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Federal Register

Wednesday
June 5, 1985

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Alcohol, Tobacco and Firearms Bureau

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Presidential Documents

Title 3—

The President

Executive Order 12518 of June 3, 1985

Trade in Services

By the authority vested in me by the International Investment and Trade in Services Survey Act (Public Law 94–472, as amended by Section 306 of Public Law 98–573), and in order to assure that information necessary for developing, formulating and implementing United States policy concerning trade in services is collected, analyzed and disseminated, it is hereby ordered that Executive Order No. 11961 of January 19, 1977, as amended, is redesignated "International Investment and Trade in Services" and is further amended by (1) substituting "International Investment and Trade in Services Survey Act" for "International Investment Survey Act of 1976" wherever it appears; (2) substituting "(5)" for "(4)" in Section 2; (3) adding "and trade in services" after "investment" in Section 3; and (4) adding ", (5)" after "(4)" in Section 3.

Ronald Reagan

THE WHITE HOUSE,
June 3, 1985.

[FR Doc. 85-13694
Filed 6-4-85; 10:15 am]
Billing code 3195-01-M

Rules and Regulations

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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 536

Grade and Pay Retention

AGENCY: Office of Personnel Management.

ACTION: Revocation.

SUMMARY: The Office of Personnel Management is revoking regulations that provide retroactive grade and pay retention benefits for employees who suffered a reduction in grade on or after January 1, 1977 and before the first day of the first pay period beginning on or after January 11, 1979 (the effective date of grade and pay retention provisions of the Civil Service Reform Act of 1978). The six-year statute of limitations on claims for these benefits expired in January 1985.

EFFECTIVE DATE: June 5, 1985.

FOR FURTHER INFORMATION CONTACT: Bobby G. Williams, (202) 632–4634.

SUPPLEMENTARY INFORMATION: Section 536.306 of Title 5, Code of Federal Regulations, provides retroactive grade and pay retention benefits for employees who were downgraded as a result of reduction-in-force or reclassification on or after January 1, 1977, and before the effective date of the grade and pay retention provisions of the Civil Service Reform Act of 1978. Because the guidance provided by OPM under 5 CFR 536.306 required employees to file a claim with their current employing agency to receive retroactive benefits, the applicable statute of limitations is the general statute of limitations on claims against the Government (31 U.S.C. 3702(b)). This statute provides that claims must be received by the Comptroller General of the United States within 6 years after the claim accrues. Since the period of retroactive benefits ended on the first day of the first pay period beginning on or after January 11, 1979, the 6-year statute of limitations has now expired for claims made under this provision of the Civil Service Reform Act of 1978.

Note.—Employees who otherwise would have been entitled to retroactive benefits because of a reduction in grade during the retroactive period were also entitled to a two-year period of grade retention beginning on the effective date of the grade and pay retention provisions of the Civil Service Reform Act. Any employee so entitled may file a claim for back pay with the U.S. General Accounting Office for the balance of the period not excluded by the 6-year statute of limitations.

This administrative action follows directly and necessarily from the statute of limitations on claims against the Government. Therefore OPM has no discretion in the matter. No public interest or legal requirement would be served by a process of notice and comment. Accordingly, this rulemaking—in the nature of the recission of a rule—is final and effective immediately upon publication.

List of Subjects in 5 CFR 536

Administrative practice and procedure, Government employees, Wages.

U.S. Office of Personnel Management.

Loretta Cornelius,

Acting Director.

PART 536—[AMENDED]

For the reasons set forth above, the Office of Personnel Management hereby amends Part 536 of Title 5, Code of Federal Regulations as follows:

1. The Authority citation for Part 536 is revised to read as follows:

Authority: 5 U.S.C. 5361–5366.

§ 536.306 [Removed]

2. Section 536.306 is removed.

[FR Doc. 85-13489 Filed 6-4-85; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 810

U.S. Standards for Soybeans; Correction

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Final rule; correction.

SUMMARY: This document corrects typographical errors appearing in the regulation on U.S. Standards for soybeans published in the **Federal Register** of May 1, 1985.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., Information Resources Management Branch, USDA, FGIS, Room 0667 South Building, 1400 Independence Avenue SW., Washington, DC 20250, telephone (202) 382–1738.

SUPPLEMENTARY INFORMATION: In **Federal Register** Document 85–10347 beginning on page 18455 in the issue of Wednesday, May 1, 1985, the following corrections should be made:

§ 810.602 [Corrected]

1. On page 18457, in the third column, in § 810.602 (b), in the sixth line, "stink-bug-stung" should read "stinkbug-stung"; and on the seventh line continuing to the eighth "stinking-stung" should read "stinkbug-stung".

2. On page 18458, § 810.602 (l), in the second column, third line, "square inch." should read "square foot."

§ 810.606 [Corrected]

3. Also on page 18458, § 810.606, in the table, under column heading "Minimum test weight per bushel (pounds)", "56.00", "54.00", "52.00", and "49.00" should read "56.0", "54.0", "52.0", and "49.0".

4. Also on page 18458, § 810.606, in the table, under U.S. Sample grade, paragraph (b), second line, "(Crotalaria spp.)" should read "(*Crotalaria* spp.)" and "(Ricinus communis)" should read "(*Ricinus communis*)".

Dated: May 28, 1985.

K.A. Gilles,

Administrator.

[FR Doc. 85-13413 Filed 6-4-85; 8:45 am]
BILLING CODE 3410-EN-M

Agricultural Marketing Service

7 CFR Parts 911 and 944

[Lime Reg. 43, Amdt. 4; Lime Import Reg. 10, Amdt. 1]

Limes Grown in Florida; Amendment of Grade Requirements

AGENCY: Agricultural Marketing Services, USDA.

ACTION: Final rule.

SUMMARY: This action raises the minimum grade requirements for fresh shipments of seedless limes grown in Florida, and for seedless limes imported into the United States, from the current U.S. Combination, Mixed Color, of 60 percent U.S. No. 1 and 40 percent U.S. No. 2, to a modified U.S. Combination, Mixed Color, of 75 percent U.S. No. 1 and 25 percent U.S. No. 2 during the period June 1 through January 31 of the following year. The minimum diameter requirement for such limes would remain at 1⅞ inches. Such action is necesssary to assure the shipment of limes of acceptable quality in the interest of producers and consumers.

EFFECTIVE DATES: The Florida Lime Regulation 43 (§ 911.344) becomes effective June 5, 1985 and the Lime Import Regulation 10 § 944.209) becomes effective June 10, 1985.

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

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

The Florida lime regulation is issued under the marketing agreement, as amended, and Order No. 911, as amended (7 CFR Part 911), regulating the handling of limes grown in Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The regulation applicable to limes grown in Florida is based upon recommendations and information submitted by the Florida Lime Administrative Committee, established under the marketing agreement and order, and upon other information. Shipments of Florida limes are regulated by grade and size under Florida Lime Regulation 43 (49 FR 25243). This regulation, which is effective on a continuing basis, requires seedless limes for fresh shipments: (1) To grade at least U.S. Combination, Mixed Color; (2) to meet a minimum juice content of 42 percent by volume; and (3) to have a minimum diameter of 1⅞ inches. This action increases minimum quality requirements applicable to fresh shipments of Florida seedless limes by requiring such shipments to grade a modified U.S. Combination, Mixed Color, with the stipulation that 75 percent of the limes, by count, grade at least U.S. No. 1 and 25 percent of the limes grade at least U.S. No. 2 during the period June 1 of each year through January 31 of the following year. The current grade requirement is U.S. Combination, Mixed Color, (60 percent of the limes, by count, grade at least U.S. No. 1 and 40 percent of the limes grading U.S. No. 2) (7 CFR 51.1001). This action was unanimously recommended by the Florida Lime Administrative Committee.

Florida Persian seedless limes are marketed throughout the year, with peak production during the summer months. At that time, market prices and grower returns tend to be low. Traditionally, the winter market for Florida seedless limes is strong. In the past year, however, winter market prices for such limes weakened due to the availability of large volumes of lesser quality limes in the marketplace. Such limes have poor retail acceptance, which has a price-depressing effect on shipments of better quality fruit. In response to deteriorating market conditions of limes during October and November 1984, an amendment to Lime Regulation 43 (49 FR 46703) was issued for the period December 3, 1984 through January 31, 1985, which specified the same modified U.S. Combination, Mixed Color, as contained in this final rule. Reports indicate that the institution of higher minimum quality requirements stabilized market conditions. This increase in the percentage of U.S. No. 1 grade fruit in fresh shipments is designed to stimulate consumer demand, result in greater sales volume of limes of preferred quality and improve grower returns.

During the five previous years, fresh shipments of Florida limes have trended upward from 755,337 bushels in 1978–79 to 1,286,127 bushels in 1983–84 primarily due to increased bearing acreage. The 1984–85 crop of Florida limes has already exceeded record levels. Historically, only 50 percent of the crop is shipped to the fresh market with the remainder utilized in processed products. Thus, more than ample supplies of better quality limes should be available to satisfy consumer's demands.

This final rule is effective from June 1 of each year through January 31 of the following year; however, for 1985 the rule will go into effect June 5. From February 1 through May 31 of each year the requirement applicable to seedless limes would be U.S. Combination, Mixed Color, (60 percent of the limes, by count, grade at least U.S. No. 1 and 40 percent grading U.S. No. 2). These lower grade requirements reflect seasonal changes in supply and demand conditions for Florida seedless limes.

The regulation currently in effect (Lime Regulation 43, Amendment 3) was published November 28, 1984. These more restrictive regulations for Florida limes will continue to be in effect from marketing season to marketing season indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the committee or other information available to the Secretary. The issuance of seasonal regulations which continue in effect from marketing season to marketing season reflects the fact that such regulations change infrequently from season to season and it is believed unnecessary to issue them for only a single season. Although the seasonal regulations will be effective for an indefinite period, the committee will continue to meet during each season to consider recommendations for modification, suspension, or termination of the regulatory requirements for Florida limes. Prior to making any such recommendations, the committee would submit to the Secretary a marketing policy for the season including an analysis of supply and demand factors having a bearing on the marketing of the crop. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will review committee recommendations and information submitted by the committee, and other available information, and determine whether modification, suspension, or termination of the regulatory requirements would tend to effectuate the declared policy of the act.

Under section 8e of the act, as implemented by Part 944 of the regulations, whenever specified commodities, including limes, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity. Thus, grade requirements for imported seedless limes would also change to conform to

the grade requirements for domestic shipments of seedless Florida limes beginning June 10, 1985. Therefore, this final rule makes a technical conforming change to Part 944.

A proposed rule was published in the Federal Register on May 9, 1985 (50 FR 19535) with a 15 day comment period. No comments were received. It is hereby found that this action will tend to effectuate the declared policy of the act.

Accordingly, the Secretary finds that upon good cause shown this final rule will be effective less than 30 days after publication in the Federal Register (5 U.S.C. 553), because: (1) Shipments of the current crop of limes grown in Florida is underway; (2) the amendment to the Florida lime regulation was recommended by the committee following discussion at a public meeting at which there were no opposing views; (3) a proposed rule was issued on May 9, 1985 with a 15 day comment period and no opposing views were received; (4) Florida lime handlers have been apprised of these requirements for Florida limits; (5) the lime import requirements are mandatory under section 8e of the act and they should be effective for the specified period; (6) the grade requirements for imported limes are the same as those for Florida limes; and (7) it was determined that an effective date of June 10, 1985 for this import regulation would provide adequate notice, this complies with section 8e of the act which requires at least three days notice before import regulations can be effective.

List of Subjects

7 CFR Part 911

Marketing agreements and orders, Florida, Limes.

7 CFR Part 944

Food grades and standards, Imports, Limes.

1. The authority citation for 7 CFR Parts 911 and 944 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 3, as amended. 7 U.S.C. 601–674.

PART 911—[AMENDED]

2. Section 911.344 Lime Regulation 43 (49 FR 25243) is amended by revising paragraph (a)(2), to read as follows:

§ 911.344 Florida Lime Regulation 43.

(a) On or after June 5, 1985, no handler shall handle any variety of limes grown in the production area unless: * * *

(2) Such limes of the group known as seedless, large-fruited, or Persian limes (including Tahiti, Bearss, and similar varieties) grade at least U.S. Combination, Mixed Color: *Provided*, That stem length shall not be considered a factor of greade: *Provided further*, That such limes not meeting these requirements may be handled within the production area, if they meet the minimum juice content requirement of at least 42 percent by volume specified in the U.S. Standards for Persian (Tahiti) limes, if they meet the minimum size requirements specified in paragraph (a)(3) of this section, and if they are handled in containers other than those authorized in section 911.329; and *Provided further*, That during the period June 1 of each year through January 31 of the following year, no handler shall ship such limes to destinations outside the production area unless they grade at least U.S. Combination, Mixed Color, with the stipulation that stem length shall not be a factor of grade and at least 75 percent, by count, of the limes in the lot grade at least U.S. No. 1 and 25 percent, by count, of the limes grade at least U.S. No. 2.

* * * * *

PART 944—[AMENDED]

3. Section 944.209 Lime Import Regulation 10 is amended by revising paragraph (a) to read as follows:

§ 944.209 Lime Import Regulation 10.

(a) *Applicability to imports.* Pursuant to section 8e of the act and Part 944-Fruits; Import Regulations, the importation into the United States of any limes is prohibited on or after June 10, 1985, unless such limes meet the minimum grade and size requirements specified in § 911.344 Florida Lime Regulation 43.

* * * * *

Dated: May 3, 1985.

Thomas R. Clark,

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

[FR Doc. 85-13578 Filed 6-4-85; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 85-AWA-13]

Alteration of Restricted Area R-6501A Underhill, VT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the times of use for Restricted Areas R-6501A located in the vicinity of Underhill, VT, indicating more accurately when the area is being utilized.

EFFECTIVE DATE: 0901 GMT, August 1, 1985.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenues, SW., Washington, D.C. 20591; telephone (202) 426-8526.

SUPPLEMENTARY INFORMATION:

History

On March 26, 1985, the FAA proposed to amend Part 73 of the Federal Aviation Regulations (14 CFR Part 73) to change the times of use for Restricted Area R-6501A from continuous to a specific time of use (50 FR 11895). A review of R-6501A conducted by the Department of the Army indicated R-6501A is not used on a continuous basis. This would amend the time of designation to reflect actual times of use. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 73.65 of Part 73 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

The Rule

This amendment to Part 73 of the Federal Aviation Regulations changes the times of use for Restricted Area R-6501A located in the vicinity of Underhill, VT, reflecting more accurately when the area is being utilized.

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

under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 73

Restricted areas, Airspace, Navigation (air).

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is amended, as follows:

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

Authority: 49 U.S.C. 1348(a), 1354(a), 1510 and 1522; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.69; and 49 CFR 1.47.

2. Section 73.65 is amended as follows:

R-6501A Underhill, VT—[Amended]

By removing the word "Continuous." and substituting the words "0700 to 2300 local time, Monday–Friday and 0000 Saturday to 2359 Sunday, local time. Other times by NOTAM 24 hours in advance."

Issued in Washington, D.C., on May 29, 1985.

James Burns, Jr.,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 85-13449 Filed 6-4-85; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 373

[Docket No. 40110-5076]

Revision of Distribution License Procedure

Correction

In FR Doc. 85-12598 beginning on page 21562 in the issue of Friday, May 24, 1985, make the following corrections:

1. On page 21562, in the second column, in the **EFFECTIVE DATE** paragraph, in the second line, "July 23, 1984" should read "July 23, 1985".

2. On page 21563, in the third column, in the first complete paragraph, in the seventh line, "in six" should read "of six".

3. On page 21565, in the second column, in the twelfth line from the bottom, "April 23, 1985" should read "April 23, 1986".

4. In the third column in the paragraph designated "2" ', in the seventh line, "June 24, 1984" should read "June 24, 1985"; in the paragraph designated "3", in the thirteenth line, "May 23, 1986" should read "April 23, 1986", and in the last two lines of the paragraph, "October 21, 1984" should read "October 21, 1985".

5. On page 21566, in the second column, in § 373.1(f), in the eleventh line, "system" should read "systems".

6. On page 21570, in the second column, in § 373.3(e)(2)(ix), in the second line, insert "and" between "(h)" and "(m)"; also, in the second column, in § 373.3(e)(2), in the eighteenth line in the column, insert "internal" after "consignee's".

7. On page 21571, in the third column, in § 373.3(i)(2), in the third line, "the" should read "a".

8. On page 21572, in the second column, in § 373.3(j)(3)(i), in the second line, insert "may" after "consignee".

9. On page 21573, in the second column, in § 373.3(k)(4)(i), in the twelfth line, "established" should read "establishing".

10. On page 21574, in the third column, in amendatory instruction 4, the sixteenth, seventeenth, and eighteenth lines should read: "entry 1565 is redesignated as footnote 8 and revised; footnotes 3".

BILLING CODE 1505-01-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Contract Market Enforcement of Floor Broker Registration Requirements

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has adopted a final rule requiring each contract market to adopt and enforce rules prohibiting any person from executing orders for any other person on the floor of that contract market, unless that person is first registered with the Commission as a floor broker in accordance with the provisions of sections 4e and 4f(1) of the Commodity Exchange Act ("Act") and the regulations thereunder. The rule will take effect on October 1, 1985 in order to afford contract markets sufficient time to adopt rules in accordance with the requirements set forth therein.

EFFECTIVE DATE: October 1, 1985.

FOR FURTHER INFORMATION CONTACT: Lawrence B. Dolins, Esq., Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Telephone: (202) 254-8955.

SUPPLEMENTARY INFORMATION: On August 7, 1984, the Commission published for comment in the **Federal Register** a proposed rule to require designated contract markets to adopt and enforce rules prohibiting any person from executing orders for any other person on the floor of that contract market, unless that person is first registered with the Commission as a floor broker in accordance with the provisions of sections 4e and 4f(1) of the Act, 7 U.S.C. 6e and 6f(1) (1982), and the regulations thereunder.[1] The sixty-day comment period was extended twice in order to afford all interested parties, in particular, the designated contract markets which requested the extensions, an opportunity to submit comments.[2] The comment period, as extended, ended January 16, 1985.

The Commission received one comment in response to its proposed rule. The Coffee, Sugar and Cocoa Exchange, Inc. ("Exchange") opposed the rule. Essentially, the Exchange argued the Commission lacked the statutory authority to adopt the rule. Moreover, the Exchange asserted that the rule, if adopted, would be difficult to implement because current registration information with respect to floor brokers is not always available. The Commission has carefully considered the objections of the Exchange and, for the reasons set forth below, has determined to adopt the rule as proposed.[3]

[1] 49 FR 31442.

[2] 49 FR 44105 (November 2, 1984) and 49 FR 48570 (December 13, 1984). The Commission notes that, in support of the requests for an extension of the comment period, the Chicago Board of Trade and the Chicago Mercantile Exchange each advised the Commission that several exchanges were considering whether it would be possible to petition the Commission for authority under section 8a(10) of the Act to perform the registration functions with respect to floor brokers. On May 23, 1985, the Commission received such a petition filed by the Chicago Board of Trade. This petition will receive the Commission's careful consideration. However, because the obligation of contract markets under this rule to ensure that anyone acting as a floor broker is registered as such will not be altered if the contract markets are authorized to perform such registration function, the Commission has determined to proceed with the adoption of rule 1.62 at this time.

[3] In the Federal Register release accompanying the proposed rule, the Commission noted that it is authorized under section 8a(7) of the Act, 7 U.S.C. 12a(7), to alter or supplement exchange rules as necessary or appropriate and requested comment on whether the Commission should proceed under section 8a(7) rather than adopting proposed rule 1.62. The Exchange questioned the authority of the Commission to act under section 8a(7). Since the Commission has determined to adopt rule 1.62, it is not necessary to address the objections of the Exchange in this matter.

Lack of Statutory Authority

The Commission proposed rule 1.62 under the statutory authority contained in sections 4c, 4e, 4f, 5, 5a and 8a of the Act, 7 U.S.C., sections 6c, 6e, 6f, 7, 7a, and 12a (1982). The Exchange argued that the above sections did not authorize the Commission to adopt this rule as proposed. The Commission disagrees.

Section 8a(5) of the Act authorizes the Commission to make and promulgate such rules and regulations as, in its judgment, are reasonably necessary to accomplish any of the purposes of the Act. At least one court has recognized that rules promulgated pursuant to section 8a(5) of the Act should be sustained where a rule is reasonably related to the purposes of, and is not otherwise inconsistent with, the Act or applicable laws. *Board of Trade Clearing Corp.* v. *United States*, Comm. Fut. L. Rep. (CCH) [1977–80 Transfer Binder] ¶20,534 at p. 22,207 (D.D.C. 1978) *aff'd per curiam, Board of Trade Clearing Corp.* v. *CFTC*, No. 78–1263 (D.C. Cir. March 29, 1979); *Cf. Mourning* v. *Family Publications Service, Inc.*, 411 U.S. 356, 369 (1973); *FCC* v. *Schreiber*, 381 U.S. 279, 291 (1965). The Commission believes that rule 1.62 is a reasonable means of achieving one of the primary statutory purposes underlying the Act, to ensure the qualifications of all persons dealing with or on behalf of customers.

As the Commission noted in the **Federal Register** release accompanying proposed rule 1.62:

> Registration with the Commission of particular market participants is fundamental if the Commission is to meet its statutory responsibilities to protect investors and to promote fair and honest dealing on the part of those persons subject to the Act. In addition, the highest ethical standards must prevail in the commodity futures industry, and registration is one of the means available to the Commission to achieve this result.[4] As stated by the United States Court of Appeals for the Second Circuit:
>
> The intent of the congressional design is clear; persons engaged in the defined regulated activities within the commodities business are not to operate as such unless registered, [sic] the Commission is charged in the first instance with determining the applicant's qualifications and whether proper grounds exist for refusing registration, and the Commission is empowered to seek injunctive prohibitions against violations of any provisions of the Act, including registration provisions. Registration is the kingpin in this statutory machinery, giving the Commission the information about participants in commodity trading which it so vitally requires to carry out its other statutory functions of monitoring and enforcing the Act.[5]
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> * * * * *
>
> The Commission believes that making registration an exchange requirement is consistent with self-regulation and that assuring the registration of floor brokers may be more readily accomplished by the exchanges through daily membership supervision than by the Commission through its floor surveillance program and other surveillance techniques. The Commission further believes that implementation by the exchanges of rules to require registration of floor brokers is a reasonable adjunct to the regular membership screening already performed by the exchanges.[6]

Thus, the Commission believes it has ample authority under section 8a(5) of the Act to adopt rule § 1.62. This rule will complement the Commission's enforcement capability with respect to its registration requirements and will ensure that certain minimum standards are imposed uniformly on all persons currently executing orders for others. Moreover, the rule is consistent with its general policy of requiring direct regulation in the first instance by the contract markets.

Availability of Current Registration Information

In support of its contention that the rule will be difficult to implement, the Exchange notes that the Commission formerly had published its directory of floor brokers only once each year and, since all floor broker registrations expired on March 31 each year, the directory would lose its usefulness on that date. Although floor brokers who renew their registrations receive a letter from the Commission confirming that such registration has been renewed, these letters were frequently not mailed until April. Thus, there would be a period of time when the registration status of floor brokers would be in doubt.

The Commission recognizes that it is essential that contract markets have available the most current information possible with respect to the registration status of their floor brokers. Therefore, the Commission intends to prepare and send monthly to each contract market a report of all floor brokers then currently registered who have indicated that they have trading privileges on that contract market.

In order to ensure that each contract market and the Commission have identical records on the effective date of this rule the Commission intends to send each contract market by June 15, 1985, a report of the registered floor brokers who have indicated that they have been granted trading privileges by that contract market. The contract market and its members will have an opportunity to identify any omissions to the Commission and correct them prior to implementation of the rule. In this connection, the Commission notes that an applicant for registration as a floor broker must identify on the Form 8–R each exchange on which the applicant has trading privileges. In addition, Commission rule 3.31(b), 17 CFR 3.31(b) (1984), requires an applicant or registrant to notify the Commission on Form 3–R whenever any information on the Form 8–R becomes deficient or inaccurate. Thus, each floor broker has a continuing obligation to keep the Commission advised of the exchanges on which he has trading privileges.

Regulatory Flexibility Act

In the proposal, the Commission noted that the only regulated entities affected by proposed rule 1.62 are contract markets, which the Commission has determined are not "small entities" within the meaning of the Regulatory Flexibility Act.[7] The Commission received no comments on this issue. Accordingly, pursuant to section 3(a) of the Regulatory Flexibility Act,[8] the Chairman, on behalf of the Commission, certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

In accordance with the Paperwork Reduction act of 1980, 44 U.S.C. Chapter 35 (1982), the Commission previously has submitted this rule to the Office of Management and Budget. The control number provided for this rule is 3038–0024.

List of Subjects in 17 CFR Part 1

Commodity exchanges, Floor brokers, Registration.

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

Authority: 7 U.S.C. 2, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 7, 7a, 12a, 13a, 13a–1, 19 and 21, unless otherwise noted.

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[4] *See Commodity Futures Trading Commission* v. *J.S. Love and Associates Options, Ltd.* 422 F. Supp. 652, 659 (S.D.N.Y. 1976).

[5] *Commodity Futures Trading Commission* v. *British American Commodity Options Corp.*, 560 F.2d 135, 139–40 (2d Cir. 1977), *cert. denied*, 438 U.S. 905 (1978).

[6] 49 FR at 31422.

[7] 5 U.S.C. 601(3) and (6) (1982). *See* 47 FR 18618 (April 30, 1982).

[8] 5 U.S.C. 605(b) (1982).

2. Section 1.62 is added and, as added, reads as follows:

§ 1.62 Contract market requirement for floor broker registration.

Each contract market shall adopt, maintain in effect, and enforce rules which have become effective pursuant to Section 5a(12) of the Act and § 1.41 of this chapter and which provide that no person in or surrounding any pit, ring, post, or other place provided by such contract market for the meeting of persons similarly engaged, shall purchase or sell for any other person any commodity for future delivery, or any commodity option, on or subject to the rules of that contract market, unless such person is registered with the Commission as a floor broker in accordance with Section 4f of the Act and § 3.11 of this chapter, and such registration has not expired nor been suspended (and the period of such suspension shall not have expired) nor revoked.

Issued in Washington, D.C. on May 30, 1985, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 85-13496 Filed 6-4-85; 8:45 am]

BILLING CODE 6351-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 200

[Release Nos. 33-6583, 34-22091, 35-23711, 39-988, IC-14546, IA-976]

Revision of Rule Concerning Post-Commission Employment

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: Rule 8(b) of the Commission's Conduct Regulation, 17 CFR 200.735-8(b), requires former Commission members and employees to notify the Commission's Secretary of contemplated appearances before the Commission for two years after leaving the agency. The Commission has adopted an amendment to clarify the circumstances under which it requires notification of a contemplated representation before the agency and the information to be included in that notification.

EFFECTIVE DATE: June 5, 1985.

SUPPLEMENTARY INFORMATION: Former members and employees of the Commission are subject to the post-employment restrictions described in 18 U.S.C. 207 and Rule 8 of the Commission's Conduct Regulation, 17 CFR 200.735-8. Those restrictions generally prohibit former members and employees from engaging in representations to the United States in connection with matters for which they had some responsibility while employed by the Commission. The breadth of the disqualification is tied to the extent of the former member's or employee's participation in the particular matter. Accordingly, a former employee who participated personally and substantially in a matter is barred permanently from appearing in a representative capacity or participating in the matter, so long as the United States is a party or has a continuing interest in the matter. A member or employee who had official responsibility for a matter within one year prior to leaving Government service is subject to a comparable prohibition. However, the prohibition based on official responsibility extends for only two years after leaving the Government.

To enable the Commission to monitor compliance with post-employment restrictions, 17 CFR 200.735-8(b) requires former members and employees of the Commission to advise the Commission's Secretary of contemplated appearances before the Commission in a representative capacity and to represent that the contemplated appearance is consistent with the applicable restrictions. Since the restrictions are intended to prohibit both appearances before the agency and communications with intent to influence, the Commission must be advised of situations in which a former member or employee is contemplating a physical appearance before the agency or its staff, a filing with the Commission, or an oral communication to the agency or its staff. As federal post-employment restrictions apply in situations where a representation consists of telephone communication as well as a physical appearance,[1] effective monitoring of the post-employment activities of former members and staff requires notification of any representative activity—oral, written or physical presence—which involves the Commission or its staff.

However, because of an oversight when the Conduct Regulation was amended in 1980, Rule 8(b) can be read to only require notice when a physical appearance before the Commission or filing with the Commission is contemplated. Conversely, Rule 8(b) can be read to permit former Commission members and employees to refrain from notifying the Commission's Secretary when representation of a client will require only telephone or informal written communication with the staff, but not the filing of a document [2] or a physical appearance before the Commission or its staff. Such a reading, however, is clearly not consistent with the intent or spirit of the rule, and not in keeping with the requirements of 18 U.S.C. 207.

Accordingly, the Commission is amending 17 CFR 200.735-8(b) to clarify the circumstances under which former members and employees are required to notify the Commission's Secretary of contemplated appearances before the agency and to more specifically describe the required contents of that notification. Former staff members should be aware that violations of provisions of the Commission's Conduct Regulation can subject them to disqualification from appearing and practicing before the Commission.[3]

Regulatory Flexibility Act

No regulatory flexibility analysis (or certification that one is not required) is necessary because the rules are procedural, and thus not within the definition of "rule" for purposes of Chapter 6, Title 5, U.S.C.

List of Subjects in 17 CFR Part 200

Administrative practice and procedure, Freedom of information, Privacy, Securities.

Text of Amendment

PART 200—ORGANIZATION, CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

In consideration of the foregoing, the Commission hereby amends Part 200 of Chapter II, Title 17, Code of Federal Regulations, as follows:

1. The authority citation for Subpart M of Part 200 continues to read as follows:

Authority: Secs. 19, 23, 48 Stat. 85,901, as amended, sec. 20, 49 Stat. 833, sec. 319, 53 Stat. 1173, secs. 38, 211, 54 Stat. 841, 855; 15 U.S.C. 77s, 78w, 79t, 77sss, 80a-37, 80b-11; E.O. 11222; 3 CFR, 1964-1965 Comp., 5 CFR 735.104.

2. Paragraph (b) of § 200.735-8 is revised as follows:

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[1] *See* 5 CFR 737.5(b)(3).

[2] The definition of "appear before the Commission" includes "the conveyance of material in connection with a formal appearance or application to the Commission." Former members and employees should be advised that this includes the transmission of any documents to the Commission for the purpose of filing, request or notification. 17 CFR 200.735-8(c).

[3] 17 CFR 200.735-13(a).

§ 200.735–8 Practice by former members and employees of the Commission.

* * * * *

(b)(1) Any former member or employee of the Commission who, within 2 years after ceasing to be such, is employed or retained as the representative of any person outside the Government in any matter in which it is contemplated that he or she will appear before the Commission, or communicate with the Commission or its employees, shall, within ten days of such retainer or employment, or of the time when appearance before, or communication with the Commission or its employees is first contemplated, file with the Secretary of the Commission a statement which includes:

(i) A description of the contemplated representation;

(ii) An affirmative representation that the former employee while on the Commission's staff had neither personal and substantial responsibility nor official responsibility for the matter which is the subject of the representation; and

(iii) The name of the Commission Division or Office in which the person had been employed.

(2) Employment of a recurrent character may be covered by a single comprehensive statement. Each such statement should include an appropriate caption indicating that it is filed pursuant to this section. The reporting requirements of this paragraph do not apply to (i) communications incidental to court appearances in litigation involving the Commission; and (ii) oral communications concerning ministerial or informational matters or requests for oral advice not otherwise prohibited by paragraph (a) of this section.

* * * * *

The Commission finds that the foregoing action relates solely to rules of agency procedure or practice and, accordingly, that notice and prior publication for comments under the Administrative Procedure Act, 5 U.S.C. 551 *et seq.*, are unnecessary. *See* 5 U.S.C. 553(b).

By the Commission.
May 30, 1985.

Shirley E. Hollis,
Assistant Secretary.

[FR Doc. 85–13527 Filed 6–4–85; 8:45 am]
BILLING CODE 6010–01–M

DEPARTMENT OF ENGERY

Federal Energy Regulatory Commission

18 CFR Parts 154, 270, and 273

[Docket No. RM83–53–000; Order No. 423]

Purchased Gas Adjustments; Final Rule

Issued: May 30, 1985.

AGENCY: Federal Energy Regulatory Commission DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is amending its regulations to permit purchasers to use billing adjustments to recover interim collection refunds under 18 CFR 273.302 (1984). The Commission is also requiring interstate pipeline companies to file reports with their Purchased Gas Adjustment (PGA) filings identifying billing adjustments made to recover either interim collection refunds or general refunds under 18 CFR 270.101(e) (1984). Finally, the Commission is clarifying that 18 CFR 154.38(d)(4)(vii) requires interstate pipeline companies to report, and pay to their customers, all refunds recovered through billing adjustments.

EFFECTIVE DATE: August 19, 1985. If the Office of Management and Budget approval of the information collection provisions has not been received by that date, the Commission will issue a notice temporarily suspending the effective date.

FOR FURTHER INFORMATION CONTACT: Richard Howe, Jr., Office of the General Counsel Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357–8308.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Raymond J. O'Connor, Chairman; A.G. Sousa, Oliver G. Richard III and Charles G. Stalon.

Obligations of sellers and puchasers of First-Sale Natural Gas for refunds owed for collections in excess of maximum lawful prices under the Natural Gas Policy Act of 1978; Docket No. RM83–53–000; Order No. 423.

Issued: May 30, 1985.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is amending its interim collection refund provisions [1] to allow purchasers to make billing adjustments to recover interim collection refunds under 18 CFR 273.302 (1984). The final rule also requires interstate pipeline companies to file reports with their Purchased Gas Adjustment (PGA) filings identifying billing adjustments made to recover either interim collection refunds or general refunds under 18 CFR 270.101(e) (1984). Finally, the Commission is amending its regulations to clarify that interstate pipeline companies must pay to their customers, and report, all refunds recovered through billing adjustments.[2]

II. Background

Producers and other sellers of first-sale natural gas must refund any collections in excess of the applicable maximum lawful price under the Natural Gas Policy Act (NGPA).[3] Under the Commission's regulations, this obligation falls into two main categories: (1) Refund obligations under the Commission's interim collection refund requirements in § 273.302 and (2) all other potential refund obligations under the general refund provisions of § 270.101(e).

A. Section 273.302 Interim Collection Refund Cases

The maximum lawful price (MLP) in any first sale of natural gas depends on the applicable NGPA category of the gas. NGPA section 503 [4] requires the seller to apply to the appropriate state or Federal jurisdictional agency for a determination of eligibility to collect the MLPs for four categories of gas [5] for which the NGPA permits incentive prices higher than the MLPs of all other categories. The Commission reviews such agency determinations and may remand or reverse a determination unsupported by substantial evidence.

Once a first seller of natural gas has filed an application with a jurisdictional agency, it may collect prices up to the MLP for the applied for category of natural gas.[6] However, the present regulations require a seller to refund these interim collections by lump-sum payments with interest [7] within 60 days

[1] 18 CFR 273.302 (1984).

[2] 18 CFR 154.38(d) (4)(vii) (1984).

[3] 15 U.S.C. 3301–3432 (1982).

[4] 15 U.S.C. 3413 (1982).

[5] These categories are (1) new natural gas (section 102(c)); (2) certain gas produced from the Outer Continental Shelf (section 102(d)); (3) new onshore production wells (section 103(c)); (4) high-cost natural gas (section 107(c)); and (5) stripper well natural gas (section 108(b)).

[6] 15 U.S.C. 3413 (1982) (Section 503 of the NGPA); 18 CFR Part 273 (1984).

[7] 18 CFR 213.302(e) (1984). The interest payable on a § 273.302 interim collection refund is calculated under § 154.102 (c) and (d) of the Commission's regulations unless the refund is paid from an escrow account, in which case the accrued interest in the escrow account is the interest amount payable with the refund.

of denial of its application by the jurisdictional agency or the Commission or the seller's withdrawal of the application.[8] Within 90 days, a seller must file either a refund report [9] or a statement with the Commission certifying that no refund is required.

Section 273.302 prohibits billing adjustments by purchasers to recover interim collection refunds. Based on its experience with billing adjustments to satisfy sellers' refund liabilities under the Natural Gas Act (NGA),[10] the Commission concluded that such adjustments resulted in delays in reimbursing gas customers for overcharges. The Commission also believed that billing adjustments, as compared with lump-sum payments, made identification of overcharges and monitoring of sellers' progress in making refunds more difficult and time-consuming.[11]

B. Section 270.101(e) General Refund Cases

All refund obligations other than interim collection refunds fall under § 270.101(e) of the Commission's regulations. Most involve gas produced from disqualified NGPA section 108[12] stripper wells.[13] Section 270.101(e) refund obligations also arise in any sale of gas at an NGPA incentive price which the seller was not eligible, even on an interim basis under Part 273, to collect because it had never filed an application for a determination of eligibility or had made the sale after denial or withdrawal of an application.

Unlike § 273.302, which prohibits billing adjustments to collect interim collection refunds, § 270.101(e) allows such adjustments to carry out general refund obligations. Also unlike § 273.302, §270.101(e) contains no specific deadline for making refunds but simply requires that such refunds be made "promptly." Nor does § 270.101(e) require sellers to file refund reports similar to those required for interim collection refunds. Section 154.38(d)(4)(vvi) contains, however, a general requirement that interstate pipeline companies report all refunds in their PGA filings or as required by the refund provisions in their FERC Gas Tariffs. But it does not specify the exact information to be reported or make clear that billing adjustments are considered refunds.

C. The Notice of Proposed Rulemaking

On August 23, 1984, the Commission issued a Notice of Proposed Rulemaking (NOPR) seeking ways to facilitate the refund process. Specifically, the Commission proposed to amend § 273.302 to permit purchasers to use billing adjustments to recover interim collection refunds and to require interstate pipeline companies to file reports of refunds so recovered.[14] The Commission also proposed to amend § 270.101(f) to require interstate pipeline companies to file similar reports of general obligations recovered through billing adjustments and to amend §154.38(d)(4)(vii) to clarify that the requirements in that section that interstate pipeline companies report refunds in their PGA filings and pay such refunds to consumers apply to refunds recovered through billing adjustments. Finally, the Commission stated in the NOPR its policy that, although sellers have the primary responsibility for making refunds, pipeline companies also have an obligation as part of prudent management to ensure that they recover refunds owed to their customers.

Seventeen companies and one trade association filed comments on the NOPR.[15] The Commenters included producers, pipeline companies, and pipeline company customers. After reviewing the comments, the Commission has determined to issue a final rule adopting the proposed amendments with minor changes.

III. Discussion

A. Authorization of Billing Adjustments

The Commission seeks to ensure that refunds owed by producers and other first sellers are made as quickly as possible, in order to speed their ultimate payment to residential customers and other end-users. Permitting interim collection refunds to be made through billing adjustments as well as through lump-sum payments should aid in achieving this goal. First, billing adjustments provide pipeline companies and other first-sale purchasers a positive means of recovering refunds without waiting for producers to make their lump-sum payments. Pipeline companies have traditionally used billing adjustments to recoup most types of overcollections. Many pipeline companies already routinely calculate overcharges, compute interest owed, and inform producers of their general refund obligations. Accordingly, pipeline companies are in a position to use billing adjustments to take the initiative in recovering first sellers' interim collection refunds when sellers fail to make timely lump-sum payments.

Almost all the commenters, producers as well as pipeline companies, agree that allowing pipeline companies to use billing adjustments will speed collection of interim overcollection refunds. None oppose billing adjustments. Accordingly, the Commission concludes that the prohibition of billing adjustments to recover interim overcollection refunds, instead of avoiding delays in reimbursing gas customers for overcharges as the Commission originally intended, has hampered the collection of such refunds.

The other reason the Commission originally prohibited billing adjustments was its belief that billing adjustments

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[8] 18 CFR 273.302(e)(1) (1984).

[9] 18 CFR 273.302(f)(3). This section requires that a refund report state the amount of the overcharges and interest payable, the dates such refunds were due as well as when actually paid, the name and American Petroleum Institute number of the well that produced the gas sold, the state agency with which the seller's application for determination of eligibility was originally filed, and, if applicable, the date the seller withdrew the application. Sellers are also required to include in any refund report a statement of concurrence by the purchaser that all proper refunds have been made or indicate that the purchaser has not submitted such a statement to the seller. Thereafter, statements of concurrence or nonconcurrence not included with a seller's report become the filing obligation of the purchaser.

[10] 15 U.S.C. 717–717w (1982).

[11] *See* Natural Gas; Collection Authority; Refunds, 44 FR 37491 (June 27, 1979) (Order No. 36).

[12] 15 U.S.C. 3316 (1982).

[13] Prior to December 1983, the Commission's regulations provided that a well would lose its stripper well qualification and gas produced from that well would become subject to the otherwise applicable MLP if the well's production exceeded the qualifying level in any single ninety-day production period. Once that occurred, even if production quickly thereafter fell below qualifying levels, stripper well status could be regained only if the producer made a new filing for another determination of eligibility to sell gas from that well at stripper well prices. The Commission's regulations were amended effective December 7, 1983, to provide that, once the Commission has given stripper well approval, such status is not forfeited because production exceeds stripper well levels in one or more ninety-day production periods; however, the seller may collect only the otherwise applicable MLP, not the stripper well incentive price, for gas produced in those periods of higher production. *See* Reduction in Filing Requirements for Well Category Applications Under Sections 102, 103, and 107 and 108 of the Natural Gas Policy Act of 1978, 48 FR 44508 (Sept. 29, 1983) (Order No. 336). *See also* 48 FR 54947 (Dec. 7, 1983).

[14] Obligations of Sellers and Purchasers of First-Sale Natural Gas for Refunds Owed for Collections in Excess of Maximum Lawful Prices Under the Natural Gas Policy Act of 1978, 49 FR 34233 (Aug. 29, 1984) (Notice of Proposed Rulemaking and Statement of Policy).

[15] These commenters are Gulf Oil Corporation; Exxon Corporation; Arkansas Louisiana Gas Company; Northern Indiana Public Service Company; Pacific Gas and Electric Company; Southern Union Exploration Company; Conoco, Inc; American Gas Association; Northern States Power Company; Mitchell Energy Corporation; Public Service Company of Colorado; Tennessee Gas Pipeline Company; Northwest Central Pipeline Corporation; Niagara Mohawk Power Corporation; Natural Gas Pipeline Company of America; El Paso Natural Gas Company; Pogo Producing Company; and Mesa Petroleum Co.

made identification of overcharges and monitoring of refunds more difficult. Permitting billing adjustments does place additional administrative burdens on the Commission. However, that burden should be minimal since most of the refunds in question are small enough that billing adjustments can be completed in one month.[16] Hence, the disadvantage of a small additional administrative burden on the Commission is outweighed by the advantage of speeding refunds. For these reasons, the Commission has decided to permit billing adjustments, in addition to lump-sum payments, to recover interim collection refunds.

While no commenters oppose the use of billing adjustments as such, the commenters do raise a number of issues concerning the conditions under which pipeline companies will be permitted to use billing adjustments: (1) Whether producers should be given additional protection against incorrect billing adjustments, (2) the time within which a billing adjustment must be completed, (3) whether adjustments should be allowed against a pipeline company's payments for gas other than that for which the producer charged too high a price and (4) how pipeline companies should pay refunds obtained by billing adjustments to their customers.

As discussed more fully below, the Commission believes that additional protections for sellers against incorrect billing adjustments are generally unnecessary. But the rule does provide that purchasers must give sellers notice of billing adjustments to recover interim collection refunds and may not make those billing adjustments within the first 60 days after the refund requirement arose without the agreement of the seller. Also, if disputes arise concerning a billing adjustment, an aggrieved party may file a complaint with the Commission. The rule also provides that sellers and purchasers may agree to carry out billing adjustments over a longer period than 60 days, and adjustments may be made against a purchaser's payments for any gas. Finally, the issue of how pipeline companies should pay refunds to their customers may be more appropriately considered in the separate proceeding now being conducted concerning revisions to the Commission's PGA regulations.[17]

[16] The Commission's records show that the average per well refund is $37,000. In addition, 65% of all wells reported are stripper wells, and the average stripper well refund is $17,000.

[17] Revisions to the PGA Regulations, 49 FR 18539 (May 1, 1984) (Docket No. RM84-12-000) (Notice of Inquiry).

1. Protections for Producers

Some of the commenting producers assert that the Commission should provide that a purchaser can make a billing adjustment only after the producer has agreed to the adjustment. These commenters argue that purchasers may not have the information necessary to determine the amount owned accurately or that the parties may disagree on the amount. Some argue, in particular, that purchasers do not know the date producers received excess payments and thus cannot determine the interest owed. Other commenters state that the Commission should at least require purchasers to submit a statement to the producer before making the adjustment, giving all information necessary to enable it to verify the purpose and amount of the refund and possibly resolve any dispute concerning the adjustment before it is made.[18]

In order to guarantee that the rights of producers are protected, the Commission is modifying the proposed rule to provide that, before making a billing adjustment to recover an interim collection refund, the purchaser must give the producer notice of the amount of the adjustment and the time period during which it will be made. Also, the Commission modifies the proposal to provide that a purchaser must obtain the agreement of the seller before making any billing adjustment prior to the 60-day deadline for making interim collection refunds. Hence, producers can avoid billing adjustments by voluntarily refunding the entire overcollection within the first 60 days. However, if a producer does not make the refund within 60 days, as it is required to do under the rule, then the purchaser may proceed with a billing adjustment without agreement by the producer.

Some commenters argue that additional protections for sellers against incorrect billing adjustments are particularly important because the Commission's regulations do not provide a method to compensate producers for lost use of their money as a result of an incorrect billing adjustment. This concern is misplaced. A producer will be able to collect interest from purchasers to the extent the contract provides for interest to be paid on unpaid balances.

Finally, one commenter argues that unilateral billing adjustments could cause cash flow problems for producers who rely on a predictable level of revenue from their wells in order to meet current expenses. The Commission finds no evidence that billing adjustments to collect general refund obligations have caused producers more cash flow difficulties than lump-sum refund payments. Indeed, billing adjustments to recover interim collection refunds should cause less cash flow difficulties than lump-sum payments. This is because sellers must make lump-sum payments within 60 days but, as detailed in the next section of this order, the parties may agree to complete billing adjustments over a longer period. In addition, billing adjustments can be made during the inital 60-day period only with the agreement of the producer.

Accordingly, except as discussed above, the Commission has decided not to establish procedures governing the making of billing adjustments and resolution of disputes concerning them but to allow sellers and purchasers flexibility to work out these matters themselves.

The Commission recognizes, however, that occasionally the parties will be unable to resolve disputes concerning a billing adjustment. In such situations, the aggrieved party may resort to those remedies provided by state law or file a complaint with the Commission.

2. Time Limit for Billing Adjustments

Some commenters interpret the 60-day deadline for making interim collection refunds as requiring completion of billing adjustments within 60 days. They suggest that the Commission allow a longer period (12 months is suggested by one commenter). The commenters observe that the amount of the refund might be too large, compared with the amount the purchaser owes the producer for gas, for completion of a billing adjustment in 60 days.

The Commission wishes, first, to make clear that the 60-day deadline applies only to the producer's obligation to refund interim overcollections. As already discussed, purchasers may without agreement by the producer use billing adjustments, after expiration of the 60-day deadline, to collect refunds which the producer has not made.

Nevertheless, that deadline as set forth in the NOPR may impede agreement by producers and purchasers to use billing adjustments for making interim collection refunds. This is because a producer's agreement to a billing adjustment which would require more than 60 days might be construed as a violation of its obligation to make all such refunds within 60 days.

[18] This information would include the amount of the refund, the amount of interest, how the purchaser arrived at these figures, and the well to which the refund relates.

Accordingly, the Commission is modifying the language of the new § 273.302(e) to clarify that producers and purchasers may agree to carry out interim collection refunds through billing adjustments over a reasonable period. This permits use of billing adjustments where the refund is too large to enable completion of the adjustment in 60 days. Moreover, billing adjustments of more than 60 days should not harm anyone since the producer must, in any event, pay interest on the unpaid balance until all refunds are completed.[19]

3. Adjustments Against All Amounts Owed to Producer

Some commenters ask that the Commission clarify that purchasers may make billing adjustments against payments to the first seller for any gas, not just the gas from the well to which the refund relates. Payments for the latter gas are sometimes insufficient to cover the necessary refund. Indeed, the well may be abandoned or no longer in production. Another commenter claims, however, that permitting adjustments against payments for any gas would complicate tracking the amounts the purchaser owes for gas from each lease. Since sellers often pay royalties based on the payments they receive from their purchaser, they might miscalculate royalties with the result that lessors might cancel leases for underpayment of royalties.

The Commission believes that billing adjustments should be permitted with respect to any amounts owed by the producer to the purchaser. This will maximize the usefulness of billing adjustments as a means of expediting refunds. Specifically, this procedure will permit billing adjustments where purchasers otherewise could not make them because the well to which the refund relates would not produce sufficient cash flow to pay the refund. The Commission believes that producers should be able to work out procedures for tracking the amounts owed for production from each well so that any difficulties concerning royalties payments are minimized.

4. Clarification That Pipeline Companies Must Pay Refunds Recovered by Billing Adjustments to Their Customers

In the NOPR, the Commission proposed to amend §154.38(d)(4)(vii) of its regulations to clarify that interstate pipeline companies must pay refunds recovered by billing adjustments to their customers through PGA procedures. One commenter contends that the Commission should require interstate pipeline companies to pay refunds above a certain threshold level [20] in lump-sums to those customers actually harmed by the overcharges, instead of passing those refunds through by PGA procedures. It states that, in today's highly competitive gas market, large refunds could otherwise cause serious market distortions. Such large refund obligations could arise as a result of currently pending litigation such as the challenge to the Commission's treatment of production-related cost allowances.[21]

Another commenter asserts that the Commission should require that pipeline companies pass through all refunds recovered from their suppliers by lump-sum payments. It fears that otherwise the pipeline company from whom it purchases might keep its commitment to hold down rate increases by passing through refunds under PGA procedures rather than by renegotiating its supply contracts. Also, the commenter states that lump-sum refunds are easier to verify.

The Commission has determined not to address this issue at this time. The Commission has issued a Notice of Inquiry [22] in Docket No. RM84–12–000 requesting comments on, among other issues, whether pipeline companies should pay refunds to their customers by lump-sum cash payments "particularly where a large refund is involved," noting that such payment "avoids distortion of market signals and unfairness to the pipeline's competitors."[23] The Commission also observed, however, that there are often administrative disadvantages to lump-sum payments and requested comments on other possible approaches to the flow-through problem. Accordingly, the Commission has determined at this time to adopt the clarifying amendment to §154.38(d)(4)(vii), as proposed. The Commission believes that it may be more appropriate to consider, in the proceeding in Docket No. RM84–12–000, whether, in some circumstances, pipeline companies should pay refunds to their customers by lump-sum payments.

B. Reporting Requirements

The Commission proposed additional reporting requirements for interstate pipeline companies. The Commission concludes that those requirements are necessary to allow the Commission to discern more readily those cases where required refunds have been made. By eliminating these cases from its workload, the Commission will be able to devote more time to the remaining cases.

1. Section 273.302—Refund Reports by Interstate Pipelines.

The Commission proposed to amend §273.302(f) by requiring interstate pipeline companies to file reports with their PGA filings that identify those instances in which the pipeline companies have made billing adjustments to collect §273.302 interim overcollections.

Many of the commenters support this proposal. However, other commenters express confusion over the seller's reporting obligations when a purchaser recoups overpayments through billing adjustments. Other commenters argue that the current requirements are sufficient and that additional reporting requirements would be both duplicative and burdensome.

After reviewing the comments, the Commission concludes that this additional reporting requirement is necessary for it properly to monitor refunds made by billing adjustments. In addition, the Commission wishes to clarify that when the purchaser makes a billing adjustment to recover interim overcollections, the first seller is relieved of its reporting obligation under §273.302(f). Section 273.302(f)(1)(ii) provides that only the purchaser, not the seller, must report refunds made through billing adjustments. However, when the producer makes lump-sum payments of refunds, the producer must report the refund.

2. Section 270.101—Filing Requirements for Interstate Pipelines

As pointed out in the proposed rule, about half of the potential refund cases arise under the §270.101(e) general refund requirements. Because §270.101(e) does not require natural gas companies to file any reports on general refund obligations, the Commission has had difficulty identifying refunds actually made. The Commission proposal required interstate pipeline companies to make refund reports with their PGA filings when they make billing adjustments to effect §270.101(e) refunds, similar to the reports required with respect to interim collection

[19] 18 CFR 154.102(c)(2) (1984). This statement satisfies the request of one commenter for a clarification that interest must be paid on the unpaid balance before billing adjustments are completed.

[20] The commenter suggests that the threshold be the greater of a $5,000,000 refund or a refund that would result in a price change of more than 1¢ per MMBtu.

[21] Texas Eastern Transmission Corp. v. FERC, No. 83–4390 (5th Cir. filed Aug. 26, 1980). The court heard oral argument on March 8, 1985.

[22] Revisions to the PGA Regulations, 49 FR 18539 (May 1, 1984) (Notice of Inquiry).

[23] *Id.* at 18542.

refunds recovered by billing adjustments.

The majority of the commenters recognize the need for additional reporting requirements and support the proposed amendment to §270.101; some view the additional reporting requirements as a burden on both producers and purchasers. One commenter suggests that the Commission impose reporting requirements on interstate pipeline companies which do not have PGA clauses in their tariffs. Another commenter suggests that the Commission require that interstate pipeline companies report lump-sum refunds as well as billing adjustments in PGA filings and include a description of the status of each refund which is due, but not yet collected.

The proposed reports of general obligation refunds recovered by billing adjustments are necessary in order for the Commission to monitor refunds properly. The Commission agrees that it should require pipeline companies without PGA clauses who recover refunds through billing adjustments to file annual refund reports. Otherwise, the Commission would not be able to monitor refunds made to and by such pipeline companies. The Commission will not require pipeline companies to file status reports of outstanding refund obligations. These reports would not provide the Commission sufficient additional assistance in monitoring refunds to justify their burden.

3. Supplemental Reports by Sellers

The Commission also requested comments on the need for additional reporting requirements for first sellers of natural gas, including requiring that sellers file reports of all § 270.101(e) refunds that they make or requiring sellers to make a one-time report identifying all § 270.101(e) general refund obligations and § 270.302 interim collection refund obligations outstanding as of the effective date of the reporting requirement.

In light of the widespread opposition to these proposals, the Commission has decided not to adopt any additional reporting requirements for first sellers. The Commission expects that the reports required of interstate pipeline companies in conjunction with the policy statement issued with the NOPR will provide staff with sufficient information to monitor effectively the payment of refunds resulting from first sale overcharges. The Commission may, on a case-by-case basis, impose such other reporting requirements as are necessary to ensure that appropriate refunds are made in a timely manner.

One commenter requests that the Commission clarify that the first seller refund and reporting requirements in §§ 270.101(e) and 273.302 apply to pipeline companies that produce natural gas. To the exent pipeline companies are first sellers, they must of course comply with those requirements.

4. Reports by Other Purchasers

The Commission proposed not to require purchasers of first sale gas and other than interstate pipeline companies to file refund reports. Such other purchasers include intrastate pipeline companies, local distribution companies, Hinshaw pipeline companies, and end users. The Commission tentatively concluded that the additional interstate pipeline company filing requirements would be sufficient to enable it to deal effectively with its backlog of refund cases.

The commenters who addressed this issue agree with the Commission's tentative determination. The Commission continues to believe that these additional reports are unnecessary for the Commission to reduce its backlog of refund cases. Accordingly, the Commission will not burden purchasers with any additional reporting requirements.

IV. Certification of No Significant Economic Impact

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612 (1982), requires certain statements, descriptions and analyses of rules that will have "a significant economic impact on a substantial number of small entities." The Commission is not required to make an RFA analysis if it certifies that a rule will not have "significant economic impact on a substantial number of small entities."[24]

In view of the considerations discussed below, the Commission has determined, pursuant to section 605(a) of the RFA,[25] that neither the additional filing requirements nor the rule in general will have "a significant economic impact on a substantial number of small entities."

This rule first amends § 273.302(e) to permit billing adjustments to effect refunds required under that section. That section formerly required that refunds be made in single, full-amount, lump-sum payments. There is no requirement that either a seller or purchaser make a billing adjustment. The rule merely permits an alternative procedure for paying already existing refund liabilities of fixed amounts. Accordingly, this aspect of the rule would not have a "significant economic impact on a substantial number of small entities."

The rule would also amend § 154.38(d)(4)(vii) to clarify that the references to refunds in that section include refunds recovered by billing adjustments. This amendment would not have a "significant economic impact on a substantial number of small entities" since it merely clarifies what § 154.38(d)(4)(vii) has always meant.

The rule also requires that interstate pipeline companies file reports with the Commission concerning refunds recovered by billing adjustments. But, the rule does not require interstate pipeline companies to make billing adjustments unless prudency so requires. Therefore, whether an interstate pipeline company must file a report depends on its decision to make a billing adjustment. Furthermore, in cases involving § 273.302 interim collection refunds, the reports would be in lieu of the sellers' § 273.302(f) refund reports.

V. Paperwork Reduction Act

The Commission will submit the information collection provisions in this rule to the Office of Management and Budget (OMB) for its approval under the Paperwork Reduction Act, 44 U.S.C. 3501–3520 (1982), and OMB's regulations, 5 CFR 1320.13 (1984). Interested persons can obtain information concerning the information collection provisions by contacting the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426 (Attention: Richard Howe, Jr., ((202) 357–8308). Comments on the information and collection provisions can be sent to the Office of Information and Regulatory Affairs of OMB (Attention: Desk Officer for the Federal Energy Regulatory Commission).

VI. Effective Date

This rule will become effective August 19, 1985. If OMB's approval has not been received by that date, the Commission will issue a notice temporarily suspending the effective date.

List of Subjects

18 CFR Part 154

Natural gas.

18 CFR Part 270

Natural gas, Wage and price controls.

18 CFR Part 273

Natural gas.

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[24] 5 U.S.C. 605(b) (1982).

[25] *Id.*

In consideration of the foregoing, the Commission amends Parts 154, 270, and 273, Title 18, Code of Federal Regulations, as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 154—[AMENDED]

1. The authority citation for Part 154 is revised to read as follows:

Authority: Natural Gas Act, 15 U.S.C. 717–717w (1982); Department of Energy Organization Act, 42 U.S.C. 7102–7352 (1982); Executive Order No. 12,009, 3 CFR Part 142 (1978); Independent Offices Appropriations Act, 31 U.S.C. 9701 (1970).

2. Section 154.38(d)(4)(vii) is revised to read as follows:

§ 154.38 Composition of rate schedule.

* * * * *

(d) *Statement of Rate.* * * *

(4) * * *

(vii) The jurisdictional portion of all refunds, including those effected by billing adjustments pursuant to § 270.101(e) or § 273.302 of this chapter, received from suppliers (including interest received) applicable to purchases after a PGA clause becomes effective must be flowed through to the company's jurisdictional customers. If the company uses deferred accounting for unrecovered purchased gas costs, the jurisdictional portion of all refunds received (including interest received) must be credited to the unrecovered purchased gas cost account. If the company does not use deferred accounting and holds supplier refunds for more than 30 days, the jurisdictional portion of supplier refunds (including interest received) applicable to purchases after a PGA clause becomes effective must be flowed through to the company's jurisdictional customers with interest. The reporting requirements for refunds accomplished through billing adjustments are set forth in § 270.101(f) and § 273.302(f) of this chapter. An interstate pipeline, not required to make a PGA filing by this section, that recovered refunds through billing adjustments pursuant to § 270.101(e) or § 273.302 during a calendar year, must file a refund report for that year by the following March 1 which sets forth all the information required by § 270.101(f) and § 273.302(f)(2)(i) of this chapter. Any requirement for the serving and filing of other reports, showing details of the computations of any such refunds, must be either as agreed in settlement discussions held among the company, jurisdictional customers, interested State commissions, other interested parties, and the Commission staff, or as prescribed by Commission order.

* * * * *

PART 270—[AMENDED]

3. The authority citation for Part 270 is revised to read as follows:

Authority: Natural Gas Act, 15 U.S.C. 717–717w (1982); Department of Energy Organization Act, 42 U.S.C. 7102–7352 (1982); Executive Order No. 12,009, 3 CFR Part 142 (1978); Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (1982), unless otherwise noted.

4. Section 270.101 is amended by adding a new paragraph (f) to read as follows:

§ 270.101 Application of ceiling prices to first sales of natural gas.

* * * * *

(f) *Filing Requirements.* An interstate pipeline must include with any Purchased Gas Adjustment (PGA) filing under § 154.38 of this chapter, a refund report identifying all billing adjustments that are reflected in the interstate pipeline's PGA filing to effect refunds required to be made to it by sellers under paragraph (e) of this section. The interstate pipeline must file with the Commission the original and two copies of a refund report showing for each seller:

(1) The amounts of overcharges and interest to be refunded by that seller as determined in accordance with paragraph (e) of this section;

(2) The amounts of, and dates on which, billing adjustments were made by the pipeline to satisfy the seller's refund obligations under paragraph (e) of this section in whole or in part;

(3) The well name and, if available, American Petroleum Institute Well Number of the well that produced the natural gas for which the interstate pipeline was overcharged by that seller; and

(4) The date that overcollection began or, if applicable, the date of stripper gas well disqualification.

5. The authority citation for Part 273 is revised to read as follows:

Authority: Natural Gas Act, 15 U.S.C. 717–717w (1982); Department of Energy Organization Act, 42 U.S.C. 7102–7352 (1982); Executive Order No. 12,009, 3 CFR Part 142 (1978); Natural Gas Policy Act of 1978, 15 U.S.C. 2201–3432 (1982), unless otherwise noted.

6. Section 273.302 is amended by revising paragraphs (e)(1) and (f) to read as follows:

§ 273.302 Refunds of interim collections.

* * * * *

(e) *Refund payments.* (1)(i) Except as provided in paragraph (e)(1)(ii) of this section, within sixty (60) days after a determination becomes final denying a first sale eligibility for the price collected under this part, or within sixty (60) days after the date on which an application for determination is withdrawn by the applicant, while it is before the Commission or the jurisdictional agency, the seller must refund to the purchaser the refund amount computed under paragraph (h) of this section together with interest determined in accordance with §§ 154.102(c) and (d) of this chapter on the excess charges that have been collected from the date of payment until the date of refund.

(ii) If a refund required by paragraph (e)(1)(i) of this section is made through a billing adjustment, the seller and purchaser may agree that the billing adjustment will be completed in a reasonable period which may exceed sixty (60) days.

(iii) A purchaser may not use a billing adjustment to recover a refund required by paragraph (e)(1)(i) of this section before the expiration of the sixty (60) day period for the seller to make the refund unless the seller has previously agreed to the billing adjustment. If the seller fails to make a refund within the sixty (60) day period, the purchaser may use a billing adjustment to recover the refund without agreement by the seller. Before making a billing adjustment, a purchaser must provide the seller written notice of the amount of the refund to be recovered and the time period during which the billing adjustment will be completed.

* * * * *

(f) *Filing requirements.* (1) *Sellers.* (i) Except as provided in paragraph (f)(1)(ii), within ninety (90) days of either the date a final determination of eligibility is obtained that the sale is not eligible for the price category stated in the application for determination, or the date a seller withdraws an application, the seller must:

(A) File with the Commission (*1*) an original and two copies of a refund report showing, for each purchaser, the amount of overcharges and interest to be refunded, as determined in accordance with paragraph (e) of this section, the dates on which any refunds were due, and the dates on which refunds were paid; or

(*2*) A statement certifying that no refund is due under this section. Either the refund report or the certification that no refund is required must include the following information: the well name; the American Petroleum Institute Well

Number, if available; the jurisdictional agency with which the application for determination was filed; and, if applicable, the date of withdrawal of the application; and

(B) File with the Commission (*1*) a statement of concurrence by the purchaser that all proper refunds have been made; or

(*2*) If a purchaser does not submit a statement of concurrence to the seller, a statement that no concurrence was received.

(ii) A seller is not required to include in a report filed under paragraph (f)(1)(i) any information regarding a refund recovered by an interstate pipeline through a billing adjustment.

(2) *Interstate Pipelines.* (i) An interstate pipeline must include with any Purchased Gas Adjustment Filing under § 154.38 of this chapter, a refund report identifying all billing adjustments that are reflected in the interstate pipeline's PGA filing to effect refunds required to be made to it by sellers under paragraph (e) of this section. The interstate pipeline must file with the Commission the original and two copies of the refund report showing for each seller:

(A) The amounts of overcharges and interest to be refunded by that seller as determined in accordance with paragraph (e) of this section;

(B) The dates on which any refunds by the seller were due;

(C) The amounts of, and the dates on which, billing adjustments were made by the pipeline to satisfy the seller's refund obligations under paragraph (e) of this section in whole or in part;

(D) The well name and, if available, American Petroleum Institute Well Number of the well that produced the natural gas for which the interstate pipeline was overcharged by that seller; and

(E) If applicable, the date of withdrawal of the seller's application.

(ii) If the interstate pipeline does not submit a statement of concurrence to the seller concerning refunds under § 273.302 of this chapter, the interstate pipeline must submit to the Commission such concurrence or a statement indicating the reason for its refusal to submit its concurrence with the seller. The interstate pipeline's submission is due within thirty (30) days of the date that a refund report or statement that does not include a statement of concurrence by the purchaser is filed by the seller. A duplicate of the submission must be served upon the seller.

* * * * *

[FR Doc. 85-13261 Filed 6-4-85; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 561

[FAP 4H5440/R768; PH-FRL 2845-3]

Pesticide Tolerance for Iprodione

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a feed additive regulation for residues of the fungicide iprodione in or on the feed commodity soapstock. This regulation to establish a maximum permissible level for residues of iprodione in or on soapstock was requested by Rhone-Poulenc, Inc. Elsewhere in this issue of the **Federal Register**, tolerances on various raw agricultural commodities are also being established.

EFFECTIVE DATE: Effective on June 5, 1985.

ADDRESS: Written objections, identified by the document control number [FAP 4H5440/R768], may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Room 3708, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Henry M. Jacoby, Product Manager (PM) 21, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Room 227, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-1900).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of December 12, 1984 (49 FR 48374), which announced that Rhone-Poulenc, Inc., P.O. Box 125, Monmouth Junction, NJ 08852, had submitted food/feed additive petition 4H5440 to the Agency proposing that 21 CFR be amended as follows:

1. In Part 193 by establishing a food tolerance for residues of the fungicide iprodione [3-(3,5-dichlorophenyl) *N*-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide], its isomer [3-(1-methylethyl)-*N*-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide] and its metabolite [3-(3,5-dichloro-phenyl)-2,4-dioxo-1-imidazolidinecarboxamide] in or on the commodity crude oil (of peanut fractions) at 1.0 ppm.

2. In Part 561 by establishing a feed tolerance for residues of the fungicide iprodione as expressed above in or on the commodity soapstock (of peanut fractions) at 10 ppm.

The petition was subsequently amended (May 8, 1985; 50 FR 19444) by withdrawing the proposed tolerance of 1.0 ppm for crude oil (of peanut fractions).

There were no comments received in response to the notices of filing.

The data submitted in the petition and other relevant material have been evaluated and discussed in a related document (PP 4F3129, 4F3111/R767) which appears elsewhere in this issue of the **Federal Register**.

The metabolism of iprodione is adequately understood, and an adequate analytical method, gas chromatography, is available for enforcement purposes.

The pesticide is considered useful for the purpose for which the feed additive regulation is sought, and it is concluded that the fungicide may be safely used in accordance with the prescribed manner when such uses are in accordance with the label and labeling registered pursuant to FIFRA as amended (86 Stat. 97 FIFRA) as amended (86 Stat. 973, 89 Stat. 751, U.S.C. 135(a) et. seq.)). Therefore, the feed additive regulation is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new food and feed additive levels, or conditions for safe use of additives, or raising such food and feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24945).

List of Subjects in 21 CFR Part 561

Feed additives, Pesticides and Pests.

Dated: May 23, 1985.

Steven Schatzow,

Director, Office of Pesticide Programs.

PART 561—[AMENDED]

Therefore, 21 CFR Part 561 is amended as follows:

1. The authority citation for Part 561 continues to read as follows:

Authority: 21 U.S.C. 348

2. Section 561.263 is amended by revising the table of feed commodities to read as follows:

§ 561.263 Iprodione.

* * * * *

Feed	Parts per million
Grape, pomace, dry	225.0
Raisin waste	300.0
Soapstock	10.0

[FR Doc. 85-13367 Filed 6-4-85; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[T.D. 8029]

Furnishing Statements Required With Respect to Certain Substitute Payments

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to statements required to be furnished by brokers and information returns of brokers. Changes to the applicable law were made by the Tax Reform Act of 1984. The regulations provide that a broker must furnish statements to its customers with respect to certain substitute payments received by the broker on behalf of such customers. The regulations also provide that brokers must make returns of information to the Internal Revenue Service respecting any customer to which such broker is required to furnish a statement. These regulations, which supersede the temporary regulations on this subject, affect brokers that receive substitute payments on behalf of customers and provide such brokers with the guidance needed to comply with the law.

DATES: The regulations apply to substitute payments received by brokers after December 31, 1984. The cross-references added to Part 1 under sections 6042 and 6049 are effective after December 31, 1984.

FOR FURTHER INFORMATION CONTACT: Bruce H. Jurist of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T), 202-566-3238, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

On October 24, 1984, the Federal Register published temporary regulations (T.D. 7987; 49 FR 42715) and proposed amendments (49 FR 42744) to the Income Tax Regulations (26 CFR Part 1) under section 6045 of the Internal Revenue Code of 1954. These amendments were proposed to conform the regulations to section 146 of the Tax Reform Act of 1984 (Pub. L. 98-369, 98 Stat. 690). Three written comments responding to this notice were received. No requests for a public hearing were received and accordingly none was held. After consideration of all written comments regarding the proposed amendments, those amendments are adopted as revised by this Treasury decision.

Public Comments

Section 6045(d) requires brokers to furnish written statements to their customers showing the amount of payments in lieu of dividends or tax-exempt interest (or such other items as the Secretary may prescribe) received by brokers on behalf of their customers. The proposed regulations required a broker to furnish a statement informing an individual that a payment is a substitute payment in lieu of a capital gain distribution or a return of capital, provided that the broker had reason to know the character of the payment by January 31 of the calendar year following the year in which the payment was received. Two comments were received suggesting that this requirement be removed from the regulations because, at the time substitute payments are made, brokers are unable to determine that the payments are in lieu of a capital gain distribution or are in lieu of a return of capital. In response to those comments, the final regulations provide that a broker is required to furnish a statement informing an individual that a payment is a substitute payment in lieu of a capital gain distribution or a return of capital, only if the broker has reason to know the character of the payment on the record date of such payment.

The proposed regulations required a broker to determine the identity of the customer whose securities were transferred and on whose behalf the broker received substitute payments. The determination with respect to substitute payments (other than for tax-exempt dividends and tax-exempt interest) had to be made using one of the following methods: (1) specific identification; (2) allocation and selection; or (3) any other method with the prior approval of the Commissioner. Under the allocation and selection method, the broker proportionately allocates the transferred shares of stock between two pools of shares, one consisting of shares owned by individuals and one consisting of shares owned by nonindividuals.

The Internal Revenue Service has received a number of applications for approval of identification methods that purportedly fall under the third method (*i.e.*, a method requiring the prior approval of the Commissioner). The identification methods described in the majority of these applications relate to various forms of the allocation and selection method described in § 1.6045-2(f)(2)(ii). Prior approval by the Commissioner is not required for any type of random or first-in-first-out ("FIFO") allocation method within the pool of nonindividual shares. These applications indicate that the scope of the third method has been misunderstood. The Commissioner's approval is necessary only where identification of customers is based on a nonrandom method other than FIFO identification.

A commentator requested that the allocation and selection method be amended to allow brokers to allocate transferred shares first to shares of the same class and issue borrowed from other brokers or customers and then to the two pools. The final regulations adopt the requested change.

Section 1.6045-2(b)(1) of the proposed regulations provided that a broker need not furnish a statement to a customer on whose behalf the broker receives substitute payments that aggregate less than $10 in a calendar year. A commentator requested that this minimal payments exception be expanded to an annual $10 per issue per customer exception. This request was not adopted in the final regulations.

Section 1.6045-2(a)(4)(ii) of the proposed regulations defined the term "broker," in part, as any person described in § 1.6045-1(a)(1). A commentator requested that the proposed regulations be amended to incorporate specifically the exceptions to the definition of broker provided in example (2) of § 1.6045-1(b). Such an

express incorporation is unnecessary. Because example (2) of § 1.6045–1(b) includes a cross-reference to § 1.6045–1(a) and the proposed regulations defined broker with reference to § 1.6045–1(a), example (2) was included in the definition of broker in the proposed regulations by a series of cross-references. Therefore, no specific incorporation of example (2) is made in the final regulations.

Two commentators requested that the effective date of the requirement to furnish statements be delayed. Section 150(b) of the Tax Reform Act of 1984 provides that section 6045(d) applies to payments received after December 31, 1984. The Tax Reform Act of 1984 does not authorize the Internal Revenue Service to administratively change the statutorily prescribed effective date, and a delay in the effective date of the statement requirement is not adopted in the final regulations. Penalties for failure to file information returns or to furnish written statements, however, may be waived if it can be shown that such failure was due to reasonable cause and not to willful neglect.

Special Analyses

Although a notice of proposed rulemaking soliciting public comments was issued, the Internal Revenue Service concluded when the notice was issued that the regulations are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these regulations are not subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

The Treasury Department has determined that these final regulations are not major rules under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 29, 1983. Accordingly, a Regulatory Impact Analysis is not required.

Paperwork Reduction Act

The collection of information requirements contained in these regulations have been submitted to the Office of Management and Budget ("OMB") in accordance with the requirements of the Paperwork Reduction Act of 1980. These requirements have been approved by OMB.

Drafting Information

The principal author of these regulations is Bruce H. Jurist of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, other personnel in the Internal Revenue Service and Treasury Department participated in developing the regulations on matters of both substance and style.

List of Subjects

26 CFR 1.6001–1 Through 1.6109–2

Income taxes, Administration and procedure, Filing requirements.

26 CFR Part 602

Reporting and recordkeeping requirements; OMB control numbers under the Paperwork Reduction Act.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Part 1 and Part 602 are amended as follows:

PART 1—[AMENDED]

Paragraph 1. The authority for Part 1 is amended by adding the following citation:

Authority: 26 U.S.C. 7805. * * * § 1.6045–2 also issued under 26 U.S.C. 6045.

Par. 2. New § 1.6045–2 is added at the appropriate place. The new section is set forth below.

§ 1.6045–2 Furnishing statement required with respect to certain substitute payments.

(a) *Requirement of furnishing statements*—(1) *In general.* Any broker (as defined in paragraph (a)(4)(ii) of this section) that transfers securities (as defined in § 1.6045–1(a)(3)) of a customer (as defined in paragraph (a)(4)(iii) of this section) for use in a short sale and receives on behalf of the customer a substitute payment (as defined in paragraph (a)(4)(i)) shall, except as otherwise provided, furnish a statement to the customer identifying such payment as being a substitute payment.

2. *Special rule for transfers for broker's own use.* Any broker that borrows securities of a customer for use in a short sale entered into for the broker's own account shall be deemed to have transferred the stock to itself and received on behalf of the customer any substitute payment made with respect to the transferred securities, and shall be required to furnish a statement with respect to such payments in accordance with paragraph (a)(1) of this section.

(3) *Special rule for furnishing statements to individual customers with respect to payments in lieu of dividends*—(i) *In general.* Except as otherwise provided, a broker that receives a substitute payment in lieu of a dividend on behalf of a customer who is an individual ("individual customer") need not furnish a statement to the customer.

(ii) *Exception for certain dividends.* Any broker that receives on behalf of an individual customer a substitute payment in lieu of—

(A) An exempt-interest dividend (as defined in paragraph (a)(4)(vii) of this section);

(B) A capital gain dividend (as defined in paragraph (a)(4)(vi) of this section);

(C) A distribution treated as a return of capital under section 301(c)(2) or (c)(3); or

(D) An FTC dividend (as defined in paragraph (a)(4)(viii) of this section) shall furnish a statement to the individual customer identifying the payment as being a substitute payment as prescribed by this section, provided that the broker has reason to know not later than the record date of the dividend payment that the payment is a substitute payment in lieu of an exempt-interest dividend, a capital gain dividend, a distribution treated as a return of capital, or an FTC dividend.

(4) *Meaning of terms.* The following definitions apply for purposes of this section.

(i) The term "substitute payment" means a payment in lieu of—

(A) Tax-exempt interest, to the extent that interest has accrued on the obligation for the period during which the short sale is open;

(B) A dividend, the ex-dividend date for which occurs during the period after the transfer of stock for use in a short sale, and prior to the closing of the short sale; or

(C) Any other item specified in a rule-related notice published in the **Federal Register** (provided that such items shall be subject to the rules of this section only subsequent to the time of such publication).

For purposes of this section original issue discount accruing on an obligation (the interest upon which is exempt from tax under section 103) for the period during which the short sale is open shall be deemed a payment in lieu of tax-exempt interest.

(ii) The term "broker" means both a person described in § 1.6045–1(a)(1) and a person that, in the ordinary course of a trade or business during the calendar year, loans securities owned by others.

(iii) The term "customer" means, with respect to a transfer of securities for use in a short sale, the person that is the record owner of the securities so transferred.

(iv) The term "dividend" means a dividend (as defined in section 316) or a distribution that is treated as a return of capital under section 301(c)(2) or (c)(3).

(v) The term "tax-exempt interest" means interest to which the exception in section 6049 (b)(2)(B) applies.

(iv) The term "capital gain dividend" means a capital gain dividend as defined in section 852(b)(3)(C) or section 857(b)(3)(C).

(vii) The term "exempt-interest dividend" means an exempt-interest dividend as defined in section 852(b)(5)(A).

(viii) The term "FTC dividend" means a dividend with respect to which the recipient is entitled to claim a foreign tax credit under section 901 (but not by virtue of taxes deemed paid under section 902 or 960).

(5) *Examples.* The following examples illustrate the definition of a substitute payment in lieu of tax-exempt interest found in paragraph (a)(4)(i)(A) of this section.

Example (1). On September 1, 1984, L, a broker, borrows 200 State Q Bonds (the interest upon which is exempt from tax under section 103) held in street name for customer R and transfers the bonds to W for use in a short sale. The bonds each have a face value of $100 and bear 12% stated annual interest paid semiannually on January 1 and July 1 of each year. The bonds were not issued with original issue discount. On November 1, 1984, W closes the short sale and returns State Q Bonds to L. On January 1, 1985, L receives a $1200 interest payment (6% × $100 × 200 bonds = $1200) from State Q with respect to R's bonds. Four hundred dollars (2 months the bonds were on loan/6 months in the interest period = ⅓ × $1200 = $400) of the interest payment represents accrued interest on the obligations for the period during which the short sale was open and is a substitute payment in lieu of tax-exempt interest within the meaning of paragraph (a)(4)(i)(A) of this section. L must furnish a statement under paragraph (a) of this section to R for calendar year 1985 with respect to the $400 substitute payment.

Example (2). Assume the same facts as in Example (1), except that W closes the short sale on February 1, 1985. On January 1, 1985, L receives a $1200 payment from W with respect to R's bonds. Eight hundred dollars (4 months the bonds were on loan prior to January 1, 1985/6 months in the interest period = ⅔ × $1200 = $800) of the payment represents accrued interest on the obligation for the period during which the short sale was open and is a substitute payment in lieu of tax-exempt interest. On July 1, 1985, L receives a $1200 payment from State Q. Two hundred dollars (1 month the bonds were on loan after December 31, 1984/6 months in the interest period = ⅙ × $1200 = $200) of the payment represents accrued interest on the obligation for the period during which the short sale was open and is a substitute payment in lieu of the tax-exempt interest. Because both payments are received by L in 1985, L must furnish a statement under paragraph (a) of this section to R for that year with respect to both payments.

(b) *Exceptions*—(1) *Minimal payments.* No statement is required to be furnished under section 6045(d) or this section to any customer if the aggregate amount of the substitute payments received by a broker on behalf of the customer during a calendar year for which a statement must be furnished is less than $10.

(2) *Exempt recipients* (i) *In general.* A statement shall not be required to be furnished with respect to substitute payments made to a broker on behalf of—

(A) An organization exempt from taxation under section 501(a),

(B) An individual retirement plan,

(C) The United States, a possession of the United States, or an instrumentality or a political subdivision or a wholly-owned agency of the foregoing,

(D) A State, the District of Columbia, or a political subdivision or a wholly-owned agency or instrumentality of either of the foregoing,

(E) A foreign government or a political subdivision thereof, or

(F) An international organization.

(ii) *Determination of whether a person is described in paragraph (b)(2)(i) of this section.* The determination of whether a person is described in paragraph (b)(2)(i) of this section shall be made in the manner provided in §5f.6045-1(c)(3)(i)(B) of the Temporary Income Tax Regulations under the Tax Equity and Fiscal Responsibility Act of 1982.

(3) *Exempt foreign persons.* A statement shall not be required to be furnished with respect to substitute payments made to a broker on behalf of a person that is an exempt foreign person as described in § 1.6045-1(g).

(c) *Form of statement.* A broker shall furnish the statement required by paragraph (a) of this section on Form 1099. The statement must show the aggregate dollar amount of all substitute payments received by the broker on behalf of a customer (for which the broker is required to furnish a statement) during a calendar year, and such other information as may be required by Form 1099. A statement shall be considered to be furnished to a customer if it is mailed to the customer at the last address of the customer known to the broker.

(d) *Time for furnishing statements.* A broker must furnish the statements required by paragraph (a) of this section for each calendar year. Such statements shall be furnished after April 30th of such calendar year but in no case before the final substitute payment for the calendar year is made, and on or before January 31 of the following calendar year.

(e) *When substitute payment deemed received.* A Broker is deemed to have received a substitute payment on behalf of a customer when the amount is paid or deemed paid to the broker (or as it accrues in the case of original issue discount deemed a payment in lieu of tax-exempt interest).

(f) *Identification of customer and recordkeeping with respect to substitute payments*—(1) *Payments in lieu of tax-exempt interest and exempt-interest dividends.* A broker that receives substitute payments in lieu of tax-exempt interest, exempt-interest dividends, or other items (to the extent specified in a rule-related notice published pursuant to paragraph (a)(4)(i)(C) of this section) on behalf of a customer and is required to furnish a statement under paragraph (a) of this section must determine the identity of the customer whose security was transferred and on whose behalf the broker received such substitute payments by specific identification of the record owner of the security so transferred. A broker must keep adequate records of the determination so made.

(2) *Payments in lieu of dividends other than exempt-interest dividends*—(i) *Requirements and methods.* A broker that receives substitute payments in lieu of dividends, other than exempt-interest dividends, on behalf of a customer and is required to furnish a statement under paragraph (a) of this section must make a determination of the identity of the customer whose stock was transferred and on whose behalf such broker receives substitute payments. Such determination must be made as of the record date with respect to the dividend distribution, and must be made in a consistent manner by the broker in accordance with any of the following methods:

(A) Specific identification of the record owner of the transferred stock;

(B) The method of allocation and selection specified in paragraph (f)(2)(ii) of this section; or

(C) Any other method, with the prior approval of the Commissioner.

A broker must keep adequate records of the determination so made.

(ii) *Method of allocation and selection*—(A) *Allocation to borrowed shares and individual and nonindividual pools.* With respect to each substitute payment in lieu of a dividend received by a broker, the broker must allocate the transferred shares (*i.e.*, the shares giving rise to the substitute payment) among all shares of stock of the same class and issue as the transferred shares which were (1)

borrowed by the broker, and (2) which the broker holds (or has transferred in a transaction described in paragraph (a)(1) of this section) and is authorized by its customers to transfer (including shares of stock of the same class and issue held for the broker's own account) ("loanable shares"). The broker may first allocate the transferred shares to any borrowed shares. Then to the extent that the number of transferred shares exceeds the number of borrowed shares (or if the broker does not allocate to the borrowed shares first), the broker must allocate the transferred shares between two pools, one consisting of the loanable shares of all individual customers (the "individual pool") and the other consisting of the loanable shares of all nonindividual customers (the "nonindividual pool"). The transferred shares must be allocated to the individual pool in the same proportion that the number of loanable shares held by individual customers bears to the total number of loanable shares available to the broker. Similarly, the transferred shares must be allocated to the nonindividual pool in the same proportion that the number of loanable shares held by nonindividual customers bears to the total number of loanable shares available to the broker.

(B) *Selection of deemed transferred shares within the nonindividual pool.* The broker must select which shares within the nonindividual pool are deemed transferred for use in a short sale (the "deemed transferred shares"). Selection of deemed transferred shares may be made either by purely random lottery or on a first-in-first-out ("FIFO") basis.

(C) *Selection of deemed transferred shares within the individual pool.* The broker must select which shares within the individual pool are deemed transferred shares (in the manner described in the preceding paragraph) only with respect to substitute payments as to which a statement is required to be furnished under paragraph (a)(2)(ii) of this section.

(3) *Examples.* The following examples illustrate the identification of customer rules of paragraph (f)(2):

Example (1). A, a broker, holds X corporation common stock (of which there is only a single class) in street name for five customers: C, a corporation; D, a partnership; E, a corporation; F, an individual; and G, a corporation. C owns 100 shares of X stock, D owns 50 shares of X stock, E owns 100 shares of X stock, F owns 50 shares of X stock, and G owns 100 shares of X stock. A is authorized to loan all of the X stock of C, D, E, and F. G, however, has not authorized A to loan its X stocks. A does not hold any X stock in its trading account nor has A borrowed any X stock from another broker. A transfers 150 shares of X stock to H for use in a short sale on July 1, 1985. A dividend of $2 per share is declared with respect to X stock on August 1, 1985, payable to the owners of record as of August 15, 1985 (the "record" date). A receives $2 per transferred share as a payment in lieu of a dividend with respect to X stock or a total of $300 on September 15, 1985. H closes the short sale and returns X stock to A on January 2, 1986. A's records specifically identify the owner of each loanable share of stock held in street name. From A's records it is determined that the shares transferred to H consisted of 100 shares owned by C, 25 shares owned by D, and 25 shares owned by F. The substitute payment in lieu of dividends with respect to X stock is therefore attributed to C, D and F based on the actual number of their shares that were transferred to H. Accordingly, C receives $200 (100 shares × $2 per share), and D and F each receive $50 (25 shares each × $2 per share). A must furnish statements identifying the payments as being in lieu of dividends to both C and D, unless they are exempt recipients as defined in paragraph (b)(2) of this section or exempt foreign persons as defined in paragraph (b)(3) of this section. Assuming that A had no reason to know on the record date of the payment that the dividend paid by X is of a type described in paragraph (a)(3)(ii)(A)–(D) of this section, A need not furnish F with a statement under section 6045(d) because F is an individual. (However, A may be required to furnish F with a statement in accordance with section 6042 and the regulations thereunder. See paragraph (h) of this section.) By recording the ownership of each share transferred to H, A has complied with the identification requirement of paragraph (f)(2) of this section.

Example (2). Assume the same facts as in example (1), except that A's records do not specifically identify the record owner of each share of stock. Rather, all shares of X stock held in street name are pooled together. When A receives the $2 per share payment in lieu of a dividend, A determines the identity of the customers to which the payment relates by the method of allocation and selection prescribed in paragraph (f)(2)(ii) of this section. First, the transferred shares are allocated proportionately between the individual pool and the nonindividual pool. One-sixth of the transferred shares or 25 shares are allocated to the individual pool (50 loanable shares owned by individuals/300 total loanable shares-⅙; ⅙ × 150 transferred shares = 25 shares). Assuming A has no reason to know by the record date of the payment that the payment is in lieu of a dividend of a type described in paragraph (a)(3)(ii)(A)–(D) of this section, no selection of deemed transferred shares within the individual customer pool is required. (However, A may be required to furnish F with a statement under section 6042 and the regulations thereunder. See paragraph (h) of this section.) Five-sixths of the transferred shares or 125 shares are allocated to the nonindividual pool (250 loanable shares owned by nonindividuals/300 total loanable shares = ⅚; × ⅚150 transferred shares = 125 shares). A must select which 125 shares within the nonindividual pool are deemed to have been transferred. Using a purely random lottery, A selects 100 shares identified as being owned by C, and 25 shares identified as being owned by D. Accordingly, A is deemed to have transferred 100 shares and 25 shares owned by C and D respectively, and received substitute payments in lieu of dividends of $200 (100 shares × $2 per share) and $50 (25 shares × $2 per share) on behalf of C and D respectively. A must furnish statements to both C and D identifying such payments as being in lieu of dividends unless they are exempt recipients as defined in paragraph (b)(2) of this section or exempt foreign persons as defined in paragraph (b)(3) of this section. A has complied with the identification requirement of paragraph (f)(2) of this section.

(g) *Reporting by brokers*—(1) *Requirement of reporting.* Any broker required to furnish a statement under paragraph (a) of this section shall report on Form 1096 showing such information as may be required by Form 1096, in the form, manner, and number of copies required by Form 1096. With respect to each customer for which a broker is required to furnish a statement, the broker shall make a return of information on Form 1099, in the form, manner and number of copies required by Form 1099.

(2) *Use of magnetic media.* Brokers not receiving an undue hardship exception under paragraph (l)(2) of § 1.6045–1 shall file the returns required by this paragraph on magnetic media in accordance with paragraph (l)(1) of § 1.6045–1.

(3) *Time and place of filing.* The returns required under this paragraph (g) for any calendar year shall be filed after September 30 of such year, but not before the final substitute payment for the year is received by the broker, and on or before February 28 of the following year with any of the Internal Revenue Service Centers, the addresses of which are listed in the instructions for Form 1096.

(h) *Coordination with section 6042.* In cases in which reporting is required by both sections 6042 and 6045(d) with respect to the same substitute payment in lieu of a dividend, the provisions of section 6045(d) control, and no report or statement under section 6042 need be made. If reporting is not required under section 6045(d) with respect to a substitute payment in lieu of a dividend, a report under section 6042 must be made if required in accordance with the rules of section 6042 and the regulations thereunder. Thus, if a broker receives a substitute payment in lieu of a dividend on behalf of an individual customer and the broker does not have reason to know by the record date of the payment that the payment is in lieu of a dividend

of a type described in paragraph (a)(3)(ii)(A)–(D) of this section, the broker must report with respect to the substitute payment if required in accordance with section 6042 and the regulations thereunder.

(i) *Effective date.* These regulations apply to substitute payments received by a broker after December 31, 1984.

Par. 3. Paragraph (a)(2) of § 1.6042–3 is amended by adding the following sentence to the end thereof.

§ 1.6042–3 Dividends subject to reporting.

(a) * * *

(2) * * * See § 1.6045–2(h) for coordination of the reporting requirements under sections 6042 and 6045(d) with respect to payments in lieu of dividends.

* * * * *

Par. 4. Paragraph (a)(5) of section 1.6049–5 is amended by adding the following sentence to the end thereof.

§ 1.6049–5 Interest and original issue discount subject to reporting after December 31, 1982.

(a) * * *

(5) * * * See § 1.6045–2 for reporting requirements with respect to payments in lieu of tax-exempt interest.

* * * * *

PART 602—[AMENDED]

Par. 5. The authority for Part 602 is revised to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 6. Section 602.101(c) is amended by inserting in the appropriate place in the table "§ 1.6045–2(a)(1) . . . 1545–0115" and "§ 1.6045–2(f) . . . 1545–0115" and "§ 1.6045–2(g)(1) . . . 1545–0115."

Approved: May 20, 1985.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Ronald A. Pearlman,

Assistant Secretary of the Treasury.

[FR Doc. 85–13520 Filed 6–4–85; 8:45 am]

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Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 18, 19, 20, 22, 170, and 196

[T.D. ATF–207]

Stills; Miscellaneous Provisions

AGENCY: The Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule implements several recently enacted amendments to the statutes concerning stills used in distilling. These statutory amendments repeal the occupational tax on manufacturers of stills and the commodity tax for each still or condenser manufactured. Also, discretionary authority with respect to the statutory requirements relating to removal and set up of stills is provided. The implementation of these amendments will benefit both the Government and private industry by reducing costs and paperwork.

DATES: These regulations are effective June 5, 1985 and are made applicable by statute retroactively to November 1, 1984.

FOR FURTHER INFORMATION CONTACT: J.R. Whitley, ATF Tax Specialist, Distilled Spirits and Tobacco Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226 (202–566–7531).

SUPPLEMENTARY INFORMATION: This final rule implements section 451 of the Deficit Reduction Act of 1984, Pub. L. 98–369, 98 Stat. 818. This section of the Act amends the provisions of Chapter 51 of Title 26 of the United States Code (U.S.C.) by repealing the $55 per year occupational tax on manufacturers of stills and the $22 commodity tax on each still or condenser to be used for distilling which is manufactured. Additionally, discretionary authority with respect to the statutory requirements relating to the removal and set up of stills to be used for the purpose of distilling is provided. The statutory provision which requires registration immediately after set up of any still and distilling apparatus to be used for the purpose of distilling, however, remains unchanged.

The following is a discussion of the significant amendments made by the final rule to conform the regulations concerning stills to these statutory changes.

(1) The regulations relating to the liability for, and payment of, occupational and commodity taxes; and the regulations concerning the exportation of stills and condensers with benefit of drawback, or without payment of tax, are removed. These regulations are no longer necessary since the occupational and commodity taxes applicable to stills are repealed. As a result of this change, Internal Revenue Service Form 11, Special Tax Return and Application for Registry, is no longer required to be filed. Also, ATF F 1610 (5620.11), Claim for Internal Revenue Drawback on Distilling Apparatus Exported and Entry for Exportation Thereof, is eliminated.

(2) The mandatory requirement that a manufacturer file notice when a still or other distilling apparatus is removed from the place of manufacture is revised. The revised regulations provide that the notice be filed in letter form when requested by the regional director (compliance). ATF F 110 (5000.13), Notice of Intention to Remove Distilling Apparatus, is eliminated.

(3) The regulations relating to obtaining a permit for the set up of a still are removed. However, it is provided that the regional director (compliance) may require that no still or distilling apparatus be set up without the manufacturer first giving written notice in letter form of that purpose. ATF F 1609 (5110.24), Application and Permit to Set Up Distilling Apparatus, is eliminated.

(4) The requirement that every person having control or possession of a still or distilling apparatus to be used for distilling register the apparatus with ATF immediately upon its being set up remains unchanged. However, the existing registration procedures are revised. It is provided that registration is to be accomplished by listing the still or distilling apparatus on the registration or permit application prescribed by regulation for qualification under 26 U.S.C. Chapter 51. Approval of the application by the regional director (compliance) constitutes registration. If subsequent to registration there is a change in ownership or location of the still or distilling apparatus, the registrant is required to file a letter notice with the regional director (compliance) in whose region the apparatus is located. In addition, the registrant must comply with the prescribed procedures for amendment of the registration or permit application. It is no longer provided that registration may be accomplished by filing ATF F 26 (5100.19). Consequently, this form is eliminated.

Further, the final rule removes Part 196 of Title 27 of the Code of Federal Regulations (27 CFR Part 196) in its entirety and recodifies the regulations relating to stills as 27 CFR Part 170, Subpart C. This change more accurately reflects the new scope of the still regulations and improves the organization of Title 27, CFR. In addition, the provisions of the following rulings have been obsoleted by the statutory changes implemented by this final rule or have been incorporated into the revised regulations—

Revenue Ruling 56–31, 1956–1 C.B. 711;

Revenue Ruling 57–98, 1957–1 C.B. 564;

Revenue Ruling 63–68, 1963–1 C.B. 386; and

Revenue Ruling 64–196, 1964–2 C.B. 532.

ATF believes the changes made by this final rule will reduce the administrative and compliance costs, and the paperwork burden, for both Government and private industry.

Administrative Procedures Act

Since the statutory amendments implemented by this rule are effective November 1, 1984, there is an immediate need for guidance with respect to the provisions contained in this rule. For this reason, ATF has determined that it is impracticable to issue this rule with notice and public procedure under 5 U.S.C. 553(b) or subject to the effective date limitation of 5 U.S.C. 553(d). Accordingly, ATF finds, upon good cause shown, that the exception provisions of 5 U.S.C. 553 are applicable to this rule.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rule under 5 U.S.C. 553(b), the provisions of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1165, 5 U.S.C. 601 et seq.) relating to a regulatory flexibility analysis are not applicable to this final rule.

Executive Order 12291

This final rule is not a "major rule" within the meaning of section 1(b) of Executive Order 12291 on Federal Regulations issued February 17, 1981 (46 FR 13193). Analysis of the rule indicates that it will not result in (a) an annual effect on the economy of $100 million or more; (b) a major increase in costs or prices for consumers, individual industries, or Federal, State, or local government agencies, or geographic regions; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The requirements to collect information contained in this final rule have been submitted to the Office of Management and Budget (OMB) for review under section 3507 of the Paperwork Reduction Act of 1980 (Pub. L. 96–511, 44 U.S.C. Chapter 35). These requirements have been approved by OMB under control number 1512–0341.

List of Subjects

27 CFR Part 18

Administrative practice and procedure, Authority delegations, Excise taxes, Fruits, Exports, Labeling, Reporting and recordkeeping requirements, Security measures, Spices and flavorings, Stills, Surety bonds.

27 CFR Part 19

Administrative practice and procedure, Alcohol and alcoholic beverages, Authority delegations, Claims, Chemicals, Customs duties and inspection, Electronic fund transfers, Excise taxes, Exports, Gasohol, Imports, Labeling, Liquors, Packaging and containers, Puerto Rico, Reporting and recordkeeping requirements, Research, Security measures, Spices and flavorings, Surety bonds, Transportation, Virgin Islands, Warehouses, Wine.

27 CFR Part 20

Administrative practice and procedure, Advertising, Alcohol, Authority delegations, Chemicals, Claims, Cosmetics, Labeling, Packaging and containers, Reporting and recordkeeping requirements, Surety bonds, Transportation.

27 CFR Part 22

Administrative practice and procedure, Alcohol, Authority delegations, Claims, Reporting and recordkeeping requirements, Surety bonds.

27 CFR Part 170

Alcohol and alcoholic beverages, Authority delegations, Beer, Claims, Customs duties and inspection, Disaster assistance, Excise taxes, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Stills, Surety bonds, Wine.

27 CFR Part 196

Authority delegations, Claims, Customs duties and inspection, Excise taxes, Exports, Foreign trade zones, Liquors, Penalties, Reporting and recordkeeping requirements, Seizures and forfeitures, Stills.

Drafting Information

The principal author of this rule is J. R. Whitley, ATF Tax Specialist, Distilled Spirits and Tobacco Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority and Issuance

In consideration of the foregoing, and under authority delegated by the Secretary of the Treasury, Title 27, Code of Federal Regulations, is amended as follows:

Section A. Part 18 is amended as follows:

PART 18—PRODUCTION OF VOLATILE FRUIT-FLAVOR CONCENTRATE

Paragraph 1. The authority citation for Part 18 continues to read as follows:

Authority: August 16, 1954, Chapter 736, 68A Stat. 917 (26 U.S.C. 7805); 44 U.S.C. 3504(h), unless otherwise noted.

Par. 2. The table of sections is amended by revising the entry for § 18.23 to read as follows:

Sec.

* * * * *

18.23 Registry of stills.

* * * * *

Par. 3. Section 18.23 is revised to read as follows:

§ 18.23 Registry of stills.

The provisions of Subpart C of Part 170 of this chapter are applicable to stills or distilling apparatus located on concentrate plant premises used for the production of concentrate. As provided under § 170.55, the listing of a still in the application, and approval of the application, constitutes registration of the still.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1355, as amended, 1392, as amended (26 U.S.C. 5179, 5511))

Section B. Part 19 is amended as follows:

PART 19—DISTILLED SPIRITS PLANTS

Paragraph 1. The authority citation for Part 19 continues to read as follows:

Authority: Sec. 7805, 68A Stat. 917; 26 U.S.C. 7805, unless otherwise noted.

§ 19.3 [Amended]

Par. 2. Section 19.3 is amended by removing the words "27 CFR Part 196—Stills".

Par. 3. Section 19.169 is revised to read as follows:

§ 19.169 Registry of stills.

The provisions of Subpart C of Part 170 of this chapter are applicable to stills or distilling apparatus located on plant premises used for distilling. As provided under § 170.55, the listing of a still in the application for registration, and approval of the application, constitutes registration of the still.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1349, as amended, 1355, as amended (26 U.S.C. 5172, 5179))

Par. 4. Section 19.905 is revised to read as follows:

§19.905 Taxes.

Distilled spirits may be withdrawn free of tax from the premises of an alcohol fuel plant exclusively for fuel use in accordance with this subpart. Payment of tax will be required in the case of diversion of spirits to beverage use or other unauthorized dispositions. The provisions of Subpart C of this part are applicable to distilled spirits for fuel use as follows:

(a) Imposition of tax liability (§§ 19.21 through 19.25);

(b) Assessment of tax (§§ 19.31 and 19.32); and

(c) Claims for tax (§§ 19.41 and 19.44).

(Sec. 201, Pub. L. 85–859, 72 Stat. 1314, as amended (26 U.S.C. 5001); sec. 232, Pub. L. 96–223, 94 Stat. 278 (26 U.S.C. 5181))

Section C. Part 20 is amended as follows:

PART 20—DISTRIBUTION AND USE OF DENATURED ALCOHOL AND RUM

Paragraph 1. The authority citation for Part 20 continues to read as follows:

Authority: August 16, 1954, Chapter 736, 68A Stat. 917, as amended (26 U.S.C. 7805); Sec. 201., Pub. L. 85–859, 72 Stat. 1370–1373, as amended (26 U.S.C. 5271–5275), unless otherwise noted.

§ 20.3 [Amended]

Par. 2. Section 20.3 is amended by removing the words "27 CFR Part 196—Stills" and inserting, in their place, the words "27 CFR Part 170—Miscellaneous Regulations Relating To Liquor".

Par. 3. Section 20.66 is revised to read as follows:

§ 20.66 Registry of stills.

The provisions of Subpart C of Part 170 of this chapter are applicable to stills or distilling apparatus located on the premises of a permittee used for distilling. As provided under § 170.55, the listing of a still in the permit application (Form 5150.22), and approval of the application, constitutes registration of the still.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1355, as amended (26 U.S.C. 5179))

Section D. Part 22 is amended as follows:

PART 22—DISTRIBUTION AND USE OF TAX-FREE ALCOHOL

Paragraph 1. The authority citation for Part 22 continues to read as follows:

Authority: August 16, 1954, Chapter 736, 68A Stat. 917, as amended (26 U.S.C. 7805); Sec. 201 Pub. L. 85–859, 72 Stat. 1370–1373, as amended (26 U.S.C. 5271–5275), unless otherwise noted.

§ 22.3 [Amended]

Par. 2. Section 22.3 is amended by removing the words "27 CFR Part 196—Stills" and inserting, in their place, the words "27 CFR Part 170—Miscellaneous Regulations Relating To Liquor".

Par. 3. Section 22.66 is revised to read as follows:

§ 22.66 Registry of stills.

The provisions of Subpart C of Part 170 of this chapter are applicable to stills on the premises of a permittee used for distilling. As provided in § 170.55, the listing of a still in the permit application (Form 5150.22), and approval of the application, constitutes registration of the still.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1355, as amended (26 U.S.C. 5179))

Section E. Part 170 is amended as follows:

1. The regulations in this subpart supersede 27 CFR Part 196 in its entirety.

2. These regulations do not affect any act done or any liability or right accruing, or accrued, or any suit or proceeding had or commenced before November 1, 1984.

PART 170—MISCELLANEOUS REGULATIONS RELATING TO LIQUORS

Paragraph 1. Subpart C is added to Part 170 to read as follows:

* * * * *

Subpart C—Stills

Sec.

Authority: August 16, 1954, Chapter 736, 68A Stat. 917, as amended (26 U.S.C. 7805); 44 U.S.C. 33504(h), unless otherwise noted.

* * * * *

Subpart C—Stills

§ 170.41 Scope of subpart.

The regulations in this subpart relate to the manufacture, removal, and use of stills and condensers, and to the notice, registration, and recordkeeping requirements therefor.

§ 170.43 Forms prescribed.

(a) The Director is authorized to prescribe all forms, including all notices and records, required by this subpart. All of the information called for in each form shall be furnished as indicated by the headings on the form and the instructions on or pertaining to the form. In addition, information called for in each form shall be furnished as required by this part.

(b) "Public Use Forms" (ATF Publication 1322.1) is a numerical listing of forms issued or used by the Bureau of Alcohol, Tobacco and Firearms. This publication is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

(c) Requests for forms should be mailed to the ATF Distribution Center, 7943 Angus Court, Springfield, Virginia 22153.

(Pub. L. 89–554, 80 Stat. 383, as amended (5 U.S.C. 552))

§ 170.45 Meaning of terms.

When used in this subpart and in the forms prescribed under this subpart, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words in the masculine shall include the feminine. The terms "includes" and "including" do not exclude things not enumerated which are in the same general class.

AFT officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any function relating to the administration or enforcement of this subpart.

Condenser. Any apparatus capable of being used when connected with a still, for condensing or liquefying alcoholic or spirituous vapors, but shall not include condensers to be used with laboratory stills or stills used for distilling water or other nonalcoholic materials where the cubic distilling capacity is one gallon or less.

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, DC.

Distilling spirits or spirits. That substance known as ethyl alcohol, ethanol, or spirits of wine in any form (including all dilutions and mixtures thereof, from whatever source or by whatever process produced).

Distilling. The conduct by any person of operations that constitute, as defined by 26 U.S.C. 5002, operation as a

distiller. Such operations include: (a) The original manufacture of distilled spirits from mash, wort, or wash, or any materials suitable for the production of spirits; (b) the redistillation of spirits in the course of original manufacture; (c) the redistillation of spirits, or products containing spirits; (d) the distillation, redistillation, or recovery of spirits, denatured spirits, or articles containing spirits or denatured spirits; and (e) the redistillation or recovery of tax-free spirits.

Distilling apparatus. A still or condenser, as defined in this section, and any other apparatus to be used for the purpose of distilling.

Executed under the penalties of perjury. Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to any document prescribed under this subpart or, where no form of declaration is prescribed, with the declaration: "I declare under the penalties of perjury that this —— (insert type of document), including the documents submitted in support thereof, has been examined by me and, to best of my knowledge and belief, is true, correct and complete."

Manufacturer of stills. Any person who manufactures any still or condenser, as defined in this section, or any other apparatus to be used for the purpose of distilling. The term includes a person furnishing separate parts of a complete still or condenser, of any kind, to a person who assembles same into a still or condenser for distilling and a person who procures materials or apparatus and converts same into a still or condenser for distilling.

Person. An individual, a trust, estate, partnership, association, company, or corporation.

Regional director (compliance). The principal ATF regional official responsible for administering regulations in this subpart.

Still. Any apparatus capable of being used for separating alcoholic or spirituous vapors, or spiritous solutions, or spirits, from spirituous solutions or mixtures, but shall not include stills used for laboratory purposes or stills used for distilling water or other nonalcoholic materials where the cubic distilling capacity is one gallon or less.

This chapter. Title 27, Code of Federal Regulations, Chapter I (27 CFR Chapter I).

United States. The several states and the District of Columbia.

U.S.C. The United States Code.

§ 170.47 Notice requirements; manufacture of stills.

(a) *General.* When required by letter issued by the regional director (compliance) and until notified to the contrary by the regional director (compliance), every person who manufactures any still, boiler (double or pot still), condenser, or other apparatus to be used for the purpose of distilling shall give written notice before the still or distilling apparatus is removed from the place of manufacture.

(b) *Preparation.* The notice will be prepared in letter form, executed under the penalties of perjury, and show the following information:

(1) The name and address of the manufacturer;

(2) The name and complete address of the person by whom the apparatus is to be used, and of any other person for, by, or through whom the apparatus is ordered or disposed of;

(3) The distilling purpose for which the apparatus is to be used (distillation of spirits, redistillation of spirits or recovery of spirits, including denatured spirits and articles containing spirits or denatured spirits);

(4) The manufacturer's serial number of the apparatus;

(5) The type and kind of apparatus;

(6) The distilling capacity of the apparatus; and

(7) The date the apparatus is to be removed from the place of manufacture.

(c) *Filing.* The notice will be filed in accordance with the instructions in the letter of the regional director (compliance). A copy of the notice will be retained at the place of manufacture as provided by § 170.59.

(Approved by the Office of Management and Budget under control number 1512-0341)

(Sec. 843, Pub. L. 98-369, 98 Stat. 818 (26 U.S.C. 5101))

§ 170.49 Notice requirement; setup of still.

(a) *General.* When required by letter issued by the regional director (compliance), no still, boiler (double or pot still), condenser, or other distilling apparatus may be set up without the manufacturer of the still or distilling apparatus first giving written notice of that purpose.

(b) *Preparation.* The notice will be prepared by the manufacturer in letter form, executed under the penalties of perjury, and will contain the information specified in the letter of the regional director (compliance).

(c) *Filing.* The notice will be filed in accordance with the instructions in the letter of the regional director (compliance). A copy of the notice will be retained at the manufacturer's place of business as provided by § 170.59.

(Approved by the Office of Management and Budget under control number 1512-0341)

(Sec. 843, Pub. L. 98-369, 98 Stat. 818 (26 U.S.C. 5101))

§ 170.51 Failure to give notice; penalty.

Failure to give notice of manufacture of still or notice of setup of still when required to do so is punishable by a fine of not more than $1,000 or imprisonment for not more than one year, or both, and any still, boiler (double or pot still), condenser, or other distilling apparatus to be used for the purpose of distilling which is removed or set up without the required notice having been given is forfeitable to the Government.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1405, as amended, 1412, as amended (26 U.S.C. 5615, 5687))

§ 170.53 Identification of distilling apparatus.

(a) *General.* Each still or condenser manufactured will be identified by the manufacturer as follows:

(1) Name of manufacturer.

(2) Address of manufacturer.

(3) Manufacturer's serial number for the apparatus.

(b) *Marking requirements.* The apparatus will be identified in a legible and durable manner. The required identification marks will be placed on the apparatus in a location where they will not be obscured or concealed.

§ 170.55 Registry of stills and distilling apparatus.

(a) *General.* Every person having possession, custody, or control of any still or distilling apparatus set up shall, immediately on its being set up, register the still or apparatus, except that stills or distilling apparatus not used or intended for use in the distillation, redistillation, or recovery of distilled spirits are not required to be registered. The registration will be accomplished by describing the still or distilling apparatus on the registration or permit application prescribed in this chapter for qualification under 26 U.S.C. Chapter 51. Approval of the application will constitute registration of the still or distilling apparatus.

(b) *When still is set up.* A still will be regarded as set up and subject to registry when it is in position over a furnace, or connected with a boiler so that heat may be applied, irrespective of whether a condenser is in position. This rule is intended merely as an illustration and should not be construed as covering all types of stills or condensers requiring registration.

(c) *Change in location or ownership.* Where any distilling apparatus registered under this section is to be removed to another location, sold or otherwise disposed of, the registrant

shall, prior to the removal or disposition, file a letter notice with the regional director (compliance) of the region in which the apparatus is located. The letter notice will show the intended method of disposition (sale, destruction, or otherwise), the name and complete address of the person to whom disposition will be made, and the purpose for which the apparatus will be used. After removal, sale, or other disposal, the person having possession, custody, or control of any distilling apparatus intended for use in distilling shall immediately register the still or distilling apparatus on its being set up or, if already set up, immediately on obtaining possession, custody, or control. The registrant shall also comply with the procedures prescribed in this chapter for amendment of the registration or permit application.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1355, as amended (26 U.S.C. 5179))

§ 170.57 Failure to register; penalty.

Any person having possession, custody, or control of any still or distilling apparatus set up who fails to register the still or distilling apparatus is subject to a fine of not more than $10,000 or imprisonment of not more than 5 years, or both, and the still or distilling apparatus is forfeitable to the Government.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1398, as amended, 1405, as amended (26 U.S.C. 5601, 5615))

§ 170.59 Records.

A copy of each notice of manufacture, or set up, of still required under the provisions of § 170.47, or 170.49, shall be maintained, in chronological order, by the manufacturer at the premises where the still or distilling apparatus is manufactured. In addition, each manufacturer or vendor of stills shall maintain at their premises a record showing all stills and distilling apparatus (including those to be used for purposes other than distilling) manufactured, received, removed, or otherwise disposed of. The record will also show the name and address of the purchaser and the purpose for which each apparatus is to be used. Any commercial document on which all the required information has been recorded may be used for the record. The records will be kept available for a period of three years for inspection by ATF officers.

(Approved by the Office of Management and Budget under control number 1512-0341)

Subpart D—[Reserved]

Par. 3. Subpart D continues to be reserved.

PART 196—[REMOVED]

Section F, Part 196 is superseded by Subpart C of Part 170 and removed in its entirety effective June 5, 1985.

Signed: April 5, 1985.

Stephen E. Higgins,

Director.

Approved: May 13, 1985.

E.T. Stevenson,

Acting Assistant Secretary (Enforcement and Operations).

[FR Doc. 85-13421 Filed 6-4-85; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

Approval of Permanent Program Amendments From the State of Indiana 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 amendments to the Indiana Permanent Regulatory Program (hereinafter referred to as the Indiana program) received by OSM pursuant to the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

On February 18, 1985, Indiana submitted amendments to its program to amend the Indiana regulations concerning the location of the public office for filing permit applications and to clarify the proper newspaper for publishing notices of permit application.

After providing opportunity for public comment and conducting a thorough review of the program amendments, the Director, OSM, has determined that the amendments meet the requirements of SMCRA and the Federal regulations. Accordingly, the Director is approving those amendments. The Federal rules at 30 CFR Part 914 which codify decisions concerning the Indiana program are being amended to implement these actions.

This final rule is being made effective immediately in order to expedite the State program amendment process and encourage States to conform their programs to the Federal standards without undue delay; consistency of the State and Federal standards is required by SMCA.

EFFECTIVE DATE: June 5, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Richard D. NcNabb, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building and U.S. Courthouse, Room 522, 46 East Ohio Street, Indianapolis, Indiana 46204. Telephone: (317) 269-2600.

SUPPLEMENTARY INFORMATION:

I. Background

Information regarding the general background on the Indiana State Program, including the Secretary's Findings, the disposition of comments and a detailed explanation of the conditions of approval of the Indiana program can be found in the July 26, 1982 Federal Register (47 FR 32071-32106).

On February 18, 1985, the Indiana Department of Natural Resources submitted to OSM pursuant to 30 CFR 732.17, a proposed State program amendment for approval. The amendments are based primarily on a (previously approved) 1984 revision to Indiana's law, and revise the Indiana regulations as follows:

1. Indiana rules 310 IAC 12-3-26, 12-3-64, 12-3-106 (b) and (c), 12-3-107(c) and 12-3-108(c) are amended to change the location for permit applications to be filed from the county recorder's office to the county library nearest the location where the mining is proposed to occur.

2. Indiana rule 310 IAC 12-3-106(a) is amended to clarify that if proposed mining operations lie within more than one county, advertisements of permit application filing shall be placed in a local newspaper of general circulation for each county.

3. Indiana rule 310 IAC 12-3-106(a)(4) is added to require that newspaper advertisements of permit applications include the names of the owners of property included in the application.

4. Indiana rule 310 IAC 12-3-106(b) is amended to add the list of the county libraries which qualify for permit application filing locations.

5. Indiana rule 12-3-106(c) is amended to add a requirement for a filing fee, and to establish requirements for retention of the permit application in public files, including the requirement that the application remain on file until bond release.

6. Various non-substantive and editorial changes have been made to Sections 310 IAC 12-3-26, 12-3-64, 12-3-106, 12-3-107 and 12-3-108.

OSM published a notice in the **Federal Register** on March 29, 1985, announcing receipt of the proposed program amendments submitted on February 18, 1985, and procedures for the public comment period and for requesting a public hearing on the substantive adequacy of the proposed amendment (50 FR 12571). The public comment period ended April 29, 1985. One comment was submitted in support of the changes. There was no request for a public hearing and the hearing scheduled for April 23, 1985, was not held.

II. Director's Findings

A. General Findings

The Directors finds, in accordance with SMCRA and 30 CFR 732.17 that the amendments submitted by Indiana on February 18, 1985, meet the requirements of SMCRA and the Federal regulations. All of the amended provisions are cited at the end of this notice in the amendatory language for Section 914.15. Indiana has also made non-substantive changes which the Director finds consistent with Federal requirements.

B. Specific Findings

1. Indiana rules 310 IAC 12–3–26, 12–3–64, 12–3–106(b) and (c), 12–3–107(c) and 12–3–108(c) are amended to change the location for permit applications to be filed from the county recorder's office to the county library nearest the location where the proposed mining is to occur.

The Federal regulations at 30 CFR 773.13(a)(2), specify that permit applications are to be filed with the recorder at the courthouse of the county where the mining is proposed to occur, or an accessible public office approved by the regulatory authority. The Director has determined that libraries provide adequate access to the public and therefore, finds the State's substitution of "library" as an appropriate public office for filing applications, no less effective than the Federal rules.

2. Indiana rule 310 IAC 12–3–106(a) is amended to clarify that if proposed mining operations lie within more than one county, advertisements of permit application filing shall be placed in a local newspaper of general circulation for each county where the mining operation is to occur.

The Federal rule 30 CFR 773.13(a) requires applicants to place an advertisement in the locality of the proposed mining operation. The Director finds the Indiana revision to be no less effective than the requirements at 30 CFR 773.13(a).

3. Indiana rule 310 IAC 12–3–106(a)(4) is added to require that newspaper advertisements of permit applications include the names of the property owners for lands included in the application.

The Federal regulations at 30 CFR 773.13(a) set forth the minimum requirements that a newspaper advertisement shall contain. The Federal rules do not require the names of the property owners of the lands included in the application. However, the State has the authority to require additional information. Therefore, the Director finds the amendment no less effective than 30 CFR 773.13(a).

4. Indiana rule 310 IAC 12–3–106(b) is amended to list libraries which qualify for permit application filing locations.

Since the Director in Finding 1, above, finds that the State's provisions to require the filing of permit applications in the county library where the mining is proposed to occur is no less effective than 30 CFR 773.13(a)(2), the Director also finds that the State's list of libraries which qualify for permit application filing locations is no less effective than the Federal regulations.

5. Indiana rule 310 IAC 12–3–106(c) is amended to require a filing fee, and to establish requirements for retention of the permit application in public files, including the requirement that the application remain on file until final bond release.

The Federal regulations at 30 CFR 773.13(d) require that the permit application "be available, at reasonable times, for public inspection and copying." OSM interprets the Federal rule to mean that the permit application shall be on file until bond release. Therefore, the Director finds the State provisions no less effective than the Federal regulations.

6. Indiana has also made changes to its regulations which are not substantive and are of an editorial nature. The Director finds these changes to be no less effective than the Federal regulations.

III. Public Comments

In response to the March 29, 1985 **Federal Register** notice inviting comments relating to Indiana's proposed modification of its program, one comment was received from the Hoosier Environmental Council (HEC).

The HEC commented that the provisions of the amendment, if approved, would "provide greater public accessibility to decisions affecting surface mining activity in Indiana". Also, the increased public awareness of the surface mining program would help public officials make the most rational decisions when controversial applications are filed. The Director, based on the above findings, has found that the amended State provisions are no less effective than the Federal regulations.

IV. Director's Decision

The Director, based on the above findings, is approving the Indiana regulatory amendments as submitted on February 18, 1985, under the provisions of 30 CFR 732.17. The Federal rules at 30 CFR Part 914 are being amended to implement this decision.

V. Procedural Matters

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 and 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 914

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: May 30, 1985.

Jed D. Christensen,

Acting Director, Office of Surface Mining.

PART 914—INDIANA

30 CFR Part 914 is amended as follows:

1. The authority citation for Part 914 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 914.15 is amended by adding a new paragraph (i) as follows:

§ 914.15 Approval of regulatory program amendments.

* * * * *

(i) The following amendments submitted by the Indiana Department of Natural Resources to OSM on February 18, 1985 are approved effective June 5, 1985: revisions amending Indiana regulations at 310 IAC 12-3-26, 12-3-64, 12-3-106, 12-3-107 and 12-3-108.

[FR Doc. 85-13508 Filed 6-4-85; 8:45 am]

BILLING CODE 4310-05-M

30 CFR Part 917

Extension of Staffing Deadlines for the Commonwealth of Kentucky 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 extension of staffing deadlines established in the Federal Register dated December 31, 1984, "Disapproval of Permanent Program Amendment From the Commonwealth of Kentucky Under the Surface Mining Control and Reclamation Act of 1977" (SMCRA). (49 FR 50718) In that notice OSM announced the disapproval of Kentucky's proposed amendment to reduce budget and staffing levels and established required actions Kentucky must take to bring staffing levels to the level previously approved in the State regulatory program. Kentucky was required: to announce position vacancies by February 1, 1985; to have reached the approved permanent program staffing level (408) by May 1, 1985; and, by the fifth of each month beginning on February 5, 1985, to provide a report to OSM describing the actions taken to achieve the approved program staffing levels by May 1, 1985.

Since the publication of the rule denying the proposed amendment, Kentucky has made substantial effort to locate funds and personnel in order to comply with the Director's decision, but has indicated that the deadlines imposed cannot be met. The Director has determined that the best interests of Kentucky's program will be served by extending the hiring period to August 31, 1985, to allow the State additional time to meet approved staffing levels so that qualified personnel can be recruited and selected.

Accordingly, the Director is granting an extension of time to allow Kentucky to reach the approved permanent program staffing level. The Federal rules at 30 CFR Part 917 which codify decisions concerning the Kentucky program are being amended to implement this action.

EFFECTIVE DATE: April 5, 1985. This rule became effective upon publication of the interim final rule in the April 5, 1985 Federal Register (50 FR 13567).

ADDRESSES: Copies of the Kentucky program and the Administrative Record for the Kentucky program are available for public inspection and copying at the OSM offices and the Office of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m. excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Administrative Record Room 5124, 1100 L Street NW., Washington, D.C. 20240

Office of Surface Mining Reclamation and Enforcement, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504

Bureau of Surface Mining, Reclamation and Enforcement, Capitol Plaza Tower, Third Floor, Frankfort, Kentucky 40601

FOR FURTHER INFORMATION CONTACT: Mr. W. H. Tipton, Director, Lexington Field Office, Office of Surface Mining Reclamation and Enforcement, 340 Legion Drive, Suite 28, Lexington, Kentucky 40504; Telephone: (606) 233-7327.

SUPPLEMENTARY INFORMATION:

I. Background

On December 30, 1981, Kentucky resubmitted its proposed regulatory program to OSM. On April 13, 1982, following a review of the proposed program as outlined in 30 CFR Part 732, the Secretary approved the program subject to the correction of 12 minor deficiencies. The approval was effective upon publication of the notice of conditional approval in the May 18, 1982 Federal Register (47 FR 21404-21435).

Information pertinent to the general background on the Kentucky State program, including the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval can be found in the May 18, 1982 Federal Register notice.

By a transmittal dated June 29, 1984, Kentucky submitted to OSM pursuant to 30 CFR 732.17, an amendment to the Kentucky program to change approved levels of staffing and budget. Kentucky submitted a justification for proposed staffing levels by program area which gave an explanation of and reasons for the changes.

OSM published a notice in the Federal Register on July 24, 1984, announcing receipt of the amendment (49 FR 29804). The public comment period ended August 23, 1984. Since no one requested a public hearing, the hearing, scheduled for August 20, 1984, was not held.

OSM subsequently published a notice in the Federal Register on December 31, 1984, (49 FR 50718) announcing disapproval of the proposed budget and staffing amendment based on the Director's finding that the proposal failed to meet the requirements of SMCRA and the Federal regulations. Section 503(a)(3) of SMCRA requires that the State regulatory authority have sufficient administrative and technical personnel and sufficient funding to regulate mining in accordance with the Act. The Federal regulations require sufficient legal, administrative, and technical staff and sufficient funding to implement the approved program. The State's justification for the reduced levels relied heavily on the assertion that it has been demonstrated that Kentucky has adequately administered all aspects of the State program with existing staff. However, OSM's oversight program previously documented that Kentucky was encountering problems with the Kentucky State Program and, therefore, the Director disapproved the amendment.

In the December 31, 1984 notice, the Director also established required actions Kentucky must take to bring staffing levels to the level previously approved in the State regulatory program. The State was required: to announce position vacancies by February 1, 1985; to have reached the approved permanent staffing levels by May 1, 1985; and, by the fifth of each month beginning on February 5, 1985, to provide a report to OSM describing actions taken to achieve the approved program staffing levels by May 1, 1985.

II. Extension of Deadline

Following publication of the notice of disapproval of Kentucky's proposed staffing agreement in the December 31, 1984 Federal Register, the Director, OSM and the Governor of Kentucky met several times to discuss Kentucky's ability to meet staffing requirements imposed in that notice. The Governor made clear in these meetings that Kentucky wished to retain program primacy but would be unable to meet the deadlines imposed by the Director for staff increases. The State expects to be able to achieve the required staffing

level of 408 in the Kentucky Department of Surface Mining Reclamation and Enforcement by August 1, 1985.

On February 21, 1985, the Director, OSM and the Governor of Kentucky signed an Amendment to Agreement for Grant Number G5143213, the Fiscal Year 1984 Administration and Enforcement Grant to Kentucky, wherein it was agreed that: the State shall meet and maintain by August 31, 1985, the approved program staffing levels; the State shall provide monthly progress reports to OSM on the fifth of each month, describing actions taken to achieve approved levels; and the State must complete advertisement and other recruitment actions for necessary positions to meet approved levels by May 1, 1985.

On April 5, 1985, OSM published an interim final rule announcing the extension of staffing deadlines to reflect the amended deadlines in the grant agreement (50 FR 13567). The interim final rule established new deadlines in 30 CFR 917.16(b). Since reaching the agreement, Kentucky has submitted monthly reports as required by 30 CFR 917.16(b)(3), documenting actions taken and positions filled in accordance with the requirements of the agreement. Kentucky submitted on May 1, 1985, copies of vacancy announcements that has been advertised in accordance with 30 CFR 917.16(b)(1). Kentucky instituted formal training for new inspectors at Eastern Kentucky University, Richmond, Kentucky, to begin May 13, 1985.

III. Public Comments

Thomas J. FitzGerald, Attorney at Law, submitted comments on behalf of the Kentucky Governmental Accountability Project of the Kentucky Resources Council, the Kentucky Conservation Committee, and the Sierra Club, Cumberland Chapter.

Mr. FitzGerald stated that the Sierra Club, Cumberland Chapter and the Kentucky Conservation Committee are parties-plaintiff in the pending case of *Sierra Club et al.* v. *Hodel*, CA No. 82–30, (D.C.E.D. Ky.) which challenges, *inter alia*, the failure to require the State program to contain adequate inspection and enforcement personnel. Mr. FitzGerald stated that his comments in no way concede the sufficiency of the approved staffing level of 408 which is being challenged.

Mr. FitzGerald supported the extension of the deadline for attaining the agreed-upon staffing level provided that the deadlines and timetables are strictly adhered to.

The commenter did not agree with the use of the term "good faith" in describing Kentucky's actions related to staffing efforts. The commenter pointed out that Kentucky has been at odds with OSM on this issue since submission of its proposed regulatory program and that Kentucky has alternately claimed to have adequate staff or to be restricted by inadequate staff in carrying out its program requirements.

The commenter stated that "the inadequacy of the Kentucky staffing level had real and demonstrable adverse effects both on the viability of the State program and in terms of on-the-ground environmental damage. * * * The lack of adequate filed personnel, as well as lack of coherence and commitment in management, has directly correlated into inadequate and incomplete field inspections, an almost wholesale failure in the control of the coal exploration process and the two-acre permitting process, and failure in enforcement of environmental regulations and permit conditions."

The commenter called it ironic that Kentucky's actions are termed "good faith" when Kentucky's position taken in February 1985, was to offer as a "bottom line" the staff number that had recently been disapproved. The commenter said the extension was warranted for fiscal, time and resource reasons and not because of any actions on Kentucky's part.

OSM acknowledges that certain problems that have surfaced in Kentucky's implementation of its approved program have been directly or indirectly related to staffing levels. OSM is seriously concerned that Kentucky meet the requirements contained in this notice within the established deadlines. OSM believes that the staffing levels and schedule for completion of hiring established in this notice will enable the DNERP to meet obligations under the approved Kentucky program.

IV. Director's Decision

In order to implement the agreement signed by the Director and the Governor of Kentucky on February 21, 1985, the Director has extended the deadlines imposed in the December 31, 1984 Federal Register notice, effective April 5, 1985. This action was taken to allow Kentucky to obtain necessary funding and to recruit and select the best-qualified persons available.

This action was made effective immediately upon publication of an interim final rule announcing the action in the Federal Register on April 5, 1985 (50 FR 13567). This was done to bring the required staffing actions previously imposed on Kentucky into agreement with the grant amendment agreement which was signed by the Governor and the Director on February 21, 1985.

V. Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule 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.

2. *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 917

Coal mining Intergovernmental relations, Surface mining, Underground mining.

Dated: May 30, 1985.

Jed D. Christensen,

Acting Director, Office of Surface Mining.

PART 917—KENTUCKY

30 CFR Part 917 is amended as follows:

1. The authority citation for Part 917 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 917.16 is amended revising paragraph (b) to read as follows:

§ 917.16 Required program amendments.

* * * * *

(b) Pursuant to 30 CFR 732.17, Kentucky is required to accomplish the following actions or termination of the program approval found in § 917.10 will be initiated on August 31, 1985.

(1) Action to recruit personnel to meet the approved program staffing levels of 408 must begin upon publication of this

notice. No later than May 1, 1985, notices concerning vacant positions must be advertised.

(2) Kentucky must have employed sufficient personnel to reach the approved permanent program level (408) no later than August 31, 1985. Of the approved permanent program level of 408, a minimum of 156 must be inspection and enforcement personnel.

(3) By the fifth of each month, beginning on February 5, 1985, Kentucky will provide a report to OSM describing the actions taken to achieve the approved program staffing levels by August 31, 1985, and of any additional vacancies which may have occurred during the previous month.

[FR Doc. 85-13506 Filed 6-4-85; 8:45 am]
BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 1

[CGD 85-001A]

Individual Participation in Marine Safety Reporting Program (MSRP); Enforcement Policy

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule amends 33 CFR Part 1 (Subpart 1.07) to set forth Coast Guard enforcement policy when an individual participates in the voluntary Marine Safety Reporting Program (MSRP). The Coast Guard will not assess a penalty for a violation involving the navigation and control of a vessel if the individual has reported the incident to MSRP and if certain conditions are met. This policy will provide mariners with added incentive to voluntarily report safety-related incidents to MSRP.

EFFECTIVE DATE: This amendment is effective June 1, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Larry D. Glass, Office of Merchant Marine Safety, (202) 426-6251, 7:30 am to 4:00 pm Monday through Friday.

SUPPLEMENTARY INFORMATION: The Department of Transportation has initiated a test of a voluntary Marine Safety Reporting Program (MSRP). Modeled upon the Aviation Safety Reporting System (ASRS), MSRP is a system by which the marine community can voluntarily submit reports containing information on "near-mishaps" or difficulties encountered with the navigation and control of a commercial vessel. MSRP is intended to supplement existing mandatory reporting requirements to collect information on safety-related problems which would otherwise go unreported. In particular, one objective of MSRP is to develop new insight into the role that human factor considerations play in marine transportation. MSRP will be managed by the Department of Transportation's Transportation Systems Center in Cambridge, Massachusetts.

An individual desiring to report to MSRP will complete an MSRP Report Form and mail it to the Transportation Systems Center. This report will then go to an analyst who reviews the report to determine whether it is complete. If it is not, the analyst will attempt to contact the reporter by telephone to obtain additional information. Following this, the identification strip section of the report form is removed and returned to the reporter to acknowledge receipt of the report. At this time, the report is "sanitized"; that is, all identifying data is obscured to remove any chance that the report could be traced to a specific reporter or vessel. No record is kept of the reporter's identity. After sanitization, the report is analyzed to determine whether the hazard(s) described in the report requires immediate notifications to prevent an impending accident. The report is then processed for inclusion into the MSRP database.

At the end of the test, MSRP will be evaluated to determine whether the program should be continued. This evaluation will focus on the level of support of the marine community, the quality of the information received, and the usefulness of the information received.

At the present time, OMB approval of the report form used will expire on 1 October 1985. A request for extension of the approval period is pending. If approval of the report form is not extended, this test will be terminated on 1 October 1985. If approval for continued use of the form is obtained, the test will be terminated on 1 June 1986.

Persons desiring more detailed information on MSRP or who would like to obtain copies of the MSRP Report Form should contact Mr. A.L. Lavery, Transportation Systems Center, Kendall Square, Cambridge, Massachusetts 02142; telephone (617) 494-2577.

To encourage participation in MSRP, the Coast Guard has agreed not to assess a penalty under this subpart against an individual in certain instances when the individual has reported the incident to MSRP. The case will be dismissed when the individual can show that he/she made a report to MSRP within 15 days from the date of the incident or prior to being informed either in writing or verbally that the Coast Guard was initiating an enforcement action, whichever comes first, and if:

(1) The incident fell within the scope of MSRP in that it involved the navigation and control of a commercial vessel;

(2) The violation/offense did not involve a criminal activity;

(3) The violation/offense was found to be inadvertent and not deliberate;

(4) The violation/offense did not involve an incident which is required to be reported by statute or regulation, e.g., marine casualties, oil/hazardous materials pollution incidents, collisions with aids to navigation, certain navigational system failures, etc.;

(5) The violation/offense was not one where statutes require a mandatory penalty or sanction;

(6) The incident was not one which disclosed a lack of qualification or competency on the part of a licensed/documented individual;

(7) The individual has not used this provision on a prior occasion.

The individual is afforded the opportunity to use his/her report to MSRP as a basis for avoiding an action under this subpart when notified by the hearing officer that a violation appears to have been committed and that a penalty appears to be appropriate. The individual may, in written correspondance, present to the hearing officer the MSRP receipt slip indicating that he/she reported the incident to MSRP. Alternatively, the individual may request a hearing as to the merits of the alleged violation, and present the MSRP receipt slip at the hearing. When the hearing officer determines that the conditions for exercising this policy exist, the decision rendered by the hearing officer shall state that the case is dismissed by reason of the individual's participation in MSRP.

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511), the reporting provisions that are included in this regulation have been submitted by the Office of the Secretary of Transportation for approval to the Office of Management and Budget (OMB). OMB Control Number 2105-0512 has been assigned.

This amendment is published as a final rule because the provisions thereof concern matters relating to an agency general statement of policy involving agency procedure and practice which is excepted under 5 U.S.C. 553 from the rulemaking procedures. Further, since this is only a limited test to determine

the feasibility and desirability of an ongoing MSRP, I find that notice and public procedures thereon are unnecessary and that good cause exists for publishing this amendment as a final rule.

This amendment is being made effective on 1 June 1985. As discussed below, participation in the test is voluntary and those participating may obtain relief from possible penalty action against them. Therefore, under 5 U.S.C. 553(d), it has been determined that good cause exists for making the rule effective in less than 30 days after publication.

Regulatory Evaluation and Certification

This final rule is considered to be non-major under Executive Order 12291 and non-significant under the Department of Transportation's "Policies and Procedures for Simplification, Analysis and Review of Regulations" (DOT Order 2100.5 dated May 22, 1980). The economic impact of this final rule has been found to be so minimal that further evaluation is unnecessary. The agency certifies that this final rule will not have a significant economic impact on a substantial number of small entities. Compared to the total number of individuals employed in the marine industry who are subject to the provisions of this subpart, the number of individuals who are confronted with proceedings under 33 CFR Subpart 1.07 is insignificant. Any impact is further reduced since this amendment affects only a fraction of those individuals confronted with civil penalty action. Reporting to MSRP and the use of the MSRP receipt slip to avoid an enforcement action is voluntary.

Environmental Impact

The Coast Guard has considered the impact of this revision upon the environment and concluded that the action represents changes in administrative matters only and has no impact upon the environment. Consequently, no environmental impact statement is required.

List of Subjects in 33 CFR Part 1

Administrative practice and procedure, Authority delegations (Government agencies), Coast Guard, Freedom of information, Penalties.

PART 1—[AMENDED]

In consideration of the foregoing, Subpart 1.07 of Title 33 Code of Federal Regulations is amended as follows:

Subpart 1.07—Enforcement; Civil and Criminal Penalty Proceedings

1. The authority citation for subpart 1.07 is revised to read as follows:

Authority: 5 U.S.C. 552; 14 U.S.C. 2,633, 49 CFR 1.46(b).

2. By adding a new § 1.07–17 to read as follows:

§ 1.07–17 Participation in the voluntary Marine Safety Reporting Program (MSRP).

(a) To encourage participation in MSRP, the Coast Guard has agreed not to assess a penalty under this subpart against an individual in certain instances when the individual has reported the incident to MSRP. The case will be dismissed when the individual can show that he/she made a report to MSRP within 15 days from the date of the incident or prior to being informed either in writing or verbally that the Coast Guard was initiating an enforcement action, whichever comes first, and if:

(1) The incident fell within the scope of MSRP in that it involved the navigation and control of a commerical vessel;

(2) The violation/offense did not involve a criminal activity;

(3) The violation/offense was found to be inadvertent and not deliberate;

(4) The violation/offense did not involve an incident which is required to be reported by statute or regulation, e.g., marine casualties, oil/hazardous materials pollution incidents, collisions with aids to navigation, certain navigational system failures, etc.;

(5) The violation/offense was not one where statutes require a mandatory penalty or sanction;

(6) The incident was not one which disclosed a lack of qualification or competency on the part of a licensed/documented individual;

(7) The individual has not used this provision on a prior occasion.

(b) Use of the MSRP receipt slip will become part of the person's record only for the purpose of documenting the one-time opportunity to use MSRP to avoid an action under this subpart.

3. Section 1.07–25 is amended by adding paragraph (e) to read as follows:

§ 1.07–25 Preliminary matters.

* * * * *

(e) An individual may use a report made to MSRP as a basis for avoiding assessment of a penalty under this subpart by presenting the MSRP receipt slip to the hearing officer either:

(1) In written evidence and argument in lieu of a hearing after being notified by the hearing officer that a violation appears to have been committed and a penalty is appropriate, or;

(2) At a hearing conducted pursuant to this subpart.

4. Section 1.07–65 is amended by adding paragraph (c) to read as follows:

§ 1.07–65 Hearing officer's decisions.

* * * * *

(c) When the hearing officer determines that the incident has been reported to MSRP and the conditions of § 1.07–17(a) exist, the decision shall state that the case is dismissed by reason of the individual's participation in MSRP.

Dated: May 31, 1985.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 85–13511 Filed 5–31–85; 4:18 pm]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 4F3129, 4F3111/R767; PH–FRL 2845–4]

Pesticide Tolerances for Iprodione

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule (1) establishes tolerances for the combined residues of the fungicide iprodione, its isomer and its metabolite, in or on certain raw agricultural commodities, (2) increases established tolerances for certain raw agricultural commodities of animal origin, (3) revises the tolerance expression for raw agricultural commodities of animal origin, and (4) recodifies the commodity milk. This regulation was requested through petitions submitted by Rhone-Poulenc, Inc. Elsewhere in this issue of the **Federal Register**, a feed additive regulation for iprodione, is also being established.

EFFECTIVE DATE: Effective on June 5, 1985.

ADDRESS: Written objections, identified by the document control number [PP 4F3129, 4F3111/R767], may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. M–3708, 401 M St. SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Henry M. Jacoby, Product Manager (PM) 21, Registration Division (TS–767C), Environmental

Protection Agency, 401 M St. SW., Washington, D.C. 20460.
Office location and telephone number: Rm. 227, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1900).

SUPPLEMENTARY INFORMATION: EPA issued notices, published in the **Federal Register**, which announced that Rhone-Poulenc, Inc., P.O. Box 125, Monmouth Junction, NJ 08852, had submitted the following pesticide petitions (PP) to EPA requesting that the Administrator, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for the fungicide iprodione as follows:

1. *PP 4F3129.* Published in the **Federal Register** of December 12, 1984 (49 FR 48374). Proposes that tolerances for the combined residues of iprodione be established as follows:

a. Iprodione [3-(3, 5-dichlorophenyl)-*N*-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide], its isomer [3-(1-methylethyl)-*N*-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide], and its metabolite [3-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide], in or on peanuts at 0.5 ppm, peanut forage and hay at 150 ppm, and peanut hulls at 7.0 ppm.

b. Iprodione and its non-hydroxylated metabolites (expressed as iprodione equivalents) in or on eggs at 0.01 ppm, kidney of cattle, goats, hogs, horses, and sheep at 3.0 ppm, liver of cattle, goats, hogs, horses, and sheep at 2.0 ppm, meat, fat, and meat byproducts (excluding liver and kidney) of cattle, goats, hogs, horses, and sheep at 0.6 ppm, and meat, fat, and meat byproducts of poultry at 0.05 ppm.

c. Iprodione and its non-hydroxylated and hydroxylated metabolites in or on milk at 0.4 ppm.

2. *PP 4F3111.* Published in the **Federal Register** of October 17, 1984 (49 FR 40659). Proposes that tolerances be established for the combined residues of iprodione, its isomer [3-(1-methylethyl)-*N*-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide], and its metabolite [3-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide] in or on the raw agricultural commodity onions at 0.5 ppm.

During the course of review of PP 4F3129, tolerances for residues of iprodione in or on raw agricultural commodities of animal origin were established under PP 3F2964, published in the **Federal Register** of December 5, 1984 (49 FR 47491). The Agency concluded that proposed tolerances for eggs of 0.01 ppm, and meat, fat, and meat byproducts of poultry at 0.05 ppm were not appropriate since tolerances were already established at 0.8 ppm for eggs and 0.4 ppm for poultry meat and meat byproducts, 2 ppm for poultry fat, and 3 ppm for poultry liver. The proposed tolerance of 2 ppm in liver of cattle, goats, hogs, horses, and sheep was not appropriate since tolerances were already established at 3 ppm. It was recommended that these inappropriate tolerances be withdrawn.

The Agency also concluded that a tolerance of 0.5 ppm was appropriate for residues of iprodione in milk, and in the meat, fat (except poultry fat), and meat byproducts (except liver and kidney) of cattle, goats, hogs, horses, poultry, and sheep and that 40 CFR 180.399 (b) and (c) should be combined and simplified to include metabolites containing the 3,5-dichloroaniline moiety.

EPA then issued a notice, published in the **Federal Register** of May 8, 1985 (50 FR 19445), which announced that Rhone-Poulenc Inc. had amended pesticide petition 4F3129 as follows by:

a. Revising the tolerance expression for iprodione residues in raw agricultural commodities of animal origin to read: "for combined residues of iprodione and its metabolites containing the 3,5-dichloroaniline moiety (expressed as iprodione equivalents)".

b. Increasing the proposed tolerance levels for meat, fat, and meat byproducts (excluding liver and kidney) of cattle, hogs, goats, horses, and sheep to 0.5 ppm.

c. Increasing the tolerance level for milk to 0.5 ppm.

d. Withdrawing the tolerance proposals for liver of cattle, goats, hogs, horses, and sheep, meat, fat, and meat byproducts of poultry and eggs as inappropriate.

Upon review of the revised section F, the Agency decided that the tolerance expression for iprodione residues in raw agricultural commodities of animal origin would be more accurately expressed as iprodione, its isomer [3-(1-methylethyl)-*N*-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide] and its metabolites [3-(3,5-dichlorophenyl)2,4-dioxo-1-imidazolidine-carboxamide] and [*N*-(3,5-dichloro-4-hydroxyphenyl)ureidocarboxamide]. By using this revised tolerance expression, paragraph (c) of 180.399 could be deleted and all the raw agricultural commodities of animal origin could be listed under the new tolerance expression in paragraph (b).

Rhone-Poulenc Inc. amended pesticide petition 4F3111 on February 28, 1985, by revising the tolerance proposal to include only dry bulb onions.

No comments were received in response to these notices of filing.

The data submitted in the petitions and all other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerances, include:

1. A three-generation rat reproduction study with a no-observed-effect level (NOEL) of 500 ppm (25 mg/kg body weight/day), a reproductive lowest-effect level (LEL) of 2,000 ppm (100 mg/kg body weight/day), and a systemic NOEL equal to or greater than 2,000 ppm (100 mg/kg body weight/day).

2. A rabbit teratology study in which the following doses were administered by gavage, 0, 100, 200 and 400 mg/kg body weight, resulting in a teratogenic NOEL equal to or greater than 400 mg/kg body weight (considered unacceptable under current guidelines).

3. A rat teratology study in which the following doses were administered by gavage, 0, 100, 200, 400 mg/kg body weight, resulting in a teratogenic NOEL greater than 400 mg/kg body weight.

4. A rat 24-month feeding/oncogenicity study using dosage levels of 125, 250, and 1,000 ppm (6.25, 12.5, and 50 mg/kg body weight/day), which showed no oncogenic effects under the conditions of the study at the highest dose tested.

5. An 18-month oncogenicity study in mice using dosage levels of 200, 500, and 1,250 ppm (28.6, 71.4, 178.6 mg/kg body weight/day), which showed no oncogenic effects under the conditions of the study at the highest dose tested.

6. A 1-year dog feeding study using dosage levels of 100, 600, and 3,600 ppm (2.5, 15, and 90 mg/kg bw/day) with a NOEL of 100 ppm (2.5 mg/kg bw/day) and a LEL of 600 ppm (15 mg/kg bw/day).

7. A 90-day dog feeding study using dosage levels of 800, 2,400, and 7,200 ppm (20, 60, and 180 mg/kg body weight/day) with a NOEL of 2,400 ppm (60 mg/kg body weight/day and a LEL of 7,200 ppm (180 mg/kg body weight/day).

Data currently lacking include a second teratology study using gastric intubation, an acute dermal study, and mutagenicity studies including: (1) DNA repair; (2) gene mutation, mammalian, preferably in vitro; (3) chromosomal aberration, mammalian, preferably in vitro.

The acceptable daily intake (ADI) based on the three generation rat reproduction study (NOEL of 25 mg/kg/day) and using a 100 fold safety factor, is calculated to be 0.2500 mg/kg of bw/day. The maximum permitted intake (MPI) for a 60 kg human is calculated to

be 15.00 mg/day. The theoretical maximum residue contribution (TMRC) from the established and proposed tolerances is 1.6905 mg/day and utilizes 11.27 percent of the MPI.

The nature of the residues is adequately understood and an adequate analytical method, gas chromatography, is available for enforcement purposes. There are presently no actions pending against the continued registration of the chemical.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has exempted this regulation from the OMB review requirements of Executive Order 12291, pursuant to section 8(b) of that Order.

The pesticide is considered useful for the purpose for which the tolerances are sought. It is concluded that the tolerances will protect the public health and are established as set forth below.

Any person adversely affected by this regulation, may within 30 days after publication in the **Federal Register**, file written objections with the Hearing Clerk at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

As required by Executive Order 12211, EPA has determined that this rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has determined that the regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: May 23, 1985.

Steven Schatzow,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR Part 180 is amended as follows:

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.399 is amended by (1) adding and alphabetically inserting the commodities dry bulb onions, peanuts, peanut forage and hay, and peanut hulls to paragraph (a); (2) revising paragraph (b); and (3) removing paragraph (c) to read as follows:

§ 180.399 Iprodione; tolerances for residues.

(a) * * *

Commodities	Parts per million
* * * * *	
Onions, dry bulb	0.5
* * * * *	
Peanuts	0.5
Peanut forage	150.0
Peanut hay	150.0
Peanut hulls	7.0
* * * * *	

(b) Tolerances are established for the combined residues of iprodione [3-(3,5-dichlorophenyl)-*N*-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboxamide], its isomer [3-(1-methylethyl)-*N*-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide, and its metabolites [3-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidine-carboxamide] and [*N*-(3,5-dichloro-4-hydroxyphenyl)-ureido-carboxamide], all expressed as iprodione equivalents in or on the following raw agricultural commodities of animal origin:

Commodities	Parts per million
Cattle, fat	0.5
Cattle, kidney	3.0
Cattle, liver	3.0
Cattle, meat	0.5
Cattle, meat byproducts (mbyp) (except kidney and liver)	0.5
Eggs	0.8
Goats, fat	0.5
Goats, kidney	3.0
Goats, liver	3.0
Goats, meat	0.5
Goats, mbyp (except kidney and liver)	0.5
Hogs, fat	0.5
Hogs, kidney	3.0
Hogs, liver	3.0
Hogs, meat	0.5
Hogs, mbyp (except kidney and liver)	0.5
Horses, fat	0.5
Horses, kidney	3.0
Horses, liver	3.0
Horses, meat	0.5
Horses, mbyp (except kidney and liver)	0.5
Milk	0.5
Poultry, fat	2.0
Poultry, liver	3.0
Poultry, meat	0.5
Poultry, mbyp (except kidney and liver)	0.5
Sheep, fat	0.5
Sheep, kidney	3.0
Sheep, liver	3.0
Sheep, meat	0.5
Sheep, mbyp (except kidney and liver)	0.5

(c) [Removed].

[FR Doc. 85–13368 Filed 6–4–85; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[PP 5E3236/R763; PH–FRL 2845–1]

Pesticide Tolerance for Metolachlor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the herbicide metolachlor and its metabolites in or on the raw agricultural commodity chili peppers. This regulation to establish a maximum permissible level for residues of the herbicide in or on chili peppers was requested in a petition submitted by the Interregional Research Project No. 4 (IR–4).

EFFECTIVE DATE: Effective on June 5, 1985.

ADDRESS: Written objections, identified by the document control number, [PP 5E3236/R763], may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Room 3708, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Donald Stubbs, Emergency Response and Minor Use Section (TS–767C), Registration Division, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Office location and telephone number: Room 716B, CM #2, 1921 Jefferson Davis Highway.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of April 24, 1985 (50 FR 16104), which announced that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition 5E3236 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR–4 Project and the Agricultural Experiment Station of New Mexico. This petition proposed establishing a tolerance for combined residues of the herbicide metolachlor (2-chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylethyl)acetamide) and its metabolites, determined as the derivatives, 2-[(2-ethyl-6-methylphenyl)amino]-1-proponal and 4-(2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone, each expressed as the parent compound, in or on the raw agricultural commodity chili peppers at 0.5 part per million (ppm).

No comments or request for referral to an advisory committee were received in response to the proposed rulemaking.

The data submitted in the petition and all other relevant material have been

evaluated. The data considered in support of the tolerance included a 90-day dog feeding study with a no-observed-effect level (NOEL) of 500 ppm (12.5 milligrams (mg)/kilogram (kg)); a 6-month dog feeding study with a NOEL of 100 ppm (2.5 mg/kg); a rat teratology study with teratogenic and fetotoxic NOEL's of greater than 360 mg/kg; a rabbit teratology study with teratogenic and fetotoxic NOEL's of 360 mg/kg and a maternal NOEL of 120 mg/kg; a 2-generation rat reproduction study with a reproductive NOEL of 300 ppm (15 mg/kg) and an LEL of 1,000 ppm (50 mg/kg); a mouse dominant lethal study negative for mutagenic effects; an AMES mutagenicity assay negative for mutagenic effects; and a 2-year mouse oncogenicity study with a NOEL greater than 3,000 ppm (450 mg/kg), tested at 30, 1,000 and 3,000 ppm.

A 2-year chronic feeding/oncogenicity study in the rat (IBT validated, core supplementary) at dietary doses of 0, 30, 300, and 3,000 ppm with a systemic NOEL of less than 30 ppm, equivalent to 1.5 mg/kg that demonstrated a dose-related decreased spleen weight. Results of the completed 2-year chronic feeding/oncogenicity study in the rat (IBT), show a statistically significant increase in primary liver neoplasms in females of the high dose group (3,000 ppm).

The Agency evaluated dietary exposure to metolachlor residues based on the IBT rat study and has estimated that the residues resulting from this tolerance and previously published tolerances result in a "worst case" oncogenic risk as discussed below. In addition, a new 2-year chronic feeding/oncogenicity study in the rat has been conducted at dietary doses of 0, 30, 300, and 3,000 ppm with a systemic NOEL of 30 ppm, a systemic LEL of 300 ppm (testicular atropy) and an increased incidence of neoplastic nodules and hepatocellular carcinomas. The Q^* (2.0×10^{-3}) used to calculate risk was obtained from the IBT rat chronic feeding/oncogenicity study. A Q^* for the most recent study is not available at present. The Agency will reconsider this risk estimate and reevaluate this and all other tolerances for metolachlor once the new risk assessment is completed.

The risk for the existing tolerances calculated under the new Tolerance Assessment System (TAS) is 1.59×10^{-6}; the risk for the proposed use is 4.2×10^{-9}; and the risk for the existing uses and the proposed use is 1.592×10^{-6}. The incremental increase in risk is extremely small (0.26 percent).

Tolerances have previously been established for residues of metolachlor ranging from 0.02 ppm in meat, milk, poultry, and eggs to 3.0 ppm in peanut forage and hay. The theoretical maximal residue contribution (TMRC) for existing tolerances (as calculated by the TAS) is 0.000794 mg/kg/day for the total diet of the U.S. population. The proposed use will contribute an additional 0.0000021 mg/kg/day, an increase of 0.26 percent.

Use of metolachlor on chili peppers will be geographically restricted to New Mexico only. In order to expand the area of usage on chili peppers, additional residue data will be required from other geographical areas.

The pesticide is considered useful for the purpose for which the tolerance is sought. There are no regulatory actions pending against the continued registration of the pesticide. Based on the information cited above, the Agency has determined that the establishment of the tolerance will protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: May 24, 1985.

Steven Schatzow,

Director, Office of Pesticide Programs.

PART 180—[Amended]

Therefore, 40 CFR Part 180 is amended as follows:

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.368(a) is amended by adding and alphabetically inserting the commodity chili peppers to read as follows:

§ 180.368 Metolachlor, tolerances for residues.

(a) * * *

Commodities	Parts per million
* * * * *	
Peppers, chili	0.1
* * * * *	

[FR Doc. 85-13365 Filed 6-4-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 3E2780/R767] PH-FRL 2846-1)

Potassium Ricinoleate and Related C_{12}–C_{18} Fatty Acid Potassium Salts; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement of a tolerance for potassium ricinoleate and related C_{12}–C_{18} fatty acid potassium salts in or on the raw agricultural commodity catfish when used as an algicide in managed catfish ponds in accordance with good agricultural practice. This regulation is established pursuant to a petition submitted by the University of Southern Mississippi.

EFFECTIVE DATE: Effective on June 5, 1985.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Richard Mountfort, Product Manager (PM) 23, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 237, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1830).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the Federal Register of December 22, 1982 (47 FR 57128), which announced that the University of Southern Mississippi, P.O. Box 5024, Southern Station, Hattiesburg, MS 29406, had filed a pesticide petition (PP 3E2780) with EPA proposing to amend 40 CFR Part 180 by establishing an exemption from the requirement of a tolerance for potassium ricinoleate in fish when it results from the use of saponified castor oil as an algicide in catfish ponds.

There were no comments received in response to the notice of filing.

The exemption has been clarified to specify potassium ricinoleate and related C_{12}–C_{18} fatty acid potassium salts and to indicate the raw agricultural commodity catfish. The data in the petition and other relevant material have been evaluated. Potassium ricinoleate and related C_{12}–C_{18} fatty acid potassium salts are formed by the reaction of castor oil and potassium hydroxide. Castor oil USP is cleared for use as a cosolvent under 40 CFR 180.1001(e) for application to animals. Castor oil is cleared for food use as a release agent for hard candy and as a protective coating for vitamin and mineral tablets under 21 CFR 172.876. Potassium hydroxide is affirmed as generally recognized as safe under 21 CFR 184.1631 for use in food at levels not to exceed current good manufacturing practice. Residues in the human or animal diet resulting from the proposed use would be significantly less than dietary burdens from the established clearances. Also, a related material, potassium oleate and related C_{12}–C_{18} fatty acid potassium salts, is exempted from the requirement of a tolerance for residues in all raw agricultural commodities (40 CFR 180.1068).

There are no regulatory actions pending against potassium ricinoleate and related C_{12}–C_{18} fatty acid potassium salts (saponified castor oil).

The pesticide is considered useful for the purpose for which the exemption from the requirement of a tolerance is being sought. The exemption will protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: May 23, 1985.

Steven Schatzow,

Director, Office of Pesticide Programs.

PART 40—[AMENDED]

Therefore, 40 CFR Part 180 is amended as follows:

1. The authority for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. By adding new § 180.1085, to read as follows:

§ 180.1085 Potassium ricinoleate and related C_{12}–C_{18} fatty acid potassium salts; exemption from the requirement of a tolerance.

Potassium ricinoleate and related C_{12}–C_{18} fatty acid potassium salts are exempted from the requirement of a tolerance for residues in or on the raw agricultural commodity catfish when used as an algicide in managed catfish ponds in accordance with good agricultural practices.

[FR Doc. 85–13512 Filed 6–4–85; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

46 CFR Part 5

[CGD 85–001]

Individual Participation in Marine Safety Reporting Program (MSRP); Enforcement Policy on Suspension and Revocation Proceedings

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule amends 46 CFR Part 5 to set forth Coast Guard enforcement policy relating to suspension and revocation proceedings when an individual participates in the voluntary Marine Safety Reporting Program (MSRP). The Coast Guard will not impose any order under this Part which adversely affects a mariner's license, certificate or document if the individual has reported the incident to MSRP and if certain conditions are met. This policy will provide mariners with added incentive to voluntarily report safety-related incidents to MSRP.

EFFECTIVE DATE: This amendment is effective June 1, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Larry D. Glass, Office of Merchant Marine Safety, (202) 426–6251, 7:30 am to 4:00 pm Monday through Friday.

SUPPLEMENTARY INFORMATION: The Department of Transportation has initiated a test of a voluntary Marine Safety Reporting Program (MSRP). Modeled upon the Aviation Safety Reporting System (ASRS), MSRP is a system by which the marine community can voluntarily submit reports containing information on "near-mishaps" or difficulties encountered with the navigation and control of a commercial vessel. MSRP is intended to supplement existing mandatory reporting requirements to collect information on safety-related problems which would otherwise go unreported. In particular, one objective of MSRP is to develop new insight into the role that human factor considerations play in marine transportation. MSRP will be managed by the Department of Transportation's Transportation Systems Center in Cambridge, Massachusetts.

An individual desiring to report to MSRP will complete an MSRP Report Form and mail it to the Transportation Systems Center. This report will then go to an analyst who reviews the report to determine whether it is complete. If it is not, the analyst will attempt to contact the reporter by telephone to obtain additional information. Following this, the identification strip section of the report form is removed and returned to the reporter to acknowledge receipt of the report. At this time, the report is "sanitized"; that is, all identifying data is obscured to remove any chance that the report could be traced to a specific reporter or vessel. No record is kept of the reporter's identity. After sanitization, the report is analyzed to determine whether the hazard(s) described in the report requires immediate notifications to prevent an impending accident. The report is then processed for inclusion into the MSRP data base.

At the end of the this test, MSRP will be evaluated to determine whether the program should be continued. This evaluation will focus on the level of support of the marine community, the quality of the information received, and the usefulness of the information received.

At the present time, OMB approval of the report form used will expire on 1 October 1985. A request for extension of the approval period is pending. If

approval of the report form is not extended, this test will be terminated on 1 October 1985. If approval for continued use of the form is obtained, the test will be terminated on 1 June 1986.

Persons desiring more detailed information on MSRP or who would like to obtain copies of the MSRP Report Form should contact Mr. A. L. Lavery, Transportation Systems Center, Kendall Square, Cambridge, Massachusetts 02142; telephone (617) 494–2577.

To encourage participation in MSRP, the Coast Guard has agreed not to seek the imposition of an order which adversely affects a mariner's license, certificate or document; i.e., a warning, admonition, suspension or revocation, in certain instances when the individual has reported the incident to MSRP. The case will be dismissed when the individual can show that he/she made a report to MSRP within 15 days from the date of the incident or prior to being informed either in writing or verbally that the Coast Guard was initiating an enforcement action, whichever comes first, and if:

(1) The incident fell within the scope of MSRP in that it involved the navigation and control of a commercial vessel;

(2) The violation/offense was found to be inadvertent and not deliberate;

(3) The violation/offense did not involve a criminal activity;

(4) The violation/offense did not involve an incident which is required to be reported by statute or regulation, e.g., marine casualties, oil/hazardous materials pollution incidents, collisions with aids to navigation, certain navigational system failures, etc.;

(5) The violation/offense was not one where statutes require a mandatory penalty or sanction;

(6) The incident was not one which disclosed a lack of qualification or competency on the part of a licensed/documented individual; and

(7) The individual has not used this provision on a prior occasion.

The individual is afforded the opportunity to use his/her report to MSRP as a basis for avoiding an action against a license, certificate or document at either of two levels. The individual may ask that the investigating officer accept the MSRP receipt slip in lieu of preferring charges or giving a warning. Alternatively, if the individual desires a hearing on the alleged offense, the MSRP receipt slip may be presented to the administrative law judge at the hearing. It is expected that the administrative law judge will first rule as to whether the charge(s) and specification(s) are proved before making a determination as to whether the conditions for exercising this policy exist. If they do, the administrative law judge shall render an order stating that the case is dismissed by reason of the individual's participation in MSRP.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the reporting provisions that are included in this regulation have been submitted by the Office of the Secretary of Transportation for approval to the Office of Management and Budget (OMB). OMB control Number 2105–0512 has been assigned.

This amendment is published as a final rule because the provisions thereof concern matters relating to an agency general statement of policy involving agency procedure and practice which is excepted under 5 U.S.C. 553 from the rulemaking procedures. Further, since this is only a limited test project to determine the feasibility and desirability of an ongoing MSRP, I find that notice and public procedures thereon are unnecessary and that good cause exists for publishing this amendment as a final rule.

This amendment is being made effective on 1 June 1985. As discussed below, participation in the test is voluntary and those participating may obtain relief from possible penalty action against them. Therefore, under 5 U.S.C. 553(d), it has been determined that good cause exists for making the rule effective in less than 30 days after publication.

Regulatory Evaluation and Certification

This final rule is considered to be non-major under Executive Order 12291 and non-significant under the Department of Transportation's "Policies and Procedures for Simplification, Analysis and Review of Regulations" (DOT Order 2100.5 dated May 22, 1980). The economic impact of this final rule has been found to be so minimal that further evaluation is unnecessary. The agency certifies that this final rule will not have a significant economic impact on a substantial number of small entities. Compared to the total number of individuals holding Coast Guard licenses, certificates or documents, the number of individuals who face proceedings under 46 CFR Part 5 is insignificant. Any impact is further reduced since this amendment affects only a fraction of the individuals confronted with suspension and revocation action. Reporting to MSRP and the use of the MSRP receipt slip to avoid an enforcement action is voluntary.

Environmental Impact

The Coast Guard has considered the impact of this revision upon the environment and concluded that the action represents changes in administrative matters only and has no impact upon the environment. Consequently, no environmental impact statement is required.

List of Subjects in 46 CFR Part 5

Administrative practices and procedures, Investigations, Adminstrative law judge, Investigating officer, Seaman, License, Certificate, Document, Administrative hearings, Suspension, Revocation.

PART 5—SUSPENSION AND REVOCATION PROCEEDINGS

In consideration of the foregoing, Part 5 of Title 46 Code of Federal Regulations is amended as follows:

1. The authority citation for Part 5 is revised to read as follows:

Authority: 46 U.S.C. 7701; 49 CFR 1.46(b).

2. By adding a new § 5.03–17 to read as follows:

§ 5.03–17 Participation in the voluntary Marine Safety Reporting Program (MSRP).

(a) To encourage participation in the Department of Transportation's Marine Safety Reporting Program (MSRP), the Coast Guard will not seek the imposition of an order under this Part which adversely affects a mariner's license, certificate or document if the individual can show that he/she made a report to MSRP within 15 days from the date of the incident or prior to being informed either in writing or verbally that the Coast Guard was initiating an enforcement action, whichever comes first, and if:

(1) The incident fell within the scope of MSRP in that it involved the navigation and control of a commercial vessel;

(2) The violation/offense was found to be inadvertent and not deliberate;

(3) The violation/offense did not involve a criminal activity;

(4) The violation/offense did not involve an incident which is required to be reported by statute or regulation, e.g., marine casualties, oil/hazardous materials pollution incidents, collisions with aids to navigation, certain navigational system failures, etc;

(5) The violation/offense was not one where statutes require a mandatory penalty or sanction;

(6) The incident was not one which disclosed a lack of qualification or competency on the part of a licensed/documented individual; and

(7) The individual has not used this provision on a prior occasion.

(b) An individual who desires to use the MSRP report to avoid an enforcement action under this Part must present the receipt slip to:

(1) The investigating officer during the investigation and,

(2) The administrative law judge during a hearing conducted pursuant to this Part.

(c) The individual may request that the investigating officer accept the receipt slip in lieu of preferring charges or giving a warning, or he/she may request a hearing on the merits of the alleged offense.

(d) When the administrative law judge determines that the incident has been reported to MSRP and the conditions of paragraph (a) exist, the administrative law judge shall render an order stating that the case is dismissed by reason of the individual's participation in MSRP.

(e) Use of the MSRP receipt slip will become a part of the person's record only for the purpose of documenting the one-time opportunity to use MSRP to avoid an action under this Part.

Dated: May 31, 1985.

Clyde Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 85-13510 Filed 5-31-85; 4:18 pm]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 84-515; RM-4694]

FM Broadcast Station in Red Bluff, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action substitutes Channel 274C2 for Channel 272A at Red Bluff and modifies the permit for Station KRBQ(FM), Red Bluff, California to specify operation on Channel 274C2; at the request of Theodore S. Storck.

EFFECTIVE DATE: July 8, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Arthur D. Scrutchins, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b), Table of Allotments FM Broadcast Stations. (Red Bluff, California) (MM Docket No. 84-515, RM-4694).

Adopted: May 8, 1985.

Released: May 30, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has before it the *Notice of Proposed Rule Making*, 49 FR 24393, published June 13, 1984 issued in response to a petition for rule making filed by Theodore S. Storck, permittee of Station KRBQ(FM), Channel 272A, Red Bluff, California (Storck or KRBQ), requesting the substitution of Class B FM Channel 275 for Channel 272A, at Red Bluff, and to modify his permit for Station KRBQ to specify the new channel. In response to the *Notice*, Storck filed comments restating his interest in Channel 275. Opposition and related comments were filed late by Paradise Broadcasting, Inc. ("Paradise B/c"), licensee of Station KNVR(FM), Channel 244A, Paradise, California.

Late Filed Comments

2. In its Petition for Leave to File Late Comments, Paradise B/c argues that if Channel 275 is substituted for Channel 272A at Red Bluff it will be precluded from upgrading its Class A station to a higher class on Channel 275 at Paradise. Paradise B/c claims that it did not discover the potential adverse impact of the Red Bluff proposal until August 10, 1984.[1] Paradise B/c further claims that when it learned of the Commission's action in Docket 83-1148, *Modification of FM and TV Licensees*, 49 FM 34007, published August 28, 1984, it attempted to find a suitable Class B channel. Paradise B/c states that the study revealed the availability of only two FR channels, 274 and 278, both of which were short spaced to the operation proposed by KRBQ on Channel 275. Subsequently, Paradise B/c filed comments on KRBQ's petition for rule making, proposing that Channel 274 be substituted for Channel 244A at Paradise. Paradise B/c states that Channel 278 could be reserved pending future expressions of interest.

3. In opposition to Paradise's request for leave, Storck contends that the pendency of Docket 83-1148 did not prevent Paradise B/c from filing timely comments. Storck, therefore claims that the untimely comments should not be accepted since no sufficient justification for lateness was given.

Discussion

4. As noted above, Paradise B/c filed comments to the instant proceeding more than one month after comments were due. In support of its petition for leave to file late comments, Paradise B/c relied on the Commission's action in Docket 83-1148. However we agree with Storck that Paradise B/c's ability to state its proposal was not contingent on the outcome of Docket 83-1148. While the action could have affected Paradise's modification plans, it did not need to wait until it was assured that it would be the successful party for a new channel, before it initiated steps to apply. In addition, we have reviewed Paradise's comments which contained several alternative proposals to the instant proceeding. We find that none of the information contained in the proposals would aid us in making a final determination since all of the alternatives are technically incompatible with the proposed substitution. Consequently, Paradise B/c's comments will not be considered.

5. Originally, Storck requested the allotment of Channel 275 to Red Bluff. In his petition Storck noted that the location of Red Bluff would generally require the allotment of a Class C channel. However, at that time no Class C channels were available that would meet the Commission's mileage separation requirements. As an alternative, Storck requested a Class B allotment. Subsequently, Storck filed supplemental comments requesting that the Commission allot Channel 275 as a Class C2 channel instead of a Class B, in light of the Commission's action in Docket 80-90, 94 F.C.C. 2d 152 (1983), recons. 97. F.C.C. 2d 279 (1984). Thereafter, Storck filed further comments requesting that the Commission allot Channel 274C2 to Red Bluff because it would offer certain advantages, particularly with regard to an antenna site selection. Storck also noted that the proposed site would provide service to Red Bluff and the surrounding area. Although Storck originally requested the substitution of Channel 275 for Chanel 272A at Red Bluff, we believe the public interest would be served by the substitution of Channel 274C2 instead in order to enable better site selection. Moreover, since Storck was the only party to file an expression of interest in the Red Bluff channel it is appropriate to modify his

[1] Paradise filed comments on September 7, 1984 approximately more than one month after the deadline.

license to specify operation on Channel 274C2. See *Modification of FM and TV Station Licenses*, 49 FR 34007, published August 28, 1984.

PART 73—[AMENDED]

§ 73.20 [Amended]

6. Accordingly, pursuant to the authority contained in Sections 4(1), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective July 8, 1985, the FM Table of Allotments, § 73.202(b) of the Commission's Rules, is amended with respect to the community listed below:

City	Channel No.
Red Bluff, California	239, and 274C2.

7. It is further ordered, that pursuant to section 316(a) of the Communications Act of 1934, as amended, the permit for Station KRBQ(FM), Red Bluff, California, is modified to specify operation on Channel 274C2, subject to the following conditions:

(a) The licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facilities.

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

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

8. It is further ordered, that the Secretary shall send a copy of this *Order* by certified mail, return receipt requested, to: Theodore J. Storck, c/o John Wells King, Esq., Haley Bader and Potts, 2000 M Street, NW., Suite 600, Washington, D.C. 20036.

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

10. For further information concerning this proceeding, contact Arthur D. Scrutchins, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 85–13452 Filed 6–4–85; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 83–1325; RM–4584]

TV Broadcast Stations in Longmont, CO; Change in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF Television Channel 25 to Longmont, Colorado, as its first commercial allocation, in response to a petition for reconsideration filed by Saint Vrain Broadcasting Company.

EFFECTIVE DATE: July 5, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 C.F.R. Part 73

Television broadcasting.

The Authority citation for Part 73 continues to read:

Authority: Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.

Memorandum Opinion and Order (Proceeding Terminated)

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Longmont, Colorado) (MM Docket No. 83–1325, RM–4584).

Adopted: May 8, 1985.
Released: May 28, 1985.

By the Chief, Policy and Rules Division.

1. Before the Commission is a petition for reconsideration,[1] filed by Saint Vrain Broadcasting Company ("Saint Vrain"), of the Report and Order, 49 FR 31306, published August 6, 1984, which dismissed a proposal filed by William G. and Lila Jean Stewart ("Stewart"), to assign UHF Television Channel 25 to Longmont, Colorado. The assignment could provide the community with its first television facility.

2. Longmont (population 42,942),[2] in Boulder County (population 189,625), is located in northeastern Colorado, approximately 50 kilometers (35 miles) north of Denver.

3. As stated in the Notice of Proposed Rule Making, 48 FR 56611, published December 22, 1983, a showing of continuing interest is required before a channel will be assigned. The Stewarts failed to file comments in this proceeding. Reply comments were filed by the Department of Commerce, National Oceanic and Atmospheric Administration ("NOAA"). NOAA did not object but noted the proximity of Longmont to the Table Mountain Radio Receiving Zone and requested advance coordination from all applicants for this channel at Longmont, in accordance with Section 73.1030(b) of the Commission's Rules.

4. On reconsideration, Saint Vrain requests that Channel 25 be assigned to Longmont for commercial use and states its intention to apply for the channel. The Stewarts have since filed comments, indicating an interest in Channel 25.

5. In view of the expressed interest and the fact that the assignment of Channel 25 could provide a first television facility to Longmont, we believe that UHF Television Channel 25 should be assigned to that community. A staff engineering study indicates that Channel 25 can be assigned to Longmont in compliance with the mileage separation requirements of § 73.610 of the Commission's Rules. Applicants should comply with the requirements of § 73.1030(b) of the Commission's Rules.

6. Accordingly, it is ordered, that the petition for reconsideration filed herein is granted.

PART 73—[AMENDED]

§73.606 [Amended]

7. It is further ordered, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, that effective July 5, 1985, the Television Table of Assignments, § 73.606(b) of the Commission's Rules is amended as follows:

City	Channel No.
Longmont, CO	25

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

9. For further information concerning the above, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 85–13453 Filed 6–4–85; 8:45 am]

BILLING CODE 6712–01–M

[1] Public Notice of the petition was given August 24, 1984, Report No. 1476.

[2] Population figures are taken from the 1960 U.S. Census.

47 CFR Parts 73 and 74

Radio and Television Broadcasting; Metrication of Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order amends the FCC rules concerning radio and television broadcasting. Amendments are made to convert these parts to the international system of units (metric system). This action is necessary to conform with the Metric Conversion Act of 1975.

EFFECTIVE DATE: June 5, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Howard Irvin, Mass Media Bureau, (202) 632-9660

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 73

Radio, Television.

47 CFR Part 74

Radio, Television.

Order (Proceeding Terminated)

In the matter of Metrication of FCC Rules and Regulations Parts 73 and 74.

Adopted: May 17, 1985.
Released: May 22, 1985.

By the Chief, Mass Media Bureau.

1. This Order converts Subparts E through H of Part 73 and all of Part 74 of the Commission's Rules to the international system of units (metric system). All conversions are made in compliance with the Metric Conversion Act of 1975, and FCC Public Notice 76-737, July, 28, 1976.

Background

2. In 1975, Congress passed the Metric Conversion Act directing conversion of measurement units in the federal rules and regulations to the metric system. The Commission responded with Public Notice 76-737 which adopted a policy for the conversion of the Rules and Regulations to metric units. Docket 80-90 converted Subparts B and C of Part 73 to metric units. This proceeding converts Subparts E through H of Part 73 and all of Part 74 to the metric system.

Discussion

3. In the text of these rules, values were rounded to the first decimal of the applicable metric unit, and the original quantity in the English system of units was retained in parentheses.

4. In determining the minimum distance separations § 73.698, the existing procedure permits actual measured distances to be rounded off to the nearest mile. Because of that, facilities may be spaced up to one-half mile closer than the values specified in the Rules. The new procedure will be more precise and will permit rounding off only to the nearest tenth of a kilometer (approximately six-hundredths of a mile). To maintain the effective minimum distance separations a three step process was used. First, one-half mile was subtracted from each separation distance (in English units) to represent the actual minimum spacing permitted by the rounding procedure that was specified in § 73.611. Second, the English units were converted to metric units. Third, distances were rounded to the nearest tenth of a kilometer as specified in § 73.611 as amended.

5. One of the more complex conversions was the metrication of the estimated field strength curves § 73.699. The estimated field strength curves were metricated by using the computer method of curve "refitting" described in report FCC/OCE RS76-01.

6. Finally, the antenna height above average terrain (HAAT)/power reduction curves (figures 3 & 4 § 73.699) have been replaced by equivalent equations. These equations give the required power reduction when the antenna HAAT exceeds certain limits. TV Broadcast stations will now use these equations to find the allowable transmitter power measured in decibels above one kilowatt (dBk). The equations are the metric equivalent of the power reduction curves and are beneficial for ease and consistency in computer programming.

7. Inasmuch as these amendments impose no additional burdens and raise no issue upon which comments would serve any useful purpose, prior notice of rule making, effective date provisions and public procedure thereon are unnecessary pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. 553(b)(3)(B).

8. Notice of Proposed Rule Making is not required, consequently the Regulatory Flexibility Act does not apply.

9. Accordingly, it is ordered, that under the authority contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, Parts 73 and 74 of the FCC Rules and Regulations are amended as set forth in the attached Appendix, effective 30 days after publication in the **Federal Register**. This action is taken by the Chief, Mass Media Bureau under authority delegated in §§ 0.61 and 0.283 of the Commission's Rules.

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

11. For further information on this *Order*, contact Howard Irvin, (202) 632-9660, Mass Media Bureau.

Federal Communications Commission.

James C. McKinney,

Chief, Mass Media Bureau.

Appendix

Title 47 Parts 73 and 74 of the Code of Federal Regulations is amended as follows:

The authority citation for Parts 73 and 74 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.

1. 47 CFR 73.609 is amended by revising paragraph (a)(3) to read as follows.

§ 73.609 Zones.

(a) * * *

(3) Zone III consists of that portion of the United States located south of a line, drawn on the United States Albers Equal Area Projection Map (based on standard parallels 29.50 and 45.50 North American datum), beginning at a point on the east coast of Georgia and the 31st parallel and ending at the United States-Mexican border, consisting of arcs drawn with a 241.4 kilometer (150 mile) radius to the north from the following specified points:

	North latitude	West longitude
(a)	29°40'00"	83°24'00"
(b)	30°07'00"	84°12'00"
(c)	30°31'00"	86°30'00"
(d)	30°46'00"	87°56'30"
(e)	30°00'00"	90°38'30"
(f)	30°04'30"	93°12'00"
(g)	29°46'00"	95°05'00"
(h)	28°43'00"	96°39'30"
(i)	27°52'30"	97°32'00"

When any of the above arcs pass through a city, the city shall be considered to be located in Zone II. (See Figure 2 of § 73.699.)

2. 47 CFR 73.610 is amended by revising paragraphs (b)(1), (b)(2), (c)(1), (d) and (e) to read as follows:

§ 73.610 Minimum distance separations between stations.

* * * * *

(b) * * *

(1)

Zone	Kilometers	
	Channels 2-13	Channels 14-69
I	272.7 (169.5 miles)	248.6 (154.5 miles)
II	304.9 (189.5 miles)	280.8 (174.5 miles)
III	353.2 (219.5 miles)	329.0 (204.5 miles)

(2) The minimum co-channel distance separation between a station in one zone and a station in another zone shall be that of the zone requiring the lower separation.

(c) * * *

(1) Channels 2–13 95.7 kilometers (59.5 miles). Channels 14–69 87.7 kilometers (54.5 miles).

* * * * *

(d) In addition to the requirements of paragraphs (a), (b) and (c) of this section, the minimum assignment and station separations between stations on Channels 14–69, inclusive, as set forth in Table II of § 73.698 must be met in either rule-making proceedings looking towards the amendment of the Table of Assignments (§ 73.606(b)) or in licensing proceedings. No channel listed in column (1) of Table II of § 73.698 will be assigned to any city, and no application for an authorization to operate on such a channel will be granted, unless the distance separations indicated at the top of columns (2) through (7), inclusive, are met with respect to each of the channels listed in those columns and parallel with the channel in column (1).

(e) The zone in which the transmitter of a television station is located or proposed to be located determines the applicable rules with respect to co-channel distance separations where the transmitter is located in a different zone from that in which the channel to be employed is located.

3. 47 CFR 73.611 is revised to read as follows.

§ 73.611 Reference points and distance computations.

To calculate the distance between two reference points see paragraph (c) section § 73.208. However, distances shall be rounded to the nearest tenth of a kilometer.

4. 47 CFR 73.612 is amended by revising paragraph (b) to read as follows:

§ 73.612 Protection from interference.

* * * * *

(b) When the Commission determines that grant of an application would serve the public interest, convenience, and necessity and the instrument of authorization specifies an antenna location in a designated antenna farm area which results in distance separation less than those specified in this subpart, TV broadcast station permittees and licensees shall be afforded protection from interference equivalent to the protection afforded under the minimum distance separations specified in this subpart.

* * * * *

5. 47 CFR 73.614 is amended by revising paragraph (b) to read as follows:

§ 73.614 Power and antenna height requirements.

* * * * *

(b) *Maximum power.* Applications will not be accepted for filing if they specify a power which exceeds the maximum permitted boundaries specified in the following formulas:

(1) Channels 2–6 in Zone I:

$$ERP_{Max} = 102.54 - 33.33 * \text{Log}_{10} (HAAT)$$

And,

$$-10 \text{ dBk} < ERP_{Max} < 20 \text{ dBk}$$

(2) Channels 2–6 in Zones II and III:

$$ERP_{Max} = 67.57 - 17.08 * \text{Log}_{10} (HAAT)$$

And,

$$10 \text{ dBk} < ERP_{Max} < 20 \text{ dBk}$$

(3) Channels 7–13 in Zone I:

$$ERP_{Max} = 107.57 - 33.24 * \text{Log}_{10} (HAAT)$$

And,

$$-4.0 \text{ dBk} < ERP_{Max} < 25 \text{ dBk}$$

(4) Channels 7–13 in Zones II and III:

$$ERP_{Max} = 72.57 - 17.08 * \text{Log}_{10} (HAAT)$$

And,

$$15 \text{ dBk} < ERP_{Max} < 25 \text{ dBk}$$

(5) Channels 14–69 in Zones I, II, and III:

$$ERP_{Max} = 84.57 - 17.08 * \text{Log}_{10} (HAAT)$$

And,

$$27 \text{ dBk} < ERP_{Max} < 37 \text{ dBk}$$

Where:

ERP_{Max} = Maximum Effective Radiated Power measured in decibels above 1 kW (dBk).
HAAT = Height Above Average Terrain measured in meters.

The boundaries specified are to be used to determine the maximum possible combination of antenna height and ERP_{dBk}. When specifying an ERP_{dBk} less than that permitted by the lower boundary, any antenna HAAT can be used. Also, for values of antenna HAAT greater than 2,300 meters the maximum ERP is the lower limit specified for each equation.

(6) The effective radiated power in any horizontal or vertical direction may not exceed the maximum values permitted by this section.

(7) The effective radiated power at any angle above the horizontal shall be as low as the state of the art permits, and in the same vertical plane may not exceed the effective radiated power in either the horizontal direction or below the horizontal, whichever is greater.

* * * * *

6. 47 CFR 73.615 is revised to read as follows:

§ 73.615 Administrative changes in authorizations.

In the issuance of television broadcast station authorizations, the Commission will specify the transmitter output power and effective radiated power to the nearest 0.1 dBk. Power specified by kWs shall be obtained by converting dBk to kWs to 3 significant figures. Antenna heights above average terrain will be specified to the nearest meter. Midway figures will be authorized in the lower alternative.

7. 47 CFR 73.658 is amended by revising paragraphs (l)(1) (x) and (m) to read as follows:

§ 73.658 Affiliation agreements and network program practices; territorial exclusivity in non-network program arrangements.

* * * * *

(l) * * *

(1) * * *

(x) "Reasonably comparable facilities" means station transmitting facilities (effective radiated power and effective antenna height above average terrain) such that the station Grade B coverage area is at least two-thirds as large (in square kilometers) as the smallest of the market affiliated stations' Grade B coverage areas. Where one or both of the affiliates is licensed to a city different from that of the unaffiliated station, the term "reasonably comparable facilities" also includes the requirement that the unaffiliated station must put a predicted Grade A or better signal over all of the city of license of the other regular (nonsatellite) station(s), except that where one of the affiliated stations is licensed to the same city as the unaffiliated station, and puts a Grade B but not a Grade A signal over the other city of license, the unaffiliated station will be considered as having reasonably comparable facilities if it too puts a predicted Grade B signal over all of the other city of license.

* * * * *

(m) *Territorial exclusivity in non-network arrangements.* No television station shall enter into any contract, arrangement, or understanding, expressed or implied; with a non-network program producer, distributor, or supplier, or other person; which prevents or hinders another television station located in a community over 56.3 kilometers (35 miles) away, as determined by the reference points contained in § 76.53 of this chapter, (if reference points for a community are not

listed in § 76.53, the location of the main post office will be used) from broadcasting any program purchased by the former station from such non-network program producer, distributor, supplier, or other person, except that a television station may secure exclusivity against a television station licensed to another designated community in a hyphenated market specified in the market listing as contained in § 76.51 of this chapter for those 100 markets listed, and for markets not listed in § 76.51 of this chapter, the listing as contained in the ARB Television Market Analysis for the most recent year at the time that the exclusivity contract, arrangement or understanding is complete under practices of the industry. As used in this paragraph, the term "community" is defined as the community specified in the instrument of authorization as the location of the station.

* * * * *

8. 47 CFR 73.681 is amended by revising the definition of *Antenna height above average terrain* to read as follows:

§ 73.681 Definitions.

* * * * *

Antenna height above average terrain. The average of the antenna heights above the terrain from approximately 3.2 (2 miles) to 16.1 kilometers (10 miles) from the antenna for the eight directions spaced evenly for each 45 degrees of azimuth starting with True North. (In general, a different antenna height will be determined in each direction from the antenna. The average of these various heights is considered the antenna height above the average terrain. In some cases less than 8 directions may be used. See § 73.684(d)). Where circular or elliptical polarization is employed, the antenna height above average terrain shall be based upon the height of the radiation center of the antenna which transmits the horizontal component of radiation.

* * * * *

9. 47 CFR 73.683 is amended by revising paragraph (b) to read as follows:

§ 73.683 Field strength contours.

* * * * *

(b) It should be realized that the F (50,50) curves when used for Channels 14-69 are not based on measured data at distances beyond about 48.3 kilometers (30 miles). Theory would indicate that the field strengths for Channels 14-69 should decrease more rapidly with distance beyond the horizon than for Channels 2-6, and modification of the curves for Channels 14-69 may be expected as a result of measurements to be made at a later date. For these reasons, the curves should be used with appreciation of their limitations in estimating levels of field strength. Further, the actual extent of service will usually be less than indicated by these estimates due to interference from other stations. Because of these factors, the predicted field strength contours give no assurance of service to any specific percentage of receiver locations within the distances indicated. In licensing proceedings these variations will not be considered.

* * * * *

10. 47 CFR § 73.684 is amended by revising paragraphs (c) introductory text, (c)(1), (d), (e), (f), (g), (h), (i), and (j), to read as follows:

§ 73.684 Prediction of coverage.

* * * * *

(c) In predicting the distance to the field strength contours, the F (50,50) field strength charts (Figures 9 and 10 of § 73.699) shall be used. If the 50% field strength is defined as that value exceeded for 50% of the time, these F (50,50) charts give the estimated 50% field strengths exceeded at 50% of the locations in dB above 1mV/m. The charts are based on an effective power of 1 kW radiated from a half-wave dipole in free space, which produces an unattenuated field strength at 1.61 kilometers (1 mile) of about 103 dB above 1 mV/m (137.6 mV/m). To use the charts for other powers, the sliding scale associated with the charts should be trimmed and used as the ordinate scale. This sliding scale is placed on the charts with the appropriate gradation for power in line with the horizontal 40 dB line on the charts. The right edge of the scale is placed in line with the appropriate antenna height gradations, and the charts then become direct reading (in uV/m and in dB above 1 uV/m) for this power and antenna height. Where the antenna height is not one of those for which a scale is provided, the signal strength or distance is determined by interpolation between the curves connecting the equidistant points. Dividers may be used in lieu of the sliding scale.

(1) In predicting the distance to the Grade A and Grade B field strength contours, the effective radiated power to be used is that radiated at the vertical angle corresponding to the depression angle between the transmitting antenna center of radiation and the radio horizon as determined individually for each azimuthal direction concerned. The depression angle is based on the difference in elevation of the antenna center of radiation above the average terrain and the radio horizon, assuming a smooth spherical earth with a radius of 8,495.5 kilometers (5,280 miles) and shall be determined by the following equation:

$$A = 0.0277 \quad H$$

Where:

A is the depression angle in degrees.

H is the height in meters of the transmitting antenna radiation center above average terrain of the 3.2-16.1 kilometers (2-10 miles) sector of the pertinent radial. This formula is empirically derived for the limited purpose specified here. It use for any other purpose may be inappropirate.

* * * * *

(d) The antenna height to be used with these charts is the height of the radiation center of the antenna above the average terrain along the radial in question. In determining the average elevation of the terrain, the elevations between 3.2-16.1 kilometers (2-10 miles) from the antenna site are employed. Profile graphs shall be drawn for 8 radials beginning at the antenna site and extending 16.1 kilometers (10 miles) therefrom. The radials should be drawn for each 45 degrees of azimuth starting with the True North. At least one radial must include the principal community to be served even though such community may be more than 16.1 kilometers (10 miles) from the antenna site. However, in the event none of the evenly spaced radials include the principal community to be served and one or more such radials are drawn in addition to the 8 evenly spaced radials, such additional radials shall not be employed in computing the antenna height above average terrain. Where the 3.2-16.1 kilometers (2-10 mile) portion of a radial extends in whole or in part over large bodies of water as specified in paragraph (e) of this section or extends over foreign territory but the Grade B strength contour encompasses land area within the United States beyond the 16.1 kilometers (10 mile) portion of the radial, the entire 3.2-16.1 kilometers (2-10 mile) portion of the radial shall be included in the computation of antenna height above average terrian. However, where the Grade B contour does not so encompass United States land area and (1) the entire 3.2-16.1 kilometers (2-10 mile) portion of the radial extends over large bodies of water of foreign territory, such radial shall be completely omitted from the computation of antenna height above average terrain, and (2) where a part of the the 3.2-16.1 kilometers (2-10 mile) portion of a radial extends over large bodies of water or over foreign

territory, only that part of the radial extending from the 3.2 kilometer (2 mile) sector to the outermost portion of land area within the United States covered by the radial shall be employed in the computation of antenna height above average terrian. The profile graph for each radial should be plotted by contour intervals of from 12.2–30.5 meters (40–100 feet) and, where the data permits, at least 50 points of elevation (generally uniformly spaced) should be used for each radial. In instances of very rugged terrain where the use of contour intervals of 30.5 meters (100 feet) would result in several points in a short distance, 61.0–122.0 meter (200–400 foot) contour intervals may be used for such distances. On the other hand, where the terrain is uniform or gently sloping the smallest contour interval indicated on the topograhic may (see paragraph (g) of this section) should be used, although only relatively few points may be available. The profile graphs should indicate the topography accurately for each radial, and the graphs should be plotted with the distance in kilometers as the abscissa and the elevation in meters above mean sea level as the ordinate. The profile graphs should indicate the source of the topographical data employed. The graph should also show the elevation of the center of the radiating system. The graph may be plotted either on rectangular coordinate paper or on special paper which shows the curvature of the earth. It is not necessary to take the curvature of the earth into consideration in this procedure, as this factor is taken care of in the charts showing signal strengths. The average elevation of the 12.9 kilometer (8 miles) distance between 3.2–16.1 kilometers (2–10 miles) from the antenna site should then be determined from the profile graph for each radial. This may be obtained by averaging a large number of equally spaced points, by using a planimeter, or by obtaining the median elevation (that exceeded for 50% of the distance) in sectors and averaging those values.

Note.—The Commission will, upon a proper showing by an existing station that the application of this rule will result in an unreasonable power reduction in relation to other stations in close proximity, consider requests for adjustment in power on the basis of a common average terrain figure for the stations in question as determined by the FCC.

(e) In instance where it is desired to determine the area in square kilometers within the Grade A and Grade B field strength contours, the area may be determined from the coverage map by planimeter or other approximate means; in computing such areas, exclued (1) areas beyond the borders of the United States, and (2) large bodies of water, such as ocean areas, gulfs sounds, bays, large lakes, etc., but not rivers.

(f) In cases where terrain in one or more directions from the antenna site departs widely from the average elevation of the 3.2 to 16.1 kilometers (2 to 10 mile) sector, the prediction method may indicate contour distances that are different from what may be expected in practice. For example, a mountain ridge may indicate the practical limit of service although the prediction method may indicate otherwise. In such case the prediction method should be followed, but a supplemental showing may be made concerning the contour distances as determined by other means. Such supplemental showing should describe the procedure employed and should include sample calculations. Maps of predicted coverage should include both the coverage as predicted by the regular method and as predicted by a supplemental method. When measurements of area are required, these should include the area obtained by the regular predicted method and the area obtained by the supplemental method. In directions where the terrain is such that negative antenna heights or heights below 30.5 meters (100 feet) for the 3.2 to 16.1 kilometers (2 to 10 mile) sector are obtained, an assumed height of 30.5 meters (100 feet) shall be used for the prediction of coverage. However, where the actual contour distances are critical factors, a supplemental showing of expected coverage must be included together with a description of the method employed in predicting such coverage. In special cases, the Commission may require additional information as to terrain and coverage.

(g) In the preparation of the profile graph previously described, and in determining the location and height above sea level of the antenna site, the elevation or contour intervals shall be taken from the United States Geological Survey Topographic Quadrangle Maps, United States Army Corps of Engineers' maps or Tennessee Valley Authority maps, whichever is the latest, for all areas for which such maps are available. If such maps are not published for the area in question, the next best topographic information should be used. Topographic data may sometimes be obtained from State and Municipal agencies. Data from Sectional Aeronautical Charts (including bench marks) or railroad depot elevations and highway elevations from road maps may be used where no better information is available. In cases where limited topographic data is available, use may be made of an altimeter in a car driven along roads extending generally radially from the transmitter site. Ordinarily the Commission will not require the submission of topographical maps for areas beyond 24.1 kilometers (15 miles) from the antenna site, but the maps must include the principal community to be served. If it appears necessary, additional data may be requested. United States Geological Survey Topographic Quadrangle Maps may be obtained from the United States Geological Survey, Department of the Interior, Washington, D.C. 20240. Sectional Aeronautical Charts are available from the United States Coast and Geodetic Survey, Department of Commerce, Washington, D.C. 20235.

(h) The effect of terrain roughness on the predicted field strength of a signal at points distant from a television broadcast station is assumed to depend on the magnitude of a terrain roughness factor (Δh) which, for a specific propagation path, is determined by the characteristics of a segment of the terrain profile for that path 40.2 kilometers (25 miles) in length, located between 9.7 and 49.9 kilometers (6 and 31 miles) from the transmitter. The terrain roughness factor has a value equal to the difference, in meters, between elevations exceeded by all points on the profile for 10 percent and 90 percent, respectively, of the length of the profile segment (see § 73.699, Fig. 10d).

(i) If the lowest field strength value of interest is initially predicted to occur over a particular propagation path at a distance which is less than 49.9 kilometers (31 miles) from the transmitter, the terrain profile segment used in the determination of the terrain roughness factor over that path shall be that included between points 9.7 kilometers (6 miles) from the transmitter and such lesser distance. No terrain roughness correction need be applied when all field strength values of interest are predicted to occur 9.7 kilometers (6 miles) or less from the transmitter.

(j) Profile segments prepared for terrain roughness factor determinations should be plotted in rectangular coordinates, with no less than 50 points evenly spaced within the segment, using data obtained from topographic maps, if available, with contour intervals of 15.2 meters (50 feet), or less.

* * * * *

11. 47 CFR 73.685 is amended by revising paragraph (g) to read as follows:

§ 73.685 Transmitter location and antenna system.

* * * * *

(g) Applications proposing the use of television broadcast antennas within 61.0 meters (200 feet) of other television broadcast antennas operating on a channel within 20 percent in frequency of the proposed channel, or proposing the use of television broadcast antennas on Channels 5 or 6 within 61.0 meters (200 feet) of FM broadcast antennas, must include a showing as to the expected effect, if any, of such proximate operation.

* * * * *

12. 47 CFR 73.686 is amended by revising paragraphs (b)(1)(ii), (b)(2) introductory text, (b)(2)(v), (b)(2)(vii), (b)(2)(viii), and (c)(2), to read as follows:

§ 73.686 Field strength measurements.

* * * * *

(b) * * *

(1) * * *

(ii) At a point exactly 16.1 kilometers (10 miles) from the transmitter, each radial is marked, and at greater distances at successive 3.2 kilometer (2 mile) intervals. Where measurements are to be conducted at UHF, or over extremely rugged terrain, shorter intervals may be employed, but all such intervals shall be of equal length. Accessible roads intersecting each radial as nearly as possible at each 3.2 kilometer (2 mile) marker are selected. These intersections are the points on the radial at which measurements are to be made, and are referred to subsequently as measuring locations. The elevation of each measuring location should approach the elevation at the corresponding 3.2 kilometer (2 mile) marker as nearly as possible.

(2) *Measurement procedure.* The field strength of the visual carrier shall be measured with a voltmeter capable of indicating accurately the peak amplitude of the synchronizing signal. All measurements shall be made utilizing a receiving antenna designed for reception of the horizontally polarized signal component, elevated 9.1 meters (30 feet) above the roadbed. At each measuring location, the following procedure shall be employed.

* * * * *

(v) A mobile run of at least 30.5 meters (100 feet) is made, which is centered on the intersection of the radial and the road, and the measured field strength is continuously recorded on a chart recorder over the length of the run.

* * * * *

(vii) If, during the test conducted as described in paragraph (b)(2)(iii) of this section, the strongest signal is found to come from a direction other than from the transmitter, after the mobile run prescribed in paragraph (b)(2)(v) of this section is concluded, additional measurements shall be made in a "cluster" of at least five fixed points. At each such point, the field strengths with the antenna oriented toward the transmitter, and with the antenna oriented so as to receive the strongest field, are measured and recorded. Generally, all points should be within 61.0 meters (200 feet) of the center point of the mobile run.

(viii) If overhead obstacles preclude a mobile run of at leat 30.5 meters (100 feet), a "cluster" of five spot measurements may be made in lieu of this run. The first measurement in the cluster is identified. Generally, the locations for other measurements shall be within 61.0 meters (200 feet) of the location of the first.

* * * * *

(c) * * *

(2) *Measurement procedure.* The field strength of the visual carrier shall be measured, with a voltmeter capable of indicating accurately the peak amplitude of the synchronizing signal. All measurements shall be made utilizing a receiving antenna designed for reception of the horizontally polarized signal component, elevated 9.1 meter (30 feet) above street level.

* * * * *

13. 47 CFR 73.698 is amended by removing Tables II and III and revising the column headings of Table IV and redesignating Table IV as Table II to read as follows:

§ 73.698 Tables.

* * * * *

TABLE II

(1)—Channel	(2)—31.4 kilometers (19.5 miles) if beat	(3)—31.4 kilometers (19.5 miles) intermodulation	(4)—87.7 kilometers (54.5 miles) adjacent channel	(5)—95.7 kilometers (59.5 miles) oscillator	(6)—95.7 kilometers (59.5 miles) sound image	(7)—119.9 kilometers (74.5 miles) picture image

* * * * *

14. 47 CFR 73.699 is amended by removing Figure 3 and Figure 4; and revising Figures 9, 9a, 10, 10a, 10b, 10c, and 10d as follows:

§ 73.699 TV Engineering Charts.

* * * * *

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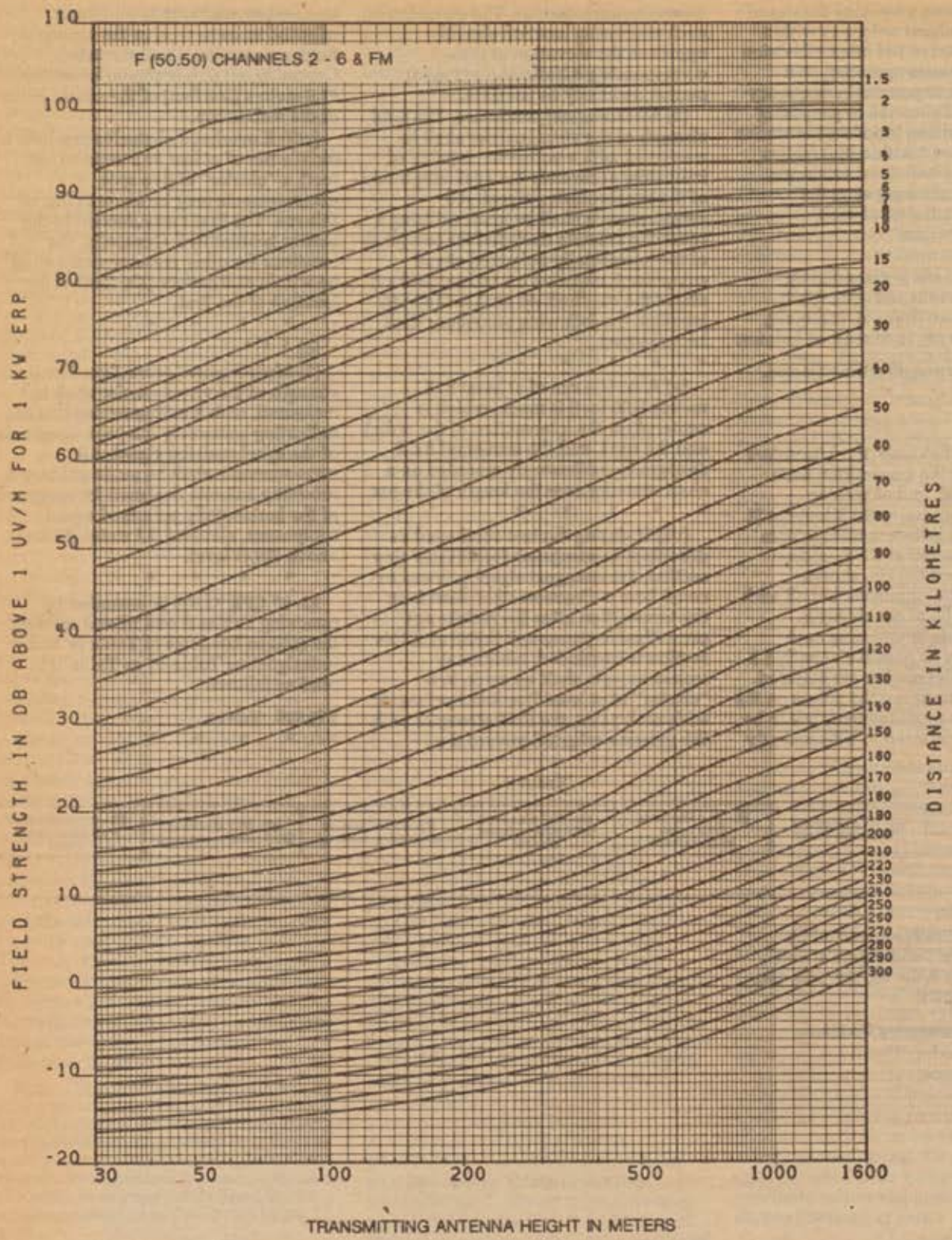
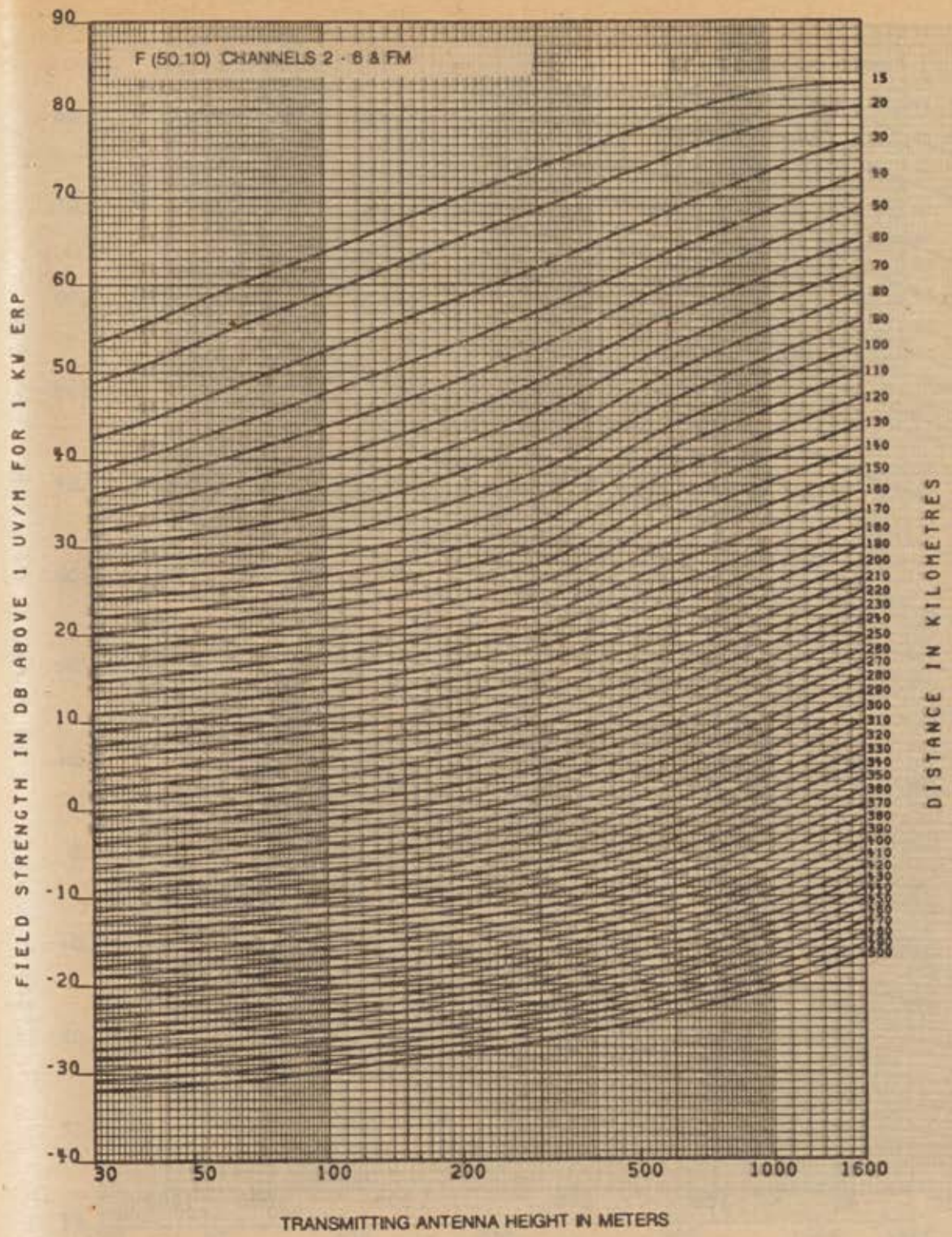


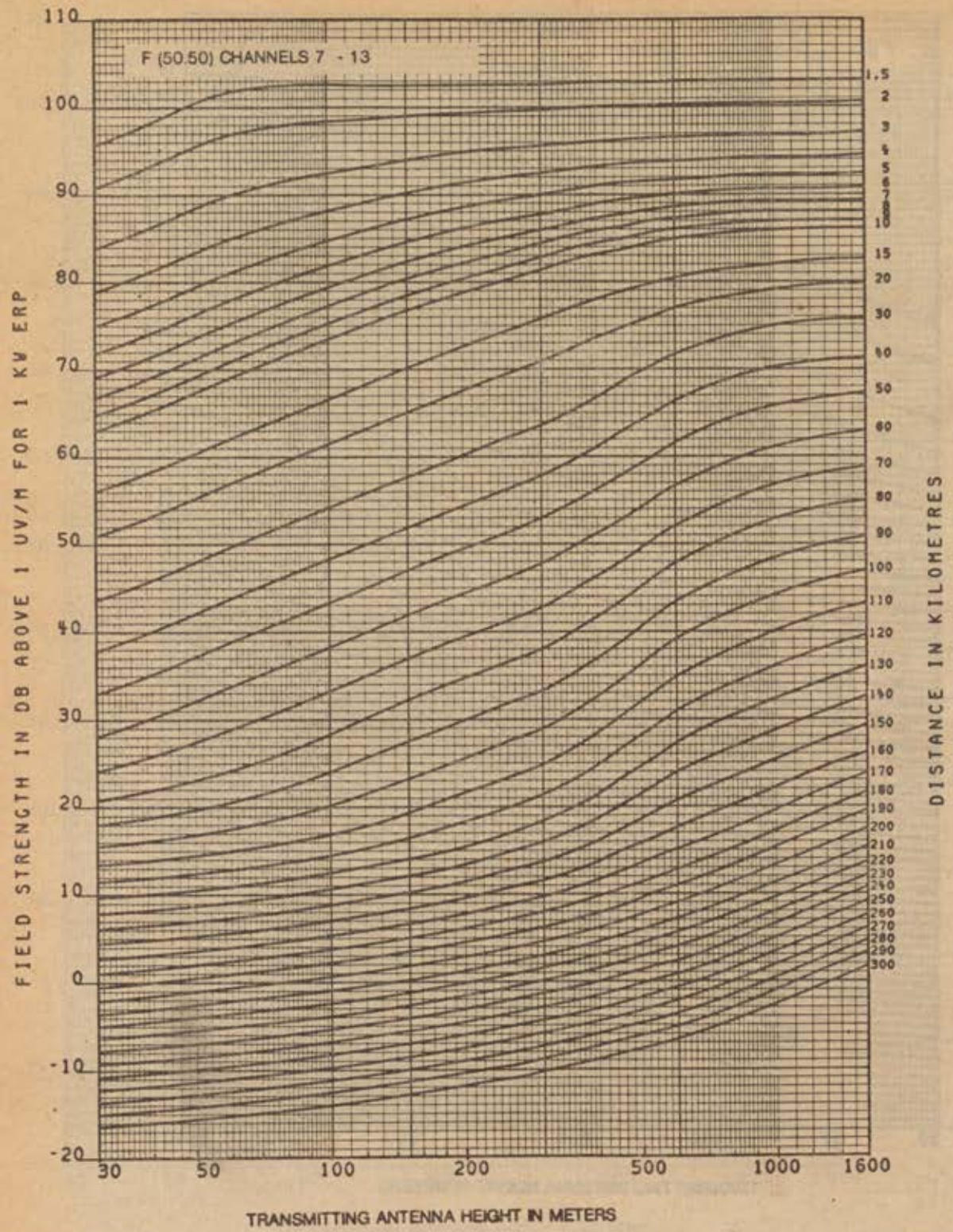
FCC 73.699 Figure 9

ESTIMATED FIELD STRENGTH EXCEEDED AT 50 PERCENT
OF THE POTENTIAL RECEIVER LOCATIONS FOR AT LEAST 50 PERCENT
OF THE TIME AT A RECEIVING ANTENNA HEIGHT OF 9 METERS



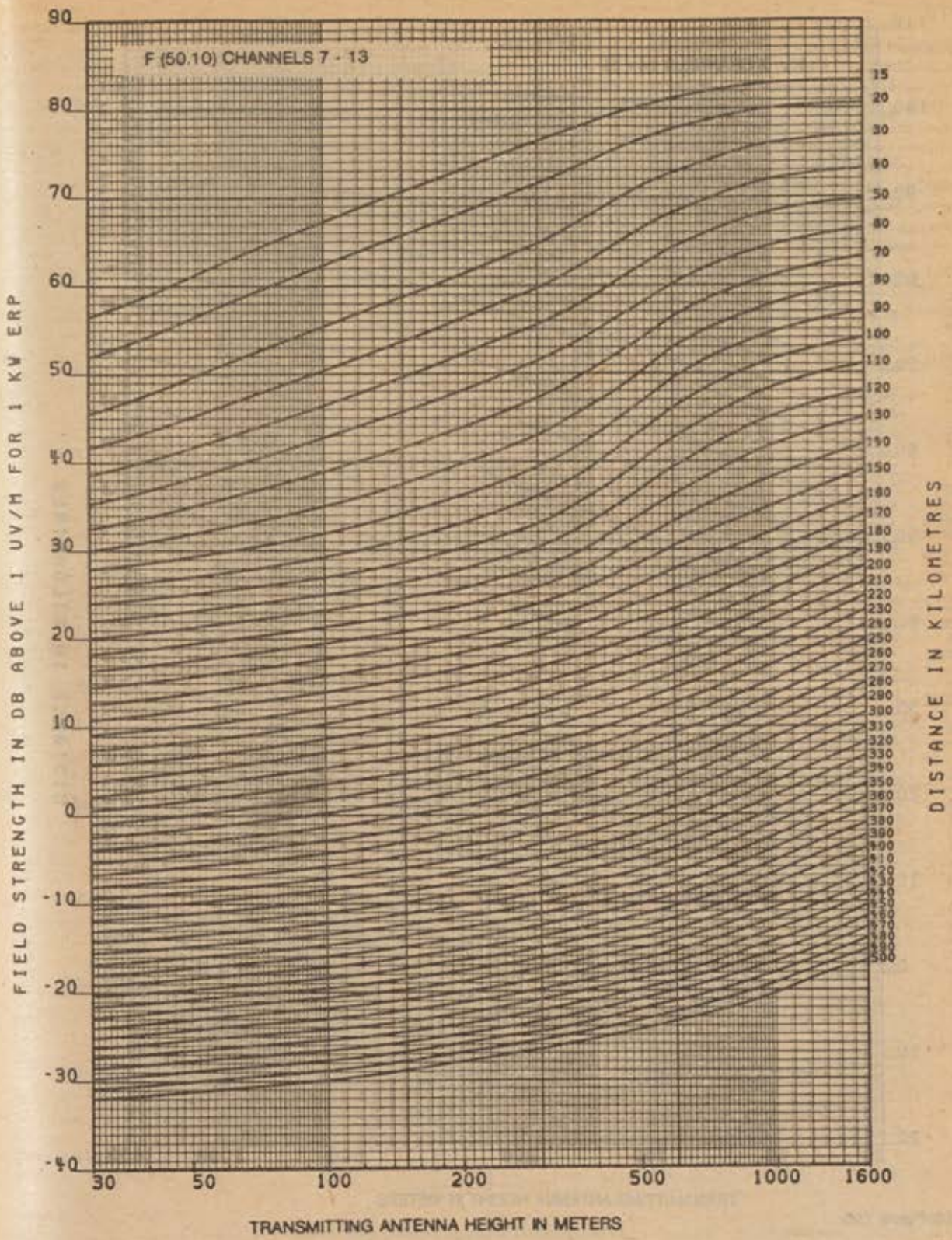
FCC 73.699 Figure 9a

ESTIMATED FIELD STRENGTH EXCEEDED AT 50 PERCENT
OF THE POTENTIAL RECEIVER LOCATIONS FOR AT LEAST 50 PERCENT
OF THE TIME AT A RECEIVING ANTENNA HEIGHT OF 9 METERS



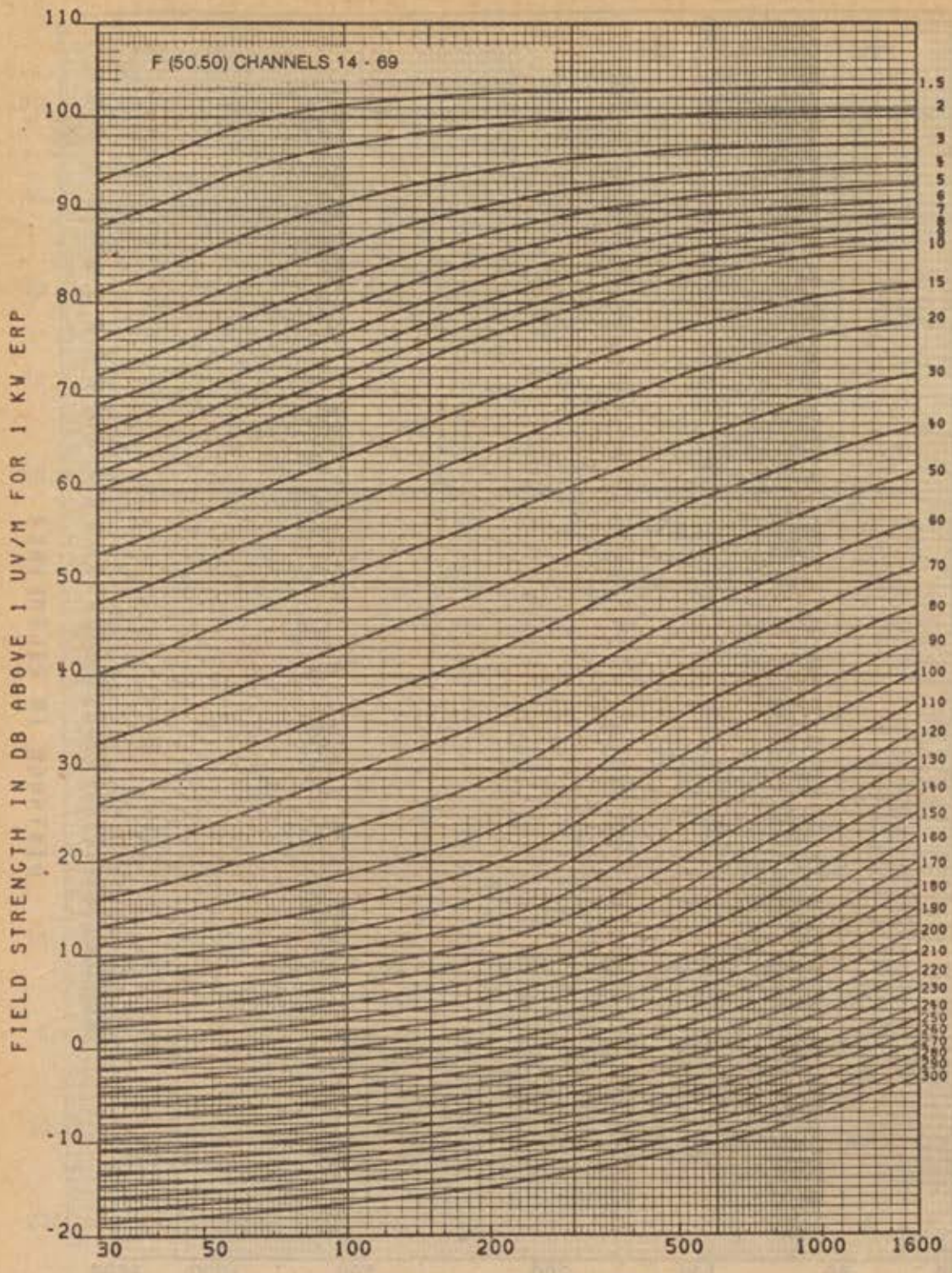
FCC 73.699 Figure 10

ESTIMATED FIELD STRENGTH EXCEEDED AT 50 PERCENT
OF THE POTENTIAL RECEIVER LOCATIONS FOR AT LEAST 50 PERCENT
OF THE TIME AT A RECEIVING ANTENNA HEIGHT OF 9 METERS



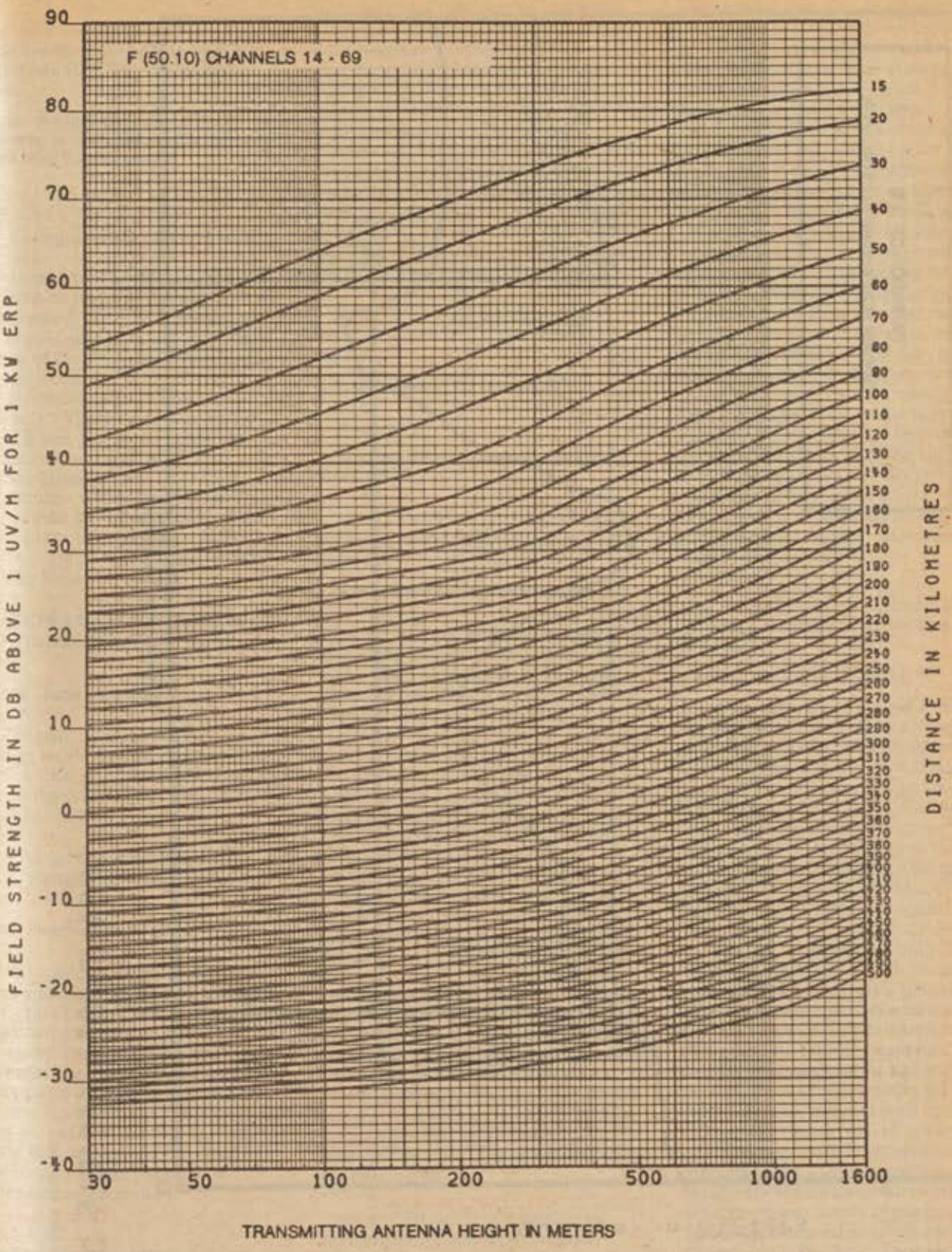
FCC 73.699 Figure 10a

ESTIMATED FIELD STRENGTH EXCEEDED AT 50 PERCENT
OF THE POTENTIAL RECEIVER LOCATIONS FOR AT LEAST 50 PERCENT
OF THE TIME AT A RECEIVING ANTENNA HEIGHT OF 9 METERS



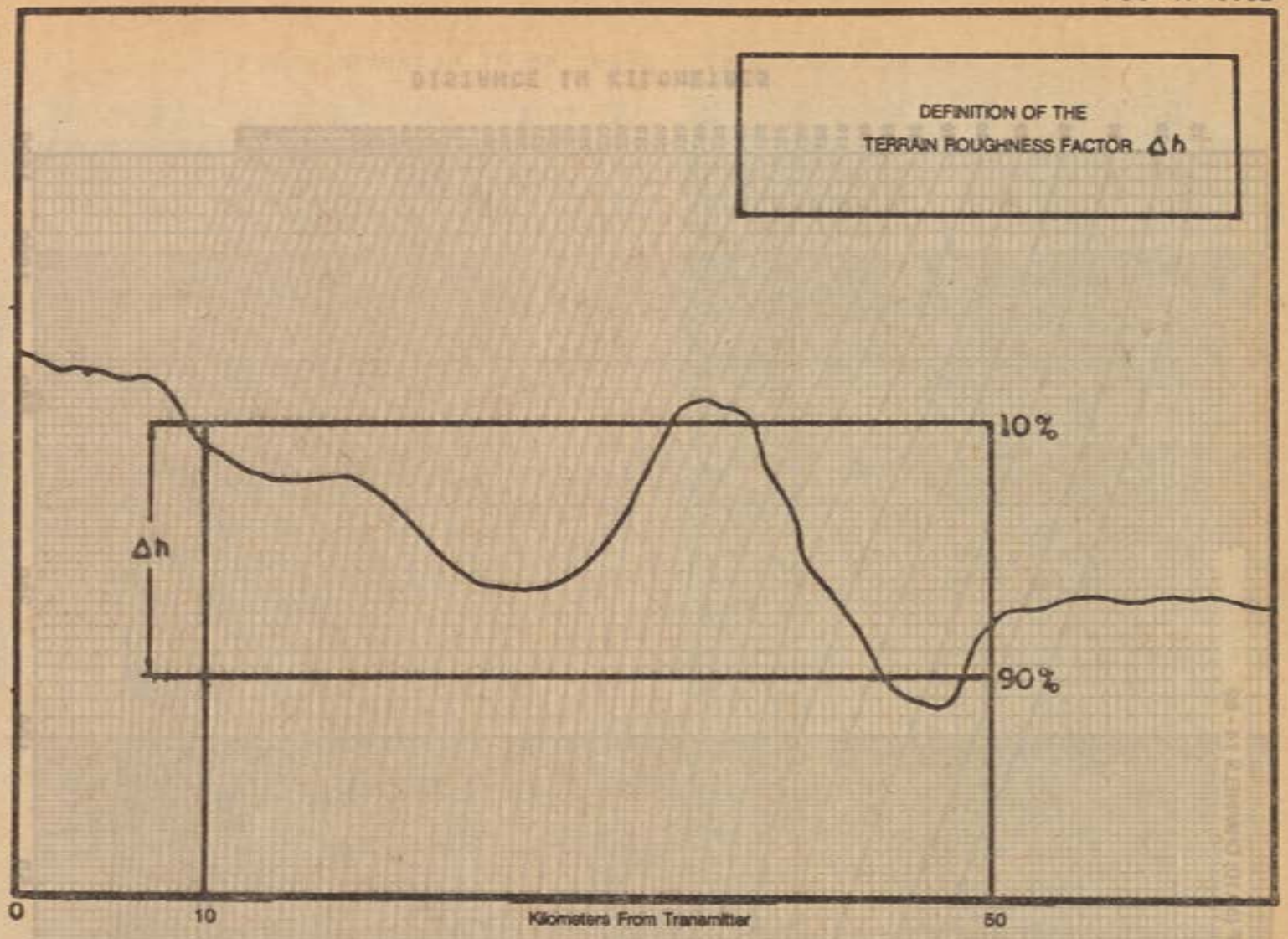
FCC 73.699 Figure 10b

ESTIMATED FIELD STRENGTH EXCEEDED AT 50 PERCENT
OF THE POTENTIAL RECEIVER LOCATIONS FOR AT LEAST 50 PERCENT
OF THE TIME AT A RECEIVING ANTENNA HEIGHT OF 9 METERS



FCC 73.699 Figure 10c

ESTIMATED FIELD STRENGTH EXCEEDED AT 50 PERCENT
OF THE POTENTIAL RECEIVER LOCATIONS FOR AT LEAST 50 PERCENT
OF THE TIME AT A RECEIVING ANTENNA HEIGHT OF 9 METERS



FCC §73.699 FIGURE 10d

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* * * * *

15. 47 CFR 73.1030 is amended by revising paragraphs (b)(1)(i), (b)(1)(ii), (b)(1)(iii) and (b)(1)(iv) to read as follows:

§ 73.1030 Notifications concerning interference to radio astronomy, research and receiving installations.

* * * * *

(b) * * *

(1) * * *

(i) All stations within 2.4 kilometers (1.5 miles).

(ii) Stations within 4.8 kilometers (3 miles) with 50 watts or more effective radiated power (ERP) in the primary plane of polarization in the azimuthal direction of the Table Mountain Radio Receiving Zone;

(iii) Stations within 16.1 kilometers (10 miles) with 1 kW or more ERP in the primary plane of polarization in the azimuthal direction of Table Mountain Receiving Zone;

(iv) Stations within 80.5 kilometers (50 miles) with 25 kW or more ERP in the primary plane of polarization in the azimuthal direction of Table Mountain Receiving Zone.

* * * * *

16. 47 CFR 73.1550 is amended by revising paragraph (a)(2) to read as follows:

§ 73.1550 Extension meters.

(a) * * *

(2) The path from the normal operating location to the transmitter is no longer than 30.5 meters (100 feet) and provides the operator with ready access to the transmitter.

* * * * *

17. 47 CFR 74.24 is amended by revising paragraphs (e) and (h)(2) to read as follows:

§ 74.24 Short-term operation.

* * * * *

(e) The antenna height of a station operated pursuant to this section shall not increase the height of any man-made antenna supporting structure, or increase by more than 6.1 meters (20 feet) the height of any other type of man-made structure or natural formation. However, the facilities of an authorized broadcast auxiliary station belonging to another licensee may be operated in accordance with the terms of its outstanding authorization.

* * * * *

(h) * * *

(2) A broadcast auxiliary service station operating on frequencies between 470 MHz and 1 GHz must be at least 56.3 kilometers (35 miles) south (or west, as appropriate of the United States-Canada border if the antenna looks within a 200° sector toward the border; or, the station must be at least 8.1 kilometers (5 miles) south (or west, as appropriate) if the antenna looks within a 160° sector away from the border. However, operation is not permitted in either of these two situations if the station would be within the coordination distance of a receiving earth station in Canada which uses the same frequency band. (The coordination distance is the distance, calculated for any station, according to Appendix 28 of the International Radio Regulations.)

* * * * *

18. 47 CFR 74.402 is amended by revising footnote 4 (ii) to read as follows:

§ 74.402 Frequency assignment.

* * * * *

Footnote 4 * * *

(ii) within 241.4 kilometers (150 miles) of New York City; and

* * * * *

19. 47 CFR 74.433 is amended by revising paragraph (c) to read as follows:

§ 74.433 Temporary authorizations.

* * * * *

(c) An informal request for special temporary authority shall be addressed to the FCC in Washington, D.C. and must include full particulars including: licensee's name, call letters of associated broadcast station or stations, name and address of individual designated to receive return authorization, call letters of remote pickup station, if assigned, type and manufacturer of equipment, power output, emission, frequency or frequencies proposed to be used, commencement and termination date, location of proposed operation and purpose for which request is made including any particular justification. In the event that the proposed antenna installation will increase the height of any natural formation or existing man-made structure by more than 6.1 meters (20 feet), a vertical plan sketch showing the height above the ground of any existing structure, the elevation of the site above the mean sea level, and the geographical coordinates of the proposed site, shall be submitted with the application.

* * * * *

20. 47 CFR 74.537 is amended by revising paragraph (c) to read as follows:

§ 74.537 Temporary authorizations.

* * * * *

(c) An informal request for special temporary authorization shall be addressed to the FCC, Washington, D.C. 20554 and shall set forth full particulars including: licensee's name, call letters of the associated broadcast station(s), name and address of individual designated to receive the return authorization, call letters of the aural broadcast STL or intercity relay station, if assigned, type and manufacturer of equipment, power output, emission, frequency or frequencies proposed for use, commencement and termination date and location of the proposed operation, and purpose for which request is made including any particular justification. In the event that the proposed antenna installation will increase the height of any man-made antenna supporting structure, or increase by more than 6.1 meters (20 feet) the height of any other type of man-made structure or natural formation, a vertical plan sketch showing the height above ground of any existing structure, the elevation of the site above mean sea level, and the geopraphic coordinates of the proposed site, shall be submitted with the application.

* * * * *

21. 47 CFR 74.631 is amended by revising paragraph (a) to read as follows:

§ 74.631 Permissible service.

(a) The licensee of a television pickup station authorizes the transmission of program material, orders concerning such program material, and related communications necessary to the accomplishment of such transmissions, from the scenes of events occurring in places other than a television studio, to its associated television broadcast station, to such other stations as are broadcasting the same program material, or to the network or networks with which the television broadcast station is affiliated. Television pickup stations may be operated in conjunction with other television broadcast stations not aformentioned in this paragraph: *Provided*, That the transmissions by the television pickup station are under the control of the licensee of the television pickup station and that such operation shall not exceed a total of 10 days in any 30-day period. Television pickup stations may be used to provide temporary studio-transmitter links or intercity relay circuits consistent with § 74.632 without further authority of the Commission: *Provided, however*, That prior Commission authority shall be obtained if the transmitting antenna to be installed will increase the height of any natural formation or man-made structure by more than 6.1 meters (20

feet) and will be in existence for a period of more than 2 consecutive days.

* * * * *

22. 47 CFR 74.633 is amended by revising paragraph (c), and by redesignating paragraph (f) as paragraph (e):

§ 74.633 Temporary authorizations.

* * * * *

(c) An application for special temporary authority shall set forth full particulars of the purpose for which the request is made, and shall show the type of equipment, power output, emission, and frequency or frequencies proposed to be used, as well as the time, date and location of the proposed operation. In the event that the proposed antenna installation will increase the height of any natural formation, or existing man-made structure, by more than 6.1 meters (20 feet), a vertical plan sketch showing the height of the structure proposed to be erected, the height above ground of any existing structure, the elevation of the site above mean sea level, and the geographic coordinates of the proposed site, shall be submitted with the application.

* * * * *

23. 47 CFR 74.751 is amended by revising paragraph (b)(4) to read as follows:

§ 74.751 Modification of transmission systems.

* * * * *

(b) * * *

(4) Any horizontal change of the location of the antenna structure which would (i) be in excess of 152.4 meters (500 feet), or (ii) require notice to the Federal Aviation Administration pursuant to § 17.7 of the FCC's Rules.

* * * * *

24. 47 CFR 74.1251 is amended by revising paragraph (b)(5) to read as follows:

§ 74.1251 Modification of transmission systems.

* * * * *

(b) * * *

(5) Any horizontal change in the location of the antenna structure which would (i) be in excess of 152.4 meters (500 feet), or (ii) would require notice to the Federal Aviation Administration pursuant to § 17.7 of the FCC's rules.

* * * * *

[FR Doc. 85-13018 Filed 6-4-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 78

Oversight of the Radio and TV Broadcast Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order adopts an alphabetical index of the rules in Part 78 (47 CFR Part 78). The index provides fast access to the rules, reducing the many letters and phone calls to the FCC staff requesting rule location assistance, thus minimizing administrative burdens on both the FCC and personnel of the Cable TV Relay Service.

EFFECTIVE DATE: June 5, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Steve Crane, Policy and Rules Division, Mass Media Bureau, (202) 632-5414.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 78

Cable TV Relay Service.

Order

In the Matter of oversight of the radio and TV broadcast rules.

Adopted: May 21, 1985.

Released: May 31, 1985.

By the Chief, Mass Media Bureau.

1. In this *Order*, the Commission facilitates the fast location of its regulations in Part 78 of the rules by creating an alphabetical index for this Part.

2. Our experience in alphabetically indexing the rules in Parts 73, 74 and 76 has shown that the process makes possible the location of rules quickly and easily. Such fast access has brought about a better understanding of the rules by broadcasters and their advisors as a result of their ready availability. Providing easy and quick access to the rules has reduced, considerably, the number of letters and phone calls to the FCC requesting help in rule location, thereby minimizing paperwork and administrative workload on the FCC staff and on licensees and their legal and engineering advisors as well.

3. As in the case of the Parts 73, 74 and 76 indexes, revisions and updates will be made in the future to keep this Part 78 index accurate and timely.

4. No substantive changes are made herein which impose additional burdens or remove provisions relied upon by licensees or the public.

5. These amendments are implemented by authority delegated by the Commission to the Chief, Mass Media Bureau. Inasmuch as these amendments impose no additional burdens and raise no issue upon which comments would serve any useful purpose, prior notice of rulemaking, effective date provisions and public procedure thereon are unnecessary pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. 553(b)(3)(B).

6. Since a general notice of proposed rulemaking is not required, the Regulatory Flexibility Act does not apply.

7. Therefore, it is ordered, that pursuant to sections 4(i), 303(r) and 5(c)(1) of the Communications Act of 1934, as amended, and §§ 0.61 and 0.283 of the Commission's Rules, Part 78 of the FCC Rules and Regulations is amended as set fourth in the attached appendix, effective on the date of publication in the **Federal Register.**

8. For further information on this *Order,* contact Steve Crane, Mass Media Bureau, (202) 632-5414.

Federal Communications Commission.

James C. McKinney,

Chief, Mass Media Bureau.

Appendix

1. The authority citation for Part 78 continues to read:

Authority: Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.

PART 78—[AMENDED]

2. An alphabetical index of rules is added to 47 CFR 78 and will be inserted at the end of the Part.

Alphabetical Index—Part 78

[FR Doc. 85-13458 Filed 6-4-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 90

[PR Docket No. 84-370; RM-4672]

Sharing of Two Police Radio Service Frequency Pairs With Eligibles in the Fire and Special Emergency Radio Services; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; Correction.

SUMMARY: This document corrects an error in the Appendix of the Report and Order in Docket No. 84-370 concerning the sharing of two Police Radio Service frequency pairs with eligibles in the Fire and Special Emergency Radio Services.

FOR FURTHER INFORMATION CONTACT: Herb Zeiler, Private Radio Bureau, Rules Branch, Washington, D.C. 20554, (202) 634-2443.

SUPPLEMENTARY INFORMATION:

Erratum

In the matter of amendment of Part 90 of the Commission's rules concerning the sharing of two Police Radio Service frequency pairs with eligibles in the Fire and Special Emergency Radio Services; PR Docket No. 84-370, RM-4672.

Released: May 23, 1985.

A *Report and Order* in the above captioned matter was released by the Commission on December 13, 1984, and published in the **Federal Register** (49 FR 49637) on December 21, 1984. This Erratum corrects an error in the Appendix of that item involving the numbering of assignment limitations in the Special Emergency Radio Service. Item 4, of the Appendix should read as follows:

1. Section 90.53 is amended by revising the frequencies 460.525, 460.550, 465.525, and 465.550 in the table, revising paragraph (b)(17), and adding a new paragraph (b)(34):

§ 90.53 Frequencies available.

(a) * * *

SPECIAL EMERGENCY RADIO SERVICE
FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitation
* * * * *		
460.525	Base or mobile	17, 34
460.550	do	17, 34
* * * * *		
465.525	Mobile	17, 34
465.550	do	17, 34
* * * * *		

(b) * * *

(17) This frequency is shared with the Police and Fire Radio Services and is subject to the coordination requirements specified in § 90.175.

* * * * *

(34) This frequency is assignable only to governmental entities eligible under § 90.35(a) for the dispatch of medical care vehicles and personnel for the rendition or delivery of emergency medical services. This frequency may be designated by common consent for intra-system and inter-system mutual assistance purposes.

* * * * *

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 85-13394 Filed 6-4-85; 8:45 am]

BILLING CODE 6712-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

48 CFR Chapter 7

[AIDAR Notice 85-6]

Acquisition Regulation; Miscellaneous Changes

AGENCY: Agency for International Development, IDCA.

ACTION: Final rule.

SUMMARY: The AID Acquisition Regulation (AIDAR) is being amended to correct authority citations, and to incorporate a solicitation provision requiring offerors to provide information concerning past performance.

EFFECTIVE DATE: June 5, 1985.

FOR FURTHER INFORMATION CONTACT: M/SER/CM/SD/POL, Mr. J. M. Kelly, telephone (703) 235-9107.

SUPPLEMENTARY INFORMATION: In order to ensure that all authority citations in the AIDAR are current and correctly placed as required by 1 CFR 21.43, AID's current authority citation and instructions for placement of authority citations are included in this AIDAR Notice. This is an editorial change.

Since November 23, 1982, AID has had a Contract Information Bulletin (CIB) governing evaluation of contractor performance which required, among other things, inclusion of a provision in solicitations requiring offerors to provide information on past performance.

The CIB was submitted for OMB review as required by the Paperwork Reduction Act; it was approved on June

8, 1984, and given OMB control number 0412–0520.

The CIB requiring the solicitation provision was again submitted for OMB review, as required by OMB Bulletin 85–7. As a result of that review, OMB recommended that the solicitation provision be placed in the AIDAR.

On the basis that the OMB approved solicitation provision has been routinely required since November, 1982, we have determined that placing the requirement in the AIDAR does not establish a new requirement. We therefore have further determined that (for both the authority citation and the solicitation clause):

(1) The changes being made by this AIDAR Notice will not have any significant impact on AID contractors or the general public. Therefore, the change is not considered "significant" under FAR 1.303(b) or FAR 1.501, and public comments have not been solicited.

(2) This AIDAR Notice is not a major rule and is exempt from Sections 3 and 4 of E.O. 12291 by OMB Bulletin No. 85–7, December 14, 1984.

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

List of Subjects in 48 CFR Parts 701, 709, and 752

Government procurement.

1. The following authority citation is established for 48 CFR Chapter 7. This citation revises all authority citations now contained in the Chapter, and applies to each Part within it. This authority citation is to be inserted at the end of each table of contents for a Part or each section where applicable.

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

PART 701—FEDERAL ACQUISITION REGULATION SYSTEM

701.105 [Amended]

2. Section 701.105, OMB Approval under the Paperwork Reduction Act, is amended by adding the following entries to the list of approval information collection and recordkeeping requirements in their proper numerical sequence:

"709.104–3(c),
752.209–70"

The OMB Control Number and expiration date in 701.105 are unchanged.

PART 709—CONTRACTOR QUALIFICATIONS

3. Part 709 is amended by adding a new Subpart 709.1 as follows:

Subpart 709.1—Responsible Prospective Contractors

709.104–3 Application of standards.

(a)—(b) [Reserved].

(c) *Satisfactory performance record.* In order to evaluate the prospective contractor's performance record, the contracting officer shall include the solicitation provision in 752.209–70 in all solicitations.

PART 752—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

4. Subpart 752.2 is amended to add a new section 752.209–70 as follows:

752.209–70 Requirement for past performance references.

The following provision shall be included in all solicitations substantially as follows:

Requirement for Past Performance References (Nov 1982)

The offeror/bidder is required to submit, as part of its proposal/bid, the following additional information with respect to all contracts, grants or cooperative agreements involving the provision of similar or related services over the past three years to AID and to other organizations (both commercial and Governmental). Failure to provide complete information regarding previous similar/related contracts, grants or cooperative agreements may result in eventual disqualification. The information supplied must include the name and address of the organization for which services were performed; the current telephone number of a responsible technical representative of the organization; the number, if any, of each contract, grant or cooperative agreement; and a brief description of the services provided, including the period during which the services were provided. AID may use this information to contact technical representatives on prior contracts, grants or cooperative agreements to obtain information on performance. The contracting officer will consider such performance data along with other factors specified herein in determining whether the offeror/bidder is to be considered responsible as defined in FAR 9.101.

Dated: May 16, 1985.

John F. Owens,

AID Procurement Executive.

[FR Doc. 85–13343 Filed 6–4–85; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 31222–248]

Foreign Fishing; Hake; Final Assessment

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of hake final reassessment.

SUMMARY: NOAA issues this notice of final reassessment for the Southern New England Area of the domestic annual processing (DAP) amount in the foreign fishing regulations for the Hake Fishery of the Northwest Atlantic Preliminary Fishery Management Plan (PMP). Regulations allow NMFS to reassess the DAP for red hake in the Northwest Atlantic area to determine whether additional joint venture processing (JVP) amounts may be made available. The intended effect of the new specifications is to allow processing of joint venture applications in 1985.

EFFECTIVE DATE: June 5, 1985.

FOR FURTHER INFORMATION PLEASE CONTACT: Peter Colosi, 617–281–3600, ext. 272.

SUPPLEMENTARY INFORMATION: Foreign fishing regulations that govern the Atlantic hakes PMP contain procedures at § 611.51(b) to reassess DAP. If an application for joint venture fishing is received for an amount of hake which exceeds the JVP specified in the annual initial specifications for the fishing year, the Secretary of Commerce (Secretary) will reassess DAP to determine whether additional JVP can be made available. In making the reassessment, the Secretary will consult with the appropriate fishery management councils, and consider those factors listed at § 611.51(b)(ii) to assess the current and projected U.S. harvesting and processing performance. The preliminary reassessment will be published in the **Federal Register** and a public comment period of 15 days will be provided.

The Secretary has received a joint venture request for 6,000 metric tons (mt) of Southern New England red hake. The request exceeds the current JVP specification of zero (0) mt (refer to NW Atlantic 1–4 area in 50 FR 469, January 4, 1985). Therefore, the Secretary conducted a preliminary reassessment of DAP as discussed above and invited comment (50 FR 15464, April 18, 1985).

The PMP specified a 13,000 mt domestic annual harvest (DAH) and DAP for Southern New England red hake. However, the actual red hake catch from this area has been at low levels in recent years, averaging only 1,300 mt during 1981–1984. The entire U.S. harvest of red hake from this area over the 1981–1984 period was landed in the United States. This level of performance is a reasonable reflection of the past and present DAP. A U.S. fishing effort of 13,000 mt (DAH), which remains in excess of the amounts landed, is still available in this fishery. A substantial amount of red hake may be made available for JVP.

The Secretary expects that the 1981 through 1984 trend will continue in 1985. Catches from traditional hake harvesters are expected to be comparable to last year's level of 1,300 mt. In addition, four new domestic catcher-processor vessels in operation this year have indicated no directed effort toward red hake, although very small amounts of bycatch may occur.

No comments on the preliminary reassessment were received during the 15-day comment period. Therefore, the Secretary adopts as final the reassessment published at 50 FR 15464 (April 18, 1985) as follows. There is no increase in the estimated domestic annual harvest.

FINAL REASSESSMENT OF RED HAKE IN THE NW ATLANTIC 1–4 AREA FOR THE 1985 ANNUAL FISHING YEAR

Specification[1]	Initial amount (mt)	Reassessed amount (mt)
OY or TAC	16,000	
DAH	13,000	
DAP	13,000	7,000
JVP	0	6,000
Reserve	0	
TALFF	2,500	

[1] Optimum yield or total allowable catch (OY or TAC), domestic annual harvest (DAH), domestic annual processing (DAP), joint venture processing (JVP), total allowable levels of foreign fishing (TALFF).

Classification

This action is authorized by 50 CFR 611.51, and complies with E.O. 12291.

List of Subjects in 50 CFR Part 611

Fisheries, Foreign relations, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*, unless otherwise noted.

Dated: May 31, 1985.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 85-13490 Filed 6-5-85; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 50, No. 108
Wednesday, June 5, 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 Parts 71 and 75

[Airspace Docket No. 85-AWA-22]

Proposed Realignment of VOR Federal Airways and Jet Routes; Oklahoma

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to realign both the low altitude Federal Airway and Jet Route structures associated with the Oklahoma City, OK, (OKC) VORTAC. The OKC VORTAC is being relocated to an on-airport site at the Will Rogers World Airport.

DATE: Comments must be received on or before July 26, 1985.

ADDRESS: Send comments on the proposal in triplicate to: Director, FAA, Southwest Region, Attention: Manager, Air Traffic Division, Docket No. 85-AWA-22, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Mr. Brent A. Fernald, Airspace and Air Traffic Rules Branch (ATO-230), Airspace—Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: (202) 426-8626.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 85-AWA-22." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposals

The FAA is considering amendments to § 71.123 and § 75.100 of Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) to realign both the low altitudes VOR Federal Airways and Jet Routes associated with the Oklahoma City (OKC), OK, VORTAC. The OKC VORTAC is being relocated to an on-airport site (lat. 35°21'31" M., long. 97°36'32" W.) at the Will Rogers World Airport (KOKC). Segments of V-14, V-17, V-77, V-163, V-210, V-272, V-354, V-358, V-436, V-440, V-507, J-20 and J-21 are being amended due to this OKC VORTAC relocation. Additionally, although the legal descriptions of the following Jet Routes will not change because they remain direct routes, the charted depictions of J-6, J-14, J-23, J-74, J-78, and J-98 will be altered in conjunction with the OKC VORTAC relocation. Sections 71.123 and 75.100 of Parts 71 and 75 of the Federal Aviation Regulations were republished in Handbook 7400.6A dated January 2, 1985.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory 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 Parts 71 and 75

VOR Federal airways and Jet routes, Airspace, Navigation (air).

The Proposed Amendments

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) as follows:

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

Authority: 49 U.S.C. 1348(a) and 1354(a); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.65; and 49 CFR 1.47.

2. § 71.123 is amended as follows:

V-14—[Amended]

By removing the words "Tulsa, OK;" and substituting the words "INT Oklahoma City 052°T(054°M) and Tulsa, OK, 246°T(238°M) radials; Tulsa;"

V-17—[Amended]

By removing the words "INT Duncan 011° and Oklahoma City, OK, 180° radials; Oklahoma City;" and substituting the words "Oklahoma City, OK;"

V-77—[Amended]

By removing the words "Oklahoma City, OK, 202°" and substituting the words "Oklahoma City, OK, 216°T(209°M)"

V-163—[Amended]

By removing the words "INT Ardmore 342° and Oklahoma City, OK, 154° radials; to Oklahoma City." and substituting the words "to Oklahoma City, OK."

V-210—[Amended]

By removing the words "INT Liberal 137° and Oklahoma City, OK, 282° radials; Oklahoma City; INT Oklahoma City 109° and Okmulgee, OK, 241° radials;" and substituting the words "INT Liberal 137°T(126°M) and Oklahoma City, OK, 284°T(277°M) radials; Oklahoma City; INT Oklahoma City 113°T(106°M) and Okmulgee, OK, 238°T(230°M) radials;"

V-272—[Amended]

By removing the words "to McAlester, OK; Fort Smith, AR." and substituting the words "INT Oklahoma City 113°T(106°M) and McAlester, OK, 286°T(278°M) radials; McAlester; to Fort Smith, AR."

V-354—[Amended]

By removing the words "via INT Oklahoma City 045° and Pioneer, OK, 186° radials;" and substituting the words "via INT Oklahoma City 030°T(023°M) and Pioneer, OK, 179°T(170°M) radials;"

V-358—[Amended]

By removing the words "INT Ardmore 327° and Oklahoma City, OK, 180° radials;" and substituting the words "INT Ardmore 327°T(318°M) and Oklahoma City, OK, 195°T(188°M) radials;"

V-436—[Revised]

From Hobart, OK, via INT Hobart 085°T(075°M) and Oklahoma City, OK, 216°T(209°M) radials; Oklahoma City; INT Oklahoma City 068°T(061°M) and Tulsa, OK, 230°T(222°M) radials; to Tulsa.

V-440—[Amended]

By removing the words "INT Sayre 101° and Oklahoma City, OK, 242° radials;" and substituting the words "INT Sayre 104°T(094°M) and Oklahoma City, OK, 248°T(241°M) radials;"

V-507—[Amended]

By removing the words "INT Oklahoma City 282° and Gage, OK, 152° radials;" and substituting the words "INT Oklahoma City 284°T(277°M) and Gage, OK, 152°T(142°M) radials;"

3. The authority citation for Part 75 is revised to read as follows:

Authority: 49 U.S.C. 1348(a) and 1354(a) 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.65; and 49 CFR 1.47.

4. § 75.100 is amended as follows:

J-20—[Amended]

By removing the words "INT Liberal 137° and Oklahoma City, OK, 282° radials;" and substituting the words "INT Liberal 137°T(126°M) and Oklahoma City, OK, 284°T(277°M) radials;"

J-21—[Amended]

By removing the words "INT Dallas-Fort Worth 355° and Oklahoma City, OK, 158° radials; Oklahoma City; Wichita, KS;" and substituting the words "INT Dallas-Fort Worth 355°T(347°M) and Oklahoma City, OK 162°T(155°M) radials; Oklahoma City; Pioneer, OK; Wichita, KS;"

Issued in Washington, D.C., on May 29, 1985.

James Burns, Jr.,

Acting Manager, Airspace-Rules and Aeronautical Information Division

[FR Doc. 85-13450 Filed 6-4-85; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

Public Comment and Opportunity for Public Hearing on Modifications to the Pennsylvania Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of a program amendment submitted by the Commonwealth of Pennsylvania as a modification to the Pennsylvania Permanent Regulatory Program (hereinafter referrred to as the Pennsylvania program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment pertains to the State's subsidence control regulations.

This notice sets forth the times and locations that the Pennsylvania program and the proposed amendment are available for public inspection, the comment period during which interested persons may submit written comments on the proposed program elements, and the procedures that will be followed regarding the public hearing.

DATES: Written comments not received on or before 4:00 p.m., will not necessarily be considered. July 5, 1985.

If requested, a public hearing on the proposed modifications will be held on June 27, 1984, beginning at 10:00 a.m., at the location shown below under **ADDRESSES.**

ADDRESSES: Written comments should be mailed or hand delivered to: Robert Biggi, Harrisburg Field Office, Office of Surface Mining, 101 South 2nd Street, Suite L-4, Harrisburg, Pennsylvania 17101.

If a public hearing is held its location will be: The Penn Harris Motor Inn and Convention Center at the Camp Hill bypass at U.S. 11 and 15, Camphill, Pennsylvania, in the Keystone-A Convention Room.

FOR FURTHER INFORMATION CONTACT: Robert Biggi, Harrisburg Field Office, Office of Surface Mining, 101 South 2nd Street, Suite L-4, Harrisburg, Pennsylvania 17101, Telephone: (717) 782-4036.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Availability of Copies

Copies of the Pennsylvania program, the proposed modifications to the program, a listing of any scheduled public meeting and all written comments received in response to this notice will be available for review at the OSM offices and the office of the State regulatory agencies listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays.

Harrisburg Field Office, Office of Surface Mining, 101 South 2nd Street, Suite L-4, Harrisburg, Pennsylvania 17101.

Office of Surface Mining, Reclamation and Enforcement, 1100 L Street N.W., Washington, D.C. 20240

Pennsylvania Department of Environmental Resources, Third and Locust Streets, Harrisburg, Pennsylvania 17120.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenters recommendations. Comments received after the time indicated under DATES or at locations other than Harrisburg, Pennsylvania, will not necessarily be considered and included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person

listed under **FOR FURTHER INFORMATION CONTACT** by the close of business June 20, 1985. If no one requests to comment, a public hearing will not be held.

If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber.

Submission of written statemtns in advance of the hearing will allow OSM officials to prepare appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those scheduled. The hearing will end after all persons present in the audience who wish to comment, have been heard.

Public Meeting

Persons wishing to meet with OSM representatives to discuss the proposed amendments may request a meeting at the OSM office listed in **ADDRESSES** by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.**

All such meetings are open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record. A written summary of each public meeting will be made a part of the Administrative Record.

II. Background on the Pennsylvania State Program

On February 29, 1980, the Secretary of the Interior received a proposed regulatory program from the State of Pennsylvania. On October 22, 1980, following a review of the proposed program as outlined in 30 CFR part 732, the Secretary disapproved the Pennsylvania program. The State resubmitted its program on January 25, 1982, and subsequently the Secretary approved the program subject to the correction of minor deficiencies. 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 Pennsylvania program can be found in the July 30, 1982 **Federal Register** notice (47 FR 33050).

III. Submission of Program Amendment

On April 18, 1985, Pennsylvania submitted to OSM pursuant to 30 CFR 732.17 proposed amendments to 25 Pa. Code Chapter 89, Subchapter F (pertaining to subsidence control) (OSM Administrative Record PA 550).

The amendment deletes the existing subchapter in its entirety and sets forth a new subchapter. The State has indicated that the new subchapter reflects the revised Federal standards for subsidence control at 30 CFR 784.20 and 817.121–817.126 which were adopted July 1, 1983 (48 FR 24638).

Also, certain new provisions relating to general mining requirements, protection of perennial streams and notices of anticipated mining activities are included in the amendment. In addition, the State has eliminated redundant information and reporting requirements and reformatted Subchapter F to provide a more precise presentation of requirements.

The Director is seeking public comment on the adequacy of the proposed regulations in satisfying the criteria for approval of State program amendments at 30 CFR 732.15 and 17. The full text of the amendment submitted by the State is available for public review at the OSM offices listed above under ADDRESSES under Administrative Record No. Pa–550.

V. Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292, no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7 and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a regulatory impact analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that 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 938

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

(Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.))

Dated: May 30, 1985.

Jed D. Christensen,

Acting Director, Office of Surface Mining.

[FR Doc. 85–13507 Filed 6–4–85; 8:45 am]

BILLING CODE 4310–05–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300130; PH–FRL 2844–4]

Dimethylpolysiloxane; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that dimethylpolysiloxane be exempted from the requirement of a tolerance when used as an inert ingredient (defoaming agent) in pesticide formulations. This proposed regulation was requested by Zoecon Industries.

DATE: Written comments, identified by the document control number [OPP–300130], must be received on or before July 5, 1985.

ADDRESS: By mail, submit comments to: Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

In person, deliver comments to: Registration Support and Emergency Response Branch, Registration Division (TS–767), Environmental Protection Agency, Room 716, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in room 236 at the

address given above from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: N. Bhushan Mandava, Registration Support and Emergency Response Branch, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Office location and telephone number: Registration Support and Emergency Response Branch, Room 724A, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703–557–7700.

SUPPLEMENTARY INFORMATION: At the request of Zoecon Industries, the Administrator proposes to amend 40 CFR 180.1001(e) by establishing an exemption from the requirement of a tolerance for dimethylpolysiloxane when used as a defoaming agent in pesticide formulations applied to animals.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting and spreading agents; and propellants in aerosol dispensers; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

Preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and toxicological and other scientific bases used in arriving at a conclusion of safety in support of the exemption.

Name of inert ingredient. Dimethylpolysiloxane.

Name and address of requestor. Zoecon Industries, Dallas, TX 75234.

Bases for approval. (1) Dimethylpolysiloxane is cleared under 21 CFR 173.340 as a deforming agent (food additive) with a 10–ppm tolerance in foods.

(2) Dimethylpolysiloxane is cleared under 40 CFR 180.1001(c) (conforming to 21 CFR 173.340) as a defoaming agent in pesticide formulations used on growing crops or to raw agricultural commodities after harvest.

Based on the above information, and review of its use, it has been found that, when used in accordance with good agricultural practices, this ingredient is useful and does not pose a hazard to humans or the environment. It is concluded, therefore, that the proposed amendment to 40 CFR Part 180 will protect the public health, and it is proposed that the regulation be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains this inert ingredient, may request within 30 days after publication of this notice in the **Federal Register** that this rulemaking proposal be referred to an advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating both the subject and the petition and document control number, [OPP–300130]. All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Registration Support and Emergency Response Branch at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticide and pests.

Dated: May 21, 1985.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

1. The authority citation for 40 CFR Part 180 continues to read as set forth below:

Authority: 21 U.S.C. 346a.

2. Section 180.1001(e) is amended by adding and alphbetically inserting the inert ingredient as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(e) * * *

Inert ingredients	Limits	Uses
* * * * *		
Dimethylpolysiloxane (CAS Registry No. 9016-00-6).	.....	Defoaming agent.
* * * * *		

[FR Doc. 85–13053 Filed 6–4–85; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[OOP–300123; PH–FRL 2845–2]

Revocation of Chlordane Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document (1) proposes the revocation of tolerances for residues of the insecticide chlordane (1,2,4,5,6,7,8,8-octachloro-2,3,3a,4,7,7a-hexahydro-4,7-methanoindene, containing not more than one percent of the intermediate compound hexachlorocyclopentadiene) in or on various raw agricultural commodities; (2) lists the action levels which EPA intends to recommend to the Food and Drug Administration (FDA) and the U.S. Department of Agriculture (USDA) to replace the tolerances once the rule revoking the tolerances is final; and (3) lists EPA's recommendations to FDA and USDA regarding retention of existing action levels for food and feed commodities for which no tolerances were established. This proposed regulatory action was initiated by the Environmental Protection Agency.

DATE: Written comments, identified by the document control number [OOP–300123], must be received on or before August 5, 1985.

ADDRESS:

By mail, submit comments to: Information Services Section, Program Management and Support Division TS–757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, deliver comments to: Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment concerning this notice may be claimed

confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Patricia Critchlow, Registration Division (TS–767C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA. (703–557–7700).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of November 26, 1974 (39 FR 41298), of Intent to Cancel registrations of pesticide products containing chlordane. In addition, applications for federal registration of intrastate products containing chlordane were subjected to the terms of a Notice of Intent to Deny Registration, published in the **Federal Register** of May 21, 1975 (40 FR 22587).

A Final Order issued by the Administrator cancelled all the uses which were subject to the Notice of Intent to Cancel and the Notice of Intent to Deny Registration, effective March 6, 1978, with the exception of certain registrations which were to be phased out over specified periods of time, ranging from October 1, 1978 to December 1, 1980, published in the **Federal Register** of March 24, 1978 (43 FR 12372). All food uses of chlordane were cancelled except for uses on citrus, flax, grapes, and strawberries, all of which were phased out during the period of October 1, 1978 to July 1, 1980.

The tolerances established for the residues of chlordane were not revoked concurrently with the cancellation of the pesticide registrations because of the pesticide's slow rate of degradation and its persistence in the environment. Existing action levels were established, based on EPA recommendations, to cover unavoidable residues of this pesticide occurring in food and feed commodities for which no tolerances had been established.

To deal with the issue of persistent pesticide chemicals which have been cancelled, the EPA published a "Policy Statement on Revocation of Tolerances for Cancelled Pesticides" in the **Federal Register** of September 29, 1982 (47 FR 42956). This statement, which was a joint agreement among the EPA, FDA, FSIS and the Agricultural Marketing Service of USDA, sets forth the procedure for replacing formal tolerances for residues of persistent pesticides with action levels at the time the tolerances are revoked. These action levels would cover unavoidable residues occurring in the U.S. food supply as a result of environmental contamination from past legal usage of the pesticides. The policy statement described the factors which EPA would consider when determining appropriate action levels to recommend to FDA or FSIS. These same factors also would be used to recommend that FDA and FSIS lower the action levels as subsequent surveillance data, reviewed periodically, indicated that the residue levels found in the environment had dissipated further.

Based on the above facts and the guidance provided in the policy statement, the Agency now proposes to revoke the existing tolerances for residues listed in 40 CFR 180.122 and the interim tolerances listed in 40 CFR 180.319 specifically for residues of chlordane in or on various raw agricultural commodities.

The Agency has reviewed chlordane residue monitoring data from FDA and FSIS resulting from their surveillance of domestic and imported food and feed commodities during the years 1979 to 1983. Based on its evaluation of these data and its estimate of the levels of chlordane residues occurring in food from environmental sources, the Agency will recommend that FDA establish the following action levels for residues of chlordane, expressed in parts per million (ppm), to replace the existing chlordane tolerances when they are revoked. For consistency with existing FDA action levels, all recommended action levels are for the "the sum of residues of *cis*- and *trans*-chlordane, *cis*- and *trans*-nonachlor, oxychlordane (octachlor epoxide), alpha, beta, and gamma chlordene, and chlordene."

TABLE 1.—RECOMMENDED ACTION LEVELS

Commodities	Existing tolerances (ppm) chlordane	Recommended action levels (ppm) chlordane
Apples	0.3	0.1
Apricots	0.3	0.1
Beans	0.3	0.1
Beets (with or without tops)	0.3	0.1
Beets, greens alone	0.3	0.1
Blackberries	0.3	0.1
Blueberries (huckleberries)	0.3	0.1
Boysenberries	0.3	0.1
Broccoli	0.3	0.1
Brussels sprouts	0.3	0.1
Cabbage	0.3	0.1
Carrots	0.3	0.1
Cauliflower	0.3	0.1
Celery	0.3	0.1
Cherries	0.3	0.1
Citrus fruits	0.5	0.1
Collards	0.3	0.1
Corn	0.3	0.1
Cucumbers	0.3	0.1
Dewberries	0.3	0.1
Eggplant	0.3	0.1
Grapes	0.3	0.1
Kale	0.3	0.1
Kohlrabi	0.3	0.1
Lettuce	0.3	0.1
Loganberries	0.3	0.1
Melons	0.3	0.1
Nectarines	0.3	0.1
Okra	0.3	0.1
Onions	0.3	0.1
Papayas	0.3	0.1
Peaches	0.3	0.1
Peanuts	0.5	0.1
Pears	0.3	0.1
Peas	0.3	0.1
Peppers	0.3	0.1
Pineapples	0.3	0.1
Plums (fresh prunes)	0.3	0.1
Potatoes	0.3	0.1
Quinces	0.3	0.1
Radishes (with or without tops)	0.3	0.1
Radishes, tops	0.3	0.1
Raspberries	0.3	0.1
Rutabagas (with or without tops)	0.3	0.1
Rutabagas, tops	0.3	0.1
Squash	0.3	0.1
Strawberries	0.3	0.1
Summer squash	0.3	0.1
Sweet potatoes	0.3	0.1
Tomatoes	0.3	0.1
Turnips (with or without tops)	0.3	0.1
Turnips, greens	0.3	0.1
Youngberries	0.3	0.1

The Agency will recommend that FDA establish the following action levels for residues of chlordane, expressed in ppm, to replace the existing interim tolerances for residues of chlordane, listed in 40 CFR 180.319, when they are revoked.

TABLE 2—INTERIM TOLERANCES REPLACED BY ACTION LEVELS

Commodities	Existing tolerances (ppm) chlordane	Recommended action levels (ppm) chlordane
Asparagus	0.1	0.1
Bananas	0.03	0.1
Mustard greens	0.1	0.1
Parsnips	0.2	0.1
Pumpkins	0.1	0.1
Spinach	0.1	0.1
Swiss chard	0.1	0.1

EPA will recommend to FDA and FSIS that they may retain the following existing action levels for residues of chlordane. Commodities affected, and listed below, include processed animal feed and the processed feed commodity

rendered animal fat, which is used as an animal feed ingredient; however, there are no established feed additive tolerances in 21 CFR Part 561 for residues of chlordane which would be subject to revocation under section 409(h) of the Federal Food, Drug, and Cosmetic Act. Therefore, a separate Federal Register notice addressing feed additive tolerances or replacement action levels will not be published.

TABLE 3.—ACTION LEVELS TO REMAIN IN EFFECT

Commodities	Existing and recommended action levels (ppm) chlordane
Animal fat (rendered)	0.8
Animal feed (processed)	0.1
Fat of meat from cattle, goats, hogs, horses, sheep, poultry, and rabbits	0.3
Fish	0.3

In order to meet the objectives of the Codex Alimentarius Commission under the Joint FAO/WHO Food Standards Programme of having internationally agreed-upon limits for pesticide residues in food, the action levels being recommended conform with Codex recommended limits wherever possible and practical.

The recommended action level of 0.1 ppm in cucumbers, melons, pineapples, and squash are identical to existing Codex limits for these commodities. The recommended levels of 0.1 ppm in many of the other commodities, however, are not consistent with current Codex limits of either 0.02 ppm or 0.05 ppm for the same commodities.

The multi-residue analytical methodology used by FDA in its monitoring/enforcement programs, which is broad in scope and analyzes for numerous pesticides simultaneously, would not be appropriate for enforcement of a tolerance below 0.1 ppm for chlordane. Therefore, so that tolerance enforcement can be maintained for chlordane throughout a large sampling program, covering many foods, the 0.1 ppm action level is recommended for all the commodities affected. The tolerances being replaced are currently equal to or higher than the recommended 0.1 ppm action level, except for bananas which has an existing tolerance of 0.03 ppm. For consistency with other recommended chlordane action levels and to utilize FDA's multi-residue analytical method, the recommended action level for bananas is also 0.1 ppm.

Current Codex limits for chlordane residues are temporary until the temporary nature of the allowable daily intake (ADI) level is changed. For this reason, because the Codex limits are subject to reevaluation, the 0.1 ppm level is not considered to be in conflict with the stated policy for harmonization of U.S. and Codex limits. Future reevaluations of the action levels, however, will be conducted to assure consistency with updated monitoring data and future Codex limits.

Any person who has registered or submitted an application under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, for the registration of a pesticide which contains chlordane may request within 30 days after publication of this document in the **Federal Register** that this proposal to revoke all chlordane tolerances in food commodities be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposal to revoke the tolerances and the interim tolerances for residues of chlordane listed in 40 CFR 180.122 and 180.319. Comments must bear a notation indicating the document control number, [OPP-300123]. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in reviewing the comments. All written comments filed pursuant to this notice will be available for public inspection in Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, between 8 a.m. and 4 p.m., Monday through Friday, except legal holidays.

In order to satisfy requirements for analysis as specified by Executive Order 12291 and the Regulatory Flexibility Act, the Agency has analyzed the costs and benefits of this proposal. This analysis is available for public inspection in Rm. 236, at the address given above.

Executive Order 12291

Under Executive Order 12291, the Agency must determine whether a proposed regulatory action is "Major" and therefore subject to the requirements of a Regulatory Impact Analysis. The Agency has determined that this proposed regulatory action is not a major regulatory action, i.e., it will not have an annual effect on the economy of at least $100 million, will not cause a major increase in prices, and will not have a significant adverse effect on competition or the ability of U.S. enterprises to compete with foreign enterprises. Revocation of the tolerances for residues of chlordane should aid U.S. enterprises by eliminating any unfair advantage that foreign enterprises may have gained through the continuance of these tolerances.

This proposed regulatory action has been submitted to the Office of Management and Budget as required by E.O. 12291.

Regulatory Flexibility Act

This proposed regulatory action has been reviewed under the Regulatory Flexibility Act of 1980 (Pub. L. 96-354; 94 Stat. 1164, 5 U.S.C. 601 *et seq.*) and it has been determined that it will not have a significant economic impact on a substantial number of small businesses, small governments, or small organizations.

As this regulatory action is intended to prevent the sale of foodstuffs primarily where the subject pesticide has been used in an unregistered or illegal manner, it is anticipated that little or no economic impact would occur at any level of business enterprises.

Accordingly, I certify that this regulatory action does not require a separate regulatory flexibility analysis under the Regulatory Flexibility Act.

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: May 28, 1985

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

1. The authority citation for 40 CFR Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. By amending § 180.319 by removing the entries under "Chlordane" to read as follows:

§ 180.319 Interim tolerances.

* * * * *

Substances	Use	Tolerance in parts per million	Raw agricultural commodities
* * * * *			
Chlordane [Removed]	[Removed]	[Removed]	[Removed]
* * * * *			

§ 180.122 [Removed]

3. Section 180.122 is removed.

[FR Doc. 85-13364 Filed 6-4-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[[OPP-300124] PH-FRL 2844-9)

Revocation of Ethyl 4,4'-Dichlorobenzilate Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes the revocation of tolerances established for residues of the insecticide ethyl 4,4'-dichlorobenzilate (chlorobenzilate) in or on certain raw agricultural commodities. This proposed regulatory action was initiated by the Environmental Protection Agency to remove tolerance regulations on the pesticide for which registered uses have been cancelled.

DATE: Written comments, identified by the document control number [OPP-300124], must be received on or before Aug. 5, 1985.

ADDRESS:

By mail, submit comments to:
Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

In person, deliver comments to: Room 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Patricia Critchlow, Registration Division (TS-767C), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Office location and telephone number: Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA (703-557-7700).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of February 13, 1979 (44 FR 9548), of its intent to cancel registrations and deny applications for registrations of pesticide products containing chlorobenzilate for all uses except for the use on citrus. EPA had determined that the risk of using chlorobenzilate outweighed the benefits and therefore initiated actions to cancel or deny registrations for all uses except citrus. The notice, however, enumerated certain labeling modifications designed to reduce exposure to chlorobenzilate resulting from the chemical's use on citrus grown in Florida, Texas, Arizona, and California.

When a pesticide's registrations for a food or feed use are cancelled because of safety concerns, the associated tolerance or food additive regulation is no longer justified and should be revoked. Such revocation action should discourage domestic misuse and would also make illegal and importation of food commodities bearing residues of the cancelled pesticide.

EPA published a "Policy Statement on Revocation of Tolerances for Cancelled Pesticides" in the **Federal Register** of September 29, 1982 (47 FR 42956). This statement, which was a joint agreement among the EPA, FDA, FSIS and the Agricultural Marketing Service of USDA, discusses the revocation of formal tolerances for residues of cancelled pesticides and the consequent need to determine whether action levels should be establihsed for these pesticides at the time the tolerances are revoked. These action levels would cover unavoidable residues occurring in the U.S. food supply as a result of environmental contamination from past legal usage of the pesticides. For persistent pesticides, it is possible that crops grown in previously-treated fields may contain detectable residues of the pesticides for years after the application of the cancelled pesticide has ceased. For pesticides which degrade rapidly in the environment, however, revoking a tolerance would not necessitate establishment of a replacement action level because residues from past use would not be expected to be present in food commodities at detectable levels.

Based on the above facts and the guidance provided in the policy statement, EPA now proposes to revoke the existing tolerances listed in 40 CFR 180.109 for residues of chlorobenzilate in or on the following raw agricultural commodities:

Commodities	Existing tolerances (ppm) chlorobenzilate
Almonds	0.2
Almonds, hulls	15.0
Apples	5.0
Cottonseed	0.5
Melons	5.0
Pears	5.0
Walnuts	0.2

Available surveillance data from FDA's monitoring of domestic surveillance samples show no detectable cholorobenzilate residues in the crops for which uses have been cancelled. Since chlorobenzilate is only moderately persistent and its uses were cancelled over 5 years ago (for all commodities except citrus), there is no anticipation of a residue problem in or on the raw agriculatural commodities for which uses have been cancelled. Therefore, no action levels are needed to replace the established tolerances for these commodities upon their revocation.

Since chlorobenzilate is still registered and being used on citrus, and since citrus processed commodities (dehydrated and wet citrus pulp and citrus molasses) constitute major feed items, transmission of secondary residues to the meat, fat, and meat byproducts of livestock (except poultry) is anticipated. Therefore, it is appropriate to retain the tolerances, at the existing levels, for citrus and for the meat, fat, and meat byproducts of cattle and sheep.

During the post-publication comment period, EPA will inform other countries of our intended revocation action so that those who might be affected are afforded the opportunity to comment on the action; copies of this proposed rule will be mailed to the members of the Codex Alimentarius Commission.

Any person who has registered or submitted an application under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, for the registration of a pesticide which contains chlorobenzilate may request within 30 days after publication of this document in the **Federal Register** that this proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this proposal to revoke certain tolerances for residues of chlorobenzilate. Comments must bear a notation indicating the document control number [OPP-300124]. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in reviewing the comments. All written

comments filed pursuant to this notice will be available for public inspection in Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, between 8 a.m. and 4 p.m., Monday through Friday, except legal holidays.

In order to satisfy requirements for analysis as specified by Executive Order 12291 and the Regulatory Flexibility Act, the Agency has analyzed the costs and benefits of this proposal. This analysis is available for public inspection in Rm. 236, at the address given above.

Executive Order 12291

Under Executive Order 12291, the Agency must determine whether a proposed regulatory action is "Major" and therefore subject to the requirements of a Regulatory Impact Analysis. The Agency has determined that this proposed regulatory action is not a major regulatory action, i.e., it will not have an annual effect on the economy of at least $100 million, will not cause a major increase in prices, and will not have a significant adverse effect on competition or the ability of U.S. enterprises to compete with foreign enterprises. Revocation of the tolerances for residues of chlorobenzilate in almonds, almond hulls, apples, cottonseed, melons, pears, and walnuts should aid U.S. enterprises by eliminating any unfair advantage that foreign enterprises may have gained through the continuance of these tolerances.

This proposed regulatory action has been submitted to the Office of Management and Budget as required by E.O. 12291.

Regulatory Flexibility Act

This proposed regulatory action has been reviewed under the Regulatory Flexibility Act of 1980 (Pub. L. 96-354; 94 Stat. 1164, 5 U.S.C. 601 *et seq.*) and it has been determined that it will not have a significant economic impact on a substantial number of small businesses, small governments, or small organizations.

As this regulatory action is intended to prevent the sale of foodstuffs primarily where the subject pesticide has been used in an unregistered or illegal manner, it is anticipated that little or no economic impact would occur at any level of business enterprises.

Accordingly, I certify that this regulatory action does not require a separate regulatory flexibility analysis under the Regulatory Flexibility Act.

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: May 28, 1985.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

1. the authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.109 is revised to read as follows:

§ 180.109 Ethyl 4,4'-dichlorobenzilate; tolerances for residues.

Tolerances are established for residues of the insecticide ethyl 4,4'-dichlorobenzilate (chlorobenzilate) in or on the following raw agricultural commodities:

Commodities	Parts per million
Cattle, fat	0.5
Cattle, mbyp	0.5
Cattle, meat	0.5
Citrus fruits	5.0
Sheep, fat	0.5
Sheep, mbyp	0.5
Sheep, meat	0.5

[FR Doc. 85-13366 Filed 6-4-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 261

[SW-FRL-2845-7]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and request for comment.

SUMMARY: The Environmental Protection Agency (EPA) today is proposing to exclude solid wastes that will be generated by EPA's Mobile Incineration System located in McDowell, Missouri, from the list of hazardous wastes contained in 40 CFR 261.31. This action responds to a delisting petition submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of Parts 260 through 265, 124, 270, and 271 of Title 40 of the Code of Federal Regulations, and 40 CFR 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "site-specific basis" from the hazardous waste list. The effect of this action, if promulgated, would be to exclude those wastes generated by EPA's Mobile Incineration System from listing as hazardous wastes under 40 CFR 261.

The Hazardous and Solid Waste Amendments of 1984 recently changed the criteria to be used in evaluating delisting petitions. Consequently, our evaluation considered both the factors for which the wastes were originally listed as well as all other factors and toxicants reasonably expected to be present in these wastes.

DATES: EPA will accept public comments on this proposed exclusion until July 5, 1985. Any person may request a hearing on this proposed exclusion by filing a request with Eileen B. Claussen, whose address appears below, by June 20, 1985. The request must obtain the information prescribed in 40 CFR 260.20(d).

ADDRESSES: Comments should be sent to the Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Requests for a hearing should be addressed to Eileen B. Claussen, Director, Characterization and Assessment Division, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. Communications should identify the regulatory docket number "Section 3001—Delisting petition (Dioxin)".

The public docket for this proposed exclusion is located in Room S-212, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free at (800) 424-9346, or at (202) 382-3000. For technical information, contact Dr. Doreen Sterling, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 475-6775.

SUPPLEMENTARY INFORMATION:

Background

On January 14, 1985, EPA published a final rule ("the dioxin rule") designating as acute hazardous wastes, certain wastes containing tetra-, penta-, and hexachlorinated dibenzo-p-dioxins (CDDs), -dibenzofurans (CDFs), and certain chlorinated phenols. See 50 FR 1978-2006. These regulations also specified certain management standards for these wastes. For incineration, the regulations specify that they must be managed at incinerators shown to achieve 99.9999% (six 9s) destruction

and removal efficiency (DRE) of the principal organic hazardous constituents (POHCs) which are difficult or more difficult to incinerate than the tetra-, penta-, and hexachlorinated dioxins (CDDs), -dibenzofurans (CDFs) isomers.

Under 40 CFR 261.3(c)(2)(i), any residue derived from the treatment of a hazardous waste is a hazardous waste unless otherwise designated, or delisted under the provisions of 40 CFR 260.20 and 260.22. EPA has interpreted this to mean that the residues resulting from the incineration of acute hazardous wastes (*i.e.*, dioxin wastes) are still acute hazardous wastes, unless otherwise designated, or delisted. (In the dioxin regulation, the Agency designated, the residues resulting from six 9's incineration or thermal treatment of dioxin-contaminated soils as toxic wastes (EPA Hazardous Waste No. F028). This waste therefore can be managed at interim status facilities.)

The Agency recognizes, however, that while a waste described in these regulations generally is hazardous, a specific waste meeting the listing description from an individual facility may not be. For this reason, 40 CFR 260.20 and 260.22 provide an exclusion procedure, allowing persons the opportunity to demonstrate that a specific waste from a particular generating facility should not be regulated as a hazardous waste.

To be excluded, petitioners must show that a waste generated at their facility does not meet any of the criteria under which the waste was listed. (See 40 CFR 260.22(a) and the background documents for listed wastes.) In addition, the Hazardous and Solid Waste Amendments of 1984 (HSWA) require the Agency to consider factors (including additional constituents), other than those for which the waste was listed if there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. Accordingly, a petitioner also must demonstrate that his waste does not exhibit any of the hazardous waste characteristics, as well as present sufficient information for the Agency to determine whether the waste contains any other toxicants at hazardous levels. (See 40 CFR 260.22(a); Section 222 of the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. 3001(f); and the background documents for the listed wastes.) Although wastes which are "delisted" (*i.e.*, excluded) are evaluated to determine whether or not they exhibit any of the characteristics of a hazardous waste, generators remain obligated to determine whether their waste remains non-hazardous based on the hazardous waste characteristics—namely, ignitability, reactivity, corrosivity, and EP toxicity.

In addition to wastes listed as hazardous in 40 CFR 261.31 and 261.32, residues from the treatment, storage, or disposal of listed hazardous wastes also are eligible for exclusion and remain hazardous wastes until excluded. (See 40 CFR 261.3 (c) and (d)(2).) Again, the substantive standard for "delisting" is: (1) that the waste not meet any of the criteria for which it was listed originally and (2) that the waste is not hazardous after considering factors (including additional constituents) other than those for which the waste was listed, if there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. Where the waste is derived from one or more listed hazardous, wastes, the demonstration may be made with respect to each constituent or the waste mixture as a whole. (See 40 CFR 260.22(b).) Generators of these excluded treatment, storage, or disposal residues remain obligated to determine whether these residues exhibit any of the hazardous waste characteristics on a periodic basis.

Petitioner

The proposed exclusion published today involes EPA's Mobile Incineration System at the Denney Farm Site in McDowell, Missouri.

I. Environmental Protection Agency

A. Petition for Exclusion

The Evironmental Protection Agency, Releases Control Branch (RCB), located in Edison, New Jersey, has petitioned the Agency to exclude from the list of hazardous wastes the process wastewater, the rotary kiln ash, the filter media generated from a cleanable high effeciency air filter (CHEAF) particulate scrubber, and other solids [1] removed from the wastewater which will be generated during the field demonstration of EPA's Mobile Incineration System (MIS) at the Denney Farm site in McDowell, Missouri. The categories of wastes to be incinerated during the field demonstration at the Denney Farm site are listed in Table 1. These wastes are presently listed [2] as EPA Hazardous Waste Nos. F020, F022, F023, F026, F027, and F028 (See Table 2).

Table 1: Categories of Materials to be Incinerated during Field Demonstration at Denney Farm Site in McDowell, MO.

Field Demonstration

Liquids: Various dioxin-contaminated solvents including:

(1) Mixed solvents* and water from Denney Farm (2590 gallons).

(2) Process waste** from detoxification of dioxin at Syntex Verona plant (15,000 gallons).

(3) Mixed solvents*** from Syntex Verona plant (5,000 gallons).

Solids:

1. Denney Farm contaminated site soil (400,000 pounds).
2. Chemical solids and soils from Denney Farm (30,500 pounds)
3. Drum remnants and trash from Denney Farm (25,000 pounds)
4. Activated carbon from Syntex Verona plant (5,000 pounds)
5. Miscellaneous trash from Syntex Verona plant (25,000 pounds)
6. Spill area soil contaminated with dioxins, Neosho, Mo. (50,625 pounds)
7. Asphaltic material, at old wastewater school, Neosho, Mo. (75 gallons)
8. Drums with residue from Erwin Farm (2,000 pounds)
9. Soil from Rusha Farm (20,000 pounds)
10. Soil from Tally Farm (20,000 pounds)
11. Soil from Times Beach (6,000 pounds)
12. Soil from Piazza Road (6,000 pounds)
13. Soils and other materials from clean-up from Baldwin Park (up to 2,000,000 pounds).

*The solvents used by NEPACCO (the source of the contamination) in their operation in the Verona area were mineral spirits, toluene, and ethylene glycol.

**The solvents used are claimed to be confidential business information (CBI) and are in the CBI docket to this rulemaking.

***The mixed solvents used by Syntex to clean out the old equipment were hexane, isopropyl alcohol, methanol, and water.

Table 2

F020 Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulation process) of tri- or tetrachlorophenol, or of intermediates used to produce their pesticide derivatives. (This listing does not include wastes from the production of Hexachlorophene from highly purified 2,4,5-trichlorophenol).

F022 Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of

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[1] The other solids include particulates collected from the secondary combustion chamber and sludge which is collected from the air pollution control equipment sumps and from the clarifier on the process waterpurge stream treatment system. The carbon filters are not included in the other solids category and hence are not a subject of this notice.

[2] On January 14, 1985 (see 50 FR 1978), EPA amended the regulations for Hazardous Waste Management under RCRA, by listing as acute hazardous waste certain wastes containing particular chlorinated dioxins, chlorinated dibenzofurans, and chlorinated phenols; this rule becomes effective on July 15, 1985. RCB is petitioning the Agency for an exclusion because the field demonstration of the MIS will be in progress at the time this regulation takes effect.

tetra,- penta,- or hexachlorobenzenes under alkaline conditions.

F023 Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production of materials on equipment previously used for the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tri- and tetrachlorophenols. (This listing does not include wastes from equipment used only for the production or use of Hexachlorophene from highly purified 2,4,5,-trichlorophenol).

F026 Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production of materials on equipment previously used for the manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tetra-, penta-, or hexachlorobenzene under alkaline conditions.

F027 Discarded unused formulations containing tri-, tetra-, or pentachlorophenol or discarded unused formulations containing compounds derived from these chlorophenols. (This listing does not include formulations containing Hexachlorophene synthesized from prepurified 2,4,5,-trichlorophenol as the sole component).

F028 Residues resulting from the incineration or thermal treatment of soil contaminated with EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, and F027.

These wastes are listed as acute hazardous wastes (except F028, which is listed as toxic) because they contain tertra,- penta-, and hexachlorinated dibenzo-p-dioxins and -dibenzofurans. In addition, these wastes contain tri-, tetra-, and pentachlorophenols and their derivatives.

RCB has petitioned the Agency to exclude its wastewater and other solids generated from the MIS during the field demonstration because the wastes will neither meet the criteria for which they are listed nor contain any additional constituents nor exhibit any of the characteristics of hazardous waste which could cause the waste to be hazardous. To support their claim, RCB has submitted: (1) documentation on the origin of the wastes to be burned during the field demonstration; (2) a detailed description of the MIS, including schematic diagrams, an engineering description, the incinerator operating conditions, and trial burn procedures; (3) characterization data, including analytical data of the materials incinerated during the trial burn; and (4) the analytical results on the wastewater, rotary kiln ash, and CHEAF media generated during the trial burn. Although the petitioner did not provide analytical data for the other solids, the petitioner claims that the solids collected from the secondary combustion chamber, air pollution control equipments sumps, and clarifier are all derived from the same source; the solid particles either drop out of the secondary combustion chamber as ash or pass into the air pollution control equipment. The petitioner argues that all of these solid particles have been exposed to a higher temperature and, thus, have undergone a more rigorous thermal treatment than the kiln ash and should therefore be expected to contain even lower concentrations of organic constituents than the kiln ash.

Origin of the Wastes

The RCB has provided documentation on the origin of the waste to be burned during the field demonstration and supporting evidence of the relationship between the wastes incinerated during the trial burn and the wastes that will be incinerated during the field demonstration. The history of these wastes is documented in the public record.[3] In particularly, the now defunct Northeastern Pharmaceutical and Chemical Company (NEPACCO), which had leased manufacturing facilities at a chemical plant in Verona, Missouri, has been been identified as the source of the hazardous constituents in the wastes identified in Table 1 and has also been identified as the source of the hazardous constituents in the wastes incinerated during the trial burns.

NEPACCO manufactured Hexachlorophene. This compound, a bactericide, is produced from the reaction of formaldehyde with 2,4,5-trichlorophenol(2,4,5-TCP) at elevated temperatures in the presence of an acid catalyst.[4] NEPACCO also produced 2,4,5-TCP as an intermediate. Although no detailed information is available on NEPACCO's 2,4,5-TCP process, the generic process involves the hydrolysis of 1,2,4,5-tetrachlorobenzene with caustic soda at elevated temperatures.[5] The pharmaceutical grade of Hexachlorophene, produced at the Verona plant, necessitated the purification of 2,4,5-TCP by distillation. Consequently, 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD),[6] a contaminant in 2,4,5-TCP production, became concentrated in the still bottoms at a concentration of approximately 350 ppm. The solid and liquid waste streams resulting from NEPACCO's operation included TCDD-contaminated still bottoms, a high strength refractory wastewater, and an expendable clay filter material used to decolorize the Hexachlorophene before crystallization.[7]

In the early 1970's, Syntex Agribusiness, which had acquired the Verona plant, discovered 4300 gallons of abandoned waste in a tank. This sludge-like material (still bottoms) contained 350 ppm of TCDD. In May 1980, a photolysis process was used to reduce the concentration of TCDD found in the NEPACCO wastes from 350 ppm to 0.2 ppm. In addition, there was a residual of 300 gallons of asphalt-like material left in Tank T-1, which was too viscous to be processed by photolysis. As investigations continued, additional sites were discovered where the NEPACCO wastes had been abandoned. For example, the Region VII [8] investigatory record shows that NEPACCO wastes were discovered at the nearby Denney Farm site, the wastewater school at Neosho, the Rusha Farm site, the Tally Farm site, the Erwin Farm site, and the Baldwin Park site. The record also indicates that it is the NEPACCO wastes that are the major contaminants at the Times Beach and Piazza Road sites. It is these wastes and materials contaminated with these wastes, that are going to be incinerated during the field demonstration of the MIS at the Denney Farm site.

Description of the Mobile Incineration System[9]

The MIS was designed and built to provide a mobile facility for on-site thermal destruction and detoxification of hazardous and toxic organic substances collected from clean-up operations at spills or at uncontrolled hazardous waste sites. The system is designed to provide state-of-the-art

[3] See especially "Report Preliminary Investigation of Spring River Basin", U.S. EPA Region VII, July 23, 1982; "Report of Investigation Neosho, Mo.," U.S. EPA Region VII July 28, 1982; "U.S.A. vs NEPACCO, Civil Action No. 80-5066-CU-S-W and "consent decree"; Deposition of Russell M. Bliss, Oct. 28, 1984, and "Dioxin Investigation in Southwest Missouri", Daniel H. Harris, USEPA Region VII, Surveillance and Analysis Division(SAD).

[4] See Listing Background Document for wastes containing tetra-penta-, hexachlorodibenzo-p-dioxins (CDDs) or -dibenzofurans(CDFs).

[5] See footnote 4.

[6] For the purposes of this notice the following acronyms and definitions are used:

PCDDs = all isomers of all chlorinated dibenzo-p-dioxins;

PCDFs = all isomers of all chlorinated dibenzofurans;

CDDs and CDFs = all isomers of tetra-, penta-, and hexachlorodibenzo-p-dioxins and -dibenzofurans, respectively

TCDDs and TCDFs = all isomers of tetrachlorodibenzo-p-dioxins and -dibenzofurans, respectively

TCDD and TCDF = the respective 2,3,7,8-isomers. PeCDDs/Fs and HxCDDs/Fs = the penta- and hexachloro compounds.

[7] See footnote 3.

[8] See footnote 3.

[9] See "Consolidated Trial Burn Plan, Quality Assurance Project Plan, and Detailed Sampling/Analytical Procedures", USEPA, Dec. 6, 1984.

thermal destruction of all organic contaminants fed to the system, including persistent, organic non-biodegradable compounds, as well as debris from cleanup operations. The MIS can incinerate sludges, soils, or liquids which contain chlorine or phosphorus-bearing compounds, such as, PCBs, kepone, dioxins, and organophosphate pesticides.

The total system consists of: (1) incineration and air pollution control (APC) equipment mounted on three heavy duty, over-the-road, semi-trailers; (2) combustion and stack gas monitoring equipment housed within a fourth trailer; and (3) ancillary support equipment. The incinerator and APC component consist principally of a: (1) a rotary kiln (kiln); (2) a secondary combustion chamber (SCC); (3) a wetted-throat quench elbow with sump; (4) a cleanable high efficiency air filter (CHEAF); (5) a mass transfer (MX) scrubber; and (6) an induced draft (ID) fan. Ancillary support equipment consists of bulk fuel storage; waste blending, and feed equipment for both liquids and solids; scrubber solution feed equipment; ash receiving drums; and an auxiliary diesel power generator.

During the trial burn, dioxin-contaminated soil and liquids were thermally treated in the kiln at about 1800 °F. Incombustible ash and treated soil were discharged directly from the kiln. The combustion gas from the kiln entered the SCC and was subjected to a temperature of 2,200 °F and had a SCC combustion gas flow rate of about 13,500 actual cubic feet per minute (acfm). The temperatures and combustion gas flow rate were controlled as closely as possible, but varied somewhat from run to run because of normal operational considerations.

The 13,500 acfm flow rate corresponds to a SCC residence time of about 2.6 seconds. The feed rate of contaminated soil was about 2000 lb./hr. Due to the low heat value of the soil, auxiliary fuel was used during the dioxin/soil trial burn runs. Approximately 5 to 6 MM Btu/hr were needed in the kiln and about 4 to 5 MM Btu/hr in the SCC. The actual amount needed depends on the soils' physical properties. The auxiliary fuel came from two sources: fuel oil and the waste liquid containing dioxin.

The dioxin-contaminated waste liquid was prepared by blending existing still bottom wastes with butanol. The dioxin-containing liquid was about 30 to 40% by weight butanol and had a heat value of about 14,500 Btu/lb. This liquid was fired to the kiln at the same time that the dioxin-containing soil was fed to the rotary kiln.

The flue gas, which exits from the SCC, was cooled by water sprays from 2,200 °F to approximately 190 °F. The majority of particles are scrubbed out of the gas stream at this point. Cooling water was collected in the quench sump. The gases then passed into the air pollution control equipment on the third trailer. Here, any submicron-sized particulates are removed from the gas stream in the CHEAF device by entrapment either on the irrigated filter media or in the scrubbing sprays. Acidic gases generated by the destruction process are removed and neutralized in an alkaine scrubber. Gases are drawn through the system by vacuum to ensure that no toxic gases escape from the system. The cleaned gases are discharged from the system through a 40 foot high stack. The quench and CHEAF sumps which collect the scrubbed particles are continuously purged through hydrocyclones which separate the solid particles from the aqueous stream. These solids separate out in a clarifier. The waste stream is then split in two, and each half is then passed through two 50 micron carbon filters. The filtered wastewater is then stored in three holding tanks. Tank A and B have a capacity of 15,000 gallons each; Tank C has a 9,000 gallon capacity if delisted. RCB plans to drip-irrigate (land apply) this filtered wastewater at a rate of 3 gal/min. The water would be released through a 500 foot perforated pipe of ¼ inch diameter. This discharged rate is said to be low enough to prevent runoff. The treated soil will be disposed of at the Denney Farm site.

The MIS's performance is maintained through instruments and automatic safety shutdown controls. The system is controlled and monitored via electrical relay logic and conventional industrial process instrumentation and hardware. Fuel, waste, and combustion air feed rates, combustion temperatures, and stack gas and SCC flue gas concentrations of carbon monoxide (CO), carbon dioxide (CO_2), oxygen (O_2), and nitric oxides (NO_x) are continuously monitored to assure compliance with their RCRA permit. In addition to the required parameters, sulfur dioxide (SO_2) and total hydrocarbons (THC) can also be monitored, if necessary.

Safety interlocks and shut down features comprise a major portion of the control system. The primary function of the waste feed cut-off interlocks is to prevent the feeding of hazardous wastes to the incinerator at conditions that are inadequate to assure proper destruction of those wastes. During the startup and shutdown of the incenerator or during process upsets, the interlock system automatically stops all waste feed systems and prevents their restart until the incinerator is at proper operating conditions; the interlock is then manually reset.

In general, the process parameters that alert and initiate responses to alarm conditions are:

- High or low kiln temperature.
- High or low secondary combustion chamber temperature.
- Low secondary combustion chamber outlet oxygen (O_2). level or oxygen analyzer malfunction.
- High secondary combustion chamber outlet carbon monoxide (CO) level or analyzer malfunction.
- Low water flow from the quench, particulate scrubber, or mass transfer scrubber sumps.
- Very low water level in the quench, particulate scrubber, or mass transfer scrubber sumps.
- High gas temperature at the inlet to the mass transfer scrubber.
- High pressure at the induced-draft inlet.
- High vibration of the induced-draft fan.
- Insufficient burner air or fuel supply.

The system is also monitored manually and can be shut down manually by an operator.

RCB claims that CDDs and CDFs are converted into carbon dioxide, water, and hydrogen chloride. Hydrogen chloride is neutralized by the APC equipment and does not escape to the atmosphere.

Analytical Data

RCB has submitted analytical data which quantifies the organic constituents and EP metals present in: (1) a composite sample taken from drums containing dioxin-contaminated still bottoms which were buried in a trench at the Denney Farm site and (2) a composite sample of soils taken from this trench. These samples were analyzed for all the priority pollutants and any other organic constituent that could reasonably be present in the waste. The maximum concentrations of the EP metals and the organic constituents present in the above mentioned waste are presented in Table 3. These same materials, together with the still bottoms in Tank T–1 (in solvent) at the Verona plant, were incinerated during the trial burn.

RCB has also submitted analytical data on four representative composite samples of the wastewater, kiln ash, and CHEAF media which were generated during the trial burn. Four grab samples

were taken from each tank of wastewater generated during the trial burn and combined to produce one composite sample. These wastewater samples were labeled as A–1, A–2, B–1, and C–2. Tank A and B can hold 15,000 gallons of wastewater, while Tank C can hold 9,000 gallons. Samples labeled A–1, B–1, and A–2 solely represent the wastewater. Tank C contained approximately 6,000 gallons of the wastewater and 2,000 gallons of laundry water. Since the tanks contained all the wastewater generated during the trial burn and since the wastewater has been filtered, RCB claims that the wastewater is homogeneous (*i.e.*, no particulates are present) and that the grab samples are representative of the process wastewater.

Sampling of the ash and CHEAF media was performed in the following manner. During the trial burn, each drum of ash was sampled by taking a 250 cc grab sample from the surface. The samples taken from each drum during a trial burn run (*i.e.*, an 8–12 hr. day) were used to make a single composite for the run. Approximately 30 drums were generated in each run. A total of four composite samples were thus collected, each composite sample represents one run. A core sample was collected from each CHEAF roll generated during the trial burn. Each run consumed one or two CHEAF rolls. The core samples were composited for each run to yield a representative sample for analysis. RCB further claims that the CHEAF media analyses are representative of all the other solids generated during the burn because they were all derived from the same source.

The wastewater, kiln ash, and CHEAF samples were analyzed for the toxic organic constituents found to be present in the still bottom and trench soil (as identified in Table 3) and also for any other toxic organic constituents thought to be present as a by-product of combustion. The maximum organic constituent concentrations and method detection limits are presented in Table 4. RCB has also analyzed the wastewater for volatile organic priority pollutants. These data are presented in Table 5. Analyses for the EP toxicity test metals revealed the maximum concentrations reported in Table 6.

The RCB also claims that the wastewater does not meet the reactivity, corrosivity, or ignitability characteristics because the wastewater is aqueous and the solids have been burned at elevated temperatures in the incinerator.

The petitioner further claims that the wastewater and solids that will be generated during the field demonstration will also be non-hazardous because these wastes are all derived from NEPACCO's Hexachlorophene and 2,4,5-TCP processes, the same source as the trial burn wastes. RCB claims that the maximun quantity of wastes generated during the field demonstration will be 450,000 gallons of wastewater and 2.4 million pounds of solids.

TABLE 3

Hazardous constituents	Maximum concentration, in soil or still bottom, ppm
2,3,7,8-TCDD	272
2,3,4-trichlorophenol	20,000
2,4,5-trichlorophenol	600,000
2,5-dichlorophenol	300
3,4-dichlorophenol	1000
2,3,4,5-tetrachlorophenol	200
2,3,4,6-tetrachlorophenol	100
1,2,2,5-tetrachlorobenzene	120
hexachlorophene	52
1,3-benzenediol, 4,6-dichloro	1000
xylene	100
Arsenic	11.4
Barium	5.4
Cadmium	0.9
Chromium	21.1
Lead	6.9
Mercury	0.02
Selenium	<10.00
Silver	<0.10

TABLE 4

Parameters analyzed	Wastewater	Detection limit	Kiln ash	Detection limit	CHEAF	Detection limit
TCDDs	ND	3.9 ppt *	ND	0.09 ppb	ND	0.12 ppb.
PeCDDs	ND	2.4 ppt	ND	0.13 ppb	ND	0.03 ppb.
HxCDDs	ND	5.2 ppt	ND	0.18 ppb	ND	0.13 ppb.
TCDFs	ND	4.5 ppt	ND	0.31 ppb	ND	0.12 ppb.
PeCDFs	ND	4.1 ppt	ND	0.29 ppb	ND	0.16 ppb.
HxCDFs	ND	4.8 ppt	ND	0.28 ppb	ND	0.33 ppb.
2,3,4-Trichlorophenol	ND	50 ppb	ND	1.0 ppm	ND	1.0 ppm.
2,4,5-Trichlorophenol	ND	50 ppb	ND	1.0 ppm	ND	1.0 ppm.
2,4,6-Trichlorophenol	ND	10 ppb	ND	0.2 ppm	ND	0.2 ppm.
2,5-Dichlorophenol	ND	10 ppb	ND	0.2 ppm	ND	0.2 ppm.
3,4-Dichlorophenol	ND	10 ppb	ND	0.2 ppm	ND	0.2 ppm.
2,3,4,5-Tetrachlorophenol	ND	50 ppb	ND	1.0 ppm	ND	1.0 ppm.
2,3,4,6-Tetrachlorophenol	ND	50 ppb	ND	1.0 ppm	ND	1.0 ppm.
1,2,4,5-Tetrachlorobenzene	ND	50 ppb	ND	1.0 ppm	ND	1.0 ppm.
1,2,3,5-Tetrachlorobenzene	ND	50 ppb	ND	1.0 ppm	ND	1.0 ppm.
Hexachlorophene	ND	500 ppb	ND	10.0 ppm	ND	10.0 ppm.
Polychlorinated Biphenyls (commercial Aroclors)	ND	1 ppb	ND	2.0 ppm	ND	2.0 ppm.
Benz(a)pyrene	ND	10 ppb	ND	0.2 ppm	ND	0.2 ppm.
Benz(a)anthracene	ND	10 ppb	ND	0.2 ppm	ND	0.2 ppm.
Chrysene	ND	10 ppb	ND	0.2 ppm	ND	0.2 ppm.
Dibenzo(a,h)anathracene	ND	10 ppb	ND	0.2 ppm	ND	0.2 ppm.
Indo(1,2,3-c,d)pyrene	ND	10 ppb	ND	0.2 ppm	ND	0.2 ppm.
Benz(b)fluoranthene	ND	10 ppb	ND	0.2 ppm	ND	0.2 ppm.

* ppt = parts per trillion

Some CDDs and CDFs were detected in unconfirmed tests, see Table 6.

TABLE 5.—CONCENTRATION, PPB

Constituent	Tank B-1	Tank C-2	Tank A-2
acetone	29		
acrolein	ND	ND	ND
acrylonitrile	ND	ND	ND
benzene	ND	ND	ND
bromoform	ND	ND	ND
carbon tetrachloride	ND	ND	ND
chlorobenzene	ND	ND	ND
chlorodibromomethane	ND	ND	ND

TABLE 5.—CONCENTRATION, PPB—Continued

Constituent	Tank B-1	Tank C-2	Tank A-2
chloroethane	ND	ND	ND
2-chlorethy vinyl ether	ND	ND	ND
chloroform	ND	<10	ND
dichlorobromomethane	ND	ND	ND
dichlorodifluormethane	ND	ND	ND
1,1-dichloroethane	ND	ND	ND
1,2-dichloroethane	ND	ND	ND
1,1-dichloroethylene	ND	ND	ND

TABLE 5.—CONCENTRATION, PPB—Continued

Constituent	Tank B-1	Tank C-2	Tank A-2
1,2-dichloropropane	ND	ND	ND
cis-1,3-dichloropropylene	ND	ND	ND
trans-1,3-dichloropropylene	ND	ND	ND
ethyl benzene	ND	ND	ND
methyl bromide	ND	ND	ND
methyl chloride	ND	ND	ND
methylene chloride	ND	ND	ND

TABLE 5.—CONCENTRATION, PPB—Continued

Constituent	Tank B-1	Tank C-2	Tank A-2
1,1,2,2-tetrachloroethane	ND	ND	ND
tetrachloroethilene	ND	ND	ND
toluene	ND	ND	ND
trans-1,2-dichloroethylene	ND	ND	ND
1,1,1-trichloroethane	ND	ND	ND
trichloroethylene	ND	ND	ND
trichlorofluoromethane	ND	ND	ND
vinly chloride	ND	ND	ND

*ND=not detected at 10 ppb.

TABLE 6.— EP EXTRACT CONCENTRATIONS
PPM

Constituent	Wastewater	CHEAF	Kiln ash
AS	<0.4	<0.4	<0.4
Ba	0.012	0.070	0.395
Cd	<0.004	0.015	0.007
Cr	0.83	0.44	0.01
Pb	0.1	<0.1	<0.1
SE	0.6	0.5	0.3
Ag	0.55	<0.01	<0.01
Hg			
PH	9.58	10.11	12.12

B. Agency Analysis and Action

The Agency has reviewed RCB's sampling scheme and believes that the four grab samples taken from the wastewater holding tanks are not biased and adequately represent any variations which may occur in the waste stream petitioned for exclusion. The Agency is satisfied that the grab samples do not mask any possible concentration variations because the wastewater, which has been filtered, is homogeneous. Furthermore, the holding tanks contain all of the wastewater generated during the trail burn.

The Agency also believes that the ash samples are representative because the ash is continuously generated. Thus, the collection of grab samples from the top of each sequentially filled drum is equivalent to the collection of a sample approximately every half hour (*i.e.*, a time composite). Similarly, the core samples collected from the CHEAF media will also represent any variation that could occur over time. In addition, samples were collected from every drum of waste and every CHEAF roll and thus these samples encompass the entire quantity of waste generated during the trial burn.

Normally, a key factor which could vary constituent concentrations in a waste would be the use of different raw materials in a process. However, for the MIS, the rate of organics that can be fed to the incinerator (from a technical standpoint) is a function of the heat duty (*i.e.*, BTUs) within the system. In addition, it is expected that the concentration of the various toxic organic constituents present in the material listed in Table 1 are lower than the concentrations that were present in the still bottoms and soils incinerated during the trial burn.[10] Therefore, since the concentration of the toxic constituents in the wastes to be burned during the field demonstration are expected to be no greater than that found during the trial burn and since MIS is relatively insensitive to small changes in concentration of organics in the feed (as long as the total heat duty remains constant), the Agency believes that as long as the operating parameters are kept within the range allowed by the permit, the results of the trial burn will be representative of the results expected during the field demonstration.

The Agency has evaluated the analytical data provided by RCB. The Agency has evaluated the mobility of the EP metals from RCB's waste using a VHS [11] model. The Agency has evaluated RCB's 450,000 gallons of wastewater and 1200 tons of total solids which are projected to be generated during the field demonstration, separately. The maximum predicted receptor well concentrations, using the wastewater volume, combined solids volume, and the maximum EP results as input parameters, are exhibited in Table 7.

[10] The materials listed in Table 1 are composed of NEPACCO wastes mixed with soil and other inert materials (See footnote 2). Therefore, the mixture of NEPACCO waste and soil should contain lower concentrations of toxic organic constituents than the NEPACCO waste alone.

[11] The model approximates the dispersion of toxicants in an aquifer in the vertical and horizontal directions perpendicular to ground-water flow. The VHS model is used to predict reasonable worst-case contaminant levels in a receptor well 500 ft. from contaminant source. The model primarily considers the maximum extract concentrations from leachate test and the volume of waste to be disposed. The model determines the ability of an aquifer to dilute the toxicant from a specific volume of waste without exceeding a health-based standard at the receptor well. See 50 FR 7896–7900, February 26, 1985 for details. Application of the VHS Model exactly as proposed may not be entirely applicable to a scenario in which liquids are placed in landfills. The Agency is currently evaluating other disposal scenarios for the management of liquids. However, until this is completed, the Agency will continue to use the VHS model as proposed.

TABLE 7

	VHS Model, calculated receptor well concentrations (ppm)							
	As	Ba	Cd	Cr	Pb	Hg	Se	Ag
Solids, field demonstration	0.018	0.02	0.0007	0.02	0.0045	.....	0.02	0.0046
Wastewater, field demonstration (projected)	0.03	0.0009	0.0003	0.06	0.004	.....	0.04	0.04
	Health-Based Standards							
	0.05	1	0.01	0.05	0.05	0.002	0.01	0.05

The wastewater exhibited a chromium level (at the receptor well) above the NIPDWS, while the solids exhibited a chromium level below the NIPDWS. The chromium level in the wastewater thus is potentially of some concern. In addition, both wastewater and solids exhibited selenium levels (at the receptor well) above the NIPDWS. However, the Agency does not believe that the analyses conducted on selenium are sufficient to make a determination as to the hazardousness of this constituent. Selenium was only detected in one out of four samples in the wastewater, one out of four samples in the CHEAF, and one out of four samples in the ash. The non-detect level was less than 0.2 ppm. The Agency, therefore, will require additional testing for selenium and chromium during the field demonstration (as specified later in this notice).

RCB did not submit EP leachate data on mercury because they claimed that the mercury concentrations in the soil and still bottoms fed to the incinerator were 0.02 ppm and <0.01 ppm, respectively. RCB reasoned that even if all the mercury leached out, and assuming a worst case ten-fold attenuation (using the VHS model) the levels at the well would still be below the NIPDWS. The original analyses, however, were performed on only one soil and one still bottom sample. The Agency does not believe that analysis on one sample is sufficient to make the above argument; therefore, the Agency

will require additional testing for mercury during the field demonstration (as specified later in this notice).

The Agency has also reviewed the analytical data provided by RCB, on the organic constituents listed in Table 4 and 5. No CDDs/CDFs were detected in the filtered scrubber water, kiln ash, or CHEAF residue by routine analytical methods (see Table 4). It is the Agency's usual practice to use the detection limit as the possible upper level exposure limit for purposes of hazard evaluation when a constituent is not detected. For example, the detection limits for the TCDDs in Wastewater was reported at 0.98–3.9 ppt. Therefore, TCDDs could be present in the filtered scrubber water in concentrations up to 3.9 ppt.

The Agency has used the hazard evaluation procedure developed by the Agency's Chlorinated Dioxins Workgroup (CDWG) to assess the risks associated with exposure to the CDDs and CDFs in these residues.[12] The procedure, which involves the evaluation of the toxicity of a mixture of CDDs and CDFs by estimation of TCDD equivalents, is based on structure activity relationships in their carcinogenic, reproductive, and biochemical effects. TCDD equivalents are calculated by summing the products of the concentration of each insomer or congeneric group and its toxic equivalence factor (TEF). The product is the TCDD equivalent for each isomer or congeneric group; the sum of the products is the TCDD equivalent concentration of the mixture. The TCDD equivalents estimate for wastewater, ash, and CHEAF are given in Table 8.

[12] Chlorinated Dioxins Workgroup Position Document, "Interim Risk Assessment Procedures for Mixtures of Chlorinated Dioxins and—Dibenzofurans (CDDs and CDFs). April, 1985.

TABLE 8

	Wastewater			Ash		CHEAF	
	TEF factor	DL range, ppt	TCDD equivalents ppt	DL range, ppb	TCDD equivalents ppb	DL range, ppb	TCDD equivalents, ppb
TCDD	1			[1] (0.7 ppt M)	(0.7 ppt M)		
TCDDs	1	0.98–3.9	0.98–3.9	0.06–0.09 (2.6 ppt M)	0.06–0.09 (2.6 ppt M)	0.03–0.12	0.03–0.12
PeCDDs	0.2	1.3–2.4	0.26–0.48	0.02–0.13 (2.9 ppt)	0.004–0.026 (0.58 ppt)	0.01–0.03	0.002–0.006
HxCDDs	0.04	0.37–5.2	0.014–0.208	0.13–0.18 (2.4 ppt)	0.0052–0.0072 (0.96 ppt)	0.03–0.13	0.0012–0.0052
TCDFs	0.1	0.13–4.5	0.013–0.45	0.02–0.31 (0.6 ppt)	0.002–0.031 (0.06 ppt)	0.02–0.12	0.002–0.012
PeCDFs	0.1	0.56–4.1	0.056–0.41	0.02–0.29 (0.6 ppt)	0.002–0.029 (0.06 ppt)	0.04–0.16	0.004–0.016
HxCDFs	0.01	0.49–4.8	0.0049–0.048	0.02–0.28 (1.6 ppt)	0.0002–0.0026 (0.016 ppt)	0.05–0.33	0.0005–0.0033
Total CDDs/CDFs		3.8–24.9 ppt		0.27–1.28 ppb (11.4 ppt)		0.18–0.89 ppb	
TCDD equivalents			1–6 ppt		0.07–0.2 ppb (4 ppt)		0.04–0.2 ppb

[1] Values in parenthesis are based on uncertified data. All these values are in ppt. An M following a value means a measured value, not a detection limit. HpCDD, OcCDD and OcCDF were detected at 2.5, 3.4, and 6.7 ppt, respectively; HpCDF was not detected at 1.5 ppt.

In evaluating the detection limits set for kiln ash, CHEAF media, and other solids for the CDDs and CDFs, the Agency does not consider these levels to be of concern. In fact, the actual concentrations of CDDs and CDFs in these residues are likely to be much less than the maximum possible concentrations projected from detection limits. In particular, most of the analyses were performed in accordance with the methods specified in SW–846. These methods, developed for routine use, are not designed to achieve extremely low detection limits. When a research analytical method was applied to the ash, a fifty-fold reduction in the detection limit was achieved.[13] Preliminary results using this method show that the ash residues are likely to contain no more than 4 ppt of TCDD equivalents (see Table 8), (*i.e.*, a fiftieth of the maximum concentration projected from detection limits). The Agency does not consider these levels to be of concern.

With respect to the aqueous waste, the Agency also believes that the maximum estimated concentrations in this medium are not of regulatory concern. As indicated above, the estimated maximum concentration of CDDs and CDFs (6 ppt, based on detection limits), in the wastewater, made by use of the routine analytical method, probably over estimates the concentration by a factor of fifty. Thus, a more realistic estimate for the concentrations of CDDs and CDFs in wastewater would be about 0.1 ppt. The Agency considers this level of CDDs and CDFs in the wastewater from the incineration of these wastes not to be of concern.

With respect to the other constituents listed in Tables 4 and 5, chloroform and acetone were the only constituents detected. They were measured, in only one wastewater sample, at less than 10 ppb and 29 ppb, respectively. The Agency does not consider these levels to be significant for the following reasons: (1) the chloroform concentration is below the 0.1 ppm trihalomethane NIPDWS and there is no evidence indicating that acetone can significantly affect health (acetone is a RCRA listed waste only for ignitability (2) none of these materials were in the feed; and (3) if they were, they would be destroyed during incineration. The Agency, therefore, considers these results to reflect laboratory contamination.

The Agency further believes that the detection limits for the other organic constituents, reported in Table 4, are not of regulatory concern.[14] For many of the chemicals listed in Table 4, the detection limit in wastewater is below a health-based standard. For the solids, the Agency has assumed a partition coefficient (between the solid and aqueous phase) based on the chemical's water solubility. The Agency is currently developing partition coefficients for use in delisting decisions and anticipates that a proposal will be issued shortly. In the interim, the values noted in the public docket will be used.

The Agency believes that RCB has successfully demonstrated that the waste incinerated during the trial burn

[13] See memorandum from Robert Kleopfer to Frank Freestone with attachments (May 15, 1985).

[14] These conclusions are supported by calculations available in the public dockets.

is representative of the waste that will be incinerated during the field demonstration. The Agency further believes that RCB has successfully demonstrated that the wastewater, ash, CHEAF, and other solids (except the activated carbon) generated during the trial burn does not contain detectable levels of CDDs/CDFs or any other toxic organic constituents. EP leachate concentrations, except possibly for chromium, mercury, and selenium, do not constitute a hazard. The Agency cannot make a determination at this time whether mercury and selenium would represent a hazard in the wastewater or solids, since mercury leachate analysis were not performed and since the 0.2 ppm detection limit for selenium was too high. With respect to chromium, the EP results were highly variable (ranging from 0.04 to 0.83 ppm.)

The Agency is proposing to grant an exclusion for the solid residues and wastewater generated from EPA's Mobile Incinerator during the field demonstration at the Denney Farm site in McDowell, Missouri, with the following conditions:

(1) MIS's performance is continuously monitored in order to ensure efficient destruction of the wastes, (*i.e.*, meet test burn parameters).

(2) A grab sample must be taken of each tank of wastewater generated during the field demonstration and analyzed for mercury, selenium, and chromium. If mercury, selenium, and chromium EP leachate test results do not exceed 0.03, 0.14, and 0.68 ppm, respectively, the wastewater will be considered non-hazardous.

(3) Grab samples must be taken from each drum of ash or soil and composited daily. A core sample must be collected from each CHEAF roll. An EP leachate test must be performed on these samples and the leachate analyzed for mercury and selenium. If mercury leachate values do not exceed 0.044 ppm in the ash and CHEAF and selenium values do not exceed 0.22 ppm in the CHEAF media and ash, those respective wastes will be considered non-hazardous.

Analyses for mercury, selenium, and chromium should be performed according to SW-846 methodology. However, if RCB can demonstrate through representative sampling on a minimum of 10 samples that the selenium, mercury, and chromium levels in the wastewater and selenium and mercury leachate levels generated from the solids, are below the levels established in the contingencies specified in (2) and (3) above, the Agency will drop these conditions.

This regulation, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 261

Hazardous materials, Waste treatment and disposal, Recycling.

Dated: May 30, 1985.

Jack W. McGraw

Acting Assistant Administrator.

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

For the reasons set out in the preamble, 40 CFR Part 261 is proposed to be amended as follows:

1. The authority citation for Part 261 continues to read as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended [42 U.S.C. 6905, 6912(a), 6921, and 6922].

2. In Appendix XI, add the following wastestreams in alphabetical order:

Appendix XI—Wastes Excluded Under §§ 260.20 and 260.22

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
(a) Wastes excluded from non-specific sources		
EPA's Mobile Incineration System.	Denney Farm Site; McDowell, MO.	Process wastewater, rotary kiln ash, CHEAF media, and other solids (except spent activated carbon) (EPA Hazardous Waste Nos. F020, F022, F023, F026, F027, and F028) generated during the field demonstration of EPA's Mobile Incinerator at the Denny Farm Site in McDowell, MO, after [Insert date of publication in Federal Register], so long as: (1) the incinerator is functioning properly; (2) a grab sample is taken from each tank of wastewater generated and the EP leachate values do not exceed 0.03 ppm for mercury, 0.14 ppm for selenium, or 0.68 ppm for chromium; and (3) a grab sample is taken for each drum of soil or ash generated and the leachate values of daily composites do not exceed 0.044 ppm in ash or CHEAF media for mercury or 0.22 ppm is ash or CHEAF media for selenium.

[FR Doc. 85-13519 Filed 6-3-85; 9:14 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 85-152; RM-4917]

FM Broadcast Stations in Avalon, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the allocation of Channel 224A to Avalon, California, as that community's first local FM broadcast service, in response to a petition filed by Food Brokers International, Inc.

DATES: Comments must be filed on or before July 23, 1985, and reply comments must be filed on or before August 7, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

Authority: Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.

Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (Avalon, California) (MM Docket No. 85-152, RM-4917).

Adopted: May 8, 1985.

Released: May 31, 1985.

By the Chief, Policy and Rules Division.

1. The Commission herein considers a petition for rule making filed by Food Brokers International, Inc. ("Petitioner"), requesting the allotment of Channel 224A to Avalon, California, as that community's first local FM broadcast service. Petitioner states that it will apply for the channel.

2. A staff engineering study reveals that Channel 224A can be allotted to Avalon in conformity with the minimum distance separation requirements of § 73.207(a) of the Commission's Rules. However, since Avalon is located within 320 kilometers (199 miles) of the common U.S.-Mexico border, the Commission must obtain the Mexican Government's consent to the instant proposal.

PART 73—[AMENDED]

§ 73.202 [Amended]

3. In view of the above, the Commission believes it is appropriate to elicit comments on the proposal to

amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Avalon, California		224A

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before July 23, 1985, and reply comments on or before August 7, 1985, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Jack Tucey, President, Food Brokers International, Inc., 5442 Jillson Street, Los Angeles, CA 90040 (petitioner).

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Nancy V. Joyner, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 85-13483 Filed 6-4-85; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 85-156; RM-4938]

FM Broadcast Stations in Claremore, OK

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the allocation of Channel 264A to Claremore, Oklahoma, as that community's first local FM service, at the request of Mike Warren.

DATES: Comments must be filed on or before July 22, 1985, and reply comments on or before August 6, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.

Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations.

(Claremore, Oklahoma) (MM Docket No. 85-156, RM-4938).

Adopted: May 8, 1985.
Released: May 30, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the petition for rule making filed by Mike Warren ("petitioner") requesting the allocation of Channel 264A to Claremore, Oklahoma, as that community's first local FM service. Petitioner states that he will apply for the channel, if allocated. Channel 264A can be allocated to Claremeore in compliance with the Commission's minimum distance separation requirements if the transmitter is restricted to an area at least 11.4 kilometers (7.1 miles) northeast of the community to avoid a short-spacing to Station KXOJ-FM, Channel 265A, Sapulpa, Oklahoma. This site restriction requires that the transmitter be located beyond the distance for which we could assume that a city grade signal could be provided. Therefore, we request that the petitioner furnish us with a signal coverage study showing that a site is available from which a Channel 264A operation could provide the required 70 dBu signal over the entire community of Claremore.

PART 73—[AMENDED]

§ 73.202 [Amended]

2. We believe the public interest would be served by proposing the allocation, as it could provide Claremore with its first local FM service. Accordingly, we propose to amend the FM Table of Allotments, § 73.202(b) of the Rules, for the community listed below, to read as follows:

City	Channel No.	
	Present	Proposed
Claremore, OK		264A

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allocated.

4. Interested parties may file comments on or before July 22, 1985, and reply comments on or before August 6, 1985, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, as follows: Julian P. Freret, Esq., Booth, Freret & Imlay, 1920 N Street NW., Suite 520, Washington, D.C. 20036 (Counsel to petitioner).

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allocations. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference

Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 85-13456 Filed 6-4-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85-142; RM-4775]

FM Broadcast Stations in St. George, UT

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein, at the request of the ESG Corporation, proposed to allot Class C Channel 259 to St. George, UT, as that community's second FM channel.

DATES: Comments must be filed on or before July 22, 1985, and reply comments on or before August 6, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.

Notice of Proposed Rule Making

In the matter of Amendment § 73.202(b), Table of Allotments, FM Broadcast Stations. (St. George, Utah) (MM Docket No. 85-142, RM-4775).

Adopted: May 7, 1985.
Released: May 30, 1985.

By the Chief, Policy and Rules Division.

1. A petition for rule making was filed by ESG Corporation ("petitioner"), seeking the allocation of Class C Channel 259 to St. George, Utah, as that community's second FM channel. Petitioner submitted information in support of the proposal and expressed an intention to apply for the channel, if allotted. The channel can be allotted in compliance with the minimum distance separation requirements.

Part 73—[AMENDED]

§ 73.202 [Amended]

2. In view of the fact that the proposed allotment could provide a second FM service to St. George, Utah, the Commission proposes to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules, for the following community:

City	Channel No.
St. George, UT	228A, and 259.

3. The Commission's authority to institute rulemaking proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be alloted.

4. Interested parties may file comments on or before July 22, 1985, and reply comments on or before August 6, 1985, and are advised to read the Appendix for the proper procedures. Additionally a copy of such comments should be served on the petitioner, or his counsel, as follows:

ESG Corporation, c/o VIR James P.C., Broadcast Engineering Consultants, 3137 W. Kentucky Avenue, Denver, Colorado 80219

Glen S. Gardner, 729 Picturesque Dr., St. George, Utah 84770.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the Table of FM Allotments, § 73.202(b) of the Commission's Rules. See *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making To Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Patricia Rawlings, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a *Notice of Proposed Rule Making* is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterprosals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See §1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflicts with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions

by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 85-13454 Filed 6-4-85; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 85-155; RM-4877]

TV Broadcast Stations in Guymon, OK

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of VHF television Channel 9 to Guymon, Oklahoma, in response to a petition filed by Steven D. King, as that community's first commercial television assignment.

DATES: Comments must be filed on or before July 22, 1985, and reply comments on or before August 6, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: D. David Weston, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

The Authority citation for Part 73 continues to read:

Authority: Secs. 4, 303, 48 Stat., as amended, 1066, 1062; 47 U.S.C. 154, 303.

Notice of Proposed Rule Making

In the matter of amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Guymon, Oklahoma) (MM Docket No. 85-155, RM-4877).

Adopted: May 8, 1985.

Released: May 30, 1985.

By the Chief, Policy and Rules Division.

1. A petition for rule making has been filed by Steven D. King ("petitioner") requesting the assignment of VHF television Channel 9 to Guymon, Oklahoma, as that community's first commercial television assignment. Petitioner has submitted information in support of the proposal and indicated his interest in applying for the channel, if assigned.

2. Guymon (population 8,492), [1] seat of Texas County (population 17,727), is located in Oklahoma panhandle approximately 165 kilometers (100 miles) north of Amarillo, Texas. A staff engineering study reveals that VHF television Channel 9 can be assigned to Guymon consistent with the minimum distance separation requirements of § 73.610 of the Commission's Rules.

PART 73—[AMENDED]

§73.606 [Amended]

3. In view of the above considerations, we believe the petitioner's proposal warrants consideration since it could provide a first commercial television service to Guymon, Oklahoma. Therefore, we shall propose to amend the Television Table of Assignments, § 73.606(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Guymon, OK	*16	9+, and *16

[1] Population figures are extracted from the 1980 U.S. Census.

4. The Commission's authority to institute rule making proceedings, showing required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before July 22, 1985, and reply comments on or before August 6, 1985, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Steven D. King, P.O. Box 90357, Atlanta, Georgia 30364.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that section 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b) 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact D. David Weston, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

1. Pursuant to authority found in section 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments. § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showing Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comment. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, it authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certification of service. [See § 1.420 (a), (b) and (c) of the Commission's Rules].

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 85-13457 Filed 6-4-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

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

FR Broadcast Stations in Mount Pleasant, SC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the substitution of Channel 283C2 for Channel 285A at Mount Pleasant, South Carolina, at the request of Southeast Communications, Inc. We also propose to modity its permit for Station WDXZ to specify operation on the new channel.

DATES: Comments must be filed on or before July 23, 1985, and reply comments on or before August 7, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The Authority citation for Part 73 continues to read:

Authority: Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.

Notice of Proposed Rule Making

In the matter of Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (Mount Pleasant, South Carolina) MM Docket No. 85-154 RM-4927.

Adopted: May 8, 1985.

Released: May 31, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the petition for rule making filed by Southeast Communications, Inc. ("Southeast"). Southeast is the permittee of Station WDXZ, Channel 285A, Mount Pleasant, South Carolina. It requests the substitution of Channel 283C2 for its present channel and the modification of its permit to specify operation on the higher powered channel. Channel 283C2 can be allocated in compliance with the Commission's milieage separation and other technical requirements, if the transmitter site is restricted to an area at least 17.0 kilometers (10.6 miles) southwest of Mount Pleasant.

2. In accordance with our established policy, we shall propose to modify the permit of Station WDXZ to specify operation on Channel 283C2. However, if another party should indicate an interest in the Class C2 allocation, the modification could not be implemented unless an additional equivalent channel is allotted. See, *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976) and *Modification of FM and TV Station Licenses*, 49 FR 34007, published August 28, 1984.

3. We believe the public interest would be served by proposing the channel allocation as it could provided Mount Pleasant with its first local widecoverage area FM service. Accordingly, we propose to amend the FM Table of Allotments, § 73.202(b) of the Rules, for the community listed below, to read as follows:

City	Channel No.	
	Present	Proposed
Mount Pleasant, SC	285A	283C2

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. **Note:** A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allocated.

5. Interested parties may file comments on or before July 23, 1985, and reply comments on or before August 7, 1985, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner as follows: Jerrold Miller, Esq., Miller & Fields, P.C., P.O. Box 33003, Washington, D.C. 20033 (Counsel to petitioner).

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding contact Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation requried by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered

in the proceeding. Any reply comment which has not been served on the persor (s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division Mass Media Bureau.

Appendix

1. Pursuant to authority found in section 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the persons(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 85-13459 Filed 6-4-85; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 85-157; RM-4915]

FM Broadcast Stations in Dayton, OH

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the allocation of Channel 221A to Dayton, Ohio, as that community's fourth FM service, at the request of The Voice of the Black Community, Inc.

DATES: Comments must be filed on or before July 22, 1985, and reply comments on or before August 6, 1985..

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority Secs. 4, 303, 48 Stat., as amended 1066, 1082; 47 U.S.C. 154, 303.

Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (Dayton, Ohio).

Adopted: May 8, 1985.

Released: May 30, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the petition for rule making filed by The Voice of the Black Community, Inc. ("petitioner") seeking the allocation of Channel 221A to Dayton, Ohio, as that community's fourth local commercial service. Petitioner states that it will apply for the channel, if allocated.

2. Channel 221A can be allocated in compliance with the Commission's mileage separation requirements with a site restriction of 5.2 kilometers (3.2 miles) south of Dayton to avoid a short-spacing to Station WAXC, Wapakoneta, Ohio [1], and Station WXCT, Columbus, Ohio. However, our engineering study shows that a Class A allotment at Dayton, even without a site restriction, may not be able to provide the required city-grade service to the entire community. Therefore, we request that the petitioner or any other interested party furnish a showing that the required 70 dBu signal level could be provided to the entire community of Dayton, if allocated as proposed. We also seek comments on whether a Class B or B1 channel is available and whether it would be applied for, if allocated. Additionally, Dayton is located within 320 kilometers (200 miles) of the U.S.-Canada border. Therefore, Canadian concurrence must be obtained before the allotment can be finalized.

3. We believe the public interest would be served by seeking comments on the requested allotment, as it could provide Dayton with additional service. Accordingly, we propose to amend the FM Table of Allotments, § 73.202(b) of the Commission's rules, with respect to the community listed below, to read as follows:

City	Channel No.	
	Present	Proposed
Dayton, OH	256, 284, and 299	221A, 256, 284, and 299.

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are

[1] The site restriction for Channel 221A will avoid a short-spacing to the new transmitter site for Station WAXC(FM), for which a construction permit has been issued.

incorporated by reference herein. Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before July 22, 1985, and reply comments on or before August 6, 1985, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, as follows: William M. Piner, The Voice of the Black Community, Inc., 321 Huron Avenue, Dayton, Ohio 45417 (Petitioner).

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend 73.202(b), 73.504 and 73.606(b) of the Commission's rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allocations. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself with be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 85-13460 Filed 6-4-85; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 85-165; RM-4926]

FM Broadcast Stations in Gainesville, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein, at the request of Kevin Potter and Jack P. Nelson, proposes the allotment of Channel 248C2 to Gainesville, Texas, as that community's second FM service.

DATES: Comments must be filed on or before July 22, 1985, and reply comments on or before August 6, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The Authority citation for Part 73 continues to read:

Authority: Secs. 4, 303, 48 Stat., as amended 1066, 1082; 47 U.S.C. 154, 303.

Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (Gainesville, Texas).

Adopted: May 20, 1985.
Released: May 30, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration a petition for rule making filed March 19, 1985 by Kevin Potter and Jack P. Nelson ("petitioners"), requesting the allocation of Channel 248C2 to Gainesville, Texas, as that community's second FM service. Petitioners have expressed an intention to apply for the channel.

2. The channel can be allotted consistent with the Commission's minimum distance separation

requirements provided a site restriction is imposed of 24.6 kilometers (15.3 miles) west of Gainesville to avoid short spacings to Station KEGL (FM) Channel 246 at Fort Worth, Texas and Station KDEP–FM, Channel 249A, at Durant, Oklahoma.

3. In view of the fact that the proposed allotment could provide a second FM service to Gainesville, Texas, the Commission proposes to amend the FM Table of Allotments, § 73.202(b) of the Commission's rules, for the following community:

City	Channel No.	
	Present	Proposed
Gainesville, TX	233	233, and 248C2

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

5. Interested parties may file comments on or before July 22, 1985, and reply comments on or before August 6, 1985, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Lauren A. Colby, 532 Pearl Street, Frederick, MD 21701 (Counsel to petitioners).

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Patrica Rawlings, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is alloted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comment and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, or original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 85–13461 Filed 6–4–85; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 85–153; RM–4939]

FM Broadcast Stations in Dallas, PA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the allocation of Channel 229A to Dallas, Pennsylvania, as that community's first local FM service, at the request of Ronald E. and Denise A. Schacht.

DATES: Comments must be filed on or before July 23, 1985, and reply comments on or before August 7, 1985.

ADDRESS: Federal communications Commission, Washington, D.C. 20554.

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The Authority citation for Part 73 continues to read:

Authority: Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.

Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (Dallas, Pennsylvania)

Adopted: May 8, 1985.
Released: May 31, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the petition for rule making filed by Ronald E. and Denise A. Schacht ("petitioners") requesting the allocation of Channel 229A to Dallas, Pennsylvania, as that community's first local FM allotment.

2. Channel 229A can be allocated in compliance with the Commission's minimum distance separation and other technical requirements. Canadian concurrence in the allotment is required as Dallas is located within 320 kilometers (200 miles) of the U.S.-Canada border.

3. We believe the public interest would be served by seeking comments on the proposed allotment, as it could provide Dallas with its first local FM service. Accordingly, we propose to amend the FM Table of Allotments, § 73.202(b) of the rules, as concerns the community listed below, to read as follows:

City	Channel No.	
	Present	Proposed
Dallas, PA		229A

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. *Note:* A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allocated.

5. Interested parties may file comments on or before July 23, 1985, and reply comments on or before August 7, 1985, and are advised to read the Appendix for the proper procedrues. Additionally, a copy of such comments should be served on the petitioner, as follows: Ronald E. Schacht, Denise A. Schacht, 267 Gardner Street, Plymouth, Pennsylvania 18651.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend § 73.202(b), 73.504 and 73.606(b) of the Commission's rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allocations. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(l), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.61, 0.204(b) and 0.283 of the Commission's rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 85-13462 Filed 6-4-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[Docket No. 20735; RM-1301; RM-1974; RM-2655]

Changes in the Rules Relating to Noncommercial, Educational FM Broadcast Stations

AGENCY: Federal Communications Commission.

ACTION: Order reopening docket for filing of further pleadings.

SUMMARY: This action reopens the comment period in Docket 20735 which deals with interference to TV channel 6 stations from noncommercial, educational FM stations operating on FM channels 200–220. The reasons for this action is that the Commission has received an agreement filed by a joint committee of educational FM and TV channel 6 interests proposing a solution to this long standing problem. The Commission views this information as pertinent and has decided to consider it within this proceeding. Thus, the Commission will accept comments from interested parties on this agreement in order to gather the fullest record available.

DATE: Replies are due on or before June 14, 1985.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Michael A. Lewis, Mass Media Bureau, (202) 632–9660.

SUPPLEMENTARY INFORMATION:

Order Reopening Docket for Filing of Further Pleadings

In the matter of Changes in the Rules Relating to Noncommercial, Educational FM Broadcast Stations; Docket 20735; RM–1301, RM–1974, RM–2655.

Adopted: June 3, 1985.
Released: June 4, 1985.

By the Chief, Mass Media Bureau.

1. On May 28, 1985, the Commission received a petition in the above captioned proceeding which contained an agreement intending to minimize interference to TV Channel 6 stations from educational FM stations. The agreement was filed by a joint committee of TV–6 and educational FM interests. The committee was comprised of representatives from: the Association of Maximum Service Telecasters, the National Association of Broadcasters, Taft Broadcasting Company, McGraw-Hill Broadcasting, the Corporation for Public Broadcasting, National Public Radio, and the National Federation of Community Broadcasters.

2. On October 26, 1984, the Commission adopted final rules in this 11 year proceeding. *See Third Report and Order*, 49 FR 45146 (November 15, 1984). These rules were stayed by an Order adopted on December 28, 1984 (50 FR 5073; February 6, 1985), pending disposition of several Petitions for Reconsideration. While the latest petition was not filed during the appropriate comment period (final replies were due February 14, 1985) the Commission believes it in the public interest to consider this industry wide agreement before a final decision is reached. Also, in order to have a complete record, we shall reopen the comment period for replies to this filing. Because the agreement is largely based on information already contained in the docket file, we believe a 10 day comment period is sufficient for commenters to discern its relative merits.

3. Accordingly, it is ordered, That the record in this Docket 20735 is reopened for comments in response to the aforementioned filing until June 14, 1985.

4. This action is taken pursuant to the authority contained in sections 4(i), 5(d)(1), and 303(r) of the Communication Act of 1934, as amended and Section 1.425 of the Commission's rules.

Federal Communications Commission.

James C. McKinney,

Chief, Mass Media Bureau.

[FR Doc. 85–13697 Filed 6–4–85; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 531

[Docket No. LVM 82–01; Notice 5]

Passenger Automobile Average Fuel Economy Standards; Proposed Decision to Grant Exemption

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Proposed decision to grant exemption from average fuel economy standards and to establish an alternative standard.

SUMMARY: This notice is being issued in response to a petition filed by Rolls-Royce Motors, Ltd. (Rolls-Royce) requesting that it be exempted from the generally applicable average fuel economy standard of 27.5 miles per gallon (mpg) for passenger automobiles in model years 1987–1989, and that a lower alternative standard be established for it. This notice proposes that the requested exemption be granted and that an alternative standard of 11.2 mpg be established for Rolls-Royce for model years 1987–1989.

DATES: Comments on this notice must be received by this agency on or before July 22, 1985.

ADDRESS: Comments on this notice must refer to Docket No. LVM 82–01; Notice 5 and should be submitted to: Docket Section, NHTSA, Room 5109, 400 Seventh Street, SW., Washington, D.C. 20590. Docket hours are from 8:00 a.m. to 4:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Orron Kee, Office of Market Incentives, NHTSA, 400 Seventh Street, SW., Washington, D.C. 20590 (202–755–9384).

SUPPLEMENTARY INFORMATION: Section 502(c) of the Motor Vehicle Information and Cost Savings Act, as amended (the Act), provides that a low volume manufacturer of passenger automobiles may be exempted from the generally applicable average fuel economy standards for passenger automobiles if those standards are more stringent than the maximum feasible average fuel economy for that manufacturer and if the NHTSA establishes an alternative standard for the manufacturer at its maximum feasible level. Under the Act, a low volume manufacturer is one which manufactures fewer than 10,000 passenger automobiles in the model year for which the exemption is sought (the affected model year) and which manufactured fewer than 10,000 passenger automobiles in the second model year before the affected model year. In determining maximum feasible average fuel economy, the agency is required by section 502(e) of the Act to consider:

(1) Technology feasibility;

(2) Economic practicability;

(3) The effect of other Federal motor vehicle standards on fuel economy; and

(4) The need of the Nation to conserve energy.

Selection of the type of alternative standard. The Act permits NHTSA to establish alternative average fuel economy standards applicable to exempted low volume manufacturers in one of three ways: (1) A separate standard may be established for each exempted manufacturer; (2) classes, based on design, size, price, or other factors, may be established for the automobiles of exempted manufacturers, with a separate average fuel economy standard applicable to each class; or (3) a single standard may be established for all exempted manufacturers.

For model years 1987–1989, the NHTSA believes it is appropriate to establish a separate standard for Rolls-

Royce. No analyses of petitions submitted by other low volume manufacturers for those model years have been completed, so the agency cannot use the second or third approaches described above.

Methodology used to project maximum feasible average fuel economy level for Rolls-Royce. To project the level of fuel economy which could be achieved by Rolls-Royce in model years 1987–1989, the agency used regression relations from the baseline of the 1985 model year vehicles currently being sold, and for which EPA fuel economy data are available. The agency then considered whether there were any technological or other improvements that would be feasible for model year 1987–1989 year Rolls-Royce vehicles, whether or not the company actually plans to incorporate such improvements in those vehicles. This is the same method of analysis used by the agency in evaluating Rolls-Royce's petition for model year 1986 (50 FR 5405, February 8, 1985).

NHTSA has interpreted "technological feasibility" as meaning that technology which would be available to Rolls-Royce for use on its model year 1987–1989 automobiles, and which would improve the fuel economy of those automobiles. The areas examined for technologically feasible improvements were weight reduction, aerodynamic improvements, engine improvements, drive line improvements, reduced rolling resistance, and mix shifts.

"Economic practicability" has been interpreted as including the financial capability of the manufacturer to improve its average fuel economy by incorporating technologically feasible changes to its model year 1987–1989 automobiles and the effects of any shift in the mix of vehicles sold which may result from changes in market demand.

Throughout this analysis, NHTSA has considered only those improvements which would be compatible with the basic design concepts of Rolls-Royce automobiles. NHTSA assumes that Rolls-Royce will continue to produce a five-passenger luxury car. Hence design changes which would make the cars unsuitable for five passengers or would remove items traditionally offered on luxury cars, such as air conditioning, automatic transmission, power steering, and power windows, were not examined. Such changes to the basic design might well significantly reduce the demand for these automobiles, thereby reducing sales and causing significant economic injury to Rolls-Royce.

Baseline fuel economy. The 1985 model year Rolls-Royce vehicles are measured as achieving 11.0 mpg. No change to the vehicle specifications or the emissions certification is planned by Rolls-Royce for this vehicle for the 1986 model year, which led Rolls-Royce to seek a separate standard of 11.0 mpg for the 1986 model year. The agency is proposing to adopt the 11.0 mpg standard in the rulemaking proceeding noted above. (Docket No. LVM 82–01; Notice 3; 50 FR 5405; February 8, 1985).

The fuel economy rating of 11.0, as adopted in model year 1985 and proposed for model year 1986 was used as the baseline and any changes found technologically feasible and economically practicable were added thereto to arrive at a proposed determination of Rolls-Royce maximum feasible average fuel economy for model years 1987–1989.

During model years 1987–1989, Rolls-Royce anticipates importing seven different models, four of which are in the 5000 pound inertia weight class, two in the 5500 pound inertia weight class, and one in the 6000 pound inertia weight class. The four models in the 5000 pound weight class account for 80 per cent of the vehicles imported. Each of the four is projected to have a fuel economy rating of 11.3 mpg. The two models in the 5500 pound weight class, accounting for virtually all of the remaining vehicles, are projected to have a fuel economy rating of 10.9 mpg. The single model in the 6000 pound weight class is projected to have a rating of 10.8 mpg. The fleet average projected by Rolls-Royce for model years 1987–1989 and used as the basis for its petition is 11.2 mpg, an increase of 0.2 mpg over the 1985–1986 baseline.

Weight reduction. In determining whether Rolls-Royce could make weight reductions on its automobiles in model years 1987–1989, the agency has considered two options—downsizing and materials substitution. The goal of downsizing is to reduce the exterior dimensions of the automobile without significantly reducing the interior passenger and luggage volume of the automobile. Any downsizing would necessitate a redesign of the vehicle and retooling. The economic downturn in the automotive industry caused Rolls-Royce to reduce its annual production by approximately one-third (from 3200 vehicles in the 1980 model year to 2200 vehicles in the 1983 model year), its number of employees by 22 percent, and its budget for research and development by a significant amount. Rolls-Royce stated in its petition that it has begun a major project to downsize its vehicles, but that the project's results would not be available in time to be incorporated in its cars during the 1987–1989 model years. Given the current economic position of the company, and the need in any vehicle downsizing to retain the vehicle's image, NHTSA has tentatively concluded that downsizing would not be economically practicable for 1987–1989 model year Rolls-Royce automobiles.

The other primary means of achieving weight reduction is materials substitution. This refers to the substitution of lighter materials, such as aluminum, plastics, and high strength low alloy steels, for currently used materials. Rolls-Royce already uses aluminum in all of its major castings and most of the unstressed body parts of its automobiles.

In its proposed decision to exempt Rolls-Royce from the 1981–1985 model year average fuel economy standards and to establish alternative standards for Rolls-Royce in those model years, NHTSA indicated that it believed that weight reduction through materials substitution would be practicable for Rolls-Royce beginning with the 1984 model year (47 FR 20639, at 20648; May 13, 1982). Rolls-Royce stated in its petition for model year 1986 that it had conducted a research project showing that it could improve the fuel economy of its vehicles by 15 percent by using a combination of weight reduction, reduced engine displacement, and transmission improvements. However, the company encountered problems with achieving the required emissions levels with the new vehicle. Because of the economic situation of the company following its reduced sales from 1980 to 1983, the company stated that it did not feel it could continue with the development work on the redesigned car without a high degree of confidence that the car could satisfy all emissions and safety requirements and be in production by late 1984. Rolls-Royce concluded that it did not have the necessary degree of confidence, and decided not to make the retooling expenditure. Shortly after this decision, Rolls-Royce also determined that work on the project could not be continued, given the current economic status of the company. Based on these facts, NHTSA has tentatively determined that further weight reduction resulting from materials substitution would not be economically practicable for Rolls-Royce in the model years 1987–1989.

Aerodynamic improvements. Rolls-Royce vehicles in 1987–1989 will have a relatively large frontal area, because of the exterior dimensions of the vehicle and the distinctive grille design. A larger

frontal area generally results in more wind resistance than a smaller frontal area, yielding reduced fuel economy.

Any fuel economy gains resulting from aerodynamic improvements to these vehicles would arise only from a complete redesign to lower the aerodynamic drag of these vehicles. Rolls-Royce currently has a project underway to improve the aerodynamics of its vehicles in connection with the downsizing program mentioned above.

Given the company's recent financial difficulties and the scope of a project to redesign its vehicles, NHTSA has tentatively concluded that it would not be economically practicable for Rolls-Royce to implement aerodynamic improvements to increase the fuel economy of its automobiles during model years 1987–1989.

Engine improvements. This agency has examined the question of whether Rolls-Royce could improve the fuel economy of its 1987–1989 cars by reducing the engine displacement or by using an alternative engine. Rolls-Royce plans to continue using its current 412 cubic inch V–8 engine for it automobiles. This size engine is used because of the relatively high weight of the vehicles. In connection with the downsizing program mentioned above, Rolls-Royce plans to reduce the engine displacement. NHTSA does not believe it would be feasible to use the down-sized engine on vehicles in the 5000 and 5500 pound inertia weight class, in that it could not achieve the acceleration performance traditionally offered in luxury cars.

There is conceivably a reduction of engine displacement which would offer satisfactory performance in Rolls-Royce 1987–1989 cars and offer improved fuel economy. However, such a fuel economy improvement would require Rolls-Royce to divert its engineering staff and resources from the downsizing project to such a project, with the promise of smaller fuel economy gains than would be realized if the downsizing project were completed and put into production. Accordingly, NHTSA has tentatively determined that it would not be economcially practicable for Rolls-Royce to reduce its engine displacement before the completion of its downsizing project after model years 1987–1989.

With respect to the use of an alternative engine, the only alternative engine which has been shown to be feasible in cars of this size is the diesel engine. Rolls-Royce has examined the possibility of using diesel engines. However, according to its petition, the company cannot comply with the diesel particulate emission standards for 1987 and later model years because of its vehicle's relatively high weight. Further, the company stated that using the large diesel engine offered on some full-size 1983 Oldsmobiles would double the 0–60 mph acceleration times for Rolls-Royces. After considering these statements, NHTSA has tentatively determined that it would not be technologically feasible and economically practicable for Rolls-Royce to improve the projected fuel economy of its 1987–1989 automobiles by the use of alternative engines.

Drive line improvements. The primary drive line improvements to enhance achievable fuel economy are transmission improvements and the use of a lower rear axle ratio. Rolls-Royce plans to use the General Motors THM 400 transmission, a heavy duty transmission which does not use a lockup clutch for the torque converter. Using a transmission with a lockup clutch would offer improved fuel economy. However, General Motors offers the lockup clutch only on its lighter-duty 200–4R transmission, and the power and torque output of the Rolls-Royce 412 cubic inch engine is too great to permit the use of that lighter-duty transmission.

Both Ford and Chrysler manufacture transmissions equipped with a lockup clutch but these transmissions are not applied to engines as large as 412 cubic inches. Further, the use of a different transmission would require extensive redesign and would divert engineering staff and finances from the downsizing project. Accordingly, NHTSA has tentatively determined that it would not be technologically feasible and economically practicable for Rolls-Royce to improve its planned 1987–1989 fuel economy by using improved transmissions.

Rolls-Royce 1986 models will use a 3.08 rear axle ratio. The company has run tests using a lower axle ratio (2.69), which showed fuel economy gains of up to 7 percent in highway driving. However, the city driving results showed slightly increased fuel consumption because of increased slip in the transmission's torque converter, and the lower axle ratio increased the oxides of nitrogen emissions above allowable levels. Retuning of the engine and emission control system required extensive re-engineering to avoid a net loss of fuel economy and poorer driveability, so Rolls-Royce did not take this action for model year 1986. The company states that some of the problems can be overcome by model year 1987, so that the 2.69 rear axle will be used in model years 1987–1989. Although its use will not produce the 7 percent improvement in fuel economy originally projected, the new axle ratio accounts for most of the 0.2 mpg improvement in fuel economy for Rolls-Royce automobiles in model years 1987–1989.

Mix shifts. "Mix shifts" refers to shifting the percentage of vehicles sold in each of a manufacturer's model types for the purpose of increasing average fuel economy. Since the most efficient Rolls-Royce 1987–1989 models will achieve a fuel economy level of 11.3 mpg, no significant fuel economy improvement over the 11.2 mpg level could be accomplished by shifting customers to other models.

Impacts of other Federal standards. Rolls-Royce did not claim any negative impacts on its 1987–1989 average fuel economy above those impacts claimed for the 1978 model year, as a result of applicable Federal safety damageability, emissions, or noise standards. In the absence of a specific showing of a fuel economy penalty arising from those standards, NHTSA will assume that whatever fuel economy is lost as a result of compliance with Federal standards will be built into the Environmental Protection Agency's fuel economy test results and will be taken into account by NHTSA in considering the technological feasibility of any actions when setting alternative standards. With respect to the Rolls-Royce petition for 1987–1989, NHTSA has tentatively assumed that there is no unaccounted-for negative impact on fuel economy caused by applicable Federal standards.

The need of the Nation to conserve energy. As stated above, NHTSA has tentatively determined that is not technologically feasible or economically practicable for Rolls-Royce to achieve an average fuel economy in model years 1987–1989 above 11.2 mpg. Granting an exemption to Rolls-Royce and setting an alternative standard at that level will result in only a negligible increase in fuel consumption and will not affect the need of the Nation to conserve energy.

For illustrative purposes only, the Rolls-Royce 1987–1989 model year fleet will consume 37 extra barrels of fuel per day over a twelve year period by achieving 11.2 mpg rather than 27.5 mpg. The fuel consumed by passenger automobiles in the United States is about 5 million barrels each day.

Proposed alternative standard. This agency has tentatively concluded that it would be technologically feasible and economically practicable for Rolls-Royce to improve the fuel economy of its 1987–1989 automobiles above an average of 11.2 mpg, that compliance with other Federal automobile standards will not adversely affect achievable fuel economy, and that the national effort to conserve energy will not be affected by

granting the requested exemption and establishing an alternative standard. Consequently, this notice proposes to conclude that the maximum feasible average fuel economy for Rolls-Royce for model years 1987–1989 is 11.2 mpg. Therefore, the agency proposes to exempt Rolls-Royce from the generally applicable standard of 27.5 mpg and to establish an alternative standard for Rolls-Royce of 11.2 mpg for model years 1987–1989.

In consideration of the foregoing, it is proposed that 49 CFR Part 531 be amended as follows:

PART 531—PASSENGER AUTOMOBILE AVERAGE FUEL ECONOMY STANDARDS

1. The authority citation for 49 CFR Part 531 would be revised to read as follows:

Authority: Sec. 9, Pub. L. 89–670, 80 Stat. 931 (49 U.S.C. 1657); sec. 301, Pub. L. 94–163, 89 Stat. 901 (15 U.S.C. 2002); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.

2. Section 531.5(b)(2) would be revised to read as follows:

§ 531.5 Fuel economy standards.

* * * * *

(b) * * *

(2) Rolls-Royce Motors, Inc.

Model year	Average fuel economy standard (miles per gallon)
1978	10.7
1979	10.8
1980	11.1
1981	10.7
1982	10.6
1983	9.9
1984	10.0
1985	10.0
1986	11.0
1987	11.2
1988	11.2
1989	11.2

* * * * *

NHTSA has analyzed this proposal and determined that neither Executive Order 12291 nor the Department of Transportation regulatory policies and procedures apply, because the proposal would not establish a "rule," which term is defined as "an agency statement of general applicability and future effect." The exemption is not generally applicable, since it appies only to Rolls-Royce. If the Executive Order and the Departmental policies and procedures were applicable, the agency would have determined that this proposed action is neither major nor significant. The principal impact of this proposal is that Rolls-Royce will not be required to pay civil penalties if it achieves its maximum feasible average fuel economy, and purchasers of those vehicles will not have to bear the burden of those civil penalties in the form of higher prices. NHTSA notes that purchasers of those vehicles will be required to pay a gas guzzler tax on these cars. Since this proposal sets an alternative standard at the level determined to be Rolls-Royce's maximum feasible level, no fuel would be saved by establishing a higher alternative standard. The impacts for the public at large will be minimal.

The agency has also considered the environmental implications of this proposal in accordance with the National Environmental Policy Act and determined that this proposal, if adopted as a rule, will not significantly affect the human environment. Regardless of the fuel economy of a vehicle, it must pass the emissions standards which measure the amount of emissions per mile traveled. Thus, the quality of the air is not affected by this proposed exemption and alternative standard. Further, since Rolls-Royce's 1987–1989 automobiles cannot achieve better fuel economy than is proposed herein, granting these proposed exemptions would not affect the amount of fuel available.

Since the Regulatory Flexibility Act may apply to a notice exempting a manufacturer from a generally applicable standard, I certify that this proposed exemption would not have a significant economic impact on a substantial number of small entities. This proposal would not impose any additional burdens on Rolls-Royce. It would relieve the company of having to pay civil penalties in model years 1987–1989. Small organizations and small governmental jurisdictions are believed not to be purchasers of Rolls-Royce automobiles. In any event, since the prices of Rolls-Royce automobiles would not be affected by this proposed exemption, the purchasers would not be affected.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. (49 CFR 553.21) Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR Part 512).

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket shoud enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 531

Energy conservation, Gasoline, Imports, Motor vehicles.

(Sec. 9, Pub. L. 89–670, 80 Stat. 931 (49 U.S.C. 1657); sec. 301, Pub. L. 94–163, 89 Stat. 901 (15 U.S.C. 2002); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on May 29, 1985.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 85–13399 Filed 6–4–85; 8:45 am]

BILLING CODE 4910–59–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1039

[Ex Parte No. 346 (Sub–8)

Exemption From Regulation; Boxcar Traffic

AGENCY: Interstate Commerce Commission.

ACTION: Notice of reopening of final rules.

SUMMARY: Upon remand by the United States Court of Appeals for the District of Columbia Circuit, the Commission is reopening this proceeding to consider further whether regulation of boxcar joint rates is necessary under the criteria of 49 U.S.C. 10505. The Court held that the decision did not adequately explain why continued reuglation of boxcar joint rates is unnecessary under the criteria of 49 U.S.C. 10505. It found inadequate support for the conclusion that an exemption would not result in the closing of efficient joint routes, and ruled that the sufficiency of antitrust remedies for such closings was not adequately discussed. It also held that the Commission did not adequately consider whether regulation was necessary to prevent large carriers from imposing unfair divisions of joint revenue on small connecting carriers. In order to better address the issues discussed by the court, we will reopen this proceeding for the limited purpose of receiving further evidence and comment on those issues.

DATES: Evidence and comments are due August 5, 1985. Replies are due September 4, 1985.

ADDRESS: Statements referring to Ex Parte No. 346 (Sub–8) should be sent to:

Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Louis E. Gitomer, (202) 275–7245

or

Thomas Gire, (202) 275–7957.

SUPPLEMENTARY INFORMATION: At 48 FR 27254, June 14, 1983, the Commission published final rules in the proceeding.

On April 29, 1985, the United States Supreme Court denied the Commission's petition for a writ of certiorari (*ICC* v. *Brae Corp.*, U.S. Sup. Ct., No. 84–550) to review a decision of the United States Court of Appeals for the District of Columbia Circuit [*Brae Corp.* v. *ICC*, 740 F.2d 1023 (D.C. Cir. 1984) (*Brae*)]

The Court of Appeals vacated the exemption of boxcar service from freight rate regulation insofar as the exemption applies to joint rates, *Brae*, at 1070. The court held that the decision did not adequately explain why continued regulation of boxcar joint rates is unnecessary under the criteria of 49 U.S.C. 10505, *Brae* at 1044–1091. It found inadequate support for the conclusion that an exemption would not result in the closing of efficient joint routes, and rules that the sufficiency of antitrust remedies for such closings was not adequately discussed. It also held that the Commission did not adequately consider whether regulation was necessary to prevent large carriers from imposing unfair divisions of joint rate revenue on small connecting carriers.

In order to address the issues discussed by the court, we will reopen this proceeding for the limited purpose of receiving further evidence and comment on those issues. For the guidance of the parties, we set forth specific questions in the appendix to this notice. Of particular interest to us, are the acutal effects of the exemption on carriers during the over 16 months that it was in effect. Evidence and comment relevant to issues raised by the court, though not specifically addressed in the appendix, are also requested.

Exemption of boxcar joint rates from regulation would affect Class III railroads, some of which may be small entities, by ending regulatory review of actions affecting joint rates in which they participate. The Commission previously concluded that any harmful effects of this exemption on small railroads would be limited, since the exemption would not result in the closing of efficient joint routes or deprive the small railroads of essential revenue on such routes. Upon reopening, we will give further consideration to these issues, and, in light of the evidence and argument submitted, reassess our finding that regulation is not needed to carry out the rail transportation policy contained in 49 U.S.C. 101a. The parties should focus particular attention to how the exemption would influence each of the 15 specified policy goals of section 10101a. These conclusions are at issue upon reopening.

This action does not significantly affect the quality of the human environment or energy conservation.

List of Subjects in 49 CFR Part 1039

Agricultural commodities, Railroads.

Authority: 49 U.S.C. 10321(a) and 10505.

Decided: May 23, 1985.

By the Commission, Chairman Taylor, Vice Chairman Gradison, Commissioners Sterrett, Andre, Simmons, Lamboley and Strenio. Commissioner Simmons, joined by Commissioner Lamboley, concurred with a separate expression.

James E. Bayne,

Secretary.

Commissioner Simmons, joined by *Commissioner Lamboley*, concurring:

The court of appeals found that the exemption decision did not adequately consider the potential harm to class III railroads and others which might result from unilateral joint-rate concellations under the exemption. While I realize that practical problems may arise from an environment in which single-line boxcar rates are exempt and joint-line boxcar rates are regulated, this Commission must, nevertheless, fully implement the court's mandate. As I stated in my vote of May 9, 1985, implementation of the court's mandate requires that the Commission provide some procedure under which parties can seek to reinstate joint rates cancelled under the now-vacated exemption.

Appendix—Questions for Participants in Reopened Proceeding

The purpose of reopening is to consider (1) whether an exemption from regulation of boxcar joint rates would result in the closing of efficient routes; (2) whether the threat of partial revocation of the exemption and possible antitrust remedies are sufficient, as a practical matter, to protect small carriers from the closing of efficient routes in which they participate; (3) whether any closing of efficient routes that might occur under an exemption and any resulting harm to small carriers is contrary in overall result to the rail transportation policy of 49 U.S.C. 10101a; (4) whether regulation is necessary to prevent large carriers from imposing unfair divisions of joint revenue on small connecting carriers; and (5) whether any of the abuse predicted by some of the parties has occurred since the exemption became effective on January 1, 1984.

The questions that follow may relate to a situation where a through route involving a large long-haul carrier and a small short-haul carrier is the only rail route available, or to a situation where a large carrier has a single-line route paralleling a joint route where it participates with a small carrier. To the extent other route situations exist, they should also be identified and addressed. Submissions containing information about actual events or abuses while the exemption was in effect would be useful.

1. Under what circumstances, if any, would an exemption result in the closing of efficient joint routes?

2. Would the closing of competing joint routes give a large carrier, with a single-line route, monopoly power over any boxcar movements? To what extent does intermodal competition influence this question? Is it possible for a large carrier to have no monopoly power over shippers in single-line service and still have monopoly power over connecting carriers in joint-line service? If so, what would be the source of monopoly rents accruing to the large carrier?

3. Would large connecting carriers squeeze profits from smaller short-haul connecting carriers? If so, would the smaller carriers' revenues be driven below cost in the short run or in the long

run? Would this affect the short-haul carriers' ability to pay for efficiency-increasing improvements to keep their part of the rail system healthy? If so, does the rail transportation policy, on balance, weigh for or against the exemption?

4. Where a small short-haul carrier provides the sole access to a group of shippers, would this give it leverage in negotiating with the long-haul carrier?

5. Where a joint route with a short-haul carrier is more efficient than a large carrier's single-line route, could the large carrier prevent the smaller carrier from retaining the benefits of efficiency? Is this possible given intermodal or other competition?

6. Are potential antitrust actions and the threat of revocation of the exemption effective and practical deterrents to a large carrier foreclosing a small carrier from markets the small carrier could serve as part of an efficient route?

7. To expand the record concerning the degree of vulnerability of short line railroads, please provide the following information wherever possible:

a. Bridge, line-haul termination, and line-haul originating traffic as a percentage of total traffic transported by short line railroads.

b. Revenue/variable cost ratios for joint rate shipments involving short line railroads, overall and for each participating railroad.

c. The number of long-haul carrier connections available to smaller short-haul carriers.

[FR Doc. 85-13484 Filed 6-4-85; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 50, No. 108
Wednesday, June 5, 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.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Public Information Meeting

AGENCY: Advisory Council on Historic Preservation.

ACTION: Public Information Meeting.

SUMMARY: Notice is hereby given pursuant to § 800.6(b)(3) of the Council's regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800), that on June 25, 1985, at 7:00 p.m., a public information meeting will be held at the Maricopa County Board of Supervisors Auditorium, 201 West Jefferson, Phoenix, Arizona.

The meeting is being called by the Executive Director of the Council in accordance with § 800.6(b)(3) of the Council's regulations. The purpose of the meeting is to provide an opportunity for representatives of national, State, and local units of government, representatives of public and private organizations, and interested citizens to receive information and express their views concerning the proposed demolition of the Verde River Sheep Bridge, Yavapai County, Arizona, an undertaking of the Tonto National Forest, U.S. Forest Service that will adversely affect a property included in the National Register of Historic Places. Consideration will be given to the undertaking, its effects on National Register or eligible properties, and alternate courses of action that could avoid, mitigate, or minimize any adverse effects on such properties.

The following is a summary of the tentative agenda of the meeting:

I. An explanatioin of the procedures and purpose of the meeting by a representative of the Executive Director of the Council.

II. A description of the undertaking and an evaluation of its effects on the property by Forest Service personnel.

III. A statement by the Arizona State Historic Preservation Officer.

IV. Statements from local officials, private organizations, and the public on the effects of the undertaking on the property.

V. A general question period.

Speakers should limit their statement to 5 minutes. Written statements in furtherance of oral remarks will be accepted by the Council at the time of the meeting. Additional information regarding the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 730 Simms Street, Room 450, Golden, CO 80401, telephone (303) 236–2682.

Dated: May 28, 1985.

Robert R. Garvey, Jr.,

Executive Director.

[FR Doc. 85–13485 Filed 6–4–85; 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

May 31, 1985.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, D.C. 20250, (202) 447–2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Extension

• Economic Research Service
Supplemental Qualifications Statement
EMS 459
With application for employment
Individuals or households; 300 responses; 1,200 hours; not applicable under 3504(h)
Joan B. Golden, (202) 447–7929

Revision

• Food and Nutrition Service
Integrated Quality Control Review Schedule
FNS 380–1
On occasion
Individuals or households; State or local governments; 68,700 responses; 70,321 hours; not applicable under 3504(h)
Joe Bonelli, (703) 756–3431.

Jane A. Benoit,

Departmental Clearance Officer.

[FR Doc. 85–13530 Filed 6–4–85; 8:45 am]

BILLING CODE 3410-01-M

Agricultural Stabilization and Conservation Service

Proposed Determinations With Regard to the 1986 Wheat Marketing Quota Program Provisions

AGENCY: ASCS, USDA.

ACTION: Proposed determinations.

SUMMARY: A notice of determination, effective April 15, 1985, was published in the **Federal Register** (50 FR 15466) in which the Secretary of Agriculture (1) proclaimed a national wheat marketing quota of 1,955 million bushels and a national acreage allotment of 54.0 million acres for the 1986 crop of wheat, and (2) determined that all States would be considered as commercial wheat-producing areas and that a producer referendum would be conducted July 19–26, 1985 with respect to the 1986 Wheat Marketing Quota Program. Various other determinations must also be made by

the Secretary with respect to the 1986 Wheat Marketing Quota Program. Accordingly, the Secretary proposes to make the following determinations with respect to the 1986 crop of wheat: (a) The eligibility requirements of voters in the producer referendum and the method of balloting; (b) if marketing quotas are approved, whether a land use (diverted acreage) program should be implemented and the provisions of such a program including diverted acreage requirements and uses; (c) if marketing quotas are disapproved, the level of price support for cooperators and noncooperators; and (d) if marketing quotas are approved, the various levels of price support for cooperators and noncooperators. These determinations are to be made pursuant to the provisions of the Agricultural Adjustment Act of 1938, as amended (the "1938 Act"), and the Agricultural Act of 1949, as amended (the "1949 Act").

EFFECTIVE DATE: Comments must be received on or before July 5, 1985 in order to be assured of consideration.

ADDRESS: Dr. Howard C. Williams, Director, Commodity Analysis Division, USDA-ASCS, Room 3741, South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Bruce R. Weber, Agricultural Marketing Specialist, Commodity Analysis Division, USDA–ASCS, P.O. Box 2415, Washington, D.C. 20013, or call (202) 447–4146. A Preliminary Regulatory Impact and Initial Regulatory Flexibility Analysis describing the options considered in developing the proposed determinations and the impact of implementing each option is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation No. 1512–1 and has been designated as "major". It has been determined that these program provisions will result in an annual effect on the economy of $100 million or more.

The titles and numbers of the Federal assistance programs to which this notice applies are: Title-Wheat Production Stabilization; Number–10.058, and Title-Commodity Loans and Purchases; Number–10.051, as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is applicable to the provisions of this notice and an Initial Regulatory Flexibility Analysis has been completed and is available upon request.

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

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

Certain determinations set forth in this notice with respect to the 1986 Wheat Marketing Quota Program must be made by the Secretary before the July 19–26, 1985 producer referendum is conducted. Accordingly, it has been determined that the public comment period should be limited to a period of 30 days from the date of publication of this notice in the **Federal Register**. This will allow the Secretary sufficient time to properly consider the comments received before the final program determinations are made.

This notice sets forth proposed determinations with respect to the following issues which are briefly described.

a. *Farm Marketing Quota Determinations.* Pub. L. 74, 77th Congress, as amended, provides that the farm marketing quota for any crop of wheat shall be the actual production of the acreage planted to such crop of wheat on the farm less the farm marketing excess. The farm marketing excess shall be an amount equal to twice the projected farm yield multiplied by the number of acres of such crop of wheat on the farm in excess of the farm acreage allotment for such crop unless the producer, in accordance with regulations issued by the Secretary and within the time prescribed therein, establishes to the satisfaction of the Secretary the actual production of such crop of wheat on the farm. If such actual production is so established, the farm marketing excess shall be an amount equal to the actual production of the number of acres of wheat on the farm in excess of the farm acreage allotment for such crop. In determining the farm marketing quota and farm marketing excess, any acreage of wheat remaining after the date prescribed by the Secretary for the disposal of excess acres of wheat shall be included as acreage of wheat on the farm, and the production thereof shall be appraised in such manner as the Secretary determines will provide a reasonably accurate estimate of such production. Any acreage of wheat disposed of in accordance with regulations issued by the Secretary prior to such date as may be prescribed by the Secretary shall be excluded in determining the farm marketing quota and farm marketing excess. Self-seeded (volunteer) wheat shall be included in determining the acreage of wheat. Marketing quotas for any marketing year shall be in effect with respect to wheat harvested in the calendar year in which such marketing year begins notwithstanding that the wheat is marketed prior to the beginning of such marketing year.

Whenever farm marketing quotas are in effect with respect to any crop of wheat, the producers on a farm shall be subject to a penalty on the farm marketing excess of wheat at a rate per bushel equal to 65 percent of the parity price per bushel of wheat as of May 1 of the calendar year in which the crop is harvested. Each producer having an interest in the crop of wheat on any farm for which a farm marketing excess of wheat is determined shall be jointly and severally liable for the entire amount of the penalty on the farm marketing excess.

The farm marketing excess for wheat shall be regarded as available for marketing, and the penalty and the storage amount or amounts to be delivered to the Secretary of the commodity shall be computed based upon twice the normal production of the excess acreage. Where, upon the application of the producer for an adjustment of penalty or of storage, it is shown to the satisfaction of the Secretary that the actual production of the excess acreage is less than twice the normal production thereof, the difference between the amount of the penalty or storage which is computed based upon twice the normal production and the actual production shall be returned to or allowed the producer. The Secretary shall issue regulations under which the farm marketing excess of the commodity for the farm may be stored or delivered to the Secretary. Upon failure to store or deliver to the Secretary the farm marketing excess within such time as may be determined under regulations prescribed by the Secretary, the penalty computed shall be paid by the producer. Any wheat delivered to the Secretary shall become the property of the United States and shall be disposed of by the Secretary for relief purposes in the United States or in foreign countries in such a manner as to divert it from the normal channels of trade and commerce.

Until the producers on any farm store, deliver to the Secretary, or pay the penalty on the farm marketing excess of any crop of wheat, the entire crop of

wheat produced on the farm and any subsequent corp of wheat subject to marketing quotas in which the producer has an interest shall be subject to a lien in favor of the United States for the amount of the penalty.

The penalty upon wheat stored shall be paid by the producer at the time, and to the extent, of any depletion in the amount of the commodity so stored, except for a depletion resulting from some cause beyond the control of the producer. With respect to wheat which is marketed, the penalty shall be paid by the buyer, who may deduct an amount equivalent to the penalty form the price paid to the producer. If the buyer fails to collect the penalty, such buyer and all persons entitled to share in the wheat marketed from the farm or the proceeds thereof shall be jointly and severally liable for the penalty. The persons liable for the payment or collection of the penalty on any amount of wheat shall be liable also for interest thereon at the rate of 6 percent per annum from the date the penalty becomes due until the date of payment of such penalty.

Whenever the planted acreage of the then current crop of wheat on any farm is less than the farm acreage allotment for such commodity, the total amount of the commodity from any previous crops required to be stored in order to postpone or avoid payment of penalty shall be reduced by that amount which is equal to the normal production of the number of acres by which the farm acreage allotment exceeds the planted acreage. Section 326(b) of the 1938 Act further provides that whenever the actual production of the acreage of wheat is less than the normal production of the farm acreage allotment, there may be marketed, without penalty, from such farm an amount of wheat from the wheat stored under seal together with the actual production of the then current crop which equals the normal production of the farm acreage allotment.

Until the farm marketing excess of wheat is stored or delivered to the Secretary or the penalty thereon is paid, each bushel of the commodity produced on the farm which is sold by the producer to any person within the United States shall be subject to the penalty as specified above.

(b) *Producer Referendum.* Section 336 of the 1938 Act provides that, when a national marketing quota for wheat is proclaimed, the Secretary shall, not later than August 1 of the calendar year in which such national marketing quota is proclaimed, conduct a referendum, by secret ballot, of producers to determine whether they favor or oppose marketing quotas for the marketing year or years for which proclaimed. Any producer who has a farm acreage allotment shall be eligible to vote in the referendum. The Secretary shall proclaim the results of the referendum within thirty days after the date of such referendum and, if the Secretary determines that more than one-third of the producers voting in the referendum voted against marketing quotas, the Secretary shall proclaim that marketing quotas will not be in effect with respect to the crop of wheat produced for harvest in the calendar year following the calendar year in which the referendum is conducted. If the Secretary determined that two-thirds or more of the producers voting in a referendum approve marketing quotas then such quotas shall be in effect with respect to the crop of wheat produced for harvest in the calendar year following the calendar year in which the referendum is held.

(c) *Transfer of Quotas.* Section 338 of the 1938 Act provides that farm marketing quotas for wheat shall not be transferable but, in accordance with regulations prescribed by the Secretary for such purpose, any farm marketing quota in excess of the supply of wheat for such farm for any marketing year may be allocated to other farms on which the acreage allotment has not been exceeded.

(d) *Land Use.* Section 339 of the 1938 Act provides that, during any year in which marketing quotas for wheat are in effect, the producers on any farm (except a new farm receiving an allotment from the reserve for new farms) on which any crop is produced on acreage required to be diverted from the production of wheat shall be subject to a penalty on such crop, in addition to any marketing quota applicable to such crop, unless (1) the crop is designated by the Secretary as one which is not in surplus supply and will not be in surplus supply if it is permitted to be grown on the diverted acreage, or as one the production of which will not substantially impair the purpose of the requirements of section 339. The acreage required to be diverted from the production of wheat on the farm shall be an acreage of cropland equal to the number of acres determined by multiplying the farm acreage allotment by the diversion factor determined by dividing the number of acres by which the national acreage allotment is reduced below fifty-five million acres by the number of acres in the national acreage allotment. The actual production of any crop subject to a penalty shall be regarded as available for marketing and the penalty on such crop shall be computed on the actual acreage of such crop at the rate of 65 percent of the parity price per bushel of wheat as of May 1 of the calendar year in which such crop is harvested, multiplied by the normal yield of wheat per acre established for the farm. Until the producers on any farm pay the penalty on such crop, the entire crop of wheat prduced on the farm and any subsequent crop of wheat subject to marketing quotas in which the producer has an interest shall be subject to a lien in favor of the United States for the amount of the penalty. Each producer having an interest in the crop or crops on acreage diverted or required to be diverted from the production of wheat shall be jointly and severally liable for the entire amount of the penalty. The persons liable for the payment or collection of the penalty shall be liable also for interest thereon at the rate of 6 percent per annum from the date the penalty becomes due until the date of payment of such penalty.

The Secretary may require that the acreage on any farm diverted from the production of wheat be land which was devoted to the production of wheat in the previous year to the extent the Secretary determines that such requirement is necessary to effectuate the purposes of the 1938 Act.

The Secretary may permit the diverted acreage to be grazed in accordance with regulations prescribed by the Secretary.

Since the proclaimed 1986 national acreage allotment of 54.0 million acres is below 55.0 million acres, a land diversion program equal to 1.85 percent of the farm acreage allotment will be in effect if marketing quotas are approved.

(e) *Wheat Marketing Allocation.* Section 379b of the 1938 Act provides that, during any marketing year for which a marketing quota is in effect for wheat, a wheat marketing allocation program shall be in effect. Whenever a wheat marketing allocation program is in effect for any marketing year the Secretary shall determine (1) the wheat marketing allocation for such year which shall be the amount of wheat which, in determining the national marketing quota for such marketing year, the Secretary estimated would be used during such year for food products for consumption in the United States, and that portion of the amount of wheat which, in determining such quota, the Secretary estimated would be exported in the form of wheat or products thereof during the marketing year in which the Secretary determines that marketing certificates shall be issued to producers in order to achieve, insofar as practicable, the price and income objectives of the 1938 Act, and (2) the national allocation percentage which

shall be the percentage which the national marketing allocation is of the national marketing quota. Each farm shall receive a wheat marketing allocation for such marketing year equal to the number of bushels obtained by multiplying the number of acres in the farm acreage allotment for wheat by the projected farm yield, and multiplying the resulting number of bushels by the national allocation percentage.

The 1986-crop wheat marketing allocation will be the sum of the estimate for domestic food consumption—660 million bushels—and estimated exports—1,250 million bushels—or 1,910 million bushels. The national allocation percentage is the product of dividing the national marketing allocation—1,910 million bushels—by the national marketing quota—1,955 million bushels—which shall be .9770.

(e–1) *Marketing Certificates.* Section 379c of the 1938 Act provides that the Secretary shall provide for the issuance of wheat marketing certificates for each marketing year for which a wheat marketing allocation program is in effect for the purpose of enabling producers on any farm with respect to which certificates are issued to receive, in addition to the other proceeds from the sale of wheat, an amount equal to the value of such certificates. The wheat marketing certificates issued with respect to any farm for any marketing year shall be in the amount of the farm wheat marketing allocation for such year, but not to exceed (i) the actual acreage of wheat planted on the farm for harvest in the calendar year in which the marketing year begins multiplied by the normal yield of wheat for the farm, plus (ii) the amount of wheat stored to avoid or postpone a marketing quota penalty, which is released from storage during the marketing year on account of underplanting or underproduction, and if this limitation operates to reduce the amount of wheat marketing certificates which would otherwise be issued with respect to the farm, such reduction shall be made first from the amount of export certificates which would otherwise be issued. The Secretary shall provide for the sharing of wheat marketing certificates among producers on the farm on the basis of their respective shares in the wheat crop produced on the farm, or the proceeds thereform except, that in any case in which the Secretary determines that such basis would not be fair and equitable, the Secretary shall provide for such sharing on such other basis as the Secretary may determine to be fair and equitable. The Secretary shall provide for the issuance of domestic marketing certificates for the portion of the wheat marketing allocation representing wheat used for food products for consumption in the United States.

The Secretary shall also provide for the issuance of export marketing certificates to eligible producers at the end of the marketing year on a pro rata basis. For such purposes, the value per bushel of export marketing certificates shall be an average of the total net proceeds from the sale of export marketing certificates during the marketing year after deducting the total amount of wheat export subsidies paid to exporters. An acreage on the farm which the Secretary finds was not planted to wheat because of drought, flood, or other natural disaster shall be deemed to be an actual acreage of wheat planted for harvest, provided such acreage is not subsequently planted to any crop for which there are marketing quotas or voluntary adjustment programs in effect. Producers on any farm who have planted not less than 90 percent of the acreage of wheat required to be planted in order to earn the full amount of marketing certificates for which the farm is eligible shall be deemed to have planted the entire acreage required to be planted for that purpose.

No producer shall be eligible to receive wheat marketing certificates with respect to any farm for any marketing year in which a marketing quota penalty is assessed for any commodity on such farm or in which the farm has not complied with the land-use requirements of section 339 of the 1938 Act to the extent prescribed by the Secretary, or in which the producer exceeds the farm acreage allotment on any other farm for any commodity in which he has an interest as a producer. No producer shall be deemed to have exceeded a farm acreage allotment for wheat if the entire amount of the farm marketing excess is delivered to the Secretary or stored in accordance with applicable regulations to avoid or postpone payment of the penalty. Any wheat delivered to the Secretary shall become the property of the United States and shall be disposed of by the Secretary for relief purposes in the United States or in foreign countries or in such other manner as the Secretary determines will divert it from the normal channels of trade and commerce. Notwithstanding any other provision of the 1938 Act, the Secretary may provide that a producer shall not be eligible to receive marketing certificates, or may adjust the amount of marketing certificates to be received by the producer, with respect to any farm for any year in which a variety of wheat is planted on the farm which has been determined by the Secretary, after consultation with State Agricultural Experiment Stations, agronomists, cereal chemists and other qualified technicians, to have undesirable milling or baking qualities and has made public announcement thereof.

The Secretary shall determine and proclaim for each marketing year the face value per bushel of wheat marketing certificates. The face value per bushel of domestic certificates shall be the amount by which the level of price support for wheat accompanied by domestic certificates exceeds the level of price support for wheat not accompanied by certificates (noncertificate wheat).

Marketing certificates and transfers thereof shall be represented by such documents, marketing cards, records, accounts, certifications, or other statements or forms as the Secretary may prescribed.

In any case in which the failure of a producer to comply fully with the terms and conditions of the programs formulated under the 1983 Act precludes the issuance of marketing certificates, the Secretary may, nevertheless, issue such certificates in such amounts as he determines to be equitable in relation to the seriousness of the default.

(e–2) *Marketing Restrictions.* Section 379d of the 1938 Act provides that marketing certificates shall be transferable only in accordance with regulations prescribed by the Secretary. Any unused certificates legally held by any person shall be purchased by Commodity Credit Corporation if tendered to the Corporation for purchased in accordance with regulations prescribed by the Secretary.

During any marketing year for which a wheat marketing allocation program is in effect, (i) all persons engaged in the processing of wheat into food products shall, prior to marketing any such food product or removing such food product for sale or consumption, acquire domestic marketing certificates equivalent to the number of bushels of wheat contained in such product, and (ii) all persons exporting wheat shall, prior to such export, acquire export marketing certificates equivalent to the number of bushels so exported. The costs of the export marketing certificates per bushel to the exporter shall be that amount determined by the Secretary on a daily basis which would make United States wheat and wheat flour generally competitive in the world market, avoid disruption of world maket prices, and

fulfill the international obligations of the United States. The Secretary may exempt from the requirements wheat export for donation abroad and other noncommercial exports of wheat, wheat processed for use on the farm where grown, wheat produced by a State or agency thereof, wheat processed for donation, and wheat processed for uses determined by the Secretary to be noncommercial. A beverage distilled from wheat shall be deemed to be removed for sale or consumption at the time it is placed in barrels for aging except that upon the giving of a bond as prescribed by the Secretary, the purchase of and payment for such marketing certificates as may be required may be deferred until such beverage is bottled for sale. Wheat shipped to a Canadian port for storage in bond, or storage under a similar arrangement, and subsequent exportation shall be deemed to have been exported for purposes of section 379d(b) when it is exported from the Canadian port. Marketing certificates shall be valid to cover only sales or removals for sale or consumption or exportations made during the marketing year with respect to which they are issued and, after being once used to cover a sale or removal for sale or consumption or export of a food product or an export of wheat, shall be void and shall be disposed of in accordance with regulations prescribed by the Secretary. The Secretary may, however, require marketing certificates issued for any marketing year to be acquired to cover sales, removals or exportations made on or after the date during the calendar year in which wheat harvested in such calendar year begins to be marketed as determined by the Secretary even though such wheat is marketed prior to the beginning of the marketing year, and marketing certificates for such marketing year shall be valid to cover sales, removals, or exportations made on or after the date so determined by the Secretary. Whenever the face value per bushel of domestic marketing certificates for marketing year is different from the face value of domestic marketing cetificates for the preceding marketing year, the Secretary may require marketing certificates issued for the preceding marketing year to be acquired to cover all wheat processed into food products during such preceding marketing year even though the food product may be marketed or removed for sale or consumption after the end of the marketing year.

Upon the giving of a bond or other undertaking satisfactory to the Secretary to secure the purchase of a payment for such marketing certificates as may be required, and subject to such regulations as the Secretary may prescribe, any person required to have marketing certificates in order to market or export a commodity may be permitted to market any such commodity without having first acquired marketing certificates.

The term "food products" means flour (excluding flour second clears not used for human consumption as determined by the Secretary), semolina, farina, bulgur, beverage, and any other product composed wholly or partly of wheat which the Secretary may determine to be a food product. The Secretary may administer the exemption for wheat processed into flour second clears through refunds either to processors of such wheat or to users of such clears. For the purpose of such refunds, the wheat equivalent of flour second clears may be determined on the basis of conversion factors authorized by Section 379f of the 1938 Act, even though certificates had been surrendered on the basis of the weight of the wheat.

(e–3) *Assistance In Purchase And Sale of Marketing Certificates.* For the purpose of facilitating the purchase and sale of marketing certificates, Section 379e of the 1938 Act provides that the Commodity Credit Corporation is authorized to issue, buy, and sell marketing certificates in accordance with regulations prescribed by the Secretary. The Corporation may issue and sell certificates in excess of the quantity of certificates which it purchases. In addition, the Corporation may also be authorized to charge, in addition to the face value of the marketing certificates, an amount determined by the Secretary to be appropriate to cover estimated administrative costs in connection with the purchase and sale of the certificates and estimated interest incurred on funds of the Corporation invested in certificates purchased by it.

(e–4) *Conversion Factors.* Section 379f of the 1938 Act provides that the Secretary shall establish conversion factors which shall be used to determine the amount of wheat contained in any food product. The conversion factor for any such food product shall be determined upon the basis of the weight of wheat used in the manufacture of such product.

(e–5) *Authority To Facilitate Transition.* Section 379g of the 1938 Act provides that the Secretary is authorized to take such action as determined to be necessary to facilitate the transition from the program currently in effect to the program provided for in the 1938 Act. This includes the authority to exempt all or a portion of the wheat or food products made therefrom in the channels of trade on the effective date of the program from the marketing restrictions or to sell certificates to persons owning such wheat or food products at such prices as the Secretary may determine.

Whenever the face value per bushel of domestic marketing certificates for a marketing year is substantially different from the face value of domestic marketing certificates for the preceding marketing year, the Secretary is authorized to take such action as the Secretary determines necessary to facilitate the transition between marketing years. This includes the authority to sell certificates to persons engaged in the processing of wheat into food products covering such quantities of wheat, at such prices, and under such terms and conditions as the Secretary may by regulation provide.

(e–6) *Reports and Records.* Section 379h of the 1938 Act applies to processors of wheat, warehousemen and exporters of wheat and food products, and all persons purchasing, selling, or otherwise dealing in wheat marketing certificates. Any such person shall, from time to time on request of the Secretary, report to the Secretary such information and keep such records as the Secretary finds to be necessary to enable him to carry out the provisions of the 1938 Act. Such information shall be reported and such records shall be kept in such manner as the Secretary shall prescribe. For the purpose of ascertaining the correctness of any report made or record kept, or of obtaining information required to be furnished in any report, but not so furnished, the Secretary is authorized to examine such books, papers, records, accounts, correspondence, contracts, documents, and memorandums as the Secretary has reason to believe are relevant and are within the control of such person.

(e–7) *Penalties.* Section 379i of the 1938 Act provides that any person who knowingly violates or attempts to violate or who knowingly participates or aids in the violation of any of the provisions of the 1938 Act shall forfeit to the United States a sum equal to two times the face value of the marketing certificates involved in such violation. Such forfeiture shall be recoverable in a civil action brought in the name of the United States.

Further, any person except a producer acting in a capacity as a producer, who knowingly violates or attempts to violate or who knowingly participates or aids in the violation of any provision of

the 1938 Act, or of any regulation governing the acquisition, disposition, or handling of marketing certificates, or who knowingly fails to make any report or keep any record as required, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not more than $5,000 for each violation.

Also, any person who, acting in a capacity as a producer, knowingly violates or attempts to violate or participates or aids in the violation of any provision of the 1938 Act, or of any regulation governing the acquisition, disposition, or handling of marketing certificates or fails to make any report or keep any record as required shall (i) forfeit any right to receive marketing certificates, in whole or in part as the Secretary may determine, with respect to the farm or farms and for the marketing year with respect to which any such act or default is commmitted, or (ii), if such marketing certificates have already been issued, pay to the Secretary, upon demand, the amount of the face value of such certificates, or such part thereof as the Secretary may determine. Such determination by the Secretary with respect to the amount of such marketing certificates to be forfeited or the amount to be paid by such producer shall take into consideration the circumstances relating to the act or default committed and the seriousness of such act or default. In addition, any person who falsely makes, issues, alters, forges, or counterfeits any marketing certificate, or with fraudulent intent possesses, transfers, or uses any such falsely made, issued, altered, forged, or counterfeited marketing certificate, shall be deemed guilty of a felony and upon conviction thereof shall be subject to a fine of not more than $10,000 or imprisonment of not more than ten years, or both.

(e–8) *Regulations.* Section 379j of the 1938 Act provides that the Secretary shall prescribe such regulations as may be necessary to carry out the provisions of the 1938 Act including, but not limited to, regulations governing the acquisition, disposition, or handling of marketing certificates.

(f) *Level of Price Support If Marketing Quotas Are Disapproved.* Section 101(d)(3) of the 1949 Act provides that the level of price support to "cooperators" for any crop of wheat for which marketing quotas have been disapproved by producers shall be 50 percent of the parity price of wheat. The parity price of wheat for May 1, 1985 is $7.07 per bushel. A "cooperator" with respect to any crop of wheat produced on a farm is defined by section 408(b) of the 1949 Act as a producer on whose farm the acreage planted to wheat does not exceed the farm acreage allotment for wheat. Price support also may be made available to noncooperators in accordance with section 101(d)(4) of the 1949 Act at such levels, not in excess of the level of price support to cooperators, as the secretary determines will facilitate the effective operation of the program.

(g) *Level of Price Support If Marketing Quotas Are Approved.* Section 107 of the 1949 Act provides that:

(1) Price support for wheat accompanied by domestic certificates shall be at such level not less than 65 percent or more than 90 percent of the parity price for wheat as the Secretary determines appropriate, taking into consideration the factors specified in section 401(b) of the 1949 Act.

(2) Price support for wheat accompanied by export certificates shall be at such level not more than 90 percent of the parity price for wheat as the Secretary determines appropriate, taking into consideration the factors specified in section 401(b) of the 1949 Act.

(3) Price support for wheat not accompanied by marketing certificates shall be at such level, not in excess of 90 percent of the parity price for wheat, as the Secretary determines appropriate, taking into consideration competitive world prices of wheat, the feeding value of wheat in relation to feed grains, and the level at which price support is made available for feed grains.

(4) Price support shall be made available only to cooperators.

(5) A "cooperator" with respect to any crop of wheat produced on a farm under the program authorized by section 107 of the 1949 Act shall be a producer who: (i) does not knowingly exceed (A) the farm acreage allotment for wheat on the farm or (B) except as prescribed by the Secretary, the farm acreage allotment for wheat on any other farm on which the producer shares in the production of wheat, and (ii) complies with the land-use requirements of section 339 of the 1938 Act. If marketing quotes are not in effect for the crop of wheat, a "cooperator" with respect to any crop of wheat on a farm shall be a producer who does not knowingly exceed the farm acreage allotment for wheat. No producer shall be deemed to have exeeded a farm acreage allotment for wheat if the entire amount of the farm maketing excess is delivered to the Secretary or stored in accordance with applicable regulations to avoid or postpone payment of the penalty, but the producer shall not be eligible to receive price support on such marketing excess. No producer shall be deemed to have exceeded a farm acreage allotment for wheat if the production on the acreage in excess of the farm acreage allotment is stored pursuant to the provisions of the 1938 Act, but the producer shall not be eligible to receive support for such wheat.

Section 401(b) of the 1949 Act provides that the amounts, terms, and conditions of price support operations and the extent to which such operations are carried out shall be determined or approved by the Secretary. The following factors shall be taken into consideration in determining, in the case of wheat for which price support is discretionary, whether a price-support operation shall be undertaken and the level of such support and, in the case of wheat for which price support is mandatory, the level of support in excess of the minimum level prescribed for wheat: (1) The supply of wheat in relation to the demand therefor, (2) the price levels at which other commodities are being supported, (3) the availability of funds, (4) the perishability of the wheat, (5) the importance of the wheat to agriculture and the national economy, (6) the ability to dispose of stocks acquired through a price-support operation, (7) the need for offsetting temporary losses of export markets, and (8) the ability and willingness of producers to keep supplies in line with demand.

Interested persons are requested to comment on the following proposed determinations to be made by the Secretary.

Proposed Determinations With Respect to the 1986 Wheat Marketing Quota Program

(a) *Producer Referendum.* The Secretary intends to conduct the wheat marketing quota referendum for the 1986 crop year provided for by section 338 of the 1938 Act by mail ballot during the week of July 19–26, 1985. Producers shall be eligible to vote in the referendum if the farm has a 1986 wheat acreage allotment. A person shall be considered to be a producer if the person is entitled to share in a crop of the commodity, or the proceeds thereof, or would have been so entitled had the crop been produced, because the person shares in the risks of production of the crop as an owner, landlord, tenant, or sharecropper. Any landlord whose return form the crop is fixed, regardless of the amount produced, shall not be considered to be a producer. Comments are requested on the method of balloting and voter eligibility requirements.

(b) *Land Use (Diversion) Program.* Comments are requested concerning whether the Secretary should: (1) Permit the production of alternate crops on the diverted acreage; (2) require that the diverted acreage be land which was devoted to wheat in the previous year; and (3) permit the diverted acreage to be grazed.

(c) *Price Support Levels If Quotas Are Disapproved.* Price support for cooperators will be set at 50 percent of parity. The Secretary proposes not to extend price support to noncooperators if marketing quotas are disapproved. Comments are requested on whether price support should be extended to noncooperators, and, if so, at what level.

(d) *Price Support Levels If Quotas Are Approved.* Comments are requested on the levels of price support for wheat. The levels of price support are a combination of (1) the loan and purchase levels and (2) applicable certificate values. The Secretary proposes to establish the loan and purchase level for all wheat (certificates and noncertificate wheat) at between 25 and 47 percent of parity. The Secretary proposes to establish the level of price support per bushel for wheat accompanied by domestic certificates at between 65 and 90 percent of parity. The value per bushel of the domestic certificate would, therefore, be the difference between loan and purchase level and the price support level established between 65 and 90 percent of parity. The total level of price support for wheat accompanied by export certificates will be the sum of the loan and purchase level and the applicable export certificate value per bushel, not to exceed 90 percent of parity. The value per bushel of the export shall be an average of the total net proceeds from the sale of export marketing certificates during the marketing year after deducting the total amount of wheat export subsidies paid to exporters.

Authority: Secs. 326, 336, 52 Stat. 51, 55, as amended (7 U.S.C. 1326, 1336); Pub. L. 74, 77th Cong., as amended, 55 Stat. 203, as amended (7 U.S.C. 1330, 1340); 101, 107, 63 Stat. 1051, as amended, 76 Stat. 630, as amended (7 U.S.C. 1441, 1445a).

Signed at Washington, D.C., on May 31, 1985.

Everett Rank,

Administrator, ASCS.

[FR Doc. 85-13551 Filed 6-4-85; 8:45 am]

BILLING CODE 3410-05-M

Commodity Credit Corporation

Export Enhancement Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: On May 15, 1985, the Secretary of Agriculture announced an export enhancement program involving up to $2 billion worth of agricultural commodities owned by the Commodity Credit Corporation (CCC). Under the program, agricultural commodities owned by the CCC will be made available through Fiscal Year 1988 as a bonus to U.S. exporters to expand export sales of specified U.S. agricultural commodities in targeted markets.

FOR FURTHER INFORMATION CONTACT: William R. Randolph, Direct Sales Staff, Export Credits, Foreign Agricultural Service, USDA, Washington, D.C. 20250, (Phone (202) 382-9254) for information on submission of offers and requirements for participation and Merrill D. Marxman, Deputy Administrator, Commodity Operations, Agricultural Stabilization and Conservation Service, USDA, Washington, D.C. 20250 (Phone (202) 447-3217) for information on the commodities and methods of delivery of the commodities to exporters.

SUPPLEMENTARY INFORMATION: U.S. agricultural exports have declined substantially from the 1981 record level of 162 million tons valued at $44 billion. Current estimates indicate that 1985 exports may fall to 137 million tons valued at $33.5 billion—a 15 percent loss in volume of overseas markets. In 1980, the U.S. supplied nearly 60 percent of the world's agricultural import needs. This year, the U.S. will supply less than 45 percent.

In response, the Commodity Credit Corporation has committed up to $2 billion of its inventory of commodities to an export enhancement program. The objectives are to increase U.S. farm product exports and to encourage trading partners to begin serious negotiation on agricultural trade problems.

Each initiative under the program will meet the following criteria:

Additionality: Sales must increase U.S. agricultural exports above what would have occurred in the absence of a program.

Targeting: Sales will be targeted on specific market opportunities, especially those that challenge competitors which subsidize their exports.

Cost Effectiveness: Sales should result in a net plus to the overall economy.

Budget Neutrality: Sales should not increase budget outlays above what would have accrued in the absence of a program.

Periodically, CCC will issue: Announcements containing the terms and conditions of each initiative under the program; an invitation for offers specifying the commodity to be sold to foreign buyers and the targeted country; and catalogs of CCC-owned commodities which will be made available under the program. In general, the program will work as follows:

(1) To participate under the program, interested parties must qualify prior to submitting a competitive bid to CCC. Interested parties should contact the Direct Sales Staff at the above address (Phone (202) 382-9254 or 382-9241) to obtain the requirements to qualify as a participant under the program.

(2) Exporters will be required to provide CCC with various financial securities in connection with participation in the program.

(3) Exporters will submit competitive bids to CCC for the CCC commodity bonus needed to make a sale of the specified U.S. agricultural commodity competitive in the targeted country.

(4) CCC will examine bids for (a) the competitiveness of the sale to the foreign buyer, with offers and sales from other U.S. exporters and from competitor countries and (b) the competitiveness of the CCC commodity bonus requested for that sale. CCC will reserve the right to reject any or all bids.

(5) Successful bidders will select available commodities from the CCC catalog and request delivery.

(6) The commodities will generally be delivered to the exporter instore at the storing warehouse.

(7) The exporter must furnish evidence of export of the specified commodity to the targeted country.

CCC invites the public to comment on this system and to propose alternate systems at any time during the course of the program.

ADDRESS: Comments and proposed alternate systems should be submitted to the General Sales Manager, Foreign Agricultural Service, USDA, Washington, D.C. 20250. Arrangements to receive copies of the announcements under the program may be made by writing the Direct Sales Staff, Export Credits, Foreign Agricultural Service, USDA, Washington, D.C. 20250 (Phone (202) 382-9240) or by writing the Kansas City Commodity Office, P.O. Box 205, Kansas City, Missouri 64141 (Phone (816) 926-6421). Arrangements to receive copies of the invitations and catalogs of available commodities may be made by

writing the Kansas City ASCS Commodity Office. Any person presently on a Kansas City Commodity Office mailing list to receive information pertaining to export sales will receive a copy of the announcement, invitation and catalog of commodities.

Signed at Washington, D.C., on May 31, 1985.

Daniel G. Amstutz,

President, CCC.

[FR Doc. 85-13495 Filed 5-31-85; 2:20 pm]

BILLING CODE 3410-01-M

COMMISSION ON CIVIL RIGHTS

Georgia Advisory Committee; Meeting Amendment

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 Georgia Advisory Committee to the Commission originally scheduled for June 21, 1985, at the Marriott Hotel Downtown, in Atlanta, Georgia at 3:00 p.m. to 6:00 p.m., has a new meeting place.

The meeting date, convening and adjourning times will remain the same. The meeting place will change to the Holiday Inn Downtown, 175 Piedmont Avenue NE., International Room, Atlanta, Georgia.

Dated at Washington, D.C., May 24, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85-13541 Filed 6-4-85; 8:45 am]

BILLING CODE 6335-01-M

Mississippi 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 briefing meeting of the Mississippi Advisory Committee to the Commission will convene at 11:00 a.m. until 12:00 noon and a community forum will be held from 12:30 p.m. until 6:00 p.m. on June 19, 1985 at the Old Capitol, House Chamber, 100 South State Street, Jackson, Mississippi. The community forum will continue on June 20, 1985 from 8:30 a.m. until 12:30 p.m. The purpose of the meeting is to hold a briefing session for SAC members and a community forum on civil rights issues in Mississippi.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Louis Westerfield, or Bobby Doctor, Director of the Southern Regional Office at (404) 221-4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 31, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85-13540 Filed 6-4-85; 8:45 am]

BILLING CODE 6335-01-M

Montana Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Montana Advisory Committee to the Commission will convene at 10:00 a.m. and will adjourn at 1:00 p.m. on June 22, 1985, at the Sheraton Hotel, 400 Tenth Avenue, South, Board Room, Great Falls, Montana. The purpose of the meeting is to provide an orientation for new members and review report from Montana Inter-tribal Policy Board on civil rights concerns of Montana Indians.

Persons desiring additional information, or planning a presentation to the Committee, should contact William Muldrow, director of the Rocky Mountain Regional Office at (303) 844-2211.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C. May 24, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 13542 Filed 6-4-85; 8:45 am]

BILLING CODE 6335-01-M

Oklahoma 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 Oklahoma Advisory Committee to the Commission will convene at 10:00 a.m. and will adjourn at 5:00 p.m. on June 21, 1985, at the Lincoln Plaza, 4445 North Lincoln Boulevard, Cherokee Room, Oklahoma City, Oklahoma. The purpose of the meeting is to provide an orientation and program planning session, and a briefing on the proposed Oklahoma fair housing law.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Mr. Charles Fagin or J. Richard Avena, Director of the Southwestern Regional Office at (512) 229-5570.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 24, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85-13543 Filed 6-4-85; 8:45 am]

BILLING CODE 6335-01-M

Washington Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Washington Advisory Committee to the Commission will convene at 1:00 p.m. and will adjourn at 3:00 p.m. on June 19, 1985, at the Henry M. Jackson Federal Building, 915 Second Avenue, Room 268, Seattle, Washington. The purpose of the meeting is to provide an orientation for new members and develop plans for future projects.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Arnold Manseth, or Susan McDuffie, director of the Norhtwestern Regional Office at (206) 442-1246.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 31, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85-13539 Filed 6-4-85; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: NOAA

Title: Application for Federal Fisheries Permit—Amendment F

Form Number: Agency—NOAA 88-156; OMB—0648-0097

Type of Request: Revision of a currently approved collection

Burden: 10,532 respondents; 5,310 reporting hours

Needs and Uses: The information requested is to implement a provision for identifying fish traps and buoys with boats or vessels fishing the traps. This provision will reduce trap poaching and theft and enhance enforcement of fish trap restrictions. Reduction in trap loss and fish poaching will result in substantial savings to fishermen.
Affected Public: Individuals or households, businesses or other for-profit, small businesses or organizations.
Frequency: Annually
Respondent's Obligation: Required to obtain or retain a benefit
OMB Desk Officer: Sheri Fox 395–3785.
Agency: NOAA
Title: Application for an Atlantic Swordfish Permit
Form Number: Agency—None; OMB—0648–0149
Type of Request: Revision of a currently approved collection
Burden: 1,000 respondents; 206 reporting hours
Needs and Uses: The information requested is needed annually to identify the universe of active swordfish fishermen and their general fishing strategies. These data are essential for establishing a statistically valid sampling design to monitor and manage the fishery. All commercial swordfish fishermen must comply. Recreational swordfish fishermen in the mid-Atlantic area must also comply.
Affected Public: Individuals or households, businesses or other for-profit, small businesses or organizations.
Frequency: Annually
Respondent's Obligation: Required to obtain or retain a benefit OMB Desk Officer: Sheri Fox, 395–3785.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent to Sheri Fox, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Dated: May 30, 1985.

Edward Michals,

Departmental Clearance Officer.

[FR Doc. 85–13410 Filed 6–4–85; 8:45 am]

BILLING CODE 3510-CW-M

Foreign-Trade Zones Board

[Docket No. 12–85]

Foreign-Trade Zone 22—Chicago, IL; Application for Subzone for Ford Auto Plant

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Chicago Regional Port District, grantee of Foreign-Trade Zone 22, requesting special-purpose subzone status for the Ford Motor Company's automobile manufacturing plant in Chicago, Illinois, within the Chicago Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on May 28, 1985.

The proposed subzone would be located at 12600 South Torrence Avenue, Chicago. The 86-acre facility, employing some 3,000 persons, is currently being renovated to produce a new front-wheel drive car. Some 3 percent of the components used at the plant are subject to Customs duties, including radios, sound systems and speed controls. Close to 4 percent of the finished autos are exported.

Zone procedures will exempt Ford from duty payments on the foreign parts used in its exports. On its domestic sales, the company will be able to take advantage of the same duty rate available to importers of finished autos. The average duty rate on foreign components used at the plant is 7.1 percent, whereas the rate for complete autos is 2.6 percent. The savings from subzone status would contribute to the company's overall costs reduction program, helping its U.S. plants to become more competitive with auto plants abroad.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Richard Roster, District Director, U.S. Customs Service, North Central Region, 610 S. Canal St., Chicago, IL 60607; and Lt. Colonel Frank R. Finch, District Engineer, U.S. Army Engineer District Chicago, 219 S. Dearborn St., Chicago, IL 60604.

Comments concerning the proposed subzones are invited in writing from interested persons and organizations. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before July 8, 1985.

A copy of the application is available for public inspection at each of the following locations:

U.S. Dept. of Commerce District Office, 55 East Monroe Street, Rm. 1406, Chicago, IL 60603
Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529; 14th and Pennsylvania NW., Washington, D.C. 20230.

Dated: May 30, 1985.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 85–13521 Filed 6–4–85; 8:45 am]

BILLING CODE 3510-DS-M

[Docket No. 13–85]

Foreign-Trade Zone 72—Indianapolis, IN; Application for Subzones at Chrysler Auto Parts Plants

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Indianapolis Airport Authority, grantee of Foreign-Trade Zone 72, requesting special-purpose subzone status for three auto components manufacturing plants of the Chrysler Corporation in the Indianapolis Customs port of entry area. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on May 28, 1985.

The proposed subzones would be located at Chrysler plants in Indianapolis, Kokomo and New Castle, Indiana, which employ a total of some 8,000 persons. The Indianapolis plant covers 83 acres at 2900 No. Shadeland Ave. and is used to produce electrical components such as alternators, power steering units, starters and distributors. The Kokomo plant involves two contiguous facilities totalling 134 acres at 2401 So. Reed St., which are used to produce transmissions. The New Castle plant is a steering and drive train components production facility covering 91 acres at 1817 I Ave. The components are shipped to Chrysler's plants in the U.S. and abroad.

Zone procedures would allow Chrysler to export finished components without paying Customs duties on foreign materials. On the products used at its domestic auto assembly plants, the company would be able to take advantage of the same duty rate that is available to importers of finished autos. The main foreign component is bearings. The duty rate on bearings is 11.0 percent, whereas the rate for finished

autos is 2.6 percent. The savings from subzone status would contribute to the company's overall cost reduction program, helping its U.S. plants become more competitive with auto plants abroad.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli, (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; John F. Nelson, District Director, U.S. Customs Service, North Central Region, 6th Floor, Plaza Nine Bldg., 55 Erieview Plaza, Cleveland, OH 44114; and Colonel Dwayne G. Lee, District Engineer, U.S. Army Engineer District Louisville, P.O. Box 59, Louisville, KY 40201.

Comments concerning the proposed subzone are invited in writing from interested persons and organizations. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before July 8, 1985.

A copy of the application is available for public inspection at each of the following locations:

U.S. Dept. of Commerce District Office, 357 U.S. Courthouse/Federal Office Bldg., 46 E. Ohio Street, Indianapolis, IN 46204

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th and Pennsylvania NW., Washington, D.C. 20230.

Dated: May 30, 1985.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 85-13522 Filed 6-4-85; 8:45 am]

BILLING CODE 3510-05-M

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with §301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

Docket No. 83-270R. Applicant: National Aeronautics and Space Administration, NASA Resident Office, Jet Propulsion Laboratory, 4800 Oak Grove Drive, Pasadena, CA 91109. Instrument: Color Film Recorder. Original notice of this resubmitted application was published in the **Federal Register** of August 26, 1983.

Docket No. 85-165. Applicant: Curators of the University of Missouri, Grants and Contracts Administration, 305 Jesse Hall, University of Missouri-Columbia, Columbia, MO 65211. Instrument: Electron Microscope, Model JEM-1200EX with Accessories. Manfacturer: Jeol, Ltd., Japan. Intended use: Study of the structure and composition of substances that accumulate in aging human eyes as well as changes in tissue that follow laser treatment of glaucoma. The materials to be studied will consist of eye tissue or isolated cells or subcellular fractions either in their native form or following experimental labeling of molecules of interest. Application Received by Commissioner of Customs: May 6, 1985.

Docket No. 85-170. Applicant: University of Illinois at Chicago, Department of Ophthalmology, 1855 W. Tayler, Chicago, IL 60612. Instrument: Besancon Anomalometer and Accessories. Manufacturer: Statice Etudes et Development, France. Intended use: The instrument is intended to be used in investigations to achieve better understanding of retinal function in individuals with congenital color deficiencies and in patients with retinal disorders, and to determine whether the measurement of flicker sensitivity can be used to evaluate the pathogenesis and prognosis of these disorders. Application received by Commissioner of Customs: April 30, 1985.

Docket No. 85-171. Applicant: The Children's Memorial Hospital, 2300 Children's Plaza, Chicago, IL 60614. Instrument: Electron Microscope, Model JEM-1200EX and Accessories. Manufacturer: Jeol Ltd., Japan. Intended use: Study of the ultrastructural and compositional aspects of experimental animal and human specimens. Experiments to be conducted will focus on the cellular aspects of disease processes in humans. The properties and changes in the cell surface molecules will be of primary interest. The ultimate goal of these investigations is to discover and develop methods and techniques which will arrest and/or prevent birth defects and disease processes in humans. Application received by Commissioner of Customs: April 30, 1985.

Docket No. 85-173. Applicant: Auburn University, Auburn, AL 36849. Instrument: Electron Microscope, Model JEM-1200EX and Accessories. Manfacturer: Jeol, Ltd., Japan. Intended use: Study of the effect of composition and structure on the mechanical, electrical, optical and magnetic properties of metal alloys, polymers and ceramic materials. The experiments to be conducted include:

(1) The effect of grain boundary compositional gradients (30-100Å) regions on the fracture properties of 9-12 Chrome steels

(2) The effect of modified ultrastructure and microchemical gradients on the fatigue behavior of high strength alloys

(3) The effect of solidification parameters and processing on ordering in long range ordered alloys

(4) The effect or precipitation and localized defects on the magnetic and electrical properties of semiconductor materials

(5) Elemental and structural analysis of small 20-50 Å regions of ion-implanted surfaces of metals and oxides

(6) The effect of compositional in homogeneities on the ordering parameters in long range ordered alloys.

In addition, the instrument will be used for educational purposes in the following courses:

Materials Engineering 513: Crystallograpy of Materials

Physics 514: Introduction to Electron Microscopy

Mechanical Engineering 670: Failure Analysis of Materials

Materials Engineering 515: Polymer Technology II

Materials Engineering 446: Theoretical Materials.

Application received by Commissioner of Customs: April 30, 1985.

Docket No. 85-174. Applicant: University of Illinois, Department of Metallurgy & Mining Engineering, 1304 W. Green Street, Urbana, IL 61801. Instrument: Electron Microscope, Model H-800-3 and Accessories. Manufacturer: Hitachi, Japan. Intended use: Study of metals and semiconductors according to cutting edge technology. In metals the primary interest is solid state phase changes and their characteristics as seen at the nearly atomic level. In semiconductors, the interest is in their defect content. Application received by Commissioner of Customs: April 30, 1985.

Docket No. 85-175. Applicant: University of Georgia, Department of

Biochemistry, Boyd Graduate Studies Research Center, Athens, GA 30602. Instrument: Fluorescene Sepctrometer, Model PS 60 with Accessories. Manufacturer: Applied Photophysics Ltd., United Kingdom. Intended use: Studies of the lifetimes and polarization decay of fluorescence of proteins and living cells. Application received by Commissioner of Customs: May 1, 1985.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 85-13504 Filed 6-4-85; 8:45 am]

BILLING CODE 3510-DS-M

Consolidated Decision on Applications for Duty-Free Entry of Spectropolarimeters

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No. 85-008. Applicant: Virginia Commonwealth University/Medical College of Virginia, Richmond, VA 23298. Instrument: Spectropolarimeter, Model J-500C. Manufacturer: Japan Spectroscopic Co., Ltd., Japan. Intended use: See notice on page 47283 in the Federal Register of December 3, 1984. Advice submitted by: The National Institutes of Health: March 7, 1985.

Docket No. 85-034. Applicant: Shriners Hospital for Crippled Children, Portland, OR 97201. Instrument: Spectropolarimeter, Model J-500A and Accessories. Manufacturer: Japan Spectroscopic Co., Ltd., Japan. Intended use: See notice on page 50419 in the Federal Register of December 28, 1983. Advice submitted by: The National Institutes of Health: April 2, 1985.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as each is intended to be used, is being manufactured in the United States.

Reasons: Each foreign instrument to which the foregoing applications relate provides measurement of circular dichroism spectra and high frequency switching (50,000 times per second) between left- and right-circularly polarized light. The National Institutes of Health advises in its respectively cited memoranda that (1) the capabilities of the foreign instruments described above are pertinent to the purposes for which each article is intended to be used and (2) it knows of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 85-13505 Filed 6-4-85; 8:45 am]

BILLING CODE 3510-DS-M

National Bureau of Standards

Announcing a Workshop for Suppliers and Developers of Dictionary Software

The Institute for Computer Sciences and Technology at the National Bureau of Standards (NBS) announces a two-day workshop to discuss the emerging national and international standards for an Information Resource Dictionary System. The workshop will be held on July 29-30, 1985, at the National Bureau of Standards, Gaithersburg, Maryland.

Attendance at the workshop is limited due to the size of the conference facility; therefore, attendance is restricted to current suppliers and developers of dictionary software and the registration is on a first come, first served basis with recommended limitation of two participants per company. Participants are expected to make their own travel arrangements and accommodations. NBS reserves the right to cancel any part of the workshop.

To register, companies should telephone (301) 921-3491 or send a request on company letterhead to: Information Resource Dictionary System Workshop, Attn: Candy Leatherman, National Bureau of Standards, Building 225, Room A255, Gaitherburg, MD 20899.

The registration request must name the company representative(s) and specify the business address and telephone number for each participant. Registration requests must be received by close of business July 15, 1985. An NBS representative will confirm workshop registration reservations by telephone. For additional information, contact Patricia Konig or Alan Goldfine (301) 921-3491.

Dated: May 30, 1985.

Raymond G. Kammer,

Acting Director.

[FR Doc. 85-13467 Filed 6-4-85; 8:45 am]

BILLING CODE 3510-13-M

National Telecommunications And Information Administration

[Docket No. 50572-5072]

Policies and Procedures For Use of Facilities at the Institute for Telecommunication Sciences for Proprietary Research Measurements by Private Entities

AGENCY: National Telecommunications and Information Administration, Department of Commerce.

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Val M. O'Day, Executive Officer; U.S. Department of Commerce, NTIA/ITS.D1; 325 Broadway; Boulder, Colorado 80303; (303) 497-3484.

Notice is hereby given that the Institute for Telecommunication Sciences (ITS) of the National Telecommunications and Information Administration will allow specifically designated facilities to be used by private parties on a reimbursable basis for proprietary research measurements, under certain specified conditions.

The facilities, which are located in or around Boulder, Colorado, include:

• Data Communications Test (DCT) facility—The Data Communication Laboratory test bed is used as a tool for:

—Verifying the validity of new and developing Federal and ANSI data communication standards. It provides realistic data and suggestions for refinements and improvements of a developing standard to the working standards committees.

—Building a representative data base of user-oriented performance paramater values for real world data communication systems such as the ARPANET, several public data networks, and in the future local area networks gateways, and alternate services (since deregulation).

—Evaluating the performance of alternative data communication technologies, systems and services in terms of specified user needs.

Three computers including a transportable desktop UNIX system comprise a portion of the equipment used in the testing. Normally one of the computers serves as the local host to one or more networks and the transportable machine is taken to a

distant city to function as the user of the network under test.

Restrictions on DCT Facility: Use of the test bed requires a distant terminal. The Federal Government shall not permit any of its equipment to leave the Boulder Laboratories. The private entity shall provide its own distant site equipment that must operate per ITS specifications (C language programs under UNIX will be provided by ITS.)

• Mobile Millimeter Wave Measurement (MMWM) facility—

A highly-sophisticated, fully-computerized, 10 to 100 GHz channel probe for determining the performance of potential communications path is available from ITS. Each terminal (transmit and receive) can be fixed or mounted on vans that provide a means to perform path measurements in environments ranging from urban to isolated rural locations. Measurements and analysis from remote termials (via telephone or wire) can be conducted to determine occurrence of signal fades and identification of fade mechanism (rain attenuation, multipath phase interference, antenna beam decoupling, ray defocusing, etc.) as well as channel distoration across a 1.5 GHz bandwidth. Instrumentation to measure meteorological parameters such as rain rate, refractive index, water vapor content, etc., is also available for simultaneous observation.

• Table Mountain Radio Quiet Zone (RQZ) facility—

The Table Mountain Radio Quiet Zone is a very unique facility (one of only two in the nation) which is controlled by public law to keep the lowest possible levels of unwanted radio frequency energy across the spectrum from impinging on the area. This allows research concerned with low signal levels (from deep space, extra-terrestrial, low-signal satellite, very sensitive receiver techniques, etc.) to be carried out without the ever present interference found in most areas of the nation.

As the use of electronic systems (garage door openers, computers, citizen band radios, arc welders, appliances, etc.) increases and the number of radio and TV stations increases along with many new uses for the radio frequency spectrum, the average level of electromagnetic energy across the spectrum increases. This is important to companies involved in developing very sensitive receivers and radio signal processing equipment since the front ends of these receivers are often times saturated by background noise (interference).

• Laboratory Atmospheric Simulator (LAS)—

ITS has a unique laboratory atmospheric simulator (LAS)—

ITS has a unique laboratory atmospheric simulator facility to measure the radio refractive index of moist air. This simulatory is designed to provide highly accurate measurements of millimeter wave attenuation in the frequency range 10 to 220 GHz. The laboratory atmospheric simulator permits the pressure to be varied over six orders of magnitude (10^{-3} to 10^{3} millibars), the relative humidity to be varied between 0 and 100 percent, and the temperature to be varied between 270 and 320 degrees kelvin. The simulator provides a means to conduct millimeter wave propagation experiments in a controlled evironment that can represent atmospheric heights from the earth's surface to 120 km. This latter height provides a realistic basis to conduct experiments that are representative of satellite heights for most applications.

• Antenna Turn-Table Platform (ATTP)—

ITS has an antenna turn-table located at its Table Mountain Radio Quiet Zone facility. This facility is located about 12 miles north of Boulder, Colorado. The turn-table is 37 feet in diameter, and its surface is flush with the test range. It is capable of rotating a 22,000 pound test antenna or vehicle up to three (3) revolutions per minute. The turn table is the roof of a below-ground equipment room. There is a 100-ft dielectric tower which can be used to position sources for test-site illumination.

Proprietary measurements consist of laboratory analysis, measurements, or testing of specific materials, chemicals, or devices done for only a private party where the results do not appear in the public domain and are to be treated as confidential information.

The following conditions apply to the use of ITS facilities for proprietary measurements:

• Alternative facilities of equal or superior performance are not otherwise readily available to the user elsewhere.

• Such use has been found by the ITS Director to be useful or beneficial to the Government itself.

• Equal opportunity for access to the facilities is provided to potential users.

• All appropriate costs related to the use of the facility are borne by the user.

• Such use does not interfere with the execution of ITS programs.

• Such use does not present a danger of injury to ITS staff, the users, or the facilities.

• Such use shall be subject to termination at any time at the discretion of ITS.

• Technical staff from ITS assist the private firm in the operation of all measurement facilities.

• All requirements for protection of proprietary information developed or utilized via the use of ITS measurement facilities is the responsibility of the private firm. If information is required to be made available to ITS personnel in assisting in the measurement activities, a "Confidential Conferee" shall be mutually agreed upon by the private firm and ITS to receive such information. The U.S. Government shall not hold any property rights in any patents and inventions developed by the private firm through the use of ITS measurement facilities.

• Personnel from the private firm using the ITS facilities meet the security clearance requirements established for research associates and guest workers.

• The private firm using the ITS facilities enters into a written agreement with ITS whereby the private firm: (a) Agrees to hold ITS, the Department of Commerce, its employees, and agents, harmless from all liability that may arise with the use of the facilities, and (b) agrees to meet with other conditions relevant to such use as are set out in that agreement.

A party interested in the use of an ITS facility should submit a written request to the Director, ITS, specifying which facility it wishes to use and describing the nature of the work that it intends to peform using that facility. Requests should be sent to: Director, Institute for Telecommunication Sciences; U.S. Department of Commerce, NTIA/ITS.D; 325 Broadway; Boulder, Colorado 80303.

After determining that the conditions for such use can and will be met, and upon approval by the Director, the appropriate Deputy Director of ITS overseeing that facility will enter into a written agreement with the private concern specifying the conditions, time frame and costs associated with the use of the facility.

ITS will collect fees according to a schedule appropriate for such reimbursable activities, taking into account all attributable costs associated with the provision of the facilities for private use, including facility equipment use, salaries associated with on-site monitoring of equipment use, and management fees. An estimate of total costs will be developed and made available to the private firm as soon as

practicable after the facilities request is made.

Scott Mason,

Chief, Management Branch, Office of Policy Coordination and Management, National Telecommunications and Information Administration.

[FR Doc. 85-13401 Filed 6-4-85; 8:45 am]

BILLING CODE 3510-60-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

New Limits for Certain Man-Made Fiber Textile Products Produced or Manufactured in Japan

May 31, 1985.

On October 5 and 22, 1984, notices were published in the **Federal Register** (49 FR 40076, 41269) announcing that the Government of the United States requested consultations with the Government of Japan concerning work gloves in Category 631pt. and men's and boys' other coats of man-made fibers in Category 634 under the terms of the Bilateral Cotton, Wool and Man-made Textile Agreement of August 17, 1979, as amended, between the two governments.

The purpose of this notice is to announce that consultations on these categories were held January 28–31, 1985. The following limits were agreed for Categories 631pt. and 634 for goods exported during 1985.

Category	Agreed limit
631pt.	290,000 dozen pairs.
634	95,000 dozen.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-13503 Filed 6-4-85; 8:45 am]

BILLING CODE 3510-DR-M

CONSUMER PRODUCT SAFETY COMMISSION

Interagency Committee on Cigarette and Little Cigar Fire Safety; Technical Study Group Meeting

AGENCY: Interagency Committee on Cigarette and Little Cigar Fire Safety.

ACTION: Notice of meeting.

SUMMARY: The Technical Study Group on Cigarette and Little Cigar Fire Safety will meet on July 11 and 12, 1985, in Washington, D.C. The purpose of this meeting is to hear and discuss comments related to implementaion of the Cigarette Safety Act.

DATE: The meeting will be from 9:30 a.m. to 5:00 p.m. on July 11, 1985. It will resume at 9:30 a.m. on July 12, 1985, and will conclude that day.

ADDRESS: The meeting will be in the Auditorium, first floor of the Hubert Humphrey Building, 200 Independence Ave., SW, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Ms. Kimberly Hylton, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 492-6554.

SUPPLEMENTARY INFORMATION: The Cigarette Safety Act of 1984 (Pub. L. 98-567; 98 Stat. 2925, October 30, 1984) created the Technical Study Group on Cigarette and Little Cigar Fire Safety to prepare a final technical report to Congress within 30 months concerning the technical and commercial feasibility, economic impact, and other consequences of developing cigarettes and little cigars with minimum propensity to ignite upholstered furniture and mattresses.

The Technical Study Group will meet on July 11 and 12, 1985, to discuss the following topics:

1. The portion of the meeting to be held on July 11, 1985, will be devoted to hearing from any member of the public who wishes to present information or views on the implementation of the Cigarette Safety Act. Examples of the kinds of information which might be presented by interested members of the public include presentations about patented inventions intended to reduce the potential hazard of cigarettes as a source of ignition of upholstered furniture and mattresses, and information about studies or research concerning cigarettes as a source of ignition.

Each person desiring to make a presentation should provide a brief summary to Colin Church, Consumer Product Safety Commission, Room 420, Washington, D.C. 20207, by July 1, 1985. Presentations will be limited to approximately 20 minutes. Additional restrictions on the length of presentations may be imposed, depending upon the number of persons who wish to speak. The Technical Study Group is neither soliciting nor expecting to discuss confidential business information.

2. The portion of the meeting to be held on July 12, 1985, will consist of a review of the Technical Study Group of information that was provided on July 11. In addition, the Group will discuss testing at the Fire Research Center, National Bureau of Standards, and will conduct such other business as it finds appropriate.

The July 12 portion of the meeting will be open to observation by members of the public, but only members of the Technical Study Group may participate in the discussion.

Dated: May 30, 1985.

Colin B. Church,

Federal Employee Designated by the Interagency Committee on Cigarette and Little Cigar Fire Safety.

[FR Doc. 85-13448 Filed 6-4-85; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Veterans' Cost-of-Instruction Payments Program: Application Notice

AGENCY: Department of Education.

ACTION: Veterans' Cost-of-Instruction Payments Program: Application Notice for New Awards for Fiscal Year 1985: Extension of Closing Date.

The Assistant Secretary extends to June 14, 1985, the closing date by which institutions of higher education must submit applications for new awards under the Veterans' Cost-of-Instruction Payments (VCIP) program.

Because of an error in the mailing process, approximately seventy institutions did not receive VCIP applications in the initial mass mail-out in March, 1985. These institutions were unable to apply for new awards by the May 10, 1985 closing date.

The original Notice was published in the **Federal Register** on January 22, 1985 (50 FR 2849). The reader should refer to this application notice for complete information concerning available funds and program information.

Authority for this program is contained in section 420 of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1070 e-1)

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Department of Education, Office of Postsecondary Education, Division of Higher Education Incentive Programs (VCIP), Attention: 84.540, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of Education. If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applciant should check with its local post office.

An applicant is encouraged to use registered or at least first-class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the Division of Higher Education Incentive Programs (VCIP), U.S. Department of Education (Room 3022-ROB-3), 7th and D Streets SW., Washington, D.C.

The Division of Higher Education Incentive Programs will accept hand delivered applications between 8:00 a.m. and 4:30 p.m. (Washington D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Further Information: For further information contact the U.S. Department of Education, Office of Postsecondary Education, Division of Higher Education Incentive Programs (VCIP), 400 Maryland Avenue SW., Washington, D.C. 20202. Telephone: (202) 245-3253.

(20 U.S.C. 1070 e-1)

Catalog of Federal Domestic Assistance Number 84.064; Higher Education Veterans' Cost-of Instruction Program (VCIP))

Dated: May 31, 1985.

Edward M. Elmendorf,

Assistant secretary for Postsecondary Education.

[FR Doc. 85-13529 Filed 6-4-85; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER85-518-000 et al.]

Electric Rate and Corporate Regulation Filings; Alamito Co. et al.

Take notice that the following filings have been made with the commission: May 28, 1985.

1. Alamito Company

[Docket No. ER85-518-000]

Take notice that on May 14, 1985, Alamito Company (Alamito) tendered for filing Amendment No. 5 to the Tucson-San Diego Ten Year Power Sale and Interconnection Agreement. That Agreement was assigned by Tucson Electric Power Company to Alamito effective November 1, 1984. The purpose of Amendment No. 5 is to change the capacity factor from 60% to 65% at which San Diego can take delivery of power during the Phase IV period of that Ageement.

Alamito requests an effective date of June 1, 1985.

Comment date: June 10, 1985, in accordance with Standard Paragraph E at the end of this notice.

2. Pacific Power & Light Company, an Assumed Business Name of Pacificorp

[Docket No. ER85-519-000]

Take notice that on May 17, 1985, Pacific Power & Light (Pacific) an assumed business name of Pacificorp, tendered for filing Sixth Revised Sheet Nos. 5A, 5B and 5C, superseding Fifth Revised Sheet Nos. 5A, 5B and 5C (Index of Purchasers) of Pacific's FERC Electric Tariff, Original Volume No. 3 (Tariff), and a Service Agreement between Pacific and Southern California Edison Company.

Pacific States that the Service Agreement provides for the sale of nonfirm power and energy, in accordance with the rates specified in Service Schedule PPL-3 under Pacific's Tariff.

Pacific requests an effective date of February 15, 1985, and therefore requests waiver of the Commission's notice requirements.

Comment date: June 10, 1985, in accordance with Standard Paragraph E at the end of this notice.

3. Tampa Electric Company

[Docket No. ER85-520-000]

Take notice that on May 17, 1985, Tampa Electric Company (Tampa) tendered for filing Service Schedule X providing for extended economy interchange service between Tampa and Jacksonville Electric Authority (Jacksonville). Tampa states that Service Schedule X is submitted for inclusion as a supplement under the existing agreement for interchange service between Tampa and Jacksonville, designated as Tampa's Rate Schedule FERC No. 14.

Tampa proposes an effective date of May 1, 1985, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served on Jacksonville and the Florida Public Service Commission.

Comment date: June 10, 1985, in accordance with Standard Paragraph E at the end of this notice.

4. Kansas Gas and Electric Company

[Docket No. ER85-521-000]

Take notice that on May 20, 1985, Kansas Gas and Electric Company (KG&F) tendered for filing proposed changes in its FERC Electric Service Tariff Nos. 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 134, 135, 144, 149, 151, 152, 153, 154, 155, 156, 157 and 159. The proposed changes would modify the fuel adjustment clauses so that the fuel adjustment charges will not be affected by energy produced by facilities underground test operation.

The proposed modification is required to ensure the value of test energy produced by the Wolf Creek nuclear power plant during its precommercial operation will be accounted for properly.

KG&F proposes an effective date of June 1, 1985, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon KG&E's jurisdictional customers and the State Corporation Commission of Kansas.

Comment date: June 10, 1985, in accordance with Standard Paragraph E at the end of this notice.

5. Kansas Gas and Electric Company

[Docket No. ER85-522-000]

Take notice that on May 20, 1985, Kansas Gas and Electric Company (KG&F) tendered for filing a proposed service schedule in its FERC Electric Service Tariff No. 151. The proposed service schedule would permit the transmission of test energy available to the Kansas Electric Power Cooperative, Inc. (KEPCo) to points of interconnection between KG&E and neighboring utilities.

The proposed service schedule is required to ensure that KEPCo realizes the full value of test energy produced by the Wolf Creek nuclear power plant during the precommercial operation.

KG&E proposes an effective date of June 1, 1985, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon KEPCo and the State Corporation Commission of Kansas.

Comment date: June 10, 1985, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filng are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-13478 Filed 6-4-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP85-522-000 et al.]

Natural Gas Certificate Filings; Arkla Energy Resources et al.

Take notice that the following filings have been made with the commission:

1. Arkla Energy Resources, a Division of Arkla, Inc.

[Docket No. CP85-522-000]

May 28, 1985.

Take notice that on May 20, 1985, Arkla Energy Resources, a division of Arkla, Inc. (Arkla), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP85-522-000 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the continued transportation of natural gas for an existing industrial sale customer, and operation of jurisdictional facilities in connection therewith, and for permission and approval to abandon such service at the expiration of the transportation agreement, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Arkla proposes to transport up to 18,000 Mcf of natural gas per day on a best-efforts basis for International Paper Company (IPC). Arkla states that it would receive gas purchased by IPC from other suppliers at existing points in Arkansas and Oklahoma and deliver such gas to IPC's plant near Pine Bluff, Arkansas. Arkla also requests flexible authority to add and/or delete sources of gas and/or receipt and delivery points. Arkla states that any changes made under the flexible authority would be on behalf of the same end-user at the same end-use location and would remain within the volume levels proposed.

For the transportation service, Arkla would charge the rate set forth in either its Ecoshare Transportation Rate Schedule or its Rate Schedule TRG-1, it is explained. Arkla states that it would provide the proposed servcie for a limited term ending on August 1, 1985, which term would be automatically renewed for further periods of one year, unless either party gives notice of its desire not to renew.

Arkla states that it is presently providing the transportation servcie pursuant to § 157.209 of the Commission's Regulations.

Arkla also requests abandonment authority permitting abandonment of the transportation service and incidental facilities on the expiration date specified in the transportation agreement between Arkla and IPC.

Comment date: June 12, 1985, in accordance with Standard Paragraph F at the end of this notice.

2. Arkla Energy Resources, a Division of Arkla, Inc.

[Docket No. CP85-523-000]

May 28, 1985.

Take notice that on May 20, 1985, Arkla Energy Resources, a division of Arkla, Inc. (Arkla), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP85-523-000 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the continued transportation of natural gas for an existing industrial sale customer, and operation of jurisdictional facilities in connection therewith, and for permission and approval to abandon such service at the expiration of the transportation agreement, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Arkla proposes to transport up to 18,000 Mcf of natural gas per day on a best-efforts basis for International Paper Company (IPC). Arkla would receive gas purchased by IPC from other suppliers at existing points in Arkansas and Oklahoma and deliver such gas to IPC's plant in Camden, Arkansas, it is stated. Arkla also requests flexible authority to added and/or delete sources of gas and/or receipt and delivery points. Arkla states that any changes made under the flexible authority would be on behalf of the same end-user at the same end-use location and would remain within the volume levels proposed.

For the transportation service, Arkla would charge the rate set forth in either its Ecoshare Transportation Rate Schedule or its Rate Schedule TRG-1, it is explained. Arkla states that it would provide the proposed service for a limited term ending on August 1, 1985, which term would be automatically renewed for further periods of one year, unless either party gives notice of its desire not to renew.

Arkla states that it is presently providing the transportation servcie pursuant to § 157.209 of the Commission's Regulations.

Arkla also requests abandonment authority permitting abandonment of the transportation service and incidental facilities on the expiration date specified in the transportation agreement between Arkla and IPC.

Comment date: June 12, 1985, in accordance with Standard Paragraph F at the end of this notice.

3. Arkla Energy Resources, a Division of Arkla, Inc.

[Docket No. CP85-524-000]

May 28, 1985.

Take notice that on May 20, 1985, Arkla Energy Resources, a division of Arkla, Inc. (Arkla), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP85-524-000 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the continued transportation of natural gas for an existing industrial sale customer, and operation of jurisdictional facilities in connection therewith, and for permission and approval to abandon such service at the expiration of the transportation agreement, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Arkla proposes to transport up to 22,000 Mcf of natural gas per day on a best-efforts basis for Aluminum Company of America (Alcoa). Arkla

would receive gas purchased by Alcoa from other suppliers at existing points in Arkansas and Oklahoma and deliver such gas to Alcoa's plant near Bauxite, Arkansas, it is stated. Arkla also requests flexible authority to add and/or delete sources of gas and/or receipt and delivery points. Arkla states that any changes made under the flexible authority would be on behalf of the same end-user at the same end-use location and would remain within the volume levels proposed.

For the transportation service, Arkla would charge the rate set forth in either its Ecoshare Transportation Rate Schedule or its Rate Schedule TRG–1, it is explained. Arkla states that it would provide the proposed servcie for a limited term ending on August 1, 1985.

Arkla states that it is presently providing the transportation servcie pursuant to § 157.209 of the Commission's Regulations.

Arkla also requests abandonment authority permitting abandonment of the transportation service and incidental facilities on the expiration date specified in the transportation agreement between Arkla and Alcoa.

Comment date: June 12, 1985, in accordance with Standard Paragraph F at the end of this notice.

4. Arkla Energy Resources, a Division of Arkla, Inc.

[Docket No. CP85–525–000]

May 28, 1985.

Take notice that on May 20, 1985, Arkla Energy Resources, a division of Arkla, Inc. (Arkla), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP85–525–000 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the continued transportation of natural gas for an existing industrial sale customer, and operation of jurisdictional facilities in connection therewith, and for permission and approval to abandon such service at the expiration of the transportation agreement, all as more fuly set forth in the application which is on file with the Commission and open to public inspection.

Arkla proposes to transport up to 37,500 Mcf of natural gas per day on a best-efforts basis for Agrico Chemical Company (Agrico). Arkla would receive gas purchased by Agrico from other suppliers at existing points in Arkansas and Oklahoma and deliver such gas to Agrico's plant near Blytheville, Arkansas, it is stated. Arkla also requests flexible authority to add and/or delete sources of gas/or receipt and delivery points. Arkal states that any changes made under the flexible authority would be on behalf of the same end-user at the same end-use location and would remain within the volume levels proposed.

For the transportation service, Arkla would charge the rate set forth in either its Ecoshare Transportation Rate Schedule or its Rate Schedule TRG–1, it is explained. Arkla states that it would provide the proposed service for a limited term ending on August 1, 1985, which term would be automatically renewed for further periods of one year, unless either party gives notice of its desire not to renew.

Arkla states that it is presently providing the transportation service pursuant to § 157.209 of the Commission's Regulations.

Arkla also requests abandonment authority permitting abandonment of the transportation service and incidental facilities on the expiration date specified in the transportation agreement between Arkla and Agrico.

Comment date: June 12, 1985, in accordance with Standard Paragraph F at the end of this notice.

5. Arkla Energy Resources, a Division of Arkla, Inc.

[Docket No. CP85–475–000]

May 28, 1985.

Take notice that on April 30, 1985, Arkla Energy Resources, a division of Arkla, Inc. (Arkla), P.O. Box 21734, Shreveport, Louisiana 71151 filed in Docket No. CP85–475–000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to continue operating a sales tap and the transportation of natural gas under the certificate issued in Docket Nos. CP82–384–000 and CP82–384–001 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Arkla proposes to continue operation of sales tap facilities and to continue deliveries of up to 30,000 Mcf of gas per day to Texas Eastman Company's plant near Longview, Texas. Arkla states in its original authorization for this service in Docket No. CP83–275–000 was limited to a term of one year from the date of initial delivery, which occurred on October 8, 1984, and that, hence, the one-year term of Arkla's present authorization will end on October 7, 1985.

Comment date: July 12, 1985, in accordance with Standard Paragraph G at the end of this notice.

6. Colorado Interstate Gas Company

[Docket No. CP85–500–000]

May 29, 1985.

Take notice that on May 9, 1985, Colorado Interstate Gas Company (CIG), Post Office Box 1078, Colorado Springs, Colorado 80944, filed in Docket No. CP85–500–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for permission to abandon metering facilities formerly used to effectuate the sale and delivery of natural gas to Reserve Pipeline Company (Reserve) in Finney County, Kansas, under the authorization issued in Docket No. CP83–21–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

CIG states that the metering facilities have not been used for sales since July 1971. CIG asserts that the Reserve facilities are now owned by Rocky Mountain Natural Gas Company, Inc. (Rocky Mountain) and that Rocky Mountain has consented to the proposed abandonment.

Comment date: July 15, 1985, in accordance with Standard Paragraph G at the end of this notice.

7. Colorado Interstate Gas Company

[Docket No. CP85–504–000]

May 29, 1985.

Take notice that on May 10, 1985, Colorado Interstate Gas Company (CIG), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP85–504–000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authority to establish new delivery points for the City of Colorado Springs (Colorado Springs) and for Peoples Natural Gas Company, Division of InterNorth, Inc. (Peoples), both existing customers, under the certificate issued in Docket No. CP83–21–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

CIG states that Colorado Springs has requested that CIG provide a new point of delivery off of CIG's existing 20-inch Drennan Road sales lateral. CIG indicates that the delivery point would consist of a tap and appurtenant facilities downstream of CIG's Drennan Road lateral measuring facilities and that no additional measuring facilities would be required as all volumes to be delivered at the new delivery point would continue to be metered up-stream of the new delivery point at the existing

measuring facilities adjacent to CIG's 20-inch main transmission line.

CIG states that Peoples has requested that CIG provide a new point of delivery off of CIG's 3-inch and 2-inch loop Castle Rock sales lateral. CIG indicates that the new delivery point would require a new point of interconnection between CIG and Peoples located in Douglas County, Colorado, and that no additional measuring and/or regulating facilities would be required as all volumes to be delivered to Peoples for the town of Castle Rock and environs are and would continue to be metered at the existing Castle Rock measuring facilities.

CIG proposes to construct and operate a new tap on its 20-inch Drennan Road lateral to provide an additional point of delivery to Colorado Springs. CIG indicates Colorado Springs would reimburse CIG for the cost of constructing the proposed facilities. CIG also proposes to add a new point of delivery on its Castle Rock lateral and loop for the benefit of Peoples. CIG indicates that Peoples would construct the proposed taps on CIG facilities and assume the cost of such construction. The total volumes of natural gas to be delivered to either of the two customer companies would not exceed the daily or annual entitlements presently authorized for sale and delivery to Colorado Springs and Peoples, it is explained.

Comment date: July 15, 1985, in accordance with Standard Paragraph G at the end of this notice.

8. Columbia Gas Transmission Corporation

[Docket No. CP85-505-000]

May 28, 1985.

Take notice that on May 10, 1985, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP85-505-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Shenango, Inc. (Shenango), under the certificate issued in Docket No. CP83-76-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Columbia proposes to transport up to 1,030 million Btu equivalent of natural gas per day for Shenango through December 31, 1985. Columbia states that the gas to be transported would be purchased from Industrial Energy Services Company (IESCO) and would be used as process over fuel in Shenango's Neville Island, Pennsylvania, plant.

It is indicated that Shenango has made arrangements to purchase this gas from IESCO. Columbia states that it would receive the gas from IESCO and redeliver the gas to Columbia Gas of Pennsylvania, Inc. (CPA), the distribution company serving Shenango, near Neville Island, Pennsylvania.

Columbia states that it would charge one of the rates in its Rate Schedule TS-1 for its transportation service: gas received from recipt points other that Leach, Kentucky—29.93 cents per million Btu provided the volumes are within CPA's total daily entitlements (TDE). However, Columbia states it would charge 41.27 cents per million Btu for gas received from receipt points other than Leach, Kentucky, if the volumes are in excess of CPA's TDE's. Columbia further states it would retain 2.43 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas. In additiona, Columbia states it would collect the General R&D Funding Unit of the Gas Research Institute for all quantities transported under the transportation arrangement.

Comment date: July 12, 1985, in accordance with Standard Paragraph G at the end of this notice.

9. K N Energy, Inc.

[Docket No. CP85-508-000]

May 28, 1985.

Take notice that on May 13, 1985, K N Energy, Inc. (K N), P.O. Box 15265, Lakewood, Colorado 80215, filed in Docket No. CP85-508-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate taps for direct sales to five customers in Kansas and Nebraska under the certificate issued in Docket Nos. CP83-140-000 and CP83-140-001 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

K N proposes to construct and operate the taps on its pipeline in Kansas and Nebraska for residential, agricultural and commercial end uses. It is stated that the proposed peak day volume of 68 Mcf and annual volume of 2,520 Mcf to be delivered through the taps would have no negative impact on K N's deliveries to existing customers. K N indicates that the proposed taps would serve the customers listed below with corresponding gas volumes and end uses.

Customer	Location of tap	Approximately quatity to be sold (Mcf)		End use of gas
		Peak day	Annual	
Resident/Occupant, Douglas Kess	Rooks County, Kanasas	2	120	Domestic.
Resident/Occupant, Golda Crabtree	Hall County, Nebraska	25	800	Irrigation.
Resident/Occupant, Thilo Poessnecket	Holt County, Nebraska	25	800	Irrigation.
Resident/Occupant, Helmench & Payne, Inc	Rooks County, Kanasas	10	600	Small Commercial.
Resident/Occupant, SSA, Inc	Buffalo County, Nebraska	6	200	Irrigation.

Comment date: July 12, 1985, in accordance with Standard Paragraph G at the end of this notice.

10. Transcontinental Gas Pipe Line Corporation

[Docket No. CP85-482-000]

May 28, 1985.

Take notice that on May 3, 1985, Trancontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP85-482-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate certain pipeline and appurtenant facilities in the Ship Shoal area, offshore Louisiana, under the certificate issued in Docket No. CP82-426-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Transco proposes to construct and operate approximately 6.48 miles of 24-inch pipeline extending from the producer platform in Ship Shoal area, south addition, Block 332 (Block 332) to a point of connection with the existing 24-inch pipeline of Transco in South Timbalier area, south addition, Block 300, together with a meter and regulator station on the producer plaform, all offshore Louisiana. It is asserted that the proposed facilities would be constructed in order to attach proven and probable gas reserves estimated to be 66,129,000

Mcf which would be purchased by Transco from Arco Oil and Gas Company in Block 332. It is indicated that the estimated average deliverability of the Block 332 reserves is 88,000 Mcf per day.

Transco states that the proposed facilities would be designed with a maximum capacity of 160,000 Mcf per day and would cost an estimated $12,782,000, which would be financed initially through short-term loans and available cash. It is anticipated that the facilities would be completed and placed in service by late 1985.

Comment date: July 12, 1985, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraph

F. Any person desiring to be heard or to make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., 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, 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take futher notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the 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. 85-13479 Filed 6-4-85; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30254; PH-FRL 2845-8]

Janssen Pharmaceutica; Application To Register a Pesticide Product

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipts of an application to register a pesticide product containing an active ingredient not included in any previously registered product pursuant to the provision of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comment by July 30, 1985.

ADDRESS: By mail submit comments identified by the document control number [OPP-30254] and the file number (43813-RN) to:

Information Services Section (TS-757C), Program Management and Support Division, Attn: Product Manager (PM) 21, Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

In person, bring comments to: Room 236, CM No. 2, Attn: PM 21, Registration Division (TS-767C), Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be dislcosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Henry Jacoby PM 21, (703-557-1900).

SUPPLEMENTARY INFORMATION: Janssen Pharmaceutica, PO Box 344, Washington Crossing, NJ 08560, has submitted an application to EPA to register the product Rodewod 10 OL, EPA File Symbol 43813-RN, containing the active ingredient 1-{[2-(2,4-dichlorophenyl)-1,3-dioxolan-2-yl]methyl)-1*H*-1,2,4-triazole at 1.2 percent, pursuant to the provision of section 3(c)(4) of FIFRA. The application proposes that the product be classified for general use as wood preservative. Notice of receipt of this application does not imply a decision by the Agency on the application.

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register.** The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the Program Management and Support Division (PMSD) office at the adress sprovided from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the PMSD office (703-557-3262), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

Dated: May 24, 1985.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 85-13514 Filed 6-4-85; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30086A; PH-FRL 2846-6]

Microbial Pesticides; Procedure for Notification of Small Scale Field Testing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) issued a notice, published in the **Federal Register** of October 17, 1984 (49 FR 40659), requiring notification to the Agency prior to all small scale field testing involving certain microbial pesticides in order to determine whether an experimental use permit (EUP) will be required for the testing. This notice sets forth procedures for submitting notifications to the Agency pursuant to the Interim Policy on Small Scale Field Testing of Microbial Pesticides.

DATE: This policy is effective June 5, 1985.

ADDRESS:

By mail, submit all notifications to: Ferial Bishop, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460

In person, bring notifications to: Room 716G, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT:

By mail: Thomas C. Ellwanger, Jr., Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460

Office location and telephone number: Room 241, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA (703-557-1650).

SUPPLEMENTARY INFORMATION:

I. Background

EPA issued a notice published in the **Federal Register** of October 17, 1984 (49 FR 40659) which, as part of an interim policy under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.*, required notification to the Agency of all small scale field tests involving certain microbial pesticides at least 90 days prior to testing in order to determine whether an EUP will be required. The microbial pesticides covered by the notification policy are those which contain naturally occurring microorganisms for use in environments where they are not native (nonindigenous or exotic) or microorganisms which have been genetically altered or manipulated by humans. This notice sets forth procedures for submitting such notification to the Agency to ensure that review of the notification will proceed in a timely manner.

II. Procedures

1. Determine if notification is required. If uncertain of the applicability of the requirement for notification of a particular organism, product, or test, contact Thomas C. Ellwanger at the previously given address.

2. If notification is required, submit eight copies of all information included in the notification as indicated under **ADDRESS.** The types of information to be submitted are those stated in the Iterim Policy (49 FR 40659).

3. Type the phrase "BIOTECH NOTIFICATION" in bold face type at the top of the cover letter submitted with the notification.

4. Identify those portions of the notification for which a confidentiality claim is being asserted. If submission of the notification itself and the fact that such testing is proposed are considered to be confidential, include a statement in the cover letter requesting that this information not be disclosed to the public. Submitters of information required by this Notice are encouraged to make their submittals in accordance with requirements that are described in §§ 158.32 and 158.33 of the proposed section 3 regulations that were published in the **Federal Register** of Septembr 26, 1984 (49 FR 37916). While the proposed data submittal requirements are not yet final (hence not binding on data submitters at this time). the Agency feels that the benefits to submitters and to the Government are significant enough to encourage their use before the section 3 regulations become final.

Early adoption of this new data submittal method will not compromise any protections or entitlements involving a submitter's data that are provided by FIFRA. Submitters may, irrespective of the submittal method they use, assert a claim of confidentiality for all or part of the information submitted with this notification by following the procedures described in 40 CFR 2.203(b). Information so designated will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. Information not designated as confidential may be disclosed publicly by EPA without prior notice to the submitter.

5. Submit notification suficiently in advance of the proposed testing date to allow for review of the notification and for the contingency that an EUP may be required. Upon notification, the Agency has 90 days to evaluate the information submitted. If, within 90 days, the Agency determines that an EUP will be required, additional time should be allowed to prepare and submit the EUP application for the Agency to review that submission. FIFRA allows the Agency up to 120 days for the review of an EUP appllication.

Copies of the Interim Policy on Small Scale Field Testing of Microbial Pesticides (49 FR 40659) are available by mail from the address indicated under **ADDRESS.**

These procedures are effective immediately.

Dated: May 29, 1985.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 85-13517 Filed 6-4-85; 8:45 am]

BILLING CODE 6560-50-M

[OPP-00204; PH-FRL 2846-5]

Open Meeting of EPA/SFIREG Applicator Certification and Training Task Force

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a 1-day meeting of the EPA/SFIREG Applicator Certification and Training Task Force. The meeting will be open to the public.

DATE: Monday, June 24, 1985, beginning at 8:30 a.m. and ending approximately at 4 p.m.

ADDRESS: The meeting will be held at: Environmental Protection Agency, Rm. 1112, Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Betty L. Winter, Office of Pesticides and Toxic Substances (TS-788), Environmental Protection Agency, Room E-639A, 401 M Street SW., Washington, DC 20460 (202-382-2912).

SUPPLEMENTARY INFORMATION: The primary topic for discussion at this meeting will be areas for improving current applicator certification and training and programs and the restricted use classification.

Dated: May 30, 1985.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 85-13516 Filed 6-4-85; 8:45 am]

BILLING CODE 6560-50-M

[OPP-50640; PH-FRL 2846-4]

Sodium Fluoroacetate; Receipt of Application For an Experimental Use Permit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received an application from the State of Montana Department of Agriculture for an Experimental Use Permit (EUP), 53669-EUP-R. The application proposes allowing the use of 0.63 pound of sodium fluoroacetate (Compound 1080) on grain baits to control the Richardson ground squirrel (*Spermophilus richardsoni*). Montana proposes to test up to 600 acres of range, pasture, or hayland in 2 treatment periods (300 acres per treatment period). Up to 1,800 pounds of Compound 1080 treated grain broadcast at 6 pounds per swath acre may be used to test 3 bait concentrations for efficacy against the Richardson ground squirrel. The application proposes that the permit run for 1 year starting May 1, 1985.

DATE: Written comments must be recieved on or before July 5, 1985.

ADDRESS: Comments, in triplicate, should bear the docket control number OPP-50640 and be submitted to: Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

A copy of the Montana application and any copies of public comments filed regarding this notice will be made available for public inspection in Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: William Miller, Product Manager (PM) 16, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460

Office location and telephone number: Room 211, CM#2, 1921 Jefferson Davis Highway, Arlington, VA (703-557-2600).

SUPPLEMENTARY INFORMATION: Montana's EUP requests that EPA approve the experimental use up to 1,800 pounds of Compound 1080 treated bait on a maximum of 600 acres of range, pasture, or hayland in Cascade County, Montana. The specific study sites will be selected after the Richardson ground squirrels emerge after winter hibernation. Plot size will be large enough to provide a visual squirrel activity index before baiting of 20 to 40 animals. Visual counts are proposed to establish pretreatment and posttreatment activity indexes on both the treated and untreated control or reference plots. The bait carrier is to be oats, and the bait will be formulated at concentrations of 0.05 percent, 0.35 percent and 0.02 percent and will be dyed yellow with Auramine 0 Concentrate 130 percent to discourage consumption by non-target birds. Bait is to be applied using a broadcast seeder mounted on an all-terrain 3-wheel motorcycle. Baiting will not commence until it has been determined in preapplication bait acceptance tests that the squirrels are accepting the bait. There are two proposed treatment periods to be evaluated: (1) During the breeding period prior to vegetation green-up and (2) post-juvenile emergence and weaning prior to estivation.

The objective is to determine the efficacy of Compound 1080 against the Richardson ground squirrel.

Dated: May 29, 1985.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 85-13515 Filed 6-4-85; 8:45 am]

BILLING CODE 6560-50-M

[OPP-100022; PH-FRL 2845-9]

Transfer of Data to Dynamac and Mitre Corporations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA plans to transfer infomration submitted under sections 3, 6, and 7 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) to Dynamac Corporation of Rockville, MD, under Contract No. 68-02-3990, and to Mitre Corporation of McLean, VA, under Contract No. 68-02-3991. These contractors shall perform services for the Office of Toxic Substances (OTS) of EPA. Some of the information that will be made available to the contractors has been claimed to be confidential business information (CBI). Information will be made available to the contractors consistent with the requirements of 40 CFR 2.301(h). These actions will enable the contractors to fulfill the obligations of their contracts, and this notice serves to notify affected persons.

DATE: Dynamac Corporation and Mitre Corporation will be given access to these documents no sooner than June 10, 1985.

FOR FURTHER INFORMATION CONTACT:

By mail: William C. Grosse, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 222, CM #2, 1921 Jefferson Davis Highway, Arlington, Virginia (703-557-2613).

SUPPLEMENTARY INFORMATION: Under its contract, Dynamac Corporation, which supports health and environmental assessments of Premanufacture Notice (PMN) chemicals follow-up cases undergoing evaluation for potential Significant New Use Rules (SNURs) and new chemicals submitted as PMNs, may review chemical data, including CBI, submitted to EPA under FIFRA.

Under its contract, Mitre Corporation, which supports the health assessment of existing chemicals undergoing review and review of new chemical substances in the Office of Toxic Substances, may review chemical data, including CBI, submitted to EPA under FIFRA.

Section 10(e) of FIFRA provides that information that is considered by the submitter to be trade secret or commerical or financial as described by FIFRA section 10(d) may be disclosed to an authorized contractor when such disclosure is necessary for the performance of the contract. EPA routinely receives such information as part of the data that are submitted by pesticide registrants and others as provided for in FIFRA sections 3, 6, and 7.

Contractors are authorized to receive such data if the EPA program office managing the contract makes the determinations specified in 40 CFR 2.301(h)(2) as referenced in § 2.307. Such determinations have been made concerning the contracts with Dynamac Corporation and Mitre Corporation.

FIFRA section 10(f) provides a criminal penalty for wrongful disclosure of confidential business information, whether such disclosure is made by an EPA employee or an EPA contactor.

The contracts with Dynamac Corporation and Mitre Corporation specifically prohibit disclosure of confidential business information to any third party in any form without written

authorization from EPA, and personnel of these contractors will be required to sign a nondisclosure agreement before they are permitted access to such information.

Dated: May 28, 1985.

Steven Schatzow,

Director, Office of Pesticide Programs.

[FR Doc. 85-13513 Filed 6-4-85; 8:45 am]

BILLING CODE 6560-50-M

[OPP-00205; PH-FRL 2847-7]

Subcommittee Meeting of Administrator's Pesticide Advisory Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Meeting.

SUMMARY: The Administrator's Pesticide Advisory Committee (APAC) Subcommittee on Labeling will hold a meeting to evaluate existing communication networks used to disseminate information regarding the safe use and handling of pesticides. The meeting will be open to the public.

DATE: The meeting will take place on Wednesday, June 19, 1985, at 12 noon and adjourn by 5 p.m.

ADDRESS: The Subcommittee meeting will be held in: Environmental Protection Agency, Rm. 1112, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Betty Winter, Executive Secretary, Administrator's Pesticide Advisory Committe (TS.788), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-639, 401 M St., SW., Washington, D.C. 20460, (202-382-2916).

SUPPLEMENTARY INFORMATION: The meeting will be open to the public, and time will be set aside for public comments concerning the agenda items. Any member of the public wishing to present an oral or written statement relative to the Subcommittee's topics of discussion for this meeting should contact the APAC Executive Secretary at the address or telephone number listed above. A complete agenda will be available at the meeting.

Dated: June 3, 1985.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 85-13682 Filed 6-4-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 85-134]

Private Networks, Inc., et al.; Memorandum Opinion and Order

In re Applications of Private Networks, Inc. File No. 50183-CM-P-74, Digital Paging Systems File No. 50074-CM-P-74, KC Corporation, File No. 50229-CM-P-74, Greater Media, Inc. File No. 50230-CM-P-74, Vidicom, Inc. File No. 50231-CM-P-74, Multipoint Information Systems, Inc. File No. 50232-CM-P-74, For Constructions Permits in the Multipoint Distribution Service for a new station on Channel 2 at Washington, D.C.

Adopted May 1, 1985.

Released May 24, 1985.

By the Common Carrier Bureau.

1. For consideration are the above-referenced applications. These applications are for construction permits in the Multipoint Distribution Service and they propose operations on Channel 2 at Washington, D.C. The applications are therefore mutually exclusive and, under present procedures, require comparative consideration. These applications have been amended as result of informal requests by the Commission's staff for additional information. There were no petitions to deny filed.

2. Upon review of the captioned applications,we find that these applicants are legally, technically, financially, and otherwise qualified to provide the services which they propose, and that a hearing will be required to determine, on a comparative basis, which of these applications should be granted.

3. Accordingly, it is hereby ordered, That pursuant to Section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e) and Section 0.291 of the Commission's Rules, 47 CFR 0.291, the above-captioned applications are designated for hearing, in a consolidated proceeding, at a time and place to be specified in a subsequent Order, to determine, on a comparative basis, which of the above-capitioned applications should be granted in order to best serve the public interest, convenience and necessity. In making such a determination, the following factors shall be considered:[1]

(a) The relative merits of each proposal with respect to efficient frequency use, particularly with regard to compatibility with co-channel use in nearby cities and adjacent channel use in the same city;

(b) The anticipated quality and reliability of the service proposed, including installation and maintenance programs; and

(c) The comparative cost of each proposal considered in context with the benefits of efficient spectrum utilization and the quality and reliability of service as set forth issues (a) and (b)

4. It is further ordered, That Private Networks, Inc., Digital Paging Systems, KC Corporation, Greater Media,Inc., Vidicom, Inc., Multipoint Information Systems, Inc. and the Chief of Common Carrier Bureau, are made parties to this proceeding.

5. It is further ordered, That parties desiring to participate herein shall file their notices of appearance in accordance with the provisions of § 1.221 of the Commission's Rules, 47 CFR 1.221.

6. It is further ordered, That any authorization granted to Digital Paging Systems, a wholly-owned subsidiary of Graphic Scanning Corporation, as a result of the comparative hearing shall be conditioned as follows:

(a) without prejudice to, reexamination and reconsideration of that company's qualifications to hold an MDS license following a decision in the hearing designated in *A.S.D, ANSWERING Service, Inc., et al,* FCC 82-391, released August 24, 1982, and shall be specifically conditioned upon the outcome of that proceeding.

7. The Secretary shall cause a copy of this Order to be published in the Federal Register.

Albert Halprin,

Chief, Common Carrier Bureau.

[FR Doc. 85-13455 Filed 6-4-85; 8:45 am]

BILLING CODE 6712-01-M

[1] Private Networks, Inc. (PNI) filed a petition to designate an additional issue for hearing. In its petition, PNI requested comparative credit for its minority ownership in 25 of the 26 markets, including Washington, D.C., where it filed mutually exclusive Channel 2 applications. Minority ownership is not a factor the Commission has found to be relevant in comparative hearings for single channel MDS stations. *See* Frank K. Spain, 77 F.C.C. 2d 20 (1980). Accordingly, we are hereby dismissing the petition.

FEDERAL MARITIME COMMISSION

Filing and Effective Date of Assessment Agreement

The Federal Maritime Commission hereby gives notice that on May 22, 1985, the following assessment agreement was filed with the Commission pursuant to the Commission's February 27, 1985 Report and Order in Dockets Nos. 84-6 and 84-8.

Agreement No.: 201-000091-001.

Title: New York Assessment Agreement.

Parties:
New York Shipping Association, Inc. (NYSA)
International Longshoremen's Association, AFL-CIO (ILA)

Synopsis: Effective July 1, 1985, the agreement revokes Assessment Agreement No. LM-86 and the NYSA-ILA Assessment Agreement filed with the Federal Maritime Commission on April 29, 1985, and establishes the assessment program for the funding of obligations under NYSA-ILA collective bargaining agreements.

Dated: May 31, 1985.

By Order of the Federal Maritime Commission.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85-13544 Filed 6-4-85; 8:45 am]

BILLING CODE 6730-01-M

Filing and Effective Date of Assessment Agreement

The Federal Maritime Commission hereby gives notice that, on May 22, 1985, the following assessment agreement was filed with the Commission pursuant to section 5, Shipping Act of 1984, and was deemed effective that date to the extent that it constitutes an assessment agreement as described in paragraph (d) of section 5, Shipping Act of 1984.

Agreement No.: 201-000092.

Title: New York Assessment Agreement.

Parties:
New York Shipping Association, Inc.
International Longshoremen's Association, AFL-CIO
Port Authority of New York and New Jersey
Puerto Rico Maritime Shipping Authority
Puerto Rico Marine Management, Inc.
Massachusetts Port Authority
Maryland Port Administration
Sea-Land Service, Inc.

Synopsis: The agreement specifies the arrangements between the parties in resolving the remaining issues in Dockets Nos. 84-6 and 84-8.

Dated: May 31, 1985.

By Order of the Federal Maritime Commission.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85-13545 Filed 6-4-85; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

May 30, 1985.

Background

Notice is hereby given of final approval of proposed information collection(s) by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.9 (OMB Regulations on Controlling Paperwork Burdens on the Public).

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3822)

OMB Desk Officer—Robert Neal—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503 (202-395-6880)

Proposal to approve under OMB delegated authority the extension with minor revisions to instructions of the following report:

1. Report title: Monthly Survey of Debits to Demand and Savings Deposits
Agency form number: FR 2573
OMB Docket number: 7100-0081
Frequency: Monthly
Reporters: Commercial Banks
Small businesses are affected.
General description of report:

This information collection is voluntary (12 U.S.C. 248(a)(2) and 353 *et seq.*) and is given confidential treatment (5 U.S.C. 552(b)(4)).

This report collects information on debits to demand and savings deposit accounts from a sample of commerical banks. Debits information is used in formulating banking and credit policies. These data are also used in conjunction with other data to interpret money-stock movements and to determine the turnover of deposits of various sectors of the economy.

Board of Governors of the Federal Reserve System, May 30, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-13475 Filed 6-4-85; 8:45 am]

BILLING CODE 6210-01-M

BancTenn Corp. et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act 912 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than June 28, 1985.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *BancTenn Corp.*, Kingsport, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Tennessee, Kingsport, Tennessee.

2. *Florida State Bancshares, Inc.*, Destin, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Florida State Bank, Destin, Florida.

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Lincolnshire Bancshares, Inc.*, Lincolnshire, Illinois; to become a bank holding company by acquiring 70 percent of the voting shares of First National Bank of Lincolnshire, Lincolnshire, Illinois.

C. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Hunt & Howell Bancshares, Inc.*, Fayetteville, Arkansas; to become a bank holding company by acquiring 99 percent of the voting shares of First National Bank of Fayetteville, Fayetteville, Arkansas.

2. *Millstadt Bancshares, Inc.*, Millstadt, Illinois; to become a bank holding company by by acquiring 100 percent of the voting shares of The First National Bank of Millstadt, Millstadt, Illinois.

D. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Tolna Bancorp, Inc.*, Tolna, North Dakota; to become a bank holding company by acquiring 80 percent or more of the voting shares of The Farmers & Merchants State Bank, Tolna, North Dakota.

2. *Watford City Bancshares, Inc.*, Watford City, North Dakota; to become a bank holding company by acquiring 84 percent of the voting shares of First International Bank of Watford City, Watford City, North Dakota.

E. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Bosque Bancshares, Inc.*, Cransfills Gap, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Centex Bancshares, Inc., Cranfills Gaps, Texas, thereby indirectly acquiring First Security State Bank, Cransfills Gap, Texas.

F. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Security State Corporation*, Centralia, Washington; to become a bank holding company by acquiring 100 percent of the voting shares of Security State Bank, Centralia, Washington.

Board of Governors of the Federal Reserve System, May 30, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-13476 Filed 6-4-85; 8:45 am]

BILLING CODE 6210-01-M

Southern Jersey Bancorp et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to comence or to engage *de novo*, either directly or through a subsidiary, in nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 26, 1985.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Southern Jersey Bancorp*, Bridgeton, New Jersey; to engage *de novo* directly in courier services for checks, commercial papers, documents and written instruments; and courier services for audit and accounting media of banking or financial nature, and other business records and documents used in processing such media. These activities would be conducted in southern New Jersey, Philadelphia, Pennsylvania and contiguous counties.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *MCorp Financial, Inc.*, Wilmington, Delaware; to engage *de novo* through its subsidiary, MPact Travel Services, Inc., Dallas, Texas, in the issuance and sale of travelers checks pursuant to section 225.25(b)(12).

Board of Governors of the Federal Reserve System, May 30, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-13477 Filed 6-4-85; 8:45 am]

BILLING CODE 6210-01-M

Consumer Advisory Council; Solicitation of Nominations for Membership

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Solicitation of nominations for membership on the Board's Consumer Advisory Council.

SUMMARY: The Board is inviting the public to nominate qualified individuals for eleven appointments to its Consumer Advisory Council. Nominations should include the name, address, and telephone number of the nominee, together with information about past and present positions held, and special knowledge, interests or experience related to consumer credit or other consumer financial services. The Board expects to announce its selection of new members by year-end.

DATE: Nominations should be received by August 9, 1985.

ADDRESS: Nominations should be mailed to Dolores S. Smith, Assistant Director, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

FOR FURTHER INFORMATION CONTACT: Bedelia Calhoun, General Assistant, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, (202) 452-3305; or Joy W. O'Connell, TDD at (202) 542-3244.

SUPPLEMENTARY INFORMATION: The Consumer Advisory Council was established by the Congress in 1976 to advise the Federal Reserve Board on the exercise of its duties under the Consumer Credit Protection Act and on other consumer-related matters. The Council by law represents the interests both of consumers and of the financial community. Members serve three-year terms that are staggered to provide the Council with continuity.

Eleven new members will be selected this year to replace members whose terms expire on December 31, 1985. The Board expects to announce its selection of new members by year-end. The Board is particularly interested in candidates who are familiar with issues in the area of consumer credit and other consumer financial services. In making the appointments, the Board will also seek to complement the qualifications of continuing Council members in terms of affiliation and geographic and minority representation.

The Council meets in Washington, D.C. three times a year. Council members are paid $100 per day for participating in the one- and one-half day meetings and for travel time. The Board also pays travel expenses.

Nominations should be submitted in writing to Dolores S. Smith, Assistant Director, Division of Consumer and

Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, and must be received no later than August 9, 1985. Nominations should include the name, address and telephone number of the nominee, past and present positions held, and special knowledge, interests or experience relating to consumer financial matters. This information will be made available for public inspection and copying upon request, except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information.

The names and affiliations of current Council members (and the expiration date of each member's term of office) are listed below:

Chairman

Timothy D. Marrinan, Senior Corporate Counsel, First Bank System, Inc., Minneapolis, Minnesota, December 31, 1985

Vice Chairman

Thomas L. Clark, Jr., Deputy Superintendent of Banks, New York State Banking Department, New York, New York, December 31, 1985

Members

Jonathan A. Brown, Acting Director/Staff Attorney, Public Interest Research Group, Washington, D.C., December 31, 1987

Rachel G. Bratt, Assistant Professor, Department of Urban and Environmental Policy, Tufts University, Medford, Massachusetts, December 31, 1986

Jean A. Crockett, Ph.D., Department of Finance, Wharton Graduate School, University of Pennsylvania, Philadelphia, Pennsylvania, December 31, 1985

Theresa Faith Cummings, Executive Director, Springfield/Sangamon County, Action, Inc., Springfield, Illinois, December 31, 1987

Steven M. Geary, Associate General Counsel, Consumer Credit, Missouri Division of Finance, Jefferson City, Missouri, December 31, 1986

Richard F. Halliburton, Deputy Director, Legal Aid of Western Missouri, Kansas City, Missouri, December 31, 1985

Charles C. Holt, Ph.D., Professor of Management, Management Department, University of Texas at Austin, Austin, Texas, December 31, 1985

Edward N. Lange, Partner, Davis, Wright, Todd, Riese & Jones, Seattle, Washington, December 31, 1987

Kenneth V. Larkin, Director of Development, Earl Warren Legal Institute, Boalt School of Law, University of California at Berkeley, Berkeley, California, December 31, 1985

Fred S. McChesney, Assistant Professor of Law, Emory University, Atlanta, Georgia, December 31, 1987

Fred H. Miller, Professor of Law, University of Oklahoma College of Law, Norman, Oklahoma, December 31, 1986

Margaret M. Murphy, Associate Professor and Director, Columbia Center, Johns Hopkins University, Columbia, Maryland, December 31, 1986

Robert F. Murphy, President, General Motors Acceptance Corp., Detroit, Michigan, December 31, 1986

Helen E. Nelson, President, Consumer Research Foundation, Mill Valley, California, December 31, 1987

Lawrence S. Okinaga, Partner, Carlsmith, Carlsmith, Wichman and Case, Honolulu, Hawaii, December 31, 1986

Joseph Perkowski, Chief Executive Officer, Minneapolis Federal Employees Credit Union, Minneapolis, Minnesota, December 31, 1987

Elva Quijano, Vice President and Executive Professional Officer, Republic Bank of San Antonio, San Antonio, Texas, December 31, 1985

Brenda L. Schneider, Director/Community Relations, Manufacturers National Bank, Renaissance Center, Detroit, Michigan, December 31, 1987

Paula A. Slimak, Director of Consumer Affairs, City of Cleveland, Cleveland, Ohio, December 31, 1987

Glenda G. Sloane, Director, Housing and Community Development Center for National Policy Review, Catholic University School of Law, Washington, D.C., December 31, 1985

Henry J. Sommer, Supervising Attorney, Community Legal Services, Inc., Northeast Law Center, Philadelphia, Pennsylvania, December 31, 1985

Ted L. Spurlock, V.P. and Director of Credit and Consumer Banking Services, J.C. Penney Company, Inc., New York, New York, December 31, 1987

Mel R. Stiller, Executive Director, Consumer Credit Counseling Service of Eastern Massachusetts, Boston, Massachusetts, December 31, 1987

Christopher J. Sumner, President and Chief Executive Officer, Western Savings and Loan, Company Salt Lake City, Utah, December 31, 1987

Winnie F. Taylor, Associate Professor of Law, Holland Law Center, University of Florida, Gainesville, Florida, December 31, 1985

Michael M. Van Buskirk, Assistant Vice President, Corporate Affairs, Banc One Corporation, Columbus, Ohio, December 31, 1985

Mervin Winston, President, Metropolitan Economic Development Association, Minneapolis, Minnesota, December 31, 1986

Michael Zoroya, Senior Vice President, The May Department Stores, St. Louis, Missouri, December 31, 1987

Board of Governors of the Federal Reserve System, May 31, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-13538 Filed 6-4-85; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 85F-0192]

S.C. Johnson & Son, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that S.C. Johnson & Son, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of styrene/acrylate based copolymers as components of coatings, inks, and adhesives intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Michael E. Kashtock, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 4B3763) has been filed by S.C. Johnson & Son, Inc., Racine, WI 53403, proposing that the food additive regulations be amended to provide for the safe use of styrene/acrylate based copolymers as components of coatings, inks, and adhesives intended for use in contact with food.

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 (HFA-305), Food and Drug Administration, Rm.

4–62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 23, 1985.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85–13472 Filed 6–4–85; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 85M–0212]

General Electric Co.; Premarket Approval of Signa™ System

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by General Electric Co., Milwaukee, WI, for premarket approval, under the Medical Device Amendments of 1976, of the Signa™ System (0.5, 1.0, and 1.5 tesla). After reviewing the recommendation of the Radiologic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the application.

DATE: Petitions for administrative review by July 5, 1985.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Robert A. Phillips, Center for Devices and Radiological Health (HFZ–430), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7514.

SUPPLEMENTARY INFORMATION: On May 11, 1984, General Electric Co., Milwaukee, WI 53201, submitted to CDRH an application for premarket approval of the Signa™ System (0.5, 1.0, and 1.5) tesla). The device is a nuclear magnetic resonance (NMR) imaging device with capability for multislice and cardiac gated operation. The Signa ™ System is indicated for use as a diagnostic imaging device that produces transverse, saggital, coronal, and cross-sectional images that display the internal structure of the head or body. The images produced by the Signa™ System reflect the spatial distribution of protons (hydrogen nuclei) exhibiting magnetic resonance. The NMR properties that determine image appearance are proton density, spin lattice relaxation time, spin-spin relaxation time, and flow. When interpreted by a trained physician, these images provide information that can be useful in the determination of a diagnosis. Other uses of the Signa™ System remain investigational. On November 19, 1984, the Radiologic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On April 25, 1985, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Robert A. Phillips (HFZ–430), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will published a notice of its decison in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of the review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before July 5, 1985, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Recieved petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: May 29, 1985.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 85–13473 Filed 6–4–85; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 85M–0211]

Pharmafair, Inc.; Premarket Approval of Saltair Tablets

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Pharmafair, Inc., Hauppauge, NY, for premarket approval, under the Medical Device Amendments of 1976, of SALTAIR TABLETS (250-milligram salt tablets) for use with soft (hydrophilic) contact lenses. SALTAIR TABLETS are intended for use in the preparation of 27.7 milliliters of normal saline (0.9 percent) solution to be used in heat disinfection of soft (hydrophilic) contact lenses. After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the application.

DATE: Petitions for administrative review by July 5, 1985.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Richard E. Lippman, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7940.

SUPPLEMENTARY INFORMATION: On July 20, 1984, Pharmafair, Inc., Hauppauge, NY 11788, submitted to CDRH an

application for premarket approval of SALTAIR TABLETS (250-milligram salt tablets). The device is indicated for use to prepare saline solution for rinsing and heat disinfection of soft (hydrophilic) contact lenses. On October 23, 1984, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On April 22, 1985, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

Before enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94–295, 90 Stat. 539–583), salt tablets for preparing solutions for use in heat disinfection of soft (hydrophilic) contact lenses were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(h)), such salt tablets are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the **Federal Register** of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly regulated as new drugs. Furthermore, FDA requires, as a condition for approval, that sponsors of applications for premarket approval of soft contact lenses and lens care solutions for the above use comply with the records and reports provisions of Subpart D in Part 310 (21 CFR Part 310), until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which CDRH based its approval is on file with the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved final labeling is available for public inspection at CDRH—contact Richard E. Lippman (HFZ–460), address above.

The labeling of SALTAIR TABLETS states that the solution prepared from the salt tablets is designed for use in heat disinfection of soft (hydrophilic) contact lenses. Manufacturers of soft (hydrophilic) contact lenses that have been approved for marketing are advised that whenever CDRH publishes a notice in the **Federal Register** of CDRH's approval of a new solution for use with an approved soft contact lens, the manufacturer of each lens shall correct its labeling to refer to the new solutions at the next printing or at such other time as CDRH prescribes by letter to the manufacturer. A manufacturer who fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41–58), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 93–637). Furthermore, failure to update the restrictive labeling to refer to new salt tablets that may be used with an approved lens may be grounds for withdrawing approval of the application for the lens under section 515(e)(1)(F) of the act (21 U.S.C. 360e(e)(1)(F)).

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before July 5, 1985, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: May 29, 1985.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 85-13474 Filed 6-4-85; 8:45 am]

BILLING CODE 4160-01-M

Public Health Service

National Committee on Vital and Health Statistics; Meeting

Pursuant to the Federal Advisory Act (Pub. L. 92–463), notice is hereby given that the National Committee on Vital and Health Statistics (NCVHS) established pursuant to 42 USC 242k, section 306(k)(2) of the Public Health Service Act, as amended, will convene on Thursday, June 27 and Friday, June 28, 1985 from 9:00 a.m. to 5:00 p.m. both days in Room 800 of the Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201.

The Committee will hear reports from the Subcommittee in Uniform Minimum Health Data Sets, the Subcommittee on Disease Classification and Automated Coding of Medical Diagnoses, the Subcommittee on Statistical Aspects of Physician Payment Systems; and the Work Groups on Minority Health Data Needs and Data Gaps in Disease Prevention and Health Promotion will also report.

Further information regarding the Committee may be obtained by contacting Gail F. Fisher, Ph.D., Executive Secretary, National Committee on Vital and Health Statistics, Room 2–28 Center Building, 3700 East-West Highway, Myattsville, Maryland 20782, telephone (301) 436–7050.

Dated: May 23, 1985.

Manning Feinleib, M.D., Dr. P.H.

Director, National Center for Health Statistics.

[FR Doc. 85-13454 Filed 6-4-85; 8:45 am]

BILLING CODE 4160-17-M

National Committee on Vital and Health Statistics, Subcommittee on Statistical Aspect of Physician Payment Systems; Meeting

Pursuant to the Federal Advisory Act (Pub. L. 92–463), notice is hereby given that the National Committee on Vital and Health Statistics (NCVHS) Subcommittee on Statistical Aspects of

Physician Payment Systems established pursuant to 42 USC 242k, section 306(k)(2) of the Public Health Service Act, as amended, will convene on Wednesday, June 19, 1985 from 9:30 a.m. to 5:00 p.m. in Room 403–A of the Hubert H. Humphery Building, 200 Independence Avenue, SW., Washington, D.C. 20201.

The Subcommittee will hear presentations from major public and private insurers on the ambulatory care data flow for the patient-physician encounter in their respective programs or organizations and related data needs and problems.

Further information regarding this meeting of the Subcommittee may be obtained by contacting Marjorie Greenberg, National Center for Health Statistics, Room 2–28, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone (301) 436–7122.

Dated: May 23, 1985.

Manning Feinleib, M.D., Dr. P.H.

Director, National Center for Health Statistics.

[FR Doc. 85–13493 Filed 6–4–85; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Sale of Public Lands in Los Angeles, San Bernardino, San Diego, and Riverside Counties, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, CA 16395—sale of public lands in Los Angeles, San Bernardino, San Diego, and Riverside Counties, CA.

SUMMARY: The public lands described in this notice have been examined and found suitable for sale pursuant to Sections 203 and 209 of the Federal Land Policy and Management Act (FLPMA) of October 21, 1976. The proposed sale is consistent with the resource management objectives of the Bureau of Land Management's Southern California Metropolitan Project and is in conformance with the project's Escondido Management Framework Plan/Management Action Summary.

Sale will be by sealed bid In no case shall lands be sold for less than the appraised market value. The following public lands will be offered for sale at 10:00 am, August 14, 1985, in the La Sierra room of the Raincross Convention Center located at 3443 Orange Street, Riverside California. Unsold parcels will remain available pending disposition as cited in this Notice of Realty Action.

County/ parcel No.	Serial No.	Legal description	Acres	Appraised values (dollars)	Encumbrances and/or reservations
		T4N–R13W, SBM:			
LA–1	CA 17214	Sec. 8: S½NW¼	80.00	28,000	A–1,2; B–1.
LA–2	CA 17215	Sec. 12: Lot 4	4.71	100	A–1.
		T4N–R14W, SBM:			
LA–3	CA 17216	Sec. 4: SW¼NE¼, NE¼SW¼, S½SW¼, SE¼			
		Sec.9: N½NE¼, SW¼NE¼	440.000	310,000	A–1, 3, 4; B–2
LA–4	CA 17217	Sec. 5: Lot 22	5.49	150	A–1,5,6,7; B–2.
LA–5	CA 17218	Sec. 5: Lots 89–92	20.40	10,000	A–1; B–2.
LA–6	CA 17219	Sec. 6: N½NE¼SW¼, N½S½NE¼SW¼, E½E½SE¼SW¼, SE¼SE¼NE¼SW¼	42.50	17,000	A–1,8; B–2.
LA–7	CA 17220	Sec. 7: Lots 5 & 6, E½NW¼NW¼	45.12	18,000	A–1; B–2.
LA–8	CA 17221	Sec. 12: NE¼SE¼	40.00	9,500	A–1,9.
		T5N–R13W, SBM:			
LA–9	CA 17222	Sec. 1: Lots 1,2, W½ of Lot 6	140.40	35,000	A–1,10.
LA–10	CA 17223	Sec. 1: E¼SW¼, SW¼SW¼			
		Sec. 12: W½NW¼	200.00	90,000	A–1,4,11; B–3(a)&(b); C–1.
LA–11	CA 17224	Sec. 6: Lots 5, 13–24, 30–32	191.07	95,000	A–1,D–1.
LA–12	CA 17225	Sec. 7: Lots 1,2 and 5–9	109.28	60,000	A–1,10; C–2; D–1.
LA–13	CA 17226	Sec. 12: SW¼SW¼	40.00	12,000	A–1.
		T5N–R13W, SBM:			
LA–14	CA 17227	Sec. 30: Lot 4			
		T5N–R14W, SBM:			
		Sec. 25: SE¼SE¼	74.36	60,000	A–1,12; B–1.
LA–15	CA 17228	Sec. 20: NE¼SE¼			
		Sec. 21: SW¼NW¼, NW¼SW¼	120.00	120,000	A–1,10,13.
LA–16	CA 17229	Sec. 21: S½NE¼			
		Sec. 22: SW¼NW¼	120.00	120,000	A–1,10.
LA–17	CA 17230	Sec. 22: NE¼NW¼	40.00	50,000	A–1,10.
LA–18	CA 17231	Sec. 24: SW¼NE¼, SE¼NW¼	80.00	80,000	A–1; B–1.
LA–19	CA 17232	Sec. 31: W½NE¼SE¼, SE¼NE¼SE¼	30.00	10,000	A–1,7; B–1, and 3.
LA–20	CA 17233	Sec. 32: Lots 23–25	15.79	4,500	A–1,5; B–1,2, and 3.
LA–21	CA 17234	Sec. 33: SE¼SW¼	40.00	15,000	A–1,5,7; B–1, 2.
		T1S–R1W, SBM:			
SB–22	CA 17235	Sec. 35: SW¼	160.00	64,000	A–1,14; B–4.
		T4S–R2W, SBM:			
R–23	CA 17236	Sec. 20: Lot 1	5.23	15,000	A–1.
R–24	CA 17237	T6S–R2W, SBM:			
		Sec. 14: Lots 1–16			
		Sec. 24: NW¼NW¼	685.36	250,000	A–1,15; B–4; D–2.
R–25	CA 17238	T8S–R1E, SMB:			
		Sec. 10: Lots 3 and 4			
		Sec. 15: Lots 1–5, 7, 8 and 12			
		Sec. 16: E½			
		Sec. 17: SE¼SE¼			
		Sec. 20: NE¼, E½NW¼ & NW¼SE¼			
		Sec. 21: N½,N½SW¼ and SE¼	1,609.30	1,250,000	A–1; B–4.

County/ parcel No.	Serial No.	Legal description	Acres	Appraised values (dollars)	Encumbrances and/or reservations
R-26	CA 17239	T8SR1E SMB; Sec. 27: NE¼SW¼, NW¼SE¼	80.00	100,000	A-1; B-4.
R-27	CA 17240	T8S-R1E, SBM; Sec. 24: SE¼NE¼			
		T8S-R2E, SBM; Sec. 18: Lot 4 Sec. 19: Lots 1 and 2	170.31	150,000	A-1.
R-28	CA 17241	T8S-R2E, SBM; Sec. 14: N½NW¼NW¼	20.00	42,000	A-1.
R-29	CA 17242	Sec. 14: S½NW¼NW¼	20.00	42,000	A-1.
R-30	CA 17243	T7S-R3E, SBM; Sec. 18: E½NE¼SE¼SE¼	5.00	30,000	A-1.
R-31	CA 17244	Sec. 18: E½SE¼SE¼SE¼	5.00	30,000	A-1.
SD-32	CA 17245	T10S-R1W, SBM; Sec. 5: Lot 1	1.71	35,000	A-1,16; B-4.
SD-33	CA 17246	Sec. 24: Lots 1 and 2	22.14	22,000	A-1; B-4.
SD-34	CA 17247	T11S-R1W, SBM; Sec. 29: Lot 14	39.94	35,000	A-1.
SD-35	CA 17248	Sec. 31: Lot 6	11.78	16,000	A-1.
SD-36	CA 17249	Sec. 32: Lots 6,9 and 11-13	24.84	25,000	A-1.
SD-37	CA 17250	T12S-R1W, SBM; Sec. 4: SW¼,NW¼SE¼	200.00	540,000	A-1.
SD-38	CA 17251	Sec. 6: Lot 7	18.48	500	A-1,17.
SD-39	CA 17252	Sec. 15: Lots 6 and 11	81.26	185,000	A-1.
SD-40	CA 17253	T13S-R1W, SBM; Sec. 20: W½SW¼SE¼	20.00	58,000	A-1.
SD-41	CA 17254	Sec. 22: W½W½NW¼SE¼, W½NW¼SW¼SE¼, S½SW¼SE¼	35.00	192,000	A-1.
SD-42	CA 17255	T18S-R1W, SBM; Sec. 21: Lot 1	4.99	500	A-1.
SD-43	CA 17256	T9S-R2W, SBM; Sec. 4: SW¼NE¼, SE¼NW¼	80.00	120,000	A-1; B-4.
SD-44	CA 17257	Sec. 4: NE¼SW¼, NW¼SW¼	80.00	120,000	A-1; B-4.
SD-45	CA 17258	T11S-R2W, SBM; Sec. 22: NE¼SE¼	40.00	160,000	A-1.
SD-46	CA 17259	Sec. 25: Lots 1-16	71.20	390,000	A-1,19.
SD-47	CA 17260	T9S-R3W, SBM; Sec. 10: SW¼SE¼	40.00	90,000	A-1,20; B-4.
SD-48	CA 17261	Sec. 15: NW¼NW¼	40.00	280,000	A-1,20,21,22,23,24; B-4.
SD-49	CA 17262	T10S-R3W, SBM; Sec. 33: NW¼NW¼	40.00	300,000	A-1.
SD-50	CA 17263	T11S-R3W, SBM; Sec. 9: Lot 9	39.49	99,000	A-1.
SD-51	CA 17264	Sec. 9: Lot 16	39.48	99,000	A-1.
SD-52	CA 17265	T10S-R4W, SBM; Sec. 33: Lot 8	8.58	850	A-1.
SD-53	CA 17266	T8S-R5W, SBM; Sec. 25: NE¼NW¼	40.00	40,000	A-1; B-4.
SD-54	CA 17267	Sec. 25: SE¼NW¼	40.00	40,000	A-1; B-4.
SD-55	CA 17268	T11S-R1E, SBM; Sec. 2: Lots 1-4, S½NW¼	355.51	200,000	A-1,25.
SD-56	CA 17269	T12S-R1E, SBM; Sec. 8: W½NE¼, NW¼SE¼	120.00	84,000	A-1.
SD-57	CA 17270	T13S-R1E, SBM; Sec. 1: NE¼SE¼, S½SE¼ sec. 12: NE¼			
		T13S-R2E, SBM; Sec. 7: Lots 1 and 2	360.69	649,000	A-1; D-3.
SD-58	CA 17271	T14S-R1E, SBM; Sec. 8: NE¼SW¼	40.00	40,000	A-1
SD-59	CA 17272	Sec. 27: Lot 9	1.07	110	A-1
SD-60	CA 17273	T12S-R2E, SBM; Sec. 26: NW¼NW¼	40.00	72,800	A-1.
SD-61	CA 17274	T14S-R2E, SBM; Sec. 5: Lots 2-6 and S½NW¼	170.92	307,000	A-1; C-3,4.

County/ parcel No.	Serial No.	Legal description	Acres	Appraised values (dollars)	Encumbrances and/or reservations
SD-62	CA 17275	Sec. 7: Lots 17 and 18	6.28	20,000	A-1, 27.
		T17S-R2E, SBM:			
SD-63	CA 17276	Sec. 15: NE¼NE¼	40.00	52,000	A-1, 28.
		T17S-R5E, SBM:			
SD-64	CA 17277	Sec. 20: S½SW¼NE¼SE¼	5.00	14,000	A-1.
SD-65	CA 17278	Sec. 26: Lots 4 and 5	7.48	9,700	A-1.
SD-66	CA 17279	Sec. 26: Lot 8	5.00	6,500	A-1.
SD-67	CA 17280	Sec. 29: Lot 18	1.20	3,600	A-1.
SD-68	CA 17281	Sec. 29: Lot 37	4.93	13,800	A-1.
SD-69	CA 17282	Sec. 29: Lot 41	1.35	3,800	A-1.
SD-70	CA 17283	Sec. 29: Lot 48	5.00	14,000	A-1.
		T17S-R6E, SBM:			
SD-71	CA 17284	Sec. 24: Lot 10	21.52	38,700	A-1.
		T17S-R7E, SBM:			
SD-72	CA 17285	Sec. 33: NE¼SE¼	40.00	51,000	A-1; B-4; C-5.
SD-73	CA 17286	Sec. 34: NW¼SW¼	40.00	51,000	A-1; B-4.
		T18S-R7E, SBM:			
SD-74	CA 17287	Sec. 2: Lot 3	39.85	50,800	A-1; B-4.
SD-75	CA 17288	Sec. 2: N½NW¼SW¼NE¼, N½SE¼NW¼	25.00	32,000	A-1; B-4.
SD-76	CA 17289	Sec. 2: SW¼SW¼NE¼, S½SE¼SW¼NE¼, S½SE½NW¼	35.00	44,500	A-1; B-4.
		T18S-R7E, SBM:			
SD-77	CA 17790	Sec. 2: N½NW¼SW¼	20.00	25,500	A-1; B-4.
SD-78	CA 17291	Sec. 2: S½NW¼SW¼	20.00	25,000	A-1; B-4.
SD-79	CA 17292	Sec. 2: NE¼SW¼	40.00	51,000	A-1; B-4.
SD-80	CA 17293	Sec. 2: SE¼SW¼	40.00	51,000	A-1; B-4.
SD-81	CA 17294	Sec. 3: SW¼SE¼			
		Sec. 10: NW¼NE¼	80.00	102,000	A-1; B-2(c) B-4.
SD-82	CA 17295	Sec. 15: Lot 5	37.52	18,000	A-1,29; B-4.
SD-83	CA 17296	Sec. 15: Lot 6	41.35	21,200	A-1, 29; B-4.

Total Acres Amounts to: 7,302.9 ±.

The purpose of this sale is to dispose of scattered, isolated tracts of public land which because of their location, lack of administrative/public access and other characteristics render them difficult and uneconomic for Federal resources management by the Bureau of Land Management or any other Federal department or agency.

Upon publication of this notice of realty action in the **Federal Register** as provided in 43 CFR 2711.1–2(d), the sale parcels will be segregated from appropriation under the public land laws, including the mining laws. The segregative effect of this notice shall terminate upon issuance of patent or other document of conveyance to such lands, upon publication in the **Federal Register** of a termination of segregation or 270 days from the date of publication of this announcement, whichever occurs first.

The sale will be conducted pursuant to FLPMA, the regulatory guidelines for land disposal contained in Title 43 of the Code of Federal Regulations, Part 2710 and BLM sale policy. Disposal shall be by competitive sale, with the exception of sale Parcel No. SB–22 which shall be offered for sale via modified competitive bidding procedures whereby designated bidders have a right to meet the high bid. For Parcel No. SB–22 the following will be the designated bidders: Health Ministry (the right-of-way holder with a water pipeline in the property), Ralph Graham (Oakglen RV); Gene White; Joe and Elizabeth Burkle; George Dickinson; and Carl Howe and Alexander Law all of whom are adjoining property owners.

BLM may accept or reject any and all bids or withdraw any land from sale at any time, if in the opinion of the Authorized Officer, consummation of the sale would not be in the best interest of the United States.

Each parcel will be offered individually for sale by sealed bid only. All sealed bids must be submitted to the BLM's California Desert District Office at 1695 Spruce Street, Riverside, California 92507, no later than 4:30 pm, August 13, 1985. Sealed bids will be for not less than the appraised values specified in this notice with a separate bid submitted for each parcel. Each sealed bid shall be accompanied by a certified check, postal money order, bank draft or cashier's check made payable to the Department of the Interior, BLM for not less than 10% of the amount bid. The sealed bid envelopes must be marked on the front left corner as shown in the following example:

"BID FOR PUBLIC LAND SALE"

NOTICE OF REALTY ACTION, CA 18395

Parcel No., Serial No.

Sale Date: August 14, 1985

If 2 or more envelopes containing valid bids of the same amount are received for the competitive sale parcels, the determination of which is to be considered the highest bid shall be by drawing. Upon opening all sealed bids for Parcel No. SB–22, the designated bidders attending the sale will have the right to meet the high bid. Refusal or failure to meet the high bid will constitute a waiver of such right. Should more than one designated bidder exercise his right to meet the highest sealed bid, oral bids will be invited. The highest qualifying oral bidder shall submit any additional payment needed to maintain a 10% bid deposit on the sale parcel to the Authorized Officer immediately following the close of the sale. Such payment shall be by cash, personal check, bank draft, money order or any combination thereof.

The successful bidder, whether a sealed or oral bid, shall submit the remainder of the full bid price prior to the expiration of 180 days from the sale date. Failure to submit the balance of the full bid within the above specified time limit shall result in cancellation of the sale and the deposit shall be forfeited and disposed of as other receipts of sale. The next bid will then be honored.

A successful bid will also constitute an application for those mineral interests offered for conveyance in the sale. The mineral interests being offered for conveyance have no known mineral value. A few of the sale parcels do have

prospectively valuable leaseable minerals and will be reserved to the United States, however, only those mineral interests specified in this notice will be reserved. All other mineral interests will be conveyed with the surface estate. The declared high bidder will be required to deposit a $50.00 non-refundable application fee for conveyance of the mineral estate. Failure to deposit this filing fee will result in disqualification as the high bidder.

All unsuccessful bids and payments submitted to the Authorized Officer shall be returned to the parties that submitted them within two weeks after the sale date.

Unsold parcels will be offered over-the-counter on a competitive basis at the BLM's California Desert District Office in Riverside, California. The sale procedure will be by sealed bid submissions at not less than the appraised values specified in this notice. Oral bids will not be entertained. Sealed bids will be opened on August 28, September 11 and September 25, 1985 at 1:00 pm. All bids must be received at the district office no later than 4:30 pm on the day before the sale. Sealed bid envelopes must be marked on the lower left-hand side as shown below:

"BID FOR PUBLIC LAND"

NOTICE OF REALTY ACTION, CA 16395

Over-The-Counter Sale

(Parcel No.)/(Serial No.)

Sale parcels, remaining after the September 25, 1985 over-the-counter land sale, will be available for recreation and public purposes leases/patents, Bureau-benefiting land exchanges and continuing land sales on a first come, first serve basis.

Sale terms and conditions are as follows:

I. Reservations to the United States: There are hereby excepted from these land patents and reserved to the United States the following:

A. Rights-of-way

A-1. A right-of-way for ditches or canals constructed by authority of the United States under the Act of August 30, 1890 (26 Stat. 291; 43 U.S.C. 945).

A-2. Those rights for a trail granted to the U.S. Forest Service, Angeles National Forest, under the Act of October 21, 1976 (43 U.S.C. 1761-1771); Grant No. CA-10278.

A-3. Those rights for a public highway granted to the State of California, Department of Public Works under the Federal Aid Highway Act of August 27, 1958, as amended (23 U.S.C. 317); Grant No. LA-0164756.

A-12. Those rights for a public highway granted to the State of California, Department Public Works (23 U.S.C. 317); Grant No. LA-165099.

A-15. Those rights for an air tanker jettison area granted to the Ryan Air Attack Base, State of California, Division of Forestry under the authority of 44 LD 513; Grant No. R-4395.

A-17. A right to itself, its permittees or licenses, to enter upon, occupy or use any or all of a 50 feet center line corridor reserved for power project 176, right-of-way transmission line, in the N½N½ of Lot 5 Section 6, T.9S., R.2W., SBM; San Diego County, California, for the purposes set forth in and subject to the conditions and limitations of Section 24 of the Federal Power Act of June 10, 1920 (41 Stat. 1075, as amended in 16 U.S.C. 818).

A-25. Those rights for a water storage tank and related ancillary facilities to the State of California, Division of Forestry under authority of 44 LD 513; Grant No. R-1415.

B. Mineral Reservations

B-1. Sodium and potassium

B-2. Oil and Gas

B-3. Borate

B-4. Geothermal Resources

All minerals (or partial or specific mineral interests, where applicable) shall be reserved to the United States, together with the right to prospect for, mine and remove the minerals. A more detailed description of this reservation, which will be incorporated in the patent document, is available for review at this BLM office.

II. Rights of the third parties: The conveyances made by these land patents are subject to all valid existing rights, including the following:

A. Rights-of-Way

A-4. Those rights for a buried gas pipeline granted to Southern California Gas Company under the Mineral Leasing Act of February 25, 1920 (30 U.S.C. 185); Grant No. LA 0146562.

A-5. Those rights for a 500 Kv power line granted to San Diego Gas and Electric Company under the Act of March 4, 1911 (43 U.S.C. 961); Grant No. R3545.

A-6. Those rights for a 220 Kv power line granted to the Southern California Edison Company under the Act of March 4, 1911 (43 U.S.C. 961); Grant No. LA 0150421.

A-7. Those for power line access roads granted to the Southern California Edison Company under the Act of March 4, 1911 (43 U.S.C. 961); Grant No. LA 0150421A.

A-8. Those rights for flood control purposes granted to the County of Los Angeles under the Act of October 21, 1976 (43 U.S.C. 1761-1771); Grant No. CA-14390.

A-9. Those rights for a railroad line granted to the Southern Pacific Railroad Company under the Act of March 3, 1875 (43 U.S.C. 934-949); Grant No. S-3431.

A-10. Those rights for a power transmission line and access road granted to the City of Los Angeles, Department of Water and Power under the Act of October 21, 1976 (43 U.S.C. 1761-1771); Grant No. CA-4950.

A-11. Those rights for a telephone line granted to AT&T Communications of California under the Act of March 4, 1911 (43 U.S.C. 961); Grant No. R-04024.

A-13. Those rights for a television antenna granted to Cable Vision, Incorporated under the Act of March 4, 1911 (43 U.S.C. 961); Grant No. LA-0159998.

A-14. Those rights for a buried water pipe line granted to the Health Ministry Foundation under the Act of October 21, 1976 (43 U.S.C. 1761-1771); Grant No. CA-14153.

A-16. Those rights for an access road granted to Adolf Schope under the Act of October 21, 1976 (43 U.S.C. 1761-1771); Grant No. CA-9422.

A-19. Those rights for a road granted to the Sager Management Corporation under the Act of October 21, 1976 (43 U.S.C. 1761-1771); Grant No. CA-8914.

A-20. Those rights for a road granted to the Metropolitan Water District under the Act of October 21, 1976 (43 U.S.C. 1761-1771); Grant No. CA-6008.

A-21. Those rights for a communication site and access road granted to the California Department of Forestry under the Act of October 21, 1976 (43 U.S.C. 1761-1771); Grant No. CA 8758.

A-22. Those rights for a water storage tank and access road granted to the Fallbrook Public Utility District under the Act of February 15, 1901 (31 Stat. 790); Grant No. R-4397.

A-23. Those rights for a 12.5 Kv powerline granted to the San Diego Gas and Electric Company under the Act of March 4, 1911 (43 U.S.C. 961); Grant No. R-715.

A-24. Those rights for a 12.5 Kv power line granted to the San Diego Gas and Electric Company under the Act of March 4, 1911 (43 U.S.C. 961); Grant No. LA 0168279.

A-27. Those rights for a road granted to Rudy Reyes under the Act of October 21, 1976 (43 U.S.C. 1761-1771); Grant No. CA-13519.

A-28. Those rights for a road granted to John Aggson under the Act of October 21, 1976 (43 U.S.C. 1761-1771); Grant No. CA-5582.

A–29. Those rights for a road granted to the Lakeside Sportsman's Club under the Act of October 21, 1976 (43 U.S.C. 1761–1771); Grant No. CA–13205.

B. Oil and Gas Leases

B–2(a) Oil and Gas Lease, CA–13951

B–2(b) Oil and Gas Lease, CA–13953

B–2(c) Oil and Gas Lease, CA–17045

Those rights granted to the lessee by the above described oil and gas leases under the terms and conditions of the Act of February 25, 1920 (41 Stat. 437; 30 U.S.C. 181, as amended).

C. Mining Claims:

Purchaser by accepting this land patent, further acknowledges that the property is encumbered by mining claims filed pursuant to the mining laws of the United States (20 U.S.C. 21 et. seq.). The conveyance of the property by this land patent is made subject to those claims, detailed below, and to any and all rights that the Holders thereof may have pursuant to the laws of the United States and the State of California.

Purchaser, by accepting this land patent further acknowledges that the rights of the Holders of said mining claims may include the right to use both the surface and subsurface of the property and, upon compliance with the applicable laws of the United States and the State of California to fee title to the property. The United States of America by this conveyance does not intend to preclude the grantee, herein from challenging the validity of any mining claim or other encumbrance located on the land conveyed. The purchaser, by accepting this land patent, will hereby waive any liability against the United States in the event of subsequent title litigation.

Mining claims of record include:

C–1. Mining claimant: Texas Gulf Min. & Met. CAMC No. 153867–69; No. 153877–81 and No. 153870–73, No. 153876, and No. 163220–21.

C–2. Mining claimant: Roy Champagne, CAMC No. 130478.

C–3. Mining claimant(s): Shenma Corporation, Clyde and Dudley A'Neals, Kenneth Gurtin, R.E. Evans, John Wrona, Emile Champoux and Yom Hom CAMC No. 44837–38 and No. 14054.

C–4. Mining claimant: James Angevine, CAMC No. 140454 and 44837–38.

C–5. Mining claimants: Lawrence Chapman/Steven Rotsart; CAMC No. 149493–99 (lode claims).

D. Grazing Leases

Purchaser, by accepting this land patent, agrees to take the property subject to the existing grazing use of the lessees, described below:

D–1. Mount McDill Grazing Lease, CA–066–6603. Lessee: Belva Lannan

D–2. Raswon Valley Grazing Lease, CA–066–6603. Lessee: Francis Domenigoni

D–3. Santa Teresa Grazing Lease, CA–077–6721. Lessee: Victor Marshall Trust, c/0 Eunice Collins.

The rights of the current lessees to graze domestic livestock on the property according to the conditions and terms of their existing grazing leases, shall cease on February 28, 1989. The purchaser is entitled to receive annual grazing fees from the grazing lessee in an amount not to exceed that which would be authorized under Federal grazing fee published annually in the **Federal Register**

III. All bidders must be either: (1) 18 years of age or older and provide proof of U.S. citizenship: or (2) a State, State instrumentality or political subdivision authorized to hold property: or (3) a corporation authorized to own real estate in the State of California or (4) an entity legally capable of conveying the holding lands or interests therein under the laws of the State of California, and where applicable, the entity shall also meet the requirements for 1 and 3 above.

Further information concerning the sale, including planning documents and environmental assessment, is available in the California Desert District Office, Bureau of Land Management, 1695 Spruce Street, Riverside, California 92507.

For a period of 45 days from the date of this notice, interested parties may submit comments to the California Desert District Manager at the above address. Any adverse comments will be evaluated by the California State Director, Bureau of Land Management, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Dated: May 29, 1985.

Wes Chambers,

Acting District Manager.

[FR Doc. 85–13387 Filed 6–4–85; 8:45 am]

BILLING CODE 4310–40–M

[U–47389]

Exchange of Public and Private Lands in Washington County, UT

AGENCY: Bureau of Land Management, Interior.

ACTION: Under section 206 of the Federal Land Policy and Management Act of 1976 it is proposed to exchange public land for private land of equal value. The public land is described as: T. 41 S., R. 16 W., SLB&M, Sec. 33, E½ SE¼; Sec. 34, W½ SW¼; T. 42 S., R. 16 W., SLB&M, Sec. 4, Lots 4, 7, 8, 9, SW¼ NE¼, SE¼ NW¼, E½ SW¼; Sec. 9, lots 1 through 6, E½ NW¼, W½ SE¼; Sec. 10, W½, SW¼; Sec. 11, NW¼; Sec. 14, NE¼ NW¼, comprising 1,170.17 acres.

In exchange for these lands, the United States will acquire the following described lands from Thorley Cattle Company: T. 39 S., R. 10 W., SLB&M, Sec. 10, SE¼ NE¼, E½ SE¼; Sec. 11, W½ NW¼, W½ SW¼; Sec. 14, NW¼ SW¼; Sec. 15, E½ NE¼; Sec. 20, S½ NW¼, SW¼ NE¼, SE¼ SE¼, W½ SE¼, E½SW¼; Sec. 21, S½ NW¼, SW¼; Sec. 22, E½ NE¼ SE¼; Sec. 27, NW¼, N½ SW¼, N½ SE¼; Sec. 28, SE¼ NW¼, NE¼ SW¼, S½ SW¼, SE¼; Sec. 29, E½ NE¼, SE¼; Sec. 33, NW¼ NW¼, E½ NW¼, NE¼; Sec. 34, W½ NW¼ comprising 2,220 acres.

The public lands described are hereby segregated from all forms of appropriation under the public land laws, including the mining laws, pending disposition of this action.

SUMMARY: The purpose of this exchange is to acquire non-Federal lands to block up scattered tracts of public lands in the Kolob/Deep Creek area, complementing a 1976 exchange for lands in the same area. Legal public access will be provided to the offered lands which will allow access to a block of public land about 11,000 acres in size, including the Deep Creek Wilderness Study Area. The benefiting resources will be recreation, wildlife, watershed, and livestock grazing.

DATES: Comments must be submitted by July 25, 1985.

ADDRESS: Detailed information concerning this exchange, including the environmental assessment, is available for review at the Bureau of Land Management, Dixie Resource Area Office, 225 North Bluff, St.George, Utah. Comments should be submitted to the Cedar City District Manager, Bureau of Land Management, 1579 North Main, P.O. Box 724, Cedar City, Utah 84720.

SUPPLEMENTARY INFORMATION: The terms and conditions applicable to this exchange are:

1. The exchange will include surface and subsurface rights on the public land and surface and a portion of the subsurface rights on the private land. Both the offered and selected lands are encumbered by oil and gas leases. Upon expiration, the current lease holders rights would be terminated.

2. A quitclaim deed for the offered lands to the United States will reserve a road right-of-way for public access, a coal reservation to Thomas A. and Jane R. Thorley on 440 acres, and the State of Utah's right to all minerals on 240 acres.

3. Title transfer of the public land will be subject to valid existing right-of-way and reservations including:

a. U-39351 for a buried waterline and access road.

b. U-40387 for a 13.2-kV transmission line.

c. U-51357 for a 69-kV transmission line.

d. U-51390 for buried drain lines.

e. U-55643 for protection of an endangered plant species.

f. A reservation to the United States for ditches and canals constructed by authority of the United States, Act of August 30, 1890 (26 Stat. 391, 43 U.S.C 945 (1970)).

Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department.

Dated: May 28, 1985.

Morgan S. Jensen,

District Manager.

[FR Doc. 85-13481 Filed 6-4-85; 8:45 am]

BILLING CODE 4310-DQ-M

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, D.C. 20503, telephone 202-395-7313.

Title: Rights-of-Way, Principles and Procedures; Amendment of Cost Reimbursement Procedures, 43 CFR 2800.

Abstract: Respondents supply identifying information and data on monetary value of the rights and privileges sought by the applicant, costs incurred for the benefit of the general public interest, rather than for the exclusive benefit of the applicant and public services provided necessary to determine who may be entitled to a set-off against reimbursement of costs to the government.

Bureau Form Number: None Required.

Frequency: About 17 per year.

Description of Respondents: Right-of-Way applicants for which the authorized officer determines that the Bureau's application processing activities will cost in excess of $5,000.

Annual Responses: 17.

Annual Burden Hours: 850.

Bureau Clearance Officer: Rebecca Daugherty 202-653-8853.

Dated: May 30, 1985.

Robert F. Burford,

Director.

[FR Doc. 85-13465 Filed 6-4-85; 8:45 am]

BILLING CODE 4310-84-M

Susanville District Grazing Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Meeting.

SUMMARY: Notice is hereby given, in accordance with Pub. L. 95-579 (FLPMA) that a meeting of the Susanville District Grazing Advisory Board will be held on July 18, 1985.

The meeting will begin at 10:00 a.m. at the Susanville District Office of the Bureau of Land Management, 705 Hall Street, Susanville, California. The agenda will include a discussion of allocation FY86 project funds, report on the wild horses and burro program, status of BLM-FS interchange, status of grazing fee study, preparation for Advisory Board Chairman's meeting, update on prescribed fire projects, and other items as appropriate.

The meeting is open to the public. Interested persons may make oral statements to the Board between 3:30 p.m. and 4:30 p.m. on July 18, 1985, or file a written statement for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, P.O. Box 1090, Susanville, California 96130, by July 11, 1985. Depending upon the number of persons wishing to make oral statements, a per person list limit may be established.

Summary minutes of the board meeting will be maintained in the District Office, and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

C. Rex Cleary,

District Manager.

[FR Doc. 85-13482 Filed 6-4-85; 8:45 am]

BILLING CODE 4310-40-M

[A-12830, et al.]

Boulder Canyon Project, AZ; Proposed Modification and Continuation of Withdrawals

As a result of the review made pursuant to Section 204(l) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754; 43 U.S.C. 1714, the Bureau of Land Management, Department of the Interior, proposes to continue the existing withdrawals on lands described below for a period of 50 years, subject to review of the withdrawals and extension for an additional period as appropriate. The withdrawals will be terminated as to other lands comprising approximately 114,690 acres.

The lands were withdrawn for use by the Bureau of Reclamation for:

1. Construction of Hoover Dam, power plant, and reservoir (Lake Mead) for purposes of controlling floods, improving navigation and regulation of the flow of the Colorado River, providing for storage and delivery of the stored waters thereof, and generating of electrical energy;

2. Construction of Davis Dam, power plant, and reservoir (Lake Mohave) for purposes of irrigation flood control, navigation, power, fish and wildlife, municipal water supply, and generation of electrical energy.

The existing withdrawals, made by Secretarial Orders issued to the Reclamation Act of June 17, 1902, Boulder Canyon Act of December 21, 1928, and the Reclamation Project Act of August 4, 1939, segregate the lands from operation of the public land laws, including the mining laws. The lands have been and will remain open to mineral leasing.

The lands are withdrawn for the Lake Mead National Recreation Area under the act of October 8, 1964; however they remain subject to the primary use for reclamation and power purposes so long as they are withdrawn or needed for such purposes.

The following described land are included in the proposed continuation:

Gila and Salt River Meridian, Arizona

T. 30 N., R. 14 W.,
Secs. 3, 4, 9, 10, 15, 16, 22, 23, 24, 25, 26, and 36.*
T. 30½ N., R. 14 W.,
Secs. 34 and 35.*
T. 31 N., R. 14 W.,
Secs. 28, 29, 30, 32, and 33.*
T. 31 N., R. 15 W.,
Secs. 5, 6, 7, 8, 9, and 16;*
Secs. 21 to 28, inclusive.*
T. 32 N., R. 15 W.,
Secs. 30, 31, and 32.*
T. 31 N., R. 16 W.,
Sec. 4.*
T. 32 N., R. 6 W.,
Secs. 3 to 11, inclusive;*
Secs. 14, 15, and 16;*
Secs. 21, 22, and 23;*
Secs. 25, 26, 27, and 28;*
Secs. 33, 34, 35, and 36.*
T. 32½ N., R. 16 W.,
Secs. 31, 32, 33, and 34.*
T. 33 N., R. 16 W.,
Secs. 15, 16, 21, 22, 27, 28, 29, 33, and 35.*
T. 30 N., R. 17 W.,
Secs. 5 and 6.*
T. 31 N., R. 17 W.,
Secs. 3, 4, 9, 10, 15, 16, 17, 20, 21, 28, 29, 31, and 33.*
T. 32 N., R. 17 W.,
Secs. 1, 11, 12, 13, 14, 22, 23, 26, 27, 33, 34, and 35.*
T. 30 N., R. 18 W.,
Secs. 1, 2, 3, 4, 6, 7, 8, 9, 17, and 18.*
T. 30 N., R. 19 W.,
Secs. 1 and 2.*
T. 31 N., R. 19 W.,
All of township.*
T. 32 N., R. 19 W.,
All of township.*
T. 31 N., R. 20 W.,
All of township.*
T. 32 N., R. 20 W.,
All of township.*
T. 21 N., R. 21 W.,
Secs. 6 and 7;*
Sec. 18, SW¼ and SE¼;*
Sec. 30, lot 4 all within a strip of land 300 feet in width landward from the existing bank of the Colorado River.
T. 31 N., R. 21 W.,
Secs. 2, 3, 10, 11, 12, and 13.*
T. 32 N., R. 21 W.,
All of township.*
T. 21 N., R. 22 W.,
All of township.*
T. 22 N., R. 22 W.,
All of township.*
T. 23 N., R. 22 W.,
All of township.*
T. 24 N., R. 22 W.,
All of township.*
T. 25 N., R. 22 W.,
All of township.*
T. 26 N., R. 22 W.,
All of township.*
T. 27 N., R. 22 W.,
Secs. 30 and 31.*
T. 29 N., R. 22 W.,
Secs. 18, 19, 20, 29, 31, and 32.*
T. 31 N., R. 22 W.,
Secs. 4, 5, 6, and 7.*
T. 32 N., R. 22 W.,
Secs. 24, 25, 26, 27, 28, 32, 33, 34, 35, and 36.*
T. 27 N., R. 23 W.,
Secs. 1, 12, 13, 24, and 25.*
T. 28 N., R. 23 W.,
Secs. 1, 2, 12, 13, 14, 23, 24, 25, and 36.*
T. 29 N., R. 23 W.,
Secs. 1, 2, 12, 13, and 36.*
T. 30 N., R. 23 W.,
Sec. 2, lots 3 and 4, S½NW¼, W½SW¼;
Secs. 3, 10, 11, 14, and 15, all;
Secs. 22, 27, and 34.*
T. 31 N., R. 23 W.,
Secs. 12, 13, 14, 23, 24, 25, and 26;
Sec. 35 W½;
Secs. 36.*
T. 32 N., R. 23 W.,
All of township.*

The areas described aggregate approximately 67,689 acres in Mohave County Arizona.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the undersigned officer.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources, and will review the withdrawl rejustification to ensure that continuation or modification would be consistent with the statutory objectives of the programs for which the land is dedicated; the area involved is the minimum essential to meet the desired needs; the maximum concurrent utilization of the land is provided for; and an agreement is reached on the concurrent management of the land and its resources. The authorized officer will also prepare a report for consideration by the Secretary of the Interior, the President, and the Congress, who will determine whether or not the withdrawals will be continued or modified, and if so, for how long. The final determination will be published in the **Federal Register**. The existing withdrawals will continue until such final determination is made.

All communications in connection with this proposed action should be addressed to the undersigned officer, Bureau of Land Management, Department of the Interior, P.O. Box 16563, Phoenix, Arizona 85011.

Dated: May 28, 1985.

John T. Mezes,

Chief, Branch of Lands and Minerals Operation.

[FR Doc. 85-13480 Filed 6-4-85; 8:45 am]

BILLING CODE 4310-32-M

*All land lying inside a line 300 feet landward from the high water mark, rising from the 655 foot elevation of Lake Mohave and the 1,229 foot elevation of Lake Mead.

[F-14954-A]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14 of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1611, will be issued to Olgoonik Corporation, Inc., for approximately 15.11 acres. The lands involved are in the vicinity of Wainwright.

U.S. Survey No. 4418, Alaska, situated in and near the town of Wainwright:

Tract A, Block 22, lot 1;
Tract C;
Tract E;
Tract F;
Tract G;
Tract H.

A notice of the decision will be published once a week for four (4) consecutive weeks, in The Fairbanks Daily News-Miner. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision shall have until July 5, 1985, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Helen Burleson,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85-13498 Filed 6-4-85; 8:45 am]

BILLING CODE 4310-JA-M

[U-51197-AR]

Utah; Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97-451), a petition for reinstatement of oil and gas

lease U-51197-AR for lands in Wayne County, Utah, was timely filed and required rentals and royalties accruing from October 1, 1984, the date of termination, have been paid.

The lessee has agreed to new lease terms for rentals and royalties at rates of $5 per acre and 16⅔ percent, respectively. The $500 administrative fee has been paid and the lessee has reimbursed the Bureau of Land Management for the cost of publishing this Notice.

Having met all the requirements for reinstatement of lease U-51197-AR as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective October 1, 1984, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Robert Lopez,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 85-13469 Filed 6-4-85; 8:45 am]

BILLING CODE 4310-DQ-M

[U-8971, U-9063, and U-9729]

Utah; Notice of Proposed Reinstatement of Terminated Oil and Gas Leases

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97-451), a petition for reinstatement of oil and gas leases U-8971, U-9063, and U-9729 for lands in Uintah County, Utah, was timely filed and required rentals and royalties accruing from October 1, 1980, for lease U-8971, and from December 1, 1980, for leases U-9063 and U-9729.

The lessee has agreed to new lease terms for rentals and royalties at rates of $5 per acre and 16⅔ percent, respectively. The $500 administrative fee per lease has been paid and the lessee has reimbursed the Bureau of Land Management for the cost of publishing this Notice.

Having met all the requirements for reinstatement of leases U-8971, U-9063, and U-9729 as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the leases, effective October 1, 1980, for lease U-8971, and effective December 1, 1980, for leases U-9063 and U-9729, subject to the original terms and conditions of the leases and the increased rental and royalty rates cited above.

Robert Lopez,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 85-13468 Filed 6-4-85; 8:45 am]

BILLING CODE 4310-DQ-M

Fish and Wildlife Service

Receipt of Endangered Species Permit Application

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT-694115

Applicant: David Evans, Duluth, MN

The applicant requests a permit to take (capture, band, release) peregrine falcons (*Falco peregrinus anatum*) in Minnesota and Wisconsin for scientific research.

PRT-694483

Applicant: New York Zoo, Bronz, NY

The applicant requests a permit to import 5 radicated tortoises (*Geochelone radiata*) from the Zurich Zoo, Switzerland, for enhancement of the propagation of the species.

PRT-694714

Applicant: Columbus Zoo, Powell, OH

The applicant requests a permit to purchase one female jaguar (*Panthera onca*) from Earl Tatum, Holiday Island, Arkansas, for enhancement of propagation.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) Room 611, 1000 North Glebe Road, Arlington, Virginia 22201, or by writing to the Director, U.S. Fish and Wildlife Service of the above address.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Dated: May 31, 1985.

R.K. Robinson,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 85-13499 Filed 6-4-85; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Outer Continental Shelf; Development Operations Coordination Document; Mobil Producing Texas & New Mexico Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that Mobil Producing Texas & New Mexico Inc. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 2392, Block A-572, High Island Area, offshore Texas. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Freeport, Texas.

DATE: The subject DOCD was deemed submitted on May 24, 1985.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ms. Angie Gobert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: May 28, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85-13509 Filed 6-4-85; 8:45 am]

BILLING CODE 4310-MR-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 303-TA-16 (Preliminary)]

Lime Oil From Peru; Preliminary Countervailing Duty Investigation

AGENCY: International Trade Commission.

ACTION: Institution of a preliminary countervailing duty investigation and scheduling of a conference to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary countervailing duty investigation No. 303-TA-16 (Preliminary) under section 303 of the Tariff Act of 1930 (19 U.S.C. § 1303) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Peru of lime oil, provided for in item 452.38 of the Tariff Schedules of the United States, which are alleged to be subsidized by the Government of Peru. As provided in section 303, the Commission must complete preliminary countervailing duty investigations in 45 days, or in this case by July 15, 1985.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and B (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: May 29, 1985.

FOR FURTHER INFORMATION CONTACT: Bruce Cates (202-523-0369), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to a petition filed on May 29, 1985 by Parman-Kendall, Inc., Goulds, Florida.

Participation in the Investigation

Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary of the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than seven (7) days after publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list

Pursuant to § 201.11(d) of the Commission's rules (19 CFR § 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) of the rules (19 CFR 201.16(c)), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Conference

The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on June 21, 1985, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Parties wishing to participate in the conference should contact Bruce Cates (202-523-0369) not later than June 20, 1985, to arrange for their appearance. Parties in support of the imposition of countervailing duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Written Submissions

Any person may submit to the Commission on or before June 26, 1985, a written statement of information pertinent to the subject of the investigation, as provided in § 207.15 of the Commission's rules (19 CFR 207.15). A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with section 201.8 of the rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary of the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of section 201.6 of the Commission's rules (19 CFR 201.6, as amended by 49 FR 32569, Aug. 15, 1984).

Authority

This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

Issued: June 3, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-13497 Filed 6-4-85; 8:45 am]

BILLING CODE 7020-02-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-219]

GPU Nuclear Corp.; Denial of Amendment to Provisional Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has denied in part a request by the licensee for an amendment to Provisional Operating License No. DPR-16, issued to the GPU Nuclear Corporation (the licensee) for operation of the Oyster Creek Nuclear Generating Station (OCNGS) in Ocean County, New Jersey. Notice of consideration of issuance of this amendment was published in the **Federal Register** on February 27, 1985 (50 FR 7987).

The amendment, as proposed in the justification for the change by the licensee, would change the OCNGS Apendix B Technical Specifications, Section 3.1.4, Water Quality Study, to reduce the frequency of calibrating the instruments for measuring water salinity, water temperature and dissolved oxygen. The licensee's application for changes to Section 3.1.4 was incomplete in that it did not address the following changes which are also in the licensee's proposed rewording of Section 3.1.4: (1) Changing water temperature to temperature, (2) changing the frequency of calibrating pH measuring instruments from daily before each use to daily, and (3) deleting the existing requirement that the water quality measurements are made monthly.

All other provisions of the amendment request have been approved by Amendment No. 83.

Notice of issuance of Amendment No. 83 will be published in the Commission's next regular biweekly **Federal Register** Notice.

The licensee was notified of the Commission's denial of the proposed technical specification changes by letter dated May 30, 1985.

By July 5, 1985, the licensee may demand a hearing with respect to the denial described above and any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for a hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date.

A copy of any petitions should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to G. F. Trowbridge, Esquire, Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, NW., Washington, D.C. 20036, attorney for the licensee.

For further details with respect to this action, see (1) the application for amendment dated May 1 and 25, 1984, and (2) the Commission's Safety Evaluation issued with Amendment No. 83 to DPR-16 dated May 30, 1985, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Ocean County Library, 101 Washington Street, Toms River, New Jersey. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 30th day of May 1985.

For the Nuclear Regulatory Commission.

Walter A. Paulson,

Acting Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 85-13535 Filed 6-4-85; 8:45 am]

BILLING CODE 7590-01-M

[License No. 25-18304-01, EA-84-78; Docket No. 30-14821, ASLBP 85-508-01-OT]

Reich Geo-Physical, Inc.; Hearing

May 30, 1985.

In the matter of Reich Geo-Physical, Inc.; 1109 Arlington Drive, Billings, Montana 59101.

The evidentiary hearing in this matter will commence at 9:00 a.m. MDST on July 24, 1985 at Room 2222, Federal Building, 316 North 26th Street, Billings, Montana 59101.

Bethesda, Maryland, May 30, 1985.

Ivan W. Smith,

Administrative Law Judge.

[FR Doc. 85-13536 Filed 6-4-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. SO-244]

Rochester Gas and Electric Corp.; Denial of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has denied a request by Rochester Gas and Electric Corporation (the licensee) for an amendment to Facility Operating License No. DPR-18, issued to the Rochester Gas and Electric Corporation for operation of the R.E. Ginna Nuclear Power Plant in Wayne County, New York.

The amendment, as proposed by the licensee, would change the Technical Specifications to delete the requirement that charcoal filters operate while fuel assemblies are being moved in the auxiliary building.

The licensee was notified of the Commission's denial of the proposed Technical Specification changes by letter dated May 30, 1985.

By July 5, 1985 the license may demand a hearing with respect to the denial described above and any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for a hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date.

A copy of any petitions should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Harry H. Voigt, Esquire, LeBoeuf, Lamb, Leiby and MacRae, 1333 New Hampshire Avenue, NW., Suite 1100, Washington, D.C. 20036, attorney for the licensee.

For further details with respect to this action, see (1) the application for amendment dated March 13, 1985, and (2) the Commission's Safety Evaluation dated May 30, 1985, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Rochester Public Library, 115 South Avenue, Rochester, New York 14610. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulartory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 30th day of May 1985.

For the Nuclear Regulatory Commission.

Walter A. Paulson,

Acting Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 85-13537 Filed 6-4-85; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Proposed Extension of a Form

AGENCY: Office of Personnel Management.

ACTION: Notice of proposed extension of a form submitted to OMB for clearance.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44 U.S.C. Chapter 35), this notice announces a proposed extension of OPM Form 1170, which collects information from the public. Supplemental Qualifications Statements are completed by applicants for Federal positions throughout the Federal Government. The Office of Personnel Management then uses the information to examine the qualifications of applicants. For copies of this proposal, call John P. Weld, Agency Clearance Officer, on (202) 632-7720.

DATE: Comments on this proposal should be received on or before June 20, 1985.

ADDRESSES: Send or deliver comments to—

John P. Weld, Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E Street, NW., Room 6410, Washington, D.C. 20415

and

Katie Lewin, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, NW, Washington, D.C. 20503

FOR FURTHER INFORMATION CONTACT: John P. Weld, (202) 632-7720.

U.S. Office of Personnel Management.

Loretta Cornelius,

Acting Director.

[FR Doc. 85-13486 Filed 6-4-85; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-14544; (File No. 812-5989)]

Alliance Capital Management Corp.; Application and Opportunity for Hearing

May 30, 1985.

Notice is hereby given that Alliance Capital Management Corporation ("Alliance" or "Applicant"), 140 Broadway, New York, New York 10005, an investment adviser registered under the Investment Advisers Act of 1940, filed an application on November 19, 1984, and amendments thereto on December 13, 1984 and May 2, 1985, pursuant to section 6(c) of the Investment Company Act of 1940 (the "Act"), for an order exempting Applicant from section 15(a) of the Act to permit Applicant's

(i) Serving as investment adviser to Chemical Fund, Inc. ("Chemical") and Surveyor Fund, Inc. ("Surveyor") (Chemical and Surveyor are collectively referred to herein as the "Funds" and individually as a "Fund") pursuant to interim agreements prior to shareholder approval of new management agreements between Applicant and the Funds, and

(ii) Receiving retroactive reimbursement from each of the Funds of Applicant's costs of providing the services covered by the interim management agreements (but not to exceed the management fee payable by each Fund under its management agreement with the previous investment adviser) from the effective date of the interim management agreements (i.e., November 20, 1984) until March 6, 1985, the date on which shareholders of the Funds approved the new management agreements.

All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the applicable provisions.

Applicant states that the investment manager for the Funds prior to November 20, 1984, was Eberstadt Fund Management, Inc. ("EFM"), a wholly-owned subsidiary of Eberstadt Asset Management, Inc. ("EAM"). EAM was a wholly-owned subsidiary of Putnam/Eberstadt Mutual Funds, Inc. ("PEMF"), which is a wholly-owned subsidiary of Marsh & McLennan Companies, Inc. ("Marsh & McLennan").

Applicant states that during 1984, and for a substantial period prior thereto, the Boards of Directors of both Funds were dissatisfied with the commitment of the Marsh & McLennan organization to the management services performed for the Funds by EFM. After a series of meetings with Marsh & McLennan, the Boards of Directors of the Funds decided to explore alternative arrangements. According to the application, a joint meeting of the Board of Directors of the Funds was held on October 25, 1984 for the purpose, among other things, of considering the alternative of new management agreements with Applicant. During the meeting, Applicant and Marsh & McLennan announced an agreement in principle for Alliance's acquisition of EAM and its subsidiary EFM, the consummation of which, according to the application, could be deemed to result in an assignment of the existing advisory agreement and its termination in accordance with the Act. Applicant states that, subsequent to this announcement, the Boards, including a majority of directors who were not interested persons of Marsh & McLennan, PEMF, EAM, EFM, DLJ or Applicant, approved the management and distribution agreements with Applicant. Subsequently, the management agreements were submitted to and approved by the shareholders of both Funds on March 6, 1985.

Applicant further states that the management agreements between the Funds and EFM terminated and the interim management agreement between each Fund and Applicant became effective upon the acquisition by Applicant of all the outstanding stock of EAM on November 20, 1984. The interim management agreement for each Fund remained in effect until March 6, 1985. Except for the terms and conditions of payments to be made by each Fund to Applicant pursuant to the interim management agreement, the terms of each interim management agreement and of each new management agreement were substantially identical to the terms of each Fund's management agreement with EFM.

Applicant represents that under the terms of each interim management agreement, Applicant agreed to perform its services at no charge to the Funds; provided, however, that Applicant would be entitled to reimbursement of its costs upon issuance of the order sought in the application. Following issuance of such an order, each Fund was to reimburse Applicant retroactively for the costs of the services performed pursuant to the interim management agreement during the period from the effective date of said agreement to the date of shareholder approval of the new management agreement. Such reimbursement could not in either case exceed the management fees which would have been payable by such Fund under its management agreement with EFM.

Applicant believes that a significant factor leading to the decisions by the Boards of Directors of the Funds to approve Applicant as successor investment manager to the Funds was the perception that Applicant, together with administrative and managerial personnel of EFM whom Applicant proposed to retain, would be well qualified to provide the advisory and administrative services needed by the Funds. In view of the Funds' decision, Applicant also believes that the prompt acquisition of EAM by Applicant was in the best interest of the Funds since the disruption and the possible loss of certain key EFM personnel that could have resulted from an unduly long transition period was avoided.

Applicant states that it has performed the services for the Funds called for in the interim management agreements but will not receive reimbursement for its costs for the period during which the interim management agreements were in effect until, and unless, the order sought herein has been granted. Applicant believes it is in the public interest, in the interest of investors and otherwise consistent with the purposes of the Act that an investment company be able to achieve an orderly and expeditous change in its investment adviser. When, as in this case, a new adviser is selected by the independent directors of an investment company, the new adviser undertakes to bear the expenses of its substitution as the new adviser, and the new adviser to perform at cost, which may not exceed the management fees previously approved by the shareholders of the investment company, until the management agreements are approved by shareholders, both the public interest and the interest of shareholders in the investment company are fully protected. In addition, Applicant states that the purposes and policies or the Act are served fully if the new adviser's management agreement is submitted to the investment company's shareholders at the earliest practicable date following the change in adviser.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 20, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are

disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit, or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date on order disposing of the application will be issued unless the Commission ordered a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-13524 Filed 6-4-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14547; 812-6066]

Tax Exempt Cash Management, Inc.; Application for an Order Exempting Applicant From Provisions

May 30, 1985.

Notice is hereby given that Dreyfus Tax Exempt Cash Management, Inc. ("Applicant"), 600 Madison Avenue, New York, New York 10022, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on February 27, 1985, requesting an order of the Commission, pursuant to section 6(c) of the Act exempting Applicant from the provisions of section 12(d)(3) of the Act to the extent necessary to permit Applicant to acquire rights to sell its portfolio securities to broker-dealers. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the complete text of the relevant provisions.

Applicant, organized as a Maryland corporation on January 27, 1984, states that it is a money market mutual fund whose investment objective is to provide investors with as high a level of current income exempt from federal income tax as is consistent with the preservation of capital and the maintenance of liquidity. Applicant indicates that it invests principally in debt obligations issued by states, territories and possession of the United States and the District of Columbia and their political subdivisions, agencies and instrumentalities, or multistate agencies or authorities, the interest from which is, in the opinion of bond counsel to the issuer, exempt from federal income tax (collectively, "Municipal Obligations"). Applicant, in accordance with Rule 2a-7 of the Act, intends to utilize the amortized cost method of portfolio valuation.

Applicant states that it is authorized to purchase "stand-by commitments" which give Applicant a right to sell the prinicipal amount of the Municipal Obligations it has purchased from a broker-dealer back to the seller, at Applicant's opinion, at a specified price. Applicant represents that it is permitted to acquire stand-by commitments solely to facilitate portfolio liquidity.

According to the application, the stand-by commitments Applicant acquires: (1) Will be in writing and will be physically held by Applicant's custodian; (2) will be exercisable by Applicant at any time prior to the maturity of the underlying security; (3) will be entered into only with broker-dealers which, in the opinion of Applicant's investment adviser, present a minimal risk of default; (4) will provide Applicant with an unconditional and unqualified right to exercise them; (5) will not be transferable, although Municipal Obligations purchased subject to stand-by commitments could be sold to a third party at any time, even though the stand-by commitments remain outstanding; and (6) will have an exercise price which will be (i) Applicant's acquisition cost of the Municipal Obligations purchased subject to the commitment (excluding any accrued interest that Applicant paid at the time of acquisition), less any amortized market premium or plus any amortized market or original issue discount during the period Applicant owns the securities, plus (ii) all interest accrued on the underlying Municipal Obligations since the most recent interest payment date during the period the Municipal Obligations are held by Applicant. Applicant states that the acquisition or exercisability of a stand-by commitment will not affect the valuation or maturity of the underlying portfolio security.

Applicant represents that the total amount "paid", directly or indirectly, for outstanding stand-by commitments will not exceed ½ of 1% of the value of Applicant's total assets calculated immediately after any stand-by commitment is acquired. The application indicates that, because Applicant values its Municipal Obligations on an amortized cost basis, the amount payable under a stand-by commitment will be the same as the value assigned by Applicant to the underlying Municipal Obligations. Applicant states that in the unlikely event that the market or fair value of Municipal Obligations in Applicant's portfolio was not substantially equivalent to the amortized cost value, Applicant would value the Municipal Obligations on the basis of available market information and hold them to maturity. In such a situation, Applicant expects that it would refrain from exercising stand-by commitments to avoid imposing a loss on a broker-dealer, which would jeopardize Applicant's business relationship with that entity.

Applicant states that stand-by commitments may be available without the payment of any direct or indirect consideration; however, if necessary or advisable, Applicant proposes to pay for stand-by commitments, either separately in cash or by paying a higher price for the Municipal Obligations that are acquired subject to the stand-by commitment. Applicant further asserts that it is difficult to evaluate the likelihood of the use of, or the potential benefit of, a stand-by commitment. Consequently, Applicant's board of directors intends to determine that stand-by commitments have a "fair value" of zero, regardless of whether any direct or indirect consideration was paid. However, where Applicant has paid for a stand-by commitment, its cost will be reflected as unrealized depreciation for the perod during which the stand-by commitment is held. In addition, Applicant states that for purposes of computing the dollar-weighted average maturity of its portfolio, the maturity of a portfolio security shall not be considered shortened or otherwise affected by any stand-by commitment.

Applicant states that the proposed acquisition of stand-by commitments will not affect the calculation of its net asset value per share and will not pose new investment risks, but rather will improve the liquidity of its portfolio securities. Applicant asserts that the acquisition of stand-by commitments will not meaningfully expose its assets to the entrepreneurial risks of the investment banking business. Applicant states that the stand-by commitments purchased by Applicant will be secured to the extent of the value of the Municipal Obligations which are subject to the stand-by commitments so that a stand-by commitment will present qualitatively no greater risk than the risk of loss faced by any investment company which is holding securities pending settlement after having agreed to sell the securities to a broker-dealer in the ordinary course of business. Applicant represents that its investment adviser intends to evaluate periodically the credit of institutions issuing stand-

by commitments. Applicant further states that it will not acquire stand-by commitments to promote reciprocal practices, to encourage the sale of its shares, or to obtain research services.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 24, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-13523 Filed 6-4-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-23712; 70-6384]

New England Electric System; Proposed Issuance and Sale of Common Stock Pursuant to the System Incentive Thrift Plan and Request for Exception From Competitive Bidding

May 30, 1985.

New England Electric System ("NEES"), 25 Research Drive, Westborough, Massachusetts 01581, a registered holding company, has filed with this Commission a post-effective amendment to the declaration in this proceeding pursuant to sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50(a)(5) promulgated thereunder.

By orders in this proceeding dated January 20, 1980, and February 12, 1980 (HCAR Nos. 21387 and 21428), NEES was authorized to issue and sell from time to time through December 31, 1984, up to 1,000,000 shares of its authorized but unissued common shares, $1 par value, pursuant to the New England Electric System Companies Incentive Thrift Plan (the "Plan"). NEES has issued, on a monthly basis through April 30, 1985, approximately 453,000 of the authorized 1,000,000 shares.

NEES now proposes to extend the period for issuing common shares pursuant to the Plan through December 31, 1988. The Plan has been amended since the prior Commission orders to comply with various amendments to Federal tax laws and to qualify as a cash or deferred arrangement under section 401(k) of the Internal Revenue Code of 1954, as amended.

The proceeds from the continued sale of common shares will be added to the general funds of NEES and used for any or all of the following purposes: (i) Investment in subsidiaries through loans to such subsidiaries, purchase of additional shares of their capital stocks, or capital contributions; (ii) payment of indebtedness of NEES; or (iii) other corporate purposes of NEES.

The amended declaration and any further amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by June 24, 1985, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as now amended or as it may be further amended, may be permitted to become effective.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-13528 Filed 6-4-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14545; File No. 812-5970]

Pruco Life Insurance Co. et al.; Application and Opportunity for Hearing

May 29, 1985.

Notice is hereby given that Pruco Life Insurance Company, on its own behalf and as sponsor and depositor of the Pruco Life Variable Appreciable Account, Pruco Life Insurance Company of New Jersey, on its own behalf and as sponsor and depositor of the Pruco Life of New Jersey Variable Appreciable Account, Pruco Life Series Fund, Inc., The Prudential Insurance Company of America, and Pruco Securities Corporation (collectively, "Applicants"), 213 Washington Street, Newark, New Jersey 07102, filed an application on October 25, 1984, and amendments thereto on January 23, 1985, and May 15, 1985, for an order of the Commission, pursuant to section 6(c) of the Investment Company Act of 1940 (the "Act"), exempting Applicants from sections 2(a)(32), 2(a)(35), 22(c), 26(a)(2), 27(a)(1), 27(c)(1), 27(c)(2) and 27(d) of the Act and Rules 6e-2 (b)(1), (b)(12), (b)(13), (c)(1)(ii), (c)(4) and 22c-1 thereunder to the extent necessary, as described in the application. All interested persons are referred to the application on file with the Commission for a statement of Applicants' representations, which are summarized below, and to the Act and the rules thereunder for the text of relevant provisions.

Applicants have previously been granted an exemptive order by the Commission in connection with the issuance of certain Variable Appreciable Life Insurance Contracts ("Contracts") that have characteristics similar to those scheduled premium varible life insurance contracts contemplated by Rule 6e-2 under the Act and other characteristics more like flexible premium variable life insurance contracts contemplated by Rule 6e-3(T), a rule that had not yet been adopted by the Commission at the time the exemptive order was granted. *See* Investment Company Act Release Nos. 14121 (Aug. 31, 1984) (notice) and 14171 (Sept. 24, 1984) (order). Interested persons are referred to Investment Company Act Release No. 14121 for a description of the Applicants, the Contracts and the relief granted. Applicants now request exemptive relief in order to amend the Contracts to permit contractowners to increase the face amount of insurance originally provided for an to decrease the face amount and to make certain charges in connection with such increases or decreases.

1. Increases in Face Amount

Applicants request exemption from sections 2(a)(32), 2(a)(35), 22(c), 26(a)(2), 27(a)(1), 27(c)(1), 27(c)(2) and 27(d) of the Act and Rules 6e-2 (b)(1), (b)(12), (b)(13), (c)(4) and 22c-1 thereunder to the extent necessary, to permit the deduction of a contingent deferred sales load and a contingent deferred administrative charge upon surrender or lapse within ten years after the contract owner elects to increase the face amount of his or her Contract. Applicants state that immediately after an increase in face amount, the face amount of insurance (which is also the Contract's guaranteed

minimum death benefit), the death benefit and the cash value will be equal to what the sum of the corresponding items would have been under both Contracts had the initial Contract remained unchanged and a new Contract been issued. The scheduled premiums thereafter will be slightly less than the sum of the scheduled premiums that would be charged had two Contracts been issued due to certain reduced charges reflected therein as described *infra*. According to Applicants, the increase will not go into effect until the completion of the same underwriting process that would have taken place had a second contract been issued.

Applicants state that there will be assessed upon lapse or surrender following an increase in face amount the sum of (a) the deferred sales and administrative charges that would have been assessed if the original Contract had not been amended and had lapsed or surrendered; and (b) the deferred sales and administrative charges that would have been assessed if the increase in death benefit had been achieved by the issuance of a new Contract, and that Contract had lapsed or surrendered. Thus, the maximum additional deferred sales charge will equal 25% of the first year's premium attributable to the increased face amount (the "incremental premium") (whether or not it is paid in the first year after the increase) and 5% of the incremental premiums for the next four years. According to Applicants, the deferred sales charge cumulates each year that surrender or lapse does not occur, although it is applied only to the actual amount (as opposed to the scheduled amount) of incremental premiums paid during the first five years and seven months subsequent to an increase in face amount, and begins thereafter to be reduced until it becomes zero at the end of the tenth year. The deferred administrative charge assessed will be $5.00 for each $1,000 face amount increased but only if lapse or surrender occur within ten years after an increase, and is reduced uniformly to zero after the fifth anniversary of the increase in face amount. All premiums paid after the increase in face amount will be deemed by Applicants to be partially in payment of the original Contract and partially in payment of the increase in insurance in the same proportion as that of the original scheduled premium and the increase in scheduled premiums (the "Proportionality Principle").

In support of their proposal to permit increases in face amount, Applicants represent that this may now be accomplished only through the purchase of an additional Contract which will involve paying two periodic premiums. A single Contract with an increased face amount, on the other hand, will result in fewer, although larger, payments and thus fewer $2.00 premium processing charges and only one $2.50 monthly deduction for administrative charges. These efficiencies, Applicants explain, will result in lower scheduled payments after an increase than would be required by adding two payments for separate contracts. In support of their proposal to impose a new schedule of deferred sales charges, Applicants assert that, because a contractowner's decision to increase the face amount of a Contract is similar to a decision to purchase a new Contract, such an increase is expected to involve comparable sales and distribution expenses to that which would have been incurred had a second Contract been sold. Applicants argue that the Commission recognized the appropriateness of assessing sales loads following an increase in face amount comparable to new sales of the same contract in adopting Rule 6e-3(T) in Investment Company Act Release No. 14234 (November 14, 1985). Applicants will offer each contractowner who elects to increase the face amount of his or her Contract a "free-look" right with respect to the incremental premium, the increased face amount and the portion of charges attributable thereto (all measured according to the Proportionality Principle described *supra*) on the terms set forth in Rule 6e-2(b)(13)(viii), and a right to convert the increased face amount of the Contract to a fixed benefit policy with the same face amount as the increase for 24 months after the requested increase in face amount on terms identical to those offered contractholders for the first 24 months of a new Contract. In this respect, contractowners will not be offered a fixed benefit whole life policy on the terms set forth in Rule 6e-2(b)(13)(v)(B), but instead will receive a Pruco Life general account funded universal life contract. Absent exemptive relief, Applicant believe it may not be permissible to offer such an exchanging contractowner a universal life policy instead of a whole life policy and request exemptive relief from section 27(d) and Rule 6e-2(b)(13)(v)(B) to the extent necessary to make such an offer.

In support of their proposal to deduct a new schedule of deferred administrative charges, Applicants explain that additional costs associated with processing applications and determining insurability will be incurred upon an increase in face amount. Notwithstanding these costs, Applicants state the deferred administrative charges will be deducted only upon withdrawal or lapse during the first ten years after an increase in face amount, and will be uniformly reduced after the fifth year.

In support of the Proportionality Principle described above, Applicants state that this principle recognizes that the contractowner will hold a single integrated contract that will lapse or become paid up as a unit. Moreoever, Applicants explain that the application of this principle will result in contractowners who lapse or surrender after an increase in face amount receiving the advantage of the lower deferred sales charge applicable to payments due after the first and after the fifth contract years, when lapse or surrender occurs at a time when less than all of the scheduled payments have been made, and also of the reductions in deferred sales charges that are made after the fifth contract year. Applicants acknowledge, however, that a contractowner could not thereafter choose which contract he or she wishes to lapse should the contractholder's financial circumstances change after an increase in face amount and that this might be considered a disadvantage of a unified Contract under the Proportionality Principle as opposed to ownership of two Contracts.

2. Decreases in Face Amount

Applicants request exemption from sections 2(a)(32), 2(a)(35), 22(c), 26(a)(2), 27(c)(1), 27(c)(2), and 27(d) and Rules 6e-2(b)(1), (12), (13), (c)(1)(ii), (c)(4) and 22c-1 in order to permit contractowners to decrease the face amount of insurance, to deduct an amount of the deferred sales and administrative charges upon a decrease in face amount proportionate to the reduction in face amount, and to permit a decrease in face amount below the initially stated amount of death benefit. Applicants state that upon a decrease in face amount, scheduled premiums and all other contract values will be reduced in proportion to the decrease in face amount except for the cash surrender value which will remain the same, less a $15 administrative charge (from which Applicants anticipate receiving no profit) that will be deducted from that value. This, according to Applicants, will result in the collection of a portion of the Contract's deferred sales and administrative charges.

In support of their proposal, Applicants state that they view a reduction in the Contract's face amount

without the withdrawal of any of the Contract's current cash surrender value as a partial surrender of the Contract. According to Applicants, it is appropriate to assess a pro rata portion of the then applicable deferred sales and administrative load because Applicants will henceforth collect lower premiums and assess lower mortality charges which are used in part to offset distribution and administrative expenses of persisting contractowners. Moreover, Applicants argue that if a portion of the load were not collected at that time, a contractholder could avoid the deferred load by first reducing the face amount and then surrendering the Contract. Applicants assert that permitting a contractowner to reduce the face amount of his or her policy, subject to the deduction of the deferred charges and the $15 administrative charge, gives the contractowner flexibility in determining his or her insurance needs when those needs are reduced without reducing the investment base of the contract.

Applicants acknowledge that a decrease in face amount may not be a "redemption" within the meaning of the Act beause no cash value is paid out, and that the collection of deferred charges upon such an event may be viewed as deductions from cash value and not as deferred charges within the terms of Applicants' original exemptive relief. Therefore, Applicants seek relief from those sections of the Act and Rule 6e-2 that would prohibit the deduction from cash value of such sales and administrative charges. Similarly, because a decrease in face amount may not involve a "partial withdrawal or partial surrender" within the meaning of paragraph (c)(3) of Rule 6e-2, Applicants seek relief from paragraph (c)(1)(ii) of Rule 6e-2 which requires a guaranteed death benefit equal to the initial stated amount of death benefit.

In support of its request for relief from paragraph (c)(1)(ii), Applicants explain that the initial guaranteed minimum death benefit of the contract was based upon an assumed schedule of payments, and that, since the schedule of payments is reduced subsequent to a decrease in face amount, it is appropriate for the guaranteed minimum death benefit to be reduced to reflect the new schedule of payments. Moreover, Applicants state that the charge deducted for the guaranteed minimum death benefit (one cent per $1,000 of face amount per month) will be reduced to reflect the lower guaranteed minimum death benefit.

3. Deduction of Insurance Charges From Cash Values

Applicants request relief from sections 26(a)(2) and 27(c)(2) of the Act to permit the deduction of mortality (cost of insurance), substandard risk, incidental benefit, and guaranteed minimum death benefit charges from cash value. Applicants assert that it is more appropriate and equitable to deduct these insurance charges from cash value rather than to impose a charge structure that requires contractowners who pay premiums more frequently to subsidize the insurance risks assumed under the Contracts of contractholders who pay less premiums. While Applicants state their belief that sections 26(a)(2) and 27(c)(2) do not apply to these insurance charges, to avoid any question of full compliance with the Act, they request relief to permit the deduction of these charges.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 24, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for the request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-13525 Filed 6-4-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22085; File No. SR-NSCC-85-4]

Self-Regulatory Organizations; National Securities Clearing Corporation; Filing and Immediate Effectiveness of Proposed Rule Change

May 29, 1985.

On April 25, 1985, National Securities Securities Clearing Corporation ("NSCC") filed with the Commission a proposed rule change under section 19(b)(1) of the Securities Exchange Act of 1934. The Commission is publishing this notice to solicit public comment on the proposal.

NSCC's proposal amends Sections V.C. and VI.I.A. of its Procedures to enable NSCC to make available to NSCC Members a supply of Clearance/Settlement Statements (086 forms), which Members may use to prepare their daily NSCC settlement figures. NSCC's Procedures previously required NSCC to provide daily computer printouts of the Clearance/Settlement Statements, which contained no information except for a once-a-month billing.[1] NSCC simply seeks to eliminate this unnecessary generation of daily computer printouts. To provide sufficient time for the ordering and printing of new forms, NSCC will not implement this new rule change until June 3, 1985.

NSCC believes that its proposed rule change is consistent with section 17A of the Act because it does not affect the rights or obligations of NSCC's Members and does not affect adversely the safegarding of securities or funds in NSCC's custody or control for which it is responsible. Rather, the rule change merely replaces daily computer-generated forms with a supply of printed forms.

The rule change has become effective, pursuant to section 19(b)(3)(A) of the Act and Rule 19b-4 thereunder. The Commission may summarily abrogate the rule change at any time within 60 days of its filing if it appears to the Commission that abrogation is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purpose of the Act.

You can submit written comment within 21 days after notice is published in the **Federal Register.** Please file six copies of your comment with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, N.W., Washington D.C. 20549. Copies of the submission, with accompanying exhibits, and of all written comments, except for material that may be withheld from the public under 5 U.S.C. § 552, are available at the Commission's Public Reference Room, 450 5th Street, N.W., Washington, D.C. Copies of the filing also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the

[1] Once each month NSCC informs NSCC members of their Monthly Charges and Commission Billings by including those amounts on Members' Settlement Statements.

proposal's file number and should be submitted by June 26, 1985.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-13526 Filed 6-4-85; 8:45 am]

BILLING CODE 8010-01-M

UNITED STATES INFORMATION AGENCY

Grants Program; Accredited U.S. Institutions of Higher Education in Support of an Undergraduate Scholarship Program for Central American Students

Reference: OMB clearance number 3116-0179; Expiration date January 31, 1987

The Bureau of Educational and Cultural Affairs has issued an update which includes revisions and additions to the Request for Proposals for the Central America Program of Undergraduate Scholarships (CAMPUS). The revisions contained therein respond to new information obtained through development of the program in Central America. Additional information is also provided in response to inquiries from interested institutions.

To receive a copy of this update, interested academic institutions should contact: Dr. Alan Adelman, E/AEL, United States Information Agency, 301 Fourth Street, S.W., Washington, D.C. 20547, Telephone: (202) 485-7398.

Dated: May 24, 1985.

Ronald L. Trowbridge,

Associate Director, Bureau of Educational and Cultural Affairs.

[FR Doc. 85-13487 Filed 6-4-85; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 108
Wednesday, June 5, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, June 10, 1985.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: May 31, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-13533 Filed 5-31-85; 4:33 pm]

BILLING CODE 5210-01-M

2

INTER-AMERICAN FOUNDATION BOARD MEETING

TIME AND DATE:

June 17, 1985, 6:00-9:00 p.m.
June 18, 1985, 9:00 a.m.-12:00 noon

PLACE: 1515 Wilson Boulevard, Fifth Floor, Rosslyn, Virginia 22209.

STATUS: Open, except for the portion to be held as Closed Session to discuss personnel matters as defined in Section 1004.4(b) of 22 CFR Chapter 10.

MATTERS TO BE CONSIDERED:

June 17, 1985

1. Chairman's Report
2. President's Report
3. Approval of the Minutes of March 21-22, 1985
4. Closed Session to discuss personnel matters as defined in Section 1004.4 (b) of 22 CFR Chapter 10

June 18, 1985

5. Advisory Council
6. Report of the Audit Committee
7. Plans for IAF's 15th Anniversary
8. Costa Rico Program
9. Other Business

CONTACT PERSONS FOR MORE INFORMATION:

Robert W. Mashek, Secretary to the Board of Directors, (703) 841-3844
Charles M. Berk, General Counsel, (703) 841-3812

Dated: June 3, 1985

Charles M Berk,

Sunshine Act Officer.

[FR Doc. 85-13606 Filed 6-3-85; 5:08 pm]

BILLING CODE 7025-01-M

3

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of June 3; 10, 17, and 24, 1985.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of June 3

Monday, June 3

1:30 p.m.
Discussion of Pending Investigations (Closed—Ex. 5 & 7)

2:30 p.m.
Discussion/Possible Vote on Full Power Operating License for Wolf Creek (Public Meeting)

Tuesday, June 4

2:00 p.m.
Oral Argument on Shoreham (Public Meeting)

Thursday, June 6

3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of June 10—Tentative

Monday, June 10

10:00 a.m.
Briefing by Representatives of INPO Accrediting Board (Public Meeting)

2:00 p.m.
Discussion/Possible Vote on Final Rule on Backfitting (Public Meeting)

Tuesday, June 11

1:30 p.m.
Discussion of Adjudicatory Matter (Closed—Ex. 10)

2:30 p.m.
Discussion/Possible Vote on Full Power Operating License for Limerick (Public Meeting)

4:00 p.m.
Discussion/Possible Vote on Review of ALAB-800 and Related Matters (Shoreham) (Public Meeting)

Wednesday, June 12

10:00 a.m.
Continuation of 5/16 Briefing on Mid-Year Budget and Program Review (Public Meeting)

Thursday, June 13

10:00 a.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of June 17—Tentative

Wednesday, June 19

10:00 a.m.
Briefing by Executive Branch (Closed—Ex. 1)

2:00 p.m.
Staff Briefing on Final Rule on HEU Regulations for Domestic Non-Power Reactors (Public Meeting)

Thursday, June 20

11:00 a.m.
Periodic Meeting with Advisory Panel for Decontamination of TMI-2 (Public Meeting)

2:00 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Friday, June 21

10:00 a.m.
Continuation of 5/15 Briefing on Proposed Revision of Part 20 (Public Meeting)

Week of June 24—Tentative

Wednesday, June 26

10:00 a.m.
Briefing on Safety Goal Evaluation Plan (Public Meeting)

Thursday, June 27

11:30 a.m.
Affirmation Meeting (Public Meeting) (if needed)

ADDITIONAL INFORMATION: Affirmation of "Severe Accident Policy Statement" and "Disposition of Hearing Requests Regarding Nuclear Materials Licenses" scheduled for May 30, *postponed.*

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. 85–13532 Filed 5–31–85; 4:33 pm]

BILLING CODE 7590–01–M

4

RAILROAD RETIREMENT BOARD

Notice is hereby given that the Railroad Retirement Board will hold a meeting on June 11, 1985, 9:00 a.m., at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois 60611. The agenda for this meeting follows:

(1) Proposed Changes in the RUIA Regulations
(2) Canadian Service
(3) Centralization of Control Over Criminal Investigations and the Decision to Refer Cases for Prosecution

The entire meeting will be open to the public. The person to contact for more information is Beatrice Ezerski, Secretary to the Board, COM No. 312–751–4920, FTS No. 387–4920.

Dated: May 31, 1985.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 85–13594 Filed 6–3–85; 11:49 am]

BILLING CODE 7905–01–M

Reader Aids

Federal Register

Vol. 50, No. 108

Wednesday, June 5, 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
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