, originated, developed, generated, or acquired under the contract, any work of authorship in

which copyright is not owned by the contractor, without acquiring for the Government and those acting by or on behalf of the Government a nonexclusive, paid-up, worldwide license for Government purposes in the copyright work.

272.480 Rights in technical data and software developed under the Small Business Innovation Research Program (SBIR Program).

(a) Pub. L. 97–219, the "Small Business Innovation Development Act of 1982", requires the Department of Defense to establish a Small Business Innovation Research Program (SBIR Program). Small Business Administration (SBA) Policy Directive No. 65–01 provides guidance for conducting the SBIR program.

(b) Data and computer software generated under an SBIR program contract shall not be disclosed outside the Government for two years after contract completion, except—

(1) when necessary for program evaluation, or

(2) when the contractor consents in writing to additional disclosure. The contracting officer may agree to a different time period than two years in appropriate cases. Upon expiration of the period of non-disclosure, the Government shall have a nonexclusive, worldwide, royalty-free license in technical data and computer software for Government use.

(c) Copyrights in technical data and computer software generated under an SBIR program contract shall, when agreed to in writing by the contracting officer, be owned by the contractor. The Government should obtain a royalty-free license under any copyright. Each publication of copyrighted material should contain an appropriate acknowledgement and disclaimer statement.

(d) The clause at 252.227–7025, Rights in Technical Data and Computer Software (SBIR Program), shall be included in all contracts awarded under the SBIR Program in which technical data or computer software are required to be prepared, originated, developed, generated or delivered. The clause permits technical data to be acquired with license rights, unlimited rights or limited rights; and computer software to be acquired with license rights, unlimited rights or restricted rights. The clause shall only be used in contracts awarded under the SBIR Program.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. The authority for Part 252 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35 and DoD FAR Supplement 201.301.

4. Sections 252.227–7013, 252–227–7015, 252–227–7016, and 252–227–7018 through 252.227–7034 are revised, sections 252.227–7014 and 252–227–7017 are removed, and sections 252–227–7035 through 252–227–7037 are added as follows:

252.227-7013 Rights in technical data and computer software.

As prescribed at 227.472–1(e), insert the following clause.

Rights in Technical Data and Computer Software (Aug. 1985)

(a) *Definitions.* "Commercial Computer Software", as used in this clause, means computer software which is used regularly for other than Government purposes and is sold, licensed or leased in significant quantities to the general public as established market or catalog prices.

"Computer", as used in this clause, means a data processing device capable of accepting data, performing prescribed operations on the data, and supplying the results of these operations; for example, a device that operates on discrete data by performing arithmetic and logic processes on the data, or a device that operates on analog data by performing physical processes on the data.

"Computer Data Base", as used in this clause, means a collection of data in a form capable of being processed and operated on by a computer.

"Computer Program", as used in this clause, means a series of instructions or statements in a form acceptable to a computer, designed to cause the computer to execute an operation or operations. Computer programs include operating systems, assemblers, compilers, interpreters, data management systems, utility programs, sort-merge programs, and ADPE maintenance/diagnostic programs, as well as applications programs such as payroll, inventory control, and engineering analysis programs. Computer programs may be either machine-dependent or machine-independent, and may be general-purpose in nature or designed to satisfy the requirements of a particular user.

"Computer Software", as used in this clause, means computer programs and computer data bases.

"Computer Software Documentation", as used in this clause, means technical data, including computer listings and printouts, in human-readable form which (1) documents the design or details of computer software, (2) explains the capabilities of the software, or (3) provides operating instructions for using the software to obtain desired results from a computer.

"Developed at private expense", as used in this subpart, means that completed development was accomplished without direct Government payment, at a time when no Government contract required performance of the development effort, and was not developed as a part of performing a Government contract. The word "developed", as used in the phrase "developed at private expense" means brought to the point of practical application; i.e., to be considered "developed" an item or component must have been constructed, a process practiced, or computer softward used, and in each case it must have been tested so as to clearly demonstrate that it performs the objective for which it was developed. When, in applying these criteria, an item, component, process or software package does not meet the test because the entire item, component, process, or software package is not developed at private expense, separate elements thereof which do meet the criteria will be considered to have been developed at private expense. Further, in applying the foregoing criteria, when an item, component, process or computer software which has been developed at private expense is modified or revised to meet Government requirements specified in a contract, modification of the item, component, process or computer software shall not be considered to have been developed at private expense.

"License Rights," as used in this clause, means rights of the Government to use, duplicate, or disclose, in whole or in part and in any manner, for purposes stated in this contract or in a separate licensing agreement, technical data furnished with limited rights and computer software furnished with restricted rights, and to have or permit others to use such technical data or computer software on behalf of the Government for such purposes.

"Limited Rights", as used in this clause, means rights to use, duplicate, or disclose technical data, in whole or in part, by or for the Government with the express limitation that such technical data shall not, without the written permission of the party furnishing such technical data be (1) released or disclosed in whole or in part outside the Government, (2) used in whole or part by the Government for manufacture, or in the case of computer software documentation, for preparing the same or similar computer software, or (3) used by a party other than the Government, except for:

(i) Emergency repair or overhaul work, by or for the Government, where the item or process concerned is not otherwise reasonably available to enable timely performance of the work, *provided* that the release or disclosure thereof outside the Government shall be made subject to a prohibition against further use, release, or disclosure;

(ii) Release to a foreign government, as the interest of the United States may require, only for information or evaluation within such government under the conditions of (i) above; or

(iii) Release to a contractor retained by the Government to review technical data, provided that the release or disclosure thereof shall be subject to a prohibition against further use, release, or disclosure.

"Restricted Rights", as used in this clause, means rights that apply only to computer software, and include, as a minimum, the right to—

(1) Use computer software with the computer for which or with which it was acquired, including use at any Government installation to which the computer may be transferred by the Government;

(2) Use computer software with a backup computer if the computer for which or with which it was acquired is inoperative;

(3) Copy computer programs for safekeeping (archives) or backup purposes; and

(4) Modify computer software, or combine it with other software, subject to the provisions that those portions of the derivative software incorporating restricted rights software are subject to the same restricted rights.

In addition, restricted rights include any other specific rights not inconsistent with the minimum rights in (1)–(4) above that are listed or described in this contract or described in a license or agreement made a part of this contract.

"Technical Data", as used in this clause, means recorded information, regardless of the form or method of recording, of a scientific or technical nature. Technical data includes computer software documentation, but does not include computer software or financial, administrative, cost, pricing, or management data, or other information incidental to contract administration.

"Unlimited Rights", as used in this clause, means rights to use, duplicate, or disclose technical data or computer software, in whole or in part, in any manner and for any purpose whatsoever, and to have or permit others to do so.

"Unpublished", as used in this clause means that which has not been released to the public nor been furnished to others without restriction on further use or disclosure. For the purpose of this definition, delivery of limited data to or for the Government under a contract does not, in itself, constitute release to the public.

(b) *Government Rights.*—(1) *Unlimited Rights* The Government shall have unlimited rights in:

(i) Technical data and computer software resulting directly from performance of experimental, developmental or research work which was specified as an element of performance in this or any other Government contract or subcontract;

(ii) Computer software required to be originated or developed under a Government contract, or generated as a part of performing a contract;

(iii) Computer data bases, prepared under a Government contract, consisting of information supplied by the Government, information in which the Government has unlimited rights, or information which is in the public domain;

(iv) Technical data necessary to enable manufacture of end-items, components, modifications or processes, when the end-items, components, modifications or processes have been, or are being, developed under this or any other Government contract or subcontract in which experimental, developmental or research work is, or was specified as an element of contract performance; except technical data pertaining to items, components, processes, or computer software developed at private expense (but see (b)(2)(ii) below);

(v) Technical data or computer software prepared or required to be delivered under this or any other Government contract or subcontract and constituting corrections or changes to Government furnished data or computer software;

(vi) Technical data pertaining to end-items, components or processes, prepared or required to be delivered under this or any other Government contract or subcontract, for the purpose of identifying sources, size, configuration, mating and attachment characteristics, functional characteristics and performance requirements ("form, fit and function" data, e.g. specification control drawings, catalog sheets, envelope drawings, etc.);

(vii) Manuals or instructional materials prepared or required to be delivered under this contract or any subcontract hereunder for installation, operation, maintenance or training purposes;

(viii) Technical data or computer software which is in the public domain, or has been or is normally released or disclosed by the Contractor or subcontractor without restriction on further disclosure; and

(ix) Technical data or computer software listed or described in an agreement incorporated into the schedule of this contract which the parties have predetermined, on the basis of paragraphs (i) through (viii) above, and agreed will be furnished with unlimited rights.

(2) *Limited Rights.* The Government shall have limited rights in:

Unpublished technical data pertaining to items, components or processes developed at private expense, and unpublished computer software documentation related to computer software that is acquired with restricted rights, other than such data may be included in the data referred to in (b)(1)(i), (vi), (vii), and (viii) above.

Limited rights shall be effective only so long as the technical data remains unpublished and provided that only the portion or portions of each piece of data to which limited rights are to be asserted pursuant to (2)(i) and (ii) above are identified (for example, by circling, underscoring, or a note), and that the piece of data is marked with the legend below in which is inserted:

(i) The number of the prime contract under which the technical data is to be delivered,

(ii) The name of the Contractor and any subcontractor by whom the technical data was generated, and

(iii) An explanation of the method used to identify limited rights data.

Limited Rights Legend

Contract No. ———,
Contractor: ———,

Explanation of Limited Rights Data Identification Method Used

_____

_____

Those portions of this technical data indicated as limited rights data shall not, without the written permission of the above Contractor, be either (a) used, released or disclosed in whole or in part outside the Government, (b) used in whole or in part by the Government for manufacture or, in the case of computer software documentation, for preparing the same or similar computer software, or (c) used by a party other than the Government, except for: (1) Emergency repair or overhaul work, by or for the Government, where the item or process concerned is not otherwise reasonably available to enable timely performance of the work, *provided* that the release or disclosure hereof outside the Government shall be made subject to a prohibition against further use, release or disclosure; (2) release to a foreign government, as the interest of the United States may require, only for information or evaluation within such government or for emergency repair or overhaul work by or for such government under the conditions of (1) above; or (3) release or disclosure thereof to the contactor retained by the Government to review data, with such release being subject to a prohibition against further use, release or disclosure. The legend, together with the indications of the portions of this data which are subject to such limitations shall be included on any reproduction hereof which includes any part of the portions subject to such limitations. The limited rights legend shall be honored only as long as the data continues to meet the definition of limited rights.

(3) *Restricted Rights.* (i) The Government shall have restricted rights in computer software, developed at private expense and listed or described in a license or agreement made a part of this contract, which the parties have agreed will be furnished with restricted rights, *provided,* however, notwithstanding any contrary provision in any such license or agreement, the Government shall have the rights included in the definition of "restricted rights" in paragraph (a) above. Such restricted rights are of no effect unless the computer software is marked by the Contractor with the following legend:

Restricted Rights Legend

Use, duplication or disclosure is subject to restrictions stated in Contract No. ——— with ——— (Name of Contractor) ———.

and unless the related computer software documentation includes a prominent statement of the restrictions applicable to the computer software. The Contractor may not place any legend on computer software indicating restrictions on the Government's rights in such software unless the restrictions are set forth in a license or agreement made part of this contract prior to the delivery date of the software. Failure of the Contractor to apply a restricted rights legend to such computer software shall relieve the Government of liability with respect to such unmarked software.

(ii) Notwithstanding subdivision (i) above, commercial computer software and related documentation developed at private expense and not in the public domain may, if the Contractor so elects, be marked with the following legend:

Restricted Rights Legend

Use, duplication, or disclosure by the Government is subject to restrictions as set forth in subdivision (b)(3)(ii) of the Rights in Technical Data and Computer Software clause at 252.227–7013

(Name of Contractor and Address)

When acquired by the Government, commercial computer software and related documentation containing this legend shall be subject to the following:

(A) Title to and ownership of the software and documentation shall remain with the Contractor.

(B) Use of the software and documentation shall be limited to the facility for which it is acquired.

(C) The Government shall not provide or otherwise make available the software or documentation, or any portion thereof, in any form, to any third party without the prior written approval of the Contractor. Third parties do not include prime contractors, subcontractors and agents of the Government who have the Government's permission to use the licensed software and documentation at the facility, and who have agreed to use the licensed software and documentation at the facility, and who have agreed to use the licensed software and documentation only in accordance with these restrictions. This provision does not limit the right of the Government to use software, documentation, or information therein, which the Government may already have or obtains without restrictions.

(D) The Government shall have the right to use the computer software and documentation with the computer for which it is acquired at any other facility to which that computer may be transferred; to use the computer software and documentation with a backup computer when the primary computer is inoperative; to copy computer programs for safekeeping (archives) or backup purposes; and to modify the software and documentation or combine it with other software, *provided*, that the unmodified portions shall remain subject to these restrictions.

(E) If the Contractor, within sixty (60) days after a written request, fails to substantiate by clear and convincing evidence that computer software and documentation marked with this legend are commercial items and were developed at private expense, or if the Contractor fails to refute evidence presented by the Government that the software is in the public domain, the Government may cancel or ignore the restrictive legend and use the software with unlimited rights. Such written requests shall be addressed to the Contractor identified in the legend.

(4) No legend shall be marked on, nor shall any limitation or restriction on right of use be asserted as to, any data or computer software which the Contractor has previously delivered to the Government without restrictions. The limited or restricted rights provided for by this paragraph shall not impair the right of the Government to use similar or identical data or computer software acquired from other sources.

(c) *Copyright.* (1) In addition to the rights granted under the provisions of paragraph (b) above, the Contractor hereby grants to the Government a nonexclusive, paid-up license throughout the world, of the scope set forth below, under any copyright owned by the Contractor, in any work of authorship prepared for or acquired by the Government under this contract, to reproduce the work in copies or phonorecords, to distribute copies or phonorecords to the public, to perform or display the work publicly, and to prepare derivative works thereof, and to have others do so for Government purposes. With respect to technical data and computer software in which the Government has unlimited rights, the license shall be of the same scope as the rights set forth in the definition of "unlimited rights" in paragraph (a) above. With respect to technical data in which the Government has limited rights, the scope of the license is limited to the rights set forth in the definitions of "limited rights" in paragraph (a) above. With respect to computer software which the parties have agreed in accordance with paragraph (b)(3) above will be furnished with restricted rights, the scope of the license is limited to such rights.

(2) Unless written approval of the Contracting Officer is obtained, the Contractor shall not include in technical data or computer software prepared for or acquired by the Government under this contract any works of authorship in which copyright is not owned by the Contractor, without acquiring for the Government any rights necessary to perfect a copyright license of the scope specified in paragraph (c)(1).

(3) As between the Contractor and the Government, the Contractor shall be considered the "person for whom the work was prepared" for the purpose of determining authorship under Section 201(b) of Title 17, United States Code.

(4) Technical data delivered under this contract which carries a copyright notice shall also include the following statement which shall be placed thereon by the Contractor, or should the Contractor fail, by the Government:

This material may be reproduced by or for the U.S. Government pursuant to the copyright license under the clause at 252.227–7013 (date).

(d) *Removal of Unauthorized Markings from Computer Software.* Notwithstanding any provision of this contract concerning inspection and acceptance, the Government may correct, cancel, or ignore any marking not authorized by the terms of this contract on any computer software furnished hereunder if:

(1) The Contractor fails to respond within sixty (60) days to a written inquiry by the Government concerning the propriety of the markings, or

(2) The Contractor's response fails to substantiate, within sixty (60) days after written notice, the propriety of restricted rights markings by clear and convincing evidence.

(e) *Relation to Patents.* Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(f) *Limitation on Charges for Data and Computer Software.* The Contractor recognizes that the Government or a foreign government with funds derived through the Military Assistance Program or otherwise through the United States Government may contract for property or services with respect to which the vendor may be liable to the Contractor for charges for the use of technical data or computer software on account of such a contract. The contractor further recognizes that it is the policy of the Government not to pay in connection with its contracts, or to allow to be paid in connection with contracts made with funds derived through the Military Assistance Program or otherwise through the United States Government, charges for data or computer software which the Government has to right to use and disclose to others, which is in the public domain, or which the Government has been given without restrictions upon its use and disclosure to others. This policy does not apply to reasonable reproductions, handling, mailing, and similar administrative costs incident to the furnishing of such data or computer software. In recognition of this policy, the Contractor agrees to participate in and make appropriate arrangements for the exclusion of such charges from such contracts, or for the refund of amounts received by the Contractor with respect to any such charges not so excluded.

(g) *Acquisition of Data and Computer Software from Subcontractors.* (1) Whenever any technical data or computer software is to be obtained from a subcontractor under this contract, the Contractor shall use this same clause in the subcontract, without alteration and no other clause shall be used to enlarge or diminish the Government's or the Contractor's rights in the subcontractor data or computer software which is required for the Government.

(2) Technical data required to be delivered by a subcontractor shall normally be delivered to the next-higher tier contractor. However, when there is a requirement in the prime contract for data which may be submitted with limited rights, a subcontractor may fulfill such requirement by submitting such data directly to the Government rather than through the prime Contractor.

(3) The Contractor and higher-tier subcontractors will not use their power to award subcontracts as economic leverage to acquire rights in technical data or computer software from their subcontractors for themselves.

(End of clause)

Alternate I (Aug 1985)

As prescribed at 227.473–1(b), add the following paragraph to the basic clause:

Notice of Certain Limited or Restricted Rights

(h)(1) Except as otherwise provided herein, the Contractor will promptly notify the Contracting Officer in writing if the Contractor or a subcontractor intends to use in the performance of this contract any item, component, process, or computer software developed at private expense. The notification shall include an identification of

the items, components, processes or computer software and the associated data pertaining thereto.

(2) Notification is not required with respect to:

(i) Items, components, processes and computer software for which notification was previously given in his contract pursuant to the clause at DFARS 252.227-7035, Prenotification of Rights in Technical Data and Computer Software, or

(ii) Standard commercial items which are manufacturerd by more than one source of supply.

(3) Except as otherwise provided herein, Contracting Officer approval is not necessary for the Contractor to use the subject item, component, process, or computer software in the performance of the contract.

Alternate II (May 1981)

As prescribed at 227.477, add the following paragraph to the basic clause:

( ) Publication for sale. If, prior to publication for sale by the Government and within the period designated in the contract or task order, but in no event later than twenty-four (24) months after delivery of such data, the Contractor publishes for sale any data: (1) Designated in the contract as being subject to this paragraph and (2) delivered under this contract, and promptly notifies the Contracting Officer of these publications, the Government shall not publish such data for sale or authorize others to do so. This limitation on the Government's right to publish for sale any such data so published by the Contractor shall continue as long as the data is protected as a published work under the copyright law of the United States and is reasonably available to the public for purchase. Any such publication shall include a notice identifying this contract and recognizing the license rights of the Government under paragraph (c)(1) of this clause. As to all such data not so published by the Contractor, this paragraph shall be of no force or effect.

Alternate III (Aug 1985)

As prescribed at 227.473-2(e), add the following paragraph to the basic clause:

( ) (i) Notwithstanding any other provision of this contract the Government shall have (specify type of rights here, i.e., unlimited, license) rights in limited rights technical data and restricted rights computer sofware furnished under this contract effective on the day immediately following the date specified in the contract for the expiration of the limited and restricted rights legends. Such expiration date shall be marked on each piece of limited and restricted rights data furnished under the contract.

(ii) Technical data subject to the expiration of limited rights shall be marked with the limited rights legend set forth in paragraph (b)(2)(i) above with the title of the legend modified to read:

Limited Rights Legend (Subject to Expiration)

Contract No.————.
Contractor:————.

The following statement shall also be added to the legend:

Limited rights shall become (*specify type of rights here*, i.e., unlimited, license) rights on (*insert expiration date*).

The modified legend shall be included on any reproduction of the limited rights data, in whole or in part.

(iii) Computer software subject to the expiration or restricted rights shall be marked with the restricted rights legend set forth in paragraph (b)(3)(i) above with the title of the legend modified to read:

Restricted Rights Legend (Subject to Expiration)

Use, duplication or disclosure is subject to restrictions stated in Contract No. ————with (Name of Contractor)————.

The following statement shall also be added to the legend:

Restricted rights shall become (*specify type or rights here*, i.e., unlimited, license) rights on (*insert expiration date*).

The modified legend shall be included on any reproduction of the restricted rights data, in whole or in part.

Alternate IV (Aug 1985)

As prescribed at 227.473-2(b), add the following subparagraph to the basic clause as subparagraph (b)(5):

(5) *License Rights.* (i) Technical data delivered under this contract shall be acquired with license rights.

(ii) The Government may use, duplicate, or disclose the technical data for purposes stated in this contract, and may have or permit others to use such data on behalf of the Government for such purposes. License rights do not grant to the Government the rights to use such data for commercial purposes or the rights to have or permit others to use such data for commercial purposes. The Government assumes no liability for use, duplication, or disclosure of such data by others for commercial purposes. Disclosure of such data to others and use of such data by others on behalf of the Government for the purposes stated in this contract shall be subject to a prohibition against further use, release or disclosure.

(iii) Technical data acquired by the Government with license rights pursuant to this paragraph shall be marked with the limited rights legend set forth in paragraph (b)(2)(i) above with the title of the legend modified to read:

License Rights Legend

The legend shall be revised by deleting the words "Limited Rights" wherever they appear and by including in their place the words "License Rights".

The modified legend shall be included on any reproduction of the license rights data, in whole or in part.

252.227-7014 [Reserved]

252.227-7015 Rights in technical data—Specific acquisition.

As prescribed at 227.473-2(a), insert the following clause:

Rights in Techincal Data—Specific Acquisition (Aug 1985)

(a) *Definition.* "Technical Data", as used in this clause, means recorded information, regardless of the form or method of recording, of a scientific or technical nature. Technical data includes computer software documentation, but does not include computer software or financial, administrative, cost, pricing, or management data, or other information incidental to contract administration.

(b) *Government Rights.* The Government may duplicate, use and disclose in any manner and for any purpose whatsoever, and have others so do, all or any part of the technical data delivered by the Contractor to the Government under this contract.

(c) *Copyright.* (1) In addition to the rights granted under the provisions of (b) above, the Contractor hereby grants to the Government a nonexclusive, paid-up license throughout the world under any copyright owned by the Contractor, in any work of authorship prepared for or acquired by the Government under this contract, to reproduce the work in copies or phonorecords, to distribute copies of phonorecords to the public, to perform or display the work publicly, and to prepare derivative works thereof, and to have others do so for Government purposes.

(2) Unless written approval of the Contracting Officer is obtained, the Contractor shall not include in technical data prepared for or acquired by the Government under this contract any works of authorship in which copyright is not owned by the Contractor without acquiring for the Government any rights necessary to perfect a copyright license of the scope specified in subparagraph (c)(1) above.

(3) As between the Contractor and the Government, the Contractor shall be considered the "person for whom the work was prepared" for the purpose of determining authorship under Section 201(b) of Title 17, United States Code.

(4) Technical data delivered under this contract which carries a copyright notice shall also include the following statement which shall be placed thereon by the Contractor, or should the Contractor fail, by the Government:

This material may be reproduced by or for the U.S. Government pursuant to the copyright license under the clause at 252.227-7015 (date).

(d) *Relation to Patents.* Nothing contained in this clause shall imply a license to the Government under any patent, or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(e) *Limitation on Charges for Data.* The Contractor recognizes that the Government, or a foreign government with funds derived through the Military Assistance Program or otherwise through the United States Government, may contract for property or services with respect to which the vendor may be liable to the Contractor for charges for the use of technical data on account of such a contract. The Contractor further recognizes that it is the policy of the Government not to pay in connection with its contracts, or to allow to be paid in connection with contracts made with funds derived throughout the Military Assistance Program or otherwise through the United

States Government, charges for data which the Government has a right to use and disclose to others, which is in the public domain, or which the Government has been given without restrictions upon its use and disclosure to others. This policy does not apply to reasonable reproduction, handling, mailing, and similar administrative costs incident to the furnishing of such data. In recognition of this policy, the Contractor agrees to participate in and make appropriate arrangements for the exclusion of such charges from such contracts, or for the refund of amounts received by the Contractor with respect to any such charges not so excluded.

(End of clause)

252.227-7016 Contract schedule items requiring experimental, developmental, or research work.

As prescribed at 227.472-1(f), insert the following clause:

Contract Schedule Items Requiring Experimental, Developmental, or Research Work (Aug. 1985)

For purposes of defining the nature of the work and the scope of rights in data granted to the Government pursuant to the "Rights in Technical Data and Computer Software" clause of this contract, it is understood and agreed that items (list applicable schedule line items or sub-line items or data exhibit numbers) require the performance of experimental, developmental, or research work or require computer software to be originated or developed under a Government contract or generated as a part of performing a Government contract.

(End of clause)

252.227-7017 [Reserved]

252.227-7018 Restrictive markings on technical data and computer software.

As prescribed at 227.473-3(b)(2), insert the following clause:

Restrictive Markings on Technical Data and Computer Software (Aug. 1985)

(a) The Contractor shall have, maintain, and follow throughout the performance of this contract, procedures sufficient to assure that restrictive markings are used on technical data and computer software required to be delivered hereunder only when authorized by the terms of the "Rights in Technical Data and Computer Software" clause of this contract. The Contractor shall assure that subcontractors have sufficient procedures to assure that only authorized markings are used. Contractor and subcontractor procedures shall be in writing. The Contractor shall also maintain a quality assurance system to assure compliance with the clause.

(b) The Contractor shall maintain (1) records to show how the procedures of paragraph (a) above were applied in determining that the markings are authorized, as well as (1) such records as are reasonably necessary to show pursuant to subparagraph (d)(2) of the "Rights in Technical Data and Computer Software" clause that restrictive markings used in any piece of technical data or computer software delivered under this contract are authorized, and that the data continues to meet the definition of limited rights or restricted rights.

(c) The Contractor shall, within sixty (60) days after award of this contract, identify in writing to the Contracting Officer by name or title the person(s) having the final responsibility within the Contractor's organization for determining whether restrictive markings are to be placed on technical data and computer software to be delivered under this contract. The Contractor hereby authorizes direct contact between the Government and such person(s) in resolving questions involving technical data and computer software compliance and restrictive markings.

(d) The Contracting Officer may evaluate or verify the Contractor's procedures to determine their effectiveness. Upon request, a copy of the written procedures shall be furnished. The failure of the Contracting Officer to evaluate or verify such procedures shall not relieve the Contractor of the responsibility for complying with paragraphs (a) and (b) above.

(e)(1) If the Contractor fails to make a good faith effort to institute the procedures of paragraphs (a) and (b) above, any limited rights markings on technical data and restricted right markings on computer software delivered under this contract may be cancelled or ignored by the Contracting Officer. The Contracting Officer shall give written notice to the Contractor of the action taken, including identification of the data or software on which markings have been cancelled or ignored, and thereafter may use such data or software with unlimited rights.

(2) The Contracting Officer may give written notification to the Contractor of any failure to maintain or follow the established procedures, or of any material deficiency in the procedures, and state a period of time not less than thirty (30) days within which the Contractor shall complete corrective action. If corrective action with respect to restrictive markings in not completed within the specified time, restrictive markings on any technical data and computer software being prepared for delivery or delivered under this contract during that period shall be presumed to be unauthorized by the terms thereof and the Contracting Officer may cancel or ignore such markings if the Contractor is unable to substantiate the markings in accordance with the procedures of paragraph (d) of the clause at 252.227-7013, Rights in Technical Data and Computer Software, or with respect to technical data and procedures in the clause at FAR 52.227-14.

(f) Notwithstanding any provisions of this contract concerning inspection and acceptance, the acceptance by the Government of technical data or computer software with restrictive legends shall not be construed as a waiver of any rights accruing to the Government.

(g) This clause, including this paragraph (g), shall be included in each subcontract under which technical data is required to be delivered or computer software may be originated, developed or generated. When so inserted, "Contractor" shall be changed to "Subcontractor".

(End of clause)

252.227-7019 Identification of restricted rights computer software.

As prescribed at 227.473-4(a)(3), insert the following provision:

Identification of Restricted Rights Computer Software (Apr. 1977)

The Offeror's attention is called to the requirement in the "Rights in Technical Data and Computer Software" clause that any restrictions on the Government concerning use or disclosure of computer software that was developed at private expense and is to be delivered under the contract must be set forth in an agreement made a part of the contract, either negotiated prior to award or included in a modification of the contract before such delivery. Therefore, the Offeror is requested to identify in his proposal any computer software which was developed at private expense and upon the use of which he desires to negotiate restrictions, and to state the nature of the proposed restriction. If no such computer software is identified, it will be assumed that all deliverable computer software will be subject to unlimited rights.

(End of Provision)

252.227-7020 Rights in data—Special works.

As prescribed at 227.475, insert the following clause:

Rights in Data—Special Works (Mar. 1979)

(a) the term "works" as used herein, includes literary, musical, and dramatic works; pantomines and choreographic works; pictorial, graphic, and sculptural works; motion pictures and other audiovisual works; sound recordings; and works of similar nature. The term does not include financial reports, costs analyses, and other information incidental to contract administration.

(b) All works first produced in the performance of this contract shall be the sole property of the Government, which shall be considered the "person for whom the work was prepared", for the purpose of authorship in any copyrightable work under section 201(b) of Title 17, United States Code, and the Government shall own all of the rights comprised in the copyright. The Contractor agrees not to assert or authorize others to assert any rights, or establish any claim to copyright, in such works. The Contractor, unless directed to the contrary by the Contracting Officer, shall place on any such works delivered under this contract the following notice:

c (*Year date of delivery*) United States Government as represented by the Secretary of (*department*). All rights reserved.

In the case of a phonorecord, the c will be repaced by P.

(c) Except as otherwise provided in this contract, the Contractor hereby grants to the Government a nonexclusive, paid-up license throughout the world: (1) To reproduce in copies or phonorecords, to prepare derivative works, to distribute copies or phonorecords, and to perform or display publicly any portion of a work which is not first produced in the performance of this contract, but in

which copyright is owned by the Contractor and which is incorporated in the work furnished under this contract, and (2) to authorize others to do so for Government purposes.

(d) Unless written approval of the Contracting Officer is obtained, the Contractor shall not include in any works prepared for or delivered to the Government under this contract any works of authorship in which copyright is not owned by the Contractor or the Government without acquiring for the Government any rights necessary to perfect a license of the scope set forth in paragraph (c) above.

(e) The Contractor shall indemnify and save and hold harmless the Government and its officers, agents and employees acting for the Government, against any liability, including costs and expenses (1) for violation of proprietary rights, copyrights, or rights of privacy or publicity, arising out of the creation, delivery, or use of any works furnished under this contract; or (2) based upon any libelous or other unlawful matter contained in such works.

(f) Nothing contained in this clause shall imply a license to the Government under any patent, or be construed as affecting the scope of any license of other right otherwise granted to the Government under any patent.

(g) Paragraphs (c) and (d) above are not applicable to material furnished to the Contractor by the Government and incorporated in the work furnished under the contract; *Provided*, such incorporated material is identified by the Contractor at the time of delivery of such work.

(End of clause)

252.227-7021 Rights in data—Existing works.

As prescribed at 227.476, insert the following clause:

Rights in Data—Existing Works (Mar. 1979)

(a) The term "works", as used herein, includes literary, musical, and dramatic works; pantomimes and choreographic works; pictorial, graphic and sculptural work; sound recordings; and works of a similar nature. The term does not include financial reports, cost analyses, and other information incidental to contract administration.

(b) Except as otherwise provided in this contract, the Contractor hereby grants to the Government a nonexclusive, paid-up license throughout the world (1) to distribute, perform publicly, and display publicly the works called for under this contract; and (2) to authorize others to do so for Government purposes.

(c) The Contractor shall indemnify and save and hold harmless the Government, and its officers, agents, and employees acting for the Government, against any liability, including costs and expenses, (1) for violation of proprietary rights, copyrights, or rights of privacy or publicly arising out of the creation, delivery, or use of any works furnished under this contract; or (2) based upon any libelous or other unlawful matter contained in those works.

(End of clause)

252.227-7022 Government rights (unlimited).

As prescribed at 227.478-2(a)(1), insert the following clause:

Government Rights (Unlimited) (Mar. 1979)

(a) The Government shall have unlimited rights in all drawings, designs, specifications, notes and other works developed in the performance of this contract, including the right to use same on any other Government design or construction without additional compensation to the Contractor. The Contractor hereby grants to the Government a paid-up license throughout the world to all such works to which he may assert or establish any claim under design patent or copyright laws. The Contractor, for a period of three (3) years after completion of the project, agrees to furnish the original or copies of all such works on the request of the Contracting Officer.

(End of clause)

252.227-7023 Drawings and other data to become property of Government.

As prescribed at 227.478-2(a)(1)(ii), insert the following clause:

Drawings and Other Data To Become Property of Government (Mar. 1979)

All designs, drawings, specifications, notes and other works developed in the performance of this contract shall become the sole property of the Government and may be used on any other design or construction without additional compensation to the Contractor. The Government shall be considered the "person for whom the work was prepared" for the purpose of authorship in any copyrightable work under Section 201(b) of Title 17, United States Code. With respect thereto, the Contractor agrees not to assert or authorize others to assert any rights nor establish any claim under the design patent or copyright laws. The Contractor, for a period of three (3) years after completion of the project, agrees to furnish all retained works on the request of the Contracting Officer. Unless otherwise provided in this contract, the Contractor shall have right to retain copies of all works beyond such period.

(End of clause)

252.227-7024 Notice and approval of restricted designs.

As prescribed at 227.478-5, insert the following clause:

Notice and Approval of Restricted Designs (Apr. 1984)

In the performance of this contract, the Contractor shall, to the extent practicable, make maximum use of structures, machines, products, materials, construction methods, and equipment that are readily available through Government or competitive commercial channels, or through standard or proven production techniques, methods, and processes. Unless approved by the Contracting Officer, the Contractor shall not produce a design or specification that requires in this construction work the use of structures, products, materials, construction equipment or processes that are known by the Contractor to be available only from a sole source. The Contractor shall promptly report any such design or specification to the Contracting Officer and given the reason why it is considered necessary to so restrict the design or specification.

(End of clause)

252.227-7025 Rights in technical data and computer software (SBIR Program).

As prescribed at 227.480, insert the following clause:

Rights in Technical Data and Computer Software (SBIR Program) (Aug. 1985)

(a) *Definitions.* "Computer data base", as used in this clause, means a collection of data in a form capable of being processed and operated on by a computer.

"Computer program", as used in this clause, means a series of instructions or statements in a form acceptable to a computer designed to cause the computer to execute an operation or operations. Computer programs may be either machine-dependent or machine-independent, and may be general purpose in nature or designed to satisfy the requirements of a particular user.

"Computer software", as used in this clause, means computer programs and computer data bases.

"Computer software documentation", as used in this clause, means technical data, including computer listings and printouts, in human readable form which (1) documents the design or details of computer software, (2) explains the capabilities of the software, or (3) provides operating instructions for using the software to obtain desired results from a computer.

"License rights", as used in this clause, means rights to use, duplicate, or disclose technical data or computer software in whole or in part and in any manner, for Government purposes only, and to have or permit others to do so for Government purposes only. License rights do not grant to the Government the right to have or permit others to use technical data or computer software for commercial purposes.

"Limited rights", as used in this clause, means right to use, duplicate, or disclose technical data, in whole or in part, by or for the Government, with the express limitation that such technical data shall not, without the written permission of the party furnishing such technical data, be (1): Released or disclosed in whole or in part outside the Government, (2) used in whole or part by the Government for manufacture, or in the case of computer software documentation for preparing the same or similar computer software, or (3) used by a party other than the Government.

"Restricted rights", as used in this clause, means rights that apply only to computer software, and include, as a minimum, the right to:

(1) Use computer software with the computer for which or with which it was acquired, including use at any Government

installation to which the computer may be transferred by the Government;

(2) Use computer software with a backup computer if the computer for which or with which it was acquired is inoperative;

(3) Copy computer programs for safekeeing (archives) or backup purposes; and

(4) Modify computer software, or combine it with other software, subject to the provision that those portions of the derivative software incorporating restricted rights software are subject to the same restricted rights.

In addition, restricted rights include any other specific rights not inconsistent with the minimum rights in (1)–(4) above that are listed or described in this contract or described in a license agreement made a part of this contract.

"Technical data", as used in this clause, means recorded information, regardless of the form or method of recording, of a scientific or technical nature. Technical data includes computer software documentation, but does not include computer software or financial, administrative, cost, pricing, or management data, or other information incidental to contract administration.

"Unlimited rights", as used in this clause, means right to use, duplicate, or disclose technical data or computer software, in whole or in part, in any manner and for any purpose whatsoever, and to have or permit others to do so.

(b) *Government Rights*—(1) *License Rights.* For a period of two (2) years (or such other period as may be authorized by the Contracting Officer for good cause shown) after the delivery and acceptance of the last deliverable item under this contract, the Government shall have limited rights and, after the expiration of the two-year period, shall have license rights in:

(i) Technical data and computer software resulting directly from performance of experimental, developmental, or research work which was specified as an element of performance in this contract or any subcontract hereunder;

(ii) Computer software required to be originated or developed under this contract or any subcontract hereunder, or generated as a necessary part of performing this contract or any subcontract hereunder;

(iii) Technical data necessary to enable manufacture of end-items, components and modifications, or to enable the performance of processes, when the end-items, components, modifications or processes have been, or are being, developed under this contract or any subcontract hereunder in which experimental, developmental or research work is, or was specified as an element of contract performance; except technical data pertaining to items, components, processes or computer software developed at private expense (but see subparagraph (b)(2)(i) below);

(iv) Technical data or computer software prepared or required to be delivered under this contract or any subcontract hereunder and constituting correction or changes to Government-furnished data or computer software;

(v) Technical data pertaining to end-items, components or processes, prepared or required to be delivered under this contract or any subcontract hereunder for the purpose of identifying sources, size, configuration, mating and attachment characteristics, functional characteristics and performance requirements ("form, fit and function" data, e.g., specification control drawings, catalog sheets, envelope drawings, etc.);

(vi) Manuals or instructional materials prepared or required to be delivered under this contract or any subcontract hereunder for installation, operation, maintenance, or training purposes; and

(vii) Any other technical data or computer software prepared or required to be delivered under this contract or any subcontract hereunder, other than technical data furnished with limited or unlimited rights pursuant to subparagraphs (b) (2) and (4) below or computer software furnished with restricted or unlimited rights pursuant to subparagraphs (b) (3) and (4) below.

License rights shall be effective with respect to the technical data identified in subparagraphs (b)(1) (i), (iii), (iv), (v), (vi), and (vii) above only if each piece of data is marked with the License Rights Legend below in which is inserted the number of the prime contract under which the data is to be delivered, the name of the Contractor and any subcontractor by whom the data was generated, and the period in which the data is subject to limited rights, and shall be effective with respect to the computer software identified in subparagraphs (b)(1) (i), (ii), (iv) and (vii) above only if each unit of software is marked with an abbreviated License Rights Legend reciting that the use, duplication, or disclosure of the software is subject to the same license rights restriction included in the same contract (identified by number) with the same Contractor (identified by name):

License Rights Legend

Contract No. ———
Contractor or Subcontractor: ————
For a period of two (2) years after the delivery and acceptance of the last deliverable item under this contract, this technical data shall not, without the written permission of the above Contractor, be either (A) used, released or disclosed in whole or in part outside the Government, (B) used in whole or in part by the Government for manufacture, or (C) used by a party other than the Government. After the expiration of the two (2) year period, the Government may use, duplicate, or disclose the data, in whole or in part and in any manner, for Government purposes only, and may have or permit others to do so for Government purposes only. All rights to use or duplicate the data for commercial purposes are retained by the Contractor, and others to whom this data may be disclosed agree to abide by this commercial purposes limitation. The Government assumes no liability for use or disclosure of the data by others for commercial purposes. This legend shall be included on any reproduction of this data, in whole or in part.

(2) *Limited Rights.* The Government shall have limited rights in:

(i) Unpublished technical data pertaining to items, components or processes developed at private expense, and unpublished computer software documentation related to computer software that is acquired with restricted rights, other than such data as may be included in the data referred to in subparagraphs (b)(1) (i), (iv), (v), and (vi) above. The word *unpublished*, as applied to technical data and computer software documentation, means that which has not been released to the public nor been furnished to others without restriction on further use or disclosure. For the purpose of this definition, delivery of limited rights technical data to or for the Government under a contract does not, in itself, constitute release to the public.

Limited Rights shall be effective with respect to the technical data mentioned in subparagraph (b)(2)(i) above only so long as the technical data remains unpublished and only if each piece of data is marked with the Limited Rights Legend below in which is inserted the number of the prime contract under which the data is to be delivered and the name of the Contractor and any subcontractor by whom the data was generated:

Limited Rights Legend

Contract No. ———
Contractor or subcontractor: ————
This technical data shall not, without the written permission of the above Contractor, be either (A) used, released or disclosed in whole or in part outside the Government, (B) used in whole or in part by the Government for manufacture, or (C) used by a party other than the Government. This legend shall be included on any reproduction of this data, in whole or in part.

(3) *Restricted Rights.* The Government shall have restricted rights in privately developed computer software, listed or described in a license agreement made a part of this contract, which the parties have agreed will be furnished with restricted rights; *Provided*, however, notwithstanding any contrary provision in any such license or agreement, the Government shall have the rights included in the definition of "restricted rights" in paragraph (a) above. Such restricted rights are of no effect unless the computer software is marked by the Contractor with the following legend:

Restricted Rights Legend

Use, duplication or disclosure is subject to restrictions stated in Contract No. ——— with ——— (Name of Contractor), and the related computer software documentation includes a prominent statement of the restrictions applicable to the computer software. The Contractor may not place any legend on computer software indicating restrictions on the Government's rights in such software unless the restrictions are set forth in a license or agreement made a part of this contract prior to the delivery date of the software. Failure of the Contractor to apply a restricted rights legend to such computer software shall relieve the Government of liability with respect to such unmarked software.

(4) *Unlimited Rights.* The Government shall have unlimited rights in:

(i) Technical data or computer software required to be prepared or delivered under this contract or any subcontract hereunder that was previously delivered or previously required to be delivered to the Government under any contract or subcontract with unlimited rights;

(ii) Technical data or computer software that is in the public domain or has been or is normally released or disclosed by the Contractor or any subcontractor without restriction on further use or disclosure; and

(iii) Computer data bases, consisting of information supplied by the Government, information in which the Government has unlimited rights, or information which is in the public domain.

(5) No legend shall be marked on, nor shall any limitation or restriction on rights of use be asserted as to any technical data or computer software which the Contractor or any subcontractor has previously delivered to the Government without restriction. The license, limited or restricted rights provided for by this paragraph (b) shall not impair the right of the Government to use similar or identical technical data or computer software acquired from other sources.

(c) *Copyright.* (1) The Contractor is hereby granted permission to assert or establish claim to or ownership of copyright in any work of authorship prepared for or acquired by the Government under this contract. In addition to the rights granted in paragraph (b) above, the Contractor hereby grants to the Government a nonexclusive, irrevocable, paid-up license throughout the world of the scope set forth below, under any such copyright to reproduce the work in copies or phonorecords, to distribute copies or phonorecords to the public, to perform or display the work publicly, and to prepare derivative works thereof, and to have others do so for Government purposes. All published works for which claim to or ownership of copyright has been asserted or established shall contain an appropriate credit line identifying Government support. With respect to technical data and computer software in which the Government has license rights or computer software in which the Government has license rights or unlimited rights, the license shall be of the same scope as the rights set forth in the definitions of "license rights" and "unlimited rights" in paragraph (a) above. With respect to technical data in which the Government has limited rights, the scope of the license is limited to the rights set forth in the definition of "limited rights" in paragraph (a) above. With respect to computer software which the parties have agreed will be furnished with restricted rights, the scope of the license is limited to such rights.

(2) Unless written approval of the Contracting Officer is obtained, the Contractor shall not include in technical data or computer software prepared for or acquired by the Government under this contract any works of authorship in which copyright is not owned by the Contractor without acquiring for the Government any rights necessary to perfect a copyright license of the scope specified in paragraph (c)(1).

(3) As between the Contractor and the Government, the Contractor shall be considered the "person for whom the work was prepared" for the purpose of determining authorship under Section 201(b) of Title 17, United States Code.

(4) Technical data delivered under this contract which carries a copyright notice shall also include the following statement which shall be placed thereon by the Contractor, or should the Contractor fail, by the Government:

The material may be reproduced by or for the U.S. Government pursuant to copyright license.

(d) *Removal of Unauthorized Markings from Computer Software.* Notwithstanding any provision of this contract concerning inspection and acceptance, the Government may correct, cancel, or ignore any marking not authorized by the terms of this contract on any computer software furnished hereunder if:

(1) The Contractor fails to respond within sixty (60) days to a written inquiry by the Government concerning the propriety of the marking, or

(2) The Contractor's response fails to substantiate, within sixty (60) days after written notice, the propriety of restricted rights markings by clear and convincing evidence.

(e) *Omitted Markings.* Technical data and computer software delivered to the Government without any of the legends or markings specified in paragraph (b) above or that are not copyrighted shall be deemed to have been furnished with unlimited rights, and the Government assumes no liability for the use, duplication or disclosure of such data and software. However, to the extent the data and software have been disclosed without restriction outside the Government, the Contractor may request, within six (6) months after delivery of such data and software, permission to place restrictive legends on such data and software at the Contractor's expense and the Government may so permit if the Contractor:

(1) Demonstrates that the omission of the restrictive legends was inadvertent;

(2) Establishes pursuant to paragraph (d) above that the use of the markings is authorized; and

(3) Acknowledges that the Government has no liability with respect to the use or disclosure of such data and software that was received prior to the addition of the restrictive markings.

(f) *Relation to Patents.* Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.

(g) *Acquisition of Data and Computer Software from Subcontractors.* (1) Whenever any technical data or computer software is to be obtained from a subcontractor under this contract, the Contractor shall use this same clause in the subcontract, without alteration, and no other clause shall be used to enlarge or diminish the Government's or the Contractor's right in that subcontractor data or computer software which is required for the Government.

(2) Technical data required to be delivered by a subcontractor shall normally be delivered to the next higher-tier Contractor. However, when there is a requirement in the prime contract for data which may be submitted with limited rights purusant to paragraph (b)(2) above, a subcontractor may fulfill such requirement by submitting such data directly to the Government rather than through the prime Contractor.

(3) The Contractor and higher-tier subcontractors will not use their power to award subcontracts as economic leverage to acquire rights in technical data or computer software from their subcontractors for themselves.

(End of clause)

252.227-7026 Deferred delivery of technical data or computer software.

As prescribed at 227.474-2(b), insert the following clause:

Deferred Delivery of Technical Data or Computer Software (Nov 1974)

The Government shall have the right to require, at any time during the performance of this contract, within two (2) years after either acceptance of all times (other than technical data or computer software) to be delivered under this contract or termination of this contract, whichever is later, the delivery of any technical data or computer software item identified in this contract as "deferred delivery" data or computer software. The obligation to furnish such technical data required to be prepared by a subcontractor and pertaining to an item obtained from him shall expire two (2) years after the date the Contractor accepts the last delivery of that item from that subcontractor for use in performing the contract.

(End of clause)

252.227-7027 Deferred ordering of technical data or computer software.

As prescribed at 227.474-2(c), insert the following clause:

Deferred Ordering of Technical Data or Computer Software (Nov 1974)

In addition to technical data or computer software specified elsewhere in this contract to be delivered hereunder, the Government may, at any time during the performance of this contract or within a period of three (3) years after acceptance of all items (other than technial data or computer software) to be delivered under this contract or the termination of this contract, order any technical data or computer software (as defined in the "Rights in Technical Data and Computer Software" clause of this contract) generated in the performance of this contract or any subcontract hereunder. When such technical data or computer software is ordered, the Contractor shall be compensated for converting the data or computer software into the prescribed form, for reproduction and delivery. The obligation to deliver such technical data of a subcontractor and pertaining to an item obtained from him shall expire three (3) years after the date the Contractor accepts the last delivery of that from that subcontractor under this contract. The Government's rights to use said data or

computer software shall be pursuant to the "Rights in Technical Data and Computer Software" clause of this contract.

(End of clause)

252.227-7028 Certification of technical data—prior delivery.

As prescribed at 227.474-3(a), insert the following provision:

Certification of Technical Data—Prior Delivery (Aug 1985)

The Offeror shall submit with this offer a certification as to whether the same or substantially the same technical data included in this offer has been delivered or is obligated to be delivered to the Government under any contract or subcontract. If so, the Offeror shall identify in this offer one such contract or subcontract under which such technical data was delivered or is obligated to be delivered and the place of delivery.

(End of provision)

252.227-7029 Identification of technical data.

As prescribed at 227.474-4, insert the following clause:

Identification of Technical Data (Mar 1979)

Technical data (as defined in the "Rights in Technical Data and Computer Software" clause of this contract) delivered under this contract shall be marked with the number of this contract, name of Contractor, and name of subcontractor who generated the data.

(End of clause)

252.227-7030 Technical data—withholding of payment.

As prescribed at 227.474-5, insert the following clause:

Technical Data—Withholding of Payment (Aug 1985)

(a) If "technical data" (as defined in the clause of this contract entitled "Rights in Technical Data and Computer Software") or any part thereof, specified to be delivered under this contract, is not delivered within the time specified by this contract or is deficient upon delivery (including having restrictive markings not specifically authorized by this contract), or is not delivered with required certification, the Contracting Officer may, at any time during contract performance before such data is accepted by the Government, withhold payment to the Contractor ten percent (10%) of the total contract price, unless a lesser withholding is specified in the contract. Payment shall not be withheld nor any other action taken pursuant to this paragraph when the Contractor's failure to make timely delivery or to deliver such data without deficiencies arise out of causes beyond the control and without the fault or negligence of the Contractor.

(b) After payments total ninety percent (90%) of the total contract price or amount and if all technical data specified to be delivered under this contract has not been accepted, the Contracting Officer may withhold from further payment such sum as he considers appropriate not exceeding ten percent (10%) of the total contract price or amount unless a lesser withholding limit is specified in the contract.

(c) The withholding of any amount or subsequent payment to the Contractor shall not be construed as a waiver of any rights accruing to the Government under this contract.

(End of clause)

252.227-7031 Data requirements.

As prescribed at 227.474-1, insert the following clause:

Data Requirements (Aug 1985)

(a) "Data", as used in this clause, means recorded information, regardless of the form or method of the recording.

(b) The Contractor is required to deliver only the data items listed on the DD Form 1423 (Contract Data Requirements List), data items identified in and deliverable under any contract clause of FAR Subpart 52.2 and DoD FAR Supplement Subpart 252.2 made a part of the contract, and manuals to be utilized in training, operations, and maintenance and covered by a specific contract line item.

(End of clause)

252.227-7032 Rights in technical data and computer software (foreign).

As prescribed at 227.473-2(g), insert the following clause:

Rights in Technical Data and Computer Software (Foreign) (Jun 1979)

The United States Government may duplicate, use, and disclose in any manner for any purposes whatsoever, including delivery to other governments for the furtherance of mutual defense of the United States Government and other governments, all technical data, including reports, drawings and blueprints, and all computer software, specified to be delivered by the Contractor to the United States Government under this contract.

(End of clause)

252.227-7033 Rights in shop drawings.

As prescribed at 227.478-2(a)(2), insert the following clause:

Rights in Shop Drawings (Apr 1966)

(a) Shop drawings for construction means drawings, submitted to the Government by the Construction Contractor, subcontractor, or any lower-tier subcontractor pursuant to a construction contract, showing in detail: (1) The proposed fabrication and assembly of structural elements and (2) the installation (i.e., form, fit, and attachment details) of materials or equipment. The Government may duplicate, use, and disclose, in any manner and for any purpose, shop drawings delivered under this contract.

(b) This clause, including this paragraph (b), shall be included in all subcontracts hereunder at any tier.

(End of clause)

252.227-7034 Patents—subcontracts.

As prescribed at 227.304-4, insert the following clause:

Patents—Subcontracts (Apr 1984)

The Contractor will include the clause at FAR 52.227-12, Patent Rights—Retention by the Contractor (Long Form), suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental, or research work to be performed by other than a small business firm or nonprofit organization.

(End of clause)

252.227-7035 Prenotification of rights in technical data and computer software.

As prescribed at 227.473-1(a), insert the following provision:

Prenotification of Rights in Technical Data and Computer Software (Aug 1985)

(a) In order for the Government to make informed judgments concerning the competitive reprocurement potential of items, components, processes, or computer software developed at private expense that may be required to be delivered under a resultant contract, Offerors shall identify to the maximum extent practicable in their response to this solicitation such privately developed items, components, processes, or computer software and the associated data pertaining thereto which they:

(1) Intend to deliver with limited or restricted rights;

(2) Intend to deliver with unlimited rights; or

(3) Have not yet determined will be delivered with unlimited, limited or restricted rights.

This requirement for identification or prenotification shall include that technical data pertaining to the design, development, or production of privately developed items, components, processes or computer software that are offered or to be offered for sale in substantial quantities to the public based upon established catalog or market prices. This identification need not be made as to technical data which relates to standard commercial items which are manufactured by more than one source of supply. At the request of the Contracting Officer, the Offeror agrees to furnish clear and convincing evidence that the data which will be so identified comes within the definition of limited rights technical data or restricted rights computer software.

(b) This requirement for prenotification shall not be construed as an agreement concerning rights in technical data or computer software identified by an Offeror except as specifically provided in an agreement made a part of the resultant contract. The Government expresly reserves its right to challenge the validity of the technical data under FAR 52.227-14 and computer software under DFARS 252.227-7013, notwithstanding such an agreement.

(End of provision)

252.227-7036 Direct licensing

As prescribed at 227.473-2(c), insert the following clause:

Direct Licensing (Aug 1985)

(a) *Government Rights.* The Government shall have the right to direct the Contractor to license technology to other manufacturers for the purpose of establishing additional sources of supply. This technology may encompass technical data, computer software, technical assistance, special tooling, special manufacturing equipment, training, analysis of problems, or anything else needed to establish an additional source of supply.

(b) *Time Limit for Exercise of Direct License Right.* Exercise of this right will be by modification to this contract any time up to ——— years after the last scheduled delivery under the contract. The not-to-exceed prices and delivery schedule in the contract shall apply.

(c) *Exclusions.* The following are excluded from the operation of this clause:

(1) Items, components, or computer software sold in substantial quantities to the public based upon established catalog or market prices, or interchangeable items manufactured by two or more competing suppliers;

(2) Items, components, processes, or computer software already under license to third parties: *Provided,* the Government agrees that the third parties are viable competitive sources for such items, components, processes, or computer software;

(3) Technical data which the Contractor is legally precluded from licensing; and

(4) Other excluded items, components, or processes and the technical data pertaining thereto, and excluded computer software as described or listed below:

(*Description or list*)

(d) *Adjustments to Prices.* The prices referred to on paragraph (b) shall be reduced if the Contractor is unable to substantiate that certain items, components, processes or computer software is subject to limited or restricted rights.

(e) *Exercise of Direct License Right.* (1) When the Government desires to exercise its rights under this clause, it will direct the Contractor in writing to license the technology in question to another source, including the exent of and the desired terms and conditions of any license.

(2) When technology is to be licensed, any license agreement between the Contractor and another source will be subject to Government review and approval.

(3) Within thirty (30) days after exercise of the direct license right, the Contractor will furnish a pricing proposal to establish the final price for the license. Technical assistance concerning particular items, components, processes and computer software should normally be separately priced. Normally, a price for a directed license should include a flat sum, a royalty rate, and a maximum royalty amount. The flat sum will include the cost of transferring the technology. After the flat sum and royalties total the maximum royalty amount, the Government shall have an irrevocable, paid-up license.

(f) *Timely Transfer of Technology.* The Contractor will promptly license and transfer the technology according to the terms of the modificaiton exercising this direct license right.

(g) *Disputes.* Failure to agree to any price adjustment shall be a dispute under the Dispute clause. However, nothing in this clause shall excuse the Contractor from proceeding with the contract as modified.

(h) *Subcontracts.* (1) This clause in its entirety shall be included in all subcontracts at any tier, unless excused in writing by the Contracting Officer. This clause does not apply to any items, components, processes, or computer software excluded in paragraph (c).

(2) The word "Contractor" appearing in this clause includes "subcontractors" unless otherwise indicated.

(3) The Government may direct any subcontractor to license technology to another source. The prime Contractor consents to the processing of an appeal by any subcontractor in the name of the prime Contractor under the Disputes clause from any decision of the Contracting Officer concerning this clause. The Contractor shall use its best effort to resolve any and all problems relating to identification, pricing and submission of technical data and computer software.

(i) *Follow-on Contracts.* In any follow-up contract awarded to the Contractor for further production of the items, components, processes, or computer software delivered under this contract, the Contractor agrees:.

(1) to accept contractual provisions that grant the Government the same rights and options as are granted in this clause; and

(2) not to assert any right adverse to the Government that could not have been asserted under this clause.

(End of clause)

252.227-7037 Certification of technical data conformity.

As prescribed at 227.474-3(b), insert the following clause:

Certification of Technical Data Conformity (Aug 1985)

(a) All technical data delivered under this contract shall be accompanied by the following written certification:

The Contractor, ———, hereby certifies that the technical data delivered herewith under Contract No. ——— is complete, accurate, and complies with all requirements of the contract. The Contractor expects the Government to rely on this certification in accepting the technical data.

Date

Name and Title of Certifying Official

This written certification shall be dated and the certifying official (identified by name and title) shall be duly authorized to bind the Contractor by the certification.

(b) The Contractor shall identify, by name and title, each individual (official) authorized by the Contractor to certify in writing that the technical data is complete, accurate, and complies with all rquirements of the contract. The Contractor hereby authorizes direct contact with the authorized individual responsible for certification of technical data. The authorized individual shall be familiar with the Contractor's technical data conformity procedures and their application to the technical data to be certified and delivered.

(c) Technical data delivered under this contract may be subject to reviews by the Government during preparation and prior to acceptance. Technical data is also subject to reviews by the Government subsequent to acceptance. Such reviews may be conducted as a function ancillary to other reviews, such as in-process reviews or configuration audit review.

(End of clause)

[FR Doc. 85-21686 Filed 9-9-1985; 8:45 am]

BILLING CODE 3810-01-M

Notices

Federal Register
Vol. 50, No. 175
Tuesday, September 10, 1985

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ACTION

National Voluntary Service Advisory Council; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) (the Act), notice is hereby given that a meeting of the National Voluntary Service Advisory Council will be held on October 10, 1985 (from 8:30 a.m.–5:00 p.m.), and October 11, 1985 (from 8:30 a.m.–12:00 noon) in Atlanta, Georgia. For further details concerning the meeting location, please contact James Whitehead, Special Assistant to the Director, at (202) 634–9380.

The purpose of this meeting is to provide briefing and an opportunity for discussion relative to ACTION program operations for 1986. In accordance with the provisions of section 10(a)(1) of the Act, the meeting shall be open to the public.

Signed this 4th day of September, 1985, in Washington, D.C.

Donna M. Alvarado,

Director, ACTION.

[FR Doc. 85–21557 Filed 9–9–85; 8:45 am]

BILLING CODE 6050–28–M

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

Depositing of Stockyards Reynolds Livestock Auction et al.; Correction

On August 14, 1985, a notice was published in the Federal Register giving notice of the depositing for certain stockyards listing their facility number, name, and location of stockyards.

This notice is to correct the date of posting assigned to the following market in that publication.

The notice should have read:

Location	Date of posting
KY–139 New Farmers Stockyards of Mt. Sterling, Inc., Mt. Sterling, Kentucky.	Sept. 20, 1985.

Done at Washington, D.C., this 3rd day of September 1985.

Harold W. Davis,

Director, Livestock Marketing Division.

[FR Doc. 85–21584 Filed 9–9–85; 8:45 am]

BILLING CODE 3410–02–M

COMMISSION ON CIVIL RIGHTS

Colorado Advisory Committee; Agenda for Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Colorado Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 4:30 p.m. on October 7, 1985, at the Executive Tower Building, 1405 Curtis Street, Sebastian Bach Room, Denver, Colorado. The purpose of the meeting is to review information received from major civil rights organizations concerning critical civil rights issues and discuss future program planning.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Maxine Kurtz, or William Muldrow, Acting Director of the Rocky Mountain Regional Office at (303) 844–2211, (TDD 303/844–3031.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, DC, September 4, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85–21534 Filed 9–9–85; 8:45 am]

BILLING CODE 6335–01–M

Kentucky Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Kentucky Advisory Committee to the Commission will convene at 7:30 p.m. and adjourn at 9:30 p.m. on September 18, 1985, at the University of Kentucky/College of Law, South Limestone Street, Lexington, Kentucky. The purpose of the meeting is to hold the briefing session in preparation for the community forum on public housing desegregation.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Porter Peeples or Bobby Doctor, Director of the Southern Regional Office, at (404) 221–4391, (TDD 404/221–4391).

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, DC, September 4, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85–21535 Filed 9–9–85; 8:45 am]

BILLING CODE 6335–01–M

New Jersey Advisory Committee; Agenda for Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the New Jersey Advisory Committee to the Commission will convene at 7:00 p.m. and adjourn at 11:00 p.m. on October 15, 1985, at the Nassau Inn, Palmer Square, Princeton, New Jersey. The purpose of the meeting is to hear briefing on public accommodation discrimination on Princeton University Campus.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Stephen Balch or Ruth Cubero, Director of the Eastern Regional Office at (212) 264–0400, (TDD 212/264–0400).

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, DC, September 4, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85–21536 Filed 9–9–85; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-455-501]

Termination of Antidumping Duty Investigation; Carbon Steel Wire Rod From Poland

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: In a letter dated July 29, 1985, petitioners withdrew their antidumping duty petition, filed on April 8, 1985, on carbon steel wire rod (wire rod) from Poland. Based on the withdrawal, we are terminating the investigation.

EFFECTIVE DATE: September 10, 1985.

FOR FURTHER INFORMATION CONTACT: Karen L. Sackett, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone: (202) 377-1756.

SUPPLEMENTARY INFORMATION:

Case History

On April 8, 1985, we received a petition from Atlantic Steel Company, Continental Steep Corp., Georgetown Steel Corp., North Star Steel Texas, Inc., and Raritan River Steel Company, on behalf of the U.S. industry producing wire rod. After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We notified the International Trade Commission (ITC) of our action and initiated the investigation on April 29, 1985 (50 FR 18905). On May 30, 1985 (50 FR 23084), the ITC found that there was a reasonable indication that imports of wire rod from Poland materially injure, or threaten material injury to, a United States industry.

Scope of Investigation

The product under investigation is carbon steel wire rod, currently classifiable under item 607.17 of the *Tariff Schedules of the United States* (TSUS).

Withdrawl of Petition

In a letter dated July 29, 1985, from Atlantic Steel Company, Continental Steel Corp., Georgetown Steel Corp., North Star Steel Texas, Inc., and Raritan River Steel Company, petitioners, notified us that they were withdrawing their April 8, 1985, antidumping duty petition, and requested that the investigation be terminated. A copy of petitioners' letter is appended to this notice. Under section 734(a) of the Tariff Act of 1930, as amended by section 604 of the Trade and Tariff Act of 1984 (the Act), upon withdrawal of a petition, the administering authority may terminate an investigation after giving notice to all parties to the investigation. This withdrawal is based on a bilateral arrangement with the Government of Poland to limit the volume of imports of this product. We have assessed the public interest factors set out in section 734(a) of the Act and consulted with potentially affected producers, workers, consuming industries, and with the ITC. On the basis of our assessment of the public interest factors and our consultations, we have determined that termination would be in the public interest.

We have notified all parties to the investigation and the ITC of petitioners' withdrawal and our intention to terminate.

For these reasons, we are terminating our investigation.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

September 3, 1985.

July 29, 1985.

Mr. Gilbert B. Kaplan,
Acting Deputy Assistant Secretary for Import Administration, U.S. Department of Commerce, Washington, DC 20230

Attention: Central Records Unit Room B-099

Re: *Carbon Steel Wire Rod from Poland*

Dear Mr. Kaplan: We have been advised by the United States Trade Representative ("USTR") that the United States has entered into an Arrangement with Poland which establishes import ceilings for various steel products, including carbon steel wire rod. The Arrangement provides that certain pending petitions concerning Arrangement products from Poland are to be withdrawn as a condition precedent to its entry in force. Included among these pending matters is the ongoing investigation involving carbon steel wire rod initiated by Petition filed on April 8, 1985.

Atlantic Steel Company, Continental Steel Corporation, Georgetown Steel Corporation, North Star Steel Texas, Inc., and Raritan River Steel Company are the Petitioners in the Polish proceeding, in which the Department is currently investigating whether wire rod imported from the respondent during the period of investigation was sold at less than fair value. Petitioners' expectation is that should this investigation proceed to an order, antidumping duties would be imposed to deal specifically with this "unfairly traded" steel wire rod. In these circumstances, the Petitioners are entitled to construe the Arrangement as the functional equivalent of a suspension of an investigation even though there has not been a preliminary determination. As you know, a suspension agreement pursuant to Section 734(c)(1)(A) of the 1979 Trade Agreements Act requires a commitment from the exporters (and agents) that "The suppression or undercutting of price levels of domestic products by imports of that merchandise will be prevented."

Petitioners recognize that there are no procedures to ensure that there will be no "suppression or undercutting of price levels of domestic products by imports . . ." of the wire rod that will be licensed for importation. Accordingly, Petitioners advise the Department that should there be price undercutting or suppression, as defined in section 734(c), by Polish producers of wire rod, or by importers thereof, they will consider it their perogative at any time to initiate prodceedings under the antidumping law without regard to whether or not the Arrangement is in effect. In any event, Petitioners do not waive or affect any rights to take or continue action pursuant to U.S. law or otherwise.

In sum, the Petitioners, in reliance upon the wire rod import ceiling set forth in the Arrangement with Poland and its other terms and conditions and upon the further provisions and understandings of this letter, withdraw the Petition conditioned upon the following:

1. That the Department will provide assurance, by the notice published in the **Federal Register**, that the Arrangement with Poland is in full force and effect and subject to no contingency (whether expressed in the Arrangement or any modifications thereof by side letter or otherwise) that would revise, delay, or impair the implementation of the specific restraints concerning wire rod.

2. That the United States does not plan to agree to any modifications of the Arrangement that would affect the obligations of Poland concerning wire rod to the detriment of the domestic industry during the Arrangement term.

3. That Petitioners do not waive any statutory rights or otherwise restrict their rights concerning action under the trade laws.

4. That the Arrangement with Poland is a "bilateral arrangement" within the meaning of section 804 of the Steel Import Stabilization Act of 1984 and the President is authorized to enforce the Arrangement pursuant to section 805(a) of said Act. As a consequence of those provisions and the requirements and terms of the Arrangement, the United States will prohibit entry into the Customs territory of the United States of wire rod from Poland that (i) is not accompanied by an export certificate, and (ii) is not issued consistent with the quantitative limitations specifically applicable to Poland as defined by the Arrangement.

5. That the Department will publish this letter in the **Federal Register**, together with the notice that the Petitioners have withdrawn the Petition conditioned upon satisfaction of the terms set forth herein.

Petitioners reiterate that the withdrawal of the Petition contemplated by this letter does not have any force or effect, and provides the Department with no authority to terminate the investigation, until the foregoing provisions are met.

Respectfully submitted,

Charles Owen Verrill, Jr.,
WILEY & REIN,
1776 K Street, NW., Washington, D.C. 20006, (202) 429-7000.

Counsel for Petitioners. Continental Steel Corp., Georgetown Steel Corp., North Star Steel Texas, Inc. Raritan River Steel Co.

David E. Birenbaum,
Fried, Frank, Harris,
Shriver & Jacobson, (A Partnership Including Professional Corporations), 600 New Hampshire Ave., NW., Washington, D.C. 20037, (202) 342-3500.

Counsel for Petitioner. Atlantic Steel Co.

[FR Doc. 85-21578 Filed 9-9-85; 8:45 am]
BILLING CODE 3510-DS-M

[A-122-502]

Certain Heavy-Walled Rectangular Welded Carbon Steel Pipes and Tubes From Canada; Preliminary Determination of Sales at Not Less Than Fair Value

AGENCY: International Traded Administration/Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We have preliminarily determined that certain heavy-walled rectangular welded carbon steel pipes and tubes from Canada are not being, nor are likely to be, sold in the United States at less than fair value, and have notified the U.S. International Trade Commission (ITC) of our determination. If this investigation proceeds normally, we will make our final determination by November 18, 1985.

EFFECTIVE DATE: September 10, 1985.

FOR FURTHER INFORMATION CONTACT: William Kane, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-1766.

Preliminary Determination

We have preliminarily determined that certain heavy-walled rectangular welded carbon steel pipes and tubes from Canada are not being, nor are likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended (19 U.S.C. 1673b (b) (the Act). We made fair value comparisons on two companies representing approximately 87 percent of sales of the class or kind of merchandise to the United States during the period of investigation. Comparisons were based on the United States price, home market price, and constructed value. We have preliminarily found that the margins for both companies investigated are *de minimis*.

Case History

On March 25, 1985, we received a petition from the Committee on Pipe and Tube Imports on behalf of the domestic industry producing certain heavy-walled rectangular welded carbon steel pipes and tubes. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of certain heavy-walled rectangular welded carbon steel pipes and tubes from Canada are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or threatening material injury to, a United States industry. After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We notified the ITC of our action and initiated such an investigation on April 15, 1985 (50 FR 15771). On May 9, 1985, the ITC determined that there is a reasonable indication that imports of certain heavy-walled rectangular welded carbon steel pipes and tubes from Canada are materially injuring a U.S. industry (50 FR 20302).

We presented an antidumping duty questionnaire to Titan Industrial Corporation (Titan), whose exports account for approximately 80 percent of the products under investigation, on May 10, 1985. Their response to our questionnaire was receive on June 25, 1985. Additionally voluntary responses were received from Welded Tube of Canada (Welded Tube), on June 25, 1985, July 10, 1985, and July 30, 1985, from Acier Royalcor Steel, Inc. (Royalcor), on July 2, 1985, and from Capco Tubular Products Co. (Capco), on July 27, 1985. The response of Royalcor was included in our analysis. The response of Welded Tube were found to be untimely and inadequate for consideration. The response of Capco represented only one sale of the subject merchandise, which we considered to be too insignificant to warrant inclusion in our analysis.

Products Under Investigation

The products covered by this investigation are certain welded carbon steel pipes and tubes of rectangular (including square) cross section, having a wall thickness not less than 0.156 inches, not threaded and not otherwise advanced, other than pipe conforming to American Petroleum Institute specifications for oil well casing, currently provided for in item 610.3955 of the *Tariff Schedules of the United States, Annotated.*.

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchanise to represent the United States price because the merchandise was sold prior to the date of importation to unrelated purchasers in the United States. We calculated the purchase price based on the ex-factory, packed, or C.I.F., duty paid, delivered, packed price. We made deductions, where appropriate, for U.S. inland freight, foreign inland freight, U.S. brokerage charges, foreign brokerage charges, and U.S. customs duty.

Foreign Market Value

In accordance with section 773(a) of the Act, we calculated foreign market value for Titan based on constructed value, as there were insufficient sales in the home market or to third countries to provide viable comparisons. For Royalcor we calculated foreign market value based on home market ex-factory packed prices to unrelated purchasers.

Royalcor's packing costs are incorporated in their acquisition cost of the subject merchandise, and appear to be identical for both markets. No claims were made for circumstances of sale.

We made comparisons of "such or similar" merchandise based on grade, dimension, wall thickness, and whether or not cut to length, as selected by Commerce Department industry experts.

To determine foreign market value for Titan, we calculated constructed value by totaling the costs of materials used in producing such or similar merchandise, fabrication, general expenses, profit and the cost of packing on U.S. shipments. Since the amount for general expenses was less than ten percent of the cost of materials and fabrication, we used the statutory minimum of ten percent. The amount added for profit was the statutory minimum of eight percent of the sum of materials, fabrication costs, and general expenses, since the actual level of profit was less than eight percent. We made adjustments, where appropriate, for after-sale warehousing expenses incurred on United States sales in accordance with section 353.15 of the Commerce regulations.

In a letter dated August 2, 1985, counsel for petitioner noted that the ratio of cost of materials and fabrication to sales price for the sales in the response is below the figure which would be indicated in the financial statements. For purposes of this preliminary investigation, an analysis of this ratio and of the cost response was conducted using the information available at this time. Specifically, the cost of coil, a major component of both the cost of manufacture contained in the response, and cost of goods sold was reviewed by a Department product expert. It was found that coil cost, although low, was within the range of prices available in the market during the period of investigation.

In our analysis, two expenses were noted which were not included by respondent in the cost of fabrication. For purposes of this preliminary determination, we considered warehousing expenses incurred by the Canadian subsidiary of Titan for the storage of finished goods prior to sale to be costs of fabrication rather than general expenses as claimed in Titan's response. We also included in the cost of fabrication a penalty payment made by Titan for failing to meet the minimum purchase requirements in a contract for the conversion of skelp into pipe.

Even with these adjustments there remains a discrepancy between the cost of production data in the response and the audited financial statements, but the discrepancy is not greater than would appear reasonable given the different purposes of the two sets of data. The financial statements include a significant proportion of products which are not under investigation and the time periods covered by those statements are not concurrent with our review period. A detailed reconciliation to the audited financial statements will be conducted at verification.

Verification

In accordance with section 776(a) of the Act, we will verify the information provided by the respondents by using standard verification procedures, including examination of relevant sales, financial and cost records of the company.

Preliminary Results

The preliminary results of our investigation are as follows:

Manufacturer/seller exporter	Weighted-average Margin percentage
Titan Industrial Corp. (Dominion)	0.47 (*de minimis*).
Acier Royalcor Steel, Inc.	0.10 (*de minimis*).

ITC Determination

In accordance with section 733(f) of the Act, we will notify the ITC of our determination.

Public Comment

In accordance with § 353.47 of our regulations (19 CFR 353.47), if requested we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on October 11, 1985, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary, Import Administration, Room B-099, at the above address within 10 days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by October 4, 1985. Oral presentations will be limited to issues raised in the briefs. all written views should be filed in accordance with 19 CFR 353.46, within 30 days of publication of this notice, at the above address in at least 10 copies.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)).

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

September 3, 1985.

[FR Doc. 85-21579 Filed 9-9-85; 8:45 am]

BILLING CODE 3510-DS-M

[A-582-501]

Postponement of Final Antidumping Duty Determination; Photo Albums and Filler Pages From Hong Kong

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: This notice informs the public that we have received a request from the respondent in this investigation that the final determination be postponed until not later than 99 days after the date of publication of the preliminary determination, as provided for in section 735(a)(2)(A) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)(2)(A)); and that we have determined to postpone our final determination as to whether sales of photo albums and filler pages from Hong Kong have occurred at less than fair value until not later than October 23, 1985.

EFFECTIVE DATE: September 10, 1985.

FOR FURTHER INFORMATION CONTACT: Steven Lim or Ken Stanhagen, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377-1777.

SUPPLEMENTARY INFORMATION: On February 19, 1985, we published a notice in the **Federal Register** (50 FR 7624) that we were initiating, under section 732(b) of the Act (19 U.S.C. 1673a(b)), an antidumping duty investigation to determine whether imports of photo albums and filler pages from Hong Kong were being, or were likely to be, sold at less than fair value. On March 18, 1985, the International Trade Commission determined that there is a reasonable indication that imports of photo albums and filler pages from Hong Kong are materially injuring a U.S. industry. On July 16, 1985, we published a preliminary determination of sales at less than fair value with respect to this merchandise (50 FR 28829). The notice stated that if the investigation proceeded normally, we would make our final determination by September 23, 1985.

On August 13, 1985, counsel for Climax Paper Converters, the respondent in this case, requested that we extend the period for the final determination until not later than 99 days after the date of publication of the preliminary determination, in accordance with section 735(a)(2)(A) of the Act. Section 735(a)(2)(A) of the Act provides that the Department may postpone its final determination concerning sales at less than fair value until not later than 135 days after the date on which it published a notice of its preliminary determination, if exporters who account for a significant portion of the merchandise which is the subject of the investigation request a postponement after an affirmative preliminary determination.

Climax Paper Converters is qualified to make such a request since it accounts for virtually all exports of the merchandise under investigation. If a qualified exporter properly requests an extension after an affirmative preliminary determination, the Department is required, absent compelling reasons to the contrary, to grant the request. Accordingly, the Department will issue a final

determination in this case not later than October 23, 1985.

The public hearing is also being postponed until 9:30 a.m. on September 26, 1985, at the U.S. Department of Commerce, Room 1412, 14th Street and Constitution Avenue NW., Washington, DC 20230. Accordingly, prehearing briefs must be submitted to the Deputy Assistant Secretary by September 23, 1985.

This notice is published pursuant to section 735(d) of the Act.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration

September 3, 1985.

[FR Doc. 85-21580 Filed 9-9-85; 8:45 am]

BILLING CODE 3510-DS-M

[C-201-005]

Litharge, Red Lead, and Lead Stabilizers From Mexico; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of countervailing duty order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on litharge, red lead and lead stabilizers from Mexico. The review covers the period January 1, 1983, through December 31, 1983, and 11 programs.

As a result of the review, the Department has preliminarily determined the bounty or grant to be 5.16 percent *ad valorem* for the period of review. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: September 10, 1985.

FOR FURTHER INFORMATION CONTACT: Bernard Carreau or Stephen Nyschot, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On July 25, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 30002) the final results of its last administrative review of the countervailing duty order on litharge, red lead, and lead stabilizers from Mexico (47 FR 54847; December 6, 1982) and announced its intent to conduct the next administrative review of the order. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of Mexican litharge, red lead, and lead stabilizers, which include lead compounds "not specifically provided for" ("NSPF") and pigments containing lead NSPF. Such merchandise is currently classifiable under the following items of the Tariff Schedules of the United States Annotated: litharge, 473.5200; red lead, 473.5600; lead compounds NSPF, 419.0400; and pigments containing lead NSPF, 473.9000.

The review covers the period January 1, 1983, through December 31, 1983, and 11 programs: (1) FOMEX; (2) Article 94 of the Banking Law; (3) CEPROFI; (4) state tax incentives; (5) FONEI; (6) FOGAIN; (7) import duty reductions and exemptions; (8) CEDI; (9) discounts on lead purchases through the Boletin price mechanism; (10) accelerated and immediate depreciation allowances; and (11) FOMIN.

Analysis of Programs

(1) FOMEX

The Fund for the Promotion of Exports of Mexican Manufactured Products ("FOMEX") is a trust of the Mexican Treasury Department, with the National Bank of Foreign Trade acting as trustee for the program since August 1, 1983. The National Bank of Foreign Trade, through financial institutions, makes FOMEX loans available at preferential rates to manufacturers and exporters for two purposes: pre-export (production) financing and export financing. We consider both pre-export and export FOMEX loans to be export bounties or grants since these loans are given only on merchandise destined for export. We found that the annual interest rate that financial institutions charged borrowers for FOMEX pre-export financing, denominated in Mexican pesos, was either 7 or 8 percent during the period of review. The annual interest rate for FOMEX export financing, denominated in the currency of the importing country, was either 5 or 6 percent during the period of review.

Since we lacked information of effective FOMEX interest rates in this case, we chose nominal peso and dollar rates as our benchmarks. For peso-denominated loans, we used as a benchmark for the commercial interest rate in Mexico the average of the nominal interest rates published monthly by the Banco de Mexico in the *Indicadores Economicos*. For dollar-denominated loans, we used interest information obtained from the U.S. Federal Reserve Board. Based on this information, we preliminarily determine that, during the period of review, comparable peso-denominated loans were available commercially at 63.03 percent and comparable dollar-denominated loans were available at 12.73 percent. Using the weighted-avarage FOMEX per-export and export rates, 7.73 percent and 5.08 percent, we found the resulting interest differentials during the review period to be 55.30 percent for peso-denominated loans and 7.65 percent for dollar-denominated loans.

The two known exporters of this merchandise used these programs during the period of review. Because both exporters were able to tie all FOMEX loans to exports to specific countries, we used only the FOMEX loans on U.S. shipments and allocated the benefit over only the value of U.S. shipments during the period of review. We then weight-averaged the resulting *ad valorem* benefits by each company's proportion of the value of Mexican exports to the U.S. of this merchandise. On this basis, we preliminarily determine the benefit from FOMEX pre-export loans to be 2.46 percent, and from FOMEX export loans to be 2.69 percent, for a total benefit during the review period of 5.15 percent *ad valorem*.

On April 1, 1984, the Banco de Mexicao raised the interest rates for FOMEX pre-export and export financing to 19.30 percent and 7.10 percent, respectively. To calculate the estimated duty deposit rate, we compared the new FOMEX interest rates to our most recent commercial benchmarks. The interest differential for peso-denominated loans, is 42.40 percent, and for dollar-denominated loans, 7.02 percent. On this basis, we preliminarily find, for purposes of cash deposits of estimated countervailing duties, a FOMEX benefit of 4.35 percent *ad valorem*.

(2) Article 94 of the Banking Law

The Banco de Mexico determines the percentages of deposits at credit institutions that those institutions must deposit at the Banco de Mexico and must invest in other types of assets. Section 2 of Article 94 of the General Law of Credit Institutions and Auxiliary Organizations ("the Banking Law") establishes that up to 25 percent of a bank's total deposits must be funneled as loans into specially designated sectors of economic activity. Loans granted under section 2 are obtained at below-market interest rates.

In Circular 1842/79, the Banco de Mexico established 12 categories of industries that are eligible to obtain financing under section 2 of Article 94. Most categories carry their own maximum interest rates, set by the Banco de Mexico. Category 12 consists only of exports of manufactured products and during the period of review carried a maximum interest rate equal to the Costo Porcentual Promedio minus 5 points, which is below the comparable commercial rate.

We consider financing obtained at the preferential interest rate under category 12 to constitute an export bounty or grant because it is given only on merchandise destined for export. One exporter of lead oxides, Productos Industriales de Plomo, S.A. ("PIPSA"), received financing under category 12 on U.S. shipments during the period of review. To calculate the benefit from these peso-denominated loans, we used as a benchmark the same average commercial interest rate as for the FOMEX pre-export loans. The resulting interest differential for these Article 94 loans during the review period is 11.03 percent.

Since these Article 94 loans are based on shipments to specific countries, we allocated the benefit that PIPSA received on its exports to the U.S. over the value of the company's total exports of the merchandise to the U.S. during the period of review. We then weight-averaged the resulting *ad valorem* benefits by each company's proportion of the value of Mexican exports to the U.S. of this merchandise. On this basis, we preliminarily determine the benefit from Article 94 loans to be 0.01 percent *ad valorem*.

(3) Other Programs

We also examined the following programs and preliminarily find that exporters of litharge, red lead, and lead stabilizers did not use them during the review period:

(A) Certificates of Fiscal Promotion ("CEPROFI");

(B) State tax incentives;

(C) Fund for Industrial Development ("FONEI");

(D) Guarantee and Development Fund for Medium and Small Industries ("FOGAIN");

(E) Import duty reductions and exemptions;

(F) Tax Rebate Certificates ("CEDI");

(G) Discounts on lead purchases through the Boletin price mechanism;

(H) Accelerated and immediate depreciation allowances; and

(I) National Industrial Development Fund ("FOMIN").

Preliminary Results of the Review

As a result of our review, we preliminarily determine the bounty or grant to be 5.16 percent *ad valorem*. The Department intends to instruct the Customs Service to assess countervailing duties of 5.16 of the f.o.b. invoice price on all shipments exported on or after January 1, 1983, and exported on or before December 31, 1983.

The Department intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties, as provided for by section 751(a)(1) of the Tariff Act, of 4.36 percent of the entered value on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than five days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: September 3, 1985.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary, Import Administration.

[FR Doc. 85-21581 Filed 9-9-85; 8:45 am]

BILLING CODE 3510-DS-M

Short Supply Review on Aluminum Killed Nickel Electroplated Cold Rolled Steel Strip: Request for Comments

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of request for comments.

SUMMARY: The Department of Commerce hereby announces its review of a request for a short supply determination under Article 4 of the U.S.-EC Arrangement on Complementary Products with respect to aluminum killed nickel electroplated cold rolled steel strip.

EFFECTIVE DATE: Comments must be submitted no later than ten days from publication of this notice.

ADDRESS: Send all comments to Joseph A. Spetrini, Director, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C. 20230, Room 3099.

FOR FURTHER INFORMATION CONTACT: Nicholas C. Tolerico, Office of Agreements Compliance, Import Adminstration, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C. 20230, Room 3087B, (202) 377-4036.

SUPPLEMENTARY INFORMATION: Article 4 of the U.S.-EC Arrangement on Complementary Products provides that if the U.S. ". . . determines that because of abnormal supply or demand factors, the U.S. steel industry will be unable to meet demand in the USA for a particular product (including substantial objective evidence such as allocation, extended delivery periods, or other relevant factors), an additional tonnage shall be allowed for such product . . ."

We have received a short supply request for aluminum killed nickel electroplated cold rolled steel strip in two thicknesses, .012 inches and .016 inches, with widths ranging from 1⅝ inches to 5 inches. These products are to be used in the manufacture of battery cell casings.

Parties interested in commenting on these products should send written comments as soon as possible, and no later than ten days from publication of this notice. Comments should focus on the economic factors involved in granting or denying this request.

Commerce will maintain this request and all comments in a public file. Anyone submittng business proprietary information should clearly so label the business proprietary protion of the submission and also include with it a submission which can be placed in the public file. The public file will be maintained in the Central Records Unit, Import Administration, U.S. Department of Commerce, Room B-099 at the above address.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 85-21575 Filed 9-9-85; 8:45 am]

BILLING CODE 3510-DS-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing an Import Restraint Limit for Certain Cotton Textile Products Produced or Manufactured in Turkey

September 5, 1985.

On July 18, 1985 a notice was published in the **Federal Register** (50 FR 28833) announcing that, on June 27, 1985, the United States Government, under Article 3 of the Arrangement Regarding International Trade in Textiles and Section 204 of the Agricultural Act of 1956 (7 U.S.C. 1854), had requested the Government of Turkey to enter into consultations concerning exports to the United States of women's, girls', and infants' cotton knit shirts in Category 339, produced or manufactured in Turkey.

The purpose of this notice is to advise the public that no agreement has been reached in consultations on a mutually satisfactory solution concerning this category. The United States Government has decided, therefore, to control imports in Category 339, produced or manufactured in Turkey and exported during the twelve-month period which began on June 27, 1985 and extends through June 26, 1986 at a level of 320,972 dozen. Should future consultations result in agreement on a different level, further notice will be published in the **Federal Register**.

Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States of consumption, or withdrawal from warehoue for consumption, of cotton textile products in Category 339, exported during the period which began on June 27, 1985 and extends through June 26, 1986, in excess of the designated level.

FOR FURTHER INFORMATION CONTACT: Ann Fields, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. (202/377–4212).

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1985).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

September 5, 1985.

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on September 11, 1985, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 339, produced or manufactured in Turkey and exported during the twelve-month period which began on June 27, 1985 and extends through June 26, 1986, in excess of 320,972 dozen.[1]

Textile products in Category 339 which have been exported to the United States prior to June 27, 1985 shall not be subject to this directive.

Textile products in Category 339 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1985).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553 (a)(1).

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85–21582 Filed 9–9–85; 8:45 am]

BILLING CODE 3510-DR-M

[1] The level has not been adjusted to reflect any imports exported after June 26, 1985.

DEPARTMENT OF DEFENSE

Department of the Navy

Privacy Act of 1974; Amended Systems of Records

AGENCY: Department of the Navy, DOD.

ACTION: Notice of amendment to systems of records.

SUMMARY: The Department of the Navy proposes to amend three systems of records in its inventory of systems of records subject to the Privacy Act of 1974.

DATES: The proposed action will be effective without further notice October 10, 1985, unless comments are received which would result in a contrary deterimination.

ADDRESS: Send any comments to the systems manager identified in the systems notice.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn R. Aitken, Privacy Act Coordinator, Office of the Chief of Naval Operations (Op–09B30), Department of the Navy, The Pentagon, Washington, DC 20350–2000, telephone: (202) 694–2004.

SUPPLEMENTARY INFORMATION: The Department of the Navy systems notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a) Pub. L. 93–579 were published in the Federal Register as follows:

FR Doc 85–10237 (50 FR 22735) May 29, 1985
FR Doc 85–16564 (50 FR 28442) July 12, 1985
FR Doc 85–20719 (50 FR 35290) August 30, 1985

The proposed amendments are not within the purview of the provision of 5 U.S.C. 552a(o) which requires the submission of an altered system report.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

September 5, 1985.

NO5350–1

System name: Navy Personnel Rehabilitation Support System (50 FR 22794) May 29, 1985.

Changes:

Categories of individuals covered by the system: In line 6, after the words: ". . . rehabilitation facilities, . . ." add the phrase: ". . . counselors and counselor candidates, . . ."

Purpose(s): At the end of the entry, add a new paragraph: "For counselors and counselor candidates to use in the screening and evaluation of candidates for counselor school and the continuing

evaluation of counselors during the course of their duties."

NO5350-1

SYSTEM NAME:

Navy Personnel Rehabilitation Support System

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Navy personnel (officers and enlisted) who have been identified as drug or alcohol abusers, or who have undergone counseling and rehabilitation for drug or alcohol abuse in Navy Drug or Alcohol rehabilitation facilities; counselors and counselor candidates; personnel who work part-time helping alcoholics; active duty Navy recovered alcoholics who voluntarily help their commands develop alcoholism prevention programs; Navy personnel convicted by courts-martial and sentenced to confinement; or who were in pretrial confinement; spouses and significant others (this includes parents, live-togethers, and other non-spouses who play an important part in the alcoholic's/drug abuser's life) who have undergone counseling and rehabilitation in Navy drug or alcohol rehabilitation centers, who themselves participate in counseling or treatment programs at such facilities and civilians authorized by the Secretary of the Navy for treatment at a military facility for rehabilitation purposes.

* * * * *

PURPOSE(S):

To assist in the identification, diagnosis, prognosis, or treatment of personnel requiring same for drug or alcohol abuse; to assist them in the prevention of such abuse and to do same for dependents and civilian employees. For counselors and counselor candidates to use in the screening and evaluation of candidates for counselor school and the continuing evaluation of counselors during the course of their duties.

* * * * *

NO6150-1

System name: Medical Department Professional/Technical Personnel Development (50 FR 22829) May 29, 1985.

Changes:

Purpose(s): In line 15, beginning with the phrase: ". . . and to maintain . . ." delete the remaining lines in their entirety.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Insert the following at the beginning of the entry: "Information of adverse actions or revocations of health care providers' clinical credentials may be disseminated to various federal and state licensure boards, professional regulating bodies, and appropriate military and civilian organizations and facilities."

NO6150-1

SYSTEM NAME:

Medical Department Professional/ Technical Personnel Development

* * * * *

PURPOSE(S):

To manage the Naval Medical Command's education and training activities related to procurement, assignments, professional/specialty/ technical training, credentialing, promotion, and all other aspects of health care personnel management; career development; evaluation of candidates for position of lecturer/ consultant; mobilization, planning, and verification of reserve service; surgical team contingency planning; management of physical standards; and maintenance of safe occupational/environmental protection standards.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information of adverse actions or revocations of health care providers' clinical credentials may be disseminated to the various federal and state licensure boards, professional regulating bodies, and appropriate military and civilian organizations and facilities.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy's compilation also apply to this system."

* * * * *

NO6320-3

System name: COMNAVMEDCOM Quality Assurance/Risk Management (50 FR 22835) May 29, 1985.

Changes:

Purpose(s): In line 9, beginning with the phrase: ". . . and to maintain . . ." delete the remaining lines in their entirety.

Routine uses of records maintained in the system, including categories of users and the purpose of such uses: Insert the following at the beginning of the entry: "Information of adverse actions or revocations of health care providers' clinical credentials may be disseminated to various federal and state licensure boards, professional regulating bodies, and appropriate military and civilian organizations and facilities."

NO6320-3

SYSTEM NAME:

COMNAVMEDCOM Quality Assurance/Risk Managemet

* * * * *

PURPOSE(S):

This system relates to the Navy Medical Command's Quality Assurance/Risk Management Program. It is used to review the quality and appropriateness of care provided; to investigate, analyze, and report accidents, injuries, and other incidents; and to identify health care providers with known or suspected problems.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information of adverse actions or revocations of health care providers' clinical credentials may be disseminated to the various federal and state licensure boards, professional regulating bodies, and appropriate military and civilian organizations and facilities.

The Blanket Routine Uses that appear at the beginning of the Department of the Navy's compilation also apply to this system."

* * * * *

[FR Doc. 85-21577 Filed 9-9-85; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER80-259-008, ER83-628-008, ER84-131-005, ER84-136-004, and ER85-432-001]

Kansas Gas and Electric Co.; Order Accepting for Filing and Suspending Rates, Noting Interventions, Granting Waiver, Establishing Hearing Procedures, and Terminating Dockets

Issued: August 30, 1985.

On February 6, 1985, as completed on June 17, 1985, Kansas Gas and Electric Company (KG&E) filed a refund report in Docket No. ER80-259-008, in compliance with the Commission's Opinion No. 188, 25 FERC ¶ 61,006 (1983). On June 4, 1985, KG&E filed a refund report in Docket Nos. ER83-628-008 and ER84-131-005, in compliance with the Commission's letter order dated March 19, 1985, approving an offer of settlement filed in those dockets, 30 FERC ¶ 61,337 (1985). On July 5, 1985, the company filed a refund report in Docket No. ER84-136-004, in compliance with the Commission's letter order dated June

5, 1985, approving an offer of settlement in that proceeding.

Additionally, on April 12, 1985, as completed on July 2, 1985, KG&E filed, in Docket No. ER85-432-001, revised rates for firm power and transmission schedules for outside power to three partial requirements municipal customers.[1] The proposed rates are identical to settlement rates that were accepted for filing without a hearing for five other partial requirements customers in Docket No. ER83-628-006.[2] The company requests waiver of the notice requirements to permit an effective date of March 12, 1985, as agreed by the parties.

Notices of the company's various filings were published in the **Federal Register.**[3]

On March 1, 1985, in Docket No. ER80-259-008, the Kansas Municipals[4] filed a protest, stating that KG&E's refunds submitted in compliance with Opinion No. 188 are calculated improperly. The Kansas Municipals contend that, in eliminating the minimum billing demand pursuant to Opinion No. 188, KG&E has unilaterally and retroactively reclassified portions of energy previously delivered under firm power service schedules as energy delivered under emergency and economy service schedules, thus reducing the refunds. According to the Kansas Municipals, KG&E's alleged shifting of energy among service schedules is inconsistent with the Commission's decision in Opinion No. 80-B, 17 FERC ¶ 61,179 (1981), and contrary to their contracts with KG&E, which require prior scheduling agreement. In addition, the Kansas Municipals protest the company's application of the increased rate as of November 1, 1983,[5] to those customers whose contracts permit only prospective changes.[6] The Kansas Municipals contend that the effective date for those customers should be December 20, 1984, the date on which the Commission accepted for filing the final compliance rates. On July 5, 1985, the Kansas Cities filed a supplemental protest elaborating on issues raised previously.

On May 6, 1985, the Cities of Chanute, Fredonia and Iola, Kansas (Cities) filed a motion to intervene in Docket No. ER85-432-001. The Cities do not dispute the proposed rates, but protest the billing determinants submitted by the company for the City of Chanute. The Cities contend that KG&E shifted large portions of energy from firm power to emergency or supplemental power schedules. According to the Cities, the effect of this change is to reduce Chanute's refunds in Docket No. ER84-136 and cause higher bills in the future. The Cities state that this issue is also present in Docket Nos. ER80-259 and ER85-628 and therefore request consolidation of Docket Nos. ER80-259-008, ER83-628-008, ER84-136-004, and ER85-432-001 for the purpose of deciding this issue. On July 30, 1985, the Cities filed a motion to file comments on KG&E's compliance filing one day out of time. The Cities contest the company's claim that it cannot deliver energy without billing a demand charge.

On June 24, 1985, the Kansas Municipals filed a protest in Docket Nos. ER83-628-008 and ER84-131-005. They request a hearing. The Kansas Municipals restate the energy shifting issue which was raised previously in their protest filed in Docket No. ER80-259-008. They further state that the settlement approved by the Commission on March 19, 1985, 30 FERC ¶ 61,337 (1985), provides that the parties reserved for hearing the manner in which refunds for firm power purchased by the generating municipals will be calculated in the absence of the minimum billing demand charge.

On August 2, 1985, the Cities filed a protest to the refund report filed by KG&E in Docket No. ER84-136-004. The Cities contend that KG&E improperly failed to refund excess revenues to the City of Chanute resulting from the company's application of the rate increase eight months prior to the effective date established by the Commission. The Cities also protest the company's charging the City of Chanute interest on its June 1984 bill.[7] Finally, the Cities raise the same issue regarding KG&E's shifting of energy among service schedules which was raised in the other dockets. The Cities again request consolidation of the dockets to resolve the issue of the company's shifting of energy and a hearing on the issue.

Discussion

We find that good cause exists to grant the Cities' motion to file comments one day out of time in Docket No. ER85-432-001, given the early stage of the proceeding, and the apparent absence of any undue prejudice.

With respect to the issue of whether KG&E has improperly shifted energy purchased under firm power to emergency and economy service schedules, we find that the Kansas Municipals have raised matters better resolved after an evidentiary hearing. Further, the settlement in Docket No. ER83-628-006, approved by the Commission on March 19, 1985, 30 FERC ¶ 61,337 (1985), specifically reserved for hearing the manner in which refunds for firm power purchased by the generating municipals will be calculated in the absence of the minimum billing demand charge. Accordingly, we shall set the reserved issue for hearing. Furthermore, because the same issue is present in Docket Nos. ER80-259-008, ER83-628-008, ER84-131-005, and ER84-136-004, the refund reports in those dockets shall be made subject to the outcome of the hearing in Docket No. ER83-628-000.

In Docket No. ER85-432-001, the Cities do not dispute the rates filed by KG&E, but object only to the company's determination of firm energy entitlements in the sample billing data provided by KG&E.[8] The Cities request that this issue be consolidated along with the refund dockets.

Our review of KG&E's filing in Docket No. ER85-432-001 and the pleadings indicates that the rates, as applied to the Cities, have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the rates for filing and suspend them as ordered below.

In *West Texas Utilities Co.*, 18 FERC ¶ 61,189 (1982), we explained that where our preliminary examination indicates that proposed rates may be unjust and unreasonable, but may not be substantially excessive, as defined in

---

[1] The Cities of Chanute, Fredonia, and Iola, Kansas.

[2] *See* Attachment for rate schedule designations.

[3] 50 FR 28,623 (1985) (ER80-259-006); 50 FR 27,337 (1985) (ER83-628-008 and ER84-131-005); 50 FR 30,504 (1985) (ER84-136-004); 50 FR 16,129 (1985) (ER85-432-001).

[4] The Cities of Arcadia, Arma, Augusta, Blue Mound, Bronson, Burlington, Chanute, Coffeyville, Elsmore, Erie, Fredonia, Girard, Haven, Iola, La Harpe, Moran, Mount Hope, Mulberry, Mulvane, Neodesha, Oxford, Savonburg, Wellington and Winfield.

[5] November 1, 1983, is the beginning of the first billing period following the issuance of Opinion No. 188 on October 4, 1983.

[6] The Cities of Arcadia, Arma, Blue Mound, Bronson, Elsmore, Erie, Haven, La Harpe, Moran, Mount Hope, Mulberry and Savonburg.

[7] The disputed bill was paid by Chanute in two installments. Although the second payment was made within the time allotted by the contract, the first payment was less than the amount due and interest was charged to Chanute for the difference.

[8] The Cities agreed to be placed on the same firm power rates as other generating municipalities in order to obtain wheeling service by KG&E for outside power and to resolve an antitrust suit against KG&E. The increase to the Cities amounts to $141,194 (8.1%) annually.

West Texas, we would generally impose a nominal suspension. We also recognized, in *West Texas*, that the length of suspension may be affected by agreements between a utility and its customers. Here, our examination suggests that the proposed rates may not yield substantially excessive revenues. Further, the affected customers have consented to the company's rates, although they do object to the billing determinants used to calculate revenues. In light of these circumstances, we believe that a nominal suspension is appropriate. For the same reasons, we find that good cause exists to grant KG&E's request for waiver of the notice requirements. Accordingly, we shall accept KG&E's rates in Docket No. ER85-432-001 for filing and suspend them, to become effective March 12, 1985, subject to refund and subject to the outcome of our decision in Docket No. ER83-628-000.

In Docket No. ER80-259-008, the Kansas Municipals argue that the effective date of the increased rate for those cities whose contracts permit only prospective changes should be the date on which the compliance rates were accepted for filing. We disagree. We have previously held that the effective date for a customer show contract permits only prospective rate changes is the date of the opinion on the rates. *See, e.g., Illinois Power Co.*, 17 FERC ¶ 61,064 (1982). Here, we find that the rates were properly applied as of the first billing period following the issuance of Opinion No. 188. Accordingly, we shall deny the Kansas Municipals' protest on this issue.

The Cities protest the interest charged the City of Chanute on the first installment of its June 1984 bill. While we agree that interest was improperly charged on the first installment, such interest was offset by KG&E on the the second installment. Accordingly, we shall dismiss the Cities' protest as to this issue.

Finally, we agree with the Cities' contention that the company improperly increased rates for the City of Chanute beginning in November 1983, when an arbitration panel issued a decision on the rates.[9] By order dated June 1, 1984, 27 FERC ¶ 61,335 (1985), in Docket No. ER84-136-000, we found that KG&E had not shown good cause for waiver of the notice requirements to permit an effective date of November 9, 1983, and we ordered an effective date of June 4, 1984. Therefore, we shall order KG&E to refund for the period from November 9, 1983, to June 4, 1984, the difference between the amounts collected from Chanute and the amount which would have been collected under the prior effective rate, together with interest.

The Commission Orders

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly section 205 and 206 thereof, and pursuant to the Commission's rules of practices and procedure and the regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the reserved issue of computation of refunds in light of the elimination of minimum billing demands in Docket No. ER83-628-000.

(B) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in Docket No. ER83-628-000 to be held within approximately fifteen (15) days of the date of this order, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE, Washington, D.C. 20426., The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's rules of practice and procedure.

(C) Refunds in Docket Nos. ER80-259-008, ER83-628-008, ER84-131-005, and ER84-136-004 are hereby made subject to the outcome of the hearing in Docket No. ER83-628-000.

(F) KG&E's request for waiver of the notice requirements in Docket No. ER85-432-001 is hereby granted.

(E) KG&E's proposed rates in Docket No. ER85-432-001 are hereby accepted for filing and suspended, to become effective on March 12, 1985, subject to refund and to the outcome of the hearing in Docket No. ER83-628-000.

(F) The Kansas Municipals' request as to the effective date of the rates filed pursuant to Opinion No. 188 is hereby denied.

(G) The Cities' protest of the interest charged Chanute in June 1984 is hereby dismissed.

(H) KG&E is hereby ordered to refund to Chanute, within thirty (30) days, any amounts collected in Docket No. ER84-136-000 from November 9, 1983, to June 4, 1984, in excess of amounts that would have been collected under the previously effective rates.

(I) KG&E is hereby ordered to file revised refund reports in Docket Nos. ER80-259-008, ER83-628-008, ER84-131-005, ER84-136-004 and ER85-432-001 upon the conclusion of the hearing on the reserved issue in Docket No. ER83-628-000.

(J) Docket Nos. ER80-259-008 ER83-628-008, ER84-131-005, ER84-136-004 and ER85-432-001 are hereby terminated.

(K) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb

Secretary.

KANSAS GAS ELECTRIC CO., DOCKET NO. ER85-432-001, RATE SCHEDULE DESIGNATINGS

Designation	Description
(1) Supplement No. 12 to rate schedule FPC No. 87 (Supersedes Supplement No. 11).	Firm power rates for Fredonia.
(2) Supplement No. 13 to rate schedule FPC No. 87 (Supersedes Supplement No. 4).	Fuel adjustment clause for Fredonia.
(3) Supplement No. 14 to rate schedule FPC No. 87.	Service schedule E-transmission service for Fredonia.
(4) Supplement No. 11 to rate schedule FPC No. 89 (Supersedes Supplement No. 10.	Firm power rates for Iola.
(5) Supplement No. 12 to rate schedule FPC No. 89 (Supersedes Supplement No. 4).	Fuel adjustments clause for Iola
(6) Supplement No. 13 to rate schedule FPC No. 89.	Service schedule E-transmission service for Iola.
(7) Supplement No. 18 to rate schedule FPC No. 128 (Supersedes Supplement No. 17.	Firm power rate for Chanute.
(8) Supplement No. 19 to rate schedule FPC No. 128 (Supersedes Supplement No. 8).	Fuel adjustment clause for Chanute.
(9) Supplement No. 20 to rate schedule FPC No. 128 (Supersedes Supplement Nos. 15 and 5 as supplemented).	Service schedule E-transmission service for Chanute.

[FR Doc. 85-21561 Filed 9-9-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP85-813-000]

Northwest Central Pipeline Corp. Request Under Blanket Authorization

Issued: August 30, 1985.

Take notice that on August 22, 1985, Northwest Central Pipeline Corporation (Northwest Central), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP85-813-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for permission and approval to abandon in place approximately 1.2 miles of 2-inch lateral line and reclaim measuring and appurtenant facilities serving Phillips Pipeline Company Edgerton Pump Station (Phillips) in Johnson County, Kansas, and to abandon the transportation of gas through said facilities under the authorization issued in Docket No. CP82-479-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which

[9] The contract between KG&E and Chanute provides for arbitration prior to filing with the Commission.

is on file with the Commission and open to public inspection.

Northwest Central states that Phillips has requested that the facilities be reclaimed as Phillips sold the Edgerton Pump Station to Kansas Pipeline Corporation (KPC) in 1984, and KPC has requested Northwest Central reclaim its facilities. The estimated cost to reclaim these facilities is $1,500 with an estimated salvage value of $2,090.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-21567 Filed 9-9-85; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6802-002 etc.]

Snowbird Ltd. et al.; Availability of Environmental Assessment and Finding of No Significant Impact

September 5, 1985.

In accordance with the National Environmental Policy Act of 1969, the Office of Hydropower Licensing, Federal Energy Regulatory Commission (Commission), has reviewed the applications for and exemptions from licensing listed below and has assessed the environmental impacts of the proposed developments.

Project No.	Project name	State	Water body	Nearest town	Applicant
			Exemptions		
6802-002	Little Cottonwood Creek/Tannersville	UT	Little Cottonwood Creek	Alto, Utah	Snowbird, Ltd.
7878-000	Hidden Springs	ID	Hidden Springs	Hagerman	William A. Curtis.
8884-000	George Creeks	MT	George Creek and N. McDonald Creek	Livingston	Cleto McPherson.
8969-000	Crocker Pond	ME	Denniston Plantation		
			Licenses		
4204-002	White River Lock	AR	White River	Batesville	City of Batesville.
6552-001	North Fork Sprague River	OR	North Fork of the Sprague River	Bly	Frederick D. Ehlers.

Environmental assessment (EA's) were prepared for the above proposed projects. Based on an independent analysis of the above action as set forth in the EA's, the Commission's staff concludes that this project would not have significant effects on the quality of the human environment. Therefore, an environmental impact statement will not be prepared.

Copies of the EA's are available for review in the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, DC 20426.

Kenneth F. Plum,

Secretary.

[FR Doc. 85-21562 Filed 9-9-85; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 7801-003]

Southern California Edison Co.; Surrender of Preliminary Permit

September 5, 1985.

Take notice that Southern California Edison Company, Permittee for the proposed Warren Fork Project No. 7801, has requested that its preliminary permit be terminated. The preliminary permit was issued on July 19, 1984, and would have expired on December 31, 1985. The project would have been located on Warren Fork, a tributary to Lee Vining Creek, near Lee Vining, in Mono County, California.

The Permittee filed the request on July 19, 1985, and the preliminary permit for Project No. 7803 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-21568 Filed 9-9-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ST85-392-000, ST85-450-000, and ST81-307-001]

Cabot Pipeline Corp.; Change in Procedural Schedule

Issued September 3, 1985.

Take notice that the procedural schedule established by the Commission's June 3, 1985 order in this proceeding [1] has been changed. The Staff Panel will certify the transcript of the proceeding, any timely filed written comments and its recommendation to the Commission by October 3, 1985.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-21563 Filed 9-9-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST80-77-003, et al.]

El Paso Natural Gas Co. et al.; Extension Reports

Issued: September 4, 1985.

The companies listed below have filed extension reports pursuant to section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue transportation and sales of natural gas for an additional term of up to 2 years. These transactions commenced on a self-implementing basis without case-by-case Commission authorization. The sales may continue for an additional term if the Commission does not act to disapprove or modify the proposed extension during the 90 days preceding

[1] 31 FERC ¶61,261 (1985).

the effective date of the requested extension.

The table below lists the name and addresses of each company selling or transporting pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates a transportation by an interstate pipeline which is extended under § 284.105. A letter "C" indicates transportation by an intrastate pipeline extended under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 284.146. A "G" indicates a transportation by an interstate pipeline pursuant to § 284.221 which is extended under § 284.105. The following symbols are used for transactions pursuant to a blanket certificate issued under Section 284.222 of the Commission's Regulations: a "G(HT)", "G(HS)" or "G(HA)", respectively, indicates transportation, sale or assignments by a Hinshaw pipeline; a "G(LT)" indicates transportation by a local distribution company, and a "G(LS)" indicates sales or assignments by a local distribution company.

Any person desiring to be heard or to make any protests with reference to said extension report should on or before September 27, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

Docket No.	Transporter/seller	Recipient	Date filed	Part 284 Subpart	Effective date	Expiration date [2]
ST80-77-003	El Paso Natural Gas Co., P.O. Box 1492, El Paso, TX 79978.	Pacific Gas and Electric Co	08-01-85	B	11-01-85	
ST82-8-002 [1]	PGC Pipeline, 4925 Greenville Ave., Dallas, TX 75206	United Gas Pipe Line Co	08-02-85	C	10-19-85	10-31-85
ST82-44-002	Dow Pipeline Co., P.O. Box 4286, Houston, TX 77210	Public Service Electric and Gas Co	08-01-85	C	11-01-85	
ST82-54-002	Trunkline Gas Co., P.O. Box 1642, Houston, TX 77001	Louisiana Intrastate Gas Corp	08-02-85	B	11-02-85	
ST82-69-002	Arkansas Oklahoma Gas Corp., P.O. Box 2406, Fort Smith, AR 72902.	Columbia Gas Transmission Corp	08-08-85	G	11-10-85	
ST82-77-002	Texas Eastern Transmission Corp., P.O. Box 2521, Houston, TX 77001.	New Jersey Natural Gas Co	08-02-85	B	11-01-85	
ST82-101-002	Columbia Gulf Transmission Co., P.O. Box 683, Houston, TX 77001.	Northern Natural Gas Co	08-06-85	G	11-06-85	
ST82-220-002	Tennessee Gas Pipeline Co., P.O. Box 2511, Houston, TX 77001.	South Jersey Exploration Co., et al	08-02-85	B	11-01-85	
ST84-26-001 [1]	Sabine Pipe Line Co., P.O. Box 52332, Houston, TX 770052.	Neches Gas Distribution Co	07-17-85	B	09-16-85	10-15-85
ST84-77-001 [1]	Tennessee Gas Pipeline Co., P.O. Box 2511, Houston, TX 77001.	Delhi Gas Pipeline Corp	06-08-85	B	11-01-85	11-06-85
ST84-87-001	Westar Transmission Co., P.O. Box 90, Amarillo, TX 79189.	Transwestern Pipeline Co	08-01-85	D	11-05-85	
ST84-163-001	United Gas Pipe Line Co., P.O. Box 1478, Houston, TX 77001.	Intrastate Gathering Corp	08-02-85	B	11-01-85	
ST84-205-001	Panhandle Eastern Pipe Line Co., P.O. Box 1642, Houston, TX 77001.	Western Gas Supply Co	08-08-85	B	11-10-85	
ST84-222-001	Delhi Gas Pipeline Corp., 1700 Pacific Ave., Dallas, TX 75201.	Natural Gas Pipeline Co. of America	08-05-85	C	11-23-85	
ST84-275-001	Columbia Gulf Transmission Co., P.O. Box 683, Houston, TX 77001.	Monterey Pipeline Co	08-13-85	B	11-28-85	
ST85-256-001	Columbia Gas Transmission Co., P.O. Box 683, Houston, TX 77001.	Washington Gas Light Co., et al	08-02-85	B, G	11-01-85	
ST85-265-001	Columbia Gulf Transmission Corp., P.O. Box 1273, Charleston, WV 25325.	Washington Gas Light Co., et al	08-02-85	B, G	11-01-85	
ST85-791-001	Columbia Gulf Transmission Co., P.O. Box 683, Houston, TX 77001.	National Fuel Gas Supply Corp	08-02-85	G	11-01-85	
ST85-796-001	Columbia Gas Transmission Corp., P.O. Box 1273, Charleston, WV 25325.	National Fuel Gas Supply Corp	08-02-85	G	11-01-85	

[1] These extension reports were filed after the date specified by the Commission's Regulation, and shall be the subject of a further Commission order.
[2] The pipeline has sought Commission approval of the extension of this transaction. The 90-day Commission review period expires on the date indicated.
NOTE.—The noticing of these filings does not constitute a determination of whether the filings comply with the Commission's Regulations.

[FR Doc. 85-21565 Filed 9-9-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TC85-19-000]

El Paso Natural Gas Co.; Petition

Issued: September 4, 1985.

Take notice that on August 14, 1985, Southwest Gas Corporation, P.O. Box 15015, Las Vegas, Nevada 89114, Arizona Public Service Company, P.O. Box 21666, Station 4142, Phoenix, Arizona 85056, Gas Company of New Mexico, a Division of Public Service Company of New Mexico, 2444 Louisiana, NE., Albuquerque, New Mexico 87103, and Southern Union Gas Company, a Division of Southern Union Company, 400 South 15th Street, Austin, Texas 78071, the east-of-California (EOC) companies, filed in Docket No. TC85-19-000 a petition pursuant to Rule 207 of the Commission's Rules of Practice and Procedure (18 CFR 385.207) which requests that the Commission convene a public conference in the nature of a Commission investigation concerning the curtailment plan [1] and related practices of El Paso Natural Gas Company (El Paso), all as more fully described in the petition which is on file with the Commission and open to public inspection.

The EOC companies claim that significant and unforseen changes in

[1] The curtailment plan is contained in section 11 of the General Terms and Conditions of Volume 1 of El Paso's FERC Gas Tariff. The curtailment plan was approved by the Commission in Docket Nos. RP72-6, *et al.*, on March 26, 1981 (14 FERC ¶ 61,549), as part of a settlement of numerous proceedings before the Commission and the courts.

circumstance, including dramatic changes in the Commission's rules, regulations and policies governing the sale and transportation of natural gas by interstate pipelines, warrant an investigation by the Commission to determine whether such changes have rendered El Paso's curtailment plan unjust, unreasonable, and unduly discriminatory, contrary to the requirements of Sections 4 and 5 of the Natural Gas Act.

In support of their claims the EOC companies develop several arguments. The EOC companies begin by stating that El Paso's curtailment plan, which allocates gas supplies based on fixed end-use profiles instead of existing contract demands, results in the situations where the EOC companies' firm requirments receive lower priority treatment than some of the best-efforts requirements of El Paso's California customers, Southern California Gas Company (SoCal) and Pacific Gas and Electric Company (PG&E). These customers are said to be allocated gas supplies based on daily requirements profiles totaling 2,890,000 Mcf while their present combined maximum contract daily demands (MCDD) are 595,000 Mcf and would drop to zero in 1986. The EOC companies claim that El Paso has purchased natural gas supplies in sufficient quantities to meet the full curtailment plan profiles but that the California customers deem their purchase obligations to be their MCDD.

The EOC companies state that the incongruity between El Paso's service obligations and California purchase commitments have saddled the EOC customers with execssive costs. To begin, it is stated, they have borne a share of the high-cost gas supplies that El Paso had to acquire to stand ready to meet the curtailment plan profiles for SoCal and PG&E. Under traditional Commission practice, it is maintained, the cost of these expensive supplies is rolled in and becomes part of El Paso's weighted average cost of purchased gas, which is paid uniformly by all customers, even though the high-priced supplies may have been acquired to serve a "now you see it, now you don't" imaginary market in California.

The EOC companies state that there is a tremendous difference between the total gas supply required to serve the California profiles of 2,890,000 Mcf per day and the gas supply needed to satisfy the 1985 stepped-down MCDDs of only 595,000 Mcf per day (only 20 percent of the plan profile) or the 1986 reduced MCDDs of zero. The EOC companies claim that El Paso certainly could have avoided attaching large quantities of expensive new reserves, the cost of which is rolled in and shared by all customers, had it been able to tailor its gas acquisition program to serve only the stepped-down California MCCDs, but that its obligations under the curtailment plan foreclosed this course of action.

The EOC companies also claim that the Commission's actions regarding minimum bill in interstate pipeline companies' rates have further aggravated the problems on the El Paso system. They claim that Order No. 380, issued by the Commission on July 30, 1984, coupled with the elimination of the fixed cost component from El Paso's minimum bill with its California customers has permitted those customers to "swing" on El Paso while maintaining or increasing their takes from their other pipeline suppliers.[2] The EOC companies claim that the elimination of El Paso's 91 percent minimum bill with its California customers has also nullified its ability to deter those customers from swinging. They allege that this inability to deter swinging by the California customers is incongruous with El Paso's obligation to supply gas to the California customers under the curtailment plan. They state that this could lead to excessive and undue curtailment exposure for all EOC customers, including the petitioning EOC companies, as they subsidize the cost of gas acquired by El Paso for what has now become a phantom market in California. It is stated that if El Paso acquires enough gas supplies to serve a market that includes California's full allocation of 2,890,000 Mcf per day under the curtailment plan and SoCal and/or PG&E then swing to other suppliers, El Paso could be burdened with exhorbitant take-or-pay costs under the contracts with its suppliers. It is asserted that these take-or-pay costs could be borne in part by the EOC companies, who have no alternative firm supplies, even though the California customers in large measure caused El Paso to incur these expenses. Paradoxically, it is maintained, because these take-or-pay costs are includable in El Paso's commodity rates in accord with recently reaffirmed historical Commission policy, the California customers would avoid a significant part of these costs, for which they are largely responsible, as they cut back on their purchases from El Paso.

The EOC companies further claim that other new Commission rate design policies have also created increased risks for EOC customers under the curtailment plan. It is asserted that circumstances in El Paso's California market worsened when the Commission summarily authorized a demand/commodity rate design for the sale and transportation of gas from Canada into the California market.[3] The EOC companies further assert that under this rate design, all fixed costs and even some variable costs were loaded into the demand charge in order to make the Canadian commodity charge competitive against other gas supplies in the California market. EOC companies state that they strenously opposed this rate design because it afforded Canadian suppliers a competitive advantage over El Paso. They claim that the Commission never would have approved that type of rate design for any domestic pipeline, including El Paso.

The EOC companies state that the Commission should evaluate whether these recent changes in its minimum bill, rate design, and transportation policies require a revamping of the curtailment plan to bring SoCal and PG&E's entitlements more in line with their requirements and commitments to purchase from El Paso and to prevent the adverse impacts on east-of-California customers discussed above.

For the foregoing reasons, the EOC companies have requested the Commission to convene a public conference in the nature of an investigation concerning El Paso's curtailment plan and its practices thereunder and to determine whether the curtailment plan is still just and reasonable and not discriminatory, as required by Sections 4 and 5 of the Natural Gas Act, in light of current regulatory policies and market conditions.

Any person desiring to be heard or to make any protest with reference to said petition should on or before September 25, 1985, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to

[2] It is claimed that unlike the EOC companies, which are full firm requirements customers of El Paso, the California customers are partial requirements customers who can take advantage of alternative firm supplies including gas produced in California by both affiliates and non-affiliates, Canadian gas delivered by affiliated pipelines, and gas delivered by El Paso's competitor, Transwestern Pipeline Company, and then "swing" their purchases from one supplier to another.

[3] Northwest Alaskan Pipeline Co., 29 FERC ¶ 61,199 (1984) *reh'g dismissed*, 30 FERC ¶ 61,126 (1985).

be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-21564 Filed 9-9-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA85-50-000]

Mississippi Valley Gas Co.; Petition for Exemption From Incremental Pricing and for Interim Relief

Issued September 4, 1985.

On August 14, 1985, Mississippi Valley Gas Company (Mississippi Valley), P.O. Box 3348, Jackson, Mississippi 39207, filed a petition with the Federal Energy Regulatory Commission (Commission), pursuant to section 206(d) of the Natural Gas Policy Act of 1978 (NGPA), 15 U.S.C. 3346(d) (1982), and § 282.206(b) of the Commission's regulations, 18 CFR 282.206(b) (1985). Mississippi Valley seeks an order from the Director of the Office of Pipeline and Producer Regulation (Director), exempting from incremental pricing certain industrial customers currently served by Mississippi Valley. Additionally, Mississippi Valley seeks interim relief pursuant to Rule 1113 of the Commission's Rules of Practice and Procedure, 18 CFR 385.1113 (1985), in order to prevent irreparable injury.

Mississippi Valley's incremental pricing exemption petition involves two industrial boiler fuel customer groups. The first customers group contains eight industrial boiler fuel customers. The second customers group has one non-exempt industrial boiler fuel customer which voluntarily takes less than 300 Mcf per day in order to keep itself exempt from incremental pricing.

Mississippi Valley's petition asserts an incremental pricing exemption for all of the above industrial boiler fuel customers is necessary to prevent the possible loss of load to suppliers of non-incrementally priced gas or alternative fuels. Absent such an exemption, Mississippi Valley believes its remaining customers will suffer increasing special hardships, inequities and unfair distributions of burdens within the meaning of NGPA section 502(c).

The procedures applicable to the conduct of this proceeding are set forth in Subpart K of the Commission's rules of practice and procedure. Any person desiring to participate in this proceeding must file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene in accordance with Subpart K. All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register**.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-21566 Filed 9-9-85; 8:45 am]

BILLING CODE 6717-01-M

Office of Conservation and Renewable Energy

National Energy Extension Service Advisory Board; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: National Energy Extension Service Advisory Board.

Date and Time: Monday, September 30, 1985, 8:30 a.m.-5:05 p.m.; Tuesday, October 1, 1985, 8:30 a.m.-12:00 noon

Place: The Henley Park Hotel, Massachusetts Avenue and 10th Street, NW., Washington, D.C. 20001.

Contact: Susan D. Heard, Department of Energy, Forrestal Building—6A081, 1000 Independence Avenue, SW., Washington, D.C. 20585, Telephone: 202-252-8292.

Purpose of the board: The Board was established to carry on a continuing review of the National Energy Extension Service and the plans and activities of each State in implementing Energy Extension Service programs.

Tentative agenda: Monday, September 30, 1985:

- Program Update.
- EES Strategic Planning.
- Presentations of Energy Extension Service Projects.
- Public Comment (10 minute rule).

Tuesday, October 1, 1985.

- Presentations of Energy Extension Service Projects.
- Remarks from Joseph F. Salgado, DOE Under Secretary.
- Plan for Seventh Annual Report.
- Public Comment (10 minute rule).

Public participation: The meeting is open to the public. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Susan D. Heard at 202/252-8292. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Public Reading Room 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on September 4, 1985.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 85-21556 Filed 9-9-85; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[SAB-FRL-2894-8]

Science Advisory Board, Clean Air Scientific Advisory Committee; Open Meeting—September 26-27, 1985

Under Pub. L. 92-463, notice is hereby given of a meeting of the Clean Air Scientific Advisory Committee of the Science Advisory Board. The meeting will be held on September 26-27, 1985 at the U.S. Consumer Product Safety Commission, Room 456, 5401 Westbard Avenue, Bethesda, Maryland. The meeting will begin at 9:00 a.m and adjourn at approximately 5:00 p.m. each day.

Under the provisions of an interagency agreement between the U.S. Environmental Protection Agency (EPA) and the U.S. Consumer Product Safety Commission (CPSC), EPA's Clean Air Scientific Advisory Committee (CASAC) will review CPSC documents that discuss health effects associated with exposure to 0.1 to 1.0 plus ppm of nitrogen dioxide generated by unvented combustion sources used in the home. The purpose of the meeting is to enable the CASAC to review CPSC documents and to provide its advice to the CPSC on the following issues: (1) The levels of nitrogen dioxide for which there are data indicating adverse health effects; (2) the identity of subsets of the population more sensitive to nitrogen dioxide than others; and (3) whether exposure to nitrogen dioxide leads to irreversible lung damage.

For further information and copies of the CPSC Documents, please contact: Ms. Sayde Dunn, Office of the Secretary, U.S. CPSC, 5401 Westbard Avenue, Washington, DC, 20207 (301) 492-6800.

The meeting is open to the public. Any member of the public wishing to attend or obtain information about the meeting should contact Mr. Robert Flaak, Executive Secretary, Clean Air Scientific Advisory Committee, Science Advisory Board (A-101F), U.S. EPA, Washington,

DC 20460 or call (202) 382–2552, prior to the meeting. Persons wishing to make statements at the meeting must contact Mr. Flaak no later than close of business on September 18, 1985.

Dated: August 30, 1985.

Terry F. Yosie,

Director, Science Advisory Board.

[FR Doc. 85–21545 Filed 9–9–85; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Availability of Funds for Demonstration Grants to States for Projects of Emergency Medical Service for Children

SUMMARY: The Health Resources and Services Administration (HRSA) announces that $2 million are not available for funding grants under section 1910 of the Public Health Service (PHS) Act, 42 U.S.C. 300w–9, which authorizes the Department to make grants to not more than four States in each of three fiscal years to support a program of demonstration projects in such States for the expansion and improvement of Emergency Medical Service (EMS) for Children. HRSA, through this notice, invites eligible applicants to apply for these grants.

DATE: To receive consideration, applications for the new EMS for Children grants must be received by close of business November 25, 1985, by the Chief, Grants Management Branch, Bureau of Health Care Delivery and Assistance, HRSA, Room 7A08, 5600 Fishers Lane, Rockville, Maryland 20857. Application materials have been sent on the date of this notice to all State Health Officers, State Officers for EMS, and State Maternal and Child Health Directors, together with all organizations that have made written inquiry prior to the date of this notice.

FOR FURTHER INFORMATION CONTACT: States wishing to inquire about possible grant support should address their inquiries in writing to the Office of the Director, Division of Maternal and Child Health, Bureau of Health Care Delivery and Assistance, Room 6–05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–2170.

SUPPLEMENTARY INFORMATION: About 25,000 children die each year from accidental injury and more die from acute illnesses and related conditions. An improved system of care can indentify these children at the earliest phase, provide correct prompt prehospital care, access to an emergency department and admission to and consultation with a pediatric intensive care program.

Section 1910 of the PHS Act, the new EMS for Children legislation (enacted on October 19, 1984, by section 7 of Pub. L. 98–555, "The Preventive Health Amendments of 1984"), establishes a new and separate authorization within the Preventive Health and Health Services Block Grant legislation, title XIX, Part A, of the PHS Act, 42 U.S.C. 300w *et seq.* for grants to States for demonstration projects for the expansion and improvement of EMS for Children who need treatment for critical illnesses and injuries. The term "State" means the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands. The legislation limits the number of grants to not more than four in any fiscal year. By statute the grant period is for one year; however, the grant may be renewed for a second year if it is detemined that renewal will provide significant benefits through the collection, analysis and dissemination of information and data which will be useful to other States.

The legislative history indicates that Congress intends the Department to establish the projects in a manner that will insure maximal geographical distribution of projects. Also, an effort is to be made to give priority to projects targeted toward populations with truly special needs, such as minorities and the handicapped. The Department does not intent to award demonstration grants which would duplicate the former categorical EMS grant program funded by this Agency, or which would be used simply to increase the availability of EMS funds allotted to the States under the Preventive Health and Health Service Block grants.

Eligible Applicants

Applications for funding under section 1910 will be accepted from the 50 States and the District of Columbia, Guam, the Commonwealth of Puerto Rico, The Northern Mariana Islands, the Virgin Islands, American Samoa and the Trust Territory of the Pacific Islands. Applicants are encouraged to seek the partcipation and support of other entities within the State, such as local governments and health and medical organizations in the private sector, in developing the State's proposed demonstration projects.

Application

An application for an EMS for Children grant must be submitted to the address, and by the date and time set forth in the DATE section above. The application should include:

(1) A description of the proposed task(s) related to pediatric EMS which the applicant proposes to address.

(2) A statement of the overall goal or goals of the proposed project.

(3) A statement of specific project objectives which will result in movement toward or achievement of project goals.

(4) A description of the methodology to be used to achieve the objectives.

(5) A plan or schedule for implementation of the methodological approach during the project period, including a description of project personnel and resources to be employed.

(6) A description of anticipated outcomes of the project in terms of changes in pediatric EMS capability in general and improvement of the stated project issue or problem, in particular.

(7) Evidence of the participation in and support of the proposed project by the public, private and volunteer organizations and entities which are associated with and involved in the project activities.

Application Evaluation Criteria

An application will be evaluated by consideration of the following factors:

(1) The extent of the need for improved and expanded EMS for Children in the project's target population and geographic area and the relative need for the project compared to other applicants' proposed projects.

(2) The extent of collaboration and coordination with other appropriate organizations involved in health care provision and public health (e.g., injury prevention activities, community support services, rehabilitation programs) and the degree of involvement of the "community" (e.g., private sector, voluntary organizations).

(3) The soundness of the proposals, as set forth in the application, in terms of fiscal management, effective use of personnel, ability to complete the proposal within the one year grant period, usefulness of project's work to other States and the linkages to current EMS resources and specialized resources for care of the critically ill or injured child.

(4) The extent to which the proposed project will serve populations with truly special needs, such as minorities

(including Native Americans) and handicapped children.

In considering to which four States to award grants, the Department will strive to assure that there is an appropriate geographic distribution of awards across the country.

This program is not subject to Executive Order 12372.

OMB Catalog of Federal Domestic Assistance

The EMS for Children program is listed as No. 13.127.

Dated: September 5, 1985.

Edward D. Martin, M.D.,

Acting Deputy Administrator.

[FR Doc. 85-21555 Filed 9-9-85; 8:45 am]

BILLING CODE 4160-15-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Fairbanks District Advisory Council; Meeting

The Advisory Council for the Fairbanks District of the Bureau of Land Management will have a general meeting on Wednesday, October 2, 1985. The location of the meeting will be the second-floor training room at the BLM office on Fort Wainwright, 1541 Gaffney Road. The meeting will convene at 8:30 a.m. and conclude at 5 p.m. Public comments will be received by the Council from 3 to 4 p.m.

The following topics will be discussed at the meeting:

1. Futuring in BLM/Alaska.
2. Colville River Special Area Study.
3. Utility Corridor.
4. Teshekpuk Lake Special Area Study.
5. Safety Signs on the Fortymile National Wild and Scenic River.
6. Central Yukon Plan.

All meetings of the Council are open to the public.

Carl D. Johnson,

District Manager.

[FR Doc. 85-21512 Filed 9-9-85; 8:45 am]

BILLING CODE 4310-JA-M

Arizona, Safford District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting of the Safford District Advisory Council.

DATE: Friday, October 11, 1985, 10:00 a.m.

ADDRESS: Cochise County Service Center, Highway 80 and 7th Street, Benson, Arizona.

SUMMARY: Notice is hereby given, in accordance with Pub. L. 94-579 and 43 CFR Part 1780, that a meeting of the Safford District Advisory Council will be held Friday, October 11, 1985 at 10:00 a.m. The meeting will be in conjunction with a field tour of the Muleshoe Ranch and will start at Cochise County Service Center, Highway 80 and 7th Street, Benson, Arizona.

Agenda for the Meeting

1. Field trip of BLM-State Land Exchange on Muleshoe Ranch.
2. Management Update.
3. Business from the floor.

The meeting is open to the public. Council members will meet at the Cochise County Service Center, Highway 80 and 7th Street, Benson, Arizona at 10:00 a.m. From here we will depart via BLM-provided vehicles for a tour of the Muleshoe Ranch. Members of the public may accompany the tour but must provide their own transportation. Written statements may be filed for the Council's consideration. A management update and business from the floor will take place during the lunch stop. The tour is expected to return to Benson, Arizona by 5:00 p.m.

Summary minutes of the meeting will be maintained in the District Office and will be available for public inspection and reproduction (within regular business hours) within 30 days following the meeting.

Date: August 30, 1985.

Lester K. Rosenkrance,

District Manager.

[FR Doc. 85-21540 Filed 9-9-85; 8:45 am]

BILLING CODE 4310-32-M

Roswell District Advisory Council Tour

AGENCY: Bureau of Land Management, Interior.

ACTION: Roswell District Advisory Council Tour.

SUMMARY: Notice is hereby given that the Rosewell District of the Bureau of Land Management will conduct a tour of the Fort Stanton area for the Roswell District Advisory Council on October 2, 1985. The Council will depart from the BLM District Office at 1717 West Second Street, Roswell, NM at 9:00 a.m. The public is invited to participate at their own expense; transportation will *not* be provided by BLM. Persons interested in participating should call Mr. David L. Mari or Ms. Guadalupe Martinez at (505) 622-9042 by September 20 for schedule information.

David L. Mari,

Associate District Manager.

[FR Doc. 85-21541 Filed 9-9-85; 8:45 am]

BILLING CODE 4310-FB-M

Modified Notice of Realty Action; Sale of Public Lands; Socorro County, NM

The Notice of Realty Action on the sale of public lands in Socorro County, New Mexico, published in the **Federal Register** on July 11, 1985, Vol. 50, No. 133, pages 28274 and 28275, and modified on August 1, 1985 in Vol. 50, No. 148, page 31257 is further amended as follows:

The date for opening of sealed bids for Parcels 2 through 8 is postponed from September 13, 1985 until a date to be later published. This change is due to the unavailability of finalized surveys for these parcels by the expected date.

The September 13, 1985 date for opening of bids for Parcel 1 and Parcels 9 through 12 remains unchanged. All other terms and conditions of the sale also remain unchanged.

H. James Fox,

District Manager.

[FR Doc. 85-21519 Filed 9-9-85; 8:45 am]

BILLING CODE 4310-FB-M

National Park Service

Dinosaur National Monument Colorado; Selection of Entrance Road

Notice is hereby given that the location for an entrance road, including the roadway and adjacent scenic easement areas to the Dinosaur National Monument, serving the east entrance to the Monument at Deerlodge Part—including Ranger Station, and related campground and boat launch facilities—has been selected pursuant to the provisions of section 2 of the Act of September 8, 1960 (74 Stat. 857-861).

The road and scenic easement is 12.587 miles in length, extending northerly and westerly from U.S. Highway 40 to the Dinosaur National Monument boundary near Deerlodge Park.

The road location selected embraces approximately 296.12 acres in a strip 200 feet wide that is to be acquired by the United States in fee or is already owned by the United States, and also approximately 1,175.84 acres of adjoining lands in a strip 400 feet wide on each side of the aforesaid 200 foot

wide strip that will be subject to acquisition of scenic easements on nonfederal lands. The latter lies generally within 500 feet of the centerline and within 400 feet on each side of the 200 foot strip for the subject road. Approximately 622 acres in the area for scenic easement control are already owned by the United States. The lands and ownerships involved are depicted on Drawing No. 122/92,003 entitled "Dinosaur National Monument Land Status Map 09" and this drawing and the scenic easement estate and restrictions are on file in the office of the Superintendent at Dinosaur National Monument, Dinosaur, Colorado; the National Park Service Rocky Mountain Regional Office, Division of Land Resources in Lakewood, Colorado; and the National Park Service, Land Resources Division, Branch of Coordination and Control, Washington, D.C.

As provided in section 2(a) of the Act of September 8, 1960, the lands included in this notice constitute a part of the Dinosaur National Monument and therefore are subject to the laws and regulations applicable thereto. Such lands shall also be subject to any special regulations published by the Secretary of the Interior in furthermore of the purposes of said section. Consequently, the Federal lands within the Monument boundaries are closed to all forms of entry and appropriation under the public land laws, including the Mining Law of 1872 (30 U.S.C 22), and to mineral leasing under the Mineral Leasing Act of 1920 (30 U.S.C. 181), or the Mineral Leasing Act for Acquired Lands of 1947 (30 U.S.C 351). Valid existing rights in and to the Federal lands set forth in this Notice, existing on the date of this Notice, are not affected hereby.

Notwithstanding the inclusion of these lands in the Monument, the Bureau of Land Management is authorized to administer the former public lands within the location hereby selected for scenic easement control, for the purpose of grazing, insofar as grazing is consistent with section 3 of the Act of September 8, 1960.

Dated: August 27, 1985.

William Penn Mott, Jr.,

Director.

[FR Doc. 85-21595 Filed 9-9-85; 8:45 am]

BILLING CODE 4310-70-M

Indiana Dunes National Lakeshore Advisory Commission; Meeting

Notice is hereby given, in accordance with the Federal Advisory Committee Act, 86 Stat. 770, 5 U.S.C. App. 1, as amended by the Act of September 13, 1976, 90 Stat. 1247, that a meeting of the Indiana Dunes National Lakeshore Advisory Commission will be held at 1 p.m. CDT, on Friday, September 27, 1985, at the Indiana Dunes National Lakeshore Visitor Center at U.S. Highway 12 and Kemil Road, Chesterton, Indiana.

The commission was established by the Act of November 5, 1966, 80 Stat. 1309, 16 U.S.C. 460u–7, as amended by the Act of October 18, 1976, 90 Stat. 2530, 2533, to meet and consult with the Secretary of the Interior on matters related to the administration and development of the Indiana Dunes National Lakeshore.

The members of the commission are as follows:

Mr. John R. Schnurlein (Chairperson)
Mr. Ronald Bensz
Ms. Anna R. Carlson
Mr. Harry W. Frey
Mr. R. M. Gacki
Mr. James Holland
Ms. Lynne Kaser
Mr. James H. Lahey
Mr. William L. Lieber
Ms. Kay M. Rhame
Dr. John Tucker
Mr. Norman E. Tufford

Matters to be discussed at this meeting include:

1. Chairman's Quarterly Report.

2. Reminiscences of the Indiana Dunes National Lakeshore Advisory Commission.

The meeting will be open to the public. Any member of the public may file with the commission prior to the meeting a written statement concerning the matters to be discussed. Persons wishing further information concerning the meeting, or who wish to submit written statements, may contact Dale B. Engquist, Superintendent, Indiana Dunes National Lakeshore, 1100 North Mineral Springs Road, Porter, Indiana 46304, telephone 219–926–7561.

Minutes of the meeting will be available for public inspection 4 weeks after the meeting at the office of the Indiana Dunes National Lakeshore located at 1100 North Mineral Springs Road, Porter, Indiana.

Dated: August 27, 1985.

Randall R. Pope,

Acting Regional Director, Midwest Region.

[FR Doc. 85-21594 Filed 9-9-85; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before August 31, 1985. Pursuant to § 60.13 of 36 CFR Part 60 written comment concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by September 25, 1985.

Carol D. Shull,

Chief of Registration, National Register.

COLORADO

Arapahoe, County

Aurora, *Smith, William, House*, 412 Oswego Ct.

Denver County

Denver, *Smith House*, 1801 York St.
Denver, *South Side—Baker Historic District*, Roughly bounded by W. Fifth Ave., Broadway, W. Alameda, & W. Fox Sts.

Larimer County

Virginia Dale, *Virginia Dale State Station*, Off U.S. 287.

Pueblo County

Pueblo, *Colorado State Hospital Superintendent's House*, Thirteenth & Francisco Sts.

MICHIGAN

Ionia County

Belding, *Richardson Silk Mill*, 101 Front St.

Lapeer County

Imlay City, *Fairweather, James F.—Lamb, Jacob C., House*, 540 S. Almont Ave.

Manistee County

Onekama vicinity, *Portage Point Inn Complex*, 8513 S. Portage Point Dr.

Oakland County

Bloomfield Hills, *Affleck, Gregor S. and Elizabeth B., House*, 1925 N. Woodward Ave.

Washtenaw County

Saline, *Annin, Joseph, House (Saline MRA)*, *218 Monroe St.*
Saline, *East Michigan Avenue Historic District (Saline MRA)*, 300, 301–321 E. Michigan, 99–103 Maple and 217, 300 & 302 E. Henry
Saline, *Forbes, Jortin, house (Saline MRA)*, 211 N. Ann Arbor St.
Saline, *Guthard, Charles, House (Saline MRA)*, 211 E., Michigan Ave.
Saline, *Lutz, George R., House (Saline MRA)*, 103 W. Henry St.
Saline, *Miller—Walker House (Saline MRA)*, 117 McKay St.

Saline, *North Ann Arbor Street Historic District (Saline MRA)*, 301–327 N . Ann Arbor & 306–324 N . Ann Arbor between Russel & Bennett
Saline, *Oakwood Cemetery Mausoleum (Saline MRA)*, Off Monroe St.
Saline, *Saline First Presbyterian Church (Saline MRA)*, 143 E. Michigan Ave.
Saline, *Sturim, Louis House (Saline MRA)*, 100 Russell
Saline, *Union Block (Saline MRA)*, *100–110 E Michigan Ave.*
Saline, *Van Duzer, Samuel D., House (Saline MRA)*, 205 S. Ann Arbor St.
Saline, *Wallace Block—Old Saline Village Hall (Saline MRA)*, 105–113, S. An Arbor St.
Saline, *Watson, Henry R., House (Saline MRA)*, 7215 N . Ann Arbor—Saline Rd.
Saline, *Zalmon Church House (Saline MRA)*, 113 N. Ann Arbor

Wayne County

Detroit, *Alden Park Towers (East Jefferson Avenue Residential TR)*, 8100 E. Jefferson Ave.
Detroit, *Bagley, John N., House (East Jefferson Avenue Residential TR)*, 2921 E. Jefferson Ave.
Detroit, *Campau, Joseph, House (East Jefferson Avenue Residential TR)*, 2910 E. Jefferson Ave.
Detroit, *Chene, Alexander, House (East Jefferson Avenue Residential TR)*, 2681 E. Jefferson Ave.
Detroit, *Garden Court Apartments (East Jefferson Avenue Residential TR)*, 2900 E. Jefferson Ave.
Detroit, *Hibbard Apartment Building (East Jefferson Avenue Residential TR)*, 8905 E. Jefferson Ave.
Detroit, *Jefferson Hall (East Jefferson Avenue Residential TR)*, 1405 E. Jefferson Ave.
Detroit, *Keane, The (East Jefferson Avenue Residential TR)*, 8925 E. Jefferson Ave.
Detroit, *Manchester Apartments (East Jefferson Avenue Residential TR)*, 2016 E. Jefferson Ave.
Detroit, *Palms, The (East Jefferson Avenue Residential TR)*, 1001 E. Jefferson Ave.
Detroit, *Parker, Arthur M., House (East Jefferson Avenue Residential TR)*, 8115 E. Jefferson Ave.
Detroit, *Pasadena Apartments (East Jefferson Avenue Residential TR)*, 2170 E. Jefferson Ave.
Detroit, *Ponchartrain Apartments (East Jefferson Avenue Residential TR)*, 1350 E. Jefferson Ave.
Detroit, *Somerset Apartments (East Jefferson Avenue Residential TR)*, 1523 E. Jefferson Ave.
Detroit, *Stearns, Frederick K., House (East Jefferson Avenue Residential TR)*, 8109 E. Jefferson Ave.
Detroit, *Walker, Franklin H., House (East Jefferson Avenue Residential TR)*, 2730 E. Jefferson Ave.
Detroit, *Wells, William H., House (East Jefferson Avenue Residential TR)*, 2931 E. Jefferson Ave.
Detroit, *Whittier Hotel (East Jefferson Avenue Residential TR)*, 415 Burns Dr.

MINNESOTA

Hennepin County

Minneapolis, *Minneapolis Armory*, 500–530 Sixth St. S

MISSOURI

St. Louis (Independent City),
Foshion Square Building, 1307 Washington Ave.
Marquette Hotel, 1734 Washington Ave.
Union Station Post Office Annex, 329 S. Eighteen St.

St. Louis County

University (Also in St. .Louis city), *Parkview Historic District*, Roughly bounded by Delmar, Skinker, & Millbrook Blvds. and Mellville Ave.

NEBRASKA

Cass County

Avoca vicinity, *Kehlbeck Farmstead*, Off NE 50 & US 34
Plattsmouth, *Plattsmouth Main Street Historic District*, Main St. bounded by Avenue A, S. & N. Third St., First Ave. and S. & N. Seventh St.

Clay County

DeWeese vicinity, *Saint Martin's Catholic Church*, NW of DeWeese

Franklin County

Franklin, *Dupee Music Hall*, 1402 P St.

[FR Doc. 85–21596 Filed 9–9–85; 8:45am]
BILLING CODE 4310–70–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Housing Guaranty Program; Proposed AID Housing Guaranty Refinancing Program

The Agency for International Development ("A.I.D.") is considering a refinancing program to provide short-term debt relief to certain countries ("Borrowers") which have borrowed under the AID Housing Guaranty ("HG") Program and which are involved in international debt rescheduling procedures.

Under this program, the HG debt service obligation of Borrowers over a period of at least one year would be refinanced by a new AID guaranteed loan. It is expected that Borrowers will repay this deferred principal amount over a term of up to 15 years with a grace period in some cases of a few years. The exact repayment terms may vary from case-to-case.

To help structure and implement this program, AID is inviting expressions of interest from Eligible Investors who may want to participate in such refinancings. Responses should indicate as specifically as possible (i) the capability of the firm to respond to the guidelines set forth and (ii) the interest rates and other charges that would be applicable. Any final decision to proceed or not will be made by AID in the near future and will among other considerations, be subject to the agreement of the Borrowers. The guidelines at present are as follows:

In responding to this invitation, the following guidelines should be kept in mind:

1. The maximum amount to be refinanced would be $26 million.

2. The countries involved and the amounts needed are expected to be among the following, although countries and amounts may change:

Argentina	$7,572,000
Chile	806,000
Costa Rica	1,584,000
Dominican Republic	3,500,200
Ecuador	535,500
Ivory Coast	5,723,900
Jamaica	4,342,500
Peru	11,798,000

3. Funds will be disbursed over a period ending on or about December 1986.

4. There should be as much flexibility as possible with respect to the timing, frequency and amounts of disbursements. Similarly there should be as much flexibility as possible regarding repayment schedules and prepayment options. Limitations on flexibility with regard to these factors should be identified.

5. Minimum paperwork (e.g. a promissory note with a guaranty legend) should be required and fees and costs held to a minimum. Commitment fees in lieu of other fees and charges will be considered.

6. AID's preference is for terms offering variable interest rates based upon six-month Treasury Bills, interest rates expressed on a bond equivalent basis. Alternative proposals, however, are also invited.

The full repayment of the loans made under this program will be guaranteed by A.I.D. The A.I.D. guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to authority in section 222 of the Foreign Assistance Act of 1961, as amended (the "Act").

Lenders eligible to receive an A.I.D. guaranty are those specified in section 238(c) of the Act. They are: (a) U.S. citizens; (b) domestic U.S. corporation, partnerships, or associations substantially beneficially owned by U.S. citizens; (c) foreign corporations whose share capital is at least 95 percent

owned by U.S. citizens; and, (d) foreign partnerships as associations wholly owned by U.S. citizens.

Responses to this invitation should be sent no later than September 20, 1985 to: Director, Office of Housing and Urban Programs, Agency for International Development, PRE/H, Room 625, SA–12, Washington, D.C. 20523.

Any questions may be directed to Michael G. Kitay (202/632–3544) or Barton Veret (202/632–3074).

Dated: September 4, 1985.

Mario Pita,

Deputy Director, Office of Housing and Urban Programs.

[FR Doc. 85–21511 Filed 9–9–85; 8:45 am]

BILLING CODE 6116–01–M

Housing Guaranty Program; Notice of Investment Opportunity

The Agency for International Development (A.I.D.) has authorized the guaranty of a loan to the Housing Development Finance Corporation Limited, of Bombay, India (Borrower) as part of A.I.D.'s overall development assistance program. The proceeds of this loan will be used to develop a fully functioning private housing finance system in India which will make long-term shelter financing available for low income families residing in the country of the Borrower. The following is the address of the Borrower and the loan amount for projects that will soon be ready to receive financing and for which the Borrower will be requesting proposals from U.S. lenders or investment bankers:

INDIA, Project: 386–HG–002—$20,000,000, Deepak Parekh, Managing Director, Housing Development Finance Corporation, Limited, Ramon House, 169, Backbay Reclamation, Bombay, India 400020. Telephone: Cable Address: HouseCorp.—Bombay, Telex: 11–67–62

By this notice of investment opportunity, the Borrower is soliciting expressions of interest from U.S. lenders or investment bankers and counsel on market conditions, loan timing and structure and other features appropriate for the loan. Interested investment bankers or lenders should immediately contact the Borrower indicated above. The Borrower intends to conduct an auction on or about September 18, 1985. Prior to the auction, the Borrower will give notice to lenders who have expressed their interest in responses to this notice. The new notice will specify the details of the proposed auction.

Floating rate bids will be requested. Persons interested in receiving notice of the proposed auction are requested to advise promptly the Borrower by cable or telex with a copy of their expression of interest to be provided to A.I.D., addressed to Mr. Michael G. Kitay, Agency for International Development, PRE/H, Room 625, SA–12, Washington, D.C. 20523, Telex No. 892703.

Selection of investment bankers and/or lenders and the terms of the loan are initially subject to the individual discretion of the Borrower and thereafter subject to approval by A.I.D. The lenders and A.I.D. shall enter into a Contract of Guaranty, covering the loan. Closing of the loan and disbursements under the loan will be subject to certain conditions required of the Borrower by A.I.D. as set forth in agreements between A.I.D. and the Borrower.

The full repayment of the loan will be guaranteed by A.I.D. The A.I.D. guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to authority in section 222 of the Foreign Assistance Act of 1961, as amended (the "Act").

Lenders eligible to receive an A.I.D. guaranty are those specified in section 238(c) of the Act. They are: (a) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and, (4) foreign partnerships or associations wholly owned by U.S. citizens.

To be eligible for an A.I.D. guaranty, the loan must be repayable in full no later than the thirtieth anniversary of the disbursement of the principal amount thereof and the interest rates may be no higher than the maximum rate established from time to time by A.I.D.

Information as to the eligibility of investors and other aspects of the A.I.D. housing guaranty program can be obtained from: Director, Office of Housing and Urban Programs, Agency for International Development, PRE/H, Room 625, SA–12, Washington, D.C. 20523, Telephone: (202) 632–3544.

Dated: August 4, 1985.

Mario Pita,

Deputy Director Office of Housing and Urban Programs.

[FR Doc. 85–21510 Filed 9–9–85; 8:45 am]

BILLING CODE 6116–01–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–278 (Preliminary)]

Certain Cast-Iron Pipe Fittings From Brazil; Resumption of Investigative Activity

AGENCY: International Trade Commission.

ACTION: Resumption of investigative activity in Inv. No. 731–TA–278 (Preliminary).

EFFECTIVE DATE: September 4, 1985.

FOR FURTHER INFORMATION CONTACT: Edwin J. Madaj, Office of the General Counsel, 202–523–0148.

SUPPLEMENTARY INFORMATION: This U.S. Court of International Trade issued an *ex parte* temporary restraining order on August 21, 1985 restraining the Commission, its officers, agents, and employees, from continuing its investigation of Certain Cast-Iron Pipe Fittings from Brazil, Inv. No. 731–TA–278 (Preliminary). Accordingly, the Commission suspended investigative activity in this investigation pending further action by the Court. The order was issued as a result of a complaint and motion for a temporary restraining order and preliminary injunction in *Fundicao Tupy, S.A. v. United States*, Court No. 85–08–01062.

On September 4, 1985, the Court dismissed the action that had sought the temporary restraining order and preliminary injunction. Slip Op. 85–90 (September 4, 1985). Accordingly, the Commission immediately resumed its investigative activity, and will make its determination by September 16, 1985, the original 45-day deadline for completing its preliminary investigation. No preliminary conference will be held with respect to this investigation. Briefs or written comments may be submitted until 12 o'clock noon on September 9, 1985.

Copies of all non-confidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

Issued: September 6, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–21701 Filed 9–9–85; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-1 (Sub-No. 184X)]

Chicago and North Western Transportation Co.; Abandonment Exemption in Cook County, IL

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 10903, *et seq.*, the abandonment by the Chicago and North Western Transportation Company of 2.6 miles of line between milepost 10.3 at Skokie and milepost 12.9 at Evanston, in Cook County, IL, subject to standard labor protective conditions.

DATES: This exemption will be effective on October 10, 1985. Petitions to stay must be filed by September 20, 1985, and petitions for reconsideration must be filed by September 30, 1985.

ADDRESSES: Send pleadings referring to Docket No. AB-1 (Sub-no. 184X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Robert T. Opal, One North Western Center, Chicago, IL 60606

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: August 23, 1985.

By the Commission, Chairman Taylor, Vice Chairman Gradison, Commissioners Sterrett, Andre, Simmons, Lamboley and Strenio. Chairman Taylor and Commissioner Simmons were absent and did not participate in the disposition of this proceeding.

James H. Bayne,

Secretary.

[FR Doc. 85-21544 Filed 9-9-85; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Arrival/Departure Record, Form I-94; Revised Edition

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice of form revision.

FOR FURTHER INFORMATION CONTACT: Dennis M. McCloskey, Assistant Chief Inspector, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536, Telephone: (202) 633-2680.

SUPPLEMENTARY INFORMATION: Beginning December 1, 1985, all carriers of passengers seeking admission into the United States and presently using the I-94 manifest procedure will be required to use only the revised edition of the Arrival/Departure Record, Form I-94 (Rev. 10/01/85)N. Prior editions of Form I-94 in English or Spanish will not be accepted at any U.S. entry inspection facility after November 30, 1985. Either the 01/01/83 edition of the 10/01/85 edition may be used from October 1, 1985 to November 30, 1985. Prior editions of Form I-94 in languages other than Spanish may continue to be used through January 31, 1986.

Carriers may purchase the Form I-94 (Rev. 10/01/85)N in English or Spanish after October 1, 1985 from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Carriers may also elect to print their own forms in English or Spanish. Those carriers desiring to print their own forms *must* use the print package, which consists of four sheets of camera-ready copy and the printing specifications. The print packages will be available from Mr. James Gorson, Director of Facilitation, Air Transport Association of America, 1709 New York Avenue, NW., Washington, DC 10006.

Foreign languages, other than Spanish, will not be available from the Government Printing Office. The print packages will be available from the ATA by December 1, 1985, in the following languages: Arabic, Chinese, Dutch, French, German, Greek, Hebrew, Italian, Japanese, Korean, Polish, and Portugese. The packages will contain camera-ready copy of the form, and the printing specifications in English. Should any carrier desire a translation in a language other than those listed, requests may be made to the Immigration and Naturalization Service, Policy Directives and Instructions, 425 I Street, NW., Room 2011, Washington, D.C. 20536.

Each form I-94 must bear a unique number. The Immigration and Naturalization Service will assign an eight digit series of numbers with a Mod 11 DSR check digit as the 9th digit. There will be one blank space, followed by digits 10 and 11, which will be printed zeroes. All airlines and carriers must obtain blocks of admission numbers from the Immigration and Naturalization Service, NIIS/I-94, Form Support, Box 150, London, KY 40741, telephone (606) 878-7900, prior to printing.

Carriers that are not members of ATA may obtain print packages from I&NS, NIIS/I-94, Form Support, Box 150, London, KY 40741. All forms printed must use the print package. The redesign of the Form I-94 is depicted on the following page as it will be printed in English. It is an index weight, three section form printed in two colors. All three sections of the form must bear a unique 11-digit admission number that must not be duplicated regardless of which language is being printed. The number must be 16 point type, printed in black ink and capable of being read by Scan Optics model number 533.

Dated: September 4, 1985.

John W. Murray,

Associate Commissioner, Information Systems Immigration and Naturalization Service.

BILLING CODE 4410-01-M

U.S. Department of Justice
Immigration and Naturalization Service

OMB 1115-0077
Expires 10-31-88

Admission Number

123456789 00

Welcome to the United States

I-94 Arrival/Departure Record - Instructions

This form must be completed by all persons except U.S. citizens, returning resident aliens, aliens with immigrant visas, and Canadian Citizens visiting or in transit.

Type or print legibly with pen in ALL CAPITAL LETTERS. Use English. Do not write on the back of this form.

This form is in two parts. Please complete both the Arrival Record (Items 1 through 13) and the Departure Record (Items 14 through 17).

When all items are completed, present this form to the U.S. Immigration and Naturalization Service Inspector.

Item 7 - If you are entering the United States by land, enter **LAND** in this space. If you are entering the United States by ship, enter **SEA** in this space.

Form I-94 (10-01-85)N

Admission Number

123456789 00

Immigration and
Naturalization Service

I-94
Arrival Record

1. Family Name

2. First (Given) Name

3. Birth Date (Day Mo Yrs)

4. Country of Citizenship

5. Sex (Male or Females)

6. Passport Number

7. Airline and Flight Number

8. Country Where you Live

9. City Where You Boarded

10. City Where Visa Was Issued

11. Date Issued (Day Mo Yrs)

12. Address While in the United States(Number and Street)

13. City and State

Departure Number

123456789 00

Immigration and
Naturalization Service

I-94
Departure Record

14. Family Name

15. First (Given) Name

16. Birth Date (Day Mo Yrs)

17. Country of Citizenship

See other Side

STAPLE HERE

[FR Doc. 85-21553 Filed 9-9-85; 8:45 am]

BILLING CODE 4410-01-C

This Side For Government Use Only

Primary Inspection

Applicant's Name

Date Referred ____ Time ____ Insp. # ____

Reason Referred

☐ 212A ☐ ☐ ☐ PP ☐ Visa ☐ Parole ☐ SLB ☐ TWOV

☐ Other

Secondary Inspection

End Secondary Time ____ Insp. # ____

Disposition

18. Occupation	19. Waivers
20. INS File A -	21. INS FCO
22. Petition Number	23. Program Number
24. ☐ Bond	25. ☐ Prospective Student

26. Itinerary Comments

27. TWOV Ticket Number

Warning - A nonimmigrant who accepts unauthorized employment is subject to deportation.

Important - Retain this permit in your possession; ***you must surrender it when you leave the U.S.*** Failure to do so may delay your entry into the U.S. in the future.

You are authorized to stay in the U.S. only until the date written on this form. To remain past this date, without permmission from immigration authorities, is a violation of the law.

Surrender this permit when you leave the U.S.:
- By sea or air, to the transportation line;
- Across the Canadian border, to a Canadian Official;
- Across the Mexican border, to a U.S. Official.

Students planning to reenter the U.S. within 30 days to return to the same school, see "Arrival-Departure" on page 2 of Form I-20 **prior to surrendering this permit.**

Record of Changes

Port: **Departure Record**

Date:

Carrier:

Flight #/Ship Name:

DEPARTMENT OF LABOR

Office of the Secretary

Advisory Committee on Sheltered Workshops; Renewal

In accordance with the provisions of the Federal Advisory Committee Act, and after consultation with the General Services Administration (GSA), I have determined that renewal of the Advisory Committee on Sheltered Workshops is in the public interest in connection with the performance of duties imposed on the Department of Labor.

The Committee will advise the Secretary on issues concerning the application of the Fair Labor Standards Act, the Service Contract Act, and the Public Contracts Act to handicapped workers with impaired productive capacity.

Committee membership is designed to insure that all major groups affected by the Acts and the regulations issued thereunder are represented. The Committee will consist of 23 members: 9 consumer members (handicapped workers or representatives of organizations representing handicapped workers or the parents or guardians of handicapped workers); 9 officials from workshops, hospitals, or institutions or from organizations of workshops, hospitals, or institutions; 1 member representing organized labor; 1 member representing industry (other than the sheltered workshop industry); 1 member representing a State vocational rehabilitation agency; 1 member representing a State labor department; and 1 member representing the public. The members are selected on the basis of their expertise and serve in their individual capacities, not as representatives of their organizations.

The Committee will function solely as an advisory body and in compliance with the provisions of the Federal Advisory Committee Act. The charter will be filed with GSA and the appropriate Congressional Committees.

Further information may be obtained from: Arthur H. Korn, Committee Secretariat, Wage and Hour Division, Department of Labor, Room C4316, 200 Constitution Avenue, NW, Washington, DC 20210, Phone 202-523-8727.

Signed at Washington, DC, this 30th day of August, 1985.

Dated: August 30, 1985.

William E. Brock,

Secretary of Labor.

[FR Doc. 85-21599 Filed 9-9-85; 8:45 am]

BILLING CODE 4510-23-M

Agency Proposed Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed reporting and recordkeeping requirements that will affect the public.

List of Proposed Recordkeeping/Reporting Requirements Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency proposed recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extension, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of and particular revision they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this proposed recordkeeping/reporting requirement.

The title of the proposed recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the proposed 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 proposed recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone (202) 523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-1301, Washington, DC 20210. Comments should also be sent to the OMB reviewer, Nancy Wentzler, Telephone (202) 395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, Washington, DC 20503.

Any member of the public who wants to comment on a proposed recordkeeping/reporting requirements which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New

Employment and Training Administration

UIPL State Survey Form

One-time only

State or local governments

53 respondents; 318 hours

Information is required from State Employment Security Agencies in order to determine the financial impact of the increase (as of 1/85) in the Federal Unemployment Tax Act tax rate. A comprehensive analysis will be undertaken and used in testimony before the Congress and as a basis for determining the impact of any future changes in the tax rate.

Signed at Washington, DC this 5th day of September, 1985.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 85-21604 Filed 9-9-85; 8:45 am]

BILLING CODE 4510-30-M

Employment and Training Administration

[TA-W-15,986]

U.S. Steel Corp. Traffic and Transportation, Merrillville, IN; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1984, an investigation was initiated on May 6, 1985 in response to a worker petition which was filed on behalf of workers at the Traffic and Transportation Department of U.S. Steel Corporation, Merrillville, Indiana.

An active certification covering the petitioning group of workers remains in effect (TA-13,268). Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C. this 30th day of August 1985.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 85-21605 Filed 9-9-85; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply For Worker Adjustment Assistance; Allis-Chalmers et al.

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 20, 1985.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 20, 1985.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW, Washington, DC 20213.

Signed at Washington, D.C. this 12th day of August 1985.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (Union/workers or former workers of:)	Location	Date received	Date of petition	Petition No.	Articles produced
Allis-Chalmers Engine Div. (company)	Harvey, IL	8/5/85	8/1/85	TA-W-16,219	Diesel engines used in agricultural equipment.
Anthony Roberts, Inc. (company)	Milford, MA	8/5/85	8/1/85	TA-W-16,220	Men's and women's rainwear and outerwear.
Ball Electronic Systems Div. Ball Corp. (workers)	Circle Pines, MN	7/19/85	7/16/85	TA-W-16,221	TV monitors and data display units for computer terminal industry.
Figgie Internatioinal Summit Hill Distribution (workers)	Summit Hill, PA	8/2/85	7/29/85	TA-W-16,222	Blouses, gogging suits, sweaters.
Fred Rueping Leather Co. (United Food and Commercial Workers).	Fond du Lac, WI	8/1/85	7/25/85	TA-W-16,223	Retanning, coloring and finishing leather.
ITT Telecom (workers)	Milan, TN	7/29/85	7/24/85	TA-W-16,224	Telephone equipment.
Kentucky Electric Steel (workers)	Ashland, KY	8/5/85	7/29/85	TA-W-16,225	Rounds and flat Bar products.
Stromberg-Carlson (workers)	Lake Mary, FL	8/5/85	7/31/85	TA-W-16,226	T1011 hybrid microelectric circuits.
Rutledge Sportswear (workers)	Rutledge, GA	7/26/85	7/11/85	TA-W-16,227	Skimobile suits.
(The) Stackpole Corp. (IUE)	St. Marys, PA	7/29/85	7/10/85	TA-W-16,228	Ferrites, carbon brushes, resistors.
Thru Blu (United Food and Commercial)	So. St. Paul, MN	8/1/85	7/25/85	TA-W-16,229	Blueing tanning leather.
Fries Textile Co. (company)	Fries, VA	8/5/85	8/2/85	TA-W-16,230	Yarn, wooven fabrics.
J. P. Stevens and Co., Inc. (company)	Goldsboro, NC	8/5/85	8/2/85	TA-W-16,231	Greige apparel blouse material and greige batiste drapery material.
Leventhal Manufacturing Co. (ACTWU)	Elizabeth, NJ	7/29/85	7/16/85	TA-W-16,232	Mens shirts.
Martin-Marietta Energy Systems, Inc. (OCAW)	Oak Ridge, TN	8/6/85	7/9/85	TA-W-16,233	Enriched uranium.
Milton Shoe Manufacturing, Inc. (workers)	Milton, PA	8/5/85	7/31/85	TA-W-16,234	Ladies and girls dress shoes and boots.
Princeton Lumber Co. (workers)	Princeton, KY	8/6/85	7/25/85	TA-W-16,235	Speaker accessories, speaker cabinets.
Salem Sportswear, Inc. (ILGWU)	Salem, NJ	7/29/85	7/12/85	TA-W-16,236	Bridesmaid gowns.
Salem Sportswear, Inc. (ILGWU)	Bridgeton, NJ	7/29/85	7/12/85	TA-W-16,237	Bridesmaid gowns.
Thompson Manufacturing Co. (ILGWU)	Bennington, VT	7/29/85	7/23/85	TA-W-16,238	Ladies knitted shirts.
Wilson Jones Co. (workers)	Elizabeth, NJ	8/2/85	7/30/85	TA-W-16,239	Envelopes, notebooks, folders, etc.
Zenith Elecronics Corp. of Indiana (IUE)	Evansville, IN	7/29/85	7/22/85	TA-W-16,240	Cabinets for Zenith T.V.'s.
Independent Leather Mfg. Corp. (ACTWU)	Gloversville, NY	7/29/85	7/23/85	TA-W-16,241	Leather tanning and finishing.
Johnstown Leather Corp. (ACTWU)	Johnstown, NY	7/29/85	7/23/65	TA-W-16,242	Leather tanning and finishing.
Karg Brothers, Inc. (ACTWU)	Johnstown, NY	7/29/85	7/23/85	TA-W-16,243	Leather tanning, coloring, finishing.
Karg Brothers Finishing Corp. (ACTWU)	Johnstown, NY	7/29/85	7/23/85	TA-W-16,244	Leather finishing.
Liberty Leather Corp. (ACTWU)	Gloversville, NY	7/29/85	7/23/85	TA-W-16,245	Leather tanning and finishing.
Androme Leather Co., Inc. (ACTWU)	Gloversville, NY	7/29/85	7/22/85	TA-W-16,246	Leather finishing.
Carville Leather Co., Inc. (ACTWU)	Johnstown, NY	7/29/85	7/23/85	TA-W-16,247	Leather finishing.
Cayadutta Tanning Co., Inc. (ACTWU)	Gloversville, NY	7/29/85	7/23/85	TA-W-16,248	Leather tanning.
Colonial Tanning Corp. (ACTWU)	Gloversville, NY	7/29/85	7/23/85	TA-W-16,249	Leather tanning.
Fashion Tanning Co., Inc. (ACTWU)	Gloversville, NY	7/29/85	7/23/85	TA-W-16,250	Leather tanning and finishing.
Pan American Tanning Corp. (ACTWU)	Gloversville, NY	7/29/85	7/23/85	TA-W-16,251	Leather finishing.
Peerless Tanning Co., Inc. (ACTWU)	Johnstown, NY	7/29/85	7/23/85	TA-W-16,252	Leather tanning.
Risendorf Tanners (ACTWU)	Gloversville, NY	7/29/85	7/23/85	TA-W-16,253	Leather tanning.
Simco Leather Corp. (ACTWU)	Johnstown, NY	7/29/85	7/23/85	TA-W-16,254	Leather tanning and finishing.
Twin City Leather Co., Inc. (ACTWU)	Gloversville, NY	7/29/85	7/23/85	TA-W-16,255	Leather tanning.
Wood & Hyde Corp. (ACTWU)	Gloversville, NY	7/29/85	7/23/85	TA-W-16,256	Leather finishing, coating, tanning.
Hagaman Mfg. Corp. (ACTWU)	Hagaman, NY	7/29/85	7/23/85	TA-W-16,257	Lustering finishing leather.
Troytown Shirt Corp. (ACTWU)	Cohoes, NY	7/29/85	7/23/85	TA-W-16,258	Blouses and shirts.
Moderne Gloves, Inc. (ACTWU)	Gloversville, NY	7/29/85	7/23/85	TA-W-16,259	Leather dressawear, dress gloves.
Gates Mills, Inc. (ACTWU)	Johnstown, NY	7/29/85	7/23/85	TA-W-16,260	Gloves.
Elmer Little & Sons (ACTWU)	Perry, NY	7/29/85	7/23/85	TA-W-16,261	Leather dress and sport gloves.
Glove City Abrading Co., Inc. (ACTWU)	Gloversville, NY	7/29/85	7/23/85	TA-W-16,262	Supply service of shaving leather for glove factories.
R. L. Kilmer & Sons, Inc. (ACTWU)	Johnstown, NY	7/29/85	7/23/85	TA-W-16,263	Shaving leather for glove factories.
Pagano Gloves, Inc. (ACTWU)	Johnstown, NY	7/29/85	7/23/85	TA-W-16,264	Mens and womens leather dress and sport gloves.
Ambroson Gloves, Inc. (ACTWU)	Gloversville, NY	7/29/85	7/23/85	TA-W-16,265	Sport, dress, driving gloves, leather leather/fabric.
(The) Grandoe Corp. (ACTWU)	Gloversville, NY	7/29/85	7/23/85	TA-W-16,266	Dress and sport gloves.
Perrella Gloves, Inc. (ACTWU)	Gloversville, NY	7/29/85	7/23/85	TA-W-16,267	Leather dress and sport gloves.
Mario Papa & Sons, Inc. (ACTWU)	Gloversville, NY	7/29/85	7/23/85	TA-W-16,268	Leather dress gloves—civilian and military.
Joseph P. Conroy, Inc. (ACTWU)	Johnstown, NY	7/29/85	7/23/85	TA-W-16,269	Dress, sport work leather gloves.
Rubin Gloves, Inc. (ACTWU)	Gloversville, NY	7/29/85	7/23/85	TA-W-16,270	Leather sport gloves.
Koppers Co., Organic Materials Div. (USWA)	Fontana, CA	8/5/85	8/1/85	TA-W-16,271	Refined tar, bitumen, hard carbon pitch.
Rola Division International Jensen (USWA)	Punxsutawney, PA	8/5/85	8/1/85	TA-W-16,272	Audio-stereo speakers.
William Powell Co. Plants 1 and 2 (USWA)	Cincinnati, OH	8/5/85	8/1/85	TA-W-16,273	Industrial valves, high precision valves used in power plants, nuclear valves and commercial valves.
Norten Digby Taconite Co. (USWA)	Eveleth, MN	8/5/85	8/1/85	TA-W-16,274	Taconite.
Prometech (IUE)	St. Marys, PA	8/5/85	8/1/85	TA-W-16,275	Powder metal parts.
International Carriers Inc. (Gen. Frivers and Helpers)	Flint, MI	8/5/85	8/1/85	TA-W-16,276	Driver—truck transportation auto parts.
Abex Corp. (workers)	Anderson, IN	8/8/85	7/25/85	TA-W-16,277	Trackwork castings.

[FR Doc. 85-21601 Filed 9-9-85; 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Chino Mines Co. et al.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C-2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period August 26, 1985—August 30, 1985.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-15,915 and TA-W-16,071; Chino Mines Co., A Kennecott-Mitsubishi Partnership, Hurley, NM

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-16,195; Inteleplex Corp., Pleasantville, NJ

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-15,965; Luzerne Coal Corp., East Millsboro, PA

Aggregate U.S. imports of coal are negligible.

TA-W-15,910; Halliburton Co., Imco Services Div., Exploration Dept., Battle Mountain, NE

The worker's firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-16,140; Consolidation Coal Co., Four States Mine, Marion County, WV

Aggregate U.S. imports of coal are negligible.

TA-W-16,141; Consolidation Coal Co., Nailer Mine, Marion County, WV

Aggregate U.S. imports of coal are negligible.

Affirmative Determinations

TA-W-15,996; Robert Shaw Controls Co., New Stanton Div., Hillsboro, OH

A certification was issued covering all workers of the firm separated on or after April 29, 1984.

TA-W-15,992; Diamond International Corp., (Diamond Land Corp.), Maryland, CA

A certification was issued covering all workers of the firm separated on or after May 2, 1984 and before December 31, 1984.

TA-W-16,054; Foundry Div., Ingersoll-Rand Co., Painted Post, NY

A certification was issued covering all workers of the firm separated on or after March 1, 1985.

TA-W-15,921; South Branch Lumber Co., Howland, ME

A certification was issued covering all workers of the firm separated on or after February 1, 1985 and before June 30, 1985.

TA-W-15,972; West Point Pepperell, Inc, Grantville, GA

A certification was issued covering all workers of the firm separated on or after 18, 1984.

TA-W-16,046; Zenith Electronics Corp., Computer Subassembly Department, Coble Subassembly Department, Kostner Ave., Plant #2, Chicago, IL

A certification was issued covering all workers of the firm separated on or after January 27, 1985 and before July 31, 1985.

TA-W-15,999; Sylco Corp., Sylva, NC

A certification was issued covering all workers of the firm separated on or after May 2, 1984 and before February 1, 1985.

TA-W-15,956; Bethenergy Mines, Inc., Mine #84, Cokesburg, PA

A certification was issued covering all workers of the firm separated on or after May 1, 1984.

TA-W-16,112; West Point-Pepperell, Inc., Dixie Mill, LaGrange, GA

A certification was issued covering all workers of the firm separated on or after June 12, 1984.

I hereby certify that the aforementioned determinations were issued during the period August 26, 1985—August 30, 1985. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street NW, Washington, D.C. during normal business hours or will be mailed to persons who write to the above address.

Dated: September 3, 1985.

Mavin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 85-21602 Filed 9-9-85; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; Canadian Cedar Industries et al.

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 20, 1985.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than September 20, 1985.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213.

Signed at Washington, D.C. this 30th day of August 1985.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Canadian Cedar Industries (wkrs)	Shelton, WA	8/20/85	8/16/85	TA-W-16,351	Shakes and shingles.
Cummins Engine Co. (Diesel Workers Independent Union)	Madison, IN	8/21/85	8/19/85	TA-W-16,352	Diesel engines and parts.
Cummins Engine Co. (Diesel Workers Independent Union)	Seymour, IN	8/21/85	8/19/85	TA-W-16,353	Diesel engines and parts.
Cummins Engine Co. (Diesel Workers Independent Union)	Indianapolis, IN	8/21/85	8/19/85	TA-W-16,354	Diesel engines and parts.
Cummins Engine Co. (Diesel Workers Independent Union)	Walesboro, IN	8/21/85	8/19/85	TA-W-16,355	Diesel engines and parts.
Cummins Engine Co. Plants #1, #2, #10, #6 (Diesel Workers Independent Union).	Columbus, IN	8/21/85	8/19/85	TA-W-16,356	Diesel engines and parts.
Doe Spun, Inc. (workers)	Cumberland, MD	8/26/85	8/23/85	TA-W-16,357	Children wear.
Dover Handbag Co., Inc. (company)	Netcong, NJ	8/27/85	8/1/85	TA-W-16,358	Handbags.
Georgia Pacific Corp. (UPIU)	Zachary, LA	8/26/85	8/23/85	TA-W-16,359	Bleached kraft pulp.
Hedstrom Corp. (workers)	Dotham, AL	8/26/85	8/19/85	TA-W-16,360	Strollers, trycycles, bycycles, toy products.
Tucson Cornelia & Gila Bend Railroad Co. (company)	Ajo, AZ	8/26/85	8/21/85	TA-W-16,361	Transporting copper anodes.
B.F. Goodrich Co. (URW)	Akron, OH	8/26/85	8/21/85	TA-W-16,362	Rubber band, tank liners, sheet rubber, conveyor belts.
Carrier Corp. (Sheet Metal Wkrs)	Syracuse, NY	8/26/85	8/16/85	TA-W-16,363	Air conditioners, furnances, boilers, heaters.
Empire Detroit Steel Div., Cyclops Corp. (workers)	Dover, OH	8/26/85	8/16/85	TA-W-16,364	Galvanized sheet steel.
Fisher Corp., (IBEW)	Milroy, PA	8/24/85	8/20/85	TA-W-16,365	Stereo speakers.
Forest Hill Sportswear Co., Inc. (ILGWU)	Boston, MA	8/26/85	8/22/85	TA-W-16,366	Women's jackets.
Harris Digital Telephone Systems (company)	Novato, CA	8/26/85	8/20/85	TA-W-16,367	Pbx—exchanges.
Novelty Textile Mills, Inc. (wkrs)	Wauregan, CT	8/26/85	8/23/85	TA-W-16,368	Jackets, sweaters, coats.
Prestige Sportswear, Inc. (ILGWU)	Boston, MA	8/26/85	8/22/85	TA-W-16,369	Jackets, slacks, skirts.
RCA Boringuen (workers)	Juncos, PR	8/22/85	8/19/85	TA-W-16,370	Pistol—televisions—color.
S. Greenberg Co. (ILGWU)	Boston, MA	8/26/85	8/22/85	TA-W-16,371	Womens dresses and skirts.
Suttle Apparatus Corp. (workers)	Lawrenceville, IL	8/24/85	8/21/85	TA-W-16,372	Modular telephone products.
Technographics Fitchburg Paper, Inc. (teamsters)	Fitchburg, MA	8/24/85	8/21/85	TA-W-16,373	Speciality papers (wallpapers).

[FR Doc. 85-21603 Filed 9-9-85; 8:45 am]

BILLING CODE 4510-30-M

Occupational Safety and Health Administration

Advisory Committee on Construction Safety and Health; Meeting

Notice is hereby given that the Advisory Committee on Construction Safety and Health, established under section 107(e)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and section 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) will meet on September 26 and 27, 1985 in Room C5515, Seminar Room #4, Frances Perkins Department of Labor Building, Washington, D.C. 20210. The meeting is open to the public and will begin at 11:00 a.m. on September 26 and 9:30 a.m. on September 27.

The agenda for this meeting will include a review of a draft standard for the regulation of asbestos in the construction industry, a review of a proposed standard for formaldehyde as it relates to construction, and a general discussion of construction safety and health matters.

Written data, views or comments may be submitted preferably with 20 copies to the Division of Consumer Affairs. Any such submissions received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting.

Anyone wishing to make an oral presentation should notify the Division of Consumer Affairs before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation.

Oral presentations will be scheduled at the discretion of the Chairman depending on the extent to which time permits. Communications may be mailed to Ken Hunt, Committee Management Officer, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N3662, Washington, DC 20210: Telephone: (202) 523-8024.

Materials provided to members of the Committee are available for inspection and copying at the above address.

Signed at Washington, DC the 5th day of September 1985.

Patrick R. Tyson,

Acting Assistant Secretary of Labor.

[FR Doc. 85-21598 Filed 9-9-85; 8:45 am]

BILLING CODE 4510-26-M

LEGAL SERVICES CORPORATION

Grants and Contracts; Announcement of Transfer of State Support Funds in the State of Pennsylvania

AGENCY: Legal Services Corporation.

ACTION: Notice.

SUMMARY: The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Statute 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project the Corporation shall announce publicly . . . such grant, contract or project . . . ."

The Legal Services Corporation (LSC) hereby publicly announces the transfer of responsibility of the LSC grant for state support activities for legal services programs within the state of Pennsylvania from Delaware County Legal Assistance Association located in Chester to the Law Coordination Center located in Lancaster.

DATE: All comments related to this action must be received by the Office of Field Services on or before September 29, 1985.

FOR FURTHER INFORMATION CONTACT: Gail D. Francis, Manager, Grants and Budget Unit, Office of Field Services, Legal Services Corporation, 733 Fifteenth Street, NW., Washington, DC 20005, (202) 272-4080.

SUPPLEMENTARY INFORMATION: Historically, Delaware County Legal Assistance Association has subcontracted the provision of providing

state support activities within the state of Pennsylvania to the Law Coordination Center. All parties mutually agree that beginning in grant year 1985 the LSC grant will be made directly to the Law Coordination Center. The annualized level of Legal Services Corporations funding for state support activities is $178,633 for calendar year 1985.

All groups and persons interested in submitting comments related to this transfer should submit such to the Legal Services Corporation, Grants Assistant, Grants and Budget Unit, Office of Field Services, 733 Fifteenth Street, NW., Washington, DC 20005, within thirty (30) calendar days of publication of this notice.

Peter Broccoletti,

Acting Director, Office of Field Services.

[FR Doc. 85-21543 Filed 9-9-85; 8:45 am]

BILLING CODE 6820-35

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Astronomical Sciences; Open Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee on Large Optical/Infrared Telescopes.

Date and time: September 23, 1985, 1 p.m.-5 p.m., September 24-25, 9 a.m.-5 p.m.

Place: Main Conference Room, National Optical Astronomy Observatories, Tucson, Arizona.

Type of meeting: Open.

Contact person: Dr. Laura P. Bautz, Director, Division of Astronomical Sciences, Room 615, National Science Foundation, Washington, DC 20550 (202-357-9488).

Summary minutes: May be obtained from the contact person at the above address.

Purpose of subcommittee: To advise on appropriate future directions for the Foundation's support of technology development and planning for a large optical/infrared telescope for the remainder of the decade.

Agenda

Monday, September 23

1 p.m.-5 p.m.—Status of technology development efforts and planning of National Optical Astronomy Observatory and of other groups involved in large optical/infrared telescope projects.

Tuesday, September 24

9 a.m.-5 p.m.—Continuation of presentations and discussions from previous day.

Wednesday, September 25

9 a.m.-5 p.m.—Continuation of presentations and discussions from previous days.

M. Rebecca Winkler,

Committee Management Officer.

September 5, 1985.

[FR Doc. 85-21572 Filed 9-9-85; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-320]

General Public Utilities Nuclear Corp.; Environmental Assessment and Notice of Finding of No Significant Environmental Impact

The U.S. Nuclear Regulatory Commission (the Commission) is planning to issue an Exemption relative to the Facility Operating License No. DPR-73, issued to General Public Utilities Nuclear Corporation (the licensee), for operation of the Three Mile Island Nuclear Station, Unit 2 (TMI-2), located in Londonderry Township, Dauphin County, Pennsylvania.

Environmental Assessment

Identification of Proposed Action

The action being considered by the Commission is an exemption from certain requirements of 10 CFR 20.311(b) and 20.311(d)(1), (2) and (3) for classifying TMI-2 EPICOR II solid waste liners. Specifically these requirements are: (1) 10 CFR 20.311(b), "Wastes classified as Class A, Class B, or Class C in Section 61.55 of this chapter must be clearly identified as such in the manifest;" (2) 10 CFR 20.311(d)(1), "Prepare all wastes so that the waste is classified according to Section 61.55 and meets the waste characteristics requirements in Section 61.56 of this chapter;" (3) 10 CFR 20.311(d)(2), "Label each package of waste to identify whether it is Class A waste, Class B waste, or Class C waste in accordance with § 61.55 of this chapter;" and (4) 10 CFR 20.31(d)(3), "Conduct a quality control program to assure compliance with §§ 61.55 and 61.56 of this chapter; the program must include management evaluation of audits." For the requirements of 10 CFR 20.311(d)(3), the exemptions apply only to the quality control program to assure compliance with 10 CFR 61.55. The requirement for 10 CFR 61.56 is not being exempted.

The Need for the Action

The licensee has requested from the State of Washington a variance to the Class "A" waste criteria of 10 CFR 61.55 regarding the TMI-2 EPICOR II solid waste liners to increase the upper Class "A" limit for SR-90 from 0.04 uCi/cc to 1.0 uCi/cc. In order to implement this variance request, the licensee would require exemptions from 10 CFR 20.311(b) and 20.311(d)(1), (2) and (3) as identified above. Without the variance, the waste volume for disposal would significantly increase and there would be corresponding increases in occupational exposure resulting from additional waste handling without any benefit to public health and safety at the burial site.

Environmental Impacts of the Proposed Actions

The staff has evaluated the subject exemption and concluded that it will not result in significant increases in airborne radioactivity inside facility buildings or in corresponding releases to the environment. There are also no nonradiological impacts to the environment as a result of this action.

Alternative to this Action

Since we have concluded that the environmental effects of the proposed action and exemption are negligible, any alternatives with equal or greater environmental impacts need not be evaluated. Denial of this exemption would not reduce environmental impacts of plant operaions and would result in the application of overly restrictive regulatory requirements when considering the unique conditions of TMI-2.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and consulted with the Department of Social and Health Services, State of Washington.

Alternate Use of Resources

This action does not involve the use of resources not previously considered in connection with the Final Programmatic Impact Statement for TMI-2 dated March 1981.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the subject Exemption. Based upon the foregoing environmental assessment, we conclude that this action will not have a significant effect on the quality of the human environment.

For further details with respect to this action see: (1) Letter to J. J. Barton, Metropolitan Edison Co., from B. J. Snyder, USNRC, Evaluation of EPICOR II liner disposal conditions, dated October 22, 1981; (2) Letter to L.

Gronemyer, State of Washington, from B. K. Kanga, GPUNC, 10 CFR 61 Exemption, dated October 26, 1983; (3) Letter to B. J. Snyder, USNRC, from F. R. Standerfer, GPUNC, 10 CFR 20.311 Exemption Request, dated June 25, 1985; and (4) Letter to B. K. Kanga, GPUNC, from J. Stohv and M. J. Elsen, State of Washington, dated July 17, 1985.

The above documents are available for inspection at the Commission's Public Local Document Room, 1717 H Street, NW., Washington, DC, and at the Commission's Local Public Document Room at the State Library of Pennsylvania, Government Publications Section, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

For the Nuclear Regulatory Commission.

Bernard J. Snyder,

Program Director, Three Mile Island Program Office, Office of Nuclear Reactor Regulation.

[FR Doc. 85-21589 Filed 9-9-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-352]

Philadelphia Electric Co., Limerick Generating Station, Unit 1; Receipt of Request for Action Under 10 CFR 2.206

Notice is hereby given that the Director of Nuclear Reactor Regulation is considering as requests for action under 10 CFR 2.206 a letter dated July 26, 1985, from Robert L. Anthony on behalf of himself and the Friends of the Earth and a letter dated August 8, 1985 from Frank R. Romano on behalf of the Air and Water Pollution Patrol. Mr. Anthony's letter was referred to the Director by the Commission's Order of August 8, 1985, and the Atomic Safety and Licensing Appeal Board referred Mr. Romano's letter to the Director by its August 12, 1985 Order. Mr. Anthony and Mr. Romano both contend that the NRC staff not have issued certain exemptions from requirements in 10 CFR Part 50 for Limerick Unit 1 and that issuance of such exemptions did not adequately consider environmental impacts. It should be noted that a recent Director's Decision (DD-85-11, July 29, 1985) analyzed similar issues raised by Mr. Anthony concerning the exemptions. That decision is currently before the Commission for its review under 10 CFR 2.206)c).

A decision will be made on Mr. Anthony's and Mr. Romano's most recent requests within a reasonable time. Copies of the letters are available for public inspection in the Commission's Public Document Room at 1717 H Street, NW., Washington, DC 20555, and in the local public document room at the Pottstown Public Library, 500 Hight Street, Pottstown, Pennsylvania 19464.

Dated at Bethesda, Maryland, this 30 day of August 1985.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Acting Director Office of Nuclear Reactor Regulation.

[FR Doc. 85-21588 Filed 9-9-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-353]

Philadelphia Electric Co., Limerick Generating Station, Unit 2; Receipt of Request for Action Under 10 CFR 2.206

Notice is hereby given that the Director of Nuclear Reactor Regulation is considering as requests for action under 10 CFR 2.206 a letter dated July 26, 1985, from Marvin I. Lewis. Mr. Lewis contends, on the basis of the recent recommendation of Administrative Law Judge Allison K. Turner to the Pennsylvania Public Utility Commission, that Unit 2 of the Limerick Generating is "unneeded and uneconomical." Mr. Lewis further contends that on this basis the construction permit for Unit 2 should be "lifted or retracted."

A decision will be made on Mr. Lewis' request within a reasonable time. A copy of the letter is available for public inspection in the Commission's Public Document Room at 1717 H Street, NW., Washington, DC 20555, and in the local public document room at the Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Dated at Bethesda, Maryland, 30th day of August 1985.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 85-21587 Filed 9-9-85; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on Advanced Reactors; Meeting

The ACRS Subcommittee on Advanced Reactors will hold a meeting on September 25, 1985, Room 1046, 1717 H Street, NW, Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, September 25, 1985—8:30 a.m. until the conclusion of business

The Subcommittee will discuss the proposed policy for regulation of advanced nuclear power plants.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangments can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding mattters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. M. El-Zeftawy (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Date September 4, 1985

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 85-21593 Filed 9-9-85; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on Class 9 Accidents; Meeting

The ACRS Subcommittee on Class 9 Accidents will hold a meeting on September 27, 1985, Room 1167, 1717 H Street, NW, Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Friday, September 27, 1985—8:30 a.m. until the conclusion of business.

The Subcommittee will continue its discussion of draft NUREG–0956, "Source Term Reassessment," with the NRC Staff.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Dean Houston (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: September 4, 1985.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 85–21592 Filed 9–9–85; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Nuclear Regulatory Commission; Revised Notice of Meeting

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on September 12–14, 1985, in Room 1046, 1717 H Street, NW, Washington, DC. Notice of this meeting was published in the **Federal Register** on August 28, 1985. Portions of this meeting have been rescheduled as noted below to accommodate the availability of participants in the meeting.

Friday, September 13, 1985

8:30 A.M.–10:15 A.M.: ACRS Effectiveness (Open)—The Committee will hear and discuss the report of its Panel on ACRS Effectiveness regarding the conduct and scope of ACRS activities.

10:15 A.M.–11:15 A.M.: Reorganization of the NRC Office of Nuclear Reactor Regulation (Open)—The members will hear a briefing from the Director, NRR regarding the recent reorganization of the Office of Nuclear Reactor Regulation.

11:15 A.M.–12:15 P.M. and 1:15 P.M.–2:15 P.M.: Selection of Nuclear Power Plant Personnel (Open)—The members will hear and discuss reports from invited experts regarding the use of natural aptitude testing in selection of nuclear power plant personnel.

2:15 P.M.–3:45 P.M.: Meeting with NRC Commissioners (Open)—The members will meet with the NRC Commissioners to discuss topics regarding: ACRS participation in NRC regulation of the DOE program for management and disposal of high level radioactive wastes; the proposed NRC Severe Accident Policy Statement; and human factors research needs.

3:45 P.M.–5:45 P.M.: River Bend Nuclear Plant (Open)—The members will continue their review of the River Bend operating license application. Representatives of the NRC Staff and the licensee will also make presentations and participate in the discussion to the degree considered appropriate.

Saturday, September 14, 1985

8:30 A.M.–12:30 P.M.: Preparation of ACRS Reports (Open/Closed)—The members will discuss proposed ACRS reports to the NRC regarding items considered during this meeting. In addition, the members will consider a proposed report regarding the application of PRAs to nuclear power plants.

Portions of this session will be closed as required to discuss Proprietary Information applicable to the matters being discussed, and detailed security provisions for the GESSAR II plant design.

1:30 P.M.–2:30 P.M.: ACRS Subcommittee Activities (Open)—The members will hear and discuss the activities of designated ACRS subcommittees with respect to safety related issues and the regulatory process including physical protection of fuel containing HEU at nonpower reactors; and Regulatory Guide 1.99, Rev. 2, Effects of Residual Elements on Predicted Radiation Damage to Reactor Vessel Materials; and ACRS Procedures and Practices including the recommendations of the Panel on ACRS Effectiveness.

2:30 P.M.–3:00 P.M.: Activities of ACRS Members (Open/Closed)—The members will discuss anticipated non-ACRS activities and assignments which impact on their activities as ACRS members.

Portions of this session will be closed as necessary to discuss information the release of which would represent an unwarranted invasion of personal privacy.

I have determined in accordance with Subsection 10(d) Pub. L. 92–463 that it is necessary to close portions of this meeting as noted above to discuss Proprietary Information [5 U.S.C. 552b(c)(4)], detailed security information [5 U.S.C. 552b(c)(3)], and information the release of which would represent an unwarranted invasion of personal privacy [5 U.S.C. 552b(c)(6)].

Dated: September 5, 1985.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 85–21590 Filed 9–9–85; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Subcommittee on Human Factors; Meeting

The ACRS Subcommittee on Human Factors will hold a meeting on September 17 and 18, 1985, at the Arkansas Nuclear One (ANO) Training Facility, Russellville, Arkansas.

The meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Tuesday, September 17, 1985—8:30 a.m. until the conclusion of business.

Wednesday, September 18, 1985—11:30 a.m. until 3:45 p.m.

The Subcommittee will examine the ANO–1's emergency procedures (symptom based) and facilities.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify

the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. John Schiffgens (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: September 5, 1985.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 85–21591 Filed 9–9–85; 8:45 am]

BILLING CODE 7590–01–M

Nuclear Power Plants; Issuance of NUREG–0956 "Reassessment of the Technical Basis for Estimating Source Terms"; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Correction.

SUMMARY: This document corrects the date that public comments may be received on NUREG–0956.

SUPPLEMENTARY INFORMATION: In FR Doc. 85–18727 appearing on page 31937 in the issue of Wednesday, August 7, 1985, make the following correction:

Page 31937, third column, third full paragraph, change the comment expiration date to November 7, 1985.

Approved: September 9, 1985.

Thomas Combs,

Chief, Correspondence and Records Branch, Office of the Secretary.

[FR Doc. 85–21586 Filed 9–9–85; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service; Schedules A, B, and C; Positions Placed or Revoked; Update

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A, B, and C in the excepted service, as required by civil service rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Tracy Spencer, (202) 632–6817

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR Part 213 on August 8, 1985 (50 FR 32129). Individual authorities established or revoked under Schedules A, B, or C between July 1, 1985 and July 31, 1985 appear in a listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities will be published as of June 30 of each year.

Schedule A

The following exception is established:

Department of the Air Force

One Training Instructor (Parachuting) and one Training Instructor (Code of Conduct and Evasion), and two Physical Therapists/Athletic Trainers at the Air Force Academy. Effective July 11, 1985.

Schedule B

The following exception is revoked:

Department of the Interior

Excepted appointing authority for positions at Indian Schools in isolated locations filled by spouses of competitive employees was revoked, effective July 1, 1985, because positions at Indian Schools are now filled by contract.

Schedule C

The following exceptions are established:

Department of Agriculture

Three Confidential Assistants to the Assistant Secretary for Governmental and Public Affairs. Effective July 3, 1985.

One Confidential Assistant to the Assistant Secretary for Science and Education. Effective July 3, 1985.

One Executive Assistant to the General Counsel. Effective July 3, 1985.

One Private Secretary to the Deputy Assistant Secretary for Marketing and Inspection Services. Effective July 3, 1985.

One Staff Assistant to the Assistant Secretary for Governmental and Public Affairs. Effective July 3, 1985.

One Confidential Assistant to the Assistant Secretary for Science and Education. Effective July 8, 1985.

One Confidential Assistant to the Assistant Secretary for Economics. Effective July 19, 1985.

One Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs. Effective July 26, 1985.

Department of Commerce

One Confidential Assistant to the Director, Office of Export Trading Company Affairs, International Trade Administration. Effective July 3, 1985.

One Private Secretary to the Deputy Under Secretary for Travel and Tourism. Effective July 8, 1985.

One Special Assistant to the Deputy Assistant Secretary for Congressional Affairs. Effective July 8, 1985.

One Confidential Assistant to the Deputy Assistant Secretary for Domestic Operations, U.S. and Foreign Commercial Service, International Trade Administration. Effective July 11, 1985.

One Confidential Assistant to the General Counsel. Effective July 11, 1985.

One Special Assistant to the Director, Office of Minority Business Development Agency. Effective July 15, 1985.

One Confidential Assistant to the Special Assistant to the Secretary. Effective July 17, 1985.

One Confidential Assistant to the General Counsel. Effective July 22, 1985.

Department of Defense

One Private Secretary to the Assistant Secretary of Defense (Command, Control, Communications and Intelligence). Effective July 3, 1985.

One Administrative Assistant to the Associate Director, Presidential Personnel Office. Effective July 5, 1985.

One Assistant to the Director for External Affairs. Effective July 11, 1985.

One Special Assistant to the Under Secretary of Defense for Research and Engineering. Effective July 11, 1985.

One Personal and Confidential Assistant to the Director, Operational Test and Evaluation. Effective July 15, 1985.

One Plans Coordinator to the Chief of Public Affairs, Office of the Secretary of the Army. Effective July 15, 1985.

One Counselor to the Assistant Secretary of Defense (Health Affairs). Effective July 23, 1985.

One Secretary (Stenography) to the Assistant Secretary of the Army (Civil Works). Effective July 26, 1985.

Department of Education

One Confidential Assistant to the Executive Assistant to the Secretary for Private Education. Effective July 8, 1985.

One Director of Policy, Planning and Executive Operations to the Assistant Secretary for Elementary and Secondary Education. Effective July 19, 1985.

One Special Assistant to the Comptroller. Effective July 19, 1985.

One Special Assistant to the Director, Office of Bilingual Education and Minority Languages Affairs. Effective July 19, 1985.

One Special Assistant to the Assistant Secretary for Elementary and Secondary Education. Effective July 26, 1985.

One Confidential Assistant to the Executive Assistant to the Under Secretary. Effective July 30, 1985.

Department of Energy

One Senate Liaison Specialist to the Deputy Assistant Secretary for Senate Liaison. Effective July 3, 1985.

One Special Projects Liaison Specialist to the Director, Division of Public Liaison, Office of the Assistant Secretary for Congressional, Intergovernmental and Public Affairs. Effective July 3, 1985.

One Staff Assistant to the General Counsel. Effective July 15, 1985.

One Staff Assistant to the General Counsel. Effective July 17, 1985.

One Special Assistant to the Assistant General Counsel for General Law. Effective July 19, 1985.

One Staff Assistant to the Deputy Secretary. Effective July 19, 1985.

One Staff Assistant to the Assistant Secretary for Conservation and Renewable Energy. Effective July 22, 1985.

One Staff Assistant to the Assistant Secretary for Defense Programs. Effective July 24, 1985.

Department of Health and Human Services

One Confidential Assistant to the Director, Office of Intergovernmental Affairs. Effective July 8, 1985.

One Director, Office of Family Planning, to the Deputy Assistant Secretary for Population Affairs. Effective July 11, 1985.

One Special Assistant to the Surgeon General, Public Health Service. Effective July 11, 1985.

One Director, Division of Legislative Services and Congressional Affairs to the Director, Office of Legislation and Policy. Effective July 15, 1985.

One Confidential Assistant to the Under Secretary. Effective July 17, 1985.

One Director, Public Affairs, to the Regional Director, Philadelphia, Pennsylvania. Effective July 17, 1985.

One Special Assistant to the Chief of Staff. Effective July 17, 1985.

One Special Assistant to the Deputy Under Secretary for Intergovernmental Affairs. Effective July 17, 1985.

One Confidential Assistant to the Associate Administrator for External Affairs, Health Care Financing Administration. Effective July 19, 1985.

One Executive Director, President's Committee on Mental Retardation to the Assistant Secretary for Human Development Services. Effective July 19, 1985.

One Special Assistant to the Director, Office of Policy and Legislation, Office of Human Development Services. Effective July 19, 1985.

Department of Housing and Urban Development

One Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations. Effective July 15, 1985.

One Senior Legislation Specialist to the Deputy Assistant Secretary for Legislation. Effective July 22, 1985.

One Confidential Assistant to the General Counsel. Effective July 26, 1985.

One Special Assistant to the Assistant Secretary for Legislation and Congressional Relations. Effective July 30, 1985.

Department of Interior

One Special Assistant to the Assistant Secretary for Territorial and International Affairs. Effective July 3, 1985.

One Public Affairs Specialist to the Assistant to the Secretary and Director, Office of Public Affairs. Effective July 22, 1985.

One Special Assistant to the Assistant to the Secretary and Director, Office of Public Affairs. Effective July 22, 1985.

Department of Justice

One Confidential Assistant to the Associate Deputy Attorney General. Effective July 3, 1985.

One Special Assistant to the Director, National Institute of Justice. Effective July 3, 1985.

One Confidential Assistant to the Deputy Attorney General. Effective July 8, 1985.

One Special Assistant to the Director, Office of Public Affairs, Offices, Boards and Divisions. Effective July 9, 1985.

One Secretary (Stenography) to the Counselor to the Attorney General. Effective July 15, 1985.

One Confidential Assistant to the Assitant Attorney General, Civil Rights Division. Effective July 19, 1985.

One Counselor to the Assistant Attorney General, Land and Natural Resources Division. Effective July 19, 1985.

One Special Assistant to the Assistant Attorney General, Civil Division. Effective July 22, 1985.

One Executive Assistant to the Administrator, Office of Juvenile Justice and Delinquency Prevention. Effective July 25, 1985.

Department of Labor

One Deputy Liaison Officer to the Deputy Under Secretary for Congressional Affairs. Effective July 11, 1985.

One Secretary (Typing) to the Regional Representative, Philadelphia, Pennsylvania. Effective July 29, 1985.

One Special Assistant to the Associate Deputy Under Secretary for Intergovernmental Affairs. Effective July 30, 1985.

Department of State

One Special Assistant to the Under Secretary for Management. Effective July 8, 1985.

One Special Assistant to the Assistant Secretary for the Bureau of Inter-American Affairs. Effective July 25, 1985.

Department of Transportation

One Special Assistant to the Secretary. Effective July 3, 1985.

One Staff Assistant to the Deputy Secretary. Effective July 5, 1985.

One Staff Assistant to the Coordinator for Minority Affairs. Effective July 9, 1985.

One Congressional Liaison Officer to the Director of Congressional Affairs, Office of the Assistant Secretary for Governmental Affairs. Effective July 19, 1985.

Department of Treasury

One Special Assistant to the Assistant Secretary for Management. Effective July 22, 1985.

ACTION

One Staff Assistant to the Assistant Director for Legislation, Public and

Intergovernmental Affairs. Effective July 17, 1985.

One Special Assistant to the Director. Effective July 17, 1985.

Environmental Protection Agency

One Special Assistant to the Assistant Administrator for External Affairs. Effective July 11, 1985.

Federal Communications Commission

One Confidential Assistant to the Chief of Staff. Effective July 3, 1985.

Federal Labor Relations Authority

One Executive Assistant to a Member. Effective July 15, 1985.

General Services Administration

One Director, Office of the Executive Secretariat to the Administrator. Effective July 8, 1985.

One Confidential Assistant to the Commissioner, Public Buildings Service. Effective July 30, 1985.

National Labor Relations Board

One Confidential Assistant to a Board Member. Effective July 15, 1985.

Office of Management and Budget

One Confidential Secretary to the Associate Director for Natural Resources, Energy and Science. Effective July 3, 1985.

One Secretary to the Director, Office of Management and Budget. Effective July 3, 1985.

Small Business Administration

One Special Assistant to the Regional Administrator, Denver, Colorado. Effective July 17, 1985.

One Staff Assistant to the Associate Administrator for Minority Small Business and Capital Ownership Development. Effective July 17, 1985.

One Special Assistant to the Associate Deputy Administrator for Management and Administration. Effective July 19, 1985.

U.S. Arms Control and Disarmament Agency

One Private Secretary to the Special Advisor to the President and Secretary of State on Arms Control Matters. Effective July 3, 1985.

One Special Assistant to the Director. Effective July 30, 1985.

U.S. Commission on Civil Rights

One Special Assistant to the Assistant Staff Director for Programs and Policy. Effective July 26, 1985.

U.S. Information Agency

One Staff Assistant to the Special Assistant to the Director. Effective July 3, 1985.

One Staff Assistant to the Special Assistant to the Director. Effective July 8, 1985.

One Special Assistant to the Deputy Director. Effective July 17, 1985.

U.S. Trade Representative

One Confidential Assistant to the U.S. Trade Representative. Effective July 8, 1985.

One Confidential Assistant to the General Counsel. Effective July 19, 1985.

U.S. International Trade Commission

One Confidential Assistant to a Commissioner. Effective July 3, 1985.

Veterans Administration

One Confidential Assistant to the Administrator. Effective July 11, 1985.

U.S. Office of Personnel Management.

Constance Horner,

Director.

[FR Doc. 85-21493 Filed 9-9-85; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 22-14207]

Application and Opportunity for Hearing; Citicorp Homeowners, Inc. and Citicorp

September 4, 1985.

Notice Is Hereby Given that Citicorp Homeowners, Inc. (the "Company") and Citicorp ("Citicorp"), pursuant to section 310(b)(1)(ii) of the Trust Indenture Act of 1939 (the "Act"), as incorporated by reference in § 6.08 of an indenture qualified under the Act dated September 1, 1984 (the "Indenture") between Citicorp Homeowners Mortgage Acceptance Corporation 1, Inc. ("CHMAC 1"), a wholly owned, limited purpose subsidiary of the Company, and Mercantile Trust Company, N.A. ("Mercantile"), as trustee (the "Trustee"), has filed an application with the Securities and Exchange Commission for a determination that Mercantile's trusteeship under such indenture and under certain agreements to be described below is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Mercantile from acting as Trustee under the Indenture.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest it shall within ninety days after ascertaining that it has such conflicting interest either eliminate the conflicting interest or resign as trustee. Subsection (1) of section 310(b) provides, with certain exceptions, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which securities of an obligor upon the indenture securities are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of the subsection another indenture under which other securities of the same obligor are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under both the qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under one of such indentures.

In support of its application the Company alleges that:

1. In October 1984, CHMAC 1 issued the following series of Collateralized Mortgage Obligations ("CMOs") under the Indenture:

(a) $100,000,000 11½% Class A-1 CMOs with a stated maturity of October 1, 1986;

(b) $115,000,000 12⅜% Class A-2 CMOs with a stated maturity of October 1, 1988;

(c) $135,000,000 12½% Class A-3 CMOs with a stated maturity of April 1, 1991;

(d) $150,000,000 12½% Class A-4 CMOs with a stated maturity of April 1, 2008.

2. These CMOs are secured principally by assignments to the Trustee of fixed-rate conventional residential mortgage loans originated or acquired by the Company and serviced by Citicorp Homeowners Services, Inc. ("CHSI"), and by certain obligations of Citicorp, the ultimate parent of both the Company and CHMAC 1, pursuant to a Minimum Principal Payment Guarantee and a Limited Credit Guarantee (the "CMO Guarantees").

3. Under its Minimum Principal Payment Guarantee Citicorp is obligated to advance funds to CHMAC 1 to be used to make and maintain principal payments on the CMOs at a guaranteed level if principal payments on the loans that collateralize the CMOs are received at a slower rate than anticipated. Citicorp's Limited Credit Guarantee covers to a limited extent delinquencies or losses with respect to the underlying mortgages. Citicorp's obligations under the CMO Guarantees rank equally with

all of its unsecured and unsubordinated indebtedness.

4. The Company on June 27, 1985 and July 3, 1985 sold mortgage pass-through certificates with outstanding principal balances aggregating approximately $100,000,000 (the "Unregistered Certificates") in transactions which were exempt from the registration requirements of the Securities Act on 1933, as amended, pursuant to section 4(2) thereof. Both of these sales were of certificates issued pursuant to separate pooling and servicing agreements between the Company as issuer, CHSI as servicer, and Mercantile as trustee. The certificates sold on each occasion represent fractional undivided interests in a trust fund, the property of which consists of a distinct pool of mortgage loans originated or acquired by the Company and serviced by CHSI. In connection with each sale Citicorp issued a limited guarantee having terms substantially similar to the terms of the limited guarantees, described more fully below, it intends to issue in connection with the public offering of certain mortgage pass-through certificates.

5. On July 19, 1985, the Securities and Exchange Commission declared effective a shelf registration statement, File No. 2-98882, filed by the Company and Citicorp on Forms S-11 and S-3, respectively (the "Registration Statement"). The Registration Statement provides for the issuance by the Company, in series, of up to $400,000,000 aggregate principal amount of mortgage pass-through certificates (together with the certificates referred to in the succeeding sentence, the "Registered Certificates") and the issuance by Citicorp of its related limited guarantees, described more fully below. (The Registration Statement also relates to $200,000,000 aggregate principal amount of mortgage pass-through certificates that were previously registered.) Each Registered Certificate will evidence an undivided fractional interest in one of a number of trusts to be created by the Company from time to time. The trust property of each trust will consist of a separate and distinct pool of conventional single-family mortgage loans (the "Mortgage Loans") acquired by the Company and serviced by CHSI and related property conveyed to the trust by the Company. Each pool (the "Mortgage Pool") will be evidenced by a separate series of Registered Certificates issued pursuant to a separate pooling and servicing agreement to be entered into among the Company as seller, CHSI as servicer, and the trustee of the trust fund (the "Certificate Trustee") as named in the applicable prospectus supplement.

6. Citicorp will deliver a guarantee (the "Guarantee") to the Certificate Trustee for each Mortgage Pool. Under the Guarantee, Citicorp will to a limited extent honor demands for payment to cover delinquencies or losses with respect to the Mortgage Loans. The extent of Citicorp's liability under each Guarantee is expected to be initially between 5% and 10% of the aggregate principal balance of the related Mortgage Pool. Citicorp's obligations under each Guarantee will rank equally with all unsecured and unsubordinated idebtedness of Citicorp.

7. While no Registered Certificates have yet been issued pursuant to the Registration Statement, the Company intends to offer such Certificates in the near future, and wishes to name Mercantile as Certificate Trustee under the pooling and servicing agreements providing for the issuance of one or more series of Registered Certificates. Therefore, the Company requests that the Commission issue its order with respect to Mercantile's continued trusteeship under the Indenture recognizing that Mercantile may, in the future, be designated to serve as Certificate Trustee under several pooling and servicing agreements.

8. Section 6.08 of the Indenture states: "The Trustee is subject to [Trust Indenture Act] section 310(b) . . . ."

9. If the pooling and servicing agreements under which the Unregistered Certificates and the Registered Certificates are to be or have been issued by the Company are "indentures" for purposes of the Act and if Citicorp, by virtue of its limited current or future liability with respect to the Unregistered Certificates, the Registered Certificates and the CMDs pursuant to the various guaranty obligations described above, is an "obligor" under the Act with respect to such certificates, than under section 310(b)(1) Mercantile may be deemed to have a conflicting interest.

10. Citicorp's obligations under the Guarantees relating to the Registered Certificates, under its guarantees relating to the Unregistered Certificates, and under the Principal Payment Guarantee and Limited Credit Guarantee relating to the CMDs are all unsecured and unsubordinated and are equal in rank to Citicorp's other unsecured and unsubordinated indebtedness. Therefore, if Mercantile were required to call on these guarantees or to otherwise demand payment or performance by Citicorp of its obligations, either separately or concurrently under the Indenture or one or more pooling and servicing agreements, all or each of the claims on Citicorp would be on equal footing. Mercantile will not be faced with any conflicting interest which would create an incentive not to treat all investors equally.

11. The individual pools or mortgage loans underlying each series of Registered Certificates and Unregistered Certificates are (or will be when formed) separate and distinct from one another and from the pool of mortgage loans pledged to secure the CMDs. Citicorp's obligations under the CMD Guarantees, the Guarantees relating to the Registered Certificates and the guarantees relating to the sales of the Unregistered Certificates are similarly distinct because they are each triggered only by delinquency, default or loss in regard to a particular pool of mortgage loans. Therefore, if Citicorp were called upon to meet its obligations under any one of these guarantees, it would not necessarily mean that payment would be required under any other guarantee. And, in the unlikely event that Citicorp should be called upon to meet its obligations upon more than one guarantee at the same time, it is anticipated that, in light of the limited nature of the guarantees and Citicorp's current financial condition, Citicorp would be more than able to satisfy its obligations.

12. Should Mercantile have occasion to cause Citicorp to meet its obligations in respect to the CMDs or a series of Registered Certificates or Unregistered Certificates such action would inure to the benefit of all the holders of the CMDs or such Certificates ratably and would provide adequate protection to investors.

13. For the foregoing reasons, the Company believes that neither the naming of Mercantile as Certificate Trustee under one or more pooling and servicing agreements providing for the issuance of Registered Certificates nor the continued trusteeship of Mercantile under the two pooling and servicing agreements pertaining to the sale of the Unregistered Certificates is so likely to involve a material conflicting interest as to make it necessary in the public interest or for the protection of investors that Mercantile be disqualified from acting as trustee under the Indenture.

The Company has waived notice of hearing, and waived hearing, and waived any and all rights to specify procedures under Rule 8(b) of the Commission's Rules of Practice.

For a more detailed statement of the matters of fact and law asserted, all

persons are referred to said application, File No. 22–14207, which is a public document on file in the Office of the Commission's Public Reference Section, 450 Fifth Steeet NW., Washington, D.C.

Notice Is Further Given that any interested person may, not later than September 24, 1985, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by said application which he desires to controvert, or may request that he be notified if the Commission should order a hearing thereon.

Any such request should be addressed to: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and for the protection of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85–21583 Filed 9–9–85; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2196]

Louisiana; Declaration of Disaster Loan Area

The Parish of St. Mary and the adjacent Parishes of Assumption, Iberia, St. Martin and Terrebonne in the State of Louisiana constitute a disaster area because of Hurricane Danny which occurred on August 14 and 15, 1985. Applications for loans for physical damage may be filed until the close of business on October 24, 1985, and for economic injury until the close of business on May 23, 1986, at the address listed below.

Disaster Area 3 Office, Small Business Administration, 2306 Oak Lane, Suite 110, Grand Prairie, Texas 75051

or other locally announced locations.

Interest rates are:

	Percentage
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
Business (EIDL) without credit available elsewhere	4.000
Other (non-profit organizations including charitable and religious organizations)	11.125

The number assigned to this disaster is 219808 for physical damage and for economic injury the number is 632700.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 23, 1985.

James C. Sanders,

Administrator.

[FR Doc. 85–21521 Filed 9–9–85; 8:45 am]

BILLING CODE 8025–01

[Declaration of Disaster Loan Area #2197]

South Carolina; Declaration of Disaster Loan Area

Spartanburg County in the State of South Carolina constitutes a disaster area because of a tornado which occurred on August 17, 1985. Applications for loans for physical damage may be filed until the close of business on October 24, 1985, and for economic injury until the close of business on May 23, 1986, at the address listed below.

Disaster Area 2 Office, Small Business Administration, Richard B. Russell Federal Bldg., 75 Spring St., SW., Suite 822, Atlanta, GA 30303

or other locally announced locations.

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
Business (EIDL) without credit available elsewhere	4.000
Other (non-profit organizations including charitable and religious organizations)	11.125

The number assigned to this disaster is 219712 for physical damage and for economic injury the number is 632600.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 23, 1985.

James C. Sanders,

Administrator.

[FR Doc. 85–21522 Filed 9–9–85; 8:45 am]

BILLING CODE 8025–01–M

National Advisory Council Meeting

The U.S. Small Business Administration, Office of Advisory Councils, located in the geographical area of Washington, DC., will hold its semiannual National Advisory Council meeting from 12:00 noon, Monday, September 23, to 11:45 a.m., Wednesday, September 25, 1985, at the Mills House Hotel, Meeting & Queen Streets, Charleston, South Carolina 29402 to discuss such matters as may be presented by members, staff of the Small Business Administration and others attending.

For further information, write or call Jean M. Nowak, Director, U.S. Small Business Administration, 1441 L Street, NW., Washington, DC 20416 (202) 653–6748.

Jean M. Nowak,

Director, Office of Advisory Councils.

September 3, 1985.

[FR Doc. 85–21531 Filed 9–9–85; 8:45 am]

BILLING CODE 8025–01–M

Region I Advisory Council Meeting; Public Meeting

The Small Business Administration Region I Advisory Councils, located in the geographical area of Montpelier, Vermont, will hold a public meeting at 10:00 a.m., Thursday, September 19, 1985, at Ernie's Royal Hearthside Restaurant, Rutland, Vermont, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration and others attending.

For further information, write or call David C. Emery, District Director, U.S. Small Business Administration, Federal Building, 87 State Street, P.O. Box 605, Montpelier, Vermont 05602. (802) 229–0538.

Jean M. Nowak,

Director, Office of Advisory Councils.

September 3, 1985

[FR Doc. 85–21529 Filed 9–9–85; 8:45 am]

BILLING CODE 8025–01–M

Region III Advisory Council Meeting; Public Meeting

The U.S. Small Business Administration Region III Advisory Council, located in the geographical area

of Washington, DC, will hold a public meeting at 2:00 p.m. on Tuesday, September 17, 1985, at the SBA Washington District Office, 1111–18th Street, NW., Room 404, Washington, DC, to discuss such matters as may be presented by members, staff of the Small Business Administration and others attending.

For further information, write or call Janice E. Wolfe, District Director, U.S. Small Business Administration, 1111–18th Street, NW., P.O. Box 19993, Washington, DC 20036, (202) 634–1805.

Jean M. Nowak,

Director, Office of Advisory Councils.

September 3, 1985.

[FR Doc. 85–21530 Filed 9–9–85; 8:45 am]

BILLING CODE 8025–01–M

Region III—Joint Council; Public Meeting

The U.S. Small Business Administration Region III Advisory Councils, located in the geographical areas of Philadelphia and Pittsburgh, Pennsylvania, will hold a public meeting at 1:00 p.m. on Monday, October 7, 1985 and 8:30 a.m. on Tuesday, October 8, 1985, at the Penn Harris Inn, Routes 11 & 15, Camp Hill Bypass, Camp Hill, Pennsylvania 17011, to discuss such matters as may be presented by members, staff of the Small Business Administration and others attending.

For further information, write or call William T. Gennetti, District Director, U.S. Small Business Administration, One Bala Plaza, Suite 400-East Lobby, Bala Cynwyd, Pennsylvania 19004, (215) 596–5801 and Joseph M. Kopp, District Director, Pittsburgh District Office, 960 Penn Avenue—5th Floor, Pittsburgh, Pennsylvania 15222, (412) 644–4306.

Jean M. Nowak,

Director, Office of Advisory Councils.

August 28, 1985.

[FR Doc. 85–21527 Filed 9–9–85; 8:45 am]

BILLING CODE 8025–01–M

Region VIII Advisory Council Meeting; Public Meeting

The U.S. Small Business Administration Region VIII Advisory Council, located in the geographical area of Salt Lake City, will hold a public meeting at 9:00 a.m. on Wednesday, September 18, 1985, at the University Club Building, 24th floor, 136 East South Temple, Salt Lake City, Utah, to discuss such matters as may be presented by members, staff of the Small Business Administration and others attending.

For further information, write or call R. Kent Moon, District Director, U.S. Small Business Administration, 125 South State Street, Salt Lake City, Utah 84138 or phone (801) 524–5804.

Jean M. Nowak,

Director, Office of Advisory Councils.

September 3, 1985.

[FR Doc. 85–21528 Filed 9–9–85; 8:45 am]

BILLING CODE 8025–01–M

[License Application No. 02/02–0491]

GHW Capital Corp.; Application for a License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company (SBIC) under the provisions of section 301(c) of the Small Business Investment Act of 1958, as amended, (the Act), (15 U.S.C. 661 *et seq.*), has been filed by GHW Capital Corporation, 489 Fifth Avenue, New York, New York 10017, with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1985).

The officers, directors and sole shareholder of the applicant are as follows:

Name and address	Title and relationship
Jack Graff, 1048 East 10th Street, Brooklyn, New York 11230.	President, Director.
Nesta G. Stewart, 229 S. Harrison Street, Apt. 3E West, East Orange, NJ 07018.	Vice President, Administrator.
Anthony Carter, 38 Linwood Avenue, Farmingdale, NY 11735.	Secretary, Director.
Albert E. Johnson, 191 Willoughby St., Brooklyn, NY 11201.	Treasurer, Director.
Philip Wolitzer, 2348 East 21st St., Brooklyn, NY 11229.	Director.
Tiberiu J. Horvitz, 11 Tallman Street, Staten Island, NY 10312.	Do.
Marvin Meyer, 425 E. 58th Street, New York, NY 10022.	Do.
GHW Associates, 489 Fifth Avenue, New York, NY 10017.	Sole Shareholder.

GHW Associates is a one-bank holding company whose subsidiary commercial bank is First Inter-County Bank of New York.

The applicant, a Delaware corporation, will begin operations with a capitalization of $1,000,000, and will conduct its operations principally in the states of New York, New Jersey and Connecticut.

Matters involved in SBA's consideration of the Application include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the Applicant under their management, including adequate profitability and financial soundness, in accordance with the Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 30 days from the date of publication of this notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, DC 20416

A copy of this notice shall be published in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Program No. 59.001, Small Business Investment Companies).

Dated: August 27, 1985.

John Werner,

Deputy Associate Administrator for Investment.

[FR Doc. 85–21523 Filed 9–9–85; 8:45 am]

BILLING CODE 8025–01–M

[License No. 05/05/0202]

M & I Ventures Corp.; Issuance of a Small Business Investment Company License

On July 1, 1985, a notice was published in the **Federal Register** (49 FR 33191) stating that an application has been filed by M & I Ventures Corporation, 770 North Water Street, Milwaukee, Wisconsin 53202 with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investmant companies (13 CFR 107.102(1985)) for a license as a small business investment company.

Interested parties were given until close of business July 30, 1985, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 05/05/0202 on August 19, 1985, to M & I Ventures Corporation to operate as a small business investment company.

Dated: August 26, 1985.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

John Werner,

Acting Deputy Associate Administrator for Investment.

[FR Doc. 85–21524 Filed 9–9–85; 8:45 am]

BILLING CODE 8025–01–M

Rubber City Capital Corp.; (License No. 05/05–5201) Issuance of a Small Business Investment Company License

On March 13, 1985, a notice was published in the **Federal Register** (49 FR

10136) stating that an application has been filed by Rubber City Capital Corporation with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102(1985)) for a license as a small business investment company.

Interested parties were given until close of business May 18, 1985, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent, information, SBA issued License No. 05/05-5201 on August 14, 1985, to Rubber City Capital Corporation to operate as a small business investment company.

Dated: August 28, 1985.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

John Werner,

Deputy Associate Administrator for Investment.

[FR Doc. 85-21525 Filed 9-9-85; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 05/05-0204]

Wisconsin Community Capital, Inc.; Application for a License To Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing Small Business Investment Companies [13 CFR 107.102 (1985)] under the name of Wisconsin Community Capital, Inc., 14 West Mifflin Street, Suite 314, Madison, Wisconsin 53703 for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958 (Act), as amended (15 U.S.C. 661 *et seq.*).

The Applicant will begin operations with private capital of $1,005,000.

The officers, directors and shareholders of the Applicant are as follows:

Rowland J. McClellan, BANCWIS Corporation, 100 North Main Street, Jamesville, Wisconsin 53547—Board Chairman, Director

James C. Liebig, Schneider National, Inc., P.O. Box 2545, Green Bay, Wisconsin 54306-2545—Board Vice Chairman, Director

Louis G. Fortis, 14 West Mifflin Street, Suite 314, Madison, Wisconsin 53703—President

Nancy Bornsetein, 14 West Mifflin Street, Suite 314, Madison, Wisconsin 53703—Vice President, Secretary

Mary Avery, 201 Melby Street, Westby, Wisconsin 54667—Treasurer, Director

Francis J. Daved, 1410 East Dean Road, Fox Point, Wisconsin 53217—General Manager

Dismas Becker, 1533 North 23rd Street, Milwaukee, Wisconsin 53205—Director

Charles P. Hoke, 777 East Wisconsin Avenue, Milwaukee, Wisconsin 53202—Director

Wisconsin Community Development Finance Authority, Inc., 14 West Mifflin Street, Suite 314, Madison, Wisconsin 53703—Shareholder

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the company under their management, including adequate profitability and financial soundess, in accordance with the Small Business Investment Act of 1958, as amended, and the SBA Rules and Regulations.

Notice is further given that any person may, not later than 30 days from the date of publication of this Notice, submit written comments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, DC 20416.

A copy of this notice shall be published in a newspaper of general circulation in Madison, Wisconsin.

Dated: August 23, 1985.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 85-21526 Filed 9-9-85; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/883]

Advisory Committee to United States Section, International North Pacific Fisheries Commission; Partially Closed Meeting

The Advisory Committee to the United States Section, International North Pacific Fisheries Commission, will meet on September 27, 1985 at the Sheraton Anchorage Hotel, Anchorage, Alaska, at 9:00 a.m. This session will discuss the 1978 Protocol to the International Convention for the High Seas Fisheries of the North Pacific Ocean, surveillance of foreign fishing fleets, the progress of fisheries research particularly that for Dall porpoise, the Alaska salmon fisheries, and fishery developments as they affect the International North Pacific Fisheries Commission. The session will be open to the public.

The Advisory Committee will also meet from 1:30 p.m. to 5:30 p.m. on September 27. This session will not be open to the public inasmuch as the discussion will involve classified matters pertaining to the United States negotiating position to be taken at the 32nd Annual Meeting of the International North Pacific Fisheries Commission to be held in Tokyo, Japan during November 5-6, 1985. Pursuant to section 4(c) of the North Pacific Fisheries Act of 1954, as amended, 16 U.S.C. 1023(c) which provides that the "advisory committee . . . shall be granted an opportunity to examine and to be heard on all proposed programs of study and investigation, reports, and recommendations of the United States Section," the members of the Advisory Committee will examine various options for the negotiating position at the Annual Meeting, and these considerations must necessarily involve review of classified matters. Accordingly, the determination has been made to close this session pursuant to section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App. I, 10(d) and 5 U.S.C. 552b (c)(1) and (c)(9).

Requests for further information on the meeting should be directed to Mr. Charles K. Walters, Pacific Fisheries Officer, Room 5806, U.S. Department of State, Washington, D.C. 20520. Mr. Walters can be reached by telephone on (202) 632-2009.

Dated: August 26, 1985.

Edward E. Wolfe,

Deputy Assistant Secretary for Oceans and Fisheries Affairs.

[FR Doc. 85-21573 Filed 9-9-85; 8:45 am]

BILLING CODE 4710-09-M

DEPARTMENT OF TRANSPORTATION

Application of UCC Charter Company for Certificate Authority Under Subpart Q

AGENCY: Department of Transportation.

ACTION: Notice of order to show cause (Order 85-9-6), Dockets 43129 and 43130.

SUMMARY: The Department of Transportation is directing all interested

persons to show cause why it should not issue an order granting UCC Charter Company a certificate to engage in interstate, overseas and foreign charter air transportation of persons, property and mail.

DATES: Persons wishing to file objections should do so no later than September 24, 1985.

ADDRESS: Responses should be filed in Dockets 43129 and 43130 and addressed to the Documentary Services Division, Department of Transportation, 400 Seventh Street, SW., Room 4107, Washington, DC 20590 and should be served the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Steven B. Farbman, Office of Aviation Enforcement and Proceedings, U.S. Department of Transportation, 400 Seventh Street SW., Washington, DC 20590, (202) 426–7631.

SUPPLEMENTARY INFORMATION: The complete text of Order 85–9–6 is available for inspection at our Documentary Services Division at the above address.

Dated: September 4, 1985.

Jeffrey N. Shane,

Acting Assistant Secretary for Policy and International Affairs.

[FR Doc. 85–21551 Filed 9–9–85; 8:45 am]

BILLING CODE 4910–62–M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed; Week Ended August 30, 1985

Subpart Q Applications

The due date for answers conforming application, or motions 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.

Date filed	Docket No.	Description
Aug. 30, 1985	43376	Delta Air Lines, Inc., Hartsfield Atlanta Int'l Airport, Atlanta, Georgia 30320. Application of Delta Air Lines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Regulations requests an amended or renewed certificate of public convenience and necessity for Route 178 to permit Delta to continue providing air transportation services between Atlanta, Georgia and London, England. Conforming Applications, Motions to Modify Scope and Answers may be filed by September 27, 1985.
Aug. 30, 1985	43377	American Airlines Inc., c/o Wesley G. Kaldahl, P.O. Box 619616–3B55, DFW Airport, Texas 75261. Conforming Application of American Airlines, Inc. pursuant to Section 401 of the Act and Subpart Q of the Regulations requests a certificate of public convenience and necessity authorizing it to engage in foreign air transportation of persons, property and mail between the terminal point Dallas/Ft. Worth, Texas, and the coterminal points Madrid, Barcelona, Malaga and Palma de Mallorca, Spain. Answers may be filed by September 13, 1985. (Application conforms to Pan American World Airways, Inc.'s Docket 43301.)

Phyllis T. Kaylor,

Chief, Documentary Services Division.

Linda W. Senese

Certifying Officer.

[FR Doc. 85–21549 Filed 9–9–85; 8:45 am]

BILLING CODE 4910–62–M

Office of the Secretary

Fitness Determination; Cross Country Aviation Services, Inc.; Correction

AGENCY: Department of Transportation.

ACTION: Correction to Notice of Commuter Air Carrier Fitness, Determination, Order 85–8–81, Order to Show Cause.

SUMMARY: The Notice, published at 50 FR 35631, September 3, 1985, has an incorrect date for responses being filed to the Show Cause Order. The corrected Response paragraph is as follows:

Responses: All interested persons wishing to respond to the Department of Transportation's tentative fitness determination should file their responses with the Special Authorities Division, Room 6420, Department of Transportation, 400 7th Street, SW, Washington, DC 20590, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than September 24, 1985.

FOR FURTHER INFORMATION CONTACT: Linda L. Lundell, Special Authorities Division, Department of Transportation, 400 7th Street, SW, Washington, D.C. 20590 (202) 755–3812.

DATED: September 4, 1985.

Jeffrey N. Shane

Acting Assistant Secretary for Policy and International Affairs.

[FR Doc. 85–21552 Filed 9–9–85; 8:45 am]

BILLING CODE 4910–62–M

[Order 85–9–7; Docket No. 42614]

Application of Barrow Air, Inc.; Certificate Authority Under Subpart Q

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding Barrow Air, Inc. fit, willing, and able, and awarding it a certificate of public convenience and necessity to engage in scheduled interstate and overseas air transportation.

DATES: Pesons wishing to file objections should do so no later than September 25, 1985.

ADDRESS: Objections and answers to objections should be filed in Docket 42614 and addressed to the Documentary Services Division, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590 and should be served upon the parties listed in Appendix B to the order.

FOR FURTHER INFORMATION CONTACT: Juliana M. Winters, Aviation Enforcement and Proceedings, U.S. Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590, (202) 426–7631.

SUPPLEMENTARY INFORMATION: The complete text of Order 85–9–7 is available from our Documentary Services Division at the above address. Persons outside the metropolitan area may send a postcard request for Order 85–9–7 to that address.

Dated: September 4, 1985.

Jeffrey N. Shane,

Acting Assistant Secretary for Policy and International Affairs.

[FR Doc. 85-21550 Filed 9-9-85; 8:45 am]

BILLING CODE 4910-62-M-M

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA); Special Committee 153—Airborne VOR Equipment; Meeting

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 RTCA Special Committee 153 on Airborne VOR Equipment to be held on October 1-2, 1985, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Seventh Meeting Held on June 27-28, 1985; (3) Consideration of Proposed Changes to the Seventh Draft of the Committee Report on Minimum Operational Performance Standards for Airborne VOR Equipment; (4) Review and Discuss European Organization for Civil Aviation Electronics (EUROCAE) Working Groups WG-5 and WG-7A Activities; (5) Review the Second Draft of the Committee Report on Minimum Performance Standards for Instrument Landing System (ILS) Airborne Localizer Equipment; (6) Review the Initial Draft Committee Report on Minimum Operational Performance Standards for Instrument Landing System (ILS) Airborne Glide Slope Equipment; and (7) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on September 3, 1985.

Karl F. Bierach,

Designated Officer.

[FR Doc. 85-21515 Filed 9-9-85; 8:45 am]

BILLING CODE 4910-14-M

Organization Statement

This Statement describes the organization of the Federal Aviation Administration, an operating administration of the Department of Transportation. The description of the structure of the Department and its other operating administrations is published separately. Regulations of the Secretary of Transportation that apply to all operating administrations of the Department or contain delegations to them by the Secretary are published in the Code of Federal Regulations, Title 49, Subtitle A.

This Statement replaces the Organization Statement of the Federal Aviation Administration issued on July 28, 1983. It is issued under 5 U.S.C. 552(a)(1)(A). It reflects the status as of the date of issue. Changes after this cut off will be published as amendments.

Issued in Washington, DC, on August 29, 1985.

Leonard B. Bell,

Acting Director, Office of Management Systems.

Federal Aviation Administration; Basic Organization Structure; Organization of the Federal Aviation Administration

Part I—General Description

1. Authority
2. Mission
3. Functions and Activities
   - (a) Safety Regulation
   - (b) Airspace and Air Traffic Management
   - (c) Air Navigation Facilities
   - (d) Research, Engineering, and Development
   - (e) Test and Evaluation
   - (f) Airport Programs
   - (g) Metropolitan Washington Airports
   - (h) Registration and Recordation
   - (i) Civil Aviation Abroad
   - (j) Other Programs
4. Organization Pattern
   - (a) Washington Headquarters
   - (b) Regions
   - (c) Special Organizational Complexes
5. Requests for Information; Submittals

Part II—The FAA Organization

1. Organization of FAA Headquarters
2. Office of the Administrator
   - (a) The Administrator
   - (b) The Deputy Administrator
3. The Associate Administrators
   - (a) The Associate Administrator for Airports
   - (b) The Associate Administrator for Administration
   - (c) The Associate Administrator for Air Traffic
   - (d) The Associate Administrator for Aviation Standards
   - (e) The Associate Administrator for Development and Logistics
   - (f) The Associate Administrator for Human Resource Management
   - (g) The Associate Administrator for Policy and International Aviation
4. Offices Reporting Directly to the Administrator
   - (a) Office of Aviation Safety
   - (b) Office of the Chief Counsel
   - (c) Office of Civil Rights
   - (d) Office of Public Affairs
5. Offices Under Executive Direction of the Associate Administrators
   - (a) Offices Under Executive Direction of the Associate Administrator for Airports
     - (1) Office of Airport Planning and Programming
     - (2) Office of Airport Standards
     - (3) Airport Capacity Program Office
     - (4) Metropolitan Washington Airports
   - (b) Offices and Services Under Executive Direction of the Associate Administrator for Administration
     - (1) Office of Accounting
     - (2) Acquisition and Materiel Service
     - (3) Office of Budget
     - (4) Office of Management Systems
   - (c) Offices Under Executive Direction of the Associate Administrator for Air Traffic
     - (1) Air Traffic Operations Service
     - (2) Air Traffic Plans and Requirements Service
   - (d) Offices Under Executive Direction of the Associate Administrator for Aviation Standards
     - (1) Office of Airworthiness
     - (2) Office of Aviation Medicine
     - (3) Office of Civil Aviation Security
     - (4) Office of Flight Operations
     - (5) Office of Program and Regulations Management
     - (6) Rotorcraft Program Office
     - (7) Aviation Standards National Field Office
   - (e) Offices and Services Under Executive Direction of the Associate Administrator for Development and Logistics
     - (1) Program Engineering and Maintenance Service
     - (2) Systems Engineering Service
     - (3) Advanced Automation Program Office
     - (4) FAA Technical Center
   - (f) Offices Under Executive Direction of the Associate Administrator for Human Resource Management
     - (1) Office of Human Resource Planning and Evaluation
     - (2) Office of Labor and Employee Relations
     - (3) Office of Organization Effectiveness
     - (4) Office of Personnel and Technical Training
   - (g) Offices Under Executive Direction of the Associate Administrator for Policy and International Aviation
     - (1) Office of Aviation Policy and Plans
     - (2) Office of Environment and Energy
     - (3) Office of International Aviation
     - (4) Europe, Africa, and Middle East Office
6. The Mike Monroney Aeronautical Center
7. The Regions
   - (a) Office of the Regional Director
   - (b) Staff

Part III—Location and Geographic Scope of Authority of Principal Offices

1. FAA Headquarters
2. The Mike Monroney Aeronautical Center
3. FAA Technical Center
4. Aviation Standards National Field Office

5. Regional Headquarters
6. Metropolitan Washington Airports
7. Europe, Africa, and Middle East Office

Part I—General Description

1. *Authority.* The Federal Aviation Administration (formerly the Federal Aviation Agency) was established as an independent agency by the Federal Aviation Act of 1958. It became a component of the Department of Transportation in 1967 pursuant to the Department of Transportation Act of 1966 (Pub. L. 89–670).

2. *Mission.* The Federal Aviation Administration is charged with regulating air commerce in such a manner as to best promote its development and safety and fulfill the requirements of national defense; controlling the use of navigable airspace of the U.S. and regulating both civil and military operations in such airspace in the interest of safety and efficiency of both; promoting, encouraging, and developing civil aeronautics; consolidating research and development with respect to air navigation facilities; installing and operating air navigation facilities; developing and operating a common system of air traffic control and navigation for both civil and military aircraft; and developing and implementing programs and regulations to control aircraft noise, sonic boom, and other environmental effects of civil aviation.

3. *Functions and Activities.*

(a) *Safety Regulation.* The Administrator issues and enforces rules, regulations, and minimum standards relating to the manufacture, operation, and maintenance of aircraft as well as the rating and certification (including medical) of airmen and the certification of airports serving air carriers certified by the Office of Aviation Operations in the Office of the Secretary of Transportation. The agency performs flight inspection of air navigation facilities in the U.S. and, as required, abroad. It also enforces regulations under the Hazardous Materials Transportation Act applicable to shipments by air.

(b) *Airspace and Air Traffic Management.* The safe and efficient utilization of the navigable airspace is a primary objective of the agency. To meet this objective, it operates a network of airport traffic control towers, air route traffic control centers, and flight service stations. It develops air traffic rules and regulations and allocates the use of the airspace. It also provides for the security control of air traffic to meet national defense requirements.

(c) *Air Navigation Facilities.* The agency is responsible for the location, construction or installation, maintenance, operation, and quality assurance of Federal visual and electronic aids to air navigation. The agency operates and maintains communications equipment, radio facilities, computer systems, and visual display equipment at flight service stations, airport traffic control towers, and air route traffic control centers.

(d) *Research, Engineering, and Development.* The research, engineering, and development activities of the agency are directed toward providing the systems, procedures, facilities, and devices needed for a safe and efficient system of air navigation and air traffic control to meet the needs of civil aviation and the air defense system. The agency also performs an aeromedical research function to apply knowledge gained from its research program and the work of others to the safety and promotion of civil aviation, and the health, safety, and efficiency of agency employees. The agency also supports development and testing of improved aircraft, engines, propellers, and appliances.

(e) *Test and Evaluation.* The agency conducts tests and evaluations of specified items (aviation systems, subsystems, equipment, devices, materiels, concepts, or procedures), at any phase in the cycle of their development (from conception to acceptance and implementation), as well as assigned independent testing at key decision points.

(f) *Airport Programs.* The agency maintains a national plan of airport requirements, administers a grant program for development of public use airports to assure and improve safety and to meet current and future airport capacity needs, evaluates the environmental impacts of airport development, and administers an airport noise compatibility program with the goal of reducing noncompatible uses around airports. It also develops standards and technical guidance on airport planning, design, safety, and operations, and provides grants of funds to assist public agencies in airport system and master planning, and airport development and improvement.

(g) *Metropolitan Washington Airports.* The agency is responsible for the care, operation, maintenance, improvement, and protection of Washington National and Washington Dulles International Airports. It serves as the airport proprietor for the Washington metropolitan area.

(h) *Registration and Recordation.* The agency provides a system for the registration of an aircraft and recordation of documents affecting title or an interest in the aircraft, and aircraft engines, propellers, appliances, and spare parts.

(i) *Civil Aviation Abroad.* Under the Federal Aviation Act of 1958 and the International Aviation Facilities Act of 1948, the agency promotes aviation safety and civil aviation abroad by the exchange of aeronautical information with foreign aviation authorities, certifying foreign entities such as repair stations, foreign airmen and mechanics, negotiating bilateral airworthiness agreements to facilitate the import and export of aircraft and components, and providing technical assistance and training in all areas of FAA expertise. It provides technical representation at international conferences, including participation in the International Civil Aviation Organization and other international organizations.

(j) *Other Programs.* The agency administers the aviation insurance and aircraft loan guarantee programs. It is an allotting agency under the Defense Materials System with respect to priorities and allocation for civil aircraft and civil aviation operations. The agency develops specifications for the preparation of aeronautical charts. It publishes current information on airways and airport service and issues technical publications for the improvement of safety in flight, airport planning and design, and other aeronautical activities. It serves as the executive administration for the operation and maintenance of the Department of Transportation automated payroll and personnel systems.

4. *Organization Pattern.* The Federal Aviation Act of 1958 provides for an Administrator and a Deputy Administrator who must be citizens of the United States and have experience in a field directly related to aviation. The Act provides that the Administrator may organize the agency, appoint officers and employees, define their authority and duties, and delegate authority to them. The agency consists of two basic administrative levels of organization and five special organizational complexes:

(a) The Washington headquarters, which is responsible for agencywide program planning, direction, control, and evaluation, and for conducting certain operational activities that can best be performed centrally.

(b) Regions, each under a director who is responsible for directing the agency's field operations within assigned geographic boundaries.

(c) The Mike Monroney Aeronautical Center in Oklahoma City, and the FAA Technical Center, near Atlantic City, where certain centralized activities are conducted: the Aviation Standards National Field Office, a major field element in Oklahoma City, responsible for flight inspection and procedures as well as aircraft fleet maintenance; the Metropolitan Washington Airports located near Washington, D.C., which directs the operation of Federally owned civil airports serving the District of Columbia and vicinity; and a Europe, Africa, and Middle East Office headquartered in Brussels, Belgium, which has responsibility for agency programs and policy in its assigned area.

5. *Requests for Information; Submittals.* Requests for further information on the organization or activities of the agency may be addressed, in writing or by telephone, to the Office of Public Affairs (Public Inquiry Center, APA–430), Federal Aviation Administration, Department of Transportation, 800 Independence Avenue, SW, Washington, D.C., 20591. Telephone: (202) 426–8058. Submittals and requests that are not required to be made at a place established in a regulation, or by a communication to the interested person, may be addressed in writing to the nearest regional office of the agency. The addresses of these offices are listed in Part III of this Statement.

Part II—The FAA Organization

1. *Organization of FAA Headquarters:* The FAA heatquarters consists of:

(a) The Office of the Administrator, which includes the Administrator and the Deputy Administrator.

(b) Associate administrators who:

(1) Advise and assist the Administrator and the Deputy Administrator in directing, coordinating, controlling, and ensuring the adequacy of agency plans and programs within their spheres of responsibility.

(2) Exercise executive direction over offices or services assigned to them.

(3) Take action and issue orders in the name of the Administrator.

(c) Offices reporting directly to the Administrator.

(d) Offices and services under the executive direction of the individual Associate administrators.

2. *Office of the Administrator:* The Office of the Administrator is responsible for overall planning, direction, and control of agency activities, and for executive relationships with the Secretary and the Deputy Secretary of Transportation, the assistant secretaries, the heads of other operating elements, the Congress, other agencies, the aviation community, and the public.

(a) The Administrator:

(1) Determines and establishes agency objectives and priorities.

(2) Guides the development of and approves long-range plans for achieving agency objectives.

(3) Establishes the policies and broad technological, operational, and managerial concepts to govern the development and accomplishment of agency programs based on approved plans.

(4) Issues agency rules and regulations, or authorizes their issuance pursuant to delegations of authority.

(5) Approves broad legislative, budgetary, and fiscal proposals.

(6) Represents the agency in its relations with the Secretary of Transportation, and as an entity of the Department of Transportation, in its relations with the President, the Congress, other agencies, the aviation comunity, and the general public.

(7) Takes individual actions of major significance, such as changes in the basic pattern of agency organization, the selection and appointment of key personnel, the broad allocation of agency resources, and individual matters of particular political or public sensitivity.

(8) Exercises control over, evaluates, and takes steps to ensure the adequacy and continued improvement of overall agency performance.

(b) The Deputy Administrator participates with and assists the Administrator in the overall planning, direction, coordination, and control of agency programs. Subject to policies, standards, and instructions issued by the Administrator, the Deputy Administrator is authorized to represent the Administrator and exercise the Administrator's full authority. All authority delegated by the Administrator to any element in the agency is also delegated to the Deputy Administrator, unless otherwise specifically provided. The Deputy Administrator acts for and exercises all of the powers of the Administrator during the Administrator's absence or disability.

(3) *The Associate Administrators:*

(a) *The Associate Administrator for Airports.* Advises and assists the Administrator in directing, coordinating, Controlling, and ensuring: the adequacy of the substantive aspects of agency rulemaking actions relating to the certification of airports and the administration of Airport Improvement Program grants; the adequacy of the technical standards, plans, and programs for the development of a national integrated system of airports and for the improvement of safety in airport operations; and the adequcy of plans and programs to improve airport capacity; and the adequacy of programs and operating policies for the planning, construction, operation, maintenance, and development of Federally owned civil airports serving the District of Columbia and vicinity. In the discharge of these responsibilities, the Associate Administrator exercises executive direction over the Office of Airport Planning and Programming, the Office of Airport Standards, the Airport Capacity Office, and Metropolitan Washington Airports.

(b) *The Associate Administrator for Administration* advises and assists the Administrator in directing, coordinating, controlling, and ensuring the adequacy of agency plans and programs for administrative management, budget and financial management, program performance appraisal, procurement, and property management. In the discharge of these responsibilities, the Associate Administrator exercises executive direction over the Office of Accounting, the Acquisition and Material Service, the Office of Budget, and the Office of Management Systems.

(c) *The Associate Administrator for Air Traffic* advises and assists the Administrator in directing, coordinating, controlling, and ensuring the safe and efficient utilization of the national airspace; provides for the management of civil and military air traffic in the navigable airspace by developing and recommending national policies and establishing national programs, regulations, standards, and procedures for management of the airspace, operation of air navigation and communications systems and facilities, separation and control of, and flight assistance to, air traffic; provides for the security control of air traffic to meet the national defense requirements; operates the agency national and international flight information and cartographic programs; develops and coordinates U.S. policies, standards, and procedures related to international air traffic; and develops and implements procedures related to operational telecommunications services based on agency policy, standards, and guidelines. In the discharge of these responsibilities, the Associate Administrator exercises executive direction over the Air Traffic Operations Service and the Air Traffic Plans and Requirements Service.

(d) *The Associate Administrator for Aviation Standards* advises and assists

the Administrator in directing, coordinating, controlling, and ensuring the adequacy of the substantive aspects of agency rulemaking actions relating to the safety of flight, the nonmedical certification of airmen, the certification of air carriers, air agencies, and aircraft and the aircraft registry; plans and programs covering all agency rotorcraft activities, the airworthiness of aircraft, competence of airmen, air agencies, air carriers; flight procedures and the operation and maitenance of agency aircraft; investigations in support of the agency mission, internal security, prevention of aircraft hijacking, aviation sabotage, and related criminal acts against air transportation and intrastate air transportation; and the policy execution and administrative management aspects of the airman medical certification, medical research, aeromedical education, medical accident investigation, airman medical standards, and occupational health programs. In the discharge of these responsibilities, the Associate Administrator exercises executive direction over the Office of Airworthiness, the Office of Civil Aviation Security, the Office of Flight Operations, the Office of Program and Regulations Management, the Rotorcraft Program Office, and the Aviation Standards National Field Office, as well as policy execution and administrative management authority over the Office of Aviation Medicine.

(e) *The Associate Administrator for Development and Logistics* advises and assists the Administrator in directing, coordinating, controlling, and ensuring the adequacy of agency plans and programs for all research and advanced development, applied development, system engineering, production, implementation, maintenance, and field support of all systems that comprise the National Airspace System (NAS); ensures engineering adequacy of research and development efforts related to airport design and construction, aviation security, and aircraft safety; develops technical and maintenance standards, policies, plans, and programs for engineering associated with NAS modernization, development, installation, and maintenance; ensuring the adequancy of the test and evaluation and configuration management of all development, installation, and maintenance programs; the adequacy of human factors research and development programs, and agency telecommunications policies, planning standards, and technical standards; ensures continuous and effective liaison and coordination of agency long-range planning with Department of Defense; and provides technical coordination and liaison of agency engineering and development programs with those of industry and other Government agencies. In the discharge of these responsibilities, the Associate Administrator exercises executive direction over the Program Engineering and Maintenance Service, the Systems Engineering Service, the Advanced Automation Program Office, and the FAA Technical Center.

(f) *The Associate Administrator for Human Resource Management* advises and assists the Administrator in directing, coordinating, controlling, and ensuring the adequacy of agency plans and programs for personnel and technical training, human resource planning, evaluation, and organizational effectiveness, and labor and employee relations. The Associate Administrator for Human Resource Management provides operating personnel, training, and labor relations services to designated organizational elements and exercises executive direction over the Office of Human Resource Planning and Evaluation, the Office of Labor and Employee Relations, the Office of Organizational Effectiveness, and the Office of Personnel and Technical Training.

(g) *The Associate Administrator for Policy and International Aviation* advises and assists the Administrator in directing, coordinating, controlling, and ensuring the adequacy of national and international aviation system policies, goals, and priorities; develops and recommends national aviation policy relating to environmental and energy programs and regulatory matters; develops and recommends long-range systemwide master plans and aviation system concepts; coordinates and integrates the agency planning efforts; develops, coordinates, recommends, and promulgates statements of agency policy, goals, and priorities (both short- and long-range) and related achievement indicators; ensures the continuous coordination of such policies, goals, and overall plans with the Office of the Secretary of Transportation; provides the focal point for aviation public/government participation in policy development and planning processes; identifies future demands for aviation services, forecasting aviation technology, and future operational environments; reviews and analyzes proposed agency actions which significantly impact upon the national aviation system to identify the social, economic, or other consequences which are associated with agency actions and to ensure consideration of all feasible alternative agency policies and plans; conducts technical reviews of major programs to provide a continuous intensive appraisal of technical accomplishments, program costs, and schedule compliance; ensures continuous and effective liaison with foreign governments and the adequacy of programs and operating policies of the Europe, Africa, and Middle East Office within its assigned geographic jurisdiction. In the discharge of these responsibilities, the Associate Administrator exercises executive direction over the Office of Aviation Policy and Plans, the Office of Environment and Energy, the Office of International Aviation, and the Europe, Africa and Middle East Office.

4. *Offices Reporting Directly to the Administrator.*

(a) *Office of Aviation Safety.* The Office of Aviation Safety promotes safety and safety consciousness in air commerce, while conducting investigations of accidents and incidents, evaluates the efficacy of selected programs on safety matters, analyzes trends, and conducts special analyzes on safety issues.

(b) *Office of the Chief Counsel.* The Office of the Chief Counsel provides legal counsel and advice for the handling of all legal matters with which the agency is concerned, in order to ensure conformance with all legal requirements of all applicable laws, rules, regulations, and orders.

(c) *Office of Civil Rights.* The Office of Civil Rights assists, represents, and acts as principal advisor to the Administrator on civil rights and equal opportunity matters so as to assure full and affirmative implementation of civil rights and equal opportunity precepts within the agency in all official actions. This includes: agency employment practices; services rendered to the public; employment practices of contractors and subcontractors under direct or Federaly assisted contracts; operation of Federally assisted activities; and other programs or efforts involving agency assistance, participation, or endorsement.

(d) *Office of Public Affairs.* The Office of Public Affairs is the principal spokesperson for the agency. The office initiates and participates in the execution of coordinated information plans and programs, and ensures that programs, policies, objectives, and all relevant information concerning the agency are consistently presented to the public, aviation community, and agency employees in a factual, dignified, and timely manner.

5. *Offices Under Executive Direction of the Associate Administrators.*

(a) *Offices Under Executive Direction of the Associate Administrator for Airports.*

(1) *Office of Airport Planning and Programming.* The Office of Airport Planning and Programming serves as the principal organization of the agency responsible for all airports program matters pertaining to national airport planning, environmental and social requirements, airport improvement grants, property transfers, and ensures the adequacy of the substantive aspects of agency rulemaking actions relating to these programs.

(2) *Office of Airport Standards.* The Office of Airport Standards serves as the principal organization of the agency responsible for all airport program matters pertaining to standards for airport design, construction, maintenance, operation, safety, and data, including ensuring adequacy of the substantive aspects of agency rulemaking actions relating to the certification of airports.

(3) *Airport Capacity Program Office.* The Airport Capacity Program Office provides policy development, direction, management support, and guidance required to develop, test, demonstrate, and implement plans and programs to improve airport capacity.
The office formulates and maintains the Airport Capacity Enhancement Plan which encompasses short, medium, and long-term objectives, and guides all of the agency's efforts to enhance airport capacity.

(4) *Metropolitan Washington Airports.* The Metropolitan Washington Airports plans, constructs, operates, and maintains Federally owned civil airports serving the District of Columbia and vicinity.

(b) *Offices and Services Under Executive Direction of the Associate Administrator for Administration.*

(1) *Office of Accounting.* The Office of Accounting provides accounting, financial advisory, and audit liaison services to the Administrator and other top management and operating officials; develops, recommends policy for, and evaluates agency-wide accounting systems; administers an audit liaison program and a financial advisory services program; and conducts the accounting operations program for the agency headquarters and Metropolitan Washington Airports.

(2) *Acquisition and Materiel Service.* The Acquisition and Materiel Service plans, monitors, controls, and implements the scheduling and acquisition of materiel and equipment for the National Airspace System and for international programs; provides for the procurement and management of real and personal property and transportation and supply support for agency programs; and provides office services to Washington headquarters.

(3) *Office of Budget.* The Office of Budget ensures that agency budgetary needs are accurately identified and defined, that they are effectively presented to the Office of Management and Budget and Congressional committees, and that funds and other resources available to the agency are effectively utilized.

(4) *Office of Management Systems.* The Office of Management Systems develops and administers the implementation and operation of agency organizational plans, management systems and controls, information resources management, the National Airspace Review Enhancement Plan, and administrative standards and procedures; evaluates their adequacy and promotes their improvement in terms of the effectiveness and economy of agency program performance; and provides data processing, graphics, and publishing services to the Washington headquarters.

(c) *Offices Under Executive Direction of the Associate Administrator for Air Traffic.*

(1) *Air Traffic Operations Service.* The Air Traffic Operations Service advises and assists the Associate Administrator for Air Traffic in directing, coordinating, controlling and ensuring the safe and efficient utilization of the national airspace; provides for the management of civil and military air traffic in the navigable airspace by developing and recommending national policies and establishing national programs, regulations, standards, and procedures for management of the airspace, operation of air navigation, separation and control of, and flight assistance to, air traffic; provides for the security control of air traffic to meet the national defense requirements; operates the agency national and international flight information and cartographic, traffic management programs; develops and coordinates U.S. policies, standards, and procedures related to international air traffic.

(2) *Air Traffic Plans and Requirements Service.* The Air Traffic Plans and Requirements Service manages, directs, and advises the Associate Administrator for Air Traffic in the planning and requirements of the air traffic system including operations, facilities and equipment, and leased services programs, telecommunications systems and aviation weather services; develops and manages national airspace programs, policies, and standards, and air traffic control technical resource management programs as they relate to human factors considerations, technical training, and air traffic controllers' certification requirements; and develops national software for the use of air traffic control automation throughout the agency.

(d) *Offices Under Executive Direction of the Associate Administrator for Aviation Standards.*

(1) *Office of Airworthiness.* The Office of Airworthiness promotes safety in air commerce by assuring the airworthiness of civil aircraft, including aircraft design type certification; production certification; airworthiness certification; approval of operators' aircraft maintenance programs; airmen certification; air agency certification; and continued airworthiness programs.

(2) *Office of Aviation Medicine.* The Office of Aviation Medicine applies aviation medicine knowledge to the safety and promotion of civil aviation.

(3) *Office of Civil Aviation Security.* The Office of Civil Aviation Security promotes the security of civil aviation, including the prevention of acts of air piracy, aviation sabotage, and related criminal acts; assists law enforcement in their programs for interdiction of dangerous drugs and narcotics into the United States; responds to atmospheric/radiological contamination incidents; promotes the security of agency operations, personnel, facilities, property, and communications by developing and assuring effective implementation of policies, regulations, programs, and procedures; and conducts investigations supporting the agency mission.

(4) *Office of Flight Operations.* The Office of Flight Operations promotes safety of flight of civil aircraft in air commerce by assuring the adequacy of flight procedures and operating methods of air carriers and general aviation operators, and the proficiency of pilots, flight engineers, navigators, dispatchers, and related air agencies.

(5) *Office of Program and Regulations Management.* The Office of Program and Regulations Management promotes efficiency and safety in aviation safety regulatory programs by providing policy guidance, leadership, and direction to programs of national aviation safety data systems development, rulemaking activities, evaluation, resource management, and administrative and fiscal management for those offices under the executive direction of the Associate Administrator for Aviation Standards.

(6) *Rotorcraft Program Office.* The Rotorcraft Program Office provides management, guidance, oversight, and coordination for all agency rotorcraft programs and activities; and formulates a Rotorcraft Program Plan to guide all agency rotorcraft efforts.

(7) *Aviation Standards National Field Office.* The Aviation Standards National Field Office promotes safety of flight by assuring the adequacy and accuracy of air navigation facilities; development and standardization of flight procedures; maintenance and engineering of the agency aircraft fleet; and provision of regulatory and standards development.

(e) *Offices and Services under Executive Direction of the Associate Administrator for Development and Logistics.*

(1) *Program Engineering and Maintenance Service.* The Program Engineering and Maintenance Service manages, directs, and executes the agency's airway engineering activities and research and development efforts related to airport design and construction, aircraft safety, and aviation security to ensure that the National Airspace System is efficient, economical, and responsive to operational needs. The scope of this responsibility encompasses: conducting research, development, production, construction, installation, maintenance, and logistics support of all air/ground, air traffic control, interfacility, and auxiliary facilities; managing research, development, in support of airport design and construction, aircraft safety, and aviation security activities; and support to the Advanced Automation Program Office.

(2) *Systems Engineering Service.* The Systems Engineering Service identifies and translates user and system requirements, conducts system studies and advanced technology and development activities, designs and plans implementation of system improvements and interfaces, prepares system plans, and provides the system engineering policies and standards to develop and control the configuration, architecture, and plan for the National Airspace System.

(3) *Advanced Automation Program Office.* The Advanced Automation Program Office provides the leadership, management, direction, and coordination within the agency required to specify, develop, acquire, test, and implement a replacement system for the air traffic control automation systems currently located at the domestic en route centers, off-shore centers, terminal facilities, and related support facilities.

(4) *FAA Technical Center.* The FAA Technical Center operates and administers a national test center providing laboratories, facilities, skills, and services responsive to the research, development, implementation, and maintenance programs of the agency; develops, tests, and evaluates new or substantially improved equipment, systems, materials, processes, techniques, and procedures; and performs or participates in research, engineering, and development to provide new or improved techniques or methodologies related to airport designs, layouts, construction and operations, aviation security systems, and for improved or new aircraft safety systems and devices, improved crashworthiness designs and techniques, and improved or new aircraft control systems.

(f) *Offices Under Executive Direction of the Associate Administrator for Human Resource Management.*

(1) *Office of Human Resource Planning and Evaluation.* The Office of Human Resource Planning and Evaluation serves as the principal agency organization for assuring optimal decisionmaking in the management of human resources through developing, recommending, guiding, evaluating, and administering policies, standards, procedures, systems and/or activities in the following human resource management areas: strategic planning, policy planning and integration, and research, evaluation, and information systems (including the Consolidated Personnel Management Information System).

(2) *Office of Labor and Employee Relations.* The Office of Labor and Employee Relations serves as the principal agency organization for achieving optimal relationships with employees, employee groups, and labor organizations through developing, recommending, guiding, evaluating, and administering policies, standards, procedures, and systems with respect to employee benefits, adverse actions, grievances and appeals, and conduct and discipline; and those with respect to FAA's relationship with labor organizations, professional societies, and groups representing employees' interests.

(3) *Office of Organizational Effectiveness.* The Office of Organizational Effectiveness serves as the principal agency organization for simultaneously achieving organizational effectiveness, efficiency, and employee satisfaction through developing, recommending, guiding, evaluating, and administering policies, standards, procedures, and systems for the development of organizational systems, management practices, managers, and employees.

(4) *Office of Personnel and Technical Training.* The Office of Personnel and Technical Training serves as the principal organization of the agency for achieving optimal and equal opportunity use of position and human resources through developing, recommending, guiding, evaluating, and administering policies, standards, procedures, and systems for managing positions, acquiring human resources, and training employees in technical responsibilities.

(g) *Offices Under Executive Direction of the Associate Administrator for Policy and International Aviation.*

(1) *Office of Aviation Policy and Plans.* The Office of Aviation Policy and Plans performs and monitors demand forecasts of aviation; integrates technological aviation forecasts; assesses the impact of future social, economic, transportation, and technological events on aviation industry characteristics, trends, and demands; performs a continuous assessment of the current Federal aviation system and identifies needed future system changes; and performs economic analysis of proposed regulations. Formulates, recommends, and promulgates FAA policy, system plans, goals, and priorities in conjunction with other agency elements; develops agency costing policy; develops and coordinates agency plans and integrates agency-wide planning actions to assure consistency with agency policy, goals, and priorities; assesses policy implications of proposed major modifications to the system; and provides legislative advice and assistance. Performs systems requirements analyses; conducts cost evaluations of system acquisition management programs; conducts transition planning efforts; develops and provides planning standards and facility establishment criteria; and develops and provides planning guidelines governing regional inputs. Conducts studies and analyses of policy and program issues to determine the impact and consequences of alternative planning standards and facility established criteria; and prepares documentation of policies to guide FAA system and engineering and development planning and to inform users and the general public of agency policies and programs. Administers the Aircraft Loan Guarantee Program, including preparation of economic and financial analysis. Administers the Aviation Insurance Program. Fosters the development of an effective air transportation system; provides leadership, direction, and coordination of agency activities related to air transportation system development; and

maintains liaison with the Office of the Secretary of Transportation, other operating administrations, government and public agencies, and industry. Provides for aviation public/user/government participation in formulation of aviation policies, plans, goals, and priorities.

(2) *Office of Environment and Energy.* The Office of Environment and Energy develops and recommends national aviation policy relating to environmental and energy matters. Provides instructions, guidance, and technical assistance for agency compliance with applicable environmental and energy statutes and regulations, prescribing Federal environmental protection and energy conservation policies. Develops and coordinates overall agency energy conservation initiatives. Formulates and implements technical programs leading to reduced noise and exhaust emissions and more efficient energy utilization by aircraft and aircraft support systems. Develops and recommends noise and engine emission standards, and promulgates regulations prescribing their application. Conducts analyses and studies of aircraft and airport operations and development programs, which could lead to the reduction of any adverse impact on the environment, or to the improvement in the efficiency of energy utilization; coordinates with other Federal agencies in developing aviation-related environmental and energy policies, goals, and priorities; provides the agency focal point for coordinating and fostering community, State, local, and general public participation in the resolution of aviation-related environmental and energy matters.

(3) *Office of International Aviation.* The Office of International Aviation achieves U.S. and agency objectives in international aviation through formulation and coordination of policy, plans, programs, and related matters affecting the international activities of the agency. Provides guidance and support to all agency elements having international responsibilities; overall evaluation of agency programs and activities in meeting such objectives; and administration of aviation assistance programs conducted by the agency. Formulates and coordinates cooperative efforts with other U.S. Government departments and agencies and the U.S. aviation industry on international aviation efforts.

(4) *Europe, Africa, and Middle East Office.* The Europe, Africa, and Middle East Office discharges the responsibilities of the Federal Aviation Administration within the assigned areas of Europe, Africa and the Middle East, including the Azores, Iceland, the Soviet Union, and all countries that are both south of the People's Republic of China and west of Burma; working in coordination and in conjunction with elements of U.S. diplomatic missions with a view to encourage and foster the development of civil aeronautics and air commerce, and provide for the safety and efficiency of U.S. aviation.

6. *The Mike Monroney Aeronautical Center.* The Aeronautical Center conducts centralized training, central warehousing and supply, and aeromedical research; maintains the Registry of Civil Aircraft and recordation of conveyances and encumbrances thereon and all official airmen records; and provides certain automatic data processing services for national and local programs.

7. *The Regions.* The regional directors report directly to the Administrator and execute the major operating programs of the agency, including assigned international operations, as they apply within the regions. Each region consists of a regional headquarters and field offices and facilities. Each region, within its assigned geographic areas of responsibility, provides: air traffic operational services, flight standards inspection, certification and surveillance services, facilities and equipment installation and maintenance services; airport development and certification services; airmen medical certification and education, aircraft accident investigation, employee health services, civil aviation security services, and ancillary supporting services. The regional headquarters consists of:

(a) *Office of the Regional Director.* The Office of the Regional Director is responsible for overall planning, direction, organization, management of resources, administration of assigned programs, and evaluation of program performance throughout the region.

(b) *Staff.* Staffs, staff support divisions, and program divisions advise and assist the regional director in the elaboration of national policies, standards, and guidelines within the region; and in the evaluation of operations. The program divisions direct operational activities of subordinate field offices and facilities. The field activities or operating offices provide service to the public within their functional areas of responsibility (e.g., airport traffic control, flight service, airmen certification, etc.). The geographic jurisdictions and addresses of the regional offices are stated in Part III of this Statement.

Part III—Location and Geographic Scope of Authority of Principal Office

1. *FAA Headquarters.* Address: 800 Independence Avenue, SW, Washington, D.C., 20591

2. *Mike Monroney Aeronautical Center.* Mailing Address: P.O. Box 25082, Oklahoma City, OK, 73125. Street Address: 6500 South MacArthur, Oklahoma City, OK, 73125.

3. *FAA Technical Center.* Mailing Address: Atlantic City, NJ, 08405. Street Address: Atlantic City Airport, Atlantic City, NJ, 08405.

4. *Aviation Standards National Field Office.* Mailing Address: P.O. Box 25082, Oklahoma City, OK, 73125.

5. *Regional Headquarters.* The locations, addresses, and geographic areas of authority of the regional headquarters are as follows:

(a) *New England Region.* Regional Office at Burlington, MA. Address: 12 New England Executive Park, Burlington, MA 01803. Goegraphic Area: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont, and that portion of the Atlantic Ocean in which domestic offshore control is exercised by air traffic control facilities of the New England Region.

(b) *Eastern Region.* Regional Office at Jamaica, Long Island, NY. Address: John F. Kennedy International Airport, Federal Building, Jamaica, Long Island, NY, 11430. Geographic Area: Delaware, New York, New Jersey, Pennsylvainia, Maryland, Virginia, West Virginia, and the District of Columbia; Canada east of 100 west longitude; and Greenland and Bermuda; and that portion of the Atlantic Ocean in which domestic offshore control is exercised by air traffic control facilities of the Eastern Region.

(c) *Great Lakes Region.* Regional Office at Des Plaines, IL. Address: O'Hare Lake Office Center, 2300 East Devon Avenue, Des Plaines, IL, 60018. Geographic Area: Illinois, Indiana, Michigan, Minnesota, North Dakota, South Dakota, Ohio, and Wisconsin.

(d) *Southern Region.* Regional Office at East Point, GA Mailing Address: Atlanta Airport, P.O. Box 20636, Atlanta, GA. 30320. Street Address: 3400 Norman Berry Drive, East Point, GA, 30320. Geographic Area: Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, and Mississippi; the Caribbean area, South America, Central America (excluding Mexico), Panama, and that portion of the Gulf of Mexico and Atlantic Ocean in which domestic offshore control is exercised by air

traffic control facilities of the Southern Region.

(e) *Southwest Region.* Regional Office at Fort Worth, TX. Mailing Address: P.O. Box 1689, Fort Worth, TX, 76101. Street address: 4400 Blue Mound Road, Fort Worth, TX 76101. Geographic Area: Arkansas, Louisiana, Texas, Oklahoma, and New Mexico; Mexico and that portion of the Gulf of Mexico covering the Oceanic Control Area and the domestic offshore control area under control of air traffic facilities located in the Southwest Region.

(f) *Central Region.* Regional Office at Kansas City, MO. Address: 601 East 12th Street, Kansas City, MO, 64106. Geographic Area: Iowa, Kansas Missouri, and Nebraska.

(g) *Northwest Mountain Region.* Regional Office at Seattle, WA. Address: 17900 Pacific Highway South, C–68966, Seattle, WA, 98168. Geographic Area: Colorado, Idaho, Montana, Oregon, Utah, Washington, and Wyoming; the designated oceanic area within the Oakland Flight Information Region that is north of a line drawn from the intersection of the southern boundary of Oregon and the coastline to the northeast corner of the Honolulu Flight Information Region; and Canada west of 100 west longitude.

(h) *Western-Pacific Region.* Mailing Address: P.O. Box 92007, Worldway Postal Center, Los Angeles, CA 90009. Street Address: 15000 Aviation Boulevard, Hawthorne, CA, 90009. Geographic Area: Arizona, California, Hawaii, and Nevada; the Pacific Ocean area west of the continental United States, including the designated area within the Oakland Flight Information Region except for the area north of a line drawn from the intersection of the southern boundary of Oregon and the coastline to the northeast corner of the Honolulu Flight Information Region; and east of Bangladesh and India, including Wake Island, Guam, the Trust Territory of the Pacific, the area of Micronesia, Japan, North Korea, South Korea, The People's Republic of China, Hong Kong, Taiwan, Republic of the Philippines, Vietnam, Laos, Cambodia, Thailand, Burma, Malaysia, Singapore, Indonesia, the area of Melanesia, Australia, Antarctica, New Zealand, and the dependent territories and independent nations of Polynesia including Tonga, Fiji, Tahiti, and Samoa.

(i) *Alaskan Region.* Regional Office at Anchorage, AL. Address: 701 C Street, Box 14, Anchorage, AL, 99513. Geographic Area: Alaska, the oceanic area within the Anchorage Flight Information Region, including the Arctic offshore area (control 1485) and the Arctic Control Area/Flight Information Region.

6. *Metropolitan Washington Airports.* Address: Federal Aviation Administration, Washington National Airport, Metropolitan Washington Airports, Hangar 9, Washington, D.C. 20001.

7. *Europe, Africa, and Middle East Office.* Office located at Brussels, Belgium. APO mail address: Federal Aviation Administration, c/o American Embassy, APO New York, NY, 09667. Street Address: 15, Rue de la Loi, (3rd Floor), B–1040, Brussels, Belgium. Geographic Area: Europe, Africa, and Middle East, including the Azores, Iceland, the Soviet Union, and all countries that are both south of the People's Republic of China and west of Burma.

[FR Doc. 85–21495 Filed 9–9–85; 8:45 am]
BILLING CODE 4910–13–M

Flight Service Station at Alma, Georgia; Closing

Notice is hereby given that on or about September 9, 1985, the Flight Service Station at Alma, Georgia, will be closed. Services to the general aviation public at Alma, formerly provided by this office, will be provided by the Automated Flight Service Station in Macon, Georgia. This information will be reflected in the FAA Organization Statement the next time it is requested.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354)

Issued in Atlanta, Georgia, on August 26, 1985.

Jonathan Howe,

Director, Southern Region.

[FR Doc. 85–21676 Filed 9–9–85; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

The Advisory Committee on the Rehabilitation of the Treasury Building; Establishment

Pursuant to the Federal Advisory Committee Act of October 6, 1972, (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App. 2), the Department of the Treasury announces the establishment of the following advisory committee.

Title: The Advisory Committee on the Rehabilitation of the Treasury Building.

Purpose: The Committee, composed of former Secretaries of the Treasury and individuals interested in the preservation of historic buildings in the Nation's Capital, will discuss and recommend projects to rehabilitate portions of the Main Treasury building. A subcommittee will engage in active solicitation of gifts and donations to aid in this work.

Statement of Public Interest: The public has a continuing interest in maintaining and preserving historic buildings which link us to our past. The Treasury Building located adjacent to the White House is a particularly appropriate focus for preservatin. It is the third oldest continually occupied Government building after the White House and the Capitol.

The members of the Committee share a personal commitment to the Treasury Building.

Authority for this committee will expire on September 4, 1987, unless formally extended by the Secretary of the Treasury.

Dated: September 4, 1985.

John F.W. Rogers,

Assistant Secretary of the Treasury (Management).

[FR Doc. 85–21518 Filed 9–9–85; 8:45 am]
BILLING CODE 4810–25–M

VETERANS ADMINISTRATION

Veterans Administration Medical Center, Erie, PA; Facility Expansion and Modernization; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the proposed project "Facility Expansion and Modernization" and has determined that the potential environmental impacts will be minimal from the development of this project.

This project comprises the construction of a three-level clinic addition to the existing north wing of the main hospital building, Bldg. #1 and a single-level 60 Bed Nursing Home to the south and west of the same building attached with a connecting corridor. Total new building construction is 114,000 square feet. To accommodate construction and improve pedestrian and vehiclar circulation, the entire medical center parking, roads, and walks will be reworked. Total parking for 390 cars is planned. In addition to new contruction, the existing facilities in Bldg. #1 are to receive upgraded heating, ventilating, and air conditioning, and new fire sprinkler and medical gas systems.

Short-term impacts will result from construction and are temporary. They include impacts to air quality from construction equipment exhaust and particulates from demolition and excavation, and to the patients, staff

and local community from construction noise, equipment and traffic.

Short-term impacts will be mitigated by inclusion in the construction contract of the VA Standard Specifications, Environmental Protection Section, and by monitoring and enforcement during construction. Short-term impacts to the local community will be controlled and mitigated by regulation of hours of construction and travel routes for construction equipment.

There are no long-term impacts.

The VA will adhere to all applicable Federal, State, and local environmental regulations during construction and operation of this project.

The significance of the identified impacts has been evaluated relative to considerations of both context and intensity as defined by the Council on Environmental Quality. (Title 40 CFR 1508.27).

An Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, §§ 1501.3 and 1508.9. A "Finding of No significant Impact" has been reached based upon the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, DC. Persons wishing to examine a copy of the document may do so at the following office: Susan Livingstone, Director, Office of Environmental Affairs (088A), Room 512, Veterans Administration, 811 Vermont Avenue, NW., Washington, DC 20420, (202) 389-3717. Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: September 3, 1985.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

[FR Doc. 85-21559 Filed 9-9-85; 8:45 am]

BILLING CODE 8320-01-M

Privacy Act of 1974; Amendment of Systems Notice; New Routine Use Statements

Notice is hereby given that the VA (Veterans Administration) is considering adding two new routine use statements for the system of records entitled "Repatriated American Prisoners Of War-VA" (60VA23) as set forth on page 38709 of the **Federal Register** of August 25, 1983. The Medical Follow-Up Agency of the National Academy of Sciences-National Research Council has begun conducting medical research studies concerning the health of World War II and Korean Conflict Prisoners of War. In order to assist them in their research, the Medical Follow-Up Agency has requested access to the information contained in the VA's Repatriated American Prisoners of War system of records. In addition to the study currently being conducted by the Medical Follow-Up Agency, other studies concerning POW's have been initiated and are being planned for the future. It is the VA's belief that release of information from 60VA23 in order to assist in medical research studies will prove beneficial to veterans who were held as prisoners of war.

To provide the information required by research facilities, the VA is proposing to add two new routine use statements. Proposed new routine use number 5 will permit the disclosure of any information, excluding the name of a veteran unless the name is furnished by the requestor, to epidemiological and other research facilities approved by the Chief Medical Director in order to obtain data from those facilities necessary to assist in medical studies on veterans for the Veterans Administration or for any research purposes determined to be necessary and proper by the Chief Medical Director. Proposed new routine use number 6 will permit disclosure of the name(s) of a veteran to another Federal agency or to a contractor of that agency at the written request of the head of that agency for the purpose of conducting government research necessary to accomplish a statutory purpose of that agency.

The VA has determined that release of information for this purpose is a necessary and proper use of information in this system of records and that a specific routine use for transfer of this information is appropriate.

Intersted persons are invited to submit written comments, suggestions, or objections regarding the proposed new routine use to the Administrator of Veterans' Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420. All relevant material received before October 7, 1985 will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m.and 4:30 p.m., Monday through Friday (except holidays) until October 22, 1985. Any person visiting Central Office for the purpose of inspecting any such comments will be received by Central Office Veterans Service Unit in room 12. Visitors to any field station will be informed that the records are available only in Central Office and furnished the above address and room number.

If no public comment is received during the 30-day review period allowed for public comment or unless otherwise published in the **Federal Register** by the Veterans Administration, the new routine use statement included herein is effective October 7, 1985.

Approved: August 30, 1985.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

Notice of System of Records

In the system identified as 60VA23, "Repatriated American Prisoners of War-VA" as set forth on page 38709 of the **Federal Register** of August 25, 1983, the following routine use statements are added to read as follows:

60VA23

SYSTEM NAME:

Repatriated American Prisoners of War-VA.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

5. Any information in this system (excluding the name of a veteran unless the name is furnished by the requestor) may be disclosed to epidemiological and other research facilities approved by the Chief Medical Director to obtain data from those facilities necessary to assist in medical studies on veterans for the Veterans Administration or for any research purposes determined to be necessary and proper by the Chief Medical Director.

6. The name(s) of a veteran may be disclosed to another Federal agency or to a contractor of that agency at the written request of the head of that agency for the purpose of conducting government research necessary to accomplish a statutory purpose of that agency.

* * * * *

[FR Doc. 85-21606 Filed 9-9-85; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 175
Tuesday, September 10, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

COMMODITY CREDIT CORPORATION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 50 FR 35176, August 29, 1985.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 3:00 p.m., September 6, 1985.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Open Minutes of Meeting Held on January 9, 1985
2. Tobacco Price Support Program for the 1982 and Subsequent Crops, XCP-40a, Amendment 2
3. Update of Commodity Credit Corporation (CCC)-Owned Inventory
4. Resolution re Ratification of Secretary's Approval to Sell CCC-Owned Dairy Products for Export
5. Resolution re Ratification of Secretary's Approval for Sales of CCC-Owned Dairy Products for Export (Jamaica)
6. Resolution re Ratification of Secretary's Approval for Sale of Dairy Products to Mexico
7. Resolution re Ratification of Sales of CCC-Owned Nonfat Dry Milk to Iraq
8. Resolution re Ratification of Secretary's Approval for Sale of CCC-Owned Nonfat Dry Milk to Selected Countries for Use as Animal Feed
9. Resolution re Ratification of Authorization for Sales of Surplus Commodities to International and Private Voluntary Organizations
10. Resolution re Ratification of Repurchase Offers on Export Credit Guarantees for the Philippines and the Dominican Republic
11. Resolution re Ratification of Docket CZ-266, Resolution No. 22, Amendment 1—Commodities Available for Public Law 480 During Fiscal Year 1985
12. Resolution re Ratification of Docket CZ-266, Resolution No. 22, Amendment 2—Availability of Nonfat Dry Milk and Tallow for Export Under Public Law 480 for Fiscal Year 1985

CONTACT PERSON FOR MORE INFORMATION: Richard A. Ashworth, Secretary, Commodity Credit Corporation, Room 3086, South Building, U.S. Department of Agriculture, Post Office Box 2415, Washington, D.C. 20013; telephone (202) 447-8165.

Dated: September 6, 1985.

Richard Ashworth,

Secretary, Commodity Credit Corporation.

[FR Doc. 85-21728 Filed 9-6-85; 3:45 pm]

BILLING CODE 3410-05-M

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 2:00 p.m., September 18, 1985.

PLACE: 2033 K Street, NW., Washington, DC; 5th Floor Hearing Room.

STATUS: Open.

MATTERS TO BE CONSIDERED: Commission Hearing concerning the applications of Monex International Ltd. and of First Asset Corporation seeking registration as a leverage transaction merchant as well as applications from these firms for registration of certain leverage commodities.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254-6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 85-21688 Filed 9-6-85; 2:46 pm]

BILLING CODE 6351-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:37 a.m. on Thursday, September 5, 1985, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in The Bank of Loretto, Loretto, Tennessee, which was closed by the Commissioner of Financial Institutions for the State of Tennessee on Wednesday, September 4, 1985; (2) accept the bid for the transaction submitted by First Farmers and Merchants National Bank of Columbia, Columbia, Tennessee; and (3) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director H. Joe Selby (Acting Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: September 5, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-21668 Filed 9-6-85; 11:26 am]

BILLING CODE 6714-01-M

4

INTERNATIONAL TRADE COMMISSION

[USITC SE-85-38]

TIME AND DATE: Wednesday, September 18, 1985 at 10:00 a.m.

PLACE: Room 117, 701 E Street, NW., Washington, DC 20436.

STATUS: Open to public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratification List.
4. Petitions and Complaints.
5. Investigations Nos. 701-TA-225/231 and 731-TA-219/234 (Final) (Certain carbon steel products from Austria, Norway and Sweden)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–21698 Filed 9–6–85; 3:11 p.m.]

BILLING CODE 7020–02–M

5

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9 a.m., Tuesday, September 17, 1985.

PLACE: NTSB Board Room, Eighth Floor, 800 Independence Ave., SW., Washington, DC 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Aviation Safety Study:* "Airline Passenger Safety Education: A Review of Methods Used to Present Safety Information".
2. *Special Investigation Report:* New York City Transit Authority Subway System Fires.
3. *Pipeline Accident Report:* National Fuel Gas Corporation, Explosion and Fire, Sharpsville, Pennsylvania, February 22, 1985.

CONTACT PERSON FOR MORE INFORMATION: Catherine T. Kaputa (202) 382–6525.

Catherine T. Kaputa,

Federal Register Liaison Officer.

September 6, 1985.

[FR Doc. 85–21687 Filed 9–6–85; 2:25 p.m.]

BILLING CODE 7533–01–M

6

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of September 9, 16, 23, and 30, 1985.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, DC.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of September 9

Monday, September 9

2:00 p.m.
Discussion on Earthquakes and Emergency Planning (Public Meeting)

Tuesday September 10

10:00 a.m.
Discussion and Oral Presentations on Uranium Mill Tailings Regulations (Public Meeting)

2:00 p.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)

Wednesday, September 11

1:30 p.m.
Discussion of Proposed Station Blackout Rule (Public Meeting)

3:00 p.m.
Discussion of Plant Issues with Regional Administrators (Public Meeting)

Thursday, September 12

2:00 p.m.
Staff Briefing on TVA (Public Meeting)

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Final Policy Statement on Engineering Expertise on Shift (postponed from 9/5)
b. "Exceptions" to Commission Order Establishing Informal Hearing on Babcock and Wilcox Parks Township Facility
c. Review of ALAB–809

4:00 p.m.
Status of Pending Investigations (Closed—Ex. 5 & 7)

Friday, September 13

2:15 p.m.
Periodic Meeting with Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting)

Week of September 16—Tentative

Tuesday, September 17

10:00 a.m.
Status of Interpretation of Appendix R—Fire Protection (Public Meeting)

2:00 p.m.
Status of Progress on Environmental Qualification of Electrical Equipment (Public Meeting)

3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Wednesday, September 18

9:00 a.m.
Continuation of 7/24 Briefing on Davis-Besse (Public Meeting)

Week of September 23—Tentative

Thursday, September 26

11:30 a.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of September 30—Tentative

Tuesday, October 1

2:00 p.m.
Discussion of Plant Issues with Regional Administrators (Public Meeting)

Thursday, October 3

11:30 a.m.
Affirmation Meeting (Public Meeting) (if needed)

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING): (202) 634–1498.

CONTACT PERSON FOR MORE INFORMATION: Julia Corrado (202) 634–1410.

Julia Corrado,

Office of the Secretary.

[FR Doc. 85–21735 Filed 9–6–85; 3:55 am]

BILLING CODE 7590–01–M

7

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

STATUS: Open. The Council also will hold an executive session to discussion personnel matters.

TIME AND DATE: 9:00 a.m., September 18–19, 1985.

PLACE: Council Offices, 850 SW. Broadway, Suite 1100, Portland, Oregon.

MATTERS TO BE CONSIDERED:

- Staff Presentation on Losses Information.
- Council Action on Issue Paper on Salmon and Steelhead Productivity Analysis.
- Council Action on Issue Paper on Strategies for Investments in Salmon and Steelhead Production.
- Council Action on Issue Paper on Resident Fish Substitutions for Salmon and Steelhead Losses.
- Council Business.

Public comment will follow each item.

FOR FURTHER INFORMATION CONTACT: Ms. Bess Atkins, (503) 222–5161, or toll-fee 1–800–222–3355 (Montana, Idaho or Washington) or 1–800–452–2334.

Edward Sheets,

Executive Director.

[FR Doc. 85–21678 Filed 9–6–85; 1:10 pm]

BILLING CODE 0000–00–M

Federal Register

Tuesday
September 10, 1985

Part II

Environmental Protection Agency

40 CFR Part 60

Air Pollution Control; Standards for New Stationary Sources; Portland Cement Plants; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-2789-2]

Air Pollution Control; Standards of Performance for New Stationary Sources; Portland Cement Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of review and proposed amendments.

SUMMARY: The EPA has reviewed the standards of performance for portland cement plants (40 CFR Part 60, Subpart F). The review is required under section 111 of the Clean Air Act. The intended effect of this action is to present the results of this review and to propose amendments to the existing standard.

A public hearing will be held, if requested, to provide interested persons an opportunity for oral presentations of data, views, or arguments concerning the findings of this review and the proposed amendments.

DATES: *Comments.* Comments must be received on or before November 25, 1985.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by October 1, 1985, a public hearing will be held on October 25, 1985, beginning at 10:00 a.m. Persons interested in attending the hearing should call Ms. Shelby Journigan at (919) 541-5578 to verify that a hearing will occur.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact EPA by October 1, 1985.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (LE-131), Attention: Docket Number A-84-08, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Public Hearing. If anyone contacts the EPA requesting a public hearing, it will be held at EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina. Persons wishing to present oral testimony should notify Ms. Shelby Journigan, Emission Standards and Engineering Division, (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5578.

Document. The document summarizing information gathered during the review may be obtained by written request from the EPA Library (MD-35), Research Triangle Park, North Carolina 27711, or by phone at (919) 541-2777. Please refer to "Portland Cement Plants—Background Information for Proposed Revisions to Standards, EPA-450/3-85-003a."

Docket. Docket No. A-84-08, containing information gathered during the review, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Doug Bell or Ms. Shirley Tabler, (919) 541-5624, Standards Development Branch, concerning regulatory decisions and the standard, or Mr. Kenneth R. Durkee, (919) 541-5595, Industrial Studies Branch, concerning technical aspects of the industry and control technologies. The address for both parties is Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION:

1. Conclusions and Proposed Amendments

As required by section 111(a)(1) of the Clean Air Act, at promulgation, the new source performance standards (NSPS) for the portland cement industry reflected application of best demonstrated control technology (BDT). The second 4-year review of the NSPS has been completed. The scope of the review included assessing the regulatory implications (under the Clean Air Act) of (1) operating experience and advances in production and control technology, (2) the experience of industry and enforcement agencies with the existing particulate mass and visible emissions standards, (3) the costs of complying with the existing standards, and (4) data on nitrogen oxides (NO_x) and sulfur dioxide (SO_2) emissions.

The proposed amendments would require that a continuous opacity monitor be installed to monitor the opacity of visible emissions from control devices used on all kilns and clinker coolers subject to the standard, i.e., constructed or modified after August 17, 1971. When the affected kiln or clinker cooler has a separate bypass stack installed through which emissions are sometimes vented directly to the atmosphere, a continuous opacity monitor would be required on each bypass stack in addition to the main control device stack. As required by the General Provisions, excess emissions recorded by the continuous opacity monitor must be reported quarterly. However, a single transmissometer may not measure accurately the opacity of visible emissions from the multiple stacks or monovents associated with positive-pressure fabric filters or from negative-pressure fabric filters with multiple stacks. Therefore, where control on affected facilities (kilns and clinker coolers) is accomplished by a positive-pressure fabric filter with multiple stacks or a monovent, the requirement to install a transmissometer is waived. Instead a certified observer may record the opacity of any visible emissions for at least three 6-minute periods once per day of operation according to EPA Reference Method 9. This alternative also applies to any kiln or clinker cooler controlled by a negative-pressure fabric filter with multiple stacks that becomes subject to the standard prior to the date of this proposal. The excess emissions recorded using EPA Reference Method 9 must be reported semiannually.

Continuous monitoring of visible emissions from control devices installed on kilns and clinker coolers is not currently required by the NSPS. However, continuous opacity monitoring (using a transmissometer) is an effective means of ensuring the proper operation and maintenance of particulate matter control equipment. Transmissometers have been demonstrated to work well for control devices where the emissions are exhausted to the atmosphere through a single stack. Therefore, an amendment is proposed to require that the opacity of the emissions from control equipment used on affected kilns and clinker coolers be monitored continuously by a transmissometer.

The proposed amendments also would require owners or operators of facilities subject to the NSPS, i.e., constructed or modified since August 17, 1971, to submit semiannual reports of the frequency, duration, and cause of any malfunction resulting in bypass or de-energization of any device controlling kiln emissions.

The de-energization of electrostatic precipitators during periods of increased combustibles in the kiln exhaust gases was examined during the review. Annual uncontrolled particulate emissions are significant if the electrostatic precipitator is de-energized frequently or for long periods. However, electrostatic precipitator vendors and plant personnel state that, if a kiln is properly designed, operated, and maintained, de-energization of the electrostatic precipitator will be infrequent. Therefore, to provide a means for evaluating proper operation

and maintenance, an amendment is proposed that requires semiannual reports of the frequency, duration, and cause of any malfunction resulting in bypass or de-energization of any device controlling kiln emissions. The General Provisions (§ 60.7) already require that all malfunctions of process or control equipment be recorded. Because the responsibility for determining if a malfunction has occurred lies with the Administrator, the net effect of this requirement in this regulation is to require all source owners or operators to report any malfunction or incident resulting in bypass or de-energization of any device controlling kiln emissions that in the owner's or operator's opinion is considered to be a malfunction. The Administrator then determines if the incident was unavoidable and, thus, a malfunction. For a source to report an incident as a malfunction does not mean the Administrator will necessarily agree that it is a malfunction. These malfunction or incident reports will be required for all such facilities that commenced construction, reconstruction, or modification after August 17, 1971. The associated reporting costs of the reports for a respondent are minimal (84 hours per year) (Docket No. A–84–08, II–F–2). This information will enable enforcement agency personnel to evaluate the need to take action on a case-by-case basis and provide a data base to evaluate the issue in the next 4-year review. In addition, technical guidance to assist enforcement staff in this area has been provided in the background information document.

Advances in process technology to conserve energy have led to the increased use of the dry process of cement production with preheater and preheater/precalciner systems and of varied exhaust gas ducting configurations as a means of conserving energy. In addition, as a result of the continued trend towards coal-firing, coal now provides the primary fuel for 98 percent of all cement kilns. Average test results from kilns subject to the standards since 1979 ranged from 0.011 to 0.147 kg/Mg (0.022 to 0.294 lb/ton). Average emission test results from clinker coolers subject to the standard since 1979 ranged from 0.002 to 0.05 kg/Mg (0.004 to 0.10 lb/ton). The existing standards limit particulate emissions to 0.15 kg/Mg (0.30 lb/ton) and 0.05 kg/Mg (0.10 lb/ton) from kilns and clinker coolers, respectively. Based on data and information gathered from State and local air pollution control agencies and from the industry, it was concluded that these process changes and advances have not affected the achievability of the particulate mass and visible emissions standards.

The cost effectiveness of the standards was evaluated in order to ensure that the controls required by the NSPS for portland cement plant facilities are reasonable. In this case, the cost effectiveness of the standards to reduce particulate matter from kilns was estimated to range from $42 to $50 per Mg ($38 to $45 per ton) of particulate matter removed for fabric filter control and $34 to $43 per Mg ($31 to $39 per ton) for electrostatic precipitator control (ESP) of typical facilities. The cost effectiveness of the standard for clinker coolers was determined to range from $27 to $44 per Mg ($25 to $40 per ton) for fabric filter control of typical facilities. The cost effectiveness of the standards for other facilities (e.g., mills, and storage and transfer facilities) controlled by fabric filters ranges from $30 to $90 per Mg ($27 to $82 per ton). The cost effectiveness of electrostatic precipitator control of finish mills is about $167 per Mg ($151 per ton). Additional details on costs can be found in the background information document.

Because the existing particulate mass and visible emissions standards continue to be achievable at a reasonable cost and best demonstrated technology remains the same, no changes to these limits are being proposed.

2. Background

Under Section 111 of the Clean Air Act, NSPS for portland cement plants were promulgated by EPA on December 23, 1971 [36 FR 24876], and revised on November 12, 1974 [39 FR 39872]. The standards apply to any facility that manufactures portland cement by either the wet or dry process and that commenced construction, modification, or reconstruction after proposal on August 17, 1971 [36 FR 15704]. The standards limit emissions of particulate matter from new, modified, or reconstructed kilns, clinker coolers, raw mill systems, finish mill systems, raw mill dryers, raw material storage areas, clinker storage areas, finished product storage areas, conveyor transfer points, bagging, and bulk loading and unloading systems.

The existing standards limit particulate mass emissions from the kiln to 0.15 kg/Mg (0.30 lb/ton) of feed (dry basis) to the kiln; visible emissions are limited to less than or equal to 20 percent opacity. The existing standards limit particulate mass emissions from the clinker cooler to 0.05 kg/Mg (0.10 lb/ton) of feed to the kiln; visible emissions are limited to less than 10 percent opacity. Visible emissions from any affected facility other than the kiln and clinker cooler are limited to less than 10 percent opacity.

The test methods specified by the existing NSPS are EPA Reference Method 5 for determining the mass of particulate matter emissions, EPA Reference Method 1 for sample and velocity traverses, EPA Reference Method 2 for velocity and volumetric flow rates, and EPA Reference Method 3 for gas analysis.

The largest sources of particulate emissions at a cement plant are the kiln and the clinker cooler. Kilns controlled only by a cyclone dust collector for product recovery are estimated to emit as much as 22.5 kilograms of particulate matter per megagram (kg/Mg) of raw material (45 pounds per ton [lb/ton]). Clinker coolers controlled only by a cyclone dust collector are estimated to emit 15 kg/Mg (30 lb/ton). Thus, a plant that is controlled only by cyclones and that produces 544,000 Mg/yr (600,000 tons/yr) of clinker may emit about 21,900 Mg/yr (24,100 tons/yr) of particulate matter from the kiln and about 14,600 Mg/yr (16,000 tons/yr) from the clinker cooler.

Section 111(b)(1)(B) of the Act requires review of the NSPS at least every 4 years, and, if appropriate, revision of the standards. The principal purpose of such review and appropriate revisions is to ensure that the standards reflect a current assessment of BDT. The first review of the standards was completed in 1979. No revisions to the standard were made as a result of that review [44 FR 60761]. Because of recommendations arising from the 1979 review, a research and development effort was funded to investigate methods to reduce NO_x emissions from combustion sources such as cement kilns.

In 1983, EPA undertook a second review of the standards of performance for portland cement plants. This review of the standards included contacting EPA regional offices, State and local air pollution control agencies, the Portland Cement Association, industry representatives, and control device vendors. These sources provided information on the number and location of facilities subject to the NSPS, compliance test data, and comments on all facets of experience with the current NSPS. The review team visited seven plants to obtain information on cement production processes, emission control devices, trends in the portland cement industry, and problems with any aspect of the NSPS. Based on all the data and

information obtained, a background information document was prepared summarizing the current status of the portland cement industry and its compliance with the NSPS. A summary of the findings of this review follows.

3. Findings.

A. Industry Status

As of December 1983, 45 companies operated 145 portland cement plants in the U.S. and Puerto Rico. Since the 1979 review of the NSPS, a total of 30 kilns and 23 clinker coolers have become subject to the NSPS; 31 plants have facilities other than the kiln and clinker cooler that have become subject to the NSPS.

Growth of the portland cement industry is closely tied with growth of the construction industry. Permits have been issued for four entirely new plants in the U.S., two additional plants have submitted permit applications, at least three existing plants plan reconstruction or modification activities that would bring them under the standard, and four plants currently subject to the standard plan to add new facilities to the existing plant. Construction could begin on these projects in the next 3 years.

Several trends in production technology have occurred in the cement industry since the last review. Ninety-two percent of the kiln built since the last review use the dry process of cement production instead of the wet process because the dry process is more fuel efficient. Preheater or preheater/precalciner systems further improve the fuel efficiency of the dry cement production process. Seventeen percent of dry process kilns built since 1979 use preheater systems, and 79 percent use a preheater/precalciner system. Future kiln installations are expected to be dry process and to use a preheater/precalciner system. Fuel efficiency is often further improved on dry process kilns by directing all or a portion of the exhaust gases from the kiln, preheater, or clinker cooler through the raw mill prior to a control device. This configuration allows further heat exchange between the exhaust gases and the raw feed material. Twenty percent less energy was needed to produce 1 Mg of clinker in 1982 than was needed in 1972.

Clinker production capacities of the 30 kilns range from 136,000 megagrams per year (Mg/yr) (150,000 tons/yr) to 1,379,000 Mg/yr (1,520,000 tons/yr). Because new large cement plants using the dry production process have lower costs per ton of cement, many smaller wet process facilities have closed. These closings have decreased the total number of operational cement plants while increasing average kiln capacity. Clinker capacity of the kilns built since 1971 averages 507,000 Mg/yr (559,000 tons/yr) per kiln, which is more than twice the clinker capacity potential of their pre-1971 counterparts.

All of the kilns that have become subject to the NSPS since 1979 use coal as the primary fuel, although many plants continue to have the capability to use oil or gas as a backup fuel. This increased use of coal may affect emissions of SO_2 from cement kilns. Waste fuels such as solvents, waste oil, and wood chips are sometimes used as alternative kiln fuels because they are less expensive than oil or gas. In 1982, 525×10^6 megajoules (498×10^9 British thermal units) were generated in cement kilns from waste fuel.

Compliance test data show that with these changes in production technology, plants still meet the existing emission limits. Therefore, no changes in particulate mass and visible emission limits are required because of technological change.

B. Emission Control Technology

Of the 30 kilns that have become subject to the NSPS since the last review, 17 are controlled by fabric filters, and 13 are controlled by electrostatic precipitators. Three of the thirty kilns are not yet operational. All 27 operational kilns are in compliance with the 0.15 kg/Mg (0.30 lb/ton) particulate mass emission limit. Average emission test results for kilns ranged from 0.011 kg/Mg (0.022 lb/ton) to 0.147 kg/Mg (0.294) lb/ton), and all of the kilns were reported to be in compliance with the 20 percent visible emission limit. These data indicate that the current mass emission limit of 0.15 kg/Mg (0.30 lb/ton) is achievable using BDT, considering costs.

It was also found, however, that kilns controlled by electrostatic precipitators bypass the precipitator during periods called carbon monoxide (CO) trips. To prevent explosions, electrostatic precipitators used to control kiln particulate mass emissions are equipped with monitors that shut down the precipitator if CO concentrations (or other combustibles concentrations) in the exhaust gas stream reach explosive levels. Uncontrolled particulate emissions are exhausted directly to the atmosphere during these CO trips. CO trips last from less than a minute to more than 20 minutes, and may occur from a few times per year to over 600 times per year. Assuming 45 lb/ton emissions (control by a cyclone dust collector), and assuming 7,200 h/yr of operation, annual particulate emissions during CO trips of an electrostatic precipitator vary from 0.21 Mg/yr (0.23 ton/yr) to 390 Mg/yr (430 tons/yr) depending on the frequency and duration of CO trips.

Combustibles increases, which occur in the kiln and, subsequently, in the electrostatic precipitator, can be short-term increases lasting 30 seconds or less, termed CO spikes, or can be extended increases where combustibles levels increase over a period of several hours. Electrostatic precipitator vendors and plant personnel contacted during this review state that, if a kiln is properly designed and operated, CO trips of the precipitator should be infrequent. Several equipment vendors stated that one or two CO trips per month of 3 minutes duration is an average frequency for a properly designed, operated, and maintained kiln. Equipment vendors and plant personnel state that CO spikes do not present an explosion hazard and can be eliminated through proper kiln operation, or can be disregarded. Occasionally, the longer-term combustibles increases may warrant de-energization of the precipitator. The number of trips of the control device can be minimized, however, by design and operation features including: (1) The use of a time delay to trip the electrostatic precipitator only when extended (over 4 minutes) combustibles increases occur, (2) good design and operation of the coal metering system, and (3) careful process control and monitoring of CO or combustibles levels by a trained kiln operator.

State air pollution control agency personnel surveyed during this 4-year review typically treated CO trips as malfunctions of the control devices without investigating whether the CO trips were avoidable. Therefore, the emissions during the CO-trip-related malfunction were not considered representative for the purpose of demonstrating compliance. However, § 60.2 of the General Provisions defines a malfunction as ". . . unavoidable failure of air pollution control equipment or process equipment or of a process to operate in a normal or usual manner." It specifically excludes ". . . poor maintenance, careless operation, or any other preventable upset condition or preventable equipment breakdown . . ." as reasons for a failure to be designated a malfunction.

This review of the NSPS for portland cement plants has found that the duration and number of CO trips can be minimized by proper design, operation, and maintenance of cement kilns, although there are instances where the

CO trip may be unavoidable. Where the CO trips are unavoidable but of short duration, de-energization of the ESP is not warranted. However, there are rare instances where ESP de-energization is necessary; therefore, it was concluded that CO trips should be dealt with on a case-by-case basis and that no change to the existing standard should be proposed specifically to exclude CO trips as malfunctions. However, the review provides technical guidance to assist enforcement staff in malfunction determination and avoidance and, also, specifically proposes an amendment that requires semiannual reports of the frequency, duration, and cause of any malfunction that results in bypass or de-energization of any device controlling kiln emissions. These reports will be required for all facilities subject to the NSPS, i.e., constructed or modified after August 17, 1971. This amendment will provide a data base for enforcement personnel to examine control device bypasses and to determine if the bypass was unavoidable or if it was a result of improper operation and maintenance. This data will also be available to the Agency to evaluate the issue in the next 4-year review.

Twenty-three clinker coolers have become subject to the NSPS since 1979. Seventeen are controlled by fabric filters, two are controlled by electrostatic precipitators, and four are controlled by gravel bed filters. Two of the clinker coolers are not yet operational. Nineteen of the twenty-one operational clinker coolers are in compliance with the 0.05 kg/Mg (0.10 lb/ton) particulate mass emission limit. The other two clinker coolers, which were tested under conditions not representative of those during normal operation, exceeded the mass emission limit and will be retested during normal operation. Emission test results for the 21 clinker coolers meeting the standards averaged from 0.002 kg/Mg (0.004 lb/ton) to 0.05 kg/Mg (0.10 lb/ton). These data indicate that the existing particulate mass emission limit of 0.05 kg/Mg (0.10 lb/ton) should not be revised. Twenty of these clinker coolers are in compliance with the 10 percent visible emission limit. One clinker cooler that is in compliance with the particulate mass emission limit exceeds the visible emission limit; plant modifications are underway to bring the visible emission within the standard.

Facilities other than the kiln and the clinker cooler that are subject to the NSPS (i.e., mills, storage and transfer facilities) are typically controlled by fabric filters. Two finish mills are controlled, however, by electrostatic precipitators. All of these facilities are in compliance with the 10 percent visible emission limit. The existing visible emissions limit should, therefore, be retained.

C. Gaseous Pollutants

The existing NSPS do not limit emissions of nitrogen oxides (NO_x or sulfur dioxide (SO_2) from portland cement kilns. Cement kilns are, however, major sources (i.e., producing greater than 91 Mg/yr [100 tons/yr]) of both pollutants. Therefore, emission limits for both pollutants were examined during this review.

The results of this 4-year review show that 11 of 12 kilns for which NO_x emissions data are available produce more than 91 Mg/yr (100 tons/yr) of NO_x emissions. Since the 1979 review, EPA has funded studies of NO_x emission reduction technologies on cement kilns. These studies indicate that, although there are several process modifications that appear to affect NO_x emissions, the effects of these modifications could not be distinguished from the effects of variations in process parameters. Additional research is required to document a demonstrated control technology for NO_x emissions. Therefore, no emission limit for NO_x is proposed at this time. The next 4-year review should evaluate the progress in the development of NO_x emission control devices to determine if a best demonstrated technology is available to reduce NO_x emissions and should consider an NO_x emission limit based on an improved data base of NO_x emissions and on the completed findings of the EPA study.

The results of this 4-year review show that approximately half of the kilns for which SO_2 emissions data are available produce significant amounts of SO_2 emissions (i.e., greater than 91 Mg/yr [100 ton/yr of SO_2 emissions).

The total potential SO_2 emissions from a kiln are equal to sulfur from the coal combustion plus sulfur from the raw feed calcination. Between 4.6 and 6.5×10^6 Joules (4 and 5.6×10^6 Btu's) are needed to produce 1 Mg (1 ton) of clinker. Assuming an average of 26.7×10^6 Joules (11.5×10^3 Btu's per pound) of coal, 158 to 221 kg (348 to 487 lb) of coal are needed to produce 1 Mg (1 ton) of clinker. A typical plant produces approximately 544,000 Mg (600,000 tons) of clinker in a year. With the use of coal that is 1 percent sulfur by weight, potential SO_2 emissions from fuel combustion would range between 1,894 and 2,650 Mg (2,088 and 2,922 tons) per year. The potential for SO_2 emissions is much higher when the sulfur content of the raw materials used to produce portland cement is considered. As an example, sulfur content in the raw feed was reported to be 0.02 percent by weight at one plant and 0.6 percent at another plant. At a typical plant (544,000 Mg [600,000 tons] of clinker a year), use of raw feeds containing these percentages of sulfur would increase the potential SO_2 emissions mentioned above that are attributable to the coal, between 388 and 11,657 Mg (428 and 12,852 tons) per year. Thus, the potential SO_2 emissions from both the coal and raw feed would range between 2,282 and 14,307 Mg (2,516 and 15,774 tons) per year.

The actual SO_2 emissions from portland cement plants are significantly less than potential SO_2 emissions because sulfur is retained in the product during production. It was reported in the 1979 portland cement NSPS review that 75 percent of the SO_2 emission potential is absorbed in the clinker as potassium or sodium sulfates. Assuming this 75 percent reduction does occur, SO_2 emission potential from coal combustion in the kilns and from raw feed calcination would decrease to between 570 and 3,577 Mg (629 and 3,944 tons) per year.

Data were obtained to determine those control devices and process modifications that might reduce sulfur dioxide (SO_2) emissions from portland cement plants. This 4-year review looked at add-on SO_2 controls such as lime spray drying and alkali slurry scrubbing and at process modifications such as the use of low sulfur coal and raw feed materials and the use of the dry rather than wet production process. In addition, the effect of particulate control devices on SO_2 emission reduction was examined.

Lime spray drying is being successfully introduced into utility and industrial boiler systems to reduce SO_2 emissions. Sulfur dioxide reduction efficiencies of 60 to 87 percent are guaranteed by the vendors for those plants that will be using this control process. In lime spray drying, atomized lime slurry reacts with SO_2-laden flue gas in a spray dryer. Either an ESP or a fabric filter then collects the dried particulate matter existing the spray dryer.

There is no known application of a full-scale lime spray-drying SO_2 control system in the portland cement industry. However, to meet California regulations, one portland cement plant, Lone Star Industries, is experimenting with a retrofitted pilot scale lime spray-drying system to reduce SO_2 emission levels. Lone Star has had mixed results with this system; nevertheless, the company

is planning to install a full-scale system. Lone Star has found that the efficiency of their system in reducing SO_2 emissions is approximately 60 percent.

In installing the pilot scale system, the plant's main conditioning tower, which is upstream of the ESP, was retrofitted to be used as a form of a lime spray-dryer ("dry scrubber"). In this spray-dryer tower, slurry containing 90 percent available lime is atomized and mixed with the kiln exhaust gases. Slurry droplets react with the SO_2 and are then dried by the hot exhaust gases. The resulting dry particulate matter is usually exhausted from the tower to the raw mill. When the raw mill is not operating, particulate matter passes directly to the main ESP.

The operating permit for the plant allows emissions of no more than 37 kg (82 lb) of SO_2 per hour (about 54 ppm). The lime spray-dryer has not enabled the plant to meet this standard. Lone Star believes this is because the calculations on which the permit was based assumed that all the SO_2 was generated from fuel combustion. Lone Star has found, however, that sulfur from the fuel tends to be absorbed into the clinker and that only sulfur from the raw materials tends to be emitted. The SO_2 from the raw materials is generated in the preheater and ducted directly to the raw mill and, therefore, does not have the opportunity to be absorbed in the clinker. The company has calculated a 95 percent correlation between SO_2 emissions and sulfur in the raw feed material. This generation of SO_2 in the preheater from pyrites in the raw feed was not forecast by the company or the vendor. Although lime spray drying is demonstrated in other industries, there are unavoidable differences in the process and exhaust characteristics that lessen the performance of this technology in the portland cement industry as demonstrated in this pilot study.

Another control technology is the wet limestone desulfurization systems. Limestone scrubbing involves mixing the kiln exhaust gas stream with an alkali slurry in a wet scrubber located downstream of the particulate matter control device. The SO_2 in the gas stream is reacted with the alkali slurry. This technology has been demonstrated on sources such as utility and industrial boilers. Sulfur dioxide removal efficiencies of greater than 90 percent are possible with this control device. However, there are no wet flue gas desulfurization systems in operation in the portland cement industry; and, therefore, no long-term data on performance, reliability, or cost effectiveness exist. For this reason, the system cannot be considered to be best demonstrated technology for the portland cement industry.

Process modifications that are practical to consider for the reduction of potential SO_2 include using the dry rather than the wet production process, reducing the percent sulfur in the coal, and switching to raw feed materials that are low in sulfur. These modifications are discussed in the following paragraphs.

Approximately 6.5×10^9 Joules (5.6×10^6 Btu's) are required to manufacture 1 Mg (1 ton) of clinker in a wet process portland cement plant. In a dry process plant, only 4.6×10^9 Joules (4×10^6 Btu's) are needed. The added coal required in wet process kilns increases the SO_2 emission potential. A nationwide 50-plant survey, sponsored by the Portland Cement Association (PCA), reported that dry process kilns emitted half as much SO_2 as wet process kilns. The typical SO_2 emission level from the dry process ESP-controlled plants is 23 kg/h (50 lb/h) less than that from the wet process ESP-controlled plants. The increased energy efficiency of the dry process results in substantially decreased production costs. Because of this energy cost savings, the dry production process has become the predominant process in the portland cement industry for new plants. Of the 30 kilns subject to the NSPS since 1979, only 5 have used the wet production process, and 3 of the 5 are older kilns that were converted to coal-firing.

Unfortunately, the PCA survey did not take into account what control device the plant used or the level of sulfur in the fuel or raw materials. Further study is needed to determine the exact relationship between SO_2 emissions and the type of production process.

Use of low sulfur fuel and raw feed materials can also reduce potential emissions from portland cement plants. Because coal is usually the main source of the SO_2 emissions from portland cement kilns, burning coal with a low sulfur content will reduce potential SO_2 emissions. Most plants in this industry use coal with less than 2 percent sulfur by weight. In addition, switching from raw feed materials with high sulfur contents to those with low sulfur contents can also reduce potential SO_2 emissions.

Furthermore, because excessive sulfur in the clinker can cause cracking of the final cement product, ASTM has set recommended standards for the amount of sulfur allowed in the clinker. Plant operators meet clinker specifications and, as a side benefit, reduce potential SO_2 air emissions by limiting the sulfur content of raw materials and fuels.

EPA and industry personnel have examined the possibility that fabric filters used for particulate control can reduce SO_2 emissions in industries such as the portland cement industry where the particulate filter cake is alkaline in nature. Studies in the industrial boiler industry have shown that fabric filters located downstream of lime spray-dryers effect from 5 to 30 percent of the overall SO_2 removal, depending on the ratio of lime to SO_2, the approach temperature, and the fabric filter pressure drop. These same studies report that, in contrast, electrostatic precipitators located downstream of a lime spray-dryer remove as much as 6 percent of the overall SO_2 removal.

Typical raw kiln feed contains about 75 percent calcium carbonate. Typical kiln dust contains from 40 to 65 percent free and combined calcium oxide depending on the process, degree of calcination, and degree of reaction. Studies indicate that a fabric filter that controls a kiln, or kiln and raw mill, and that collects the above compounds may have some potential for SO_2 reduction through reaction of SO_2 to calcium sulfate.

However, industry personnel state that, depending on the chemistry of the filter cake, no significant SO_2 reduction may occur in the fabric filter. A fabric filter may have insufficient moisture present to allow formation of calcium sulfate on the filter cake. If kiln exhaust gases do not pass through a raw material mill prior to the fabric filter, the filter would probably contain substantial amounts of calcium oxide, which might absorb significant quantities of SO_2. If, however, kiln exhaust gases do pass through a raw material mill prior to the fabric filter, the filter cake may be primarily calcium carbonate, which may not react appreciably with SO_2 at the high temperature and low humidity found in a fabric filter.

Recent studies are inconclusive regarding whether a significant reduction in SO_2 emissions occurs on a fabric filter. One study states that, although SO_2 molecules would have substantially more contact with the dust surface in a fabric filter than in an electrostatic precipitator, particle reactivity seems to have a greater influence on SO_2 reduction than does particulate/gas contact. Particle reactivity would not be significantly affected by the control device used. The study concluded that a fabric filter probably would not absorb significant

amounts of SO_2 because the system studied currently provides poor SO_2 emissions absorption. However, another study, performed by Price Waterhouse for the Portland Cement Association (PCA), used sulfur material balance data to show an average reduction in potential SO_2 emissions of 66 percent from plants using electrostatic precipitators and 70 percent from plants using fabric filters. These reductions include sulfur absorbed by the product and sulfur retained in the dust collected by the control device.

Currently, no long term data on performance, reliability, or cost effectiveness of add-on control systems for SO_2 exist from any portland cement plant on which to base a standard. Transfer of SO_2 emission control technology to the cement industry is not appropriate without at least limited actual usage by the cement industry due to the unique characteristics of portland cement processes and emissions. The Agency will continue to evaluate installation and performance of these control systems.

In conclusion, data on the amount by which the cement production process, particulate control devices, or add-on SO_2 control technology reduce SO_2 emissions from cement kilns are incomplete and inconclusive. This is because many factors affect emissions, including the sulfur content of the fuel and raw feed, the point in the process at which SO_2 removal occurs (e.g., clinker, raw mill, control device, exhaust gases), and the relative importance of process variables (e.g., temperature, moisture, feed chemical composition).

Therefore, development of NO_x or SO_2 emission limits at this time is not possible because control technology has not yet been demonstrated in the industry, and transfer of technology from other industries is not currently appropriate because of significant cost differences. Emission limits for both pollutants should be considered in the next 4-year review.

D. Monitoring and Testing

Control equipment downtime, malfunction, and deterioration over time because of inadequate design or operating and maintenance practices have been identified as a major cause of substantial excess emissions over those expected following initial installation of complying equipment at major emission sources, particularly at cement plants. An EPA-sponsored study conducted in 1981 investigated the quality and causes of excess visible emissions in sixteen source categories, including portland cement plants. This study concluded that annual excess emissions from cement plants, specifically rotary kilns, were high relative to other sources and were caused primarily by operation and maintenance problems (Docket No. A-84-08, II-A-4). The study population included nine rotary kilns at seven cement plants. These kilns had uncontrolled particulate matter emission rates of 721 to 182,000 Mg (792 to 200,000 tons) per year. Five of the kilns were controlled by ESP's and four by fabric filters. Seven of these nine kilns reported excess visible emission incidents, and four of the seven had incidents resulting from more than one causal factor. None of the kilns had design problems; 55 percent had process related incidents; 55 percent had operation and maintenance problems; and 33 percent had incidents related to unforeseen events. Compared with the average of these four causal factors for all sources investigated, rotary kilns at cement plants tend to have more excess emission incidents and more incidents resulting from operation and maintenance problems. The total annual excess emissions (35 Mg [38 tons]) from rotary kilns were also found to be greater than those of the sample population of all sources. Operation and maintenance accounted for 29 Mg (32 tons) of the annual excess emissions from the kilns compared to an average of 10 Mg (11 tons) for the sample population.

The Agency has determined that continuous opacity monitoring represents an effective means for ensuring proper operation and maintenance of particulate matter control equipment. The Agency is not currently aware of other means that are available to accomplish this effectively. However, the General Provisions do provide for alternative methods if they achieve equivalent results. Continuous opacity monitors can automatically alert facility personnel to a control device problem that is resulting in excess emissions. Continuous opacity monitors can be used in all weather conditions and at night. In addition, continuous opacity monitors help to ensure effective enforcement of the standards because data from a continuous opacity monitor can indicate that a compliance test is needed at a plant.

Because continuous opacity monitors ensure proper operation and maintenance of control equipment and the added cost of compliance is reasonable, the amendments require that continuous opacity monitors be installed on equipment controlling emissions from kilns and clinker coolers at facilities subject to the NSPS, i.e., constructed or modified after August 17, 1971. The NSPS General Provisions require quarterly reporting of excess emissions recorded by continuous opacity monitors.

Dry process plants using preheater or preheater/precalciner systems typically install kiln bypass systems to reduce the buildup of alkalies and sulfates in the product and, thus, minimize buildup and plugging of the preheater by the product. Emissions from the bypass may be (1) recombined with the main kiln exhaust gas stream after the control device (2) directed to a separate facility (e.g., directed to the clinker cooler and vented to the clinker cooler's control device stack), or (3) controlled and vented to a separate stack. Between 1971 and 1979, 27 kilns with preheater systems were installed, and no kilns with preheater/precalciner systems were installed. Since 1979, 4 kilns with preheater systems and 20 kilns with preheater/precalciners have been installed. Of the 13 post-1979 plants for which data are available, 7 duct the bypass emissions to the main control device stack, and 6 duct the bypass emissions to a separate stack. Therefore, to ensure that emissions in excess of the standard are not vented to the atmosphere if a plant has a separate bypass stack installed through which emissions are sometimes vented to the atmosphere, a continuous opactiy monitor shall be installed on the bypass stack in addition to the main control device stack.

Continuous opacity monitors work well on all types of control equipment where flue gases are exhausted to the atmosphere through a single stack. A single transmissometer, however, may not measure accurately the opacity of visible emissions from the multiple stacks or monovents associated with some positive-pressure fabric filters or the multiple stacks associated with some negative-pressure fabric filters. Therefore, daily visual observations of positive-pressure fabric filter control systems with multiple stacks or monovents would be allowed under the proposed amendments in lieu of a continuous opacity monitor on all kilns and clinker coolers subject to the standards. If an existing affected facility (kiln or clinker coolers) is controlled with a negative-pressure fabric filter with multiple stacks, daily visual observations would also be allowed under the proposed amendments in lieu of a continuous opacity monitor. However, this alternative does not apply to negative-pressure fabric filters with multiple stacks installed on kilns or clinker coolers that become subject to the standard after the date of proposal of these amendments because EPA does not want to encourage multiple-stack

negative-pressure fabric filter installations. The use of multiple stacks without monitors would not be desirable because continuous opacity monitors provide additional data on proper operation and maintenance that are not available with Method 9 readings and the Agency does not have costs or other information to indicate that multiple stacks on negative-pressure fabric filters warrant exemption from the monitoring provisions. The Agency requests comments on this issue. Any comments submitted should contain specific information and data to support any alternative course of action. Where EPA Reference Method 9 is used, semiannual reports of excess emissions would be required. However, most portland cement plants are expected to install negative-pressure fabric filters with single stacks. It is reported that less than 20 percent of the fabric filters installed in this industry since 1971 are the positive-pressure type. One kiln and one clinker cooler that have become subject to the NSPS since 1979 are controlled by positive-pressure fabric filters. In both cases, however, the fabric filters are vented to a single stack. One company in this industry is known to use negative-pressure fabric filters with multiple stacks at two of its plants that have become subject to the NSPS since 1979. Thus, for this industry, the use of the EPA Reference Method 9 alternative for new sources is expected to occur infrequently, if at all.

The capital cost for a continuous opacity monitor in 1984 dollars is estimated to be $31,500, and the annualized cost is $10,700. Continuous opacity monitors would increase total annualized control costs by about 3 percent.

No capital costs are incurred with visible emissions observation. The annualized cost of daily visible emissions observations using EPA Reference Method 9 is $8,700 for one stack and would be less for any additional stacks at the same facility in part because only one certified visible emission observer would be necessary for the plant. Daily visible emissions observations would increase total annualized control costs by 3 percent or less.

Section 60.8(a) of the General Provisions for new source performance standards requires that within 60 days after achieving the maximum production rate of an affected facility, but no later than 180 days after initial startup of the facility, the owner is to conduct a performance test and furnish the Administrator a report of the test results. During this review, the Portland Cement Association, plant personnel, and personnel at one State air pollution control agency believe that the 180-day requirement may be unreasonable. Plant personnel stated that they could not correct all mechanical, electrical, and physical problems, and stabilize process systems and control equipment within the required 180 days. The Agency believes that 180 days is enough time in which to conduct a performance test, and these commentators have not shown that the 180-day limit is unreasonable.

E. Recordkeeping and Reporting

Quarterly excess emissions reports would be required to document exceedances of the opacity standards for control devices on kilns and clinker coolers that are subject to the NSPS, i.e., constructed or modified after August 17, 1971. In addition, semiannual reports would be required of the frequency, duration, and cause of any malfunction resulting in bypass or de-energization of any device controlling kiln emissions. These reports would be required for all facilities subject to the NSPS, i.e., constructed or modified after August 17, 1971. Enforcement personnel will be able to use the information in these reports and in the background information document to assess design, operation, and maintenance practices that minimize CO trips. The reports will also provide a data base by which to evaluate the issue in the next 4-year review.

As required in § 60.7(d) of the General Provisions, all records must be maintained for a period of 2 years.

4. Administrative Requirements

A. Public Hearing

A public hearing will be held, if requested, to discuss the findings of this review in accordance with section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address given in the **ADDRESSES** section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement before, during, or within 30 days after the hearing. Written statements should be addressed to the Central Docket Section address given in the **ADDRESSES** section of this preamble and should refer to Docket No. A–84–08.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central Docket Section in Washington, DC (see **ADDRESSES** section of this preamble).

B. Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered by EPA in the development of this review. The principal purposes of the docket are: (1) To allow interested parties to identify and locate documents so that they can effectively participate in the rulemaking process and (2) to serve as the record in case of judicial review (except for interagency review materials [section 307(d)(7)(A)]).

C. Clean Air Act Procedural Requirements

1. *Administrator Listing—Section 111.* As prescribed by Section 111 of the Clean Air Act, as amended, establishment of standards of performance for portland cement plants was preceded by the Administrator's determination that these sources contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare.

2. *Periodic Review—Section 111.* This regulation will be reviewed again 4 years from the date of promulgation of any subsequent revisions to the standard as required by the Clean Air Act. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, improvements in emission control technology, and reporting requirements.

3. *External Participation—Section 117.* In accordance with section 117 of the Act, publication of this review was preceded by consultation with independent experts and Federal departments and agencies. The Administrator will welcome comments on all aspects of the review, including economic and technological issues.

4. *Economic Impact Assessment—Section 317.* Section 317(a) of the Clean Air Act states that economic impact assessments are not required for revisions to new source standards of performance unless the Administrator determines such revisions to be substantial. The revisions to the portland cement NSPS do not change the mass or visible emission limits for any of the affected facilities. The revisions add requirements for continuous opacity monitoring and for reporting of malfunctions during which the control device for the kiln is de-energized or bypassed. An abbreviated economic analysis was performed that indicated the increase in compliance costs as a result of these revisions would range from 0.9 to 3.3 percent.

depending on the size of the kiln and clinker cooler and on the type of control devices used. Because the emission limits are unchanged and the cost of complying with the revisions is small, the revisions to the portland cement NSPS have been determined to be unsubstantial. Furthermore, these revisions simply make the portland cement NSPS conform to the EPA policy of ensuring proper operation and maintenance of control devices. Because these revisions are not substantial, no detailed economic impact assessment of the proposed revisions has been prepared. An economic analysis of the standards was prepared during development of the original rulemaking. The relative economic impacts are essentially the same as described in that original economic analysis.

D. Office of Management and Budget Reviews

Paperwork Reduction Act.

The information collection requirements in this proposed rule have been submitted for approval of the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Based on the information collection requirements analysis, the resources needed by the industry to maintain records and to collect, prepare, and use the reports for the first 3 years would be about 41.6 person-years per year. The resources required by government agencies to process and maintain records for the first 3 years would be about 2.8 person-years per year. Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB, marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on the information collection requirements.

Executive Order 12291.

Under Executive Order 12291, EPA must judge whether a regulatory action is "major" and, therefore, subject to the requirement of a regulatory impact analysis. This proposed rulemaking is not major because the revisions being proposed are not substantial and, therefore, result in none of the significant adverse economic effects described in the Order. This rulemaking was submitted to OMB for review as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments will be included in the docket.

E. Regulatory Flexibility Act Compliance

Pursuant to the Regulatory Flexibility Act (RFA) of 1980 (5 U.S.C. 605(b)), the impacts of the existing NSPS and recommended amendments on small businesses were considered. The Small Business Administration (SBA) has determined that any firm classified in the SIC Code 3241 (which includes portland cement plants) that employs 750 persons or less will be considered small in regard to the Small Business Act. An RFA analysis is mandatory if the regulation has a significant adverse economic impact on a substantial number of small entities in the regulated industry. The review showed that at lease 30 percent of the portland cement firms employ 750 or fewer persons and, thus, are small businesses under the SBA definition.

A preliminary estimate of the economic impacts in the portland cement industry indicated that the impacts are essentially the same for both small and large firms. The small firms have built plants that are similar in size to those built by large firms, and the annualized costs are expected to follow the same pattern. Thus, the percent increase in annual costs because of the NSPS is expected to be the same for both small and large companies. Because the average production level of plants does not vary significantly with the size of the company, costs of production and of pollution control should be directly proportional regardless of company size. Although 23 cement plants have closed in the last 4 years, the review found that no closures of small (or large) entities were reported to be related to the requirements of the NSPS. Rather, these closures typically reflected the changing regional market and the fact that large dry process kilns are more cost effective than small wet process kilns.

The only costs related to the recommended amendments are monitoring and reporting costs for existing and new plants. These costs are expected to increase annual costs of compliance by a maximum of about 3 percent. Monitoring costs have already been incurred by some companies, and no closures related to these costs were reported. Based upon these findings, it has been determined that there would be no significant adverse impacts on small firms in this industry, and no RFA is required. I hereby certify that this rule, if promulgated, will not have a significant economic impact on a substantial number of small business entities because the impact of the proposed rule is not significant.

List of Subjects in 40 CFR Part 60

Air pollution control, Reporting and recordkeeping requirements, Incorporation by reference, Intergovernmental relations, Portland cement.

Lee M. Thomas,
Administrator.

Dated: August 21, 1985.

For the reasons set out in the preamble, 40 CFR Part 60 is proposed to be amended as follows:

PART 60—[AMENDED]

1. The authority citation for Part 60 continues to read as follows:

Authority: Secs. 111 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7411 and 7601(a)), and additional authority as noted below.

2. In § 60.63, paragraphs (b), (c), (d), and (e) are proposed to be added to read as follows:

§ 60.63 Monitoring of operations and emissions.

(a) * * *

(b) Each owner or operator of a kiln or clinker cooler that is subject to the provisions of this subpart shall install, calibrate, maintain, and operate a continuous monitoring system as required in § 60.13, except as provided in paragraph (c) of this section, to measure the opacity of emissions discharged into the atmosphere from any kiln or clinker cooler. If there is a separate bypass installed through which emissions are sometimes vented to the atmosphere, then each owner or operator of a kiln or clinker cooler shall also install, calibrate, maintain, and operate a continuous monitoring system on each bypass stack in addition to the main control device stack.

(c) Each owner or operator of a kiln or clinker cooler using a positive-pressure fabric filter with multiple-stacks or a monovent subject to the provisions of this subpart may, in lieu of the continous monitoring requirement of § 60.63(b), monitor visible emissions at least once per day by using a certified visible emissions observer. These observations shall be taken in accordance with Method 9. Visible emissions shall be observed during operations representative of normal operating conditions. The opacity shall be recorded for at least three 6-minute periods for any point(s) where visible emissions are observed from the positive-pressure fabric filter with multiple stacks or a monovent installed on each kiln or clinker cooler. Where it is possible to determine that a number

of visible emission sites relate to only one incident of the visible emissions, only one set of three 6-minute observations will be required. In this case, Reference Method 9 observations must be made for the site of highest opacity that directly relates to the cause (or location) of visible emissions observed during a single incident. Records of all visible emissions shall be maintained for a period of 2 years.

(d) Each owner or operator of a kiln or clinker cooler that becomes subject to the standard on or prior to the date of this proposal and using a negative-pressure fabric filter with multiple stacks may, in lieu of the continuous monitoring required in paragraph (b) of this section, monitor visible emissions at least once per day by using a certified visible emissions observer. Visible emissions shall be observed during operations representative of normal operating conditions. These observations shall be taken in accordance with Method 9, and the opacity shall be recorded for any point(s) where visible emissions are observed from the negative-pressure fabric filter with multiple stacks installed on each kiln or clinker cooler. Records of all visible emissions shall be maintained for a period of 2 years.

(e) For the purpose of reports under § 60.7(c) or under paragraphs (c) or (d) of this section, periods of excess emissions that shall be reported are defined as all 6-minute periods during which the average opacity exceeds that allowed in § 60.62(a)(2) or § 60.62(b)(2).

(f) The provisions of paragraphs (b) and (c) of this section apply to affected kilns and clinker coolers that commenced construction, modification, or reconstruction after August 17, 1971.

(Sec. 114, Clean Air Act, as amended (42 U.S.C. 7414))

3. In § 60.64, subparagraph (a)(5) is proposed to be added to read as follows:

§ 60.64 Test methods and procedures.

(a) * * *

(5) Method 9 for measuring the opacity of visible emissions.

(Sec. 114, Clean Air Act, as amended (42 U.S.C. 7414))

4. Section 60.65 is proposed to be added to read as follows:

§ 60.65 Recordkeeping and reporting requirements.

(a) Each owner or operator required to install a continuous monitoring system under § 60.63(b) shall submit quarterly reports of excess emissions as required under § 60.7(c) and as defined in § 60.63(e).

(b) Reports of excess emissions recorded during observations made as required by § 60.63(c) or § 60.63(d) shall be submitted semiannually.

(c) Each owner or operator of facilities subject to the provisions of this subpart that commenced construction, reconstruction, or modification after August 17, 1971, shall submit semiannual reports of the malfunction information required to be recorded by § 60.7(b). These reports shall contain the frequency, duration, and cause of any malfunction resulting in bypass or de-energization of any device controlling kiln emissions.

(d) The requirements of this section remain in force until and unless the Agency, in delegating enforcement authority to a State under section 111(c) of the Act, approves reporting requirements or an alternative means of compliance surveillance adopted by such States. In that event, affected sources within the State will be relieved of the obligation to comply with this section, provided that they comply with the requirements established by the State.

[FR Doc. 85-21290 Filed 9-9-85; 8:45 am]
BILLING CODE 6560-50

Federal Register

Tuesday
September 10, 1985

Part III

Environmental Protection Agency

40 CFR Part 261

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Proposed Rule and Request for Comments and Data

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SWH-FRL 2857-5]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of Proposed Rulemaking and Request for Comments and Data.

SUMMARY: The U.S. Environmental Protection Agency (EPA) is today requesting comments and data on issues pertaining to the scope of the listing for spent pickle liquor from steel finishing operations contained in the Hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA). EPA is taking this action in response to a rulemaking petition challenging the Agency's interpretation of the listing.

Today's notice outlines the history of regulatory actions concerning spent pickle liquor, raises issues arising from the manner in which the listing is written, and seeks comment on possible resolutions of these issues.

DATE: EPA will accept comments on this notice until November 12, 1985.

ADDRESSES: Comments on this notice should be sent to the Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Comments should identify the regulatory docket number "Section 3001—Spent pickle liquor notice."

The docket for this notice is located in Rooms S-212A, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free, at (800) 424-9346 or at (202) 382-3000. For technical information contact Jacqueline Sales, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 382-4770.

SUPPLEMENTARY INFORMATION: A number of porcelain enamel companies—the Hobart Corporation, Maytag Co., Magic Chef Inc., and State Industries—have filed a rulemaking petition with the Agency requesting that EPA clarify the listing description for "spent pickle liquor from steel finishing operations"[1] (40 CFR 261.32—EPA Hazardous Waste No. K062) to indicate that the listing applies only to wastes generated by the iron and steel industry. The petitioners have argued that EPA's supporting documents for this listing, as well as the listing description itself, support such a narrow interpretation. The Agency, on the other hand, has interpreted the listing more broadly to apply to all persons who generate spent acid from the pickling of steel. This notice requests comment on this matter and seeks comment on possible resolution of these issues.

I. Background

A. Agency Actions Regarding Spent Pickle Liquor from Steel Finishing Operations

On December 18, 1978, EPA proposed to list as hazardous wastes certain industrial process wastes, including "spent pickle liquor from steel finishing operations generated by establishments in Standard Industrial Classification (SIC) code 3312" (see FR 43, 58946).[2] EPA proposed to list spent pickle liquor because it is corrosive and because it typically contains high levels of chromium and lead.

On May 19, 1980, when EPA promulgated the first phase of the hazardous waste regulations under Subtitle C of RCRA, we included in the interim final list of hazardous waste both spent pickle liquor from steel finishing operations (EPA Hazardous Waste No. K062) and sludge from lime treatment of spent pickle liquor from steel finishing operations (EPA Hazardous Waste No. K063).[3] The Agency again listed these waste as hazardous because of their chromium and lead content; corrosivity also was included as a basis for listing the spent pickle liquor. However, we no longer referred to the listings as applying solely to SIC code 3312.

On November 12, 1980, the Agency finalized its list of hazardous waste, including spent pickle liquor from steel finishing operations; however, we deleted lime stabilized waste pickle liquor sludge (LSWPLS) from steel finishing operations from the list of hazardous waste and instead relied on the provisions in 40 CFR 261.3(c)(2) to retain regulatory control of these treatment sludges.[4] The Agency, however, indicated that it would consider an industry-wide rulemaking petition to exclude these sludges from RCRA control if representative data were submitted which demonstrated that these wastes are non-hazardous.[5] See 45 FR 74888.

On March 16, 1981, the American Iron and Steel Institute (AISI) submitted a rulemaking petition requesting an industry-wide exclusion of LSWPLS generated by the iron and steel industry. In response to this petition, the Agency considered data submitted by AISI and additional data from site-specific delisting petitions from the iron and steel industry. Site-specific delisting petitions for LSWPLS generated by industries other than iron and steel have also been submitted to the Agency. We decided, however, to limit our evaluation of the request for an industry-wide exclusion to iron and steel because of the petition dealt only with iron and steel wastes. In addition, EPA was concerned that agents such as organics which interfere with effective treatment could be present in LSWPLS from non-iron and steel facilities as a result of commingling spent pickle liquor with other process waste. (See Notice of Availability of Data, 49 FR 427, January 4, 1984, for further details.)

Thus, on January 4, 1984, the Agency published in the Federal Register a list of the available data contained in the administrative record for Agency action on the AISI rulemaking petition. EPA noted specifically that the existing listing applied to industries other than iron and steel, and that the Agency was contemplating action only with regard to LSWPLS generated by the iron and steel industry. See 49 FR at 429. This was because steel finishing is practiced by a diverse group of industry categories, as evidenced by data from the RCRA notification data base,[6] and that adequate treatment of the spent pickle liquor could not be assured in these other industry categories. In particular, we stated that in making a decision whether to exclude LSWPLS we would

---

[1] Spent pickle liquor is a strongly acidic solution generated from an industrial process which removes oxide scale from steel surfaces.

[2] SIC code 3312 includes facilities engaged in the manufacture of steel and steel parts from pig iron, iron ore, or scrap iron.

[3] The sludge is generated by a well known technique involving lime neutralization, flocculation, clarification, and dewatering of the resultant sluge.

[4] The provisions in 40 CFR 261.3(c)(2)(i) indicate that wastes derived from the treatment of a listed hazardous waste are considered hazardous unless and until delisted pursuant to 40 CFR 260.20 and 260.22.

[5] Data from delisting petitions indicate that organic-containing waste may interfere with the lime treatment process and result in ineffective lime stabilization.

[6] Date from the RCRA Hazardous Waste Data Management System indicate that facilities from industrial classes such as Industrial Organic Chemicals (SIC 286), Paints, Varnishes, Lacquers, Enamels (SIC 285), Adhesives, Sealants, Printing Ink, Other (SIC 289) generate LSWPLS.

only consider those industries where data demonstrate that the treatment process is controlled so that lime treatment is effective, and where the Agency has assurances that other toxic constitutents were not present in LSWPLS at levels of regulatory concern as a result of commingling of spent pickle liquor with other waste before treatment. See 49 FR at 429.

After careful review of the available data, the Agency concluded that lime treatment of spent pickle liquor generated by plants within the iron and steel industry is effective, and that LSWPLS generated by this process is frequently and typically non-hazardous. Therefore, on June 5, 1984, the Agency promulgated a final rule to exclude "LSWPLS generated by the iron and steel industry (SIC Codes 331 and 332)" from the presumption of hazardousness contained in the regulations. At the same time, the Agency stated that it will continue to process site-specific delisting petitions from industries other than iron and steel. (See Final Rule, 49 FR 23284, June 5, 1984.) EPA did not receive any public comments to the Notice of Data Availability questioning the Agency's statement that the listing applies to wastes other than those generated by the iron and steel industry.

On July 27, 1984, in an interpretive memorandum from John Skinner, Director of the Office of Solid Waste, to EPA Regional Waste Management Division Directors, EPA headquarters provided clarification on several questions and issues pertaining to the K062 listing. The Agency again stated that the spent pickle liquor listing applies to all persons engaged in steel finishing who generate spent pickle liquor, and is not limited to the iron and steel industry.

B. Industry Concerns With the Agency's Interpretation of the Spent Pickle Liquor Listing

On February 6, 1985, a rulemaking petition was submitted to EPA on behalf of the Hobart Corporation, Magic Chef, Inc., the Maytag Co., and State Industries pursuant to the provisions of 40 CFR 260.20. The four companies requested that EPA amend its existing regulations and limit the scope of the spent pickle liquor listing to those companies within the iron and steel industry, specifically, SIC code 3312. The petitioners argue that the plain language of the listing indicates that it applies only to the iron and steel industry. The basis for their claim is that spent pickle liquor is listed as a process-specific waste in 40 CFR 261.32—Waste From Specific Sources under the subheading "Iron and Steel"; therefore they interpreted the listing to cover only facilities within the iron and steel industry. If the Agency intended the listing to cover a cross-section of industries, the petitioners believe the Agency should have listed these wastes under the generic category in 40 CFR 261.31—Waste From *Non-Specific* Sources. They view EPA's original 1978 proposal where the Agency proposed to list spent pickle liquor generated specifically from the iron and steel industry (SIC code 3312) as corroborating this reading. The petitioners also pointed out that EPA's background document to the listing supports the narrower interpretation since it also addresses only spent acid and LSWPLS generated from the iron and steel industry.

Furthermore, various program offices of EPA itself have interpreted the listing to apply only to iron and steel industry waste. Thus, in promulgating effluent limitation guidelines for the porcelain enameling industry, the Agency concluded that wastewater treatment sludges from this industry subcategory are expected to be non-hazardous under RCRA, and thus were not considered to be listed hazardous wastes (see EPA, Development Document for Effluent Guidelines and Standards for Porcelain Enameling Point Source Category, EPA 440/1-82/072, November 1982).

In addition, several States and EPA Regional Offices have interpreted the listing as covering only the iron and steel industry (see discussion in Section II. of today's notice). The petitioners state that they have acted in reliance on their understanding that spent pickle liquor from their facilities was not covered by the K062 listing, so that substantial amounts of lime treated sludge from the treatment of the spent acid have been disposed of as non-hazardous waste (since these treated sludges do not exhibit any of the characteristics of hazardous waste).

The Porcelain Enamel Institute (PEI), the trade association for the porcelain enamel industry, also opposed EPA's interpretation of the listing. Many of the points outlined by the petitioners were also made by PEI in several meetings and correspondence with EPA (see references 1 and 2).[7]

II. Reason for Today's Notice

The Agency acknowledges that although EPA headquarters has consistently interpreted the K062 listing as applying to all industry categories that engage in steel finishing and generate spent pickle liquor or LSWPLS, one EPA Regional office and some States have implemented the narrower interpretation of the listing.[8] Thus, the Agency is today making available to the public both the EPA and industry positions on the scope of the listing. The industry position has already been summarized in Section I.B. of today's notice. Also see rulemaking petition dated February 6, 1985, and letters from PEI dated March 27, 1984, and August 13, 1984, in the RCRA docket.

The Agency's position is as follows: EPA believes the rule can be understood to apply to more than iron and steel plants because it applies to spent pickle liquor "from steel finishing operations." Thus, persons engaging in steel finishing operations are within the scope of the rule if they generate this waste. In corroboration, many persons who generate spend pickle liquor apparently read the scope of the listing to include industries other than iron and steel. EPA received large numbers of Section 3010 notifications from a diverse group of industry categories who notified EPA that they generate or manage K062 or LSWPLS. For example, approximately one half of the facilities within the porcelain industry have notified that they generate either K062 or LSWPLS.

The Agency also has received and evaluated numerous site-specific petitions to delist K062 or LSWPLS from facilities other than iron and steel. Approximately 35 percent of petitions to delist K062 and LSWPLS were submitted by industries other than iron and steel. For example, petitions have been submitted by facilities engaged in laminating; aircraft parts, fence, and hanger manufacturing; and production of alloys. (These petitions are available in the Administrative Record for the AISI rulemaking. The record is available for public inspection in the RCRA docket.) To date, the Agency has granted temporary exclusions for these wastes to two facilities engaged in porcelain enameling [9] and at least 10 facilities from other non-iron and steel industries.

In the January 4, 1984 notice regarding the AISI rulemaking petition, the Agency clearly stated that a diverse group of industries are engaged in the pickling of steel and generate spent pickle liquor.

[7] PEI has filed a lawsuit challenging the Agency's regulation insofar as it pertains to the porcelain enameling industry. *Porcelain Enamel Institute* v. *EPA*, No. 84-1452 (D.C. Cir. 1984). This case is in abeyance pending EPA's action on the rulemaking petition.

[8] At least one EPA Regional office has interpreted the listing as including only facilities within the iron and steel industry category.

[9] One of the facilities granted a temporary exclusion was the Maytag Corp., Newton, Iowa, one of the rulemaking petitioners.

The Agency indicated that the AISI petition applied only to the iron and steel industry; hence, LSWPLS generated by other industries were still considered hazardous. The Agency outlined its concerns with spent pickle liquor generated from facilities other than iron and steel and requested comments. No comments were received on the Agency's position.

In light of the significant numbers of notifications and site-specific delisting petitions for K062 and LSWPLS, and consistent lack of industry response to Agency requests for comments on actions pertaining to the listing, the Agency believes that industry generally understood the listing to apply to non-iron and steel facilities.

III. Agency Alternatives and Options

The Agency recognizes several possible approaches to resolve the issues raised in today's notice. First, the Agency could maintain its position that the listing applies to all companies engaged in steel finishing operations. We have set out in this preamble the basis for this belief, and the Agency specifically solicits comment on these points.

Second, the Agency could modify the listing so that it applies only to K062 wastes generated by the iron and steel industry. The Agency may consider this option if it receives data indicating that LSWPLS from these other industries are not, in fact, hazardous.

Third, the Agency could grant the relief requested in this petition and agree that the original listing only applied to K062 wastes generated by the iron and steel industry. Commenters who favor this approach should explain why they would interpret the original rules in this manner, and why so many non-iron and steel companies appear to have interpreted the listing as applying to them.

Finally, the Agency could determine that the K062 listing as written does not cover industries other than iron and steel production, but that LSWPLS from these other industries should be considered to be hazardous. We are soliciting data as to presence of hazardous constituents in these wastes (see Section IV below). Should these and other pertinent data appear to indicate that the wastes are hazardous, and if EPA determines that the listing as written does not cover these sludges, EPA could list the wastes as hazardous. The Agency would notice any relevant data for comment before taking final action.

The Agency is requesting comments on the issues raised in today's notice (see Request for Comments and Data). Once the Agency has reviewed all data and comments, the Agency will determine what specific action will be taken.

IV. Request for Comments and Data

The Agency is today requesting comments on how the listing is interpreted by the public and the regulated community. In addition, we solicit comments from States on how they have interpreted the listing. We are particularly interested in comments from persons who have notified that they either generate or manage K062 or LSWPLS. If any of these notifications were filed for protective reasons, we are requesting comments on whether they have changed the hazardous waste code for these wastes since the original notification.

We are also requesting comments from persons who have interpreted the rules as not covering spent pickle liquor and LSWPLS from non-iron and steel industries and data supporting industry claims that spent pickle liquor and LSWPLS generated from facilities other than iron and steel are non-hazardous, or indicating whether or not the wastes are hazardous. These data should address the constituents hexavalent chromium, lead, and any toxicants in Appendix VIII to Part 261 of the hazardous waste regulations, including organics, that may reasonably be expected to be present in the waste at concentrations that could make the waste hazardous.

V. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a proposed or final rule is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This proposed rule requests comments and data only, therefore, it is not a major rule.

This proposed rule was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

List of Subjects in 40 CFR Part 261

Hazardous wastes, Recycling.

Dated: August 27, 1985.

Lee M. Thomas,

Administrator.

[FR Doc. 85-21546 Filed 9-9-85; 8:45 am]

BILLING CODE 6560-50-M

Federal Register

Tuesday
September 10, 1985

Part IV

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 920

Approval of Permanent Program Amendment From the State of Maryland Under the Surface Mining Control and Reclamation Act of 1977; Final Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 920

Approval of Permanent Program Amendment from the State of Maryland Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: OSM is announcing the approval of a program amendment submitted by Maryland as an amendment to the State's permanent regulatory program (hereinafter referred to as the Maryland program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment revises certain portions of the State's requirements for the use of explosives.

Maryland submitted the proposed program amendment on January 30, 1985. OSM published a notice in the **Federal Register** on March 11, 1985, announcing receipt of the amendment and inviting public comment on the adequacy of the proposed amendment (50 FR 9679–9680). The public comment period ended April 11, 1985. On May 9, 1985, OSM notified Maryland of a required revision to the proposed regulations. On July 10, 1985, Maryland submitted revisions to the amendment to OSM. On July 29, 1985, OSM reopened the public comment period for 15 days to provide the public an opportunity to comment on the proposed amendment and additional information [50 FR 30720–30721]. The public comment period ended on August 13, 1985. No comments were received during the comment period.

After providing opportunity for public comment and conducting a thorough review of the program amendment, the Director has determined that the amendment meets the requirements of SMCRA and the Federal regulations. The Federal rules at 30 CFR Part 920 codifying decisions concerning the Maryland program are being amended to implement this action.

This rule is being made effective immediately in order to expedite the State program amendment process and encourage States to conform with the Federal standards without undue delay; consistency of the State and Federal standards is required by SMCRA.

EFFECTIVE DATE: September 10, 1985.

FOR FURTHER INFORMATION CONTACT: James C. Blankenship, Jr., Director, Charleston Field Office, Office of Surface Mining, 603 Morris Street, Charleston, West Virginia 25301; Telephone (304) 347–7158.

SUPPLEMENTARY INFORMATION:

I. Background

The Maryland program was conditionally approved by the Secretary of the Interior on December 1, 1980 (45 FR 79430–79451). Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Maryland program can be found in the December 1, 1980 **Federal Register**. On February 18, 1982, following submission of program amendments to satisfy the conditions of program approval, the Maryland program was fully approved by the Secretary (47 FR 7214–7217).

II. Submission of Maryland Proposed Program Amendments

On May 28, 1984, Maryland submitted proposed regulations amendments and other material which would establish requirements for the training, examination and certification of blasters working in surface coal mining operations and revise the State's performance standards for the use of explosives. Additional information was submitted on June 13, 1984. These materials were later supplemented by additional information submitted by the State on October 5, 1984. These proposed amendments and subsequent modifications were approved by the Director on January 22, 1985 (50 FR 2782–2785). However, the Director's approval required that one provision of the proposed requirements for the use of explosives be revised and submitted as a program amendment by March 25, 1985. The required amendment related to the provisions of 30 CFR 816.62(a) which require information on how to request a preblasting survey to be provided to residents or owners of dwellings or other structures within ½ mile of the permit area at least 30 days prior to blasting. On January 30, 1985, the State submitted regulations intended to address this required amendment and make other revisions desired by the State. Most of the other revisions are editorial in nature and have no effect on the requirements approved by the Director on January 22, 1985. All of the changes are identified in the January 30 submission (Administrative Record No. MD 299 and MD 300). The Director announced a public comment period and an opportunity for a hearing for these revisions on March 11, 1985 (50 FR 9679–9680). The public comment period ended on April 11, 1985. No requests for a public hearing were received.

These proposed regulations were reviewed by OSM and comments were provided to the State on May 9, 1985 (Administrative Record No. MD 315). During its review of Maryland's proposed amendment, OSM identified the following concern:

Maryland's proposed rules at COMAR 08.13.09.25C(2) require that copies of the blasting schedule be distributed to local governments, public utilities, and residents or owners of dwellings or other structures within ½ mile of the permit area. Certain portions of the permit area-haul roads, coal preparation and loading facilities, and transportation facilities—were excluded. This would be inconsistent with current Federal regulations at 30 CFR 816.64(b)(2).

Maryland responded in a letter dated July 10, 1985, informing OSM that it would revise its regulations by deleting the sentence at its regulation .25C(2) which had excluded haul or access roads, coal preparation and loading facilities, and other transportation facilities from the meaning of permit area (Administrative Record No. MD–317).

On July 29, 1985, OSM reopened the public comment period for 15 days to allow for public comment on the modification to Maryland's proposed amendment (50 FR 30720–30721). The public comment period ended on August 13, 1985. No comments were received during the comment period.

III. Director's Findings

The Director finds, in accordance with SMCRA and 30 CFR 732.17 and 732.15, that the program amendment requiring information on how to request a preblasting survey to be provided to residents or owners of dwellings or other structures within ½ mile of the permit area at least 30 days prior to blasting and other revisions made by the State and identified in the January 30, 1985 submission, as supplemented by the State's letter of July 10, 1985, meet the requirements of SMCRA and 30 CFR Chapter VII and satisfies the required amendment imposed by the Director on January 22, 1985.

IV. Public Comments

Pursuant to section 503(b) of SMCRA and 30 CFR 732.17(h)(10)(j), of those Federal agencies invited to comment, acknowledgments were received from

the Department of Agriculture, Forest Service; the Department of the Army, Office of the Chief of Engineers; the Department of the Interior, Bureau of Land Management, Bureau of Mines and National Park Service; and; the Department of Labor, Mine Safety and Health Administration. Most of the comments were limited and did not identify any deficiencies in the proposed program amendment. Bureau of Mines made several comments relating to the State performance standards and their requirements for blaster training, examination and certification. Most of the comments related to provisions which were identical to the corresponding Federal provisions. Two of the comments related to typographical errors and these have been provided to the State. No additional public comments were received.

The disclosure of Federal agency comments is made pursuant to section 503(b)(1) of SMCRA and 30 CFR 732.17(b)(10)(i).

V. Director's Decision

The Director, based on the above findings, is approving the modifications to the Maryland regulatory program as submitted January 30, 1985, and revised on July 10, 1985, and is removing the required amendment found at 30 CFR 920.16(a), under the provisions of 30 CFR 732.17. The Federal rules at 30 CFR Part 920 are being amended to implement this decision.

VI. Procedural Requirements

1. Compliance with the National Environmental Policy Act

The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Executive Order No. 12291 and the Regulatory Flexibility Act

On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB. The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 920

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: September 3, 1985.

Jed D. Christensen,

Acting Director, Office of Surface Mining.

PART 920—MARYLAND

30 CFR Part 920 is amended as follows:

1. The authority citation for Part 920 continues to read as follows:

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

2. 30 CFR 920.15 is amended by adding a new paragraph (c) as follows:

§ 920.15 Approval of regulatory program amendments.

* * * * *

(c) The following amendment submitted to OSM on January 30, 1985, as revised July 10, 1985, is approved effective September 10, 1985. Revisions to Maryland regulations governing the use of explosives, as contained in the proposed Code of Maryland Administrative Regulations, Title 08, Subtitle 13, Chapter 09 Sections 02 and 25 submitted to OSM on January 30, 1985, and revised July 10, 1985. This approval is contingent on promulgation of the above referenced proposed regulations in a form identical to that submitted to the Director.

§ 920.16 [Removed]

3. 30 CFR Part 920.16 is removed.

[FR Doc. 85–21448 Filed 9–9–85; 8:45 am]
BILLING CODE 4310–05–M

Federal Register

Tuesday
September 10, 1985

Part V

Department of the Interior

Minerals Management Service

Outer Continental Shelf; Proposed Notice of Sale; North Aleutian Basin; Oil and Gas Lease Sale 92

Billing Code: 4310-MR

UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE

Outer Continental Shelf
Proposed Notice of Sale
North Aleutian Basin
Oil and Gas Lease Sale 92

With regard to oil and gas leasing on the Outer Continental Shelf (OCS), the Secretary of the Interior, pursuant to section 19 of the OCS Lands Act, as amended, provides the affected States the opportunity to review the proposed Notice of Sale. The following is a proposed Notice of Sale for Sale 92 in the North Aleutian Basin. This Notice is hereby published as a matter of information to the public.

Director, Minerals Management Service/
Wm. D. Bettenberg

Approved:

Deputy Assistant Secretary - Land and Minerals Management
J. Steven Griles

SEP - 5 1985

UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE

Outer Continental Shelf
Proposed Notice of Sale
North Aleutian Basin
Oil and Gas Lease Sale 92

1. Authority. This Notice is published pursuant to the Outer Continental Shelf Lands Act of 1953, as amended (43 U.S.C. 1331-1356) and the regulations issued thereunder (30 CFR 256).

2. Filing of Bids. Sealed bids will be received by the Regional Director (RD), Alaska Outer Continental Shelf (OCS) Region, Minerals Management Service (MMS), room 544, 949 East 36th Avenue, Anchorage, Alaska 99508. Bids may be delivered in person to the above address between 8:00 a.m. and 4:00 p.m., Alaska Standard Time (a.s.t.), until the Bid Submission Deadline at 10:00 a.m., a.s.t., January ___, 1986. Bids will not be accepted on January ___, 1986, the day of Bid Opening. Delivery by mail should be addressed to P.O. Box 101159, Anchorage, Alaska 99510, and must be received by the Bid Submission Deadline. Bids received by the RD later than the time and date specified above will be returned unopened to the bidders. Bids may not be modified unless written modification is received by the RD prior to 10:00 a.m., a.s.t., January ___, 1986. Bids may not be withdrawn unless written withdrawal is received by the RD prior to 8:30 a.m., a.s.t., January ___, 1986. Bid Opening Time will be 9:00 a.m., a.s.t., January __, 1986, at the _____ Anchorage, Alaska. All bids must be submitted and will be considered in accordance with applicable regulations, including 30 CFR 256. The list of restricted joint bidders which applies to this sale appeared in the Federal Register at _____ on _____.

3. Method of Bidding.

(a) A separate bid in a sealed envelope, labeled "Sealed Bid for Oil and Gas Lease Sale 92--North Aleutian Basin, (insert Official Protraction Diagram number and name, if applicable, and block number, not to be opened until 9:00 a.m., a.s.t., January ___, 1986," must be submitted for each block bid on. For example, a label would read as follows: "Sealed Bid for Oil and Gas Lease Sale 92--North Aleutian Basin, NO 3-8, Block 485, not to be opened until 9:00 a.m., a.s.t., January ___, 1986." (There will be no multiple blocks comprising a bidding unit for Sale 92.) A suggested bid form appears in 30 CFR 256, Appendix A. In addition, the total amount bid must be in whole dollar amounts (no cents). Bidders must submit with each bid one-fifth of the cash bonus, in cash or by cashier's check, bank draft, or certified check, payable to the order of the U.S. Department of the Interior--Minerals Management Service. No bid for less than all of the unleased portions of a block as described in paragraph 12 will be considered. Bidders submitting joint bids must state on the bid form the percentage of the proportionate interest of each participating bidder. The percentage shown on the bid form may not exceed five decimal places; e.g., 50.12345 percent. All documents

must be executed in conformance with signatory authorizations on file. Partnerships also need to submit or have on file a list of signatories authorized to bind the partnership. Other documents may be required of bidders under 30 CFR 256.46.

(b) At the time of bid submission bidders are required to provide a statement when they have filed, either alone or jointly, more than one bid on the same block, as to all persons, partnerships, and corporations which have a controlling interest in the entity submitting the bid.

A controlling interest means a direct or indirect legal or beneficial interest in or influence over another person arising through ownership of capital stock, interlocking directorates or officers, contractual relations, or other similar means, which substantially affect the independent business behavior of such person. (See paragraph 16 of this notice on information concerning Unusual Bidding Patterns.)

Bidders are warned against violation of 18 U.S.C. 1860, prohibiting unlawful combination or intimidation of bidders.

4. Bidding Systems. All bids submitted at this sale must provide for a cash bonus in the amount of $371 or more per hectare or fraction thereof. All leases awarded from this sale will provide for a yearly rental payment of $8 per hectare, or fraction thereof. All leases will provide for a minimum royalty of $8 per hectare, or fraction thereof. The bidding system to be utilized for this sale is cash bonus bidding with a 12 1/2 percent royalty. All bids submitted on all blocks shown in paragraph 12 must be submitted on a cash bonus basis with a fixed royalty of 12 1/2 percent.

5. Equal Opportunity. Each bidder must have submitted by the Bid Submission Deadline, stated in paragraph 2, the certification required by 41 CFR 60-1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form 1140-8 (June 1982), and the Affirmative Action Representation Form, Form 1140-7 (June 1982). See paragraph 14, "Information to Lessees."

6. Bid Opening. Bid opening will begin at the Bid Opening Time stated in paragraph 2. The opening of the bids is for the sole purpose of publicly announcing bids received, and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight on the day of Bid Opening, that bid will be returned unopened to the bidder as soon thereafter as possible.

7. Deposit of Payment. Any cash, cashier's checks, certified checks, or bank drafts submitted with a bid may be deposited by the Government in an interest bearing account in the U.S. Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

8. Withdrawal of Blocks. The United States reserves the right to withdraw any block from this sale prior to the issuance of a written acceptance of a bid for the block.

9. Acceptance, Rejection, or Return of Bids. The United States reserves the right to reject any and all bids. In any case, no bid will be accepted, and no lease for any block will be awarded to any bidder, unless:

(a) the bidder has complied with all requirements of this Notice and applicable regulations;

(b) the bid is the highest valid bid; and

(c) the amount of the bid has been determined to be adequate by the authorized officer.

No bonus bid will be considered for acceptance unless it provides for a cash bonus in the amount of $371 or more per hectare, or fraction thereof. Any bid submitted which does not conform to the requirements of this Notice, the OCS Lands Act, as amended, or other applicable regulations, may be returned to the person submitting that bid by the authorized officer and not considered for acceptance.

10. Successful Bidders. Each person who has submitted a bid accepted by the authorized officer will be required to execute copies of the lease as specified below, pay the balance of the cash bonus bid together with the first year's annual rental as specified below, and satisfy the bonding requirements of 30 CFR 256, Subpart I.

Successful bidders are required to submit the balance of the bonus and the first year's annual rental payment, for each lease issued, by electronic funds transfer (EFT) utilizing the Federal Reserve Communications System and the Treasury Financial Communications System, payable to the Department of the Interior--MMS.

The RD will provide more detailed instructions on making the EFT payments when bidders are qualified to submit bids at the sale. Bidders are referred to 30 CFR 218.155.

11. Official Protraction Diagrams (OPD). Blocks or portions of blocks offered for lease may be located on the following OPD's which may be purchased for $2 each from the Records Manager, Alaska OCS Region, room 502, at the first address stated in paragraph 2 of this Notice.

Outer Continental Shelf Official Protraction Diagrams:

NO 3-8	- -	(Approved March 20, 1975)
NO 4-7	Chignik	(Approved September 30, 1976)
NN 3-2	Cold Bay	(Approved September 30, 1976)

12. Description of the Areas Offered for Bids.

(a) The lease sale area offered for bids is listed by OPD. Only one category of blocks appears under each OPD listed: Whole or Partial blocks.

Whole or partial blocks fall entirely under the jurisdiction of the Federal Government. Each block must be bid on separately. Hectares for whole or partial blocks listed in paragraph 12(b) may be found on the appropriate OPD.

(b) The following blocks or portions of blocks are offered for bid:

Official Protraction Diagram NO 3-8, (approved March 20, 1975):

WHOLE or PARTIAL BLOCKS:

485-523	749-787
529-567	793-831
573-611	837-875
617-655	881-918
661-699	925-962
705-743	969-1006

Official Protraction Diagram NO 4-7, Chignik (approved September 30, 1976):

WHOLE or PARTIAL BLOCKS:

490-506	710-725
534-550	754-760
578-594	798-804
622-638	842-845
666-681	

Official Protraction Diagram NN 3-?, Cold Bay (approved September 30, 1976):

WHOLE BLOCKS:

1-37	397-415
45-78	441-458
89-121	485-502
133-164	529-545
177-207	573-589
221-251	617-633
265-294	661-675
309-330	705-714
353-372	749-754

13. Lease Terms and Stipulations.

(a) Leases resulting from this sale will have initial terms of 10 years. Leases will be issued on Form MMS-2005 (August 1982). Copies of the lease form are available from the Regional Supervisor, Leasing and Environment, Alaska OCS Region, at the first address stated in paragraph 2.

(b) The following stipulations will be included in each lease resulting from this sale.

Stipulation No.1--Protection of Archeological Resources

(a) "Archeological resource" means any site, structure, or object of historic or prehistoric significance, including artifacts, records, and remains which are related to such a site, structure, or object, (Section 301(5), National Historic Preservation Act, as amended, 16 U.S.C. 470w(5)). "Operations" means any drilling, mining, or construction or placement of any structure for exploration, development, or production of the lease.

(b) If the Regional Supervisor, Field Operations (RSFO), believes an archeological resource may exist in the lease area, the RSFO will notify the lessee in writing. The lessee shall then comply with subparagraphs (1) through (3).

(1) Prior to commencing any operations, the lessee shall prepare a report, as specified by the RSFO, to determine the potential existence of any archeological resource that may be affected by operations. The report, prepared by an archeologist, and a geophysicist, shall be based on an assessment of data from remote-sensing surveys and other pertinent archeological and environmental information. The lessee shall submit this report to the RSFO for review.

(2) If the evidence suggests that an archeological resource may be present, the lessee shall either:

(i) Locate the site of any operation so as not to adversely affect the area where the archeological resource may be; or

(ii) Establish to the satisfaction of the RSFO that an archeological resource does not exist or will not be adversely affected by operations. This shall be done by further archeological investigation, conducted by an archeologist, and a geophysicist, using survey equipment and techniques deemed necessary by the RSFO. A report on the investigation shall be submitted to the RSFO for review.

(3) If the RSFO determines that an archeological resource is likely to be present in the lease area and may be adversely affected by operations, the RSFO will notify the lessee immediately. The lessee shall take no action that may adversely affect the archeological resource until the RSFO has told the lessee how to protect it.

(c) If the lessee discovers any archeological resource while conducting operations in the lease area, the lessee shall report the discovery immediately to the RSFO. The lessee shall make every reasonable effort to preserve the archeological resource until the RSFO has told the lessee how to protect it.

Stipulation No. 2--Orientation Program

The lessee shall include in any exploration or development and production plans submitted under 30 CFR 250.34 a proposed orientation program for all personnel involved in exploration or development and production activities (including personnel of the lessee's agents, contractors, and subcontractors) for review and approval by the Regional Supervisor, Field Operations. The program shall be designed in sufficient detail to inform individuals working on the project of specific types of environmental, social, and cultural concerns which relate to the sale and adjacent areas. The program shall be formulated by qualified instructors experienced in each pertinent field of study and shall employ effective methods to ensure that personnel are informed of archeological, geological, and biological resources and habitats including endangered species, fisheries, bird colonies, and marine mammals, and to ensure that personnel understand the importance of avoidance and nonharassment of wildlife resources, and legal authorities and penalties pertinent to the harassment of wildlife. The program shall also be designed to increase the sensitivity and understanding of personnel to community values, customs, and lifestyles in areas in which such personnel will be operating and shall include information concerning avoidance of conflicts with commercial fishing operations and with commercial fishing gear. The program also shall include presentations and information about all pertinent lease sale stipulations and Information to Lessees provisions, and about stipulations applied to subsequent exploration plans and development and production plans.

The program shall be attended at least once a year by all personnel involved in on-site exploration or development and production activities (including personnel of the lessee's agents, contractors, and subcontractors) and all supervisory and managerial personnel involved in lease activities of the lessee and its agents, contractors, and subcontractors.

Stipulation No. 3--Protection of Biological Resources

If biological populations or habitats which may require additional protection are identified by the Regional Supervisor, Field Operations (RSFO), on any lease, the RSFO may require the lessee to conduct biological surveys to determine the extent and composition of such biological populations or habitats. The RSFO shall give written notification to the lessee of the RSFO's decision to require such surveys.

Based on any surveys which the RSFO may require of the lessee or on other information available to the RSFO on special biological resources, the RSFO may require the lessee to: (1) relocate the site of operations; (2) establish to the satisfaction of the RSFO, on the basis of a site-specific survey, either that such operation will not have a significant adverse effect upon the resource identified or that a special biological resource does not exist;

(3) operate during those periods of time, as established by the RSFO, that do not adversely affect the biological resources; and/or (4) modify operations to ensure that significant biological populations or habitats deserving protection are not adversely affected.

If any area of biological significance should be discovered during the conduct of any operations on the lease, the lessee shall immediately report such findings to the RSFO and make every reasonable effort to preserve and protect the biological resource from damage until the RSFO has given the lessee direction with respect to its protection.

The lessee shall submit all data obtained in the course of biological surveys to the RSFO with the locational information for drilling or other activity. The lessee may take no action that might affect the biological populations or habitats surveyed until the RSFO provides written directions to the lessee with regard to permissible actions.

Stipulation No. 4--Wellhead and Pipeline Requirements

Subsea wellheads on temporary abandonments, or suspended operations that leave protrusions above the seafloor, are potential hazards to fisheries trawling gear. They shall be constructed or protected, if feasible and as appropriate, in such a manner as to allow commercial fisheries trawling gear to pass over the structures without snagging or otherwise damaging the structures or the fishing gear. The lessee shall submit latitude and longitude coordinates of these structures and their water depths to the Regional Supervisor, Field Operations. The lessee shall also forward this information to the U.S. Coast Guard in accordance with Alaska OCS Order No. 1, Part 4. To determine the coordinates of such structures, the lessee shall use navigation systems with accuracy of at least ±50 feet at 200 miles.

All pipelines, unless buried, including gathering lines, shall have a smooth-surface design. If an irregular pipe surface is unavoidable because of the need for valves, anodes, or other structures, it shall, as appropriate, be protected in such a manner as to allow trawling gear to pass over the object without snagging or otherwise damaging the structure or the fishing gear.

Stipulation No. 5--Transportation of Hydrocarbons

Pipelines will be required: (a) if pipeline rights-of-way can be determined and obtained; (b) if laying such pipelines is technologically feasible and environmentally preferable; and (c) if, in the opinion of the lessor, pipelines can be laid without net social loss, taking into account any incremental costs of pipelines over alternative methods of transportation and any incremental benefits in the form of increased environmental protection or reduced multiple-use conflicts. The lessor specifically reserves the right to require

that any pipeline used for transporting production to shore be placed in certain designated management areas. In selecting the means of transportation, consideration will be given to any recommendation of the Regional Technical Working Group, or other similar advisory groups with participation of Federal, State, and local governments and industry.

All pipelines, including both flow lines and gathering lines for oil and gas, shall be designed and constructed to provide for adequate protection from water currents, storms and ice scouring, permafrost, subfreezing conditions, and other hazards as determined on a case-by-case basis. Following the development of sufficient pipeline capacity, no crude oil production will be transported by surface vessel from offshore production sites, except in the case of emergency. Determinations as to emergency conditions and appropriate responses to these conditions will be made by the Regional Supervisor, Field Operations, subject to economic feasibility.

14. Information to Lessees:

(a) Affirmative Action Requirements. Revision of Department of Labor regulations on affirmative action requirements for Government contractors (including lessees) has been deferred, pending review of those regulations (see Federal Register of August 25, 1981, at 46 FR 42865 and 42968). Should those changes become effective at any time before the issuance of leases resulting from this sale, section 18 of the lease form (Form MMS-2005, August 1982) would be deleted from leases resulting from this sale. In addition, existing stocks of the affirmative action forms described in paragraph 5 of this Notice contain language that would be superseded by revised regulations at 41 CFR 60-1.5(a)(1) and 60-1.7(a)(1). Pending the issuance of revised versions of Forms 1140-7 and 1140-8, submission of Form 1140-7 (June 1982) and Form 1140-8 (June 1982) will not invalidate an otherwise acceptable bid, and the revised regulation requirements will be deemed to be part of the affirmative action forms.

(b) U.S. Army Corps of Engineers Permits. The U.S. Army Corps of Engineers permits are required for construction of any artificial islands, installations, and other devices permanently or temporarily attached to the seabed located on the OCS in accordance with section 4(e) of the OCS Lands Act, as amended.

(c) Discharges of Drilling Wastes. Lessees are advised that the U.S. Environmental Protection Agency (EPA) National Pollutant Discharge Elimination System permits are required for discharge of drilling fluids, produced waters, and other drilling wastes generated during exploration and development/production phases.

(d) Oil Spill Cleanup Capability. Approval of oil spill contingency plans will require information on the capability to detect, contain, clean up, and dispose of spilled oil in accordance with Best Available and Safest Technologies requirements as determined by the Regional Supervisor, Field Operations (RSFO).

(e) Offshore Pipelines. Lessees are advised that the Departments of the Interior and Transportation have entered into a Memorandum of Understanding, dated May 6, 1976, concerning the design, installation, operation, and maintenance of offshore pipelines. Lessees should consult both departments for regulations applicable to offshore pipelines.

(f) Unitization Agreements. Lessees are advised that in accordance with section 16 of each lease offered, the lessor may require a lessee to operate under a unit, pooling, or drilling agreement, and that the lessor will give particular consideration to requiring unitization in instances where one or more reservoirs underlie two or more leases.

(g) Exploration Plan Submittals For 10-Year Lease Terms. Lessees are advised that pursuant to 30 CFR 250.34-1(a)(3), the lessee shall submit to the MMS either an exploration plan or a general statement of exploration intention prior to the end of the ninth lease year.

(h) Coastal Zone Management and Bristol Bay Area Plan.

Lessees are advised that the Alaska Coastal Management Program (ACMP) contains policies and standards which are relevant to exploration, development, and production activities associated with leases resulting from this sale. In addition, approved local coastal management programs (CMP) which are part of the ACMP may contain more specific policies related to energy facility siting; areas with particular geologic hazards, subsistence uses, habitats, and transportation uses; and areas which have historic or prehistoric resources. Lessees are advised that the draft Aleutians East Coastal Resource Service Area (CRSA) CMP delineates archeological and historical sites.

Coastal districts with approved CMP's may have policies applicable to ACMP consistency reviews of postlease activities. Coastal districts near the lease area engaged in policy development or implementation include: the Yukon/Kuskokwim CRSA, the Bristol Bay CRSA, the Aleutians East CRSA, the Bristol Bay Borough, and the Cities of Bethel, Akutan, and St. Paul. Early consultation and coordination with the State and coastal districts involved in coastal management review is encouraged.

The MMS anticipates that the State will review exploration plans, development and production plans, and pipeline right-of-way applications for consistency with the ACMP pursuant to section 307(c)(3)(B) of the Coastal Zone Management Act (CZMA). As specified in section 307(c)(3)(B), the State may disagree with the lessee's certification of consistency for the lessee's plans for exploration, development, and production, or pipeline right-of-way applications. The State has indicated that it may recommend additional measures be taken by the lessee, as a condition of certification, that will ensure that the transportation, storage, and loading of produced oil is consistent with applicable mandatory enforceable policies listed in the ACMP.

The State of Alaska has advised the MMS that it will review the lessee's consistency certification accompanying oil spill contingency plans specifically for consistency with the State's CMP. The State may not concur with the lessee's plans for exploration, development, and production under section 307(c)(3) of the CZMA unless they are adequate to ensure consistency with applicable policies in the State's program. The State's review will consider the use of best available and safest technologies for operating in the North Aleutian environment. Also considered in this are the lessee's contingency plans in the event of an oil-well blowout (including relief well plans), and the lessee's ability to initiate timely oil spill recovery operations, as required by Federal or State regulations to protect areas of special biological sensitivity.

Lessees are also advised that the State of Alaska adopted a land use management plan in September 1984. That plan, the Bristol Bay Area Plan, contains policies adopted by the State that indicate priorities for different land uses in portions of the Alaska Peninsula and the rest of the Bristol Bay region. Policies include pipeline transportation across State tidelands and the Alaska Peninsula.

(i) Areas of Special Biological Sensitivity.

Lessees are advised that certain areas are especially valuable for their concentrations of marine birds, marine mammals, and/or fishes. Lessees are advised that seasonal concentrations of fishes, including major salmon streams, and birds and/or marine mammals in the Izembek and Togiak National Wildlife Refuges, Izembek State Game Refuge, Walrus Islands and Cape Newenham State Game Sanctuaries, State Critical Habitat Areas (Egegik, Pilot Point, Cinder River, Port Heiden, and Port Moller), Port Moller/Herendeen Bay/Bear River area, Nelson Lagoon, Bechevin Bay, Unimak Pass, Amak Island, Sea Lion Rocks, and the Shumagin Islands, are identified as areas of special biological sensitivity. Other areas of special biological sensitivity include Moffett Lagoon, Big Lagoon, Hook Bay, St. Catherines Cove, and Swanson Lagoon. These areas are among areas of special biological sensitivity to be considered in the oil spill contingency plan section of Alaska OCS Order No. 7 and environmental report requirements of 30 CFR 250.34-3. Lessees are advised that, subject to approval by the State and the Secretary of Commerce, areas of special biological sensitivity also may be defined by local coastal management programs. Areas of special biological sensitivity may also be identified by local and regional organizations, planning offices, village councils, and regional nonprofit corporations.

Due to the sensitivity and vulnerability of these areas to spilled oil, special attention will be given to deployment plans and time requirements on the review of oil spill contingency plans. Such protection should not include dispersant usage unless such usage has been approved in advance.

(j) Bering Sea Biological Task Force.

In the enforcement of the Protection of Biological Resources stipulation, the RSFO will receive recommendations from a Bering Sea Biological Task Force (BTF) composed of designated representatives of the MMS, the U.S. Fish and Wildlife Service (FWS), the National Marine Fisheries Service (NMFS), and the EPA. (Before making recommendations to the RSFO, the Bering Sea BTF should consult with representatives of the State of Alaska and local communities that can contribute to biological evaluations.) The RSFO will consult with the Bering Sea BTF on the conduct of biological surveys by lessees and the appropriate course of action after surveys have been conducted.

(k) Bird and Marine Mammal Protection.

Lessees are advised that during the conduct of all activities related to leases issued as a result of this sale, the lessee and its agents, contractors, and subcontractors will be subject to, among others, the provisions of the Marine Mammal Protection Act of 1972, as amended; the Endangered Species Act of 1973, as amended; the Migratory Bird Treaty Act; and International Treaties.

Lessees and their contractors should be aware that disturbance of wildlife could be determined to constitute harm or harassment and thereby be in violation of existing laws. With respect to endangered species, disturbance could be determined to constitute a "taking" situation and be in violation of the Endangered Species Act. Under the Endangered Species Act, the term "take" has been defined to mean "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." Violations under these acts and treaties should be reported to the NMFS or the FWS, as appropriate.

Of particular concern is disturbance at major wildlife concentration areas including bird colonies, marine mammal haulout and breeding areas, and wildlife refuges and parks. Maps depicting major wildlife concentration sites in the vicinity of the lease area are available from the RSFO. Lessees are also encouraged to confer with the FWS and NMFS in planning transportation routes between support bases and leaseholdings.

Behavioral disturbance of most birds and mammals found in or near the lease area would be unlikely if aircraft and vessels maintained at least a 1-mile horizontal distance and aircraft maintain a 1,500-foot vertical distance from known or observed wildlife concentration areas, such as bird colonies and marine mammal haulout and breeding areas. It is recommended that aircraft and vessels operated by lessees or their contractors maintain at least a 1-mile horizontal distance and that aircraft maintain a 1,500-foot vertical distance from known or observed wildlife concentrations.

For the protection of endangered whales and marine mammals throughout the lease area, operators of fixed-wing aircraft or helicopters should maintain a 1,500-foot altitude when in transit between support bases and exploration sites; and lessees and their contractors are encouraged to reduce, minimize, or reroute trips to and from the leasehold by aircraft, tugs, barges, supply ships, hovercraft, or other self-propelled surface vessels when endangered whales are likely to be in the area. Information on general locations of endangered whales is available from the RSFO.

The distance and altitude herein recommended to avoid disturbance to wildlife is advisory. Rules of other agencies concerning air traffic must be observed. Human safety will take precedence at all times over these provisions.

(l) Endangered Whales (Noise Disturbance).

Lessees are advised that the RSFO has the authority and intends to limit or suspend any noise producing operations, including geophysical surveys on a lease, whenever endangered whales are near enough to be subject to noise disturbance from offshore oil and gas activities which would be likely to result in a "take" situation. Under the Endangered Species Act, the term "take" has been defined to mean "harass, harm, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." A Notice to Lessees (NTL 85-2) has been issued to specify performance standards before any preliminary activities may be conducted on a lease.

(m) Endangered Whales (Oil Spills).

Lessees are advised that the RSFO has the authority and may limit or suspend oil and gas drilling activities on any lease whenever endangered (especially gray or right) whales are present and near enough to be subject to probable oil spill risks. Exploratory drilling, testing, and other downhole activities below a predetermined threshold depth, with the exception of testing through casing, may be prohibited whenever these whales are in the vicinity of the drilling operation. Such prohibition would continue until it is determined that the whales are outside of the zone of probable influence or are no longer subject to likely risk of oil spills, unless the RSFO determines that continued operations are necessary to prevent a loss of well control or to ensure human safety.

(n) Aleutian Canada Goose.

Lessees are advised that the Aleutian Canada goose (Branta canadensis leucopareia) is listed as an endangered species by the U.S. Department of the Interior (16 U.S.C. 1531 et seq.). A potential for conflict may exist in this region between the onshore support facilities of OCS exploration or development and production activities and the Aleutian Canada goose. Such

conflicts can be avoided if onshore-support facilities are not located near Chagulak or Kiliktagik Island and aerial-support flight paths maintain a 1,500-foot altitude and vessel traffic a 1-mile distance from Aleutian Canada goose populations.

Lessees are advised that the FWS will review all exploration or development and production plans submitted by the lessee to the MMS. The FWS may apply certain restrictions to further protect the Aleutian Canada goose habitats as a result of this review. Lessees and affected operators should establish regular communication with the MMS and the FWS. Human safety will take precedence at all times.

(o) Fairway Designations.

Blocks offered for lease may fall in or be adjacent to areas which may be included in fairways, precautionary zones, or traffic-separation schemes which may be established, among other reasons, for the purpose of protecting maritime commerce. Lessees are advised that the United States may designate necessary fairways through leased areas pursuant to the Ports and Waterways Safety Act of 1972, as amended (33 U.S.C. 1221 et seq.).

(p) Potential Gear Conflict with Commercial Fishing Industry.

To reduce potential fishing gear conflicts, the lessees should keep commercial fishermen in the area advised of plans for seismic surveys, drill rig transport, or other vessel traffic, and discuss mutually satisfactory ways to avoid fishing-gear conflicts. Additionally, designations of open-ocean-storage areas for crab pots are subject to change. Vessels transiting these areas should operate in such a manner as to prevent loss of these stored crab pots. Locations of storage areas can be provided by the Alaska Department of Fish and Game and the North Pacific Fishery Management Council. The MMS encourages the lessees to use the Oil/Fisheries Group of Alaska to reduce potential conflicts between the oil and commercial fishing industries.

(q) Oil Spill Contingency Plans.

Lessees are notified that oil spill contingency plans are required under Alaska OCS Order No. 7, pursuant to the authority prescribed in 30 CFR 250.11, 250.34, and 250.43, prior to approval of exploration plans and development and production plans. Furthermore, lessees are required under 30 CFR 250.34-2 to include in development and production plans descriptions of all vessels, pipelines, and other facilities, and descriptions of all environmental safeguards. Prior to approval of development and production plans, the RSFO will review these items to determine whether those oil transportation facilities described, which are regulated by the MMS can safely transport oil under expected conditions in the leased area.

(r) Minimum Altitude Over Izembek Lagoon.

The FWS and the Alaska Department of Fish and Game are developing guidelines regarding minimum altitudes and flight patterns in the area of Cold Bay and Izembek Lagoon. Once complete, these guidelines may be included as recommendations on aeronautical charts. The MMS will also provide a copy of these guidelines as an attachment to the action letter on each exploration plan submitted for the lease area which proposes to use Cold Bay for aircraft support.

15. OCS Orders. Operations on all leases resulting from this sale will be conducted in accordance with the provisions of all Alaska OCS Orders, and any other applicable OCS Order. Final Alaska OCS Orders were published in the Federal Register at 47 FR 47180, on October 22, 1982.

16. Unusual Bidding Patterns. The bid adequacy procedures provide for the application of criteria in a two-phased process for bid adequacy determination. Prospective bidders should be aware that the RD may determine that an unusual bidding pattern exists when a company and its parent and/or subsidiary (a company in which the controlling interest is owned by another company), participate alone or jointly in more than one bid on the same block. In such case only the highest of such bids by that entity will be considered for computing the number of bids on the block for acceptance in the Phase I criteria of the bid adequacy process. If as a result of an unusual bidding pattern there is an insufficient number of bids for acceptance in the Phase I criteria, the RD will pass those bids on the block to Phase II of the bid adequacy process for further analysis. As a result, special requirements on this subject have been outlined in paragraph 3(b), Method of Bidding in this Notice.

[FR Doc. 85-21560 Filed 9-9-85; 8:45 am]
BILLING CODE 4310-MR-C

Reader Aids

Federal Register

Vol 50, No. 175

Tuesday, September 10, 1985

INFORMATION AND ASSISTANCE

SUBSCRIPTIONS AND ORDERS

Subscriptions (public)	202-783-3238
Problems with subscriptions	275-3054
Subscriptions (Federal agencies)	523-5240
Single copies, back copies of FR	783-3238
Magnetic tapes of FR, CFR volumes	275-2867
Public laws (Slip laws)	275-3030

PUBLICATIONS AND SERVICES

Daily Federal Register

General information, index, and finding aids	523-5227
Public inspection desk	523-5215
Corrections	523-5237
Document drafting information	523-5237
Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws

Indexes	523-5282
Law numbers and dates	523-5282
	523-5266

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual 523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, SEPTEMBER

35533-35766.....3
35767-36030.....4
36031-36404.....5
36405-36562.....6
36563-36860.....9
36861-36982.....10

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

3.....35533

3 CFR

Administrative Orders:
Memorandums:
September 5, 1985.....36563
August 7, 1985.....36565
Executive Orders:
11888 (Amended by Proc. 5365).....36220
12530.....36031
12531.....36033
12532.....36861
Proclamations:
4707 (Amended by Proc. 5365).....36220
4768 (Amended by Proc. 5365).....36220
5133 (Amended by Proc. 5365).....36220
5142 (Amended by Proc. 5365).....36220
5291 (Amended by Proc. 5365).....36220
5305 (Amended by Proc. 5365).....36220
5308 (Amended by Proc. 5365).....36220
5365.....36220

7 CFR

6.....36037, 36040
51.....36041
319.....35533
736.....35535
908.....35767
920.....36567
981.....35767
989.....35769
1036.....36865
1135.....36043
1427.....36568
1472.....35772
Proposed Rules:
52.....36094
420.....36580
423.....36584
432.....36589
433.....36593
442.....36597
917.....35828
920.....35828
989.....36436
999.....35564
1135.....35829

9 CFR

Proposed Rules:
77.....35564
309.....36094

10 CFR

35.....36866

12 CFR

615.....36868

14 CFR

39.....35772, 36044-36046, 36570, 36869
71.....36047
108.....35535
Proposed Rules:
Ch. I.....36884
21.....36437
39.....35830-35839, 36095-36102, 36441, 36600
71.....35840, 36884

16 CFR

4.....36048
Proposed Rules:
13.....35565

17 CFR

1.....36049
31.....36405
190.....36405
Proposed Rules:
1.....36104
3.....36104

18 CFR

154.....36571
157.....36571
385.....36051
Proposed Rules:
357.....36601

19 CFR

Proposed Rules:
162.....36603

20 CFR

302.....36870
322.....36870
340.....36870
404.....36571
Proposed Rules:
295.....35568
416.....36108

21 CFR

74.....35774
81.....35774-35789
82.....35774
177.....35535
178.....36872
510.....35535
558.....35535, 35536, 36419, 36874
1040.....36548

Proposed Rules:
74 35841
82 35841
170 35571
808 36441-36443

25 CFR
36 36575

26 CFR
1 ..... 35536, 35540, 36575
6a 35540
602 ..... 35536, 35540
Proposed Rules:
1 35572
602 35572

28 CFR
0 36054
2 36419-36423

29 CFR
Proposed Rules:
33 36685
2642 36603

30 CFR
920 36970
Proposed Rules:
Ch. I 36885
817 35573
870 36858
944 36554

31 CFR
51 36055
103 36875
206 35547
Proposed Rules:
223 36115

32 CFR
155 35790
706 36424-36425
865 36426
Proposed Rules:
230 36610
231 36619
231a 36622

33 CFR
100 ..... 35552-35554, 36576
165 35555
Proposed Rules:
100 36628-36629
117 36630
207 35573

33 CFR
100 36576
151 36768
158 36768

34 CFR
Proposed Rules:
682 35964
683 35964

35 CFR
Proposed Rules:
133 36444

36 CFR
327 35555

38 CFR
3 36577
21 36578
Proposed Rules:
3 36631

39 CFR
10 36431
111 36875
Proposed Rules:
111 ..... 35843, 36885, 36886

40 CFR
15 36188
52 ..... 35796, 36876
60 36830
66 ..... 36732, 36734
67 36732
81 35561
133 36879
180 36579
271 35798
466 36540
Proposed Rules:
52 36633-36635
60 36956
65 36637
85 36838
147 35574
180 35844
261 36966
262 36886
430 36444
439 36638
600 36838
799 36446

42 CFR
505 35646
512 35646
Proposed Rules:
124 36454

43 CFR
1820 36055

44 CFR
59 36016
60 36016
61 36016
64 36016
66 36016
70 36016
72 36016
75 36016

46 CFR
Proposed Rules:
160 36639

47 CFR
Ch. I 36056
0 36061
2 36061
18 36061
25 ..... 36071, 36432
73 ..... 35562, 35799-35800
83 36880
97 36080
Proposed Rules:
73 ..... 35574-35581, 35845

48 CFR
15 35815
52 35815
501 36080
502 36080
504 36080
505 36080
506 36080
507 36080
509 36080
510 36080
514 36080
515 36080
525 36080
536 36080
549 36080
914 35956
915 35956
952 35956
Proposed Rules:
227 36887
252 36887
549 35582
552 35582

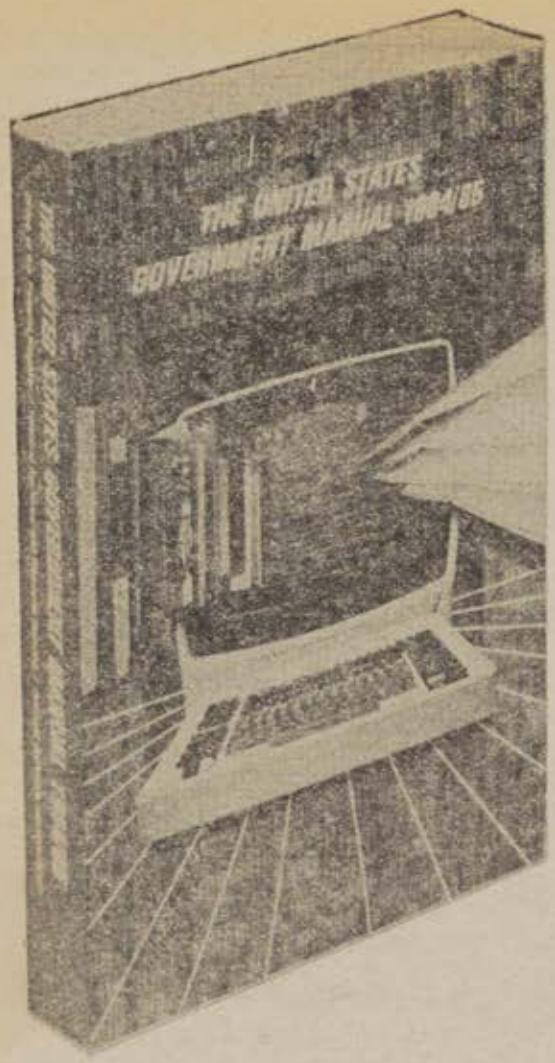
49 CFR
Ch. X 35562
571 36084
1033 36085
1085 35563
1152 36432
Proposed Rules:
192 36116
218 35636
221 35636
232 ..... 35640, 35643
571 35583

50 CFR
17 ..... 36085, 36089
20 ..... 35762, 36198, 36432-36433
32 ..... 35563, 35815
33 35563
611 35825
621 36434
630 35563
661 ..... 35827, 36092
672 35825
675 35825
Proposed Rules:
17 ..... 35584, 36118

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List August 22, 1985



Order Now!

The United States Government Manual 1984/85

As the official handbook of the Federal Government, the *Manual* is the best source of information on the activities, functions, organization, and principal officials of the agencies of the legislative, judicial, and executive branches. It also includes information on quasi-official agencies and international organizations in which the United States participates.

Particularly helpful for those interested in where to go and who to see about a subject of particular concern is each agency's "Sources of Information" section, which provides addresses and telephone numbers for use in obtaining specifics on consumer activities, contracts and grants, employment, publications and films, and many other areas of citizen interest. The *Manual* also includes comprehensive name and subject/agency indexes.

Of significant historical interest is Appendix A, which describes the agencies and functions of the Federal Government abolished, transferred, or changed in name subsequent to March 4, 1933.

The *Manual* is published by the Office of the Federal Register, National Archives and Records Administration.

$12.00 per copy

Order Form Mail To: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

★ 6049

Enclosed is $ _____ ☐ check, ☐ money order, or charge to my Deposit Account No.

☐☐☐☐☐☐☐–☐

Order No. _____

MasterCard and VISA accepted.

Credit Card Orders Only

Total charges $_____

Fill in the boxes below.

Credit Card No. ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Expiration Date Month/Year ☐☐☐☐

Customer's Telephone No.

Area Code ☐☐☐ Home ☐☐☐–☐☐☐☐ Area Code ☐☐☐ Office ☐☐☐–☐☐☐☐

Charge orders may be telephoned to the GPO order desk at (202)783-3238 from 8:00 a.m. to 4:00 p.m. eastern time, Monday-Friday (except holidays).

Please send me _____ copies of The United States Government Manual, 1984/85 at $12.00 per copy. Stock No. 022-003-01109-9

PLEASE PRINT OR TYPE

Company or Personal Name

Additional address/attention line

Street address

City State ZIP Code

(or Country)

(Rev. 4-1-85)

For Office Use Only

Quantity Charges

_____ Publications _____

_____ Subscription _____

Special Shipping Charges _____

International Handling _____

Special Charges _____

OPNR _____

_____ UPNS

_____ Balance Due

_____ Discount

_____ Refund

882