

# Federal Register

Monday  
November 19, 1979

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## Highlights

**Briefings on How to Use the Federal Register**—For details on briefings in Washington, D.C. and Dallas, Texas, see announcement in the Reader Aids Section at the end of this issue.

- 66175 Refugee Assistance for Kampuchea** Presidential determination
- 66253 - Bilingual Education** HEW/OE invites grant applications for its Fellowship Program, Elementary and Secondary Program, Training Program and the Desegregation Assistance Program; varied application receipt dates (4 documents)
- 66466 Labeling and Advertising** FTC issues a rule for using energy costs and consumption information for consumer appliances; effective dates vary (Part IV of this issue)
- 66324 Certain General Aviation Airplanes** DOT/FAA proposes regulations to upgrade the level of safety; comments by 2-19-80 (Part II of this issue)
- 66534 Noninflationary Pay and Price Behavior** CWPS adopts new reporting forms; effective 11-19-79 (Part VI of this issue)
- 66534 Anti-Inflationary Pay Standard** CWPS publishes questions and answers of general applicability; effective 11-13-79 (Part VI of this issue)

CONTINUED INSIDE



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## Highlights

- 66194 Mobile Home Construction** HUD/NVACP sets forth safety standards to eliminate unnecessary weld slag removal requirements which increase cost and to reduce the potential for fire hazards near heat-producing appliances; effective 12-19-79
- 66183 Mandatory Petroleum Allocation** DOE/ERA issues a final rule to include additional petroleum substitutes in the Entitlements Program; effective 6-1-79
- 66208 Natural Gas Policy** DOE/FERC proposes to establish procedures by which requirements of a bona fide offer and right of first refusal shall be satisfied; comments by 12-19-79; hearing on 12-14-79
- 66179 Cultural Environment** USDA/Office of Environmental Quality sets forth policy and procedural direction for enhancement and protection; effective 11-19-79
- 66500 Inert Gas System** DOT/CG requires certain tankships and product tankships to be fitted; effective 1-1-80 (Part V of this issue)
- 66502, 66528 Vessels** DOT/CG adopts rules to reduce the probability of collisions through preventative measures (2 documents) (Part V of this issue)
- 66239 Energy Information** DOE/EIA issues statement concerning reduction of reporting burden to industry and individuals
- 66186 Crude Oil Pricing** DOE/ERA adopts an amendment to its rules in order to implement the President's decision to remove price controls from domestic crude oil; effective 1-1-80
- 66205 Interlocking Positions** DOE/FERC proposes reporting requirements
- 66193 Federal-Aid Highway Programs** DOT/FHWA seeks to implement certain provisions of the Clean Air Act; effective 11-19-79; comments by 1-18-80
- 66279 Sunshine Act Meetings**

### Separate Parts of This Issue

- 66324 Part II, DOT/FAA**
- 66356 Part III, Commerce/NOAA**
- 66466 Part IV, FTC**
- 66500 Part V, DOT/CG**
- 66534 Part VI, CWPS**
- 66558 Part VII, EPA**

# Contents

Federal Register

Vol. 44, No. 224

Monday, November 19, 1979

- The President**  
**ADMINISTRATIVE ORDERS**  
 66175 Kampuchea, refugee assistance (Presidential Determination No. 80-4 of October 24, 1979)
- Executive Agencies**
- Aging, Federal Council**  
**NOTICES**  
 66247 Meetings
- Agricultural Marketing Service**  
**RULES**  
 66178 Lettuce grown in Tex.
- Agriculture Department**  
*See also* Agricultural Marketing Service; Environmental Quality Office, Agriculture Department; Federal Crop Insurance Corporation; Federal Grain Inspection Service.  
**RULES**  
 Authority delegations by Secretary and General Officers:  
 66177 Natural Resources and Environment, Assistant Secretary et al.; protection of environmental policies and natural resources
- Army Department**  
*See also* Engineers Corps.  
**NOTICES**  
 Meetings:  
 66235 Army Science Board (2 documents)
- Arts and Humanities, National Foundation**  
**NOTICES**  
 Meetings:  
 66266 Special Projects Panel
- Civil Aeronautics Board**  
**NOTICES**  
 66223 Certificates of public convenience and necessity and foreign air carrier permits  
 Hearings, etc.:  
 66224 Former large irregular air service investigation  
 66224 Intra-Alaska service investigation
- Civil Rights Commission**  
**NOTICES**  
 Meetings, State advisory committees:  
 66226 Wisconsin
- Coast Guard**  
**RULES**  
 Drawbridge operations:  
 66195 Florida  
 Navigation safety regulations:  
 66528 Steering gear standards for tank vessel  
 Pollution:  
 66502 Tank vessels carrying oil in bulk; ballast tanks and washing systems standards  
 Tank vessels:  
 66500 Inert gas and deck foam systems
- PROPOSED RULES**  
 Vessel inspections:  
 66218 Tailshaft requirements and examination procedures; correction
- Commerce Department**  
*See also* Foreign-Trade Zones Board; Maritime Administration; National Oceanic and Atmospheric Administration.  
**NOTICES**  
 Organization and functions:  
 66229 Export Development Bureau  
 66229, 66232 Industry and Trade, Assistant Secretary (3 documents)  
 66229, 66230 Minority Business Development Agency (2 documents)
- Defense Department**  
*See* Army Department; Engineers Corps.
- Economic Regulatory Administration**  
**RULES**  
 Petroleum allocation and price regulations:  
 66186 Crude oil, upper tier; phased deregulation  
 66183 Petroleum substitutes; solid municipal waste and derivatives, shale oil used for nonrefining purposes, and methane from municipal sewage and landfill; inclusion in entitlements program  
**NOTICES**  
 Consent orders:  
 66239 Capitol Hill Exxon et al.  
 Powerplant and industrial fuel use; prohibition orders:  
 66235 Public Service Co. of New Hampshire  
 66237 Savannah Electric & Power Co.  
 Remedial orders:  
 66239 Wallies Penzoil
- Education Office**  
**NOTICES**  
 Grant applications and proposals, closing dates:  
 66253-66255 Bilingual education programs (4 documents)  
 Meetings:  
 66252 Adult Education National Advisory Council  
 Vocational Education National Advisory Council
- Energy Department**  
*See* Economic Regulatory Administration; Energy Information Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department.
- Energy Information Administration**  
**NOTICES**  
 66239 Energy information reporting burden reduction; statement
- Engineers Corps**  
**PROPOSED RULES**  
 Danger zones:  
 66213 Small arms range, Great Lakes, Illinois

- Environmental Protection Agency**  
**RULES**  
Waste management, solid:  
66196 State plans; development and implementation; correction  
**PROPOSED RULES**  
Air quality implementation plans; approval and promulgation; various States, etc.:  
66214 Michigan  
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:  
66217 Dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphonate  
66216 Thiabendazole  
**NOTICES**  
Environmental statements; availability, etc.:  
66242 Agency statements, weekly receipts  
66246 Fayetteville wastewater treatment facility, Ark.  
Pesticide registration, cancellation, etc.:  
66558 Dimethoate
- Environmental Quality Office, Agriculture Department**  
**RULES**  
66179 National Environmental Policy Act; implementation
- Federal Aviation Administration**  
**RULES**  
Airworthiness directives:  
66188 Boeing  
66189 Gates Learjet  
66190 Standard instrument approach procedures  
66190 Transition areas  
**PROPOSED RULES**  
Air carriers certification and operation:  
66324 Large general aviation airplanes, safety requirements; replacement of commercial operator and air travel club regulations  
66204, 66205 Transition areas (2 documents)
- Equal Employment Opportunity Commission**  
**NOTICES**  
66279 Meetings; Sunshine Act
- Federal Crop Insurance Corporation**  
**RULES**  
Crop insurance; various commodities:  
66178 Soybeans; correction
- Federal Energy Regulatory Commission**  
**RULES**  
Natural Gas Policy Act of 1978:  
66192 Deregulated high-cost natural gas; definitions for gas produced from geopressured brine, coal seams, and Devonian shale; interim rule; hearing  
**PROPOSED RULES**  
Natural Gas Policy Act of 1978:  
66208 Bona fide offers and right of first refusal  
Public Utility Regulatory Policies Act:  
66205 Interlocking positions, reporting requirements
- Federal Grain Inspection Service**  
**NOTICES**  
Grain standards; inspection points:  
66220 Connecticut et al.  
66221 Illinois  
66220 Iowa
- 66221 Kansas  
66223 Kentucky
- Federal Highway Administration**  
**RULES**  
Right-of-ways and environment:  
66193 Federal-aid highway programs; air quality guidelines; interim rule and inquiry  
**PROPOSED RULES**  
Right-of-way and environment:  
66213 National Environmental Policy Act; implementation; correction  
**NOTICES**  
66272 Indian reservation roads and bridges construction; memorandum of agreement with BIA
- Federal Home Loan Bank Board**  
**NOTICES**  
66279 Meetings; Sunshine Act (3 documents)
- Federal Maritime Commission**  
**NOTICES**  
66247 Agreements filed, etc.
- Federal Reserve System**  
**NOTICES**  
Applications, etc.:  
66248 Cary/Grove Bancorp., Inc.  
66248 Central Bancorporation, Inc.  
66249 Central Colorado Co. and C.C.B., Inc.  
66249 Citibank Interamerica  
66249 Crested Butte Bankshares, Inc.  
66249 Delano State Agency, Inc.  
66250 Financial Services Corporation of the Midwest  
66250 First Howard Bankshares, Inc.  
66250 General Bancorporation, Inc.  
66250 Hoffman Bancorp, Inc.  
66250 Hoffman Bancshares, Inc.  
66251 New England Merchants Bank International  
66247 Old Stone Corp.  
66251 Planters Bancshares, Inc.  
66251 Security Bancorps, Inc. (2 documents)
- Federal Trade Commission**  
**RULES**  
66466 Appliances, consumer; energy cost and consumption information in labeling and advertising
- Foreign-Trade Zones Board**  
**NOTICES**  
Applications, etc.:  
66226 Bangor, Me.  
66226 Burlington, Vt.
- General Services Administration**  
**NOTICES**  
Public utilities; hearings, etc.:  
66251 Ohio Public Utility Commission; correction
- Health, Education, and Welfare Department**  
See Education Office.
- Hearings and Appeals Office, Energy Department**  
**NOTICES**  
Applications for exception:  
66241 Decisions and orders

**Housing and Urban Development Department**  
See Neighborhoods, Voluntary Associations and Consumer Protection, Office of Assistant Secretary.

**Indian Affairs Bureau**

**NOTICES**

- 66256 Indian reservation roads and bridges construction; memorandum of agreement with Federal Highway Administration.

**Interior Department**

See Indian Affairs Bureau; Land Management Bureau; National Park Service; Surface Mining Office.

**Interstate Commerce Commission**

**NOTICES**

- 66276 Hearing assignments  
Railroad car service orders; various companies:  
66277 Kansas City Terminal Railway Co.

**Land Management Bureau**

**RULES**

Public land orders:

- 66196 New Mexico

**NOTICES**

Coal leases:

- 66256 Utah

Environmental statements; availability, etc.:

- 66257 Uinta-Southwestern Utah Coal Production Region, Utah; meetings

Motor vehicles, off-road, etc.; area closures:

- 66258 Oregon; correction

**Management and Budget Office**

**NOTICES**

- 66267 Agency forms under review

**Maritime Administration**

**NOTICES**

Applications, etc.:

- 66228 Ogden Leader Transport, Inc., et al.

**Materials Transportation Bureau**

See Research and Special Programs Administration, Transportation Department.

**National Oceanic and Atmospheric Administration**

**PROPOSED RULES**

Fishery conservation and management:

- 66356 Bering Sea and Aleutian Islands groundfish

**NOTICES**

Meetings:

- 66228 Mid-Atlantic Fishery Management Council

**National Park Service**

**NOTICES**

Boundary establishment, descriptions, etc.:

- 66259 Adams National Historic Site, Mass.  
66258 Cumberland Island National Seashore, Ga.  
66262 Dorchester Heights, Mass.  
66259 Fort Caroline National Memorial, Fla.  
66259 Gulf Islands National Seashore, Miss.-Fla.  
66259 Lowell National Historical Park, Mass.

Committees; establishment, renewals, terminations, etc.:

- 66259 San Antonio Missions Advisory Commission

Federal consistency requirements:

- 66264 Lowell National Historical Park, Mass.

**National Transportation Safety Board**

**NOTICES**

Organization and functions:

- 66267 Los Angeles Field Office, Calif.; relocation

**Neighborhoods, Voluntary Associations and Consumer Protection, Office of Assistant Secretary**

**RULES**

- 66194 Mobile home construction and safety standards; frame construction and prevention of storage near heat-producing appliances

**Nuclear Regulatory Commission**

**NOTICES**

Applications, etc.:

- 66266 Florida Power Corp., et al.  
66266 Sacramento Municipal Utility District

Meetings:

- 66266 Reactor Safeguards Advisory Committee  
66279 Meetings; Sunshine Act

**Occupational Safety and Health Review Commission**

**NOTICES**

- 66280 Meetings; Sunshine Act

**Research and Special Programs Administration, Transportation Department**

**RULES**

Hazardous materials:

- 66197 Explosives Bureau; authority delegations withdrawn

**PROPOSED RULES**

Hazardous materials:

- 66219 Shipment; descriptions for emergency response; correction

**Small Business Administration**

**NOTICES**

Disaster areas:

- 66270 Kansas (2 documents)  
66270 New Hampshire (2 documents)  
66270, New York (2 documents)  
66271  
66271 Ohio (2 documents)  
66271 Pennsylvania (2 documents)  
66269 - Puerto Rico (5 documents)  
66272  
66272 Wisconsin (4 documents)

**Surface Mining Office**

**RULES**

- 66195 Surface coal mining and reclamation operations; Permanent regulatory program; correction

**Textile Agreements Implementation Committee**

**NOTICES**

Cotton textiles:

- 66234 Pakistan  
Cotton and man-made textiles:  
66233 Macau  
Wool and man-made textiles:  
66232 Macau

**Transportation Department**

See Coast Guard; Federal Aviation Administration; Federal Highway Administration; Research and Special Programs Administration, Transportation Department; Urban Mass Transportation Administration.

**Treasury Department****NOTICES**

Boycotts, international:

- 66272 Tax Reform Act of 1976; denial of certain tax benefits for participation or cooperation

Notes, Treasury:

- 66274 Z-1981 series

**Urban Mass Transportation Administration****PROPOSED RULES**

- 66213 National Environmental Policy Act; implementation; correction

**Wage and Price Stability Council****RULES**

Procedural rules:

- 66534 Quarterly reporting form; Form PM-1; adoption of addendum and alternative form PM-1-A

Wage and price guidance; anti-inflation program:

- 66534 Questions and answers

**NOTICES**

Meetings:

- 66235 Pay Advisory Committee

**INTERIOR DEPARTMENT**

Bureau of Land Management—

- 66257 Uinta-Southwestern Utah Coal Production Region, 12-3 through 12-6-79

**NUCLEAR REGULATORY COMMISSION**

- 66266 Advisory Committee on Reactor Safeguards Ad Hoc Subcommittee on the Three Mile Island, Unit 2 Accident Implications Re Nuclear Power Plant Design, 12-4-79

**HEARINGS****ENERGY DEPARTMENT**

Federal Energy Regulatory Commission—

- 66192 Interim Rules Involving High-Cost Natural Gas, 12-4-79

- 66208 Natural Gas Sales, 12-14-79

**INTERIOR DEPARTMENT**

Bureau of Land Management—

- 66256 Uinta-Southwestern Utah Coal Region, 12-3 through 12-6-79

**MEETINGS ANNOUNCED IN THIS ISSUE****ARTS AND HUMANITIES, NATIONAL FOUNDATION**

- 66266 Special Projects Panel (Folk Arts Section), 12-8 through 12-8-79

**CIVIL RIGHTS COMMISSION**

- 66226 Wisconsin Advisory Committee, 12-11-79

**COMMERCE DEPARTMENT**

National Oceanic and Atmospheric Administration—

- 66228 Mid-Atlantic Fishery Management Council, 12-12 through 12-14-79

**COUNCIL ON WAGE AND PRICE STABILITY**

- 66235 Pay Advisory Committee, 11-28 and 12-7-79

**DEFENSE DEPARTMENT**

Army Department—

- 66235 Army Science Board, 12-11 through 12-13-79 and 12-18 and 12-19-79

**HEALTH, EDUCATION, AND WELFARE DEPARTMENT**

- 66247 Federal Council on the Aging, 12-10 through 12-12-79

Office of Education—

- 66252 National Advisory Council on Adult Education, 12-6 through 12-8-79

- 66252 National Advisory Council on Vocational Education, 12-1 and 12-3-79

**CFR PARTS AFFECTED IN THIS ISSUE**

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

<b>3 CFR</b>		<b>Proposed Rules:</b>	
<b>Administrative Orders:</b>		61.....	66218
<b>Presidential Determination:</b>		<b>49 CFR</b>	
No. 80-4 of October		178.....	66197
24, 1979.....	66175	<b>Proposed Rules:</b>	
<b>6 CFR</b>		172.....	66219
705 (2 documents).....	66534	662.....	66213
706.....	66534	<b>50 CFR</b>	
707.....	66534	<b>Proposed Rules:</b>	
<b>7 CFR</b>		611.....	66356
2.....	66177	675.....	66356
431.....	66178		
971.....	66178		
3100.....	66179		
<b>10 CFR</b>			
211.....	66183		
212.....	66186		
<b>14 CFR</b>			
39 (2 documents).....	66188,		
	66189		
71.....	66190		
97.....	66190		
<b>Proposed Rules:</b>			
43.....	66324		
65.....	66324		
71 (2 documents).....	66204,		
	66205		
91.....	66324		
121.....	66324		
123.....	66324		
125.....	66324		
135.....	66324		
145.....	66324		
<b>16 CFR</b>			
305.....	66466		
<b>18 CFR</b>			
272.....	66192		
<b>Proposed Rules:</b>			
46.....	66205		
277.....	66208		
<b>23 CFR</b>			
770.....	66193		
<b>Proposed Rules:</b>			
771.....	66213		
<b>24 CFR</b>			
3280.....	66194		
<b>30 CFR</b>			
788.....	66195		
<b>33 CFR</b>			
117.....	66195		
157.....	66502		
164.....	66528		
<b>Proposed Rules:</b>			
204.....	66213		
<b>40 CFR</b>			
256.....	66196		
<b>Proposed Rules:</b>			
52.....	66214		
180 (2 documents).....	66216,		
	66217		
<b>43 CFR</b>			
<b>Public Land Orders:</b>			
4520 [Revoked by			
PLO 5685].....	66196		
5685.....	66196		
<b>46 CFR</b>			
30.....	66500		
32.....	66500		
34.....	66500		

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# Presidential Documents

Title 3—

Presidential Determination No. 80-4 of October 24, 1979

The President

Determination pursuant to Section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as amended, ("the Act") authorizing the use of \$3 million of the funds made available from the United States Emergency Refugee and Migration Assistance Fund

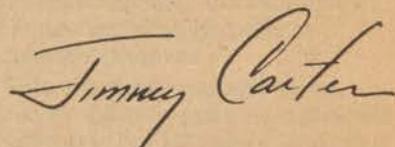
### Memorandum for the Secretary of State

In order to strengthen our contribution to the Joint Appeal of the United Nations Children's Fund and the International Committee of the Red Cross for the establishment of a Relief Program within Kampuchea, I hereby determine because of widespread famine and disease resulting from wholesale dislocation and other causes that the general population within Kampuchea constitutes a class of refugees eligible for assistance under the Act. Therefore, I determine that it is important to the national interest that up to \$3 million from the United States Emergency Refugee and Migration Assistance Fund be made available through the Department of State for transfer to the United Nations Children's Fund and the International Committee of the Red Cross for these purposes.

The Secretary of State is requested to inform the appropriate Committees of Congress of the Determination and the obligation of funds under this authority.

This Determination shall be published in the **Federal Register**.

THE WHITE HOUSE,  
Washington, October 24, 1979.



Presidential Documents

1962

1962

Presidential Documents to and from the President

1962

Executive Order 11644, National Defense Education Act of 1958 as amended (July 27, 1958) - Providing for the transfer of \$2 million of the funds made available from the United States Emergency Reserve and National Defense Education Act to the National Defense Education Commission.

Memorandum for the President

Subject: National Defense Education Act of 1958 as amended (July 27, 1958) - Providing for the transfer of \$2 million of the funds made available from the United States Emergency Reserve and National Defense Education Act to the National Defense Education Commission. This memorandum is submitted to you for your information and guidance. It contains a copy of the Executive Order and a copy of the letter from the National Defense Education Commission dated July 27, 1958.

The Executive Order is being submitted to you for your information and guidance. It contains a copy of the Executive Order and a copy of the letter from the National Defense Education Commission dated July 27, 1958.

The memorandum will be submitted to the National Defense Education Commission.

*[Handwritten signature]*

J. EDGAR HOOVER  
DIRECTOR

1962

# Rules and Regulations

Federal Register

Vol. 44, No. 224

Monday, November 19, 1979

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

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

## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

#### 7 CFR Part 2

#### Revision of Delegations of Authority

**AGENCY:** Department of Agriculture.

**ACTION:** Final rule.

**SUMMARY:** The delegations of authority of the Department of Agriculture are amended to specifically delegate to the Assistant Secretary for Natural Resources and Environment, responsibilities relating to environmental quality, and to make delegations of authority to a new Office of Environmental Quality which will plan and monitor departmental policies and programs related to the protection of environmental policies and natural resources.

**EFFECTIVE DATE:** November 19, 1979.

#### FOR FURTHER INFORMATION CONTACT:

Barry R. Flamm, Director, Office of Environmental Quality, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-3965.

#### SUPPLEMENTARY INFORMATION:

**Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, Assistant Secretaries, the Director of Economics, Policy Analysis and Budget and the Director, Office of Governmental and Public Affairs**

1. Section 2.19 is revised by adding a new paragraph (b) to read as follows:

**§ 2.19 Delegations of authority to the Assistant Secretary for Natural Resources and Environment.**

\* \* \* \* \*

(b) *Related to environmental quality.*

(1) Administer the implementation of the National Environmental Policy Act for the Department of Agriculture.

(2) Administer the implementation of the National Historic Preservation Act of 1966, E.O. 11593, and regulations of the Advisory Council on Historic Preservation, 36 CFR Part 800, for the Department of Agriculture with authority to name the Secretary's designee to the Advisory Council on Historic Preservation.

(3) Coordinate Departmental policies under the Toxic Substances Control Act.

(4) Provide representation for the Department on the Natural Response Team on hazardous spills pursuant to Pub. L. 92-500 and Section 4 of E.O. 11735.

(5) Represent the Department in contacts with the U. S. Environmental Protection Agency, the Council on Environmental Quality and other organizations or agencies on matters related to assigned responsibilities.

(6) Coordinate USDA policy relative to the Federal Insecticide, Fungicide, and Rodenticide Act and coordinate the Department's integrated pest management program and the pesticide assessment program.

(7) Formulate and promulgate Departmental policy relating to environmental activities and natural resources.

(8) Provide staff support for the Secretary in the review of environmental impact statements.

(9) Provide leadership in the Department for general land use activities including implementation of Executive Orders 11988, Flood Plain Management, and 11990, Protection of Wetlands.

\* \* \* \* \*

#### Subpart G—Delegations of Authority by the Assistant Secretary for Natural Resources and Environment.

2. A new § 2.58 is added to read as follows:

#### § 2.58 Director, Office of Environmental Quality.

(a) Pursuant to § 2.19(b), the following delegations of authority are made by the Assistant Secretary for Natural Resources and Environment to the Director, Office of Environmental Quality:

(1) Monitor and coordinate the implementation of the National Environmental Policy Act by Agencies of the Department of Agriculture.

(2) Monitor and coordinate the implementation of the National Historic Preservation Act of 1966, E.O. 11593, and regulations of the Advisory Council on Historic Preservation, 36 CFR Part 800, by Agencies of the Department of Agriculture and serve as the Secretary's designee to the Advisory Council on Historic Preservation.

(3) Coordinate Departmental policies under the Toxic Substances Control Act.

(4) Represent the Department on the National Response Team on hazardous spills pursuant to Pub. L. 92-500 and Section 4 of E.O. 11735.

(5) Represent the Department in contacts with the U.S. Environmental Protection Agency, the Council on Environmental Quality and other organizations or agencies on matters related to assigned responsibilities.

(6) Coordinate USDA policy relative to the Federal Insecticide, Fungicide, and Rodenticide Act; administer the Department's pesticide assessment program; and monitor and coordinate the Department's integrated pest management program.

(7) Identify needs for Department-wide environmental policies; coordinate response to policy initiatives from other Departments and Agencies; and initiate and coordinate USDA policy for the President's Environmental Message.

(8) Provide staff support for the Secretary in the review of environmental impact statements.

(9) Monitor actions and progress of the Department in complying with Executive Orders 11988 and 11990 regarding management of floodplains and protection of wetlands; monitor Agency efforts on protection of important agricultural, forest and rangelands; and provide staff assistance to the USDA Land Use Committee.

(5 U.S.C. 301 and Reorganization Plan No. 2 of 1953)

#### For Subpart C:

Dated: November 14, 1979.

Jim Williams,

Acting Secretary of Agriculture.

For Subpart G:

Dated: November 14, 1979.

**M. Rupert Cutler,**

*Assistant Secretary for Natural Resources and Environment.*

[FR Doc. 79-35620 Filed 11-16-79; 8:45 am]

BILLING CODE 3410-01-M

## Federal Crop Insurance Corporation

### 7 CFR Part 431

#### Soybean Crop Insurance Regulations; Corrections

**AGENCY:** Federal Crop Insurance Corporation, USDA.

**ACTION:** Final rule; corrections.

**SUMMARY:** The final rulemaking published in the *Federal Register* on Thursday, November 1, 1979 (44 FR 64786-64794), on the Soybean Crop Insurance Regulations, contained several typographical errors. This notice is being published to correct those errors.

**EFFECTIVE DATE:** November 19, 1979.

**ADDRESS:** Any suggestions or inquiries on this notice should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

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

The corrections are as follows:

#### PART 431—SOYBEAN CROP INSURANCE

1. The last sentence of § 431.1, found in the center column on page 64787 (44 FR 64787), is corrected to read as follows:

##### § 431.1 Availability of soybean insurance.

\*\*\* Before insurance is offered in any county, there shall be published by appendix to this part the names of the counties in which soybean insurance will be offered.

2. Section 431.5(b)(1), found in the right column on page 64787 (44 FR 64787), is hereby corrected to read as follows:

##### § 431.5 Good faith reliance on misrepresentation.

\* \* \* \* \*

(b) \*\*\*

(1) That an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice,

3. Section 5(d) of the Soybean Crop Insurance Policy, found in the left column on page 64791 (44 FR 64791), is hereby corrected in the last sentence thereof to read as follows:

(d) \* \* \* If such premium balance is not paid within 12 months immediately following the termination date, 9 percent simple interest shall apply from the termination date and each year thereafter to any unpaid premium balance.

4. Section 3(b) of the Appendix (Additional Terms and Conditions), found in the center column on page 64792 (44 FR 64792), is hereby corrected in the last sentence thereof to read as follows:

(b) \* \* \* The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

5. In Appendix "B", listing counties designated for soybean crop insurance, the word "Nansemond", found under the subheading "Virginia" in the right column on page 64794 (44 FR 64794), is hereby deleted and the word "Suffolk" is substituted therefor.

6. The reporting requirement footnote, found in the right column on page 64794 (44 FR 64794), at the end of the document, is corrected to read as follows:

**Note.**—The reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942, and OMB Circular A-40.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516).)

Issued in Washington, D.C., on November 13, 1979.

**Peter F. Cole,**  
*Secretary, Federal Crop Insurance Corporation.*

Dated: November 13, 1979.

Approved by:

**George F. Vohs,**  
*Acting Manager, Federal Crop Insurance Corporation.*

[FR Doc. 79-35598 Filed 11-16-79; 8:45 am]

BILLING CODE 3410-08-M

## Agricultural Marketing Service

### 7 CFR Part 971

#### Lettuce Grown in Lower Rio Grande Valley in South Texas; Expenses and Rate of Assessment

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This regulation authorizes expenses for the functioning of the South Texas Lettuce Committee. It will

enable the committee to collect assessments from first handlers of lettuce grown in the Lower Rio Grande Valley in South Texas and to use the resulting funds for its expenses.

**EFFECTIVE DATE:** During fiscal period ending July 31, 1980.

**FOR FURTHER INFORMATION CONTACT:** Peter G. Chapogas (202) 447-5432.

**SUPPLEMENTARY INFORMATION:** *Findings.* Pursuant to Marketing Order No. 971 (7 CFR Part 971), regulating the handling of lettuce grown in Cameron, Hidalgo, Starr and Willacy Counties in Texas, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the committee, established under the marketing order, and upon other information, it is found that the expenses and rate of assessment, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to provide 60 days for interested persons to file comments, engage in public rulemaking procedure, and that good cause exists for not postponing the effective date until 30 days after publication (5 U.S.C. 553), as the order requires that the rate of assessment for a particular fiscal period shall apply to all assessable lettuce handled from the beginning of such period. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and assessment rate at an open meeting of the committee on November 1, 1979, at McAllen. No objections were offered. To effectuate the declared purposes of the act, it is necessary to make these provisions effective as specified.

The budget and rate of assessment has not been determined significant under USDA criteria for implementing Executive Order 12044.

7 CFR Part 971 is hereby amended to add a new § 971.219 as follows:

##### § 971.219 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending July 31, 1980, by the South Texas Lettuce Committee for its maintenance and functioning and for such purposes as the Secretary determines to be appropriate amount to \$35,000.

(b) The rate of assessment to be paid by each handler in accordance with this part shall be two and one-half cents (\$0.025) per carton of assessable lettuce

handled by him as the first handler during the fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve to the extent authorized in § 971.43(a)(2).

(d) Terms used in this section have the same meaning as when used in the marketing agreement and this part.

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674).)

Dated: November 9, 1979.

D. S. Kuryloski,

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

[FR Doc. 79-35567 Filed 11-19-79; 8:45 am]

BILLING CODE 3410-02-M

## Office of Environmental Quality

### 7 CFR Part 3100

#### Enhancement, Protection, and Management of the Cultural Environment; Final Rulemaking

**AGENCY:** Office of Environmental Quality, United States Department of Agriculture (USDA).

**ACTION:** Final rule.

**SUMMARY:** The Office of Environmental Quality (OEQ), Office of the Secretary, U.S. Department of Agriculture, is publishing these regulations to set forth general policy and procedural direction pertaining to the management, enhancement and protection of the cultural environment, and to implement the regulations of the Advisory Council on Historic Preservation (ACHP) which prescribe procedures for compliance with Section 106 of the National Historic Preservation Act (NHPA). This Department adopts the regulations of the ACHP and sets forth in the following regulations general directives to assist USDA agencies in fulfilling their responsibilities under NHPA, Executive Order 11593, and the ACHP regulations.

**DATE:** Effective November 19, 1979.

**ADDRESS:** A copy of these final rules may be obtained from: Barry R. Flamm, Director, Office of Environmental Quality, USDA, Washington, D.C. 20250 (202-447-3965).

**FOR FURTHER INFORMATION CONTACT:** Dr. Janet Friedman, Cultural Resource Management Specialist Coordinator, Box 2417, Room 4236 South Building, USDA Forest Service, Washington, D.C. 20013 (202-447-2309).

#### Introduction

The cultural environment of our nation includes historic and prehistoric sites and properties which comprise a nonrenewable resource relating to past

human life. Although the people of this nation have long shown an interest in the protection of their heritage, that interest has increased dramatically in recent years. Public awareness of the irreversible loss of important historic and prehistoric resources, concern for all environmental values, growing interest in our past as reflected in the bicentennial celebration and "roots" phenomenon, economic and energy advantages of adaptive reuse of historic structures, and growing attachment to history and neighborhood have resulted in increasing recognition of the value of the reminders of our historic and prehistoric past. This concern has led to laws, regulations and Executive orders intended to protect our country's cultural environment.

The USDA is concerned with the management of the cultural environment in two principal ways: (1) Identification, protection, preservation, and interpretation of properties on lands administered by the Department (such as experiment stations, administrative sites and 188 million acres of National Forest land); (2) Identification, evaluation, and protection of properties on lands which may be affected by such USDA activities as watershed improvement, electrification projects, and developments built through USDA loan and loan guarantee programs.

The Office of Environmental Quality (OEQ), Office of the Secretary, U.S. Department of Agriculture, is publishing these regulations to set forth general policy and procedural direction pertaining to the management, enhancement and protection of the cultural environment, and to implement the regulations of the Advisory Council on Historic Preservation (ACHP) which prescribe procedures for compliance with Section 106 of the National Historic Preservation Act (NHPA). This Department adopts the regulations of the ACHP and sets forth in the following regulations general directives to assist USDA agencies in fulfilling their responsibilities under NHPA, Executive Order 11593, and the ACHP regulations. Each USDA agency whose programs and activities may affect the cultural environment will be responsible for promulgating more specific procedures, consistent with these broad directives, which are tailored to the specific programs and activities of that agency. All agencies shall consult with the OEQ regarding the need for developing specific implementation procedures. In addition to the above, this rule sets forth the role of the OEQ with regard to the ACHP process and procedures. Further, it explains the coordination between the

National Environmental Policy Act (NEPA) and NHPA processes.

This proposal has been reviewed under USDA criteria to implement Executive Order 12044 and has been determined to be significant. An approved Environmental Assessment and Impact Analysis Statement is available from Dr. Janet Friedman at the address provided above.

Richard H. Jenrette, Chairman, Advisory Council on Historic Preservation, approved these Final Rules on November 8, 1979.

#### Background

This document sets forth Departmental policies and procedures for compliance with the National Historic Preservation Act (NHPA) as amended and Executive Order 11593, and for implementing the regulations of the Advisory Council on Historic Preservation (36 CFR Part 800). It creates Subpart C of 7 CFR, Chapter XXXI, Part 3100 which was published in draft form in the *Federal Register* on July 9, 1979, as "Enhancement, Protection and Management of Cultural Resources". The subject has been changed from "cultural resources" to "cultural environment" to recognize the broad scope of the program. In the proposed rules, the sections were numbered as §§ 3102.1 through 3102.5, consecutively. These final rules have been renumbered as §§ 3100.40 through 3100.46 as set forth below.

#### Public Comment

Comment from the public was solicited through a Public Meeting (May 1, 1979), publication of draft regulations in the *Federal Register* (July 9, 1979), and distribution of 650 copies to individuals and organizations throughout the country. There were twenty-eight public responses, all of which are on file for review in the Office of Environmental Quality.

The response to the regulations was supportive. Most respondents felt that the regulations are a positive step by USDA which provide welcome and essential protection for vital resources.

Table one is a summary of distribution of respondents; Table two is a list of organizations which submitted comment.

Table 1.—Distribution of Public Comment

Federal agency.....	9
State agency.....	9
Organization.....	8
Individual.....	2
Total.....	28

Table 2.—List of Organizations Which Submitted Comment

## Federal Government

Advisory Council on Historic Preservation (Robert Garvey, Bert Fireman).  
 Department of the Interior:  
 Bureau of Land Management (Darrell Lewis).  
 Bureau of Mines (J. Morgan).  
 Bureau of Reclamation (Ward Weakley).  
 Heritage Conservation and Recreation Service (Chris De-la-porte).  
 General Services Administration (David Dibner).  
 Smithsonian Institution (Paul Perrot, Michael Collins).

## State Government

National Conference of State Historic Preservation Officers (SHPO) (Thomas Merlan).  
 Arkansas SHPO (Joan Williams Baldrige).  
 Colorado SHPO (Arthur Townsend).  
 Florida SHPO (L. Ross Morrell).  
 Georgia SHPO (Elizabeth Lyon).  
 Illinois Department of Conservation (Alan Downer).  
 Louisiana SHPO (Bernard Carrier).  
 Montana SHPO (Ken Korte).  
 New Hampshire SHPO (Linda Ray Wilson).

## Organizations

American Indian Law Center (Philip S. Deloria).  
 Arizona State Museum (Ray Thompson).  
 Federal Timber Purchasers Association (James Craine).  
 National Association of Conservation Districts (Charles Boothby).  
 National Trust for Historic Preservation (Douglas Wheeler).  
 Society for the Protection of New Hampshire Forests (Jan McClure).  
 University of New Hampshire (Billie Hornbeck).  
 University of South Carolina (William Marquardt).

## Individuals

W. R. Chapline, USFS (Retired), Washington, D.C.  
 Herbert Snyder, Grand Junction, Colorado.

## Summary of public comment and responses follows:

• *Comment:*

Several respondents reacted positively to the emphasis in the Implementation Section, § 3100.44, on balancing all resources in the decisionmaking process. Others expressed concern that this section provides a loophole through which noncompliant agencies can escape their responsibilities for protection of the cultural environment.

*Response:*

USDA is indeed committed to the protection of the cultural environment, recognizing that cultural resource protection must be balanced with such other needs as food and fiber production, environmental protection, natural resource and energy conservation, and rural development. The section remains unchanged from the draft.

• *Comment:*

There are no deadlines by which agencies must have completed their procedures.

*Response:*

Deadlines were established by the President's Memorandum of July 12, 1978. On Environmental Quality and water Resources Management, and

reiterated in 36 CFR Part 800. Although those deadlines have passed, USDA can hardly establish new and different ones.

• *Comment:*

Suggested a firmer role for OEQ in coordination of program development by USDA agencies.

*Response:*

Changed § 3100.45(a) to require consultation with OEQ in the development of agency procedures.

• *Comment:*

Suggested changing terms "primary" and "secondary" to "direct" and "indirect."

*Response:*

Change made in § 3100.45 (a)(4) and (e).

• *Comment:*

The requirement to develop plans to mitigate the adverse effect of a proposed undertaking is too general. It does not discuss how mitigation efforts will be funded, funding levels, and other specifics.

*Response:*

Some wording changes have been made in § 3100.45(a)(10) to clarify the funding of mitigation. However, the specific level of direction will be developed by each individual agency to enable it to deal with its own programs.

• *Comment:*

No standards are included which will be used to determine competence of professional staff to guide the management of cultural programs.

*Response:*

A sentence was added to § 3100.45(b) encouraging agencies to use Department of the Interior standards (36 CFR 61.5) as guidelines in meeting the staffing requirement.

• *Comment:*

Positive response was received to direction in § 3100.45(b) to hire professionals with expertise in various disciplines.

*Response:*

Section remains unchanged.

• *Comment:*

A few respondents objected to direction in § 3100.45(f) which was interpreted as USDA's adding responsibilities to the State Historic Preservation Offices. Preparation of State plans and inventories, and collection of data are seen as requirements on SHPO by USDA. An equal number of comments applauded the direction for close cooperation between USDA and the States.

*Response:*

The rules were intended not to burden the SHPO with additional

responsibilities and expense, but to accept for USDA a portion of the responsibility already required by legislation and regulation. The rules are intended to foster intergovernmental cooperation and provide protection for the resource in the most efficient manner. Only by working together will it be possible to successfully reach common goals without duplication of effort and expense. The rule does not direct the work of the State, but directs USDA personnel to cooperate with the State.

• *Comment:*

One respondent noted that the rule concentrates on implementation of ACHP regulations to the exclusion of reference to requirements of Executive Order 11593.

*Response:*

Requirements to inventory lands and nominate sites have been made more explicit in Direction to Agencies, § 3100.45(a).

• *Comment:*

Suggested requiring assessment of mineral potential prior to closure of any site for protection of the cultural environment.

*Response:*

Regulations do not close any area, only require identification and consideration of the resource. Rules stress a balancing of goals and resources.

• *Comment:*

Suggested reference to American Indian Religious Freedom Act.

*Response:*

Recognition of Department of Agriculture responsibilities to consider the American Indian Religious Freedom Act was added in several sections, specifically: Authorities (3100.41(1)), Policy (3100.43(d)), Implementation (3100.44(d)), and Direction to Agencies (3100.45(a)(7)).

• *Comment:*

Three commentors expressed fear that the agencies would not be required to write specific direction, to hire personnel, or to comply with the rule as proposed by USDA.

*Response:*

Although the rule does not set specific direction for agency programs, it does clearly and strongly require each agency to set its own direction.

Comments on the final rule are invited.

Dated: November 7, 1979.

Jim Williams,

Acting Secretary of Agriculture.

Accordingly, a new Subpart C to Part 3100 of Title 7 CFR will read as follows:

**Subpart C—Enhancement, Protection, and Management of the Cultural Environment**

Sec.

- 3100.40 Purpose.
- 3100.41 Authorities.
- 3100.42 Definitions.
- 3100.43 Policy.
- 3100.44 Implementation.
- 3100.45 Direction to agencies.
- 3100.46 Responsibilities of the Department of Agriculture.

Authority: Sec. 106, National Historic Preservation Act, as amended (16 U.S.C. 470f); National Environmental Policy Act, as amended (42 U.S.C. 4321 et seq.); E.O. 11593, 36 FR 8921, May 13, 1971.

**Subpart C—Enhancement, Protection and Management of the Cultural Environment**

**§ 3100.40 Purpose.**

(a) This subpart establishes USDA policy regarding the enhancement, protection, and management of the cultural environment.

(b) This subpart establishes procedures for implementing Executive Order 11593, and regulations promulgated by the Advisory Council on Historic Preservation (ACHP) "Protection of Historical and Cultural Properties" in 36 CFR Part 800 as required by Section 800.10 of those regulations.

(c) Direction is provided to the agencies of USDA for protection of the cultural environment.

**§ 3100.41 Authorities**

These regulations are based upon and implement the following laws, regulations, and Presidential directives:

(a) *Antiquities Act of 1906* (Pub. L. 59-209; 34 Stat. 225; 16 U.S.C. 431 et seq.) which provides for the protection of historic or prehistoric remains or any object of antiquity on Federal lands; establishes criminal sanctions for unauthorized destruction or appropriation of antiquities; and authorizes scientific investigation of antiquities on Federal lands, subject to permit and regulations. Paleontological resources also are considered to fall within the authority of this Act.

(b) *Historic Sites Act of 1935* (Pub. L. 74-292; 49 Stat. 666; 16 U.S.C. 461 et seq.) which authorizes the establishment of National Historic Sites and otherwise authorizes the preservation of properties of national historical or archeological significance; authorizes the designation

of National Historic Landmarks; establishes criminal sanctions for violation of regulations pursuant to the Act; authorizes interagency, intergovernmental, and interdisciplinary efforts for the preservation of cultural resources; and other provisions.

(c) *Reservoir Salvage Act of 1960* (Pub. L. 86-521; 74 Stat. 220; 16 U.S.C. 469-469c.) which provides for the recovery and preservation of historical and archeological data, including relics and specimens, that might be lost or destroyed as a result of the construction of dams, reservoirs, and attendant facilities and activities.

(d) *The National Historic Preservation Act of 1966* as amended (16 U.S.C. 470), which establishes positive national policy for the preservation of the cultural environment, and sets forth a mandate for protection in Section 106. The purpose of Section 106 is to protect properties on or eligible for the National Register of Historic Places through review and comment by the ACHP of Federal undertakings that affect such properties. Properties are listed on the National Register or declared eligible for listing by the Secretary of the Interior. As developed through the ACHP's regulations, Section 106 establishes a public interest process in which the Federal agency proposing an undertaking, the State Historic Preservation Officer, the ACHP, interested organizations and individuals participate. The process is designed to insure that properties, impacts on them, and effects to them are identified, and that alternatives to avoid or mitigate an adverse effect on property eligible for the National Register are adequately considered in the planning process.

(e) *The National Environmental Policy Act of 1969* (NEPA) (Pub. L. 91-190; 83 Stat. 852; 42 U.S.C. 4321 et seq.) which declares that it is the policy of the Federal Government to preserve important historic, cultural, and natural aspects of our national heritage. Compliance with NEPA requires consideration of all environmental concerns during project planning and execution.

(f) *Executive Order 11593, "Protection and Enhancement of the Cultural Environment"*, which gives the Federal Government the responsibility for stewardship of our nation's heritage resources and charges Federal agencies with the task of inventorying historic and prehistoric sites on their lands. E.O. 11593 also charges agencies with the task of identifying and nominating all historic properties under their jurisdiction, and exercising caution to insure that they are not transferred,

sold, demolished, or substantially altered.

(g) *Historical and Archeological Data Preservation Act of 1974*. (Pub. L. 93-291; 88 Stat. 174.) which amends the Reservoir Salvage Act of 1960 to extend its provisions beyond the construction of dams to any alteration of the terrain caused as a result of any Federal construction project or Federally licensed activity or program. In addition, the Act provides a mechanism for funding the protection of historical and archeological data.

(h) *Presidential memorandum of July 12, 1978, "Environmental Quality and Water Resource Management"* which directs the ACHP to publish final regulations, implementing Section 106 of the National Historic Preservation Act (NHPA), and further directs each agency with water and related land resources responsibilities to publish procedures implementing those regulations.

(i) *36 CFR Part 800, "Protection of Historic and Cultural Properties"* which establishes procedures for the implementation of Section 106 of the NHPA, and directs publication of agency implementing procedures.

(j) *Land use policy of the USDA (Secretary's Memorandum No. 1827 Revised, with Supplement)* which establishes a commitment by the Department to the preservation of farms, rural communities, and rural landscapes.

(k) *Public Buildings Cooperative Use Act of 1976* (40 U.S.C. 611) and *Executive Order 12072 (Federal Space Management)*. The Act encourages adaptive use of historic buildings as administrative facilities for Federal agencies and activities; the Executive Order directs Federal agencies to locate administrative and other facilities in central business districts.

(l) *American Indian Religious Freedom Act of 1978* (42 U.S.C. 1996) which declares it to be the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians.

**§ 3100.42 Definitions.**

All definitions are those which appear in 36 CFR Part 800. In addition, the following apply in this rule:

*Cultural resources (heritage resources)* are the remains or records of districts, sites, structures, buildings, networks, neighborhoods, objects, and events from the past. They may be historic, prehistoric, archeological, or architectural in nature. Cultural resources are an irreplaceable and

nonrenewable aspect of our national heritage

*Cultural environment* is that portion of the environment which includes reminders of the rich historic and prehistoric past of our nation.

#### § 3100.43 Policy.

(a) The nonrenewable cultural environment of our country constitutes a valuable and treasured portion of the national heritage of the American people. The Department of Agriculture is committed to the management—identification, protection, preservation, interpretation, evaluation and nomination—of our prehistoric and historic cultural resources for the benefit of all people of this and future generations.

(b) The Department supports the cultural resource goals expressed in Federal legislation. Executive orders, and regulations.

(c) The Department supports the preservation and protection of farms, rural landscapes, and rural communities.

(d) The Department is committed to consideration of the needs of American Indians, Eskimo, Aleut, and Native Hawaiians in the practice of their traditional religions.

(e) The Department will aggressively implement these policies to meet goals for the positive management of the cultural environment.

#### § 3100.44 Implementation.

(a) It is the intent of the Department to carry out its program of management of the cultural environment in the most effective and efficient manner possible. Implementation must consider natural resource utilization, must exemplify good government, and must constitute a noninflationary approach which makes the best use of tax dollars.

(b) The commitment to cultural resource protection is vital. That commitment will be balanced with the multiple departmental goals of food and fiber production, environmental protection, natural resource and energy conservation, and rural development. It is essential that all of these be managed to reduce conflicts between programs. Positive management of the cultural environment can contribute to achieving better land use, protection of rural communities and farm lands, conservation of energy, and more efficient use of resources.

(c) In reaching decisions, the long-term needs of society and the irreversible nature of an action must be considered. The Department must act to preserve future options; loss of important cultural resources must be avoided except in the face of overriding

national interest where there are no reasonable alternatives.

(d) To assure the protection of Native American religious practices, traditional religious leaders and other native leaders (or their representatives) should be consulted about potential conflict areas in the management of the cultural environment and the means to reduce or eliminate such conflicts.

#### § 3100.45 Direction to agencies.

(a) Each agency of the Department shall consult with OEQ to determine whether its programs and activities may affect the cultural environment. Then, if needed, the agency, in consultation with the OEQ, shall develop its own specific procedures for implementing Section 106 of the National Historic Preservation Act, Executive Order 11593, the regulations of the ACHP (36 CFR Part 800), the American Indian Religious Freedom Act of 1978 and other relevant legislation and regulations in accordance with the agency's programs, mission and authorities. Such implementing procedures shall be published as proposed and final procedures in the *Federal Register*, and must be consistent with the requirements of 36 CFR Part 800 and this subpart. Where applicable, each agency's procedures must contain mechanisms to insure:

(1) Compliance with Section 106 of NHPA and mitigation of adverse effects to cultural properties on or eligible for the National Register of Historic Places;

(2) Clear definition of the kind and variety of sites and properties which should be managed;

(3) Development of a long-term program of management of the cultural environment on lands administered by USDA as well as direction for project-specific protection;

(4) Identification of all properties listed on or eligible for listing in the National Register that may be affected directly or indirectly by a proposed activity;

(5) Location, identification and nomination to the Register of all sites, buildings, objects, districts, neighborhoods, and networks under its management which appear to qualify (in compliance with E.O. 11593);

(6) The exercise of caution to assure that properties managed by USDA which may qualify for nomination are not transferred, sold, demolished, or substantially altered;

(7) Early consultation with, and involvement of, the State Historic Preservation Officer(s), the ACHP, Native American traditional religious leaders and appropriate tribal leaders,

and others with appropriate interests or expertise;

(8) Early notification to insure substantive and meaningful involvement by the public in the agency's decisionmaking process as it relates to the cultural environment;

(9) Identification and consideration of alternatives to a proposed undertaking that would mitigate or minimize adverse effects to a property identified under paragraph (a)(4) of this section;

(10) Funding of mitigation measures where required to minimize the potential for adverse effects on the cultural environment. Funds for mitigation shall be available and shall be spent when needed during the life of the project to mitigate the expected loss; and

(11) Development of plans to provide for the management, protection, maintenance and/or restoration of Register sites under its management.

(b) Each agency of the Department which conducts programs or activities that may have an effect on the cultural environment shall recruit, place, develop, or otherwise have available, professional expertise in anthropology, archeology, history, historic preservation, historic architecture, and/or cultural resource management (depending upon specific need). Such arrangements may include internal hiring, Intergovernmental Personnel Act assignments, memoranda of agreement with other agencies or Departments, or other mechanisms which insure a professionally directed program. Agencies should use Department of the Interior professional standards (36 CFR 61.5) as guidelines to insure Departmentwide competence and consistency.

(c) Compliance with cultural resource legislation is the responsibility of each individual agency. Consideration of cultural resource values must begin during the earliest planning stages of any undertaking.

(d) Agency heads shall insure that cultural resource management activities meet professional standards as promulgated by the Department of the Interior (e.g., 36 CFR Parts 60, 63, 66, 1208).

(e) Cultural resource review requirements and compliance with Section 106 of NHPA and Executive Order 11593 shall be integrated and run concurrently, rather than consecutively, with the other environmental considerations under NEPA regulations. As such, direct and indirect impacts on cultural resources must be addressed in the environmental assessment for every agency undertaking. In meeting these requirements, agencies shall be guided by regulations implementing the

procedural provisions of NEPA (40 CFR Parts 1500-1508) and Department of Agriculture regulations (7 CFR Part 3100, Subpart B).

(f) Each agency shall work closely with the appropriate State Historic Preservation Officer(s) in their preparation of State plans, determination of inventory needs, and collection of data relevant to general plans or specific undertakings in carrying out mutual cultural resource responsibilities.

(g) Each agency shall, to the maximum extent possible, use existing historic structures for administrative purposes in compliance with Public Buildings Cooperative Use Act of 1976 and Executive Order 12072, "Federal Space Management".

(h) Each agency should consult with Native American traditional religious leaders or their representatives and other native leaders in the development and implementation of cultural resource programs which may affect their religious customs and practices.

**§ 3100.46 Responsibilities of the Department of Agriculture.**

(a) Within the Department, the responsibility for the protection of the cultural environment is assigned to the Office of Environmental Quality (OEQ). The Office is responsible for reviewing the development and implementation of agency procedures and insuring Departmental commitment to cultural resource goals.

(b) The Director of the OEQ is the Secretary's Designee to the ACHP.

(c) In order to carry out cultural resource responsibilities, there will be professional expertise within the OEQ to advise agencies, aid the Department in meeting its cultural resource management goals, and to insure that all Departmental and agency undertakings comply with applicable cultural resource protection legislation and regulations.

(d) The OEQ will be involved in individual compliance cases only where resolution cannot be reached at the agency level. Prior to the decision to refer a matter to the full Council of the ACHP, the OEQ will review the case and make recommendations to the Secretary regarding the position of the Department. The agency also will consult with the OEQ before reaching a final decision in response to the Council's comments. Copies of correspondence relevant to compliance with Section 106 shall be made available to OEQ.

[FR Doc. 79-35591 Filed 11-16-79; 8:45 am]

BILLING CODE 3410-01-M

**DEPARTMENT OF ENERGY**

**Economic Regulatory Administration**

**10 CFR Part 211**

[Docket No. ERA-R-79-28]

**Mandatory Petroleum Allocation Regulations; Amendments To Include Additional Petroleum Substitutes in the Entitlements Program**

**AGENCY:** Economic Regulatory Administration, Department of Energy.

**ACTION:** Final Rule and Notice of Further Consideration.

**SUMMARY:** The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is amending the Mandatory Petroleum Allocation Regulations (10 CFR Part 211) to provide for the automatic inclusion in the crude oil entitlements program of solid municipal waste and solid derivatives thereof used as fuel, shale oil used for non-refining purposes, and methane derived from municipal sewage or landfills. The amendments will also permit solid fuels derived from non-municipal solid waste, as well as gaseous fuels derived from any solid-waste sources, to receive the same treatment as liquid solid-waste derivatives, which are currently eligible on a case-by-case basis for inclusion in the entitlements program. The purpose of the amendments is to offset the regulatory bias in favor of petroleum and against non-petroleum fuel sources which would otherwise continue until the total deregulation of crude oil prices on September 30, 1981. We are continuing this rulemaking in order to give further consideration as to whether action should be taken in this proceeding regarding those aspects of the June 1979 proposal pertaining to wood and coal used to supplement petroleum.

**EFFECTIVE DATE:** June 1, 1979.

**FOR FURTHER INFORMATION CONTACT:**

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461, (202) 634-2170.

Norman Breckner (Regulations and Emergency Planning), Economic Regulatory Administration, Room 2310, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-7477.

David A. Welsh (Entitlements Program), Economic Regulatory Administration, Room 6125, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-3336.

Jack O. Kendall (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-8739.

**SUPPLEMENTARY INFORMATION:**

- I. Background
- II. Amendments Adopted
- III. Reporting Requirements
- IV. Effective Date
- V. Continuation of Rulemaking Proceeding
- VI. Procedural Matters

**I. Background**

On May 12, 1978, we issued a final rule (43 FR 21429, May 18, 1978) which amended the mandatory Petroleum Allocation Regulations to provide for the inclusion in the crude oil entitlements program of shale oil produced from domestic sources and used in a refinery. In addition, the final rule provides that other synthetic liquid fuels (as well as shale oil used other than in a refinery) produced from domestic sources may also earn entitlement benefits, following a review procedure whereby we determine the eligibility of an applicant on a case-by-case basis. On January 19, 1979, we adopted guidelines setting forth the procedures and criteria under which we review each application and determine an applicant's eligibility to participate in the entitlements program (44 FR 6895, February 5, 1979).

The May 1978 final rule permits certain synthetic fuels to receive the same treatment under the entitlements program as crude oil not subject to price regulation. Our purpose in adopting the rule was to eliminate the disincentive to the production and use of these fuels created by our regulatory scheme for petroleum which, through the combined operations of the price regulations and the entitlements program, results in the effective price of all crude oil used in the United States being lower than the world market price for crude oil.

Our decision to limit eligibility for inclusion in the entitlements program under the May 1978 final rule to those fuels which are in liquid form was based on our understanding at that time that fuels which can be substituted for petroleum are generally in liquid form. However, based on the comments received in response to the May 1978 notice, we concluded that certain additional synthetic fuels in gaseous and solid form, while not necessarily suitable for burning in traditional oil burners, are nevertheless in direct competition with petroleum and represent a significant substitute for crude oil. In addition we determined in view of our experience since adoption of the May 1978 rule that certain other fuels currently restricted to inclusion in the entitlements program on a case-by-case basis should automatically qualify for entitlements.

On May 27, 1979, we issued a notice of proposed rulemaking (44 FR 32225, June

5, 1979) to provide for the automatic inclusion in the entitlements program of solid municipal waste and solid derivatives thereof used as fuel, the coal component of a slurry of coal and petroleum, alcohol derived from biomass when mixed with gasoline to produce gasohol, shale oil used other than in a refinery, the wood component of mixtures of processed wood and petroleum product, and methane derived from municipal sewage or landfills. We also proposed amendments to permit gaseous fuels derived from solid-waste materials, as well as solid fuels derived from non-municipal solid-waste sources, to be included in the entitlements program on a case-by-case basis.

Comments on the proposed amendments were requested through August 1, 1979. In addition, a hearing on the proposal was held in Washington, D.C. on July 17, 1979. Prior to the close of the public comment period, we received oral and written comments from fifty-four separate respondents, including two public utilities, six governmental bodies, as well as three U.S. Congressmen, three producers of fuel derived from municipal waste, three producers of methane derived from landfills, two paper recycling companies, three agricultural and wood industries, an association of small and independent petroleum refiners, twenty-two firms representing the petroleum industry, an association of solid waste management companies, a steel mill, a developer of a coal and petroleum slurry, a developer of wood for use in supplementing petroleum, and four interested private citizens.

The comments on the June 1979 proposal and our response thereto are discussed in the final rule we issued on October 31, 1979 to provide for the automatic inclusion in the entitlements program of ethyl alcohol mixed with gasoline (44 FR 63515, November 5, 1979). Our decision to issue a final rule with respect to ethyl alcohol was based on our determination after considering the comments that it would be administratively feasible and otherwise appropriate to significantly increase the opportunities for participation by petroleum substitutes in the entitlements program. In view of this determination, we announced our intent to issue another final rule in this proceeding if we determined after further consideration that such action would be appropriate and necessary to eliminate any disincentive to the use of other petroleum substitutes which might be resulting from our petroleum regulations.

In accordance with our announced intentions, we are today adopting amendments to provide for automatic

inclusion in the entitlements program of municipal solid waste and solid derivatives thereof used as fuel, methane derived from municipal sewage and landfills, and shale oil used for non-refining purposes. Today's amendments will also permit solid fuels derived from non-municipal solid-waste materials, as well as gaseous fuels derived from any solid-waste sources, to receive the same treatment as liquid solid-waste derivatives, which are currently eligible on a case-by-case basis for inclusion in the entitlements program.

## II. Amendments Adopted

1. *Solid waste.* We are adopting today amendments to provide for the automatic inclusion in the entitlements program of municipal solid waste and solid derivatives thereof used domestically as fuel. To ensure that entitlements will be issued only with respect to solid-waste materials ultimately used as fuel, the final rule provides that entitlements will be issuable only upon certification to the ERA by the processor of the municipal solid waste that the processor has (1) actually used the solid-waste material domestically to produce useful energy and that the energy thus produced has actually been used as fuel or (2) sold the solid-waste material or useful energy produced therefrom for domestic use as fuel.

As indicated in the June 1979 proposal, we believe that the issuance of entitlements with respect to a petroleum substitute should reflect the comparative heating value of the petroleum substitute relative to that of crude oil, which has an accepted heating value of 5.7 million BTU's per barrel. After reviewing the comments received in this proceeding, we have determined that municipal solid waste represents a potential heating value averaging approximately 8.0 million BTU's per ton. Therefore, today's final rule provides that a person who processes municipal solid waste for use as fuel will earn 1.40 run's credits for each ton of municipal solid waste processed and certified in accordance with the provisions discussed above. We believe that using this method for computing entitlements will ease the administrative burden of the entitlements program in that processors will not have to calculate the BTU content of each ton of municipal solid waste in order to determine its heating value relative to that of crude oil.

Non-municipal solid waste and solid and gaseous derivatives thereof, as well as gaseous derivatives of municipal waste, will be eligible under today's amendments for inclusion in the

entitlements program on a case-by-case basis. The person to whom entitlements will be issuable with respect to such fuels will be designated in an order issued by the ERA. The number of entitlements issuable to the designated recipient will be calculated in accordance with the manner determined by the ERA to appropriately reflect the heating value of the petroleum substitute relative to that of crude oil.

2. *Shale oil used for non-refining purposes.* Entitlements are currently issuable to refiners on an automatic basis with respect to shale oil used domestically for refining purposes. Today's rule provides for the automatic inclusion in the entitlements program of all shale oil used as fuel in the United States. Entitlements will be issuable to the producer of shale oil in those cases where the producer certifies that the shale oil has been used or sold for use domestically other than in a refinery. Entitlements for all shale oil used as feedstock or fuel in a domestic refinery will be issuable to the refiner. In all instances, the number of entitlements issuable with respect to shale oil will be calculated on the same basis as entitlements are issued with respect to crude oil.

3. *Methane derived from municipal sewage and landfills.* Today's final rule also provides for the issuance of entitlements on an automatic basis to collectors of methane from municipal sewage and landfills. Based on the comments received in this proceeding, we believe that the energy content of methane derived from these sources varies greatly, from as little as 200 BTU's per cubic foot to as much as 1,000 BTU's per cubic foot, depending on degree of processing. Therefore, today's rule provides that a collector of methane will earn one run's credit for each unit of methane containing 5.7 million BTU's potential heating value. Since the comments indicate that current methane collection operations generally involve analysis to determine the energy content of the methane collected, we believe the method provided for calculating entitlements will ease administrative burdens on the ERA without placing any undue burdens on collectors of methane from municipal sewage and landfills. In order to insure that the methane will be used domestically as fuel, the final rule provides that in no event will entitlements be issuable with respect to methane prior to certification by the collector that the methane has been used or sold for use domestically as fuel.

## III. Reporting Requirements

In the October 31, 1979 final rule providing for the automatic inclusion in

the entitlements program of ethyl alcohol mixed with gasoline, we adopted reporting requirements generally applicable to petroleum substitutes for purposes of the entitlements program. Pursuant to these provisions, any person or firm seeking entitlements with respect to a petroleum substitute will be required to make available to the ERA any information we deem necessary to demonstrate both the energy value of the petroleum substitute relative to that of crude oil and the ultimate use of the petroleum substitute as fuel.

#### IV. Effective Date

We indicated in the June 1979 proposal that, in the event we determined to issue a final rule in this proceeding, it was our tentative determination that any amendments adopted thereby should be made effective June 1, 1979. This determination was based both on our belief that any action to remove the regulatory bias against synthetic fuels should be made effective as soon as possible and to ensure that production and use of these fuels as crude oil alternatives would not be interrupted pending our final determinations with regard to the proposals. In view of these considerations, the October 31, 1979 final rule pertaining to ethyl alcohol was made effective June 1, 1979, as proposed. For these same reasons, today's amendments are being made effective June 1, 1979.

#### V. Continuation of Rulemaking Proceeding

We are continuing this rulemaking proceeding in order to give further consideration to those aspects of the June 1979 proposal pertaining to wood and coal used to supplement petroleum. In the event we determine to issue another final rule in this proceeding concerning these fuels, we may determine, for the reasons discussed in Section IV above, to make any amendments adopted by such final rule effective June 1, 1979. As part of our further consideration of coal used as a petroleum substitute, we will be evaluating late comments received in this proceeding which indicate that it may be appropriate to initiate further rulemaking action to remove a regulatory bias against the use of coal by certain electric utilities which may be resulting from the operation of our regulatory scheme for petroleum.

#### VI. Procedural Matters

We stated in the June 1979 notice of proposed rulemaking the reasons for our preliminary conclusion that the

preparation of a regulatory analysis was not required for the proposals under Executive Order No. 12044, entitled "Improving Government Regulations" (43 FR 1266, March 24, 1978), or DOE's implementing Order 2030 (44 FR 1032, January 3, 1979). In the October 31, 1979 final rule issued in this proceeding with respect to ethyl alcohol, we announced our final decision after reviewing all comments received that the preparation of a regulatory analysis is not required with respect to any or all of the petroleum substitutes proposed in this proceeding. This decision is based on the following determinations:

(1) The proposals would not be likely to have a substantial effect on any of the objectives of national energy policy or energy statutes;

(2) The regulations would not be likely to impose:

(a) Gross economic costs of \$100 million per year; or

(b) A major increase in costs or prices for individual industries, levels of government, geographic regions, or demographic groups;

(3) The regulations would not be likely to have an adverse impact on competition; and

(4) Neither the Secretary, Deputy Secretary, or Under Secretary of the DOE considers the regulations likely to have a major impact for any other reason.

In the October 31, 1979 notice, we also stated our final conclusion after reviewing the comments that the June 1979 proposals would not constitute a major federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act and, therefore, that the preparation of an Environmental Impact Statement for the proposal would not be required under 10 CFR Part 208.

Pursuant to the requirements of section 404(a) of the Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*, Pub. L. 95-91), a copy of the June 1979 proposal was referred, concurrently with the issuance thereof, to the Federal Energy Regulatory Commission for its review. The Commission informed us of its determination that the proposed rule would not significantly affect any matter within the Commission's jurisdiction.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. 751 *et seq.*, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, 15 U.S.C. 787 *et seq.*, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and

Conservation Act, 42 U.S.C. 6201 *et seq.*, Pub. L. 94-163, as amended, Pub. L. 94-385, Pub. L. 95-70, Pub. L. 95-619, and Pub. L. 96-30; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95-91, Pub. L. 95-509, Pub. L. 95-619, Pub. L. 95-620, and Pub. L. 95-621; EO 11790, 39 FR 23185; EO 12009, 42 FR 46267.)

In consideration of the foregoing, Part 211 of Chapter II, of Title 10 of the Code of Federal Regulations, is amended as set forth below, effective June 1, 1979.

Issued in Washington, D.C., November 12, 1979.

David J. Bardin,  
Administrator, Economic Regulatory  
Administration.

1. Section 211.62 is amended to revise the definition of "petroleum substitute" to read as follows:

#### § 211.62 Definitions.

"Petroleum substitute" means, when certified in accordance with the provisions of § 211.67(a)(5) of this Part, any of the following: (a)(1) A liquid produced from domestic oil shale; (2) Ethyl alcohol derived from domestic biomass when mixed with gasoline; (3) Domestically found municipal solid waste or a solid derivative thereof; or (4) Methane derived from domestic municipal sewage or landfills; or (b), As designated in orders issued by ERA following review of applications submitted under Subpart G of Part 205 of this Chapter, (1) Any other fuel derived from domestically found solid-waste materials; or (2) Any other fuel in a liquid form which is derived from domestic biomass, coal, or tar sands. Designation as a petroleum substitute may be denied with respect to any fuel eligible for review under section (b)(1) or (b)(2) of this definition, if ERA determines that the fuel in question does not result in a net gain of energy, considering the fuel consumption involved in its production, or requires the consumption of substantial quantities of a relatively scarce fuel for its production.

2. Subparagraph (a)(5) of § 211.67 is amended to read as follows:

#### § 211.67 Allocation of domestic crude oil.

(a) *Issuance of entitlements.*

(5)(i) For each month, commencing with the month of June 1979, entitlements shall be issued with respect to a petroleum substitute as follows:

(A) In the case of a shale oil used as a feedstock or fuel in a domestic refinery, the refiner shall be issued, upon

certification to ERA that the shale oil has been used as a feedstock or fuel in a domestic refinery, that number of entitlements that would be received by the refiner if each barrel of the shale oil were a barrel of crude oil;

(B) In the case of a shale oil used or sold for use domestically as fuel other than in a refinery, the producer of the shale oil shall be issued, upon certification to ERA that the shale oil has been used or sold for use domestically as fuel other than in a refinery, that number of entitlements that would be received by a refiner if each barrel of the shale oil were a barrel of crude oil.

(C) In the case of ethyl alcohol derived from domestic biomass and mixed with gasoline, the producer of the ethyl alcohol shall be issued that number of entitlements that would be received by a refiner if a barrel of ethyl alcohol were equal to 0.6189 barrels of crude oil; *provided that*, entitlements will be issuable to a producer of ethyl alcohol only upon written certification by the producer to ERA that: (1) The producer has actually mixed the ethyl alcohol with gasoline and used the resulting mixture domestically as fuel or sold the mixture for domestic use as fuel; or (2), in any case where the producer sells the ethyl alcohol prior to mixing with gasoline, the producer has received written certification from a subsequent purchaser that such person: (i) Has been the first person to actually mix the ethyl alcohol with gasoline; (ii) Has used the resulting mixture domestically as fuel or sold the mixture for domestic use as fuel; (iii) Has based certification as to such use or sale upon documentation; and (iv) Will maintain such documentation in a manner so as to be available for inspection at any time by the ERA within five years.

(D) In the case of municipal solid waste, the person who first processes the municipal solid waste to produce a solid fuel shall be issued that number of entitlements that would be received by a refiner if each ton of municipal solid waste processed were equal to 1.40 barrels of crude oil; *provided that*, entitlements will be issuable to the processor of the municipal solid waste only upon written certification by the processor to ERA that the processor has (1) actually used the solid waste or solid derivative thereof domestically to produce useful energy and that the energy thus produced has actually been used as fuel; or (2) sold the solid waste or solid derivative thereof or useful energy produced from either the solid waste or its derivative for domestic use as fuel.

(E) In the case of methane derived from municipal sewage or domestic landfills, the collector of the methane shall be issued, upon certification to ERA that the methane has been used or sold for use domestically as fuel, that number of entitlements that would be received by a refiner if each unit of methane having a gross heating value of 5.7 million BTU's were a barrel of crude oil.

(F) In the case of solid waste or a solid or gaseous derivative thereof which has been designated as a petroleum substitute by ERA in an order issued pursuant to § 205.95 of Part 205 of this chapter, that person designated by ERA as eligible to participate in the entitlements program with respect to such petroleum substitute shall be issued that number of entitlements that would be received by a refiner if the unit of measurement established by ERA for that petroleum substitute were a barrel of crude oil.

(G) In the case of a liquid petroleum substitute which has been designated as a petroleum substitute by ERA in an order issued pursuant to § 205.95 of Part 205 of this Chapter and which has a gross heating value of 5.7 million or more BTU's per barrel, that person designated by ERA as eligible to participate in the entitlements program with respect to the petroleum substitute shall be issued that number of entitlements that would be received by a refiner if a barrel of the petroleum substitute were a barrel of crude oil.

(H) In the case of a liquid petroleum substitute which has been designated as a petroleum substitute by ERA in an order issued pursuant to § 205.95 of Part 205 of this Chapter and which has a gross heating value of less than 5.7 million BTU's per barrel, that person designated by ERA as eligible to participate in the entitlements program with respect to the petroleum substitute shall be issued that number of entitlements that would be received by a refiner if a barrel of the petroleum substitute were equal to a fraction of a barrel of crude oil, the numerator of which would be the gross heating value in BTU's per barrel of the petroleum substitute, and the denominator of which would be 5.7 million BTU's. An order issued by ERA to designate a petroleum substitute shall also designate the firm to which entitlements will be issued and the manner in which the use of the petroleum substitute by that firm shall result in entitlement issuances.

(ii) Each firm shall in its initial report to ERA for purposes of receiving entitlements pursuant to the provisions of subparagraph (a)(5)(i) of this section submit written certification that all

local, state, or federal permits or licenses required with respect to the production, distribution or any other use of the petroleum substitute have been obtained and provide copies of such permits and licenses and, as required by ERA, any information submitted to a governmental body for the purpose of obtaining any applicable permit or license. Each such firm shall in its initial report and each month thereafter submit any information required by ERA to be submitted by such firm on forms adopted by ERA for purposes of determining the entitlements issuable to such firm. A firm shall provide written certification in any submission that the information set forth therein is accurate and based upon documentation, and, further, that such firm will maintain such records in a manner so as to be available for inspection at any time by the ERA within five years. Records required to be kept under this subparagraph shall be made available for inspection at any time upon the request of a representative of ERA.

\* \* \* \* \*

[FR Doc. 79-35615 Filed 11-16-79; 8:45 am]  
BILLING CODE 6450-01-M

## 10 CFR Part 212

[Docket No. ERA-R-79-41]

### Mandatory Petroleum Price Regulations; Phased Deregulation of Upper Tier Crude Oil

**AGENCY:** Economic Regulatory Administration, Department of Energy.

**ACTION:** Final rule.

**SUMMARY:** The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is adopting an amendment to the crude oil pricing regulations to implement the President's decision to remove price controls from domestic crude oil. Beginning January 1, 1980 market prices will be permitted for first sales of a specified percentage of what would otherwise be upper tier crude oil produced from each property. This percentage will increase at a rate such that by October 1, 1981 market prices will be permitted for all crude oil production subject to the upper tier ceiling price. Today's action is intended to ease the transition to an unregulated market.

**EFFECTIVE DATE:** January 1, 1980.

**FOR FURTHER INFORMATION CONTACT:**

Robert C. Gillette (Comment Procedures),  
Economic Regulatory Administration,  
Room 222-A, 2000 M Street, NW.,  
Washington, D.C. 20461, (202) 254-5201.  
William L. Webb (Office of Public  
Information), Economic Regulatory

Administration, Room B-110, 2000 M Street, NW., Washington, D.C. 20461, (202) 634-2170.

William Carson (Regulations and Emergency Planning), Economic Regulatory Administration, Room 2310, 2000 M Street, NW., Washington, D.C. 20461, (202) 254-7477.

Ben McRae (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue, SW., Washington, D.C. (202) 252-6739.

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction and Amendment Adopted

###### II. Procedural Requirements

##### I. Introduction and Amendment Adopted

On April 5, 1979, the President announced his intention to deregulate all domestic crude oil. Several steps have already been taken to implement the President's decision. As a result of these steps, producers may currently charge market prices for all production from properties which qualify as newly discovered properties (44 FR 25828, May 2, 1979) or heavy oil properties (Executive Order No. 12153, 44 FR 48949, August 21, 1979). Market prices may also be received for the incremental production resulting from a tertiary project (43 FR 33679, August 1, 1978). In addition, we have provided for the gradual conversion of most lower tier crude oil to upper tier crude oil by October 1, 1981 (44 FR 25168, April 27, 1979).

As the final step in the President's program, we proposed amendments to the price regulations which provided for the gradual removal of ceiling prices for upper tier crude oil between January 1, 1980 and October 1, 1981 (44 FR 50605, August 29, 1979). Under this proposal, beginning January 1, 1980, market prices would be permitted for first sales of a specified percentage of the crude oil produced from a property that would otherwise be subject to the upper tier ceiling price. This percentage would increase at a rate such that by October 1, 1981 market prices would be permitted for all crude oil production subject to the upper tier ceiling price. For January 1980 the specified percentage would be 4.6 percent (approximately one twenty-second), and in each succeeding month the specified percentage would be increased by an additional 4.6 percent. The crude oil which could be sold pursuant to this proposal would be known as market level new crude oil.

On October 9, 1979, we issued a notice that expanded the scope of the rulemaking proceeding on upper tier deregulation to include consideration of the treatment under the supplier/purchaser rule of any crude oil for which

market price was permitted as a result of action taken in this proceeding (44 FR 59240, October 15, 1979). In order to permit full discussion of the supplier/purchaser rule aspect of the rulemaking, we provided for a comment period through December 10, 1979 on that aspect of the rulemaking. The comment period with respect to the proposed amendment to the pricing regulations, however, was not extended beyond the original closing date of October 31, 1979.

On October 23, 1979, we held a public hearing in Washington, D.C. to consider the proposed changes both to the pricing regulations and to the supplier/purchaser rule. Although several of the participants expressed concern over the proposed changes to the supplier/purchaser rule, no one expressed any disagreement with the President's decision to deregulate domestic crude oil prices. In general, the participants in the hearing favored the proposed approach for gradually decreasing the volume of crude oil subject to the upper tier price ceiling. We received thirty-six written comments on the pricing aspect of the rulemaking prior to November 1, 1979. Thirty-three favored the proposed approach of decreasing the volume of crude oil subject to upper tier price ceilings, while three believed that deregulation should be accomplished by means of adjustments to the upper tier price ceiling. No written comments opposed the concept of phased deregulation.

In light of these comments and our further analysis, we have decided to amend the pricing regulations as proposed in the August 29 Notice. Thus, in January 1980 market prices will be permitted for 4.6 percent of the crude oil produced from a particular property that would otherwise be subject to the upper tier ceiling price. In February 1980 this percentage will increase to 9.2 and will continue to increase at the same rate through September 1981, at which time the percentage will reach 96.6. In calculating the amount of crude oil subject to the upper tier ceiling price for a particular month, the volume of crude oil converted from lower tier status to upper tier status for that month should be included.

Today's action does not address those aspects of the rulemaking concerning the supplier/purchaser rule. We will continue to receive written comments on those aspects through December 20, 1979.

##### II. Procedural Requirements

A. Section 404 of the DOE Act—In accordance with section 404 of the Department of Energy Organization Act ("DOE Act", 42 U.S.C. 7101 *et seq.*), the

Federal Energy Regulatory Commission received a copy of the proposed rule and has declined to determine that the rule may significantly affect any of its functions under sections 402(a)(1), (b), or (c)(1) of the DOE Act.

B. Executive Order 12044—Pursuant to Executive Order 12044, entitled "Improving Governmental Regulations" (43 FR 12661, March 23, 1978), and DOE's implementing procedures, set forth in DOE Order 2030 (44 FR 1032, January 3, 1979), we have prepared a regulatory analysis with respect to the phased deregulation program being adopted today. A copy of that regulatory analysis may be obtained from the ERA Office of Public Information, Room B-110, 2000 M Street, N.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

In view of the President's decision concerning deregulation, the regulatory analysis compared the effects of phased deregulation to those of one-step deregulation on October 1, 1981. The analysis projects that during the period January 1980 through September 1981 the phased deregulation of upper tier crude oil could result in cumulative increased costs for domestic crude oil of between \$14.6 billion and \$24.8 billion. As a result of phased deregulation, petroleum product prices will increase between 6.5 cents per gallon and 11.0 cent per gallon by September 1981. Complete deregulation in October 1981 will add another 1.0 to 1.5 cents per gallon.

The analysis indicates that the effects of one-step deregulation on October 1, 1981 would be to inhibit crude oil producers from undertaking some oil producing activities until that date. With respect to phased deregulation, the analysis found the expected production response to be uncertain. However, the analysis estimated that domestic production in October 1981 would be between 50,000 and 100,000 barrels per day greater as a result of our adopting a program of phased deregulation for upper tier crude oil.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, 15 U.S.C. § 787 *et seq.*, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, 42 U.S.C. § 6201 *et seq.*, Pub. L. 94-163, as amended, Pub. L. 94-385, and Pub. L. 95-70; Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Part 212 of Chapter II of Title 10 of the Code

of Federal Regulations is amended as set forth below, effective January 1, 1980.

Issued in Washington, D.C., November 12, 1979.

David J. Bardin,  
Administrator, Economic Regulatory  
Administration.

#### § 212.72 [Amended]

1. Section 212.72 is revised by the addition between the definitions of "Marginal property" and "New crude oil" of the following new definition of "Market level new crude oil":

"Market level new crude oil" means, with respect to a particular property during a particular month, the product of the market level factor for that month and the volume of new crude oil produced and sold from that property during that month. The market level factor for January 1980 shall be four and six-tenths percent (4.6%) and shall be increased by four and six-tenths percent (4.6%) in each succeeding month.

#### § 212.74 [Amended]

2. Section 212.74(a) is revised to read as follows:

(a) Notwithstanding the provisions of § 212.73(a), a producer may in any month charge a price not to exceed the upper tier ceiling price in first sales of new crude oil, except that first sales of market level new crude oil are not subject to the ceiling price limitations of this subpart.

[FR Doc. 79-35517 Filed 11-16-79; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 79-NW-19-AD; Amdt. 39-3617]

#### Airworthiness Directives; Boeing 707-100, 707-100B, 707-200, 720, 720B Series Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This Amendment requires a repetitive inspection of the 707-100/-100B, -200 and 720/720B series airplane horizontal stabilizer center section rear spar upper chord. This inspection is required since, if a rear spar failure should occur, the front spar can carry fail-safe loads for only approximately 500 landings in the case of the 720/720B and 700 landings in the case of 707-100/-100B/-200 airplanes. In addition, if the front spar should fail, the horizontal

stabilizer would separate from the airplane.

**DATES:** Effective date: November 27, 1979.

**ADDRESSES:** Boeing Service Bulletins specified in this directive may be obtained upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

**FOR FURTHER INFORMATION CONTACT:** Mr. Harold N. Wantiez, P.E., Airframe Section, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington, 98108, telephone (206) 767-2516.

#### SUPPLEMENTARY INFORMATION:

##### History

The horizontal stabilizer front spar of 707-100, 707-100B, 707-200, 720 and 720B series airplanes will carry the fail-safe loads if the rear spar should fail. A damage tolerance analysis made by the manufacturer indicates that, for the upper rear spar center section chord, the time from crack initiation to failure is short; furthermore, the analysis indicates that the front spar is capable of carrying the stabilizer loads for approximately 500 additional landings. If the front spar fails, the horizontal stabilizer will separate from the airplane. To date service experience has been very good for the rear spar center section. However, should a crack occur in the upper rear spar chord for whatever reason, the time interval from crack initiation to stabilizer failure does not accommodate routine maintenance intervals. For this reason, mandatory inspections were considered necessary. This Amendment is based upon Notice of Proposed Rulemaking (NPRM) (44 FR 40650, July 12, 1979). It was proposed that an Airworthiness Directive (AD) be issued which would require a repetitive inspection of the horizontal stabilizer of the 707-100/-100B/-200 and 720/720B series airplanes each 250 landings.

##### Public Participation

All interested persons have been given an opportunity to participate in the making of this amendment and due consideration has been given to all matters presented. The Boeing Commercial Airplane Company commented, and the Air Transport Association of America (ATA) commented on behalf of the principal U.S. operators. A private citizen also commented.

#### Discussion of Comments

The commenters agree that an inspection of the 707-100/-100B/-200 and 720/720B series airplanes is required but both Boeing and the ATA disagree with the inspection intervals as proposed by the NPRM. They point out the proposed 250 landing interval, was based on 720/720B operating loads which are higher than those for the 707-100/-100B/-200 airplanes. When the corresponding loads for the 707 were used, and inspection interval of 350 landings was substantiated by a damage tolerance analysis conducted by the manufacturer subsequent to issuance of the NPRM. Service Bulletin 3332 was revised (Rev. 2) to specify an inspection interval of 250 landings for the 720/720B airplanes and 350 landings for the 707-100/-100B/-200 airplanes as a result of the analysis.

The private citizen concurred with the NPRM as written.

#### Conclusions

As Boeing and the ATA correctly point out, when appropriate operating loads are used in the damage tolerance analysis, the results indicated the need for different intervals between 720 and 707 airplanes. After a review of all comments the FAA agrees with the change in inspection intervals since such intervals should be based on the load environment experienced by the airplane model in question.

The rule will, therefore, require inspection of the 707-100/-100B/-200 airplanes at an interval of 350 landings and the 720/720B airplanes at an interval of 250 landings.

#### Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator Sec. 39.13 of the Federal Aviation Regulations (14 CFR 3913) is amended by adding the following new airworthiness directive.

**Boeing:** Applies to all Boeing 707-100, 707-100B, 707-200, and Boeing 720, 720B series airplanes. Within the next number of landings shown in Table 1, if not already accomplished within the last same number of landings, and at repeat intervals not to exceed those specified, visually inspect the horizontal stabilizer center section rear spar upper chord in accordance with page 9 paragraph IIB Boeing Service Bulletin 3332, Rev. 2, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region. If cracks are found, repair prior to further flight in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, except that airplanes may be flown to a maintenance base for repairs or replacement in accordance with FAR 21.197.

Table I

	720/720B	707-100/-100B/-200
Initial inspection interval.....	125 landings.....	175 landings
Repetitive inspections.....	250 landings.....	350 landings

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). (Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended 49 U.S.C. 1354(a), 1421, and 1423) and Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.89))

Note.—The FAA has determined that this document involves a rule which is not considered to be significant under the provisions of Executive Order 12044 and as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Seattle, Washington, on November 7, 1979.

C. B. Walk, Jr.,

Director, Northwest Region.

The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 79-35362 Filed 11-16-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 79-CE-11-AD; Amendment 39-3614]

**Airworthiness Directives; Gates Learjet 24 and 25 Series Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment revises Airworthiness Directive (AD) 79-12-05, Amendment 39-3488, applicable to Gates Learjet 24 and 25 series airplanes equipped with Century III wings, by adding Gates Learjet Airplane Accessory Kit AAK 79-10A as an alternate means of complying with certain portions of the AD and correctly referring to 24 and 25 series airplanes in lieu of Models 24 and 25 airplanes. This revision is necessary because the wing aerodynamic improvements associated with the installation of Kit AAK 79-10A eliminates the need for readjustment of the stall warning system in accordance with AD 79-12-05. In addition an editorial change is needed to clarify the applicability of the AD.

**EFFECTIVE DATE:** November 6, 1979.

**ADDRESSES:** Gates Learjet Airplane Accessory Kit Installation Instructions

Number AAK 79-10A, applicable to this AD, may be obtained from Gates Learjet Corporation, Mid-Continent Airport, P.O. Box 7707, Wichita, Kansas 67277, Telephone Number (316) 946-2000. A copy of the Accessory Kit Installation Instructions is contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106 and at Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591.

**FOR FURTHER INFORMATION CONTACT:** William L. (Bud) Schroeder, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City Missouri 64106; Telephone (816) 374-3446.

**SUPPLEMENTARY INFORMATION:** Amendment 39-3488, AD 79-12-05 requires revision of the FAA Approved Airplane Flight Manual and inspection and readjustment of the stall warning system on certain Gates Learjet 24 and 25 series airplanes. Subsequent to this action the manufacturer has developed and the FAA has approved Gates Learjet Airplane Accessory Kit AAK 79-10A consisting of wing aerodynamic modifications and associated FAA Approved Flight Manual changes which, when installed, lowers the stall speed and improves roll characteristics at stall. These improvements eliminate the need to (1) revised airplane flight manual performance information as required by paragraphs A) 7. through A) 11. of AD 79-12-05 and (2) readjust the stall warning system and inspect other systems as required by paragraph B) of the AD. In addition, it has been brought to our attention that the AD refers to Gates Learjet Model 24 and 25 airplanes but calls out serial numbers for various models of 24 and 25 series airplanes. The intent is for the AD to apply to 24 and 25 series airplanes having the serial numbers shown in the AD. Therefore, the agency is revising Amendment 39-3488 by adding installation of Gates Learjet Airplane Accessory Kit AAK 79-10A as an alternate means of compliance with paragraph A) 7. through A) 11. and B) in AD 79-12-05. Also, the existing note following paragraph C) in the AD is amended and relocated, and the applicability statement is amended to clarify which models and serial numbers are covered by the AD. Since this amendment is relieving in nature and imposes no additional burden on any person, notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days after the date of publication in the Federal Register.

**Adoption of the Amendment**

Accordingly, pursuant to the authority delegated to me by the Administrator, Amendment 39-3488 (44 FR 33392 through 33396), AD 79-12-05 of § 39-13. of part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended as follows:

(1) Delete the existing applicability statement and in its place add the following new applicability statement:

Learjet: Applies to the following (1) model and serial number airplanes on which "reduced approach speed system kit" AAK 76-4 has been installed and, (2) model and serial number 24E, 24F, 24F-A, 25D and 25F airplanes, certificated in all categories:

Models	Serial Numbers
24, 24A, 24B, 24B-A.....	24-100 through 24-180, 24-181 through 24-217, 24-219 through 24-229
24C, 24D, 24D-A.....	24-218, 24-230 through 24-328
24E, 24F, 24F-A, 25, 25A.....	24-329 through 24-357, 25-003 through 25-060, 25-062 through 25-066
25B, 25C.....	25-061, 25-067 through 25-201, 25-204, 25-205
25D, 24F.....	25-206 through 25-278

(2) Reidentify existing paragraph C) as paragraph D).

(3) Add the following new paragraph C).

C) When Gates Learjet Airplane Accessory Kit Number AAK 79-10A (including insertion of the applicable Airplane Flight Manual changes in FAA Approved Airplane Flight Manual) is installed, paragraphs A) 7. through A) 11. and paragraph B) of this AD are no longer applicable.

(4) Delete the existing "NOTE" following existing paragraph C) and add the following new "NOTE" between paragraph A) and B).

Note.—In order to comply with the requirements of paragraph A) of this AD, this airworthiness directive, or a duplicate thereof, may be used as a temporary amendment to the Airplane Flight Manual and carried in the aircraft as part of the Airplane Flight Manual until replaced by the permanent revisions to the Airplane Flight Manual provided by the manufacturer and approved by the FAA.

This amendment becomes effective November 6, 1979.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421 and 1423); Sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89).)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to William L. Schroeder, Aerospace Engineer, Engineering and Manufacturing Branch, Federal Aviation Administration, Central Region, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-3146.

Issued in Kansas City, Missouri on November 6, 1979.

Paul J. Baker,

Director, Central Region.

[FR Doc. 79-35407 Filed 11-16-79; 8:45 am]

BILLING CODE 4910-13-M

## 14 CFR Part 71

[Airspace Docket No. 79-ASW-37]

### Alteration of Transition Area; Bowie, Texas

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The nature of the action being taken is to alter the transition area at Bowie, Tex. The intended effect of the action is to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Bowie Municipal Airport. The circumstance which created the need for the action is the establishment of a nondirectional radio beacon (NDB) on the airport.

**EFFECTIVE DATE:** January 24, 1980.

**FOR FURTHER INFORMATION CONTACT:** Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone 817-624-4911, extension 302.

#### SUPPLEMENTARY INFORMATION:

##### History

On September 20, 1979, a notice of proposed rule making was published in the *Federal Register* (44 FR 54491) stating that the Federal Aviation Administration proposed to alter the Bowie, Tex., transition area. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes this amendment is that proposed in the notice.

##### The Rule

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) alters the Bowie, Tex., transition area. This action provides controlled airspace from 700 feet above

the ground for the protection of aircraft executing established and proposed instrument approach procedures to the Bowie Municipal Airport.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 442) is amended, effective 0901 GMT, January 24, 1980, as follows.

In Subpart G, 71.181 (44 FR 442), the following transition area is altered as follows:

##### *Bowie, Tex.*

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Bowie Municipal Airport (latitude 33°36'06"N., longitude 97°46'30"W.) and within 3 miles each side of the 351° bearing from the NDB (latitude 33°36'19"N., longitude 97°46'23"W.) extending from the 6.5-mile radius area to 8.5 miles north of the NDB. (Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Fort Worth, Tex., on November 2, 1979.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 79-35406 Filed 11-16-79; 8:45 am]

BILLING CODE 4910-13-M

## 14 CFR Part 97

[Docket No. 19759; Amdt. No. 1151]

### Standard Instrument Approach Procedures; Miscellaneous Amendments

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new

or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

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

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

#### *For Examination—*

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

#### *For Purchase—*

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

#### *By Subscription—*

Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is \$135.00.

**FOR FURTHER INFORMATION CONTACT:** Gary W. Wirt, Flight Procedures and Airspace Branch (AFO-730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

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

Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

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

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

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

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard

Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

\*\*\* Effective January 24, 1980

Bettles, AK—Bettles, VOR Rwy 1, Amdt. 3

\*\*\* Effective December 27, 1979

Jacksonville, FL—Jacksonville Intl, VOR Rwy 31, Amdt. 4

Miami, FL—Miami Intl, VOR Rwy 30, Amdt. 2

New Port Richey, FL—West Pasco, VOR-A, Amdt. 1

St. Petersburg, FL—Albert Whitted, VOR Rwy 18, Amdt. 5

St. Petersburg-Clearwater, FL—St. Petersburg-Clearwater Intl, VOR Rwy 17L, Amdt. 10

Tampa, FL—Tampa Intl, VOR Rwy 9, Amdt. 7

Cedartown, GA—Cornelius-Moore Field, VOR-A, Amdt. 9

Dixon, IL—Dixon Muni-Charles R. Walgreen Field, VOR-A, Amdt. 6

Topeka, KS—Phillip Billard Muni, VOR Rwy 22, Amdt. 17

Greenville, KY—Muhlenberg County, VOR/DME-A, Amdt. 1

Big Rapids, MI—Roben-Hood, VOR/DME-A, Amdt. 3

Grand Rapids, MI—Kent County Intl, VOR Rwy 18, Amdt. 3

Grand Rapids, MI—Kent County Intl, VOR Rwy 38, Amdt. 7

Ely, NV—Ely Airport/Yelland Field/, VOR-A, Amdt. 4

Cortland, NY—Cortland County—Chase Field, VOR Rwy 8, Original

Cortland, NY—Cortland County—Chase Field, VOR/DME Rwy 24, Amdt. 1

Livingston, TN—Livingston Muni, VOR/DME Rwy 21, Original

Morristown, TN—Moore-Murrell, VOR Rwy 5, Amdt. 3

Delta, UT—Delta Muni, VOR/DME Rwy 16, Amdt. 1

Delta, UT—Delta Muni, VOR Rwy 34, Amdt. 2

Chesapeake, VA—Chesapeake Muni, VOR/DME Rwy 4, Amdt. 1

\*\*\* Effective December 13, 1979

McCook, NE—McCook Muni, VOR Rwy 12, Amdt. 6

McCook, NE—McCook Muni, VOR Rwy 30, Amdt. 5

\*\*\* Effective November 29, 1979

Houston, TX—William P. Hobby, VOR/DME or TACAN Rwy 22, Amdt. 18

\*\*\* Effective October 29, 1979

Elizabeth City, NC—Elizabeth City Coast Guard Air Base/Muni, VOR Rwy 1, Amdt. 5

Elizabeth City, NC—Elizabeth City Coast Guard Air Base/Muni, VOR Rwy 19, Amdt. 4

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

\*\*\* Effective January 24, 1980

Bettles, AK—Bettles, LOC/DME Rwy 1, Amdt. 2

\*\*\* Effective December 27, 1979

San Diego, CA—Montgomery Field, LOC Rwy 28R, Amdt. 1

Jacksonville, FL—Jacksonville Intl, LOC BC Rwy 31, Amdt. 3

Tampa, FL—Tampa Intl, LOC (BC) Rwy 36R, Amdt. 18

Waukegan, IL—Waukegan Memorial, LOC Rwy 23, Amdt. 4

Valparaiso, IN—Porter County Muni, LOC Rwy 27, Amdt. 3

Topeka, KS—Phillip Billard Muni, LOC BC Rwy 31, Amdt. 16

Grand Rapids, MI—Kent County Intl, LOC BC Rwy 8R, Original, cancelled

Amarillo, TX—Amarillo International, LOC BC Rwy 22, Amdt. 13

\*\*\* Effective November 29, 1979

Richland, WA—Richland, LOC Rwy 19, Original

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

\*\*\* Effective January 24, 1980

Bettles, AK—Bettles, NDB-A, Amdt. 7

Flemingsburg, KY—Fleming-Mason, NDB Rwy 25, Amdt. 1

\*\*\* Effective December 27, 1979

Oakland, CA—Metropolitan Oakland Intl, NDB Rwy 29, Amdt. 9

Miami, FL—Miami Intl, NDB Rwy 9L, Amdt. 15

Miami, FL—Miami Intl, NDB Rwy 27L, Amdt. 14

Tampa, FL—Peter O. Knight, NDB Rwy 3, Amdt. 8

Tampa, FL—Tampa Intl, NDB Rwy 36L, Amdt. 12

Cairo, GA—Cairo-Grady County, NDB Rwy 12, Original

Calhoun, GA—Tom B. David Field, NDB Rwy 35, Amdt. 1

Waukegan, IL—Waukegan Memorial, NDB Rwy 23, Amdt. 4

Valparaiso, IN—Porter County Muni, NDB Rwy 27, Amdt. 3

Iola, KS—Allen County, NDB Rwy 35, Original

Topeka, KS—Phillip Billard Muni, NDB Rwy 13, Amdt. 26

Ulysses, KS—Ulysses, NDB Rwy 12, Amdt. 1

Grand Rapids, MI—Kent County Intl, NDB Rwy 26L, Amdt. 13

Oxford, NC—Henderson-Oxford, NDB Rwy 6, Original

Winnsboro, SC—Fairfield County, NDB Rwy 4, Original

Lawrenceburg, TN—Lawrenceburg Muni, NDB-A, Amdt. 5

Morristown, TN—Moore-Murrell, NDB Rwy 5, Amdt. 4

Amarillo, TX—Amarillo International, NDB Rwy 4, Amdt. 13

Amarillo, TX—Tradewind, NDB-A, Amdt. 11

Castroville, TX—Castroville Muni, NDB Rwy 33, Original

Presidio, TX—Presidio Lely Intl, NDB-A, Original

Spokane, WA—Spokane Intl, NDB Rwy 21, Amdt. 14

\*\*\* Effective November 29, 1979

Flora, IL—Flora Muni, NDB Rwy 21, Original

Pittsburgh, PA—Greater Pittsburgh Intl., NDB Rwy 10L, Amdt. 9  
 Richland, WA—Richland, NDB Rwy 19, Original

\* \* \* Effective October 29, 1979

Elizabeth City, NC—Elizabeth City Coast Guard Air Base/Muni, NDB-A, Amdt. 5  
 Note.—The FAA published an Amendment in Docket No. 19635, Amdt. No. 1149 to Part 97 of the Federal Aviation Regulations (Vol. 44 FR No. 205 page 60725; dated October 22, 1979) under section 97.27 effective November 29, 1979, which is hereby amended as follows: Newport, VT—Newport State, NDB Rwy 23, Amdt. 5 cancellation is rescinded. Newport, VT—Newport State, NDB Rwy 23, Amdt. 5 remains in effect.

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

\* \* \* Effective December 27, 1979

Santa Rosa, CA—Sonoma County, ILS Rwy 32, Amdt. 7  
 Miami, FL—Miami Intl., ILS Rwy 9L, Amdt. 24  
 Miami, FL—Miami Intl., ILS Rwy 27L, Amdt. 19  
 Miami, FL—Miami Intl., ILS Rwy 27R, Amdt. 9  
 Tampa, FL—Tampa Intl., ILS Rwy 36L, Amdt. 9  
 Kahului, HI—Kahului, ILS Rwy 2, Amdt. 14  
 Topeka, KS—Philip Billard Muni, ILS Rwy 13, Amdt. 27  
 Grand Rapids, MI—Kent County Intl., ILS Rwy 8R, Original  
 Grand Rapids, MI—Kent County Intl., ILS Rwy 26L, Amdt. 14  
 Raleigh, NC—Raleigh-Durham, ILS Rwy 5, Amdt. 21  
 Crossville, TN—Crossville Memorial, ILS Rwy 25, Amdt. 4  
 Amarillo, TX—Amarillo International, ILS Rwy 4, Amdt. 17  
 Corpus Christi, TX—Corpus Christi Intl., ILS Rwy 35, Amdt. 3  
 Charlotte Amalie, St. Thomas, VI—Harry S. Truman, ILS Rwy 9, Amdt. 3  
 Spokane, WA—Spokane Intl., ILS Rwy 21, Amdt. 18  
 Green Bay, WI—Austin-Straubel Field, ILS Rwy 36, Original

\* \* \* Effective November 29, 1979

Dayton, OH—James M. Cox Dayton International, ILS Rwy 24R, Amdt. 1  
 Pittsburgh, PA—Greater Pittsburgh Intl., ILS Rwy 10L, Amdt. 19  
 Pittsburgh, PA—Greater Pittsburgh Intl., ILS Rwy 28L, Original  
 Rhinelander, WI—Rhinelander-Oneida County, ILS Rwy 9, Original

\* \* \* Effective October 31, 1979

Winona, MN—Winona Municipal-Max Conrad Field, MLS Rwy 29 (Interim), Amdt. 1, cancelled

5. By amending § 97.31 RADAR SIAPs identified as follows:

\* \* \* Effective December 27, 1979

Birmingham, AL—Birmingham Muni, RADAR-1, Amdt. 14  
 Grand Rapids, MI—Kent County Intl., RADAR-1, Amdt. 4

Amarillo, TX—Amarillo International, RADAR-1, Amdt. 11  
 Corpus Christi, TX—Corpus Christi Intl., RADAR-1, Amdt. 6  
 Salt Lake City, UT—Salt Lake City Muni #2, RADAR-2, Original

\* \* \* Effective November 29, 1979

Dayton, OH—James M. Cox Dayton International, RADAR-1, Amdt. 2

6. By amending § 97.33 RNAV SIAPs identified as follows:

\* \* \* Effective December 27, 1979

Topeka, KS—Philip Billard Muni, RNAV Rwy 17, Amdt. 4  
 New Braunfels, TX—New Braunfels Muni, RNAV Rwy 13, Original  
 New Braunfels, TX—New Braunfels Muni, RNAV Rwy 31, Original

\* \* \* Effective December 13, 1979

McCook, NE—McCook Muni, RNAV Rwy 12, Amdt. 1

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348, 1354(a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. § 1655(c)); and 14 CFR 11.49(b)(3))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C. on November 9, 1979.

James M. Vines,  
 Chief, Aircraft Programs Division.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

[FR Doc. 79-35485 Filed 11-16-79; 8:45 am]

BILLING CODE 4910-13-M

## Federal Energy Regulatory Commission

### 18 CFR Part 272

[Docket No. RM79-44]

### Interim Rules Involving High-Cost Natural Gas; Public Hearings

November 14, 1979.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Public Hearing.

SUMMARY: On October 24, 1979, the Commission issued interim rules involving high-cost natural gas described in section 107(c) (1), (2), (3), and (4) of the Natural Gas Policy Act

(NGPA) in Docket No. RM79-44 (44 FR 61950, October 29, 1979). In that rule the Commission stated that it intended to hold public hearings on the interim rule. That hearing will be held at 10:00 a.m. on Tuesday, December 4, 1979, at 825 North Capitol Street, NE., Washington, D.C. 20426.

DATES: The hearing will be held on December 4, 1979. Requests to participate should be received no later than November 27, 1979.

ADDRESS: Requests to participate should be directed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Requests should reference Docket No. RM79-44 and should indicate the amount of time required for the oral presentation and telephone number at which the person making the presentation can be reached. The hearing will be held at the same location as stated above.

### FOR FURTHER INFORMATION CONTACT:

Teresa Ponder, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8151.

SUPPLEMENTARY INFORMATION: Section 502(b) of the NGPA requires, to the maximum extent practicable, an opportunity for the oral presentation of data, views, and arguments prior to the effective date of any order (with certain exceptions) issued under the NGPA. In order to comply with this requirement, a public hearing on the interim rules for high-cost natural gas described in section 107(c) (1), (2), (3), and (4) of the NGPA will be held in Washington, D.C. on Tuesday, December 4, 1979. The hearing will be held at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C., and will begin at 10:00 a.m. The room will be announced on the day of the hearing.

Persons participating in the public hearing should, if possible, bring 50 copies of their testimony to the hearing. A list of the participants in the hearing will be available in the Commission's Office of Public Information three days before the hearing and will be available at the Commission on the morning of the hearing.

The hearing will not be a judicial or evidentiary-type hearing, and there will be no cross-examination of persons presenting statements. However, staff may question such persons and any interested person may submit questions to the presiding officer to be asked of persons making statements. The presiding officer will determine whether the question is relevant and whether the

time limitations permit it to be presented. Any further procedural rules will be announced by the presiding officer at the hearing. A transcript of the hearing will be available in the public file for this proceeding, Docket No. RM79-44, in the Commission's Office of Public Information.

**Kenneth F. Plumb,**  
Secretary.

[FR Doc. 79-35626 Filed 11-16-79; 8:45 am]

BILLING CODE 6450-01-M

## Federal Highway Administration

### 23 CFR Part 770

[FHWA Docket No. 79-25]

#### Air Quality Guidelines for Use in Federal-Aid Highway Programs; Interim Conformity Procedures

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Interim final rule and request for comments.

**SUMMARY:** The Department of Transportation (DOT) is consulting with the Environmental Protection Agency (EPA) to develop procedures to implement the provisions of the Clean Air Act Amendments of 1977 (CAAA) that are applicable to Federal-aid highway programs. Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)), added by section 129(b) of the CAAA, provides that no Federal agency may engage in or approve any activity which does not conform to an approved State implementation plan (SIP) for the attainment of air quality. This issuance provides that the consistency procedures in 23 CFR Part 770 will be interpreted as satisfying the conformity requirement of section 176(c) of the Clean Air Act pending the issuance of final conformity procedures.

**DATES:** This amendment is effective November 19, 1979. Comments must be received on or before January 18, 1979.

**ADDRESS:** Anyone wishing to submit written comments may do so. Comments should be sent, preferably in triplicate, to FHWA Docket No. 79-25, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed stamped postcard.

**FOR FURTHER INFORMATION CONTACT:** Mr. Harter Rupert, Environmental

Quality Division, 202-426-4836, or Mr. Reid Alsop, Office of the Chief Counsel, 202-426-0800; Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590.

**SUPPLEMENTARY INFORMATION:** The Clean Air Act Amendments of 1977 constituted a comprehensive revision of much of the Clean Air Act. They required that revised SIP's for the attainment of air quality be prepared for all "nonattainment" areas. New section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) provides that "[n]o department, agency, or instrumentality of the Federal Government shall (1) engage in, (2) support in any way or provide financial assistance for, (3) license or permit, or (4) approve any activity which does not conform to a plan after it has been approved or promulgated under section 110," and that "[n]o metropolitan planning organization . . . shall give its approval to any project, program, or plan which does not conform to a plan approved or promulgated under section 110."

The FHWA is already operating under similar requirements that were established pursuant to 23 U.S.C. 109(j). Section 109(j) directs FHWA to assure that Federal and federally assisted highway projects are consistent with any approved SIP. Regulations implementing 23 U.S.C. 109(j) are contained in 23 CFR Part 770 and provide detailed procedures designed to assure that the planning, location, and construction of highway improvements are consistent with approved SIP's.

The DOT is consulting with EPA to develop procedures for implementing section 176(c) and other applicable provisions of the CAAA. Revisions to the FHWA's air quality guidelines (Part 770) will be required as a result of these procedures and will be the subject of a notice of proposed rulemaking.

The FHWA has been advised that the SIP's from 45 States need to be revised in order to comply with various provisions of the Clean Air Act, as amended. Forty-four SIP's have been revised and submitted to EPA. The EPA has completed its review of approximately 33 revised SIP's and published its conclusions in the Federal Register for public comment. It is anticipated that most of these revised SIP's will receive either full or conditional approval in the near future (see 44 FR 37679, June 28, 1979). Although proposed revisions to FHWA's air quality guidelines may be issued for notice and comment prior to that date, it is not anticipated that final conformity procedures will be issued for some time.

The FHWA has determined that conformity procedures should be in effect at the time the revised SIP's are approved by EPA in order to avoid unnecessary and costly delays in the processing of Federal-aid highway projects. Accordingly, FHWA intends to utilize its current consistency procedures in Part 770 to satisfy the conformity requirement of section 176(c).

These interim conformity procedures are intended to apply only until more comprehensive revisions to Part 770 have been developed in conjunction with EPA, published for notice and comment, and issued in final form. Because revised SIP's may be approved at any time by EPA, the authority to use the existing consistency procedures for the section 176(c) requirement is being issued without a 30-day delay in effective date.

The only alternative to issuance of these interim procedures would be to do nothing now and await development of a final rule containing comprehensive revisions to existing regulations. Faced with this limited choice and in light of the delay anticipated in issuance of a final rule, the FHWA has determined that publication of the interim procedure for notice and comment could not reasonably be anticipated to result in the receipt of useful information. Although the agency sees no meaningful opportunity for public comment, those who disagree with this view or wish to comment on the action taken herein are invited to submit their views to the public docket as soon as possible. All comments must be received within 60 days from the date this document appears in the Federal Register.

In consideration of the foregoing, Part 770 of Chapter I, Title 23, Code of Federal Regulations, is amended as follows:

1. The table of sections is amended by adding a new section to read:

Sec.  
770.207 Interim conformity procedures.

2. Section 770.207 is added to the body of the regulation to read as follows:

#### § 770.207 Interim conformity procedures.

The procedures described in §§ 770.204 through 770.206 shall be followed to assure that Federal-aid highway programs and projects conform to State implementation plans (pursuant to Section 176(c) of the Clean Air Act Amendments of 1977).

**Note.**—The Federal Highway Administration has determined that this document contains interim procedures which relate to a significant proposal to be issued according to the criteria established by the

Department of Transportation pursuant to EO 12044. A regulatory evaluation is available for inspection in the public docket and may be obtained by contacting Mr. Harter Rupert of the program office at the address specified above.

(42 U.S.C. 7401 *et seq.*; 23 U.S.C. 315; 49 CFR 1.48(b))

Issued on: November 8, 1979.

Karl S. Bowers,

*Federal Highway Administrator.*

[FR Doc. 79-35519 Filed 11-16-79; 8:45 am]

BILLING CODE 4910-22-M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection

#### 24 CFR Part 3280

[Docket No. R-79-641]

### Mobile Home Construction and Safety Standards; Frame Construction and Prevention of Storage Near Heat-Producing Appliances

**AGENCY:** Department of Housing and Urban Development, HUD.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends 24 CFR Part 3280, Mobile Home Construction and Safety Standards, to set requirements dealing with: (1) The removal of weld slag or flux from welded connections of mobile home frames; and (2) prevention of storage in areas around heat-producing appliances. The amendments are needed to eliminate unnecessary weld slag removal requirements which increase the costs of mobile home construction and to reduce the potential for fire hazards near heat-producing appliances.

**EFFECTIVE DATE:** December 19, 1979.

**FOR FURTHER INFORMATION CONTACT:**

Richard A. Mendlen, Director, Standards Division, Office of Mobile Home Standards, Office of Neighborhoods, Voluntary Associations and Consumer Protection, Department of Housing and Urban Development, Room 4224, 451 Seventh Street, SW., Washington, D.C. 20410. Telephone (202) 426-1872 (this is not a toll free number).

**SUPPLEMENTARY INFORMATION:** The Department published separate interim rules—Frame Construction on June 15, 1978 (43 FR 25964) and Prevention of Storage Near Heat-Producing Appliances on August 7, 1978 (43 FR 35265) in order to eliminate unnecessary weld slag removal requirements and to clarify requirements relating to the

prevention of storage in areas surrounding heat-producing appliances. These amendments, when published as interim rules, were cited as 24 CFR 280.350, Structural Design Requirements, and 280.709(e), Installation of Appliances. On April 6, 1979 (44 FR 20674), the Department redesignated Part 280, Mobile Home Construction and Safety Standards, as Part 3280, Mobile Home Construction and Safety Standards.

#### Frame Construction

The Department received several comments, one of which did not deal with the subject matter of the interim rule. Some commentators felt that there was no need to remove slag or foreign matter from any welded joint. While the Department accepts the argument that the cost of removing the slag from all welds is not justified, there are welds which are critical for transporting the mobile home and essential for long term durability. Therefore, the Department has retained the requirement to remove slag and flux on specified welds to assure inspection of those welds and for prevention of corrosion. The welds the Department considers to be critical are specified in the rule. These are critical because serious damage to the mobile home could result should they fail.

The interim rule indicated that metal frames could be protected against corrosion by painting and specified two types of paint which could be utilized for that purpose. Five of the comments stated that to apply either type of paint would require mobile home manufacturers to install costly paint facilities to comply with Occupational Safety and Health Administration (OSHA) regulations because of the volatile and toxic nature of the paints specified by the rule.

The interim rule permitted paints other than asphaltic base or zinc chromate to be used to protect metal frames if those paints offered equivalent levels of protection against corrosion. Two commentators were correct in pointing out that there is no performance standard or test procedure to determine equivalency for certification of other types of paint, including those non-hazardous type paints presently utilized by mobile home manufacturers. The Department recognizes that non-hazardous paints have previously been utilized by mobile home manufacturers to protect metal frames against corrosion. Therefore, until such time as valid criteria for evaluation of paints utilized to protect mobile home frames from corrosion can be established, the Department has eliminated the

requirement that particular types of paint must be used.

#### Prevention of Storage Near Heat-Producing Appliances

Three comments were received in response to this interim rule published on August 7, 1978 (43 FR 35265).

The interim rule concerning storage prevention permitted a warning label to be used in place of installing guards or barriers. Two of the comments supported the use of the warning label alone as a means of effectively informing consumers of the hazard of storing combustibles near heat-producing appliances. One of those comments indicated that the type of label specified by the rule was unnecessarily restrictive.

Another comment stated that the rule should require manufacturers to provide both a barrier and a warning label. The comment made the argument that manufacturers' claims that consumers would not re-install the barrier or guard after maintenance of an appliance is not supported by any evidence. Further, that comment also claimed that the interim rule increased the potential for a serious safety hazard.

After review of the comments, the Department has decided to publish the rule as final without any changes from the interim rule. The Department has concluded that: (1) A warning label is adequate to warn consumers not to store combustible materials near heat-producing appliances; (2) the durability of a plastic laminate or equivalent label is necessary to assure that the label remains attached and legible throughout the useful life of the mobile home. The question of the continued acceptability of a guard or barrier by itself without a warning label to prevent storage, as now permitted, will be considered in future rulemaking by the Department.

A Finding of Inapplicability of Section 102(2)(C) of the National Environmental Policy Act of 1969 was made in accordance with "Procedures for Protection and Enhancement of Environmental Quality" for each of the interim rules and remains applicable to these final rules. They are available for public inspection in the Office of the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, during normal business hours.

Accordingly, 24 CFR Part 3280 is amended as follows:

1. By adding a new paragraph (i) to § 3280.305, to read as follows:

**§ 3280.305 Structural design requirements.**

(i) *Frame construction.* The frame shall be capable of transmitting all design loads to stabilizing devices without exceeding the allowable load and deflections of this section. The frame shall also be capable of withstanding the effects of transportation shock and vibration without degradation as required by Subpart J.

(1) *Welded connections.* (i) All welds shall be made in accordance with the applicable provisions of the Manual of Steel Construction as published by the AISC-1973, the specification for the design of cold-formed steel structural members as published by the AISI-1968, and the specification for the design of light gage cold-formed stainless steel structural members as published by the AISI-1972.

(ii) Regardless of the provisions of any reference standard contained in this subpart, deposits of weld slag or flux shall be required to be removed only from welded joints at the following locations:

(A) Drawbar and coupling mechanisms;

(B) Main member splices, and

(C) Spring hanger to main member connections.

(2) Protection of metal frames against corrosion. Metal frames shall be made corrosion resistant or protected against corrosion. Metal frames may be protected against corrosion by painting.

2. By revising paragraph (c) of § 3280.709 to read as follows:

**§ 3280.709 Installation of appliances.**

(c) Clearances surrounding heat producing appliances shall not be less than the clearances specified in the terms of their listings.

(1) Prevention of storage. The area surrounding heat producing appliances installed in areas with interior or exterior access shall be framed-in or guarded with noncombustible material such that the distance from the appliance to the framing or guarding material is not greater than three inches unless the appliance is installed in compliance with paragraph (c)(2), of this section. When clearance required by the listing is greater than three inches, the guard or frame shall not be closer to the appliance than the distance provided in the listing.

(2) Clearance spaces surrounding heat producing appliances are not required to be framed-in or guarded when:

(i) A space is designed specifically for a clothes washer or dryer;

(ii) Dimensions surrounding the appliance do not exceed three inches; or

(iii) The manufacturer affixes either to a side of an alcove or compartment containing the appliance, or to the appliance itself, in a clearly visible location, a 3"x5" adhesive backed plastic laminated label or the equivalent which reads as follows:

"Warning"

This compartment is not to be used as a storage area. Storage of combustible materials or containers on or near any appliance in this compartment may create a fire hazard. Do not store such materials or containers in this compartment.

(Secs. 604, 625, National Mobile Home Construction and Safety Standards Act of 1974, (42 U.S.C. 5403 and 5424); and sec. 7(d), department of HUD Act, (42 U.S.C. 3535(d)))

Issued at Washington, D.C., November 9, 1979.

**Geno C. Baroni,**

*Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.*

[FR Doc. 79-35569 Filed 11-16-79; 8:45 am]

**BILLING CODE 4210-01-M**

**DEPARTMENT OF THE INTERIOR****Office of Surface Mining Reclamation and Enforcement****30 CFR Part 788****Surface Coal Mining and Reclamation Operations, Permanent Regulatory Program; Corrections**

**AGENCY:** Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, Washington, D.C.

**ACTION:** Corrections.

**SUMMARY:** This document corrects the Regulations to the Permanent Regulatory Program that begin on page 15312 of Volume 44 of the *Federal Register* of Tuesday, March 13, 1979, Part II, Book 3 of 3.

**EFFECTIVE DATE:** November 19, 1979.

**ADDRESS:** Director, Office of Surface Mining Reclamation and Enforcement, Department of the Interior, Washington, D.C. 20240.

**FOR FURTHER INFORMATION CONTACT:** Carl C. Close, Assistant Director for State and Federal Programs, Office of Surface Mining, U.S. Department of the Interior, Washington, D.C. 20240, (202) 343-4225.

The following corrections of nonsubstantive errors are made:

On page 15354, § 778.16(b), column 2, line 2, "applicant" is corrected to read "application".

On page 15383, § 788.12(b)(2), column 3, line 12 is corrected to read "782, 783, 784, or 785 or in the condi-".

On page 15384, § 788.14(b)(2), column 1, line 12 is corrected to read "783, 784, 786, 787, 788, and applicable portions of 785."

Dated: November 9, 1979.

**Walter N. Heine,**

*Director, Office of Surface Mining Reclamation and Enforcement.*

[FR Doc. 79-35534 Filed 11-16-79; 8:45 am]

**BILLING CODE 4310-05-M**

**DEPARTMENT OF TRANSPORTATION****Coast Guard****33 CFR Part 117****[CGD 78-172]****Drawbridge Operation Regulations; Halifax River, Fla.**

**AGENCY:** Coast Guard, DOT.

**ACTION:** final rule.

**SUMMARY:** At the request of the Public Affairs Council of the Daytona Beach Area Chamber of Commerce, the Coast Guard is revising the regulations for the Seabreeze and Memorial bridges across the Halifax River (AIWW), miles 829.1 and 830.6 respectively, to allow periods during peak vehicular traffic when the draws need not open. This action should relieve vehicular traffic during the morning and evening rush hours while still providing for the reasonable needs of navigation.

**EFFECTIVE DATE:** This amendment is effective on December 24, 1979.

**FOR FURTHER INFORMATION CONTACT:** Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590(202-426-0942).

**SUPPLEMENTARY INFORMATION:** On February, 8 1979, the Coast Guard published a proposed rule (44 FR 7981) concerning this amendment. The Commander, Seventh Coast Guard District, also published these proposals as a Public Notice dated February 9, 1979. Interested persons were given until March 12, 1979 to submit comments.

**Drafting Information**

The principal persons involved in drafting this rule are: Frank L. Teuton, Jr. Project Manager, Office of Marine Environment and Systems, and Coleman Sachs, Project Attorney, Office of the Chief Counsel.

**Discussion of Comments**

Fourteen comments were received. Ten supported the proposal or had no

objection. Three opposed its adoption on the grounds that further restrictions were not needed or that the restrictions were not restrictive enough. The Coast Guard considered these objections, however, it is felt that these regulations as proposed will provide for the reasonable needs of navigation while adequately providing for vehicular traffic. The remaining comment suggested changes in the opening periods be made. This suggestion was considered but was rejected as being too restrictive for navigation.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising § 117.433 to read as follows:

**§ 117.433 Halifax River, AIWW, Volusia County, FL.**

The draws of each bridge from Ormond Beach through Port Orange shall open on signal except that:

(a) *Ormond Beach*, Halifax River, AIWW, mile 824.9, Granada Avenue bridge, Ormond Beach, FL. From 7:30 a.m. to 8:30 a.m. and from 4:30 p.m. to 5:30 p.m., Monday through Saturday, the draw may remain closed to the passage of vessels. However, the draw shall open at 8:00 a.m. and 5:00 p.m. to pass any accumulated vessels. The draw shall open on signal on Federal and Florida State holidays.

(b) *Seabreeze*, Halifax River, AIWW, mile 829.1, Seabreeze bridge, Seabreeze Boulevard, Daytona Beach, FL. From 7:30 a.m. to 8:30 a.m. and from 4:30 p.m. to 5:30 p.m., Monday through Saturday, the draw may remain closed to the passage of vessels. However, the draw shall open at 8:00 a.m. and 5:00 p.m. to pass any accumulated vessels. The draw shall open on signal on Federal and Florida State holidays.

(c) *Memorial*, Halifax River, AIWW, mile 830.6, Memorial bridge, Orange Avenue to Silver Beach Street, Daytona Beach, FL. From 7:45 a.m. to 8:45 a.m. and 4:45 p.m. to 5:45 p.m., Monday through Saturday, the draw may remain closed to the passage of vessels. However, the draw shall open at 8:15 a.m. and 5:15 p.m. to pass any accumulated vessels. The draw shall open on signal on Federal and Florida State holidays.

(d) *Port Orange*, Halifax River, AIWW, mile 835.5, Port Orange bridge, State Road A-1-A (Dunlawton Avenue), Port Orange FL. From 7:30 a.m. to 8:30 a.m. and from 4:30 p.m. to 5:30 p.m., Monday through Saturday, the draw may remain closed to the passage of vessels. However, the draw shall open at 8:00 a.m. and 5:00 p.m. to pass any accumulated vessels. The draw shall

open on signal on Federal and Florida State holidays.

(e) The opening signal for each bridge is three blasts of a whistle, horn, or other sound-producing device or by shouting.

(f) Public vessels of the United States, tugs with tows, and vessels in distress shall be passed at any time. The opening signal from these vessels is four blasts of a whistle, horn, or other sound-producing device or by shouting.

(g) During periods when storm signals are displayed in the Daytona Beach area, the draws shall open on signal. Storm signals are displayed upon notification by the National Weather Service that winds of up to 33 knots or more and/or sea conditions considered dangerous to small craft are expected.

(h) The owners of or agencies controlling these bridges shall post signs on both the upstream and downstream sides of the bridges or adjacent to the bridges, that can be easily read at any time from an approaching vessel, stating the provisions of the regulations in this section as they apply to each bridge.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5).)

Dated: November 13, 1979.

W. E. Caldwell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc. 79-35522 Filed 11-16-79; 8:45 am]

BILLING CODE 4910-14-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 256

[FRL 1360-7]

#### Guidelines for Development and Implementation of State Solid Waste Management Plans; Correction

**AGENCY:** U.S. Environmental Protection Agency.

**ACTION:** Correction to final rule.

**SUMMARY:** On July 31, 1979, EPA issued a final rule (44 FR 45066) under Sections 4002(b) and 4003 of the Resource Conservation and Recovery Act. The following corrections should be made to that rule.

**FOR FURTHER INFORMATION CONTACT:** Ms. Susan Absher, Office of Solid Waste (WH-564), Environmental Protection Agency, Washington, D.C. 20460; telephone 202-755-9145.

#### Corrections

In FR Doc. 79-23471 make the following changes:

Page	Column	Correction
45070.....	3	In line 29, change "legal authority" to "regulatory powers".
45086.....	1	Under § 256.64(c), the citation "\$ 256.22(a)" should be changed to "\$ 256.23(a)".

Dated: November 13, 1979.

Steffen W. Plehn,

Deputy Assistant Administrator for Solid Waste.

[FR Doc. 79-35564 Filed 11-16-79; 8:45 am]

BILLING CODE 6560-01-M

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

#### 43 CFR Public Land Order 5685

[New Mexico 32965]

#### New Mexico; Revocation of Public Land Order No. 4520

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Final rule.

**SUMMARY:** This order revokes a withdrawal which withdrew public lands for use of the Department of Agriculture, Forest Service, for the protection of public use values and as a recreation site. Upon promulgation of this order, the lands will be disposed of to the New Mexico State Park and Recreation Commission.

**EFFECTIVE DATE:** November 19, 1979.

**FOR FURTHER INFORMATION CONTACT:** Louis B. Bellesi, 202-343-8731.

By virtue of the authority contained in section 204 of the Act of October 21, 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 4520 of August 29, 1968, which withdrew the following described public lands for use by the Department of Agriculture, Forest Service, for protection of public use values and as a recreation site is hereby revoked in its entirety:

New Mexico Principal Meridian

T. 18 S., R. 10 E.,

Sec. 16, S $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ , and NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ .

The area described contains 60 acres in Otero County.

2. This revocation is in furtherance of the disposal of the above described lands pursuant to application NM-13135 filed by the New Mexico State Park and Recreation Commission under the Recreation and Public Purposes Act of

June 14, 1926, as amended, 43 U.S.C. 869; 869-4.

Guy R. Martin,

Assistant Secretary of the Interior.

November 8, 1979.

[FR Doc. 79-35618 Filed 11-16-79; 8:45 am]

BILLING CODE 4310-84-M

## DEPARTMENT OF TRANSPORTATION

### Research and Special Programs Administration

#### 49 CFR Part 178

[Docket No. HM-163B; Amdt. No. 178-59]

#### Withdrawal of Certain Bureau of Explosives Delegations of Authority

**AGENCY:** Materials Transportation Bureau, Research and Special Programs Administration, DOT.

**ACTION:** Final rule.

**SUMMARY:** The purpose of these amendments to the Department's Hazardous Materials Regulations is to withdraw or cancel the remaining delegations of authority to the Bureau of Explosives (B of E) in Part 178 of 49 CFR.

**EFFECTIVE DATE:** November 19, 1979.

**FOR FURTHER INFORMATION CONTACT:** Darrell L. Raines, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Research and Special Programs Administration, Washington, D.C. 20590, phone 202-472-2726.

**SUPPLEMENTARY INFORMATION:** On May 7, 1979, the Materials Transportation Bureau (MTB) published a Notice of Proposed Rulemaking, Docket HM-163B; Notice 79-7 (44 FR 26772) which proposed these amendments. The background and the basis for incorporating these amendments into the regulations were discussed in that notice. Interested persons were invited to give their views prior to the closing date of June 30, 1979.

The Bureau received only four comments on Notice 79-7, all of which were favorable to the proposed changes.

One commenter, in addition to expressing his approval of the format used for Notice 79-7, recommended the deletion of the last portion of proposed § 178.236-2(e), § 178.237-2(e), § 178.238-2(e), and § 178.239-2(e) which reads, "in accordance with your former freight classification (UFC) Rule 40, or National Motor Freight Classification (NMFC) item 200." The commenter further stated that the strength of the bags is already well-covered in the specifications mentioned, and the tests required are all performance tests which will adequately

prove the performance of the bag without reference to the freight classification data. In view of the above, and upon further considerations, the Bureau agrees that reference to Rule 40 of the Uniform Freight Classification or Item 200 of the National Motor Freight Classification is unnecessary.

The second commenter suggested that the reference to the Associate Director for HMR and Associate Director for OE be changed to the Director, MTB because of frequent organizational changes within MTB. The Bureau agrees that the possibility of an organizational change affecting the Associate Director for HMR and Associate Director for OE is greater than a change affecting the Director, MTB. However, the Bureau maintains that our regulations should specify the office within the Bureau that is charged with a particular function. For this reason, the rule change is being incorporated as proposed in Notice 79-7.

The third comment received was a brief statement expressing approval of the format in which HM-163B and HM-166A notices of proposed rulemaking were prepared.

The last commenter stated that there appears to be a contradiction between §§ 178.118-6(a)(2) and 178.118-8(b). Docket HM-140 revised footnote 3 of § 178.118-6(a) to authorize the use of a 18-gauge removable head on 55-gallon DOT Specification 17H steel drums under certain specified conditions. The change being adopted by this rulemaking, in § 178.118-8(b), does not authorize the use of an 18-gauge head unless specifically approved by the Associate Director for OE. On the other hand, when a 14-gauge or 16-gauge head is used, other types of closing devices are authorized if they perform without failure under the tests required by §§ 178.118-12 and 178.118-13, and a record of such tests is retained during the period the closure is in use.

Although these amendments do not add anything that was not proposed in the notice, it is anticipated that there may be questions regarding the sentence "Equally efficient means of testing may be authorized upon approval by the Associate Director for OE" which appears in most of the paragraphs entitled "Leakage test." Prior to these amendments the B of E was authorized to approve alternate methods of testing. Two fairly well known methods approved by the B of E are identified as the T-Zone test and the Pocket tester. Use of the Pocket tester is limited to drums of approximately 5-gallons capacity. These previously approved test methods will continue in effect until December 31, 1984, in accordance with 49 CFR 171.19. However, this does not

mean that the Associate Director for OE will approve these same test methods in the future. For test methods other than those required in the regulations or approved earlier by the B of E, an approval must be obtained in writing from the Associate Director for OE.

The MTB intends to publish a notice of proposed rulemaking at a later date requesting comments on the best way to incorporate into the regulations those approvals and authorizations that were issued by the B of E for alternate leakage test methods. The MTB intends to complete action on the proposed rulemaking in sufficient time to avoid further extension of the December 31, 1984 deadline.

Primary drafters of these amendments are Darrell L. Raines, Office of Hazardous Materials Regulation, Exemption and Regulations Termination Branch, and George W. Tenley, Office of the Chief Counsel, Research and Special Programs Administration.

In consideration of the foregoing, 49 CFR Part 178 is amended as follows:

1. In § 178.1, § 178.1-9 paragraph (a) and the introductory text of paragraph (d) are revised; § 178.1-10 the heading and the introductory text of paragraph (a) is revised, paragraph (a)(2) is revised, paragraphs (a)(3), (a)(4) and (a)(5) are deleted as follows:

#### § 178.1 Specification 1A; boxed carboys.

##### § 178.1-9 Tests.

(a) *Apparatus.* Standard required. Detailed prints may be obtained from the Associate Director for HMR.

\* \* \* \* \*

(d) *When required.* By each manufacturer, at intervals not to exceed 6 months; separate tests are required for:

\* \* \* \* \*

##### § 178.1-10 Boxes of veneer, plywood and laminated wood.

(a) Boxes of veneer, plywood, laminated wood, or any combination thereof, which comply with this section (except § 178.1-7 (a), (c), and (d)), are authorized provided:

\* \* \* \* \*

(2) That these boxed carboys pass the regular test prescribed in § 178.1-9. A copy of the most recent test report must be retained until further tests are made or for five years from the date of test.

(3) [Deleted]

(4) [Deleted]

(5) [Deleted]

2. In § 178.4, § 178.4-8 paragraphs (a), and (g) and the introductory text of paragraph (d) are revised as follows:

§ 178.4 Specification 1D; boxed glass carboys.

§ 178.4-8 Tests.

(a) *Apparatus.* Standard required. Detailed prints may be obtained from the Associate Director for HMR.

(d) *When required.* By each manufacturer, at intervals not to exceed 6 months; separate tests are required for:

(g) *Internal pressure test.* Bottles shall be capable of withstanding a sustained internal pressure of 20 psig for a 15-day period.

3. In § 178.5, § 178.5-9 paragraph (a) and the introductory text of paragraph (d) are revised as follows:

§ 178.5 Specification 1X; boxed carboys, 5 to 6½ gallons, for export only.

§ 178.5-9 Tests.

(a) *Apparatus.* Standard required. Detailed prints may be obtained from the Associate Director for HMR.

(d) *When required.* By each manufacturer, at intervals not to exceed 6 months; separate tests are required for:

4. In § 178.6, § 178.6-7 is deleted; § 178.6-10 paragraphs (a) and (d) are revised to read as follows:

§ 178.6 Specification 1EX; glass carboys in plywood drums.

§ 178.6-7 [Deleted].

§ 178.6-10 Tests.

(a) *Apparatus.* Standard required. Detailed prints may be obtained from the Associate Director for HMR.

(d) *When required.* By each manufacturer, at intervals not to exceed 6 months; separate tests are required for:

5. In § 178.13, § 178.13-3 paragraph (a) the first sentence is amended; § 178.13-4 paragraph (a)(1) is revised as follows:

§ 178.13 Specification 1H; polyethylene carboys in low carbon steel or other equally efficient metal crates.

§ 178.13-3 Polyethylene carboys.

(a) Carboys shall be made of polyethylene with no plasticizers or additives and have a maximum melt index value of 2.5 grams. \* \* \*

§ 178.13-4 Outside containers.

(a) \* \* \*

(1) Specifications for each size container must be kept on file by each manufacturer.

6. In § 178.14, § 178.14-8 paragraph (a) and the introductory text of paragraph (d) are revised as follows:

§ 178.14 Specification 1K; glass carboys cushioned with expandable polystyrene in wooden wirebound box outside containers.

§ 178.14-8 Tests.

(a) *Apparatus.* Standard required. Detailed prints may be obtained from the Associate Director for HMR.

(d) *When required.* By each manufacturer, at intervals not to exceed 6 months; separate tests required for:

7. In § 178.21, § 178.21-3 paragraph (a) Note 1 is revised as follows:

§ 178.21 Specification 2T; polyethylene container.

§ 178.21-3 Material.

(a) \* \* \*  
Note 1.—Other materials may be added if they do not affect the properties specified in paragraph (a) of this section.

8. In § 178.24, § 178.24-2, paragraph (a) Note 1 is revised as follows:

§ 178.24 Specification 2U; molded or thermoformed polyethylene containers having rated capacity of over one gallon. Removable head containers or containers fabricated from film not authorized.

§ 178.24-2 Material.

(a) \* \* \*  
Note 1.—Other materials may be added if they do not affect the properties specified in paragraph (a) of this section.

9. In § 178.27, § 178.27-1 paragraph (a) Note 1 is revised as follows:

§ 178.27 Specification 2TL; polyethylene container.

§ 178.27-1 Material requirements.

(a) \* \* \*  
Note 1.—Other materials may be added if they do not affect the properties specified in paragraph (a) of this section.

10. In § 178.59, § 178.59-16 paragraph (a) the last sentence is amended and the first sentence of paragraph (b); § 178.59-21 is deleted as follows:

§ 178.59 Specification 8; steel cylinders with approved porous filling for acetylene.

§ 178.59-16 Porous filling.

(a) \* \* \* In all cases, the filling material as installed in the cylinder

must be examined by the Bureau of Explosives and approved by the Associate Director for OE.

(b) Porosity of filling to be 80 percent or less except that filling with a porosity in excess of 80 percent but not in excess of 92 percent, may be used when tested with satisfactory results under the supervision of the Bureau of Explosives and approved by the Associate Director for OE. \* \* \*

§ 178.59-21 [Deleted]

11. In § 178.60, § 178.60-20 paragraph (a) the last sentence is amended and the first sentence of paragraph (b) as follows:

§ 178.60 Specification 8AL; steel cylinders with approved porous filling for acetylene.

§ 178.60-20 Porous filling.

(a) \* \* \* In all cases, the filling material as installed in the cylinder must be examined by the Bureau of Explosives and approved by the Associate Director for OE.

(b) Porosity of filling to be 80 percent or less except that filling with a porosity in excess of 80 percent but not in excess of 92 percent, may be used when tested with satisfactory results under the supervision of the Bureau of Explosives and approved by the Associate Director for OE. \* \* \*

12. In § 178.80, § 178.80-7 paragraph (a) Table footnote 1 is revised; § 178.80-9 the last sentence of paragraph (d) is amended; § 178.80-14 paragraph (a) is revised as follows:

§ 178.80 Specification 5; steel barrels or drums.

§ 178.80-7 Parts and dimensions.

(a) \* \* \*

<sup>1</sup>Rolling hoops may be of pliable solid rubber, metal, or other suitable material provided that equivalent protection to drum integrity is afforded.

§ 178.80-9 Closures.

(d) \* \* \* Other types of closures are authorized if they perform without failure under the tests required by this section and a record of the tests is retained during the period the closure is in use.

§ 178.80-14 Leakage test.

(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 15 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for

OE. Leakers shall be rejected or repaired and retested without failure. Removable head containers need not be tested with heads in place except that samples taken at random and closed as for use, of each type and size, must be tested at start of production and repeated every 4 months. Samples last tested must be retained until further tests are made or for 1 year.

13. In § 178.81, § 178.81-7 paragraph (a) Table footnote 1 is revised; § 178.81-9 paragraph (e) is revised; § 178.81-14 paragraph (a) is revised as follows:

§ 178.81 Specification 5A; steel barrels or drums.

§ 178.81-7 Parts and dimensions.

(a) \* \* \*  
<sup>1</sup>Rolling hoops may be of pliable solid rubber, metal, or other suitable material provided that equivalent protection to drum integrity is afforded:  
 \* \* \* \* \*

§ 178.81-9 Closures.

(e) Other types of closures are authorized if they perform without failure under the tests required by this section and a record of the tests is retained during the period the closure is in use.  
 \* \* \* \* \*

§ 178.81-14 Leakage test.

(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 15 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure.

14. In § 178.82, § 178.82-7(a) Table footnote 1 is revised; § 178.82-9 paragraph (c) is revised and the last sentence of paragraph (d) is amended; § 178.82-14 paragraph (a) is revised as follows:

§ 178.82 Specification 5B; steel barrels or drums.

§ 178.82-7 Parts and dimensions.

(a) \* \* \*  
<sup>1</sup>Rolling hoops may be of pliable solid rubber, metal, or other suitable material provided that equivalent protection to drum integrity is afforded.  
 \* \* \* \* \*

§ 178.82-9 Closures.

(c) For closure with threaded plug or cap, the seat (flange, etc.) for plug or cap, must have 3 or more complete threads; two drainage holes of not over

5/16-inch diameter are allowed. Plug, or cap, must have sufficient length of thread to engage 3 threads when tightened with gasket in place. Other types of closures are authorized if they perform without failure under the tests required by this section and a record of the tests is retained during the period the closure is in use.

(d) \* \* \* Other types of closures are authorized if they perform without failure under the tests required by this section and a record of such tests is retained during the period the closure is in use.  
 \* \* \* \* \*

§ 178.82-14 Leakage test.

(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 15 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure. Removable head containers need not be tested with heads in place except that samples taken at random and closed as for use, of each type and size, must be tested at start of production and repeated every 4 months. Samples last tested must be retained until further tests are made or for 1 year.

15. § 178.83, § 178.83-7 paragraph (a) Table footnote 1 is revised; § 178.83-9 paragraph (e) is revised; § 178.83-14 paragraph (a) is revised as follows:

§ 178.83 Specification 5C; steel barrels or drums.

§ 178.83-7 Parts and dimensions.

(a) \* \* \*  
<sup>1</sup>Rolling hoops may be of pliable solid rubber, metal, or other suitable material provided that equivalent protection to drum integrity is afforded.  
 \* \* \* \* \*

§ 178.83-9 Closures.

(e) Other types of closures are authorized if they perform without failure under the tests required by this section and a record of the tests is retained during the period the closure is in use.  
 \* \* \* \* \*

§ 178.83-14 Leakage test.

(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 15 pounds per square inch. Equally efficient means of testing may be authorized upon

approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure.

16. In § 178.84, § 178.84-7 paragraph (a) Table footnote 1 is revised; § 178.84-14 paragraph (a) is revised as follows:

§ 178.84 Specification 5D; steel barrels or drums, lined.

§ 178.84-7 Parts and dimensions.

(a) \* \* \*  
<sup>1</sup>Rolling hoops may be of pliable solid rubber, metal, or other suitable material provided that equivalent protection to drum integrity is afforded.  
 \* \* \* \* \*

§ 178.84-14 Leakage test.

(a) Each container, with lining material applied, shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 15 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure. Removable head containers need not be tested with heads in place except that samples taken at random and closed as for use, of each type and size, must be tested at start of production and repeated every 4 months. Samples last tested must be retained until further tests are made or for 1 year.  
 \* \* \* \* \*

17. In § 178.85, § 178.85-13 paragraph (a) is revised as follows:

§ 178.85 Specification 5F; steel drums.

§ 178.85-13 Leakage test.

(a) Each drum shall be tested with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 100 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure.

18. In § 178.87, § 178.87-7 paragraph (a) Table footnote 1 is revised; § 178.87-13 paragraph (a)(3) is revised; § 178.87-14 paragraph (a) is revised as follows:

§ 178.87 Specification 5H; steel barrels or drums, lead lined.

§ 178.87-7 Parts and dimensions.

(a) \* \* \*  
<sup>1</sup>Rolling hoops may be of pliable solid rubber, metal, or other suitable material provided that equivalent protection to drum integrity is afforded.  
 \* \* \* \* \*

**§ 178.87-13 Type tests.**

(a) \* \* \*

(3) Periodic drop tests are not required after initial drop tests at start of manufacture, on containers of a construction in excess of minimum specification requirements approved by the Associate Director for OE. Any change in construction of drum, lining, or closure must be approved by the Associate Director for OE.

**§ 178.87-14 Leakage test.**

(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 15 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure.

19. In § 178.88, § 178.88-6 paragraph (a) Table footnote 1 is revised; § 178.88-8 paragraph (e) is revised; § 178.88-13(a) is revised as follows:

**§ 178.88 Specification 5K; nickel barrels or drums.****§ 178.88-6 Parts and dimensions.**

(a) \* \* \*

<sup>1</sup>Rolling hoops may be of pliable solid rubber, metal, or other suitable material provided that equivalent protection to drum integrity is afforded.

**§ 178.88-8 Closures.**

(e) Other types of closures are authorized if they perform without failure under the tests required by this section and a record of the tests is retained during the period the closure is in use.

**§ 178.88-13 Leakage test.**

(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 15 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure.

20. In § 178.89, § 178.89-5 paragraph (c) is revised; § 178.89-12 paragraph (a) is revised as follows:

**§ 178.89 Specification 5L; steel barrels or drums.****§ 178.89-5 Seams.**

(c) Flanged spout for filling and emptying container welded in place or

attached in a manner approved by the Associate Director for OE.

**§ 178.89-12 Leakage test.**

(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 5 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE.

21. In § 178.90, § 178.90-6 paragraph (a) Table footnote 1 is revised; § 178.90-8 paragraph (e) is revised; § 178.90-13 paragraph (a) is revised as follows:

**§ 178.90 Specification 5M; monel drums.****§ 178.90-6 Parts and dimensions.**

(a) \* \* \*

<sup>1</sup>Rolling hoops may be of pliable solid rubber, metal, or other suitable material provided that equivalent protection to drum integrity is afforded.

**§ 178.90-8 Closures.**

(e) Other types of closures are authorized if they perform without failure under the test required by this section and a record of the tests is retained during the period the closure is in use.

**§ 178.90-13 Leakage test.**

(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 15 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure.

22. In § 178.91; § 178.91-7 paragraph (a) Table footnote 1 is revised; § 178.91-14 paragraph (a) is revised as follows:

**§ 178.91 Specification 5X; steel drums, aluminum lined.****§ 178.91-7 Parts in dimensions.**

(a) \* \* \*

<sup>1</sup>Rolling hoops may be of pliable solid rubber, metal, or other suitable material provided that equivalent protection to drum integrity is afforded.

**§ 178.91-14 Leakage test.**

(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 15 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for

OE. Leakers shall be rejected or repaired and retested without failure.

23. In § 178.92, § 178.92-9 paragraph (a) is revised as follows:

**§ 178.92 Specification 5P; lagged steel drums.****§ 178.92-9 Safety devices.**

(a) Each drum must have safety devices approved as to type and location by the Associate Director for OE. See § 173.124 (a)(4) of this subchapter.

24. In § 178.97, § 178.97-12 paragraph (a) is revised as follows:

**§ 178.97 Specification 6A; steel barrels or drums.****§ 178.97-12 Leakage test.**

(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 15 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure. Removable head containers need not be tested with heads in place except that samples taken in random and closed as for use, of each type and size, must be tested at start of production and repeated every 4 months. Samples last tested must be retained until further tests are made or for 1 year.

25. In § 178.98, § 178.98-12 paragraph (a) is revised as follows:

**§ 178.98 Specification 6B; steel barrels or drums.****§ 178.98-12 Leakage test.**

(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 15 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure. Removable head containers need not be tested with heads in place except that samples taken at random and closed as for use, of each type and size, must be tested at start of production and repeated every 4 months. Samples last tested must be retained until further tests are made or for 1 year.

26. In § 178.99, § 178.99-12 paragraph (a) is revised as follows:

**§ 178.99 Specification 6C; steel barrels or drums.****§ 178.99-12 Leakage test.**

(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 15 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure. Removable head containers need not be tested with heads in place except that samples taken at random and closed as for use, of each type and size, must be tested at start of production and repeated every 4 months. Samples last tested must be retained until further tests are made or for 1 year.

27. In § 178.101, § 178.101-12 paragraph (a) is revised as follows:

**§ 178.101 Specification 6K; steel barrels or drums.****§ 178.101-12 Leakage test.**

(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 7 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure. Removable head containers need not be tested with heads in place except that samples taken at random and closed as for use, of each type and size, must be tested at start of production and repeated every 4 months. Samples last tested must be retained until further tests are made or for 1 year.

28. In § 178.107, § 178.107-12 paragraph (a) is revised as follows:

**§ 178.107 Specification 42B; aluminum drums.****§ 178.107-12 Leakage test.**

(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 15 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure.

29. In § 178.108, § 178.108-12 paragraph (a) is revised as follows:

**§ 178.108 Specification 42C; aluminum barrels or drums.****§ 178.108-12 Leakage test.**

(a) Each container shall be tested, with seams under water or covered with

soapsuds or heavy oil, by interior air pressure of at least 15 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure.

30. In § 178.109, § 178.109-7 paragraph (a) is revised; § 178.109-12 paragraph (a) is revised as follows:

**§ 178.109 Specification 42D; aluminum drums.****§ 178.109-7 Closures.**

(a) Of screw-thread type or secured by screw-thread device; openings over 2.3 inches not authorized; suitable gaskets required. Vented closing devices must be approved by the Associate Director for OE.

**§ 178.109-12 Leakage test.**

(a) Each drum shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 10 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure.

31. In § 178.110, § 178.110-11 paragraph (a) is revised as follows:

**§ 178.110 Specification 42F; aluminum barrels or drums.****§ 178.110-11 Leakage test.**

(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 15 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure. Removable head containers need not be tested with heads in place except that samples taken at random and closed as for use, of each type and size, must be tested at start of production and repeated every 4 months. Samples last tested must be retained until further tests are made or for 1 year.

32. In § 178.115, § 178.115-8 the introductory text of paragraph (c) is revised; paragraph (c)(1) is deleted; the last sentence of paragraph (d) is amended; § 178.115-13 paragraph (a) is revised as follows:

**§ 178.115 Specification 17C; steel drums.****§ 178.115-8 Closures.**

(c) For closure with threaded plug or cap, the seat (flange, etc.) for plug or cap, must have 3 or more complete threads; two drainage holes of not over  $\frac{1}{16}$ -inch diameter are allowed. Plug, or cap, must have sufficient length of thread to engage 3 threads when tightened with gasket in place. Other types of closures are authorized if they perform without failure under the tests required by this section and a record of the tests is retained during the period the closure is in use.

(1) [Deleted]

(d) \* \* \* Other types of closures are authorized if they perform without failure under the tests required by this section and a record of the tests is retained during the period the closure is in use.

**§ 178.115-13 Leakage test.**

(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 15 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure. Removable head containers need not be tested with heads in place except that samples taken at random and closed as for use, of each type and size, must be tested at start of production and repeated every 4 months. Samples last tested must be retained until further tests are made or for 1 year.

33. In § 178.116, § 178.116-8 paragraph (d) is revised; § 178.116-13 paragraph (a) is revised as follows:

**§ 178.116 Specification 17E; steel drums.****§ 178.116-8 Closures.**

(d) Other types of closures are authorized if they perform without failure under the tests required by this section and a record of the tests is retained during the period the closure is in use.

**§ 178.116-13 Leakage test.**

(a) Each drum shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 7 pounds per square inch for containers over 12 gallons capacity and at least 5 pounds for others. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure.

34. In § 178.117, § 178.117-14 paragraph (a) is revised as follows:

**§ 178.117 Specification 17F; steel drums.**

**§ 178.117-14 Leakage test.**

(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 15 pounds per square inch. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure.

35. In § 178.118, § 178.118-8 paragraph (b) the last sentence is amended; paragraph (c)(1) is revised; § 178.118-13 paragraph (a) is revised as follows:

**§ 178.118 Specification 17H; steel drums.**

**§ 178.118-8 Closures.**

(b) \* \* \* Other types of closures are authorized if they perform without failure under the tests required by this section and a record of the tests is retained during the period the closure is in use.

(c) \* \* \*

(1) Other types of closures are authorized if they perform without failure under the tests required by this section and a record of the tests is retained during the period the closure is in use.

**§ 178.118-13 Leakage test.**

(a) Each drum shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 7 pounds per square inch for containers over 12 gallons capacity and at least 5 pounds for others. Equally efficient means of testing may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected or repaired and retested without failure. Drums need not be tested with heads in place, except that samples taken at random and closed as for use, of each type and size, must be tested at start of production and repeated every 4 months. Samples last tested must be retained until further tests are made or for 1 year.

36. In § 178.119, § 178.119-13 paragraph (a) is revised as follows:

**§ 178.119 Specification 17X; steel barrels or drums.**

**§ 178.119-13 Leakage test.**

(a) Each container shall be tested, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 7 pounds per square inch. Equally efficient means of testing

may be authorized upon approval by the Associate Director for OE. Leakers shall be rejected and retested without failure.

37. In § 178.131, § 178.131-6 paragraph (a) Table footnote 2 is revised as follows:

**§ 178.131 Specification 37A; steel drums.**

**§ 178.131-6 Capacities, weights, type, and gauges.**

(a) \* \* \*

<sup>2</sup> Other types of closures are authorized if they perform without failure under the tests required by this section and a record of the tests is retained during the period the closure is in use.

38. In § 178.132, § 178.132-7 paragraph (a) is revised as follows:

**§ 178.132 Specification 37B; steel drums.**

**§ 178.132-7 Closures.**

(a) Closures shall be of any type that will withstand prescribed drop tests without leakage, see § 178.132-11 of this section. Openings shall not exceed 9 inches in diameter in containers of 16-gallon capacity and larger nor 6½ inches in diameter in containers less than 16-gallon capacity. Larger openings may be used when approved by the Associate Director for OE.

39. In § 178.133, § 178.133-6 paragraph (b)(1) is revised as follows:

**§ 178.133 Specification 37P; steel drums with polyethylene liner.**

**§ 178.133-6 Liner.**

(b) \* \* \*

(1) Resin should have maximum melt index value of 1.8 plus 0.4 per 10 minutes, and shall have a minimum average molecular weight of 21,000.

40. In § 178.136, § 178.136-7 paragraph (a) is revised as follows:

**§ 178.136 Specification 42E; aluminum drums.**

**§ 178.136-7 Closures.**

(a) Of screw-thread type or secured by screw-thread device; openings over 2.3 inches not authorized; suitable gaskets required; head openings only permitted. Vented closing devices must be approved by the Associate Director for OE.

41. In § 178.182, § 178.182-2 paragraph (b) is deleted; § 178.182-3 paragraph (b) is added as follows:

**§ 178.182 Specification 15P; glued plywood, or wooden box for inside containers.**

**§ 178.182-2 Construction requirements.**

(b) [Deleted]

**§ 178.182-3 Tests.**

(b) Records of tests performed under this specification must be retained by the manufacturer for a period of one year following discontinuance of production.

42. In § 178.205, § 178.205-37 paragraph (d) is revised as follows:

**§ 178.205 Specification 12B; fiberboard boxes.**

**§ 178.205-37 Special box; authorized polyethylene or other suitable plastic bags for packaging of electrolyte (acid) or alkaline corrosive battery fluid only.**

(d) Tests to be conducted by or for each plant assembling and filling boxes at the initial start of production and at intervals of four months thereafter. Samples last tested must be dated with date of test and must be retained until further tests are made.

43. In § 178.211, § 178.211-3 paragraph (a)(1)(v) is revised as follows:

**§ 178.211 Specification 12P; fiberboard boxes. Nonreusable containers for one inside plastic container greater than 1-gallon capacity, as prescribed in Part 173 of this chapter.**

**§ 178.211-3 Design limitations.**

(a) \* \* \*

(1) \* \* \*

(v) Other perforated or die cut areas of a size and location may be used when approved by the Associate Director for OE.

44. Section 178.214, § 178.214-8 paragraph (a) the last sentence is amended as follows:

**§ 178.214 Specification 23F; fiberboard boxes.**

**§ 178.214-8 Type authorized.**

(a) \* \* \* Boxes having handholes may be used when approved by the Associate Director for OE.

45. In § 178.218, § 178.218-8 is deleted as follows:

**§ 178.218 Specification 23G; special cylindrical fiberboard box for high explosives.**

§ 178.218-8 [Deleted].

46. In § 178.224, § 178.224-3 is deleted as follows:

§ 178.224 Specification 21C; fiber drum.

§ 178.224-3 [Deleted].

\* \* \* \* \*

47. In § 178.236, § 178.236-2 the introductory text of paragraph (e) is revised as follows:

§ 178.236 Specification 44B; multiwall paper bags.

§ 178.236-2 Paper.

\* \* \* \* \*

(e) Conformance of sacks with paper strength requirements shall be established by comparing the sums of the test values for all the walls of the new and unused sack with the sums of the respective strength values specified in paragraphs (a) and (b) of this section for the different walls of the sack.

\* \* \* \* \*

48. In § 178.237, § 178.237-2 the introductory text of paragraph (e) is revised as follows:

§ 178.237 Specification 44C; multiwall paper bags.

§ 178.237-2 Paper.

\* \* \* \* \*

(e) Conformance of sacks with paper strength requirements shall be established by comparing the sums of the test values for all the walls of the new and unused sack with the sums of the respective strength values specified in paragraphs (a) and (b) of this section for the respective papers specified for the different walls of the sack.

\* \* \* \* \*

49. In § 178.238, § 178.238-2 the introductory text of paragraph (e) is revised as follows:

§ 178.238 Specification 44D; multiwall paper bags.

§ 178.238-2 Paper.

\* \* \* \* \*

(e) Conformance of sacks with paper strength requirements shall be established by comparing the sums of the test values for all the walls of the new and unused sack with the sums of the respective strength values specified in paragraphs (a) and (b) of this section for the respective papers specified for the different walls of the sack.

\* \* \* \* \*

50. In § 178.239, § 178.239-2 the introductory text of paragraph (e) is revised as follows:

§ 178.239 Specification 44E; multiwall paper bags.

§ 178.239-2 Paper.

(e) Conformance of sacks with paper strength requirements shall be established by comparing the sums of the test values for all the walls of the new and unused sack with the sums of the respective strength values specified in paragraphs (a) and (b) of this section for the respective papers specified for the different walls of the sack.

\* \* \* \* \*

51. In § 178.255, § 178.255-8 paragraph (a) is revised as follows:

§ 178.255 Specification 60; steel portable tanks.

§ 178.255-8 Safety devices.

(a) Safety devices must be approved by the Associate Director for OE.

\* \* \* \* \*

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53 and App. A to Part 1)

Note.—The Materials Transportation Bureau has determined that this document will not have a major impact under Executive Order 12044 and DOT implementing procedures (44 FR 11034), nor an environmental impact under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A regulatory evaluation is available for review in the docket.

Issued in Washington, D.C., on November 13, 1979.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 79-35562 Filed 11-16-79; 8:45 am]

BILLING CODE 4910-60-M

# Proposed Rules

Federal Register

Vol. 44, No. 224

Monday, November 19, 1979

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

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Airspace Docket No. 79-ASW-47]

#### Proposed Alteration of Transition Area: Canadian, Tex.

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of Proposed Rule Making.

**SUMMARY:** The nature of the action being taken is to propose an alteration of a transition area at Canadian, Tex. The intended effect of the proposed action is to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Hemphill County Airport. The circumstances which created the need for the action are the proposed establishment of a new instrument approach procedure using the nondirectional radio beacon (NDB) located on the airport and a change to incorporate a more accurate airport geographical point and location of the NDB.

**DATES:** Comments must be received on or before December 19, 1979.

**ADDRESSES:** Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas.

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

**FOR FURTHER INFORMATION CONTACT:** Manual R. Hugonnet, Airspace and Procedures Branch, ASW-536, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O.

Box 1689, Fort Worth, Texas 76101; telephone: (817) 624-4911, extension 302.

**SUPPLEMENTARY INFORMATION:** Subpart G 71.181 (44 FR 442) of FAR Part 71 contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting IFR activity. Alteration of the transition area at Canadian, Tex., will necessitate an amendment to this subpart.

#### Comments Invited

Interested person may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received on or before December 19, 1979, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

#### Availability of NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, or by calling (817) 624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed above.

#### The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14

CFR Part 71) to alter the transition area at Canadian, Tex. The FAA believes this action will enhance IFR operations at the Hemphill County Airport by providing controlled airspace for aircraft executing the published and proposed instrument approach procedures using the NDB located on the airport. Subpart G of Part 71 was republished in the Federal Register on January 2, 1979 (44 FR 442).

#### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 442) by altering the Canadian, Tex., transition area as follows:<sup>1</sup>

#### Canadian, Tex.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the Hemphill County Airport, Canadian, Tex. (latitude 35°53'42" N., longitude 100°24'13" W.), and within 3 miles each side of the 056° and 218° bearings to the NDB (latitude 35°53'28" N., longitude 100°24'18" W.), extending from the NDB to 8.5 miles southwest and northeast.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Fort Worth, Texas on November 1, 1979.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 79-35486 Filed 11-16-79; 8:45 am]

BILLING CODE 4910-13-M

<sup>1</sup>Map filed as part of the original document.

**14 CFR Part 71**

[Airspace Docket No. 79-ASW-52]

**Proposed Alteration of Transition Area: Follett, Tex.****AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Notice of Proposed Rule Making.

**SUMMARY:** The nature of the action being taken is to propose an alteration of the transition area at Follett, Tex. The intended effect of the proposed action is to provide additional controlled airspace for aircraft executing a new instrument approach procedure to the Follett-Lipscomb County Airport. The circumstance which created the need for the action is the proposed establishment of a nondirectional radio beacon (NDB) located on the airport.

**DATES:** Comments must be received on or before December 19, 1979.

**ADDRESSES:** Send comments on the proposal to: Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101.

The official docket may be examined at the following location: Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Texas.

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

**FOR FURTHER INFORMATION CONTACT:** Manuel R. Hugonnet, Airspace and Procedures Branch, ASW-536, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101; telephone: (817) 624-4911, extension 302.

**SUPPLEMENTARY INFORMATION:** Subpart G 71.181 (44 FR 442) of FAR Part 71 contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting Instrument Flight Rules (IFR) activity. Alteration of the transition area at Follett, Tex., will necessitate an amendment to this subpart.

**Comments Invited**

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received within 30 days after publication of this notice in the *Federal Register* will be considered

before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

**Availability of NPRM**

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, or by calling (817) 624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

**The Proposal**

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area at Follett, Tex. The FAA believes this action will enhance IFR operations at the Follett-Lipscomb County Airport by providing controlled airspace for aircraft executing proposed instrument approach procedures using the proposed NDB located on the airport. Subpart G of Part 71 was republished in the *Federal Register* on January 2, 1979 (44 FR 442).

**The Proposed Amendment**

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 442) by altering the Follett, Tex., transition area as follows:<sup>1</sup>

**Follett, Tex.**

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Follett-Lipscomb County Airport (latitude 36°28'26" N., longitude 100°07'24" W., and within 4 miles each side of the 189° bearing from the NDB (latitude 36°20'37" N., longitude 100°07'16.5" W.), extending from the 7-mile radius area to 8.5 miles south of the NDB.

<sup>1</sup> Map filed as part of the original document.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation and a comment period of less than 45 days is appropriate.

Issued in Fort Worth, Texas on November 1, 1979.

C. R. Melugin, Jr.,  
Director, Southwest Region.

[FR Doc. 79-35487 Filed 11-16-79; 8:45 am]

BILLING CODE 4910-13-M

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission****18 CFR Part 46**

[Docket No. RM80-9]

**Interlocking Positions Under Section 211 of the Public Utility Regulatory Policies Act of 1978****AGENCY:** Federal Energy Regulatory Commission.**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** Notice is hereby given that the Federal Energy Regulatory Commission (Commission) proposed to implement section 211 of the Public Utilities Regulatory Policies Act of 1978 (PURPA) which amends section 305 of the Federal Power Act. This rulemaking proposes reporting requirements for a person holding interlocking positions with a public utility and with any other business entity described in the proposed rulemaking. The Commission also proposes to impose a requirement that each public utility publish a list of its twenty largest purchasers, as mandated by section 211 of PURPA.

**DATE:** Written comments by December 10, 1979.

**ADDRESS:** Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Reference No. RM80-9.

**FOR FURTHER INFORMATION CONTACT:**  
Colette Bohatch, Office of the General Counsel, Regulatory Development Branch, Room 8113, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357-8079.

Issued: November 14, 1979.

## I. Background

This proposed rule, when issued in final form, will implement section 211 of the Public Utility Regulatory Policies Act of 1978 (PURPA). Section 211 amends section 305 of the Federal Power Act by adding a new subsection (c) which imposes a reporting requirement upon a person holding interlocking positions involving a public utility and any other business entity identified in section 211. The proposed rule, set forth below, describes procedures for reporting by written statement to the Federal Energy Regulatory Commission (Commission) and describes the contents of the written statement.

Certain interlocking positions involving two or more public utilities or a public utility and "any bank, trust company, banking association, or firm that is authorized by law to underwrite or participate in the marketing of securities of a public utility" or "any company supplying electrical equipment to such public utility" are unlawful under subsection (b) of section 305 unless authorized by the Commission. A person desiring to hold such an interlocking position must file an application with the Commission and make a showing that neither public nor private interests will be adversely affected.

Section 305, as amended by section 211, contains a new subsection (c) which imposes reporting requirements upon a larger class of persons than encompassed by subsection (b), both in terms of the categories of interlocking positions and categories of business entities. Positions within the purview of section 305(c) are officer and director of a public utility and officer, director, partner, appointee, and representative of any business entity listed therein, including another public utility. The business entities within the scope of section 305(c) are the following entities, when interlocked with a public utility:

- (1) Any other public utility;
- (2) Any bank, trust company, banking association, or any company, firm, or organization that is authorized by law to underwrite or participate in the marketing of securities of a public utility;
- (3) Any investment bank, bank holding company, foreign bank or subsidiary thereof doing business in the

United States, insurance company, or any other organization primarily engaged in the business of providing financial services or credit, a mutual savings bank, or a savings and loan association;

(4) Any company, firm, or organization which produces or supplies electrical equipment or coal, natural gas, oil, nuclear fuel, or other fuel, for the use of any public utility;

(5) Any company, firm, or organization which during any one of the three (3) calendar years immediately preceding the filing date was one of the twenty (20) purchasers of electric energy which purchased (for purposes other than for resale) one of the twenty (20) largest annual amounts of electric energy sold by such public utility (or by any public utility which is part of the same holding company system) during any one of such three (3) calendar years; and

(6) Any company, firm, or organization which is controlled by any company, firm, or organization listed above.

The proposed rule, when issued in final form, requires a written statement be filed with the Commission by a director or an officer of a public utility who, also, holds an interlocking position, as described in the rule, with any of the above business entities. Although the statute gives the Commission a measure of latitude in propounding reporting requirements, the Commission proposes to impose a minimum of requirements for purposes of public comment on this notice of proposed rulemaking.

In addition to the reporting requirements, this proposed rule, when issued in final form, will implement the section 305(c) mandate that each public utility publish on or before January 31 of each year, commencing in 1980, a list of the purchasers who purchased (for purposes other than for resale) one of the twenty (20) largest annual amounts of electric energy during any one of the three (3) years immediately preceding the publication date.

## II. Issues for Comment

The Commission requests comments from the public specifically with regard to several sections of the proposed rule.

Section 46.3 identifies those who must report. Paragraph (a) concerns a director or an officer, including any person who performs any similar duties or functions, in a public utility. Paragraph (b) concerns these same positions held in any business entity described in § 46.4 and further includes partner, appointee, and representative of such business entity. The Commission understands

these terms to include, for example, the following: persons who are appointed on a temporary or permanent basis to perform the duties or functions ordinarily performed by a director or an officer; and persons who act as representatives, such as consultants, of a business entity interlocked with a public utility. With an objective of further refining § 46.3, the Commission requests comments on paragraphs (a) and (b) specifically discussing the terms "appointee" and "representative."

In addition, several definitions require special consideration by the public. "Controlled" is used in section 305(c)(2)(F) in the following context: "any company, firm, or organization which is controlled by any company, firm, or organization" listed in section 305(c). Although "control" is defined qualitatively by § 46.2(b), the Commission believes that the definition should set forth quantitative parameters in order to better serve the intent of Congress as articulated in the Statement of Managers.<sup>1</sup>

The definition of the word "controlled" in paragraph (2)(F) of new subsection (c) is, the conferees intend, to be defined by the Commission. The conferees were reluctant to establish a single arbitrary percentage of stock ownership as the yardstick for measuring control. Rather, it is anticipated that after appropriate consideration the Commission will arrive at a definition that takes into account the nature and extent of control of one firm by another.

Before incorporating quantitative parameters, however, the Commission requests comments regarding the definition of "control" with the above discussion as a guide to the nature of comments solicited. The Commission is interested particularly in public comment on parameters setting out the kind of control and level of control.

Also, "electrical equipment" is defined in § 46.2(d) to describe the term as it is used in section 305(c). The definition, by footnote, cites sections of the Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act, Part 101, Subchapter C, Chapter I, Title 18 of the Code of Federal Regulations to serve as examples. The Commission similarly requests comments on this definition.

Finally, this proposed rulemaking requires disclosure by a reporting person of his interest in, and compensation from, a § 46.4 business entity to the extent that either exceeds \$10,000. Comments are sought as to the appropriateness of this amount.

<sup>1</sup> Conf. Rep. No. 95-1750, p. 99.

### III. Comment Procedures

Interested persons are invited to submit written comments, data, views, or arguments with respect to this proposal. Comments should be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 and should reference Docket No. RM80-9. An original and fourteen (14) copies should be filed. All comments received prior to 4:30 p.m. E.S.T., December 10, 1979, will be considered by the Commission prior to promulgation of final regulations. All written submissions will be placed in the public file which has been established for this rulemaking and which is available for public inspection during regular business hours in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

(Federal Power Act, as amended, 16 U.S.C. 792-828c; Public Utility Regulatory Policies Act of 1978, 18 U.S.C. 2601-2645; Department of Energy Organization Act, 42 U.S.C. 7101-7352)

In consideration of the foregoing, the Commission proposes to add Part 46 to Subchapter B, Chapter I, Title 18 Code of Federal Regulations, as set forth below.

By direction of the Commission.

**Kenneth F. Plumb,**  
Secretary.

Subchapter B is amended by adding the following new Part 46 after Part 45:

#### PART 46—WRITTEN STATEMENT REQUIREMENTS FOR PERSONS HOLDING INTERLOCKING POSITIONS

- Sec.
- 46.1 Purpose.
  - 46.2 Definitions.
  - 46.3 General rule.
  - 46.4 Business entities under this part.
  - 46.5 Contents and procedures for filing the written statement.
  - 46.6 Identification of the twenty largest purchasers.

Authority: This part issued under the Federal Power Act, as amended, 16 U.S.C. 792.828c; Public Utility Regulatory Policies Act of 1978, 18 U.S.C. 2601-2645; Department of Energy Organization Act, 42 U.S.C. 7101-7352.

##### § 46.1 Purpose.

The purpose of this part is to monitor interlocking positions involving public utilities and certain other business entities described in this part for purposes of implementing section 305(c) of the Federal Power Act as amended by section 211 of the Public Utility Regulatory Policies Act of 1978.

##### § 46.2 Definitions.

For the purpose of this part:

(a) "Public utility" has the same definition as that used in section 201(e) of the Federal Power Act.

(b) "Control" (including the term "controlled") means the possession, directly or indirectly, of the power to direct management or policies of a business entity whether such power is exercised through one or more intermediary companies or pursuant to an agreement, written or oral, and whether such power is established through ownership or voting of securities, common directors, officers, or stockholders, voting trusts, holding trusts, associated business entities, contract, or any other direct or indirect means.

(c) "Business entity" means any firm, company, or organization including any corporation, joint-stock company, partnership, association, business trust, organized group of persons, whether incorporated or not, or a receiver or receivers, trustee or trustees of any of the foregoing and any parent and subsidiary of any corporation but does not include "municipalities" as defined in the Federal Power Act (section 3, 49 Stat. 838, 16 U.S.C. 296).

(d) "Electrical equipment" is any apparatus or device, or component part thereof, that is used in a function which is either mechanically or by legal prescription necessary to the process of generating, transmitting, or distributing electrical energy, including any electrically powered or electronic apparatus or device, or component part thereof, that is directly used in connection with the process of generating, transmitting, or distributing electrical energy.<sup>1</sup>

##### § 46.3 General rule.

A person must file a written statement in accordance with this part if he:

<sup>1</sup>This definition includes, but is not limited to, those items (with the exception of vehicles, structures, foundations, settings, services and other non-equipment items such as permit and inspection costs) in the following accounts described in Part 101, Title 18 of the Code of Federal Regulations: Boiler/Reactor plant equipment (Accounts 312 and 322); Engines and engine driven generators (313); Turbogenerator units (314 and 323); Accessory electrical equipment (315, 324, 334 and 345); Miscellaneous power plant equipment (316, 325, 335 and 346); Water wheels, turbines and generators (333); Fuel holders, producers, and accessories (342); Prime movers (343); Generators (344); Station equipment (353 and 362); Poles, towers and fixtures (354, 355 and 364); Overhead conductors and devices (358 and 365); Underground conduit (357 and 366); Underground conductors and devices (358 and 367); Storage battery equipment (363); Line transformers (368); Services (369); Meters (370); Installation on customer's premises (371); Street lighting and signal systems (373); and Communication equipment (367).

(a) Serves as a director or a Chief Executive Officer, President, Vice President, Secretary, Treasurer, General Manager, Comptroller, Chief Purchasing Agent, or performs any other similar duties or functions, in a public utility; and

(b) Serves in any of the positions described in paragraph (a) for a business entity identified in § 46.4 or is a partner, appointee, or representative of any such business entity.

##### § 46.4 Business entities under this part.

Business entities within the purview of section 305(c) of the Act are the following:

(a) Any investment bank, bank holding company, foreign bank or subsidiary thereof doing business in the United States, insurance company, or any other organization primarily engaged in the business of providing financial services or credit, a mutual savings bank, or a savings and loan association;

(b) Any business entity authorized by law to underwrite or participate in the marketing of securities of public utilities;

(c) Any business entity which produces or supplies electrical equipment or coal, natural gas, oil, nuclear fuel or other fuel for the use of any public utility;

(d) Any business entity which during any one of the three (3) calendar years immediately preceding the filing date was one of the twenty (20) purchasers of electric energy which purchased (for purposes other than for resale) one of the twenty (20) largest annual amounts of electric energy measured in kilowatt hours sold by such public utility (or by any public utility which is part of the same holding company system) during any one of such three (3) calendar years;

(e) Any business entity referred to in subsection (b) of section 305 of the Federal Power Act; and

(f) Any business entity which is controlled by any business entity described or referred to in this section.

##### § 46.5 Contents and procedures for filing the written statement.

(a) Each written statement shall provide the following information:

(1) Full name, business address, and place of residence of the person reporting;

(2) Name and principal place of business of each of the business entities described in § 46.4 in which the person holds an interlocking position; the interlocking positions held and the duties and functions pertinent to each position; and a brief description of the nature of the business relationship, if any, between a public utility and the

subject entity, (e.g., equipment supplier, securities underwriter, creditor, fuel supplier, and major purchaser of electricity); and

(3) The nature of any interest (e.g., stock ownership, partnership, and annuity) and the basis for any compensation to the person (e.g., dividends, salary, and fees for services rendered) if the amount of interest in or compensation received from an entity listed in § 46.4 exceeds \$10,000 in the preceding calendar year.

(b) The written statement shall be filed with the Commission on or before April 30 of each year immediately following the calendar year in which the person held, for any part of the calendar year the interlocking positions. An original and two (2) copies of each written statement shall be filed with the Commission. Each original shall be dated, signed by the person, and verified under oath in accordance with § 1.31.60 of this chapter. Each copy shall bear the date and signature that appeared on the original and shall be complete in itself, but the signature on the copies may be stamped or typed and the notarial seal may be omitted. Such statement shall be available to the public through the Commission's Office of Public Information.

#### § 46.6 Identification of the twenty largest purchasers.

(a) On or before January 31 of each calendar year, each public utility shall identify purchasers who have purchased (for purposes other than for resale) from the public utility the twenty (20) largest annual amounts of electric energy measured in kilowatt hours in each one of the three (3) calendar years immediately preceding each January 31.

(b) Each public utility shall file with the Commission by January 31 of each year the list of purchasers identified under paragraph (a). The list shall contain the following information for each purchaser:

(1) Name and address of the purchaser; and

(2) Total kilowatt hours of electric energy purchased by the purchaser during the subject year.

(c) Each public utility shall notify by January 31 of each year each purchaser which has been identified under paragraph (a).

[FR Doc. 79-35632 Filed 11-19-79 8:45 am]

BILLING CODE 6450-01-M

## 18 CFR Part 277

[Docket No. RM80-8]

### Regulation of Natural Gas Sales Under the Natural Gas Policy Act of 1978

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Notice of Proposed Rulemaking.

**SUMMARY:** The proposed rule would implement sections 315(b) and 315(c) of the Natural Gas Policy Act of 1978 (NGPA). Section 315(b) establishes that the purchaser of natural gas which is subject to deregulation under section 601(a)(1)(B) of the NGPA has the right to a bona fide offer to buy such natural gas and the right of first refusal to buy such natural gas under the terms of an offer made by the purchaser and accepted by a third party. The proposed rule in section 315(b) establishes the procedures by which the requirements of the bona fide offer and right of first refusal shall be satisfied. Under the authority granted in section 315(c), the Commission has prescribed record keeping requirements pertaining to sales of natural gas under section 315 of the NGPA.

**DATES:** Written comments are due December 19, 1979. Public Hearing December 14, 1979; requests to participate by December 6, 1979.

**ADDRESSES:** Send comments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Room 9310, Washington, D.C. 20426. Request to participate should be sent to the same location. The location and room designation of the hearing will be specified at a later date.

**FOR FURTHER INFORMATION CONTACT:** MaryJane Reynolds, Office of the General Counsel, Room 8000, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8455.

### Bona Fide Offers; Right of First Refusal; Notice of Proposed Rulemaking and Public Hearing

November 14, 1979.

#### Background

This proposed rule would implement section 315(b) of the Natural Gas Policy Act of 1978 ("NGPA"). The statute imposes the duty upon a seller to make a bona fide offer for the continued sale of certain categories of deregulated natural gas upon the expiration of the contract. If the bona fide offer is rejected, the statute creates a right of first refusal which permits the original purchaser to match the terms of any third party offer to purchase the natural gas.

Under the Natural Gas Act (NGA), natural gas became dedicated to interstate commerce upon the commencement of sales for resale in interstate commerce. Once the natural gas was dedicated, its sale could not be terminated until the seller had obtained abandonment authorization from the Commission under section 7(b) of the NGA. Frequently, producers would sell natural gas under limited term contracts. However, even if the sales contract covering the dedicated volumes expired or terminated, the gas had to continue to flow in interstate commerce absent abandonment authorization.

Section 601(a)(1)(B) of the NGPA exempts from NGA regulation natural gas which was committed or dedicated to interstate commerce on November 8, 1978, if a final determination has been made by a jurisdictional agency that the natural gas qualifies as:

(1) High-cost natural gas (section 107(c) (1), (2), (3), and (4));

(2) New natural gas (section 102(c)); or

(3) New onshore production gas.

(section 103(c)).

However, the seller in any first sale of natural gas which qualifies for deregulation under section 601(a)(1)(B) (except certain Outer Continental Shelf ("OCS") gas) must comply with the bona fide offer/right of first refusal requirements of Section 315(b). The bona fide offer/right of first refusal does not apply to natural gas committed or dedicated to interstate commerce solely because it is produced from the Outer Continental Shelf (section 2(18)(A) (i) natural gas). In either case, the transportation of OCS gas remains subject to the Commission's transportation certificate authority under section 7(c) of the Natural Gas Act. Section 315(b) requirements do apply to OCS gas which comes within the scope of both sections 2(18)(A) (i) and (ii).

Section 315(b) assures to a degree, that natural gas supplies will continue to flow to the interstate market despite the removal of certain categories of natural gas from the abandonment jurisdiction of the Commission under the Natural Gas Act. Section 315(b) requires the seller to make a bona fide offer to the original purchaser, that is, the purchaser who was entitled to receive the natural gas under section 2(18)(A)(ii) of the NGPA on November 8, 1978, or his successor. The section further grants the original purchaser the right of first refusal of the first offer to sell such natural gas which offer has been substantially accepted in principle by another party in an arms-length transaction. The bona fide offer must be made every time the contract with the

original purchaser expires or terminates. If the bona fide offer is rejected, the original purchaser's right of first refusal arises. In other words, the bona fide offer and right of first refusal flow with the natural gas for as long as the original purchaser continues to be the purchaser of the natural gas. Assume a contract was formed as a result of negotiation between the seller and original purchaser, but the negotiations had followed a rejection of a bona fide offer and preceded offer substantially accepted in principle with a third party and presented to the original purchaser for exercise of its right of first refusal. Then the right of first refusal would arise upon termination of the contract negotiated following rejection of the bona fide offer. This interpretation assures an original purchaser, who is willing to meet market conditions, continued access to the natural gas. The Commission believes this result is essential to meet the legislative intent of section 315(b). With a contrary interpretation of section 315(b), the seller could eliminate the obligations concerning the right of first refusal by accepting a counter offer to the bona fide offer.

#### A. Bona Fide Offers

The statute does not define a bona fide offer. According to the Statement of Managers, however, at the minimum, it must contain terms a purchaser could lawfully accept under the Natural Gas Act.<sup>1</sup> However, the intent of section 601(a)(1)(B) is deregulation of nonprice terms except that the Commission has specifically been granted authority to prescribe minimum contract duration for section 601(a)(1)(B) natural gas. See, section 315(a). In light of these provisions, the Commission does not believe it is proper to prescribe the precise terms and conditions of the bona fide offer required under section 315(b).

#### B. Right of First Refusal

The statute provides that an offer for the first sale of these certain categories of natural gas which has been substantially accepted in principle by another person in an arms-length transaction must be offered to the original purchaser. If the original purchaser is willing to meet the terms and conditions of the offer accepted by the third party, the original purchaser shall be entitled to purchase such natural gas.

The statute requires that the offer substantially accepted in principle by a third party in an arms-length transaction

be presented to the original purchaser for the right of first refusal. In implementing this provision, the Commission must balance the interests of both the original purchaser and the seller, which Congress intended to protect. As stated previously, section 601(a)(1)(B) indicates Congress wished to remove the gas from non-price regulation under the Natural Gas Act. As a result, the seller, by negotiating an arms-length transaction may negotiate a sale which reflects the economic conditions of the market place—up to the maximum price per MMBtu established by Title I. However, Congress was also concerned that pipeline (original) purchasers, which made advanced payments or invested capital in facilities to receive gas, relying on the NGA which provided that such gas was committed and dedicated to them until abandonment, have an opportunity to continue to purchase such natural gas if they are willing to meet the economic market conditions for the purchase of such natural gas. It is possible that an offer substantially accepted by a third party may contain conditions—e.g., delivery point, pressure and rate of take—which the original purchaser would be unable to accept because of situations prevailing on its own system or those of its customers. Thus, the Commission believes that the right of first refusal should allow the original purchaser who accepts the "offer substantially accepted in principle by a third party" to receive the natural gas at the delivery point and under the physical conditions of delivery specified in the previous contract with the original purchaser.

It is possible that some natural gas which would be subject to this subpart has been sold to third parties in the absence of a Commission rule under section 315(b) of the NGPA. To the extent such sales have been made the Commission intends to allow the original purchaser to seek appropriate relief from the Commission. See § 277.208.

The Commission intends to make this regulation effective as of the date the proposed rule is issued, except in those cases where the purchaser has waived his rights under § 315(b) of the NGPA, or where the seller can establish substantial compliance with the provisions of § 315(b) which the Commission's rule must implement.

#### Summary of Proposed Regulation

§ 277.201. The purpose of Subpart B of Part 277 is to implement section 315(b) of the NGPA concerning bona fide offers and rights of first refusal.

§ 277.202. This subpart would apply only to natural gas (1) which was committed or dedicated to interstate commerce on November 8, 1978 under section 2(18)(A)(ii) of the NGPA; (2) for which a final determination has been made by a jurisdictional agency that the natural gas is high cost natural gas under section 107, new natural gas under section 102 or new, onshore production under section 103; and (3) which would be subject to the Natural Gas Act but for the provisions of section 601(a)(1)(B) of the NGPA. However, the requirements of this subpart would not apply to natural gas committed or dedicated to interstate commerce solely because it is OCS gas.

§ 277.203. The definition of "subject contract" reflects the variety of circumstances which result in natural gas being "committed or dedicated to interstate commerce" by reason of section 2(18)(A)(II). First, any gas purchase contract between the seller and the original purchaser (unless there has been a lawful intervening sale to a third party) is a "subject contract." Second, even if no gas purchase contract presently covers the natural gas after the effective date of section 601(a)(1)(B), an earlier contract could still qualify as a subject contract. Finally, the flow of natural gas in interstate commerce without a purchase contract can result in a service obligation under the Natural Gas Act and render the natural gas "committed or dedicated to interstate commerce." In such a case, the contract implied in law between the seller and the purchaser is a subject contract. Any contract which implied in law arises after the termination date of a subject contract as a result of the requirements of § 277.207 is excluded from the definition.

The definition of "expiration date of a subject contract" is defined as the expiration or termination date of the contract. In addition, in the case of an implied contract arising from a Natural Gas Act service obligation, the date of the final determination which removes the obligation by operation of section 601(a)(1)(B) is defined as being the expiration date.

The "original purchaser" is the beneficiary of the rights afforded by section 315. The definition incorporates by reference case law under the Natural Gas Act which determines which person would be entitled to receive the natural gas.

§ 277.204. This section of Subpart B would prohibit the sale of natural gas which is subject to this subpart in a first sale to a third person until the bona fide offer and right of first refusal obligations have been met. Once the original

<sup>1</sup>H. Report No. 95-1752, 95th Cong. 2d Sess. at 111 (1978).

purchaser has rejected both the bona fide offer and the offer substantially accepted in principle, the seller's obligations under section 315 would be satisfied.

§ 277.205. *Bona Fide Offer.* The proposed rule requires that the seller make a bona fide offer to the original purchaser. Until such a bona fide offer is made, the natural gas must continue to be sold to the original purchaser.

The bona fide offer must be made, during the time frame established, upon the expiration or termination of the original contract for sale of natural gas between the seller and original purchaser, or any subsequent contract between the seller and the original purchaser or a successor in interest thereto.

Where a final determination has been made that natural gas qualifies for this subpart at least 45 days before the contract (other than a contract implied in law) expires or terminates, the proposed rule would require that the bona fide offer for the sale of the natural gas be made no later than 20 days before expiration of the contract. In all other cases—where final determination is made less than 45 days prior to expiration or termination of the contract or the contract is a contract implied in law—the bona fide offer would have to be made within 20 days after the final determination. See § 277.205(b). The Commission recognizes that there will be cases where a final determination is not made simultaneously on all the dedicated acreage covered by the subject contract. However, because the 20 days is only an outside time limit, a single bona fide offer may be made which covers all wells for which a determination has been made as well as those for which a final determination may be made subsequently. Thus, sellers are not required to make bona fide offers every time a well, not subject to an existing contract, is determined to qualify as new natural gas, high cost natural gas or new, onshore production.

The bona fide offer, § 277.203(b), would be required, at the minimum, to meet the terms and conditions which the interstate pipeline (original purchaser) could accept under the Natural Gas Act. Moreover, the bona fide offer must be sufficiently definite that if it is accepted by the original purchaser, it will result in a contract binding on both the seller and the purchaser. The Commission believes that a less firm offer would not achieve the statutory purpose—an opportunity for the original purchaser to enter into a contract to continue to purchase the natural gas. Other requirements for bona fide offers, e.g., how made and how

accepted or rejected, are set forth in proposed § 277.205(c).

§ 277.206. *Right of first refusal.* As stated above, the proposed rule provides that the right of first refusal runs with the natural gas until such time as the natural gas has been sold to a third party by virtue of the original purchaser's failure to exercise its right of first refusal. See proposed § 277.206(b).

Proposed paragraph (b) of § 277.206 requires that the offer subject to the right of first refusal shall be made when the offer has been substantially accepted in principle by another person in an arms-length transaction. However, offers made prior to the rejection of a bona fide offer would not trigger this statutory right. The seller would not be required to find a third party purchaser. Rather, the seller could decide to shut-in the production, or to take the natural gas for its own use.

An offer substantially accepted in principle is defined in proposed § 277.203(g). It requires a written offer to sell natural gas and written acceptance thereof. The offer must be sufficiently firm that a binding contract with the new purchaser will result if the right of first refusal is not exercised. Unlike the bona fide offer, the offer substantially accepted in principle would not be required to meet the minimum requirements of the Natural Gas Act.

Other procedural requirements governing the right of first refusal are found in proposed paragraph (c) of § 277.205.

Proposed paragraph (d) would allow the original purchaser to accept an offer substantially accepted in principle without changing the delivery point for the natural gas. In many cases, the seller and a third party will agree to a different delivery point with corresponding changes in delivery pressures. However, in the Commission's view, the original purchaser would retain the right to receive the natural gas at the delivery point specified in the subject contract.

§ 277.207. *Interim protective sales.* Proposed § 277.207 requires that gas subject to section 315(b) of the NGPA which was produced and sold on December 1, 1978, must continue to flow to the original purchaser until the bona fide offer requirements of § 277.205 have been fulfilled, unless the natural gas has been subsequently sold to a third party purchaser. Such gas is to be sold under the terms and conditions existing in the contract on the last day the contract was in effect. Thereafter, pending exercise of right of first refusal—that time during which the seller may be negotiating a third party offer

substantially accepted in principle—the seller could either negotiate an interim sale with the original purchaser, at a price acceptable to both parties, or shut-in the natural gas. The Commission recognizes that those sellers subject to this subpart and which are not producers may not have the ability to discontinue sales pending resolution of negotiations with a third party. To the extent this proposed rule causes a person special hardship, inequity, or unfair distribution of burdens, the person may seek an adjustment to the regulations, pursuant to section 502(c) of the NGPA.

§ 277.208. *Intervening third party sales.* When the seller and a third party purchaser have entered into a contract to sell natural gas subject to this subpart, prior to the effective date of the final rule, the bona fide offer/right of first refusal requirements are deferred until the contract with the third party expires or is terminated. In addition, the original purchaser may seek other relief from the Commission.

*Other provisions.* The Commission recognizes that this proposed rule may be particularly troublesome to a captive seller—one whose production is connected only to the facilities of the original purchaser. The proposed rule allows the bona fide offer to be made at any time, including a time significantly prior to the expiration of the contract with the original purchaser. The original purchaser has 20 days from presentation to accept or reject the bona fide offer. At any time after rejection of the bona fide offer, the offer for first refusal may be presented. Therefore, a captive seller could negotiate the contracts in sufficient time to allow for new facilities of a third purchaser to be in place at expiration of the contract with the original purchaser which has chosen not to enter into a new contract with the seller.

Section 315(b) is intended, in part, to protect the ability of the original purchaser to continue to purchase the natural gas previously committed or dedicated to it. If an original purchaser determines such supplies are not necessary or is otherwise not interested in continuing to purchase such natural gas, the Commission believes the original purchaser should be entitled to waive its rights under section 315(b). Waiver would release the seller from unnecessary obligation under this subpart. Proposed § 277.209 so provides.

In lieu of exercising its right to require the filing of contracts, as allowed in section 315(c) of the NGPA, the Commission proposes to prescribe a record keeping requirement, propose § 277.210. It assures availability of

records necessary for determination of compliance with section 315(b).

#### Written Comment Procedures

Interested persons are invited to submit written comments, data, views or arguments with respect to this proposal. An original and 14 copies should be filed with the Secretary of the Commission. All comments received within 30 days of publication of this notice in the *Federal Register* will be considered by the Commission prior to promulgation of final regulations. All written submissions will be placed in the Commission's public files and will be available for public inspection in the Commission's Office of Public Information, 825 North Capitol Street, N.E., Washington, D.C. during regular business hours. Comments should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, and should reference Docket No. RM80-8.

#### Public Hearing Procedures

A public hearing concerning this proposal will be held in Washington, D.C. on December 14, 1979, beginning at 9:30 a.m., and will continue if necessary on the following day. A hearing room will be designated on December 10, 1979, and will be posted in the Office of Public Information, Room 1000. Any person interested in this proceeding or representing a group or class of persons interested in this proceeding may make a presentation at the hearing provided a written request to participate is received by the Secretary of the Commission prior to 4:30 p.m., December 6, 1979.

Requests to participate in the hearing should include a reference to Docket No. RM80-8, as well as a concise summary of the proposed oral presentation and a number where the person making the request may be reached by telephone. Prior to the hearing, each person filing a request to participate will be contacted by the presiding officer or his designee for scheduling purposes. At least five copies of the statement shall be submitted to the Secretary of the Commission prior to 4:00 p.m., on December 10, 1979. The presiding officer is authorized to limit oral presentation at the public hearing both as to length and as to substance. Persons participating in the public hearing should, if possible, bring 20 copies of their testimony to the hearing.

The hearing will not be a judicial or evidentiary-type hearing. There will be no cross-examination of persons presenting statements. However, the panel may question such persons and any interested person may submit

questions to the presiding officer to be asked of persons making statements. The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be presented. If time permits, at the conclusion of the initial oral statements, persons who have made oral statements will be given the opportunity to make a rebuttal statement. Any further procedural rules will be announced by the presiding officer at the hearing. A transcript of the hearing will be made available at the Commission's Office of Public Information.

(Natural Gas Policy Act of 1978, Pub. L. 95-621, 92 Stat. 3350, 15 U.S.C. § 3301, *et seq.*)

In consideration of the foregoing, the Commission proposes to amend (effective November 14, 1979) Part 277, Subchapter H, Chapter I of Title 18, Code of Federal Regulations, as set forth below.

By direction of the Commission.  
Kenneth F. Plumb,  
Secretary.

1. Part 277 is amended by adding a Table of Contents to read as follows:

#### PART 277—OTHER PROVISIONS

##### Subpart A—Contract Duration

Sec.  
277.101 Duration of new contracts for first sale of certain OCS gas.

##### Subpart B—Bona Fide Offers; Right of First Refusal

277.201 Purpose.  
277.202 Applicability.  
277.203 Definitions.  
277.204 General rule.  
277.205 Bona fide offers.  
277.206 Right of first refusal.  
277.207 Interim protective sales.  
277.208 Intervening third party sales.  
277.209 Waiver of rights under this subpart.  
277.210 Recordkeeping requirements.

Authority: This part is issued under the Natural Gas Policy Act of 1978, 15 U.S.C. §§ 3301, *et seq.* [formerly cited as Pub. L. 95-621, 92 Stat. 3350].

2. Part 277 is further amended in the text of the regulations by adding the title *Subpart A—Contract Duration* immediately preceding the text of § 277.101.

3. Part 277 is further amended by adding a new Subpart B to read as follows:

##### Subpart B—Bona Fide Offers; Right of First Refusal

###### § 277.201 Purpose.

The purpose of this subpart is to implement section 315(b) of the NGPA. This subpart requires a seller, prior to making a first sale of certain categories

of natural gas to a person other than the original purchaser:

(a) To make a bona fide offer to sell natural gas to the original purchaser; and

(b) Upon rejection of a bona fide offer or upon expiration or termination of any contract for the sale of natural gas subject to this subpart, to give the original purchaser the right of first refusal of the first offer to sell such natural gas, if such offer has been substantially accepted in principle by another person in an arms-length transaction.

###### § 277.202 Applicability.

(a) Except as provided in paragraph (b) of this section, this subpart applies to natural gas which:

(1) Was committed or dedicated to interstate commerce on November 8, 1978; and

(2) Has been determined to be high-cost natural gas, or new natural gas or natural gas produced from any new onshore production well; and

(3) Would be subject to the provisions of the Natural Gas Act and the jurisdiction of the Commission thereunder but for the provisions of section 601(a)(1)(B) of the NGPA; and

(4) Is produced on or after December 1, 1978.

(b) This subpart does not apply to any natural gas committed or dedicated to interstate commerce solely by reason of its being natural gas from the OCS under section 2(18)(A)(i) of the NGPA.

###### § 277.203 Definitions.

For purposes of this subpart:

(a) "Arms-length transaction" means a transaction between parties with adverse economic interests. Arms-length transactions exclude transactions between affiliates or family members.

(b) "Bona fide offer" means a written offer by the seller to the original purchaser which would be legal for such purchaser to accept under the Natural Gas Act and which is sufficiently firm that if accepted by the original purchaser would result in a binding contract enforceable by the seller and the purchaser.

(c) "Final determination" means an eligibility determination which has become final within the meaning of § 273.102(b) of this chapter.

(d) "High-cost natural gas" means natural gas for which there has been a final determination by a jurisdictional agency, in accordance with Parts 274 and 275 of this chapter that it is high cost natural gas described in section 107(c)(1), (2), (3) or (4) of the NGPA.

(e) "Natural gas produced from any new, onshore production well" means

natural gas for which there has been a final determination by a jurisdictional agency, in accordance with Parts 274 and 275 of this chapter, that it is produced from any new, onshore production well described in section 103(c) of the NGPA.

(f) "New natural gas" means natural gas for which there has been a final determination by a jurisdictional agency, in accordance with Parts 274 and 275 of this chapter, that it is new natural gas described in section 102(c) of the NGPA.

(g) "Offer substantially accepted in principle" means a written acceptance by a purchaser (other than the original purchaser) of a written offer to sell the natural gas. The written offer and acceptance must be:

(1) Subject to the right of first refusal; and

(2) Sufficiently firm such that if the original purchaser rejects the written offer, the written offer and acceptance by a purchaser (other than the original purchaser) would result in a contract which is binding on the seller and that purchaser.

(h) "Subject contract" means a contract for the sale of natural gas subject to this subpart which:

(1) Was in effect on or after December 1, 1978; and

(2)(i) Is between the seller and the original purchaser unless there has been an intervening sale to a third party which followed the rejection of a bona fide offer and a rejection by the original purchaser of an offer substantially accepted in principle in accordance with § 277.206(d); or

(ii) Is implied in law as arising from the seller's service obligation under the Natural Gas Act (excluding any interim service obligation arising from this subpart or section 315 of the NGPA).

(i) "Expiration date of a subject contract" means:

(1) In the case of a contract implied in law, the date of a final determination that the natural gas covered by the subject contract qualifies as high cost natural gas, natural gas produced from any new, onshore production well, or new natural gas;

(2) In all other cases, the expiration or termination date of the subject contract.

(j) "Original purchaser" means the person who would be entitled to receive natural gas under the Natural Gas Act but for the provisions of section 601(a)(1)(B) of the NGPA. (The original purchaser may be a successor in interest to the person which had the right to receive the natural gas on November 8, 1978).

(k) "Third party purchaser" means a person that purchases the natural gas subject to this subpart from the seller, who has economic interests adverse from those of the seller and who is not:

- (i) The original purchaser, or
- (ii) An affiliate of the seller, or
- (iii) A member of the seller's family.

#### § 277.204 General rule.

(a) Except as provided in § 277.208, no seller shall make a first sale of natural gas subject to this subpart to any purchaser other than the original purchaser until the original purchaser has both rejected a bona fide offer in accordance with § 277.205(c) and has rejected an offer substantially accepted in principle in accordance with § 277.206(c).

(b) Once the original purchaser has both rejected a bona fide offer in accordance with § 277.205(c) and has rejected an offer substantially accepted in principle in accordance with § 277.206(c), and the sale to a third party purchaser has been made under the offer substantially accepted in principle and rejected by the original purchaser, the requirements of this subpart no longer apply to the first sale of the natural gas.

#### § 277.205 Bona fide offers.

(a) *General rule.* Except as provided in § 277.208, deliveries of natural gas to an original purchaser under a subject contract may not be discontinued unless a bona fide offer which complies with this section has been rejected by the original purchaser under paragraph (c) of this section.

(b) *Time for making the bona fide offer.* (1) *Determination more than 45 days before contract expiration.* With respect to the natural gas subject to this subpart and for which the final determination that the natural gas qualifies as high-cost natural gas, new natural gas or new, onshore production was made 45 days or more before the expiration date of the subject contract (other than a contract implied in law) the bona fide offer shall be made no later than 20 days prior to the expiration date of the subject contract.

(2) *Determination less than 45 days before contract expiration.* In all other cases, the offer shall be made no later than 20 days after a final determination is made that the natural gas qualifies as high-cost natural gas, new natural gas or natural gas produced from any new, onshore production well.

(c) *Offer; acceptance; rejection.* The

written bona fide offer shall be made by sending it to the original purchaser by U.S. mail, certified, and return receipt requested. The original purchaser shall have 20 days from receipt to accept the bona fide offer. The bona fide offer shall be rejected by a written refusal to accept it. Any counteroffer to the bona fide offer made by the original purchaser shall constitute a rejection of the bona fide offer. If the bona fide offer is not accepted or rejected within 20 days, it shall be deemed rejected. The bona fide offer, if accepted, shall be accepted in writing. It shall be deemed accepted when signed and placed in the U.S. mail, certified, return receipt requested.

#### § 277.206 Right of first refusal.

(a) *General rule.* The seller shall present any offer substantially accepted in principle by a third person in an arms-length transaction to the original purchaser for exercise of its right of first refusal. The offer shall be presented in accordance with the provisions of this section.

(b) *Time for making the offer.* Except as provided in § 277.208, the seller shall present the offer described in paragraph (a) of this section to the original purchaser, for the exercise of its right of first refusal at the later of:

(1) The time when the offer is substantially accepted in principle; or

(2) The time when the bona fide offer is rejected.

(c) *Offer; acceptance; rejection.* The offer described in paragraph (b) of this section shall be made by sending it to the original purchaser by U.S. mail, certified, return receipt requested. The original purchaser shall have 20 days from receipt to accept the offer. The offer shall be rejected by a written refusal to accept it. Any counteroffer to the offer made by the original purchaser, except as provided in paragraph (d) of this section, shall constitute a rejection. If the offer is not accepted or rejected within 20 days, it shall be deemed rejected. The offer, if accepted, shall be accepted in writing. It shall be deemed accepted when it is signed and placed in the U.S. mail, certified, return receipt requested.

(d) *Delivery point under an accepted offer.* Notwithstanding any contrary provision of an offer substantially accepted in principle, the original purchaser that accepts the offer shall (at its option) have the right to receive the natural gas at the delivery point and under the physical conditions of

delivery specified in the subject contract.

**§ 277.207 Interim protective sales.**

(a) *General rule.* Except as provided in § 277.208, after the expiration date of a subject contract, any natural gas subject to the provisions of this subpart shall continue to be sold to the original purchaser until the requirements of § 277.205 (concerning bona fide offers) have been met.

(b) *Conditions of sale.* Natural gas sold to the original purchaser under paragraph (a) of this section shall be sold under the terms and conditions prevailing in the subject contract on the last day the contract was in effect, except that the seller may charge no more than the price paid by the original purchaser on the day before the final determination was made.

**§ 277.208 Intervening third party sales.**

(a) *Applicability.* This section applies to natural gas to which this subpart applies if:

(1) The applicable subject contract has expired, and

(2) Such gas is covered by a first sale contract between the seller and a third party purchaser, entered into after the final determination and prior to the date this rule was issued as a proposed rule.

(b) *Relief.* The original purchaser may apply not later than January 15, 1980, to the Commission for such relief as the Commission may determine appropriate.

**§ 277.209 Waiver of rights under this subpart.**

(a) *General rule.* The original purchaser may voluntarily waive its right to a bona fide offer under § 277.205 or its right of first refusal under § 277.206 or both rights.

(b) *Method of waiver.* Waiver under paragraph (a) of this section must be in writing and signed by the original purchaser.

**§ 277.210 Recordkeeping requirements.**

All sellers of natural gas which is subject to this subpart must retain copies of all bona fide offers under § 277.205 and offers to the original purchasers to satisfy the original purchaser's right of first refusal under § 277.206. The sellers and purchasers of natural gas which is subject to this subpart must also retain all other documents created in the ordinary course of business and which relate to this subpart.

[FR Doc. 79-35067 Filed 11-16-79; 8:45 am]

BILLING CODE 6450-01-M

**DEPARTMENT OF TRANSPORTATION  
Federal Highway Administration**

**Urban Mass Transportation  
Administration**

**23 CFR Part 771**

**49 CFR Part 662**

[FHWA Docket No. 79-26]

**Environmental Impact and Related  
Procedures**

**AGENCIES:** Federal Highway Administration (FHWA) and Urban Mass Transportation Administration (UMTA), DOT.

**ACTION:** Extension of Comment Period.

**SUMMARY:** In the Federal Register of October 15, 1979 (44 FR 59438), FHWA and UMTA issued a notice of proposed rulemaking concerning the coordinated responses of the two agencies to the Council on Environmental Quality (CEQ) regulations implementing the procedural provisions of the National Environmental Policy Act and to the implementing procedures issued by the Department of Transportation. Interested parties were given until November 14, 1979 to submit comments. Because of extensive interest in this action, a new closing date for comments has been established and is set out below.

**DATE:** Comments must be received on or before December 3, 1979.

**ADDRESS:** Submit written comments, preferably in triplicate, to FHWA Docket No. 79-26, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed stamped postcard.

**FOR FURTHER INFORMATION CONTACT:** FHWA: Dale Wilken, Office of Environmental Policy, 202-426-0106, or Irwin Schroeder, Office of the Chief Counsel, 202-526-0791. Office hours for FHWA are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday. UMTA: Peter Benjamin, Office of Transit Assistance, 202-472-2435, or John Collins, Office of the Chief Counsel, 202-426-1906. Office hours for UMTA are from 8:30 a.m. to 5 p.m. ET, Monday through Friday.

Dated: November 13, 1979.

John S. Hassell, Jr.,  
Acting Administrator, Federal Highway  
Administration.

Lillian C. Liburdi,  
Acting Deputy Administrator, Urban Mass  
Transportation Administration.

[FR Doc. 79-35520 Filed 11-16-79 8:45 am]

BILLING CODE 4910-57-M

**DEPARTMENT OF DEFENSE**

**Corps of Engineers, Department of the  
Army**

**33 CFR Part 204**

**Small Arms Range, Great Lakes, Ill.;  
Danger Zone**

**AGENCY:** U.S. Army Corps of Engineers,  
DoD.

**ACTION:** Proposed Rule.

**SUMMARY:** The Corps of Engineers proposes to revise the regulations which establish a danger zone at the small arms range adjacent to the U.S. Naval Training Center, Great Lakes, Illinois. The revision is necessary to accommodate the current training and practice routine at the range.

**DATE:** Comments must be received by December 20, 1979.

**ADDRESS:** HQDA, DAEN-CWO-N,  
Washington, D.C. 20314.

**FOR FURTHER INFORMATION CONTACT:**  
Mr. Ralph T. Eppard, Telephone  
(202)272-0200.

**SUPPLEMENTARY INFORMATION:**  
Regulations have been promulgated by the Department of the Army in 33 CFR 204.175 on 30 January 1951 to establish a danger zone for a small arms range on Lake Michigan approximately 2 miles south of the entrance to Waukegan Harbor, Illinois. These amendments affect paragraph (b) by eliminating the buoys used on the north and south points on the eastern limits of the range and to delete the requirement for streamers to be displayed when firing is in progress. Red warning flags will be flown when firing is conducted at the range. When firing rifles at the range, spotters will be employed on the lake shore to observe the impact area and suspend shooting if any craft enters the danger zone. It should be noted that all fire is intended to impact into the berms and not impact into the lake. Only an errant round or ricochet would impact into the lake.

Accordingly, the U.S. Army Corps of Engineers proposes to amend 33 CFR 204.175(b) as set forth below:

§ 204.175 Lake Michigan: Small arms range adjacent to U.S. Naval Training Center, Great Lakes, Ill.

(b) *The regulations.* (1) When firing affecting the danger zone is in progress, the enforcing agency will post guards at such locations that the waters in the danger zone may be observed and arrange signals whereby these guards may stop the firing should any person or vessel be seen in the waters of the danger zone. When firing is in progress, the enforcing agency will cause red flags to be displayed on shore near the rifle butts, which may be readily discernible to a person in a vessel within the danger zone.

(3) If such flags are displayed it will indicate that firing is in progress, and that the waters in the danger zone are subject to impact by rounds missing or ricocheting off the impact berm and should not be entered until the flags are lowered.

(5) Deleted.

**Authority.**—(40 Stat. 266; 33 U.S.C. 1) and (40 Stat. 892; 33 U.S.C. 3).

**Notes.**—The Chief of Engineers has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and therefore, is not significant for the purposes of E.O. 12044. A regulatory analysis is not required.

Dated: November 7, 1979.

**Forrest T. Gay III,**

*Colonel, Corps of Engineers, Executive Director, Engineer Staff.*

[FR Doc. 79-35515 Filed 11-16-79; 8:45 am]

BILLING CODE 3710-92-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[FRL 1361-2]

#### State and Federal Administrative Orders Revising the Michigan State Implementation Plan

**AGENCY:** U.S. Environmental Protection Agency.

**ACTION:** Proposed Rule: Proposed Approval of Revision.

**SUMMARY:** U.S. Environmental Protection Agency (USEPA) proposes to approve Michigan Air Pollution Control Commission's request for a revision to the Michigan State Implementation Plan (SIP). The revision is a Final Order issued by the Michigan Air Pollution Control Commission (MAPCC). The Final Order was the result of the

Stipulation and Consent Order entered into by the Consumers Power Company and the Air Quality Division of the Michigan Department of Natural Resources. The Order extends the date by which the Company is required to bring sulfur dioxide emissions from coal-fired boilers at its J.H. Campbell Plant located in the Township of Port Sheldon, Ottawa County, Michigan, into compliance with certain regulations contained in the federally approved Michigan State Implementation Plan (SIP). The Order extends the date for compliance from January 1, 1980 to January 1, 1985. Any Order which has been issued to a major source and extends the SIP compliance date for meeting the sulfur dioxide emission limitations must be approved by USEPA before it becomes effective as a SIP revision under the Clean Air Act, 42 U.S.C. 7410. If approved by USEPA, the extension will constitute a revision to the SIP. The purpose of this Notice is to invite public comment on USEPA's proposed approval of the MAPCC Order dated June 25, 1979.

**DATE:** Written comments must be received by December 19, 1979.

**ADDRESSES:** Please send comments to: Steve Rothblatt, Chief, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

The State Order, supporting material and public comment received in response to this notice may be inspected and copied (for appropriate charges) during normal business hours at the above address or at: Michigan Department of Natural Resources, Air Quality Division, State Secondary Complex, General Office Building, 7150 Harris Drive, P.O. Box 30028, Lansing, Michigan 48909.

**FOR FURTHER INFORMATION CONTACT:** Joel Morbito, Air and Hazardous Materials Division, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604 (312) 886-6059.

**SUPPLEMENTARY INFORMATION:** Consumers Power Company uses coal as fuel in its electrical generating facility, commonly known as the Campbell Plant, in the township of Port Sheldon, Ottawa County, Michigan.

On January 17, 1978 the Michigan Air Pollution Control Commission (Commission) received Consumers Power Company's (Consumers) request to defer compliance with the sulfur dioxide emission standards specified in Tables 3 and 4 of Rule 336.49 of the Commission's Rules and Regulations for Air Pollution Control. Consumers

requested that compliance be deferred from January 1, 1980 to January 1, 1985.

Rule 336.49 sets sulfur dioxide emission limitations for power plants in the State of Michigan. Rule 336.49(1) allows for deferred compliance if power plant emissions do not create or contribute to an ambient level of sulfur dioxide in excess of the applicable air quality standards. Rule 336.49(2) prohibits exceptions to the limitations of Table 3 beyond January 1, 1980 unless authorization is granted by the Commission.

In accordance with Rule 336.49(2) Consumers applied for an extension of the January 1, 1980 compliance date for sulfur dioxide emissions. In its application Consumers requested that the compliance date be extended to January 1, 1985, and provided information and demonstrations which were required by Rules 336.141-147.

As a result of Consumers' application a public hearing was held May 15, 1979 on proposed Consent Order APC No. 05-1979 entered into by Consumers and the Air Quality Division of Michigan's Department of Natural Resources. There was testimony that the proposed Order did not appear to contain any interim reduction for the twenty-four hour average of sulfur dioxide emissions, and that the air quality models and meteorological data did not take into account the gradient onshore and lake breeze fumigation effects. The Commission authorized the entrance of the Order with the provision that the problem with the air quality modeling study be resolved.

The Order extended the compliance date for meeting sulfur dioxide emission limitations to January 1, 1985. The Commission stated in the Order that if Consumers complied with the terms of the proposed Order, the extension would not interfere with the attainment or maintenance of the National Ambient Air Quality Standards for any pollutant. The proposed Order was thereafter stipulated on June 22, 1979 as a Consent Order between Consumers and the Air Quality Division of Michigan's Department of Natural Resources. On June 25, 1979 the Consent Order was issued by the Michigan Air Pollution Control Commission as the Commission's Final Order.

The Final Order rescinds and supersedes Performance Contract No. 973-10 and extends the compliance date for meeting the sulfur dioxide emission limitations of Commission Rule 336.49 to January 1, 1985. The Order also contains provisions by which it may be modified or revoked. Under the Order Consumers must comply with the following program and time schedule for the control of

sulfur dioxide emissions from the Campbell Plant:

#### A. Sulfur Dioxide Emission Limitations

(1) Beginning on January 1, 1980 and continuing to January 1, 1985, fuel burned at the Campbell Plant shall not:

(a) On an annual average exceed 3.05 percent sulfur content by weight at 12,000 Btu/pound of coal.

(b) Result in sulfur dioxide emissions greater than 490 tons on any calendar day. This emission limitation is the equivalent of burning coal which averages 3.82 percent sulfur content by weight at 12,000 Btu/pound of coal and 650 megawatts net load for 24 hours.

(c) On a daily average result in emissions of sulfur dioxide greater than a rate of 7.0 pounds per million Btu heat input.

(2) After January 1, 1985, emissions of sulfur dioxide from the Campbell Plant shall not exceed the levels prescribed in Tables 3 and 4 of Rule 336.49, unless an alternative date for compliance with the levels is established by the Commission.

#### B. Sulfur Dioxide Control Program

(1) By January 1, 1980, the Company shall submit to the Commission an acceptable control strategy which shall provide for compliance with Section A(2) of this Order.

(2) If the Company elects to burn low sulfur coal as the method of control, the Company shall be January 1, 1981, and by each January 1 for the following three (3) years:

(a) Notify the Commission that it has under contract or contract option the low sulfur coal necessary to meet the requirements of Section A(2) of this Order; or

(b) Notify the Commission, with acceptable explanation, that adequate quantities of low sulfur coal are available for acquisition for use in the Campbell Plant by January 1, 1985.

(3) If low sulfur coal is chosen as the method of control the Company shall notify the Commission of the signing of any contracts for such coal within thirty (30) days of their signing.

(4) If the Company elects a control strategy other than low sulfur coal burning, a report on the method of control (including increments of progress) shall be provided to the Commission by January 1, 1980. If a control strategy other than low sulfur coal burning is submitted, it is the intent of the Company and the Commission to incorporate the elements of the control strategy into either a new or amended order.

(5) By January 1, 1981, and by each January 1 for the following three (3) years, the Company shall submit to the

Commission a report of the Company's progress toward complying with the order. Any developments which would preclude compliance with any provision of this Order shall be immediately reported in writing to the Commission.

#### C. Monitoring and Data Reporting

(1) The Company shall operate two (2) ambient sulfur dioxide monitors around the Campbell Plant in such manner and at such locations as reasonably specified by the Chief of the Air Quality Division of the Department of Natural Resources (hereinafter "Staff"). To measure the air quality impact of the Campbell Plant under lake breeze fumigation conditions, the Company shall operate an additional six (6) ambient sulfur dioxide monitors at such locations around the Campbell Plant as reasonably specified by the Staff.

(2) The Company shall perform a weekly sulfur analysis of fuel burned in the Campbell Plant in accordance with the procedures specified in Appendix A.

(3) The Company shall by January 1, 1980, install and place in operation stack gas emission monitor(s) for measuring sulfur dioxide that meets the performance specifications of Appendix B of 40 CFR Part 60 (1977).

(4) The Company shall demonstrate the adequacy of the stack gas sulfur dioxide monitor(s) in accordance with the procedures specified in Appendix B of 40 CFR Part 60 (1977).

(5) For each calendar day during which the stack gas sulfur dioxide monitor(s) has been inoperative for 12 consecutive hours, the Company shall conduct a daily analysis of the coal burned at the Campbell Plant according to the procedures specified in Appendix A. This daily analysis shall be discontinued only after the stack gas sulfur dioxide monitor(s) has operated acceptably for 12 consecutive hours during a calendar day.

(6) The Company shall report to the Staff sulfur dioxide emissions in terms of pounds of sulfur dioxide per million Btu heat input in accordance with the procedures specified in Appendix B of 40 CFR Part 60 (1977).

(7) The Company shall submit to the Staff data from the aforementioned ambient air quality monitors, stack gas monitor(s) and fuel sulfur analysis in such format and at such intervals as reasonably specified.

(8) During 1979 and at approximately 18-month intervals thereafter, the Company shall conduct periodic particulate emission tests for each unit of the Campbell Plant. The tests shall be conducted in accordance with Commission approved procedures.

(9) The monitoring and reporting requirements specified in or pursuant to subsections C(1) through (8) shall be, upon request of the Company, reviewed by the Commission and modified if the Commission finds such modifications are justified.

#### D. Lake Breeze Fumigation Study

The Company shall conduct a lake breeze fumigation study to determine the effects of onshore wind flow upon ambient sulfur dioxide concentrations resulting from operation of the Campbell Plant. The study shall cover the period of April through September 1980, and shall be conducted in accordance with the scope description in Appendix B of this Order. A report of the preliminary results of the study shall be submitted to the Staff by April 1, 1981. A report of the final results of the study shall be submitted to the Staff by August 1, 1981.

#### Appendix A—Fuel Analysis Procedures

##### 1. Weekly Fuel Analysis

a. A minimum of three equally spaced grab samples of the coal burned at the Campbell Plant shall be taken each calendar day.

b. A composite coal sample shall be prepared from the grab samples according to ASTM or equivalent methods for each calendar day that the daily fuel analysis is required.

c. The weekly composite coal sample shall be analyzed for sulfur and heat (Btu) content according to ASTM or equivalent procedures approved by the Chief of the Air Quality Division.

##### 2. Daily Fuel Analysis

a. In the event the stack gas sulfur dioxide monitor(s) has been inoperative for a period of 12 consecutive hours, a minimum of two equally spaced grab samples of the coal burned at the Campbell Plant shall be taken during each eight hour work shift. This sampling procedure shall continue until the monitor has operated acceptably for a period of 12 consecutive hours.

b. A composite coal sample shall be prepared from the grab samples according to ASTM or equivalent methods for each calendar day that the daily fuel analysis is required.

c. The composite coal sample shall be analyzed for sulfur and heat (Btu) content according to ASTM or equivalent methods approved by the Chief of the Air Quality Division.

#### Appendix B—Lake Breeze Fumigation Study—Scope Description

The lake breeze fumigation study shall consist of five phases as follows:  
I. Meteorological Data Collection—Data shall be collected with an on-site

meteorological tower and an acoustic sounder. Descriptions of the data to be collected are included in Attachment I to this Appendix. This phase shall include meteorological data from June 1977 to September 1980.

**II. Ambient Monitor Site Selection—**The meteorological data collected in Phase I shall be used in conjunction with appropriate modeling studies to determine the location of the six ambient sulfur dioxide monitors required to measure maximum impact of the Campbell Plant during lake breeze fumigation conditions. The locations of the monitors shall be approved by the Air Quality Division.

**III. Ambient Data Collection—**Following the installation of the sulfur dioxide monitors, concurrent meteorological and ambient sulfur dioxide data shall be collected. Data collection shall begin, weather and equipment availability permitting, by April 1, 1980, and shall continue through September 30, 1980. Meteorological data shall consist of the data specified in Phase I above as well as the data obtained from an acoustic sounder located inland from the Campbell Plant site. Ambient sulfur dioxide data shall be obtained on a continuous basis from those sites identified in Phase II.

**IV. Model Validation—**The concurrent meteorological and ambient data collected in Phase III shall be used to validate the lake breeze fumigation model used in the site selection phase. If necessary, modifications based on this validation shall be made to the model to assure it is representative of lake breeze dispersion conditions existing in the vicinity of the Campbell Plant site.

**V. Impact Assessment—**The validated model shall be used in conjunction with the meteorological data of Phase III and any other pertinent information to determine the impact of the Campbell Plant on ambient sulfur dioxide levels during lake breeze fumigation conditions.

The Company shall review each phase of the above program with the staff of the Air Quality Division and advise the staff of the progress of the study. Hourly meteorological data collected during the study as well as the data summaries described in Attachment I shall be provided to the Air Quality Division.

#### Attachment 1 to Appendix B Data Descriptions

1. Meteorological Tower Data
  - A. Wind direction and speed at heights of 10, 60 and 90 meters;
  - B. Temperature and dew point temperature at 10 meters; and

C. Differential temperature between the heights of 10 and 60 meters and between 10 and 90 meters.

2. Acoustic Sounder Data
  - A. Mixing height
  - B. Stability class
  - C. Degree of turbulence

#### Data Summaries

1. The following summaries are made of the meteorological tower data on a quarterly basis:

- A. Wind frequency distribution at each height and among 16 wind direction sectors;
- B. Stability wind roses for each of the seven Pasquill stability categories; and
- C. Persistence of wind speed among 16 wind direction sectors.

2. The following summaries are made of acoustic sounder data on a quarterly basis:

- A. Hourly values of mixing height;
- B. Stability class (in a general classification scheme consisting of stable, unstable and neutral); and
- C. Degree of turbulence (qualitative as to weak, moderate, strong).

The Final Order was formally submitted on June 26, 1979 as a proposed revision to the Michigan State Implementation Plan (SIP). USEPA reviewed the Order as a proposed SIP revision and concluded that the proposed revision meets notice and hearing procedural requirements of CFR 51.4 and 51.6 and will not interfere with the attainment and maintenance of the National Ambient Air Quality Standards. Pursuant to Section 110 of the Clean Air Act, the Administrator of the United States Environmental Protection Agency must approve the Final Orders which extend compliance dates as revisions to the State Implementation Plans before they may become effective. 42 U.S.C. 7410. Today's action proposes approval of the Michigan Air Pollution Control Commission's Final Order dated June 26, 1979, as a revision to the Michigan SIP.

All interested persons are invited to submit written comments on the proposed SIP revision. Written comments received by the date specified above will be considered in determining whether EPA will approve the revision. After the public comment period, the Administrator of EPA will publish in the Federal Register the Agency's final action on the proposed SIP revision.

#### Attachment A

Under Executive Order 12044 (43 FR 12661), USEPA is required to judge whether a regulation is "significant" and, therefore, subject to certain procedural requirements of the Order or whether it may follow other specialized development procedures, USEPA labels proposed regulations, "specialized." I

have reviewed this proposed regulation pursuant to the guidance in USEPA's response to Executive Order 12044, "Improving Environmental Regulations," signed March 29, 1979 by the Administrator and I have determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044. (42 U.S.C. 7410)

Dated: October 2, 1979.

John McGuire,  
Regional Administrator.

[FR Doc. 79-35561 Filed 11-16-79; 8:45 am]  
BILLING CODE 6560-01-M

#### 40 CFR Part 180

[PP 6F1860/P122; FRL 1360-5]

#### Proposed Tolerances for the Pesticide Chemical Thiabendazole

**AGENCY:** Office of Pesticide Programs, Environmental Protection Agency (EPA).  
**ACTION:** Proposed Rule.

**SUMMARY:** This notice proposes that tolerances be established for residues of the fungicide thiabendazole on sugar beets at 6 parts per million (ppm) and in eggs and the meat, fat, and meat byproducts of poultry at 0.1 ppm. The proposal was submitted by Merck & Co. This amendment would establish maximum permissible levels for residues of thiabendazole in or on sugar beets; eggs; and the meat, fat, and meat byproducts of poultry.

**DATE:** Comments must be received on or before December 19, 1979.

**ADDRESS:** Send comments to: Mr. Henry Jacoby, Product Manager (PM) 21, EPA, Office of Pesticide Programs, Registration Division (TS-767), 401 M St., SW, Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Mr. Henry Jacoby, PM 21, at the above address (202/755-2562).

**SUPPLEMENTARY INFORMATION:** On October 7, 1976, notice was given (41 FR 44213) that Merck & Co., Inc., Rahway, NJ 97965, had filed a petition (PP 6F1860) with the EPA. This petition proposed to amend 40 CFR 180.242 by increasing the established tolerance for residues of the fungicide thiabendazole (2-(4-thiazolyl)benzimidazole) in or on the raw agricultural commodity sugar beets without tops (preharvest) from 0.25 ppm to 4 ppm. No comments were received in response to this notice of filing.

Subsequently, the petitioner amended the petition by increasing the proposed tolerance from 4 ppm (preharvest) to 6 ppm (pre- and postharvest) and by expanding the proposed tolerance to include combined residues of thiabendazole and its metabolite 5-hydroxythiabendazole in eggs and the

meat, fat, and meat byproducts of poultry at 0.1 ppm. Because of the potential increase in exposure of humans to residues of thiabendazole as a result of the higher tolerance and additional raw agricultural commodities, the tolerances are being proposed at this time to provide an opportunity for public comment.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerances included two-year rat and dog-feeding studies; rat and mouse reproduction studies; and subacute studies on rats, sheep, and other farm animals. Based on a rat study, the no-observed-effect level is 10 milligrams (mg)/kilogram (kg) of body weight (bw)/day. This results in an acceptable daily intake (ADI) of 0.1 mg/kg bw/day and a maximum permissible intake (MPI) of 6 mg/day. Existing and proposed tolerances result in a maximum theoretical exposure of 1 mg/day. Tolerances have previously been established for residues of thiabendazole in or on a variety of raw agricultural commodities, ranging from 10 ppm to 0.1 ppm. An adequate analytical method (spectrophotofluorometry) is available for enforcement purposes.

The existing meat and milk tolerances are adequate to cover any residues from the proposed use as delineated in 40 CFR 180.6(a)(2).

The data supporting this petition do not include a second carcinogenicity study (mouse). However, the chronic feeding study in the rat was performed under a protocol considered adequate for carcinogenic potential evaluation. This study did not provide any evidence that thiabendazole would be considered a presumptive carcinogenic risk. Thus, the Agency considers that the 6 ppm tolerance on sugar beets and the 0.1 ppm in eggs and the fat, meat, and meat byproducts of poultry are adequate to protect the public health. The requirement for mutagenicity testing is not waived, and the mutagenicity studies will be requested when suitable test protocols have been determined. The requirement for carcinogenic potential evaluation in a second mammalian species (mouse) is not waived, and the petitioner will be required to submit results of such a study to the Agency within 12 months of final issuance of this regulation. Should oncogenic effects be found in the study when submitted, the petitioner has

agreed not to contest revocation of the subject regulation (Merck letter of August 23, 1979).

No actions are currently pending against continued registration of thiabendazole, nor are any other considerations involved in establishing the proposed tolerances.

The pesticide is considered useful for the purpose for which tolerances are sought, and it is concluded that the tolerances of 6 ppm on sugar beets and 0.1 ppm in eggs and the meat, fat, and meat byproducts of poultry established by amending 40 CFR 180.242 will protect the public health. It is proposed, therefore, that the tolerances be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request on or before December 19, 1979 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. The comments must bear a notation indicating both the subject and the petition/document control number, "PP 6F1860/P122". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of PM 21, Room 305, East Tower, from 8:30 a.m. to 4 p.m. Monday through Friday.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This proposed rule has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Dated: November 9, 1979.  
(Section 408(e) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(e)])

Douglas D. Camp, Jr.  
Director, Registration Division.

It is proposed that Part 180, Subpart C, § 180.242 be amended by alphabetically inserting sugar beets at 6 ppm in paragraph (a) and eggs and the meat, fat, and meat byproducts of poultry in paragraph (b), as follows:

#### § 180.242 Thiabendazole; tolerances for residues.

(a) * * *		Parts per million
Commodity	* * * * *	
Beets, sugar, without tops (pre- and post-h) ....		6
* * * * *		
(b) * * *		Parts per million
Commodity:	* * * * *	
Eggs .....		0.1
Poultry, fat .....		0.1
Poultry, mibyp .....		0.1
Poultry, meat .....		0.1
* * * * *		

[FR Doc. 79-36540 Filed 11-16-79; 8:45 am]

BILLING CODE 6560-01-M

#### 40 CFR Part 180

[PP 7E2008/P114; FRL 1360-6]

#### Proposed Tolerance for the Pesticide Chemical Dimethyl (2,2,2-Trichloro-1-Hydroxyethyl) Phosphonate

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposed that a tolerance be established for residues of the insecticide dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphonate on birdsfoot trefoil hay at 90 parts per million (ppm). The proposal was submitted by the Interregional Research Project No. 4. This regulation would establish a maximum permissible level for residues of the subject insecticide on birdsfoot trefoil hay, including chaff.

DATE: Comments must be received on or before December 19, 1979.

ADDRESS: Send comments to: Mrs. Patricia Critchlow, Office of Pesticide Programs, Registration Division (TS-767), EPA, East Tower, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mrs. Patricia Critchlow at the above address (202/426-0223).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey State Agricultural Experiment Station, P.O. box 231, Rutgers University, New Brunswick, NJ 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of New York and Vermont, has submitted a pesticide petition (PP 7E2008) to the EPA. This petition requests that the administrator propose that 40 CFR 180.198 be amended

by the establishment of a tolerance for residues of the insecticide dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphonate in or on the raw agricultural commodity birdsfoot trefoil hay, including its byproduct chaff at 90 ppm.

The data submitted in the petition and all other relevant material have been evaluated. The toxicology data considered in support of the proposed tolerance were 2 two-year rate feeding studies with no-observed-effect-levels (NOEL) of 250 ppm and 500 ppm, a one-year dog feeding study with an NOEL of 50 ppm, and a negative oncogenicity study.

The acceptable daily intake (ADI) for this chemical is calculated to be 0.0125 milligram (mg)/kilogram (kg) of body weight (bw)/day based on the one-year dog feeding study NOEL using a 100-fold safety factor. The maximum permissible intake is calculated to be 0.75 mg/day for a 60 kg-man. The theoretical maximum residue contribution (TMRC) from existing tolerances is calculated to be 0.0626 mg/day for a 1.5-kg daily diet. Therefore, existing tolerances use up approximately 8.4 percent of the ADI. There is no reasonable expectation of residues in eggs, meat, milk or poultry as delineated in 40 CFR 180.6(a)(3). The nature of the residue is adequately understood and an adequate analytical method (gas chromatography) is available for enforcement purposes. Tolerances have been established for residues of the subject pesticide on a variety of raw agricultural commodities at levels ranging from 0.05 ppm to 240 ppm. There currently exists a tolerance for residues in or on alfalfa at 90 ppm.

Currently, the subject insecticide is a candidate for a rebuttable presumption against continued registration since data are available that indicate it might exceed the risk criteria described in 40 CFR 162.11(a)(3)(ii)(A) for possible oncogenic effects and 40 CFR 162.11(a)(3)(ii)(B) for possible teratogenic and mutagenic effects. Additional studies in these areas should be initiated in order to clarify the questions raised concerning the hazard of this chemical. However, based on: (1) The above information considered by the Agency, (2) the fact that birdsfoot trefoil is not a human food item and that the proposed use on trefoil will not result in residues in meat and milk which exceed the already established tolerances for these commodities, and

(3) the determination that the use falls into 40 CFR 180.6(a)(3) for poultry tissues and eggs, it is concluded that the tolerance of 90 ppm should be established. The amount of residues added to the human diet, if any, from the establishment of this tolerance is considered to pose a negligible increment in risk.

The pesticide is considered useful for the purpose for which a tolerance is being sought, and it is concluded that the tolerance of 90 ppm on birdsfoot trefoil hay (including chaff) established by amending 40 CFR 180.198 will protect the public health. To be consistent with the alfalfa tolerance, the tolerance should be expressed in terms of "birdsfoot trefoil hay." It is proposed, therefore, that the tolerance be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains any of the ingredients listed herein, may request on or before December 19, 1979 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. The comments must bear a notation indicating both the subject and the petition/document control number, "PP7E2008/P114." All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in Room 107, East Tower, from 8:30 a.m. to 4 p.m. Monday through Friday.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." This proposed rule has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Dated: November 9, 1979.

(Sec. 408(e), Federal Food, Drug and Cosmetic Act (21 U.S.C. 346a(e)))

Douglas D. Campt,

Director, Registration Division.

It proposed that Part 180, Subpart C, § 180.198 be revised by editorially reformatting the section into an

alphabetized columnar listing and alphabetically inserting birdsfoot trefoil hay at 90 ppm as follows:

**§ 180.198 Dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphonate; tolerances for residues.**

Tolerances are established for residues of the insecticide dimethyl (2,2,2-trichloro-1-hydroxyethyl) phosphonate in or on the following raw agricultural commodities:

Commodity:	Parts per million
Alfalfa.....	60
Alfalfa, hay.....	90
Artichokes.....	0.1 (N)
Bananas (NMT 0.2 ppm will be present after the peel is removed).....	2
Barley, forage.....	50
Barley, grain.....	0.1 (N)
Barley, straw.....	1
Beans, dried.....	0.1 (N)
Beans, lima (reflecting 0.1 ppm (N) in or on the shelled beans).....	12
Beans, lima vine hay.....	12
Beans, lima vines.....	12
Beans, snap.....	0.1 (N)
Beans, snap.....	1
Beets.....	0.1 (N)
Beets, sugar.....	0.1 (N)
Beets, sugar, tops.....	12
Birdsfoot trefoil, hay.....	90
Brussels sprouts.....	0.1 (N)
Cabbage.....	0.1 (N)
Carrots.....	0.1 (N)
Cattle, fat.....	0.1 (N)
Cattle, mby.....	0.1 (N)
Cattle, meat.....	0.1 (N)
Cauliflower.....	0.1 (N)
Citrus fruit.....	0.1 (N)
Clover.....	60
Clover, hay.....	90
Collards.....	0.1 (N)
Corn, fodder.....	30
Corn, forage.....	30
Corn, fresh (including sweet K+CWHR).....	0.1 (N)
Corn, grain.....	0.1 (N)
Cottonseed.....	0.1 (N)
Cowpeas.....	0.1 (N)
Cowpeas, vines.....	1
Flax, straw.....	1
Flaxseed.....	0.1 (N)
Goats, fat.....	0.1 (N)
Goats, mby.....	0.1 (N)
Goats, meat.....	0.1 (N)
Grass, pasture.....	60
Grass, pasture, hay.....	90
Grass, range.....	240
Grass, range, hay.....	240
Horses, fat.....	0.1 (N)
Horses, mby.....	0.1 (N)
Horses, meat.....	0.1 (N)
Lettuce.....	0.1 (N)
Milk.....	0.01 (N)
Oats, forage.....	50
Oats, grain.....	0.1 (N)
Oats, straw.....	1
Peanuts.....	0.05 (N)
Peanuts, vine hay.....	4
Peanuts, vine hulls.....	4
Peppers.....	0.1 (N)
Pumpkins.....	0.1 (N)
Safflower seed.....	0.1 (N)
Sheep, fat.....	0.1 (N)
Sheep, mby.....	0.1 (N)
Sheep, meat.....	0.1 (N)
Tomatoes.....	0.1 (N)
Wheat, forage.....	50
Wheat, grain.....	0.1 (N)
Wheat, straw.....	1

[FR Doc. 79-35560 Filed 11-16-79; 8:45 am]

BILLING CODE 6560-01-M

**DEPARTMENT OF TRANSPORTATION****Coast Guard****46 CFR Part 61**

[CGD 78-153]

**Tailshaft Examination***Correction*

In FR Doc. 79-33888, appearing at page 62915 in the issue for Thursday, November 1, 1979, make the following corrections:

(1) On page 62916, in the first column, in the last paragraph, in the fourth line, the reference to "§ 61.20-15(a)" should read "§ 61.20-15".

(2) On page 62916, in the middle column, in § 61.20-15 make the following corrections:

- a. Delete the paragraph designation "(a)" at the beginning of the text.
- b. Delete the five asterisks at the end of text of § 61.20-15.

BILLING CODE 1505-01-M

**Research and Special Programs  
Administration****49 CFR Part 172**

[Docket No. HM-126B; Notice No. 79-14]

**Improved Descriptions of Hazardous  
Materials for Emergency Response***Correction*

In FR Doc. 79-34612 appearing at page 65020 in the issue for Thursday, November 8, 1979, the two tables on pages 65023 and 65024, should be inserted on page 65021, in the third column, in the third paragraph, under the heading of § 172.101 *Hazardous materials table*.

BILLING CODE 1505-01-M

# Notices

Federal Register

Vol. 44, No. 224

Monday, November 19, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Federal Grain Inspection Service

#### Assignment of Official Agency Geographic Area to Nine State Departments of Agriculture

**AGENCY:** Federal Grain Inspection Service, USDA.

**ACTION:** Notice.

**SUMMARY:** This notice announces assignment of geographic areas to the Connecticut, Georgia, Louisiana, Maine, Missouri, Montana, North Carolina, Oregon, and Wyoming State Departments of Agriculture for the performance of official grain inspection functions under the authority of the United States Grain Standards Act, as amended.

**EFFECTIVE DATE:** November 19, 1979.

**FOR FURTHER INFORMATION CONTACT:** J. t. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

**SUPPLEMENTARY INFORMATION:** The Connecticut Department of Agriculture, 165 Capitol Avenue, Hartford, CT 06115; Georgia Department of Agriculture, Capitol Square, Atlanta, GA 30334; Louisiana Department of Agriculture, P.O. Box 44456, Baton Rouge, LA 70804; Maine Department of Agriculture, State Office Building, Augusta, ME 04330; Missouri Department of Agriculture, P.O. box 630, Jefferson City, MO 65101; Montana Department of Agriculture, 821 17th Street North, Great Falls, MT 59401; North Carolina Department of Agriculture, P.O. box 27647, Raleigh, NC 27611; Oregon Department of Agriculture, Agriculture Building, Salem, OR 97310; and Wyoming Department of Agriculture, 2219 Carey Avenue, Cheyenne, WY 82001 were designated as official agencies under the United States Grain Standards Act, as amended

(7 U.S.C. 71 *et seq.*) (the "Act"), for the performance of official grain inspection functions on the following dates all in 1978: Connecticut, September 30; Georgia, October 20; Louisiana, November 16; Maine, October 31; Missouri, November 20; Montana, October 25; North Carolina, November 10; Oregon, November 5; and Wyoming, November 20. The designations also included assignments of geographic areas, on an interim basis, within which these agencies would operate. Geographic areas are assigned to each official agency pursuant to Section 7(f)(2) of the Act. The Act provides that not more than one official agency shall be operating at one time within an assigned geographic area.

The proposed geographic areas assigned to these nine Departments of Agriculture were announced in the February 12, 1979, issue of the Federal Register (44 FR 8918). No comments were received. Accordingly, after due consideration of all information available to the United States Department of Agriculture, the geographic areas assigned to these agencies are as follows: Connecticut, the entire State; Georgia, the entire State; Louisiana, the entire State except those export port locations within the State; Maine, the entire State; Missouri, the entire State; Montana, the entire State; North Carolina, the entire State; Oregon, the entire State except those export port locations within the State; and Wyoming, the entire State excluding Goshen County and Platte County, and the following locations in Laramie County: Albin Elevator, Albin; Farmers Coop, Burns; Carpenter Elevator, Carpenter; Pillsbury Company, Egbert; and Pine Bluffs Feed & Grain, Pine Bluffs, all to be serviced by the Denver Grain Exchange Association, Inc.

Description of exceptions to the geographic area for the Wyoming Department of Agriculture have been restated to more accurately describe the locations by listing the elevator sites rather than by general reference to the city, town, or area in which situated as was published in the February 12, 1979, issue of the Federal Register.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located. In

addition to the specified service points within the assigned geographic areas, the agencies will provide official inspection services not requiring a licensed inspector to all other areas within their geographic areas.

Interested persons may obtain maps of the assigned geographic areas and lists of specified service points by contacting the agencies or the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

(Secs. 8, 9, Pub. L. 94-582, 90 Stat. 2870, 2875 (7 U.S.C. 79, 79a))

Done in Washington, D.C. on November 13, 1979.

L. E. Bartelt,  
Administrator.

[FR Doc. 79-35552 Filed 11-16-79; 8:45 am]

BILLING CODE 3410-02-M

#### Official Agency Designation of A. V. Tischer & Son, Inc., Fort Dodge, Iowa, and Proposal of Geographic Area

**AGENCY:** Federal Grain Inspection Service, USDA.

**ACTION:** Notice and Request for Comments.

**SUMMARY:** This notice announces the designation of the A. V. Tischer and Son, Inc., Fort Dodge, Iowa, as an official agency to perform official inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

**DATE:** Comments to be postmarked on or before January 3, 1980.

**FOR FURTHER INFORMATION CONTACT:** J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

**SUPPLEMENTARY INFORMATION:** A. V. Tischer and Son, Inc. (the "Agency"), 137 10th Street, NW., P.O. Box 339, Fort Dodge, Iowa 50501, an existing official agency, made application pursuant to Section 7 of the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), to be officially designated under the Act, to perform official inspection services, not including official weighing.

The Federal Grain Inspection Service (FGIS) has conducted the required investigation of the Agency which included an onsite review of its inspection point (hereinafter "specified service point") and the Agency was deemed eligible for designation to perform official inspection services (other than appeal inspection), not including official weighing. The Agency was granted an interim designation effective November 20, 1978. A document designating the Agency as an official agency was signed on February 1, 1979. The designation also included an interim assignment of geographic area within which the official Agency will provide official inspection services.

**Note.**—Section 7(f)(2) of the Act provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

The geographic area assigned on an interim basis pending final determination in this matter is:

Bounded: on the North by the Iowa-Minnesota State line from U.S. Route 59 east to U.S. Route 169;

Bounded: on the East by U.S. Route 169 south to State Route 9; State Route 9 west to U.S. Route 169; U.S. Route 169 south to the northern Humboldt County line; the Humboldt County line east to State Route 17; State Route 17 south to C54; C54 east to U.S. Route 69; U.S. Route 69 south to the northern Hamilton County line; the Hamilton County line west to R38; R38 south to U.S. Route 20; U.S. Route 20 west to the eastern Webster County line; the Webster County line south; the southern Webster County line to U.S. Route 169; U.S. Route 169 south to E18 west; E18 west to the eastern Greene County line; the Greene County line to U.S. Route 30.

Bounded: on the South by U.S. Route 30 west to E53; E53 west to N44; N44 north to U.S. Route 30; U.S. Route 30 west to U.S. Route 71; and

Bounded: on the West by U.S. Route 71 north to the southern Clay County line; the Clay County line west; the western Clay County line north to B24; B24 west to U.S. Route 59; U.S. Route 59 north to the Iowa-Minnesota State line.

In addition, the following locations which are outside of the foregoing contiguous geographic area and are to be serviced by the Agency shall be considered as part of the Agency's geographic area: Cargill, Inc., Algona, Iowa, in Kossuth County; Farmers Coop Elevator, Boxholm, Iowa, in Boone County; Big Six Elevator, Burt, Iowa, in Kossuth County; Farmers Elevator, Goldfield, Iowa, in Wright County; and Farmers Coop Elevator, Holmes, Iowa, in Wright County.

Exceptions to this geographic area are the following locations situated inside the Agency's area which have been and will continue to be serviced by:

D. R. Schaal, Belmond, Iowa: Farmers Coop Company, Eagle Grove, Iowa, in Wright County; and

Sioux City Inspection & Weighing Agency, Inc., Sioux City, Iowa: Gooch Seed Mill and Ernie's Seed & Field Service, Storm Lake, Iowa, in Buena Vista County.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located.

In addition to the specified service point within the geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain the address of the specified service point and a map of the proposed geographic area for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

This Agency has been performing official inspection services within the proposed geographic area since November 1978. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligations, and have limited public affect. Therefore, the comment period shall be limited to 45 days.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250. All materials must be postmarked not later than January 3, 1980. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made.

(Secs. 8, 9, 27, Pub. L. 94-582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note)).

Done in Washington, D.C. on November 13, 1979.

L. E. Bartelt,  
Administrator.

[FR Doc. 79-35556 Filed 11-16-79; 8:45 am]

BILLING CODE 3410-02-M

### Official Agency Designation of the Kankakee Grain Inspection Bureau, Inc., Kankakee, Ill., and Proposal of Geographic Area

**AGENCY:** Federal Grain Inspection Service, USDA.

**ACTION:** Notice and request for comments.

**SUMMARY:** This notice announces the designation of the Kankakee Grain Inspection Bureau, Inc., Kankakee, Illinois, as an official agency to perform official inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

**DATE:** Comments to be postmarked on or before January 3, 1980.

**FOR FURTHER INFORMATION CONTACT:** J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

**SUPPLEMENTARY INFORMATION:** Kankakee Grain Inspection Bureau, Inc. (the "Agency"), 500 North Fifth Avenue, P.O. Box 102, Kankakee, Illinois 60901, an existing official agency, made application pursuant to Section 7 of the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), to be officially designated under the Act, to perform official inspection services, not including official weighing.

The Federal Grain Inspection Service (FGIS) has conducted the required investigation of the Agency which included an onsite review of its inspection point (hereinafter "specified service point") and the Agency was deemed eligible for designation to perform official inspection services (other than appeal inspection), not including official weighing. The Agency was granted an interim designation effective November 20, 1978. A document designating the Agency as an official agency was signed on February 14, 1979. The designation also included an interim assignment of geographic area within which the official Agency will provide official inspection services.

**Note.**—Section 7(f)(2) of the Act provides that not more than one official agency shall

be operative at one time for any geographic area as determined by the Administrator.

The geographic area assigned on an interim basis pending final determination in this matter is:

Bounded: on the North by the northern Bureau County line from State Route 88; the northern LaSalle and Grundy County lines; the northern Will County line east-southeast to Interstate 57;

Bounded: on the East by Interstate 57 south to U.S. Route 52; U.S. Route 52 south to the southern Kankakee County line;

Bounded: on the South by the southern Kankakee and Grundy County lines; the southern LaSalle County line west to State Route 17; State Route 17 west to U.S. Route 51; U.S. Route 51 north to State Route 18; State Route 18 west to State Route 26; State Route 26 north to Interstate 180; Interstate 180 west to State Route 29; State Route 29 south to the southern Bureau County line; the southern Bureau County line west to State Route 88; and

Bounded: on the West by State Route 88 north to the northern Bureau County line.

An exception to this geographic area is the following location situated inside the Agency's area which has been and will continue to be serviced by Illinois Department of Agriculture, Springfield, Illinois: Leland Farmers Company, Leland, Illinois, in LaSalle County.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located.

In addition to the specified service point within the geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain the address of the specified service point and a map of the proposed geographic area for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

This Agency has been performing official inspection services within the proposed geographic area since November 1978. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligations, and have limited public

affect. Therefore, the comment period shall be limited to 45 days.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250. All materials must be postmarked not later than January 3, 1980. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made.

(Secs. 8, 9, 27, Pub. L. 94-582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note))

Done in Washington, D.C. on November 13, 1979.

L. E. Bartelt,  
Administrator.

[FR Doc. 79-35554 Filed 11-16-79; 8:45 am]

BILLING CODE 3410-02-M

#### Official Agency Designation of the Kansas State Grain Inspection Department, Topeka, Kans., and Proposal of Geographic Area

**AGENCY:** Federal Grain Inspection Service, USDA.

**ACTION:** Notice and request for comments.

**SUMMARY:** This notice announces the designation of the Kansas State Grain Inspection Department, Topeka, Kansas, as an official agency to perform official inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

**DATE:** Comments to be postmarked on or before January 3, 1980.

**FOR FURTHER INFORMATION CONTACT:** J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

**SUPPLEMENTARY INFORMATION:** Kansas State Grain Inspection Department (the "Agency"), 535 Kansas Avenue, 8th Floor, Topeka, Kansas 66603, an existing official agency, made application pursuant to Section 7 of the United

States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), to be officially designated under the Act, to perform official inspection services, not including official weighing.

The Federal Grain Inspection Service (FGIS) has conducted the required investigation of the Agency which included onsite reviews of its inspection points (hereinafter "specified service points") and the Agency was deemed eligible for designation to perform official inspection services (other than appeal inspection), not including official weighing. The Agency was granted an interim designation effective November 20, 1978. A document designating the Agency as an official agency was signed on March 31, 1979. The designation also included an interim assignment of geographic area within which the official Agency will provide official inspection services.

**Note.**—Section 7(f)(2) of the Act provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

The geographic area assigned on an interim basis pending final determination in this matter is the entire State of Kansas.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located.

In addition to the specified service points within the geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the proposed geographic area and a list of specified service points for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

This Agency has been performing official inspection services within the proposed geographic area since November 1978. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligations, and have limited public affect. Therefore, the comment period shall be limited to 45 days.

Interested persons are hereby given opportunity to submit written views or comments with respect to the

geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250. All materials must be postmarked not later than January 3, 1980. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made.

(Secs. 8, 9, 27, Pub. L. 94-582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note))

Done in Washington, D.C. on November 13, 1979.

L. E. Bartelt,  
Administrator.

[FR Doc. 79-35553 Filed 11-16-79; 8:45 am]

BILLING CODE 3410-02-M

#### Official Agency Designation of the Louisville Grain Inspection Services, Inc., Louisville, Ky., and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice and request for comments.

**SUMMARY:** This notice announces the designation of the Louisville Grain Inspection Services, Inc., Louisville, Kentucky, as an official agency to perform official inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

**DATE:** Comments to be postmarked on or before January 3, 1980.

**FOR FURTHER INFORMATION CONTACT:** J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

**SUPPLEMENTARY INFORMATION:** Louisville Grain Inspection Services, Inc. (the "Agency"), 1400 Oldham Street, Louisville, Kentucky 40210, made application pursuant to section 7 of the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), to be officially designated under the Act, to perform official inspection services, not including official weighing.

The Federal Grain Inspection Service (FGIS) has conducted the required investigation of the Agency which included onsite reviews of its inspection points (hereinafter "specified service points") and the Agency was deemed eligible for designation to perform official inspection services (other than appeal inspection), not including official weighing. A document designating the Agency as an official agency was signed on April 15, 1979. The Agency is responsible for providing official grain inspection functions under the Act, replacing those official grain inspection functions previously provided by the Louisville Board of Trade. The designation also included an interim assignment of geographic area within which the official Agency will provide official inspection services.

**Note.**—Section 7(f)(2) of the Act provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

The geographic area assigned on an interim basis pending final determination in this matter is:

In Kentucky, the area shall include the following counties: Allen, Anderson, Barren, Breckinridge, Bullitt, Butler, Carroll, Edmonson, Fayette, Franklin, Grayson, Hardin, Hart, Henry, Jefferson, Jessamine, Larue, Meade, Nelson, Oldman, Scott, Shelby, Simpson, Spencer, Trimble, Warren, and Woodford.

In Indiana, the area shall include the following counties: Clark, Crawford, Floyd, Harrison, Jackson, Jennings, Jefferson, Lawrence, Martin, Orange, Scott, and Washington.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located.

In addition to the specified service points within the geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain a map of the proposed geographic area and a list of specified service points for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

Publications of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

This Agency has been performing official inspection services within the proposed geographic area since April 1979. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligations, and have limited public affect. Therefore, the comment period shall be limited to 45 days.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250. All materials must be postmarked not later than January 3, 1980. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made.

(Secs. 8, 9, 27, Pub. L. 94-582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note))

Done in Washington, D.C. on November 14, 1979.

L. E. Bartelt,  
Administrator.

[FR Doc. 79-35555 Filed 11-16-79; 8:45 am]

BILLING CODE 3410-02-M

#### CIVIL AERONAUTICS BOARD

[Docket No. 37061]

#### Air Midwest, Inc.; Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations

Notice is hereby given that, during the week ended November 9, 1979 CAB has received the applications listed below, which request the issuance, amendment, or renewal of certificates of public convenience and necessity or foreign air carrier permits under Subpart Q of 14 CFR Part 302.

Answers to foreign permit applications are due 28 days after the application is filed. Answers to certificate applications requesting restriction removal are due within 14 days of the filing of the application. Answers to conforming applications in a restriction removal proceeding are due 28 days after the filing of the original

application. Answers to certificate applications (other than restriction removals) are due 28 days after the filing of the application. Answers to conforming applications or those filed in conjunction with a motion to modify scope are due within 42 days after the original application was filed. If you are

in doubt as to the type of application which has been filed, contact the applicant, the Bureau of Pricing and Domestic Aviation (in interstate and overseas cases) or the Bureau of International Aviation (in foreign air transportation cases).

#### Subpart Q Applications

Date filed	Docket No.	Description
Nov. 9, 1979	37061	Air Midwest, Inc., c/o Nathaniel P. Breed, Jr., Shaw, Pittman, Potts & Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036. Application of Air Midwest, Inc. pursuant to section 401(e)(7) and 401(g) of the Act and Subpart Q of the Board's Procedural Regulations requesting amendment of its certificate of public convenience and necessity for Route 175, in the following respects: a. To redesignate the terminal point "Kansas City, Mo." to read "Kansas City, Mo. (to be served through Kansas City International Airport)", and b. To modify Condition (3) of said certificate to read as follows: "(3) The holder shall schedule a minimum of one intermediate point stop on all flights between Wichita, Kansas and Kansas City, Mo., Denver, Colo. and Kansas City, Mo., and Denver, Colo. and Wichita, Kans.: <i>Provided, however,</i> That if the holder has scheduled at least two daily round trips to a given point on its route, it may omit such point or points on any additional trip scheduled over all or part of said route." Conforming answers and applications are due December 7, 1979.

Phyllis T. Kaylor,  
Secretary.

[FR Doc. 79-35612 Filed 11-16-79; 8:45 am]

BILLING CODE 6320-01-M

#### [Dockets 33361, 32643, and 32644]

#### Former Large Irregular Air Service Investigation (Application of Peninsular Air Transport, Inc.); Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on January 8, 1980, at 9:30 a.m. (local time), in Hearing Room 1003B, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before me.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served November 9, 1978, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., November 13, 1979.

Marvin H. Morse,  
Administrative Law Judge.

[FR Doc. 79-35611 Filed 11-16-79; 8:45 am]

BILLING CODE 6320-01-M

#### [Order 79-11-15; Docket 37020, et al.]

#### Intra-Alaska Service Investigation Adopted by the Civil Aeronautics

Board at its office in Washington, D.C. on the 1st day of November, 1979. Application of Alaska Airlines, Inc., Docket 35868, to amend its certificate of public convenience and necessity for Route 138 (Bethel-Kenai-Anchorage/Fairbanks-Barrow-Prudhoe Bay). Application of Northwest Airlines, Inc., Docket 36131, for amendment of its certificate of public convenience and necessity (ANC-FAI). Application of Sea Airmotive, Inc., Docket 36470, for a certificate of public convenience and necessity. Application of Sea Airmotive, Inc., Docket 36471, for an exemption.

#### Order

On June 15, 1979, Alaska Airlines filed an application and petition for an order to show cause why its certificate of public convenience and necessity for Route 138 should not be amended to allow service between the coterminal points Anchorage and Fairbanks, on the one hand, and the coterminal points Bethel, Kenai, Barrow and Prudhoe Bay, Alaska, on the other hand.

In support of its application, Alaska states that the grant of this authority will increase passenger convenience by providing the first single-carrier service from these points to Portland and San Francisco, and allowing a resumption of jet service between Anchorage and Kenai. In addition, it states that it will extend its "Super Saver" discount fares

to each of the four new Alaska points that it is seeking. It further states that this grant of authority is consistent with our multiple permissive entry policy.

On July 13, 1979, Wien Air Alaska filed an answer to Alaska's application and petition. Wien states that the grant of this authority will cause diversion on two subsidy-eligible routes and that the Federal government will be required under the Airline Deregulation Act to increase its subsidy payments so as to make up for the loss caused by the diversion. It further argues that this award, in combination with the grant of pending applications for authority over some of its other routes, will produce such a great loss of revenue as to imperil its ability to discharge its certificate obligations. Wien also argues that the Alaska Airlines application should be denied because Alaska has not supplied the economic data and analysis required of a Subpart Q application. If we do not reject the application, it states that it should be heard by an administrative law judge for an Initial Decision because any proposed grant of Alaska's application would require detailed findings as to the impact upon the Federal Treasury, Wien, and the Alaska transportation system.

On September 26, 1979, Wien filed an amendment to its answer in which it argues that the Alaska application should be set for hearing. It states that Alaska Airlines and its management team have unlawfully acquired more than 20 percent of Wien's outstanding stock, and that this action is sufficiently serious to warrant an investigation into whether Alaska Airlines is fit to receive additional authority. On October 2, 1979, Alaska filed an amendment to its answer in which it argues that its fitness is not put into issue by its prior effort to acquire control of Wien.

On July 13, 1979, Northwest Airlines filed an application and a petition for an order to show cause why its certificate of public convenience and necessity for Route 3 should not be amended to allow service between Anchorage and Fairbanks; and filed a motion to consolidate its application with Alaska's application.

In support of its application, Northwest states that the grant of the authority that it requests is consonant with the Airline Deregulation Act's objective of placing maximum reliance on competition, which will in turn benefit the traveling public.

We have received no answers in response to Northwest' application, petition or motion to consolidate.

On August 28, 1979, Sea Airmotive filed an application and a petition for an order to show cause under Subpart Q for issuance of a certificate of public convenience and necessity for the routes which it is currently authorized to serve as a Part 298 air taxi and an intra-state carrier. On the same date it filed an application for an exemption for those routes.

In support of its application and petition, Sea Airmotive states that certificate status will enable it to transport interstate passengers and to carry mail, two functions which it claims it is unable to undertake in its current position. It further alleges that with CAB certification it will be able to secure loans more easily, obtain a more favorable listing in the OAG, and develop and expand competitive services to the benefit of the traveling public.<sup>1</sup> Finally, it states that there are no material issues as to either its fitness or the consistency of its application with the public convenience and necessity which warrant a hearing.

Sea Airmotive states that the award of an exemption pending the outcome of certification proceedings is in the public interest, inferring that under exemption authority it will be able to carry interstate passengers and mail which it is precluded from doing now. It points to its unsuccessful efforts to obtain Federal operating authority—efforts which have been hampered through no fault of its own—such as the *Alaska Service Investigation*, Docket 20826, and apparently regards the award of exemption authority as a first step in securing certificate authority.

On September 25, 1979, Wien filed answers to Sea Airmotive's application, petition and exemption request. Wien requests that a hearing be held on the issues of Sea Airmotive's fitness to receive certificate authority and the consistency of its application with the public convenience and necessity.

In both of its answers, Wien states that certification of Sea Airmotive will not provide it with any greater operating rights than it currently possesses, since it can now carry interstate passengers and mail. However, since certification will bring with it the right to transport mail under a service mail rate, Wien states that the diversion which it would experience on its mail routes will cause its subsidy needs to increase, and the competition on its mainline routes—which support its bush operations—will render it unable to carry out its certificate obligations.

<sup>1</sup> Sea Airmotive further requests that it be permitted to retain air taxi status after certification.

Wien further states that, since Sea Airmotive is an uncertificated carrier, its fitness has never been adjudicated before the CAB, and there exist fitness questions which must be dealt with before Sea Airmotive can receive authority.

On October 4, 1979, Sea Airmotive filed replies to Wien's answers in its certification and exemption dockets.<sup>2</sup> In its replies, it alleges that Wien has not brought forth any issues which warrant a hearing for their resolution; Wien presents pre-deregulation arguments, such as diversion and protectionism, which do not have merit here; Wien is requesting a hearing only in order to delay Sea Airmotive's certification; and there is an immediate public need which the award of exemption authority can satisfy.

On October 5, 1979, the U.S. Postal Service filed a consolidated answer to the applications of Sea Airmotive in which it supports Wien's position that the exemption should be denied and that a hearing should be held. On October 12, 1979, Sea Airmotive filed a reply in which it stated that the Postal Service raised insufficient and incorrect arguments to support its hearing request.<sup>3</sup>

We have decided to set the applications of Alaska, Sea Airmotive and Northwest for a formal hearing before an administrative law judge, and institute the *Intra-Alaska Service Investigation*, Docket 37020.

Section 102(a)(4) of the new Act directs us to place "maximum reliance on competitive market forces and on actual and potential competition (A) to provide the needed air transportation system, and (B) to encourage efficient and well-managed carriers to earn adequate profits and to attract capital." We have held that, as a rule, we will not consider diversion from incumbent carriers to be a significant factor in determining whether to grant route awards. As we noted in the *Oakland Service Case*, "diversion will not be of decisional significance unless it threatens an affected carrier's ability to perform its certificate obligations, or will necessarily result in termination of essential services which will not be replaced by an applicant or by other carriers."<sup>4</sup> Wien, the incumbent carrier in most of the markets involved, alleges that the first of these adverse effects

<sup>2</sup> Sea Airmotive's reply in Docket 36470 was accompanied by a motion for leave to file an unauthorized document. We grant that motion.

<sup>3</sup> The Postal Service's answer and Sea Airmotive's reply were accompanied by motions for leave to file an untimely document. We grant these motions.

<sup>4</sup> Order 78-4-121, April 19, 1978, p. 15.

will result from the certification of additional carriers in more of its markets. We are also dealing with the state of Alaska, which presents us with circumstances that are not present to the same degree in the Lower 48. As a result, we find that there may be "unusual factual circumstances"<sup>4</sup> present here which warrant a hearing for their resolution.

We recognize that we have already awarded competitive authority to Alaska and Great Northern for other Wien routes in the *Northwest Alaska Service Investigation*.<sup>5</sup> In the hearing held before Administrative Law Judge Frank M. Whiting, Wien raised diversion arguments similar to those raised here. Judge Whiting held, however, that Wien did not sustain its burden of proving that diversion would be so great that it would be unable to perform its certificate obligations, and we affirmed that aspect of the Judge's decision.<sup>6</sup>

Here, however, Wien argues that the combination of the awards in that case, plus those sought here and those elsewhere at issue, will result in a level of diversion which rises to a significant factor for decision. These allegations are made against a background of a steadily weakening financial position. For the year ended September 30, 1978, its operating profit without subsidy was \$2,123,585. This figure dropped to \$1,698,169 for the year ended December 30, 1978, and to \$340,142 for the year ended March 31, 1979. For the year ended June 30, 1979, it suffered an operating loss of \$240,117. Its operating profit with subsidy has likewise shown a steady decline from \$4,040,749 for the year ended September 30, 1978, to \$1,451,754 for the year ended June 30, 1979.<sup>7</sup> Moreover, Wien has experienced difficulties in taking advantage of our liberal route policies not experienced by other carriers. The range of its largest aircraft, the 737, sharply limits the Alaska-lower U.S. markets it can serve, and in the major Alaska-lower U.S. market it does serve, Anchorage-Seattle, it faces sharp competition from carriers using larger jet equipment, such as the 747, DC-10, 707 and 727.

In light of these special circumstances, we have decided that Wien should be given an opportunity to prove that the award of additional authority in more of

<sup>4</sup> *Improved Authority to Wichita Case, et. al.*, Order 78-12-106, December 14, 1978.

<sup>5</sup> Order 79-8-132, August 24, 1979.

<sup>6</sup> Order 79-8-132, August 24, 1979, affirming the Initial Decision of Administrative Law Judge Frank M. Whiting, *Northwest Alaska Service Investigation*, Docket 31571, October 26, 1979, pp. 48-49.

<sup>7</sup> CAB Form 41.

its markets will create the results it alleges. Even if Wien's allegations of substantial financial distress are correct and a loss of revenues may prevent Wien from fulfilling its certificate obligations, this should not end the inquiry. Rather, we expect the proceeding to resolve the question of whether the benefits of actual and potential competition outweigh the economic harm which would come to Wien. These benefits may be realized in the form of improved service to the Alaska points, a lowered subsidy bill, as more efficient carriers serve the subsidized routes, and the general benefits of competitive service to the traveling public which may result from multiple awards, not withstanding Wien's decline.

We believe that the question of Sea Airmotive's fitness should be explored in a formal hearing, in line with our policy in cases of initial certification.<sup>8</sup>

Finally, we have decided to deny Sea Airmotive's exemption request. While we recognize the difficulties inherent in providing air service in Alaska, Sea Airmotive has not persuaded us that there is an immediate public need to be satisfied by granting it exemption authority, since it can currently serve all the points named in its application as an air taxi or intra-state carrier.

Sea Airmotive alleges in both its exemption request and petition for an order to show cause that certification will enable it to carry interstate passengers and mail. However, as Wien correctly notes in its answers to both the petition for an order to show cause and the exemption request, Sea Airmotive currently can enter into interline agreements with certificated carriers and can transport persons and property moving in interstate commerce.<sup>9</sup> Exemption authority will not broaden this right. Nor will exemption authority create any greater entitlement to carry mail than Sea Airmotive currently holds. The Postal Service has statutory authority to contract for the services of an air taxi if it deems the certificated carrier's services to be inadequate.<sup>10</sup> While a certificated carrier may carry mail under a service mail rate (*i.e.*, deliver mail on a piecemeal basis and receive the prescribed rate from the Postal Service) and an air taxi cannot, the award of exemption authority will

not place an air taxi in the position of a certificated carrier with respect to the carriage of mail.<sup>11</sup>

We expect this case to proceed expeditiously. Under the Deregulation Act, applicants are entitled to processing of their applications within eleven months. Consequently, we are invoking the procedural deadlines of Subpart Q of our Procedural Regulations so that an initial decision must be issued within 150 days of the service date of this order.

Accordingly,

1. We institute a proceeding to be known as the *Intra-Alaska Service Investigation*, Docket 37020, to be set down for hearing before an administrative law judge of the Board at a time and place to be designated later;

2. We include the following issues in this proceeding:

(a) Is it consistent with the public convenience and necessity to grant the applications of Alaska Airlines, Northwest Airlines, and Sea Airmotive?

(b) Are the applicants fit, willing and able to receive the certificate authority they seek?

(c) If so, what terms, conditions and/or limitations should be placed on the operations of such carriers?

3. The authority granted in this proceeding shall be ineligible for section 406 subsidy;

4. The following are made parties to this proceeding: Alaska Airlines, Northwest Airlines, Sea Airmotive and Wien Air Alaska;

5. We consolidate the applications of Alaska Airlines in Docket 35868, Northwest Airlines in Docket 36131, and Sea Airmotive in Docket 36470, to the extent that they conform to the scope of the issues as stated above, into Docket 37020; otherwise we dismiss them without prejudice;

6. Applications, motions to consolidate, and petitions for reconsideration of this order shall be filed 20 days from the date of adoption of this order and answers shall be filed 15 days thereafter;

7. We deny the petitions of Sea Airmotive and Alaska for an order to show cause, in Dockets 36470 and 35868, respectively;

8. We deny Sea Airmotive's application for an exemption in Docket 36471;

<sup>11</sup> Sea Airmotive cites Altair's exemption in the Norfolk-Washington, D.C. market as an example of a commuter receiving exemption authority in a market which it can serve in its commuter status. We granted the exemption in Altair's case because the carrier felt that certification will help it gain access to National Airport and, since the market in issue had recently lost significant service, we decided to do all in our power to encourage new entry.

9. We deny Northwest's motion to consolidate its application in Docket 36131 into Docket 35868; and

10. We shall serve a copy of this order on the persons listed in the attached appendix.

This order will be published in the *Federal Register*.<sup>12</sup>

By the Civil Aeronautics Board,

Phyllis T. Kaylor,<sup>13</sup>

Secretary.

[FR Doc. 79-35614 Filed 11-16-79; 8:45 am]

BILLING CODE 6320-01-M

## COMMISSION ON CIVIL RIGHTS

### Wisconsin Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Wisconsin Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and will end at 12:00 p.m., on December 11, 1979, at the Madison-Northwest, Holiday Inn, 4402 East Washington Avenue, Highway 152 North, Madison, Wisconsin 53704.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is to discuss pending Vocational Education Project; set meetings for next FY '79-80; and discuss assessment of Bilingual Program in Wisconsin Sub-Committee Report.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., November 14, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-35621 Filed 11-16-79; 8:45 am]

BILLING CODE 6335-01-M

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

[Docket No. 12-79]

### Foreign-Trade Zone—Burlington, Vt.; Application and Public Hearing

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the Greater Burlington Industrial

<sup>12</sup> Appendix filed as part of the original document.

<sup>13</sup> All Members concurred.

<sup>8</sup> We are interested in reducing the burden of this proceeding on Sea Airmotive, a small carrier, to the necessary minimum and we urge the administrative law judge to exercise his discretion to that end. We note that Sea Airmotive has already filed extensive material going to its fitness and we see no reason why any of this data should be duplicated.

<sup>9</sup> Section 401(d)(4)(A)(ii).

<sup>10</sup> 39 U.S.C. 5402(c). See also 14 CFR 298.35.

Corporation (G.B.I.C.), a non-profit development corporation, Burlington, Vermont, requesting authority to establish a general-purpose foreign-trade zone at the Burlington International Airport in South Burlington, within the Burlington Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on November 8, 1979. G.B.I.C. is authorized to make this proposal under Section 4122, Chapter 111, Title 9 of the Vermont State Acts, effective March 3, 1976.

The proposal calls for the establishment of a general-purpose foreign-trade zone within the 104-acre Airport Industrial Park being developed at the airport. The zone will cover 12.7 acres of land which the applicant has leased from the City of Burlington for zone development. An existing warehouse facility on the site would be the zone's first operation. Cynosure, Inc., a sister corporation of G.B.I.C., will serve as operator and developer of the zone. The site is readily accessible to the areas's interstate highway system and rail terminals.

The application contains economic data and information concerning the need for providing zone services for firms in the Burlington area. Several firms have indicated their intention to use the zone for warehousing, manipulation, and distribution activities on various products including medical equipment, sporting goods, bobbins, and hardware items.

In accordance with the Board's regulations, an Examiners Committee has been appointed to investigate the application and report thereon to the Board. The Committee consists of Hugh J. Dolan (Chairman), Office of the Secretary, U.S. Department of Commerce, 14th and E Streets, N.W., Washington, D.C. 20230; Donald F. Kelly, Assistant Regional Commissioner (Operations), U.S. Customs Service, Region I, Suite 1819, 100 Summer Street, Boston, Massachusetts 02110; and Colonel Clark H. Benn, District Engineer, U.S. Army Engineer District New York, 26 Federal Plaza, New York, N.Y. 10007.

As part of its investigation of the proposal, the Examiners Committee will hold a public hearing on December 12, 1979, beginning at 9:00 a.m., in the R. A. Contois Council Room, Main Floor, City Hall, located at Church and Main Streets in Burlington, Vermont. The purpose of the hearing is to help inform interested persons about the proposal, to provide an opportunity for their

expression of views, and to obtain information useful to the examiners.

Interested persons or their representatives are invited to present their views at the hearing. Such persons should, by December 5, notify the Board's Executive Secretary of their desire to be heard either in writing at the address below or by phone (202) 377-2862. In lieu of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the Examiners Committee, care of the Executive Secretary, at any time from the date of this notice through January 11, 1980. Evidence submitted during the post-hearing period is not desired unless it is clearly shown that the matter is new and material and that there are good reasons why it could not be presented at the hearing. A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

Greater Burlington Industrial Corporation,  
135 Church Street, Room 201, Burlington,  
Vermont 05401.

Office of the Executive Secretary, Foreign-  
Trade Zones Board, U.S. Department of  
Commerce, Room 6886-B, 14th and E  
Streets, N.W., Washington, D.C. 20230.

Dated: November 9, 1979.

John J. Da Ponte, Jr.,  
*Executive Secretary, Foreign-Trades Zones  
Board.*

[FR Doc. 79-35508 Filed 11-18-79; 8:45 am]

BILLING CODE 3510-25-M

#### [Docket No. 13-79]

#### **Proposed Foreign-Trade Zone— Bangor, Maine; Application and Public Hearing**

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of Bangor, Maine, a municipal corporation, requesting authority to establish a general-purpose foreign-trade zone in Bangor, within the Bangor Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. Section 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on November 9, 1979. The City is authorized to make this application under S.P. 128, adopted May 27, 1977, as an amendment to Chapter 114, Section 1, Private and Special Laws of the State of Maine, giving municipalities the authority to apply for foreign-trade zones with the approval of the State's Department of Transportation. Such approval was given by letter dated July 11, 1979.

The proposal calls for the establishment of a foreign-trade zone at the Bangor International Airport, a former Air Force Base transferred to the City in 1978. The zone would consist of two parcels of 1.7 and 24.6 acres within the airport facility. The 1.7 acre parcel contains a dual hangar with 21,800 square feet of warehouse/processing space. Initial zone activities would be confined to the south hangar, with the remainder being used for general air cargo operations and administration. The larger zone parcel is planned for development as part of the City's industrial development efforts. Bangor Airport Civic Development Corporation, a nonprofit corporation established by the City to manage and develop airport properties, would be designated as operator. The airport sites have direct access to the interstate highways and major rail services of the area.

The application contains economic data and information concerning the need for zone services in the Bangor area. Several firms have indicated their intention to use the zone for storage, repackaging and processing on a range of products including leather, seafood, and various souvenir items. Zone procedures are also being requested for operations involving the manufacture of imported footwear machinery to meet certain customer specifications and the manufacturing of clothespins from imported wire and domestic wood materials. Interest in the zone has been expressed by various airlines and freight forwarders because of the services it can provide for their customers.

In accordance with the Board's regulations, an Examiners Committee has been appointed to investigate the application and report thereon to the Board. The Committee consists of: Hugh J. Dolan (Chairman), Office of the Secretary, U.S. Department of Commerce, 14th and E Streets, NW, Washington, D.C. 20230; Donald F. Kelly, Assistant Regional Commissioner (Operations), U.S. Customs Service, Region I, 100 Summer Street, Suite 1819, Boston, Massachusetts 02110; and Colonel Max B. Scheider, Division Engineer, U.S. Army Engineer Division New England, 424 Trapelo Road, Waltham, Massachusetts 02154.

As part of its investigation of the proposal, the Examiners Committee will hold a public hearing on December 13, 1979, beginning at 9:00 a.m., in the Bangor City Council Chambers at City Hall, 73 Harlow Street, Bangor, Maine. The purpose of the hearing is to help inform interested persons about the proposal, to provide an opportunity for

their expression of views, and to obtain information useful to the examiners.

Interested persons or their representatives are invited to present their views at the hearing. They should notify the Board's Executive Secretary by December 6 of their desire to be heard in writing at the address below or by phone (202) 377-2862. In lieu of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the Examiners Committee, care of the Executive Secretary, at any time from the date of this notice through January 14, 1980. Evidence submitted during the post-hearing period is not desired unless it is clearly shown that the matter is new and material and that there are good reasons why it could not be presented at the hearing.

A copy of the application and accompanying exhibits will be available for public inspection during the comment period at each of the following locations:

Economic Development Department, Bangor City Hall, 73 Harlow Street, Bangor, Maine 04401.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 6886-B, Washington, D.C. 20230.

Dated: November 9, 1979.

John J. Da Ponte, Jr.,  
Executive Secretary, Foreign-Trade Zones Board.

[FR Doc. 79-35507 Filed 11-16-79; 8:45 am]

BILLING CODE 3510-25-M

### National Oceanic and Atmospheric Administration

#### Mid-Atlantic Fishery Management Council; Public Meeting

Agency: National Marine Fisheries Service, NOAA.

Summary: The Mid-Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Public Law 94-265), will meet to discuss fishery management plans, fishery management matters, as well as administrative matters.

Dates: The meetings will convene on Wednesday, December 12, 1979, at 1 p.m., and will adjourn on Friday, December 14, 1979, at approximately 1 p.m. The meetings are open to the public.

Address: The meetings will take place at the Best Western Motel, Philadelphia International Airport, Route 291, Philadelphia, Pennsylvania.

For Further Information Contact: Mid-Atlantic Fishery Management Council, North and New Streets, Room 2115, Federal Building, Dover, Delaware 19901.

Dated: November 13, 1979.

Jack W. Gehringer,  
Deputy Assistant Administrator, National Marine Fisheries Service.

[FR Doc. 79-35500 Filed 11-16-79; 8:45 am]

BILLING CODE 3510-22-M

### Maritime Administration

[Docket No. S-652]

#### Ogden Leader Transport, Inc., Rio Grande Transport, Inc.; Applications by Bulk Vessel Operators for Section 805(a) Approvals

Notice is hereby given that the affiliated companies, Ogden Leader Transport Inc. (Leader) and Rio Grande Transport, Inc. (Rio Grande), have filed applications under the Merchant Marine Act, 1936, as amended (the Act) for operating-differential subsidy to engage in bulk cargo carrying service in the U.S. foreign trade, principally between the United States and the Union of Soviet Socialist Republics (U.S.S.R.), to expire on December 31, 1979, unless extended. Inasmuch as Leader and Rio Grande, and/or related persons or firms, employ or may employ ships in the domestic intercoastal or coastwise service, written permission of the Maritime Administration under section 805(a) of the Act will be required if the applications for operating-differential subsidy are to be approved.

Leader and Rio Grande request written permission under section 805(a) to own, charter and/or operate the *Ogden Leader* (formerly the *Eagle Leader*) and the *Ogden Charger* (formerly the *Eagle Charger*), respectively, in the domestic intercoastal or coastwise service. It will be necessary to extend to the affiliates of Leader and Rio Grande who are holders of operating-differential subsidy contracts in the grain trade to the U.S.S.R. the written permission requested by Leader and Rio Grande. These affiliates are as follows:

Connecticut Transport, Inc. (Connecticut)  
Wabash Transport, Inc. (Wabash)  
Willamette Transport, Inc. (Willamette)  
Empire Transport, Inc. (Empire)  
Ogden Merrimac Transport, Inc. (Merrimac)  
Ogden Sea Transport, Inc. (Ogden Sea)  
Penn Tanker Company (Penn)

Conversely, it will be necessary to extend to Leader and Rio Grande the section 805(a) written permission previously granted to the above affiliates. This permission is as follows:

For the following vessels to engage in domestic intercoastal or coastwise service:

#### Vessel and Owner

Connecticut (Connecticut)  
Ogden Wabash (Wabash)  
Ogden Willamette (Willamette)  
Potomac (Empire)  
Merrimac (Merrimac)  
Columbia (Ogden Sea)  
Ogden Champion and Ogden Challenger (Penn)

The foregoing written permissions for Leader, Rio Grande, and the affiliates are required notwithstanding the fact that a grain voyage would not be eligible for subsidy if the vessel engaged in the domestic trade on that voyage.

Any person, firm, or corporation having any interest (within the meaning of section 805(a)) in such applications and desiring to be heard on issues pertinent to section 805(a) and desiring to submit comments or views concerning the applications must, by close of business on December 13, 1979 file same with the Secretary, Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing will be held, the purpose of which will be to receive evidence under section 805(a) relative to whether the proposed operations (a) could result in unfair competition to any person, firm, or corporation operating exclusively in the coastwise or intercoastal service, or (b) would be prejudicial to the objects and policy of the Act relative to domestic trade operations.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS))

By Order of the Assistant Secretary for Maritime Affairs.

Dated: November 13, 1979.

Robert J. Patton, Jr.,  
Secretary.

[FR Doc. 79-35622 Filed 11-16-79; 8:45 am]

BILLING CODE 3510-15-M

**Office of the Secretary**

[Department Organization Order 10-3; Transmittal 467; Amdt. 4]

**Assistant Secretary For Industry and Trade; Delegation of Authority.**

Effective date: October 1, 1979.

This order effective October 1, 1979 further amends the materials appearing at 42 FR 64721 of December 28, 1977, 43 FR 27224 of June 23, 1978, 43 FR 35523 of August 10, 1978, and 44 FR 55026 of September 24, 1979.

Department Organization Order 10-3 dated December 4, 1977 is hereby further amended as shown below. The purpose of this amendment is to transfer certain delegated authorities from the Assistant Secretary for Tourism to the Assistant Secretary for Industry and Trade.

In Section 4. Delegation of Authority, a new subparagraph .01ii. is added to read as follows:

"ii. The Act of May 27, 1970 (Pub. L. 91-269, 22 U.S.C. 2801 *et seq.*) relating to participation of the United States in international expositions."

Guy W. Chamberlin, Jr.,

*Acting Assistant Secretary for Administration*

[FR Doc. 79-35545 Filed 11-16-79; 8:45 am]

BILLING CODE 3510-17-M

[Dept. Organization Order 10-7; Amdt. 1; Transmittal]

**Assistant Secretary for Tourism; Delegation of Authority**

Effective date: October 1, 1979.

This order effective October 1, 1979 amends the material appearing at 41 FR 5856 of February 10, 1976.

Department Organization Order 10-7 dated January 16, 1976 is hereby amended as shown below. The purpose of this amendment is to transfer certain delegated authorities from the Assistant Secretary for Tourism to the Assistant Secretary for Industry and Trade.

1. In Section 3. Delegation of Authority, in pen and ink subparagraph .01c. is deleted, and subparagraphs .01d. and .01e. are relettered .01c. and .01d., respectively.

2. In Section 4. Functions, in pen and ink subparagraph k.(1) is deleted, and subparagraphs k.(2) and k.(3) are renumbered as k.(1) and k.(2), respectively.

Guy W. Chamberlin, Jr.,

*Acting Assistant Secretary for Administration*

[FR Doc. 79-35546 Filed 11-16-79; 8:45 am]

BILLING CODE 3510-17-M

[Department Organization Order 40-1; Amdt. 5; Transmittal 470]

**Industry and Trade Administration; Delegation of Authority**

Effective date: October 1, 1979.

This order effective October 1, 1979 further amends the material appearing at 42 FR 64724 of December 28, 1977, 43 FR 35522 of August 10, 1978, of 43 FR 38614 of August 29, 1978, of 44 FR 24618 of April 26, 1979, and 44 FR 49005 of August 21, 1979.

Department Organization Order 40-1 dated December 4, 1977 is hereby further amended as shown below. The purpose of this amendment is to transfer the international expositions functions of the United States Travel Service to the Office of Export Promotion, Bureau of Export Development.

In Section 5. Bureau of Export Development, Paragraph .02 is revised to read as follows:

".02 The *Office of Export Promotion* shall implement the Bureau's overseas trade promotion programs; be responsible for recruitment of participants in all overseas trade events; provide logistical, design, and operations support for all overseas trade promotion events; conduct market promotion activities at all U.S. trade fairs and marketing centers; develop and carry out special trade promotion techniques, such as trade seminar missions and other selective marketing techniques; and carry out the international expositions functions under Pub. L. 91-269."

Guy W. Chamberlin, Jr.,

*Acting Assistant Secretary for Administration*

[FR Doc. 79-35550 Filed 11-16-79 8:45 am]

BILLING CODE 3510-17-M

[Department Organization Order 25-4A; Transmittal 465]

**Minority Business Development Agency; Delegation of Authority**

Effective date: November 1, 1979.

This order effective November 1, 1979 supersedes the material appearing at 37 FR 5650 of March 17, 1972.

**Section 1. Purpose**

.01 This Order assigns functions to the Minority Business Development agency, as prescribed by Executive Order 11625, dated October 13, 1971, as amended, entitled "Prescribing Additional Arrangements for Developing and Coordinating a National Program for Minority Business Enterprise."

.02 The purpose of this revision is to change the title of the Office of Minority

Business Enterprise to the Minority Business Development Agency, and to prescribe the functions of the Agency.

**Section 2. Status and Line of Authority**

The Minority Business Development Agency ("MBDA") is hereby established as a primary operating unit of the Department of Commerce. MBDA shall be headed by a Director who shall report and be responsible to the Secretary.

**Section 3. Delegation of Authority**

.01 Pursuant to the authority vested in the Secretary by law and subject to such policy and directives as may be prescribed, the Director is hereby delegated the following authorities of the Secretary insofar as they apply to performing the functions assigned in this Order:

a. The authority under Executive Order 11625, as amended.

b. Other authorities of the Secretary pertinent to such functions.

.02 The Director may delegate these authorities to any employee of MBDA subject to such conditions in the exercise of such authority as may be prescribed by the Director.

**Section 4. Functions**

The MBDA shall assist the Secretary in carrying out the functions under Executive Order 11625, as amended, by performing the following functions:

a. Facilitate the coordination, as consistent with law, of the plans, programs, and operations of the Federal Government which affect or may contribute to the establishment, preservation, and strengthening of minority business enterprise. For this purpose, it shall:

1. With the participation of other departments and agencies as appropriate, develop comprehensive plans and specific program goals for the minority enterprise program; establish regular performance monitoring and reporting systems to assure that goals are being achieved; and evaluate the impact of Federal support in achieving the objectives established by Executive Order 11625, as amended.

2. Propose to the Secretary the convening, for purposes of coordination, of meetings of the heads of such departments and agencies or their designees, whose programs or activities may affect or contribute to the purposes of Executive Order 11625, as amended.

3. Assist the Secretary in securing necessary action by such departments and agencies to discharge their responsibilities under Section 3 of Executive Order 11625, as amended.

4. Establish arrangements for reviewing, on a coordinated basis with the departments and agencies involved, all proposed Federal training and technical assistance activities in direct support of the minority enterprise program, to assure consistency with program goals and to avoid duplication.

b. Promote the mobilization of activities and resources of State and local governments, businesses and trade associations, universities, foundations, professional organizations, and volunteer and other groups towards the growth of minority business enterprises, and facilitate the coordination of the efforts of these groups with those of Federal departments and agencies. As deemed necessary and appropriate to carry out these responsibilities, it shall:

1. Convene business leaders, educators, and other representatives of the private sector who are engaged in assisting the development of minority business enterprise or who could contribute to its development, for the purpose of proposing, evaluating and coordinating governmental and private activities in furtherance of the objectives of Executive Order 11625, as amended.

2. Confer with and advise officials of State and local governments.

c. Operate a center for the development, collection, summarization, and dissemination of information that will be helpful to persons and organizations throughout the Nation in undertaking or promoting the establishment and successful operation of minority business enterprise.

d. Within constraints of law and appropriations therefor, provide financial assistance to public and private organizations so that they may render technical and management assistance to minority business enterprises, and defray all or part of the costs of pilot or demonstration projects conducted by public or private agencies or organizations which are designed to overcome the special problems of minority business enterprises or otherwise to further the purposes of the minority business enterprise program.

e. Establish policies, standards, definitions, criteria, and procedures appropriate and incident to the functions herein assigned to MBDA, and propose for the Secretary's consideration such additional measures as determined to be necessary for the implementation, interpretation, and application of Executive Order 11625, as amended, or for otherwise achieving the purposes and carrying out the provisions of that Order.

f. After the close of each fiscal year, prepare (for the Secretary to transmit to

the President) a full report of the Department's activities under Executive Order 11625, as amended, during that year, and, from time to time, submit to the Secretary MBDA's recommendations for legislation or other actions deemed desirable to promote the purposes of that Order.

#### Section 5. Support Services

The Office of the Assistant Secretary for Administration shall perform personnel, procurement, accounting and payroll services for MBDA.

Guy W. Chamberlin, Jr.,  
Acting Assistant Secretary for  
Administration.

[FR Doc. 79-35548 Filed 11-16-79; 8:45 am]

BILLING CODE 3510-17-M

#### [Department Organization Order 25-4B; Transmittal 466]

#### Minority Business Development Agency; Delegation of Authority

Effective date: November 1, 1979.

This order effective November 1, 1979 supersedes the material appearing 41 FR 21209 of May 24, 1976, 41 FR 22291 of June 2, 1976 and 43 FR 43537 of September 26, 1978.

#### Section 1. Purpose

.01 This Order prescribes the internal organization, management structure, and assignment of major functions within the Minority Business Development Agency (MBDA). The scope of authority and functions of MBDA are set forth in Department Organization Order 25-4A.

.02 The purpose of this revision is to change the title of the Office of Minority Business Enterprise to the Minority Business Development Agency, and to prescribe the organizational structure and functions of MBDA.

#### Section 2. Organization Structure

The organization structure of MBDA and principal lines of authority shall be as depicted in the attached organization chart (Exhibit 1). A copy of the organization chart is on file with the original of this document in the Office of the Federal Register.

#### Section 3. Office of the Director

.01 The Director shall formulate policies and programs for, and direct and manage all activities of MBDA (hereinafter, "the Agency").

.02 The Deputy Director is the principal assistant to the Director and acts for the Director in the latter's absence. The Deputy is responsible for coordinating Departmental and Agency development of policies, goals, and

objectives, providing day-to-day direction of Agency operations, and awarding Agency grants and cooperative agreements.

.03 The Executive Secretariat provides secretarial support and coordinates and controls executive correspondence for the Director and Deputy Director.

#### Section 4. Staff Offices

##### .01 The Office of Chief Counsel.

a. Provides legal support to the Director and legal services for all components of the Agency; prepares or clears all legislative proposals initiated by any component of the Agency; and reviews and analyzes proposed legislation related to or affecting minority enterprise development. The Office provides legal review of Agency interagency agreements, grants, and cooperative agreements.

b. Assesses the impact of proposed Federal regulations on minority business, and, if appropriate, prepares Agency positions.

c. These activities are carried out subject to the overall authority of the General Counsel of the Department as provided for in Department Organization Order 10-6.

##### .02 The Office of Congressional Affairs.

a. Serves as the focal point for liaison with Congress on all Agency activities; provides counsel on all Agency activities which involve Congressional testimony, briefings, and other matters of Congressional interest; coordinates and controls responses to Congressional inquiries and requests for information and assistance; and informs Agency management on Congressional matters of interest.

b. These activities shall be carried out in collaboration with the Departmental Office of Congressional Affairs.

##### .03 The Office of Public Affairs.

a. Serves as the focal point for all public affairs activities; plans, develops, and implements a coordinated public information program throughout the Agency; assigns, edits, and publishes Agency articles and official publications; and provides technical assistance and support to the Agency for publications, speeches, printing, graphics, and audio-visual displays and presentations.

b. These activities shall be carried out in collaboration with the Departmental Office of Public Affairs.

#### Section 5. Office of Policy and Market Development

.01 The Office shall be headed by an Associate Director for Policy and Market Development, who is

responsible for formulating Agency policy and advising the Director and key Agency officials on policy matters, issues, new directions and interests in minority business development; providing a major market development and promotional program on behalf of minority businesses through expanded private and public sector support; and serving as the Executive Director of the Interagency Council for Minority Business Enterprise (IAC). The Associate Director shall be assisted by:

a. The *Deputy Associate Director for Market Development*, who is the principal assistant to and acts for the Associate Director, and coordinates the interpretation of Agency policies, goals, and objectives for market and other resource development.

b. The *Deputy Associate Director for Policy*, who is the principal assistant to the Associate Director on all matters relating to the development of Agency policies, and is responsible for overall Agency policy formulation and review.

.02 The functions of the Office shall be carried out through its principal organizational elements as prescribed below:

a. The *Industry and Trade Market Development Division* is responsible for developing Agency programs for, and promoting the development of private sector markets for minority businesses.

b. The *Governmental Resources Development Division* is responsible for overall program development and implementation within the public sector. The Division focuses its activities on two levels:

1. In the area of Federal agency coordination, the Division provides staff support to the Associate Director for Interagency Council activities, formulates Agency policies and develops programs to increase minority business participation in Federal programs and initiatives in support of minority business enterprise.

2. In the area of State and local resources development, the Division formulates Agency policies and develops programs to: promote State and local government participation in minority business development and promotion of market opportunities; promote minority business participation in Federally-sponsored, intergovernmental programs and initiatives; and to promote private sector and community support for minority business development.

c. The *Capital Development Division* formulates Agency programs to: develop sources of an increase the availability of equity capital and other forms of financing to minority firms; promote and assist in the establishment and growth

of and deposits with minority-owned financial institutions; promote and assist in the establishment and growth and activities of Minority Enterprise Small Business Investment Corporations (MESBICs), provide specialized assistance to minority persons and firms, regarding mergers and acquisitions. The Division provides an Agency focal point for an coordinates with other Commerce and Federal agencies programs designed to increase capital resources available to minority business persons and firms.

d. The *Management Development Division* develops programs for developing management skills of minority business managers and entrepreneurs; develops programs for and promotes professional development opportunities; administers comprehensive and centralized programs of formal management and entrepreneurial development; and promotes participation of minority students in business and management courses of study.

#### Section 6. Office of Enterprise Development.

.01 The Office shall be headed by an *Assistant Director for Enterprise Development*, who is responsible for overall direction and development of policies and programs to provide effective, long-term technical assistance to eligible firms; provides intensive developmental assistance to a selected number of medium-sized and larger minority firms, and special developmental support to minority firms involved in growth sectors of the economy to enable minority firms to exploit the potential of technology-based business opportunities. The Assistant Director also provides overall planning, direction and support to Regional and an Agency-funded network of enterprise development activities. Serves as the focal point to coordinate Headquarters activities which are to be carried out in the field and/or which have Regional impact.

.02 The Assistant Director shall be assisted by the *Deputy Assistant Director for Native American Programs*, who shall be the principal advisor to the Assistant Director on Agency policies, program initiatives, goals, and funding plans which would affect Native Americans; designs Agency policies, programs, and plans which meet specific requirements of Native Americans, and serves as a focal point and liaison to promote interests of Native American groups.

.03 The functions of the Office shall be carried out through its principal

organizational elements as prescribed below:

a. The *Client Services Support Division* identifies the need for, designs, and develops programs, policies, and priorities for the delivery of specialized management and technical assistance and services to client minority firms; designs and develops program requirements, structures and procedures to integrate the implementation of new and revised Agency policies; analyzes performance data for enterprise development activities and coordinates the preparation of regular status reports; and develops and manages contracts, grants and cooperative agreements which have a national or multi-Regional scope, to include Specialized Consultant Services.

b. The *Field Operations Support Division* provides a liaison between Headquarters and Regional Offices; acts as "ombudsman" for the field to Headquarters in the areas of program development and implementation, financial management, and technical and administrative problems.

c. The *Industry and Technology Division* provides mechanisms for the entry of minority businesses into technology-based, emerging industries and sectors of the economy exhibiting long-term growth potential; and provides overall direction, and coordinates technology commercialization activities.

#### Section 7. Office of Planning, Budget and Evaluation

.01 The Office, shall be headed by an *Assistant Director for Planning, Budget and Evaluation*, who is responsible for long and short-range Agency planning and programming, all aspects of financial management, the establishment of program performance goals and objectives, evaluation of Agency programs, the development and improvement of management systems and operations, administrative support, and the administrative management of Agency grants and cooperative agreements.

.02 The functions of the Office shall be carried out through its principal organizational elements as prescribed below:

a. The *Planning and Programming Division* develops annual and long-range Agency program goals and objectives, allocation of financial resources among program activities, and assists Agency managers in all aspects of program and financial planning.

b. The *Financial Management Division* develops and administers the comprehensive budget and financial management program for the Agency to include ongoing budget and financial

planning, analysis, control and reporting, and, budget proposal preparation, justification and execution.

c. The *Program Evaluation Division* develops and conducts a comprehensive, ongoing evaluation program designed to assess and improve the impact and performance effectiveness of Agency programs, projects and related activities.

d. The *Management Systems Division* provides, for the Director and other Agency managers, a comprehensive program of management, organization, and operations analysis, planning and control; manpower, human resource development and productivity, performance measurement and evaluation, work systems and procedures, management improvement programs; and Agency directives.

e. The *Grants Administration Division* is responsible for the administration of Agency and Departmental policies and procedures pertaining to the awarding and administration of Agency grants and cooperative agreements.

f. The *Administrative Support Division* coordinates Agency requests and serves as the focal point for actions concerning the administrative services specifically provided by the Assistant Secretary for Administration under Department Organization Order 25-4A, and is responsible for providing other such services as are required, including: property management, supply, reference library, occupational safety and health, forms and records management, and reproduction.

#### Section 8. Office of Research and Information

.01 The Office shall be headed by an *Assistant Director for Research and Information*, who is responsible for providing research and information concerning national and international economic conditions that may impact on minority business; problems of an opportunities for minority business development and growth; minority business policies and programs of the Agency; and systematically processing and disseminating this information in support of minority business enterprise and market development activities of the Agency.

.02 The functions of the Office shall be carried out through its principal organizational elements as prescribed below:

a. The *Research Division* conducts research, gathers and analyzes business and economic data, and formulates recommendations to improved existing or proposed Agency policies, programs, goals and objectives in the areas of minority enterprise and market

development; and conducts research tailored to the specific needs of Agency programs and activities and minority businesspersons and firms.

b. The *Information Management Division* is responsible for the collection, processing, and assembly of ongoing and special data and reports; planning for, developing and maintaining information systems designed to satisfy management requirements, and developing standards for and maintaining documentation and quality of information systems.

c. The *Information Clearinghouse* is responsible for developing and maintaining a comprehensive inventory of publications related to minority business enterprise and market development, and Agency programs and services; and distributes information and publications in support of Agency programs and outreach activities to the minority business community.

#### Section 9. Field Structure

The *Field Structure*, as shown in Exhibit 2., shall consist of the following organizational elements. A copy of the Field Structure is on file with the original of this document in the Office of The Federal Register.

a. The *Regional Offices*, shall be headed by Regional Directors who shall report and be responsible to the Director. The Offices shall represent the Agency within the geographic area of the Region, and are responsible for the implementation of its policies and programs within the Region. In cooperation with appropriate Headquarters offices, and in accordance with the policies, program guidance, and procedures established by the Agency, the Regional Offices plan, organize and administer Regional programs; in minority business enterprise development, implement client services of generalized and specialized management and technical assistance to minority firms; in market development, promote and coordinate public and private sector opportunities, and the capabilities of minority firms; and plan, develop, and manage contracts, grants and cooperative agreements proposed for or entered into by the Agency in support of minority business enterprise and market development policies and programs in the Region.

b. The *District Offices* shall be headed by District Officers who shall report and be responsible to the Regional Directors, as appropriate. The Offices shall represent the Agency and the appropriate Regional Office within the geographic area of the District for Agency policies and programs to include: coordination and promotion of

Inter-governmental and Minority Business Opportunity Committee programs and activities, information and referral services to the minority enterprise and market development resources for minority businesspersons and firms.

Guy W. Chamberlin, Jr.,  
*Acting Assistant Secretary for Administration.*

[FR Doc. 79-35549 Filed 11-16-79; 8:45 am]

BILLING CODE 3510-17-M

#### [Department Organization Order 25-1; Amendment 1; Transmittal 469]

#### U.S. Travel Service; Delegation of Authority

Effective date: October 1, 1979.

This order effective October 1, 1979 amends the material appearing at 43 FR 57174 of December 6, 1978.

Department Organization Order 25-1 dated May 23, 1978 is hereby amended as shown below. The purpose of this amendment is to reflect the transfer of the international expositions functions of the United States Travel Service to the Industry and Trade Administration.

1. In Section 7. Expositions Staff. In pen and ink delete this Section, and renumber the current Sections 8. through 11. as 7. through 10., respectively.

2. In pen and ink delete the Expositions Staff from the organization chart dated May 23, 1978.

Guy W. Chamberlin, Jr.,  
*Acting Assistant Secretary for Administration.*

[FR Doc. 79-35547 Filed 11-16-79 8:45 am]

BILLING CODE 3510-17-M

#### COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

#### Adjusting the Import Levels for Certain Wool and Man-Made Fiber Textile Products From Macau

**AGENCY:** Committee for the Implementation of Textile Agreements.

**ACTION:** (1) Applying swing to the import level established for man-made fiber trousers in Category 647/648, produced or manufactured in Macau, and controlling imports at that increased level (201,564 dozen) during the agreement year which began on January 1, 1979. (2) Applying swing and carryforward to wool sweaters in Category 445/446 and reducing the import level for the current agreement year by virtue of a charge of 9,907 dozen for 1977 overshipments. The adjusted level of restraint is 64,732 dozen.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the *Federal Register* on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843).

**SUMMARY:** The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of March 3, 1975, as amended, between the Governments of the United States and Portugal provides for percentage increases in certain specific ceilings during an agreement year (swing) and for the borrowing of yardage from the succeeding year's levels (carryforward). Pursuant to the terms of the bilateral agreement, the import levels for Categories 445/446 and 647/648 are being adjusted for the twelve-month period which began on January 1, 1979.

**EFFECTIVE DATE:** November 19, 1979.

**FOR FURTHER INFORMATION CONTACT:** Carl Ruths, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

**SUPPLEMENTARY INFORMATION:** On January 2, 1979, there was published in the *Federal Register* (44 FR 91) a letter dated December 27, 1978, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in Macau, which may be entered into the United States for consumption or withdrawal from warehouse for consumption during the twelve-month period which began on January 1, 1979 and extends through December 31, 1979. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to reduce the level of restraint established for wool textile products in Category 445/446 to 64,732 dozen during the twelve-month period which began on January 1, 1979 and to control imports in Category 647/648 at a level of 201,564 dozen during that same period. The level of restraint for Category 647/648 has not been adjusted to account for any imports after December 31, 1978. Imports in Category 647/648 have amounted to 104,378 dozen during the period which began on January 1 and extended through August 31, 1979 and will be charged. When the data become available, additional charges will be

made to account for the period which began on September 1, 1979 and extends through the effective date of this action.

Paul T. O'Day,  
*Acting Chairman, Committee for the Implementation of Textile Agreements.*  
November 14, 1979.

**Committee for the Implementation of Textile Agreements**

Commissioner of Customs,  
Department of the Treasury,  
Washington, D.C.

Dear Mr. Commissioner: On December 27, 1978, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry during the twelve-month period beginning on January 1, 1979 and extending through December 31, 1979 of cotton, wool and man-made fiber textile products, produced or manufactured in Macau, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint subject to adjustment.<sup>1</sup>

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of March 3, 1975, as amended, between the Governments of the United States and Portugal; and in accordance with the provisions of Executive Order 11851 of March 3, 1972, as amended, by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on November 19, 1979 and for the twelve-month period beginning on January 1, 1979 and extending through December 31, 1979, entry into the United States for consumption and withdrawal from warehouse for consumption of wool textile products in Category 445/446, produced or manufactured in Macau, in excess of 64,732 dozen.

Under the previously cited authorities, this directive also amends, but does not cancel, the directive of December 27, 1978 to prohibit, effective on November, 1979 and for the twelve-month period which began on January 1, 1979 and extends through December 31, 1979, entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Category 647/648, produced or manufactured in Macau, in excess of 201,564 dozen.

The levels of restraint established for Category 445/446 and 647/648 have not been adjusted to reflect any imports after December 31, 1978. Imports during the period,

<sup>1</sup> The terms "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of March 3, 1975, as amended, between the Governments of the United States and Portugal which provide, in part, that: (1) Within the aggregate and group limits, specific levels of restraint may be exceeded by designated percentages; (2) These levels may also be increased for carryover and carry forward up to 11 percent of the applicable category limits; and (3) Administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

January-August 1979, have amounted to 104,378 dozen in Category 647/648.

Textile products in Category 647/648 which have been exported to the United States prior to January 1, 1979 shall not be subject to this directive.

Textile products in Category 647/648 which have been released from the custody of the U.S. Customs Service under the Provisions of 19 U.S.C. 1448(b) of 1484 (1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the *Federal Register* on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Portugal and with respect to imports of man-made fiber textile products from Macau have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the *Federal Register*.

Sincerely,  
Paul T. O'Day  
*Acting Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 79-35557 Filed 11-16-79; 8:45 am]  
BILLING CODE 3510-25-M

**Amending the Import Restraint Levels for Certain Cotton and Man-Made Fiber Textile Products from Macau**

**AGENCY:** Committee for the Implementation of Textile Agreements.

**ACTION:** Amending the bilateral agreement with Portugal to establish specific ceilings at increased levels for men's and boys' woven cotton shirts in Category 340, women's, girls' and infants' woven cotton blouses in Category 341, and women's, girls' and infants' woven blouses of man-made fibers in Category 641, produced or manufactured in Macau and exported during the agreement year which began on January 1, 1979.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the *Federal Register* on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978

(43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843).

**SUMMARY:** The Governments of the United States and Portugal have exchanged notes amending the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of March 3, 1975, as amended, to establish specific ceilings at increased levels for cotton and man-made fiber apparel products in Categories 340, 341 and 641, produced or manufactured in Macau and exported to the United States during the twelve-month period which began on January 1, 1979 and extends through December 31, 1979.

**EFFECTIVE DATE:** November 19, 1979.

**FOR FURTHER INFORMATION CONTACT:** Carl Ruths, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

**SUPPLEMENTARY INFORMATION:** On January 2, 1979, there was published in the *Federal Register* (44 FR 91) a letter dated December 27, 1978 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established the levels of restraint applicable to certain specified categories of cotton and man-made fiber textile products which have been produced or manufactured in Macau and exported to the United States during the twelve-month period which began on January 1, 1979. In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to permit entry of cotton and man-made fiber textile products in Categories 340, 341, and 641, produced or manufactured in Macau at the designated, increased levels during the agreement year which began on January 1, 1979. The level for Category 340 includes an overshipment charge of 2,292 dozen resulting from the 1977 agreement year.

Paul T. O'Day

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

**Committee for the Implementation of Textile Agreements**

Commissioner of Customs,  
Department of the Treasury,  
Washington, D.C.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of December 27, 1978 from the Chairman, Committee for the Implementation of Textile Agreements, which directed you to prohibit entry during the twelve-month period beginning on January 1, 1979 and extending through December 31, 1979 of cotton and man-made fiber textile products in certain

specified categories, produced or manufactured in Macau, in excess of designated levels of restraint.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to a further amendment to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of March 3, 1975 as amended, between the Governments of the United States and Portugal, you are directed to prohibit, effective on November 19, 1979, and for the twelve-month period beginning on January 1, 1979 and extending through December 31, 1979, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in the following categories, produced or manufactured in Macau, in excess of the indicated levels of restraint:

Category	Amended twelve-month level of restraint <sup>1</sup>
340	99,666 dozen.
341	62,069 dozen.
641	62,069 dozen.

<sup>1</sup> The level of restraint has not been adjusted to reflect any imports after December 31, 1978.

The actions taken with respect to the Government of Portugal and with respect to imports of cotton and man-made fiber textile products from Macau have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the *Federal Register*.

Sincerely,

Paul T. O'Day,

*Acting Chairman Committee for the Implementation of Textile Agreements.*

[FR Doc. 79-35559 Filed 11-19-79; 8:45 am]

**BILLING CODE 3510-25-M**

### Charging Overshipments of Certain Cotton Textile Products from Pakistan

**AGENCY:** Committee for the Implementation of Textile Agreements.

**ACTION:** Charging an additional 4 million square yards of 1978 overshipments in Category 315 (cotton printcloth) from Pakistan to the level of restraint established for the category during the agreement year which began on January 1, 1979. The adjusted level will be 26,500,000 square yards.

**Note.**—A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the *Federal Register* on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39406), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843).

**SUMMARY:** Pursuant to consultations between the Governments of the United States and Pakistan under the terms of the Bilateral Cotton Textile Agreement of January 4 and 9, 1978, as amended, the Government of Pakistan has requested the United States Government to deduct a further increment of 1978 overshipments amounting to 4 million square yards from the level of restraint established for Category 315 during the twelve-month period which began on January 1, 1979.

**EFFECTIVE DATE:** November 16, 1979.

**FOR FURTHER INFORMATION CONTACT:** Carl Ruths, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

**SUPPLEMENTARY INFORMATION:** On January 2, 1979, there was published in the *Federal Register* (44 FR 92) a letter dated December 27, 1978 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton textile products, produced or manufactured in Pakistan, which may be entered into the United States for consumption or withdrawn from warehouse for consumption during the twelve-month period which began on January 1, 1979 and extends through December 31, 1979. At the request of the Government of Pakistan, the United States is charging an additional 4 million square yards of 1978 overshipments to the ceiling established for Category 315 during the twelve-month period which began on January 1, 1979. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption or withdrawal from warehouse for consumption of textile products in Category 315 in excess of the adjusted twelve-month level of restraint of 26,500,000 square yards.

Paul T. O'Day,

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

November 14, 1979.

**Committee for the Implementation of Textile Agreements**

Commissioner of Customs,  
Department of the Treasury, Washington,  
D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive issued to you on December 27, 1978 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber

textile products, produced or manufactured in Pakistan.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton Textile Agreement of January 4 and 9, 1978, as amended, between the Governments of the United States and Pakistan; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on November 16, 1979 and for the twelve-month period beginning on January 1, 1979 and extending through December 31, 1979, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 315, produced or manufactured in Pakistan, in excess of the following level of restraint:

Category	Adjusted 12-mo level of restraint <sup>1</sup>
315.....	26,500,000 square yards.

<sup>1</sup> The level of restraint has not been adjusted to reflect any imports after December 31, 1978.

The actions taken with respect to the Government of Pakistan and with respect to imports of cotton, wool and man-made fiber textile products from the Pakistan has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Paul T. O'Day,

*Acting Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc. 79-35558 Filed 11-16-79; 8:45 am]

BILLING CODE 3510-25-M

## COUNCIL ON WAGE AND PRICE STABILITY

### Pay Advisory Committee; Notice of Meetings

**AUTHORITY OF COMMITTEE:** The Pay Advisory Committee was established by the Council on Wage and Price Stability pursuant to Executive Order 12161 (44 FR 56663).

**TIME OF PLACE OF MEETINGS:** The Pay Advisory Committee will meet on November 28 and December 7, 1979, at 10:00 a.m. in Room 2008 of the New Executive Office Building, 726 Jackson Place NW., Washington, D.C. 20506. Each of these meetings may be recessed at 12:00 noon to be reconvened at 2:00 p.m. the same day and/or be recessed at the end of the day to be reconvened the following day.

**PURPOSE OF MEETINGS:** The purpose of these meetings is to finish unfinished business from the November 13 (announced October 26, 1979; 44 FR 61626) and earlier meetings (see 44 FR 59583).

**PUBLIC PARTICIPATION:** The meetings of the Pay Advisory Committee will be open to the public. Public attendance may be limited by available space; persons will be seated on a first-come, first-served basis. Persons attending the meeting will not be permitted to speak or participate in the Committee's deliberations. Any interested persons will be permitted to file written statements with the Committee by mail or personal delivery to the Office of General Counsel, Council on Wage and Price Stability, 600 17th Street NW., Washington, D.C. 20506.

**ADDITIONAL INFORMATION:** For additional information, please telephone the Office of Public Affairs at (202) 456-6756.

Dated: November 13, 1979.

Sally Katzen,

*Advisory Committee Management Officer.*

[FR Doc. 79-35498 Filed 11-14-79; 12:02 pm]

BILLING CODE 3175-01-M

## DEPARTMENT OF DEFENSE

### Department of the Army

#### Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee meeting:

Name of the Committee: Army Science Board.  
Dates of Meeting: December 11-13, 1979.  
Place: Fort Leavenworth, Kansas (except location can be determined by contacting LTC Sweeney at 202 697-9703).  
Time: 0800 to 1700 hours, December 11-13, 1979. (Closed)

Proposed Agenda: The ASB Counter Command, Control, and Communications (C-C<sup>3</sup>) Workshop will hold classified discussions and receive briefings on the threat and other issues and programs which relate to the offensive and defensive posture of the U.S. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof. The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting.

Robert F. Sweeney,

*Lieutenant Colonel, GS, Executive Secretary, Army Science Board.*

[FR Doc. 79-35514 Filed 11-16-79; 8:45 am]

BILLING CODE 3710-08-M

#### Army Science Board; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee meeting:

Name of the Committee: Army Science Board.  
Dates of Meeting: 18-19 December 1979.  
Place: The Pentagon, Washington, D.C. (exact location can be determined by contacting LTC Sweeney at 202 697-9703).  
Time: 0900-1700 hours, December 18, 1979 (Open), 0800-1400 hours, December 19, 1979 (Open)

Proposed Agenda: The ASB Human Issues Study Groups will hold discussions and receive briefings to review current action to improve the integration of manpower and personnel planning and advise the Army on ways and means of improving the quality of human issues research and coupling it to high level Army policy-making. Specifically, Group I will investigate what major tasks should be included as part of the Army Personnel Advisory Council (APAC); what directives, organizational structure, or procedures would facilitate APAC efficiency; identify other task forces/special committees working in the personnel area and determine how they can be organized to provide a more integrated approach to solving personnel related issues.

18 December 1979

0900—Organizational Meeting  
0915—Overview, Human Issues Committee  
0930—Plans for conducting group  
1000—Army Personnel Systems Committee  
1100—Personnel Program Review Committee  
1300—DCSPER—Director, Human Resources Development  
1400—Deputy for Human Systems and Resources  
1500—Manning the Force, DCSPER  
1600—Task Force Delta, TRADOC

19 December 1979

0800—Organizational Meeting  
0815—DA Drug and Alcohol Review Board  
0845—Human Dimensions, Division 86  
0945—Human Dimensions Institute, TRADOC  
1045—Quality of Life Office, DCSPER  
1245—Executive Session

Robert F. Sweeney,

*Lieutenant Colonel, GS, Executive Secretary, Army Science Board.*

[FR Doc. 79-35513 Filed 11-16-79; 8:45 am]

BILLING CODE 3710-08-M

## DEPARTMENT OF ENERGY

### Economic Regulatory Administration

[ERA Cases Nos. 52411-2367-04-82, and 52411-2367-05-82, 52411-2367-06-82]

### Public Service Co. of New Hampshire, Manchester, N.H.; Notice and Issuance of Proposed Prohibition Orders

The Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice pursuant

to Section 701(b) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), 42 U.S.C. 8301 *et seq.*, of the issuance of the following proposed prohibition orders which would prohibit the powerplants named below from burning natural gas or petroleum as their primary energy source.

ERA No.	Generating station	Powerplant No.	MW	Location
52411-2367-04-82	Schiller	4	50	Portsmouth, N.H.
52411-2367-05-82	Schiller	5	50	Do.
52411-2367-06-82	Schiller	6	50	Do.

#### Statement of Basis and Rationale for Proposed Prohibition Order

ERA has issued regulations applicable to existing facilities, 10 CFR Part 504 (Regulations), to implement the prohibitions contained in Section 301(b) of Title III of FUA. Section 504.5 of the regulations sets forth the basis upon which ERA will propose to prohibit by order the use of natural gas or petroleum as a primary energy source by a powerplant where ERA finds that the powerplant has or previously had the technical capability to use an alternate fuel as a primary energy source.

P.S.Co.N.H. reported to the Federal Energy Regulatory Commission (FPC Form 67), for the year ending December 31, 1978, that Schiller Powerplants Nos. 4, 5 and 6 burned 1,620 barrels of oil per day (591,000 barrels annually). The potential oil displacement in converting Schiller Powerplants Nos. 4, 5 and 6 to an alternate fuel (coal) assuming a capacity factor of 70 percent is 4,700 barrels of oil per day (1,700,000 barrels annually).

#### Finding of Technical Capability

In accordance with Section 301(b) of Title III of FUA, these proposed orders are based on a finding by ERA that P.S.Co.N.H.'s Schiller Powerplants Nos. 4, 5 and 6 have or previously had the technical capability to use an alternate fuel (coal) as a primary energy source. This finding is based upon P.S.Co.N.H.'s Engineering Department Drawing No. R-6521-12.1 dated July 31, 1979, and confirmed by actual inspection by ERA staff during site visits on August 28, 1979, and September 2, 1979.

The technical capability finding is made in accordance with the requirements of § 504.5(d) of the Regulations, taking into consideration the ability of the unit, from the point of fuel intake, to physically sustain combustion of coal and maintain heat

#### Proposed Prohibition Orders

Pursuant to the authority granted it by Section 301(b) of FUA, ERA issues these proposed prohibition orders to the following powerplants owned by Public Service Company of New Hampshire, Manchester, New Hampshire (P.S.Co.N.H.).

transfer as evidenced by the existing equipment and shown on the Engineering Department drawing, identified above, and observed by ERA staff during its site visit. This finding also recognizes, in accordance with § 504.5(d), that the Schiller Powerplants Nos. 4, 5 and 6 are capable of burning coal, notwithstanding the fact that refurbishment and addition of equipment must be made to the powerplants before they may burn an alternate fuel (coal) as their primary energy source or that pollution control equipment may be necessary to meet air quality requirements.

#### Other Required Findings

Section 301(b) of FUA states that prior to the issuance of final prohibition orders ERA must also find that (1) the powerplants have the technical capability to use coal or another alternate fuel as a primary energy source, or they could have capability without (A) substantial modification of the powerplants or (B) substantial reduction in the rated capacity of the powerplants; and (2) it is financially feasible for the powerplants to use coal or another alternate fuel as the primary energy source in such powerplants.

#### Proposed Prohibition Order Under Title III of FUA

Subject to the other required findings that ERA must make, ERA hereby proposes to prohibit P.S.Co.N.H.'s Schiller Powerplants Nos. 4, 5 and 6 from burning petroleum or natural gas as their primary energy source.

#### Description of Prohibition Order Proceedings

Pursuant to Section 301 of FUA, ERA has promulgated regulations applicable to the issuance of prohibition orders to existing facilities, a summary of which follows:

(1) ERA has performed its initial information gathering with respect to the question of technical capability to burn alternate fuel (coal) and has informed P.S.Co.N.H. that it is considering issuance of the proposed prohibition orders. ERA has also had informal discussions with P.S.Co.N.H. concerning the issuance of the proposed prohibition orders.

(2) ERA has made a finding that P.S.Co.N.H.'s Schiller Powerplants Nos. 4, 5 and 6 have or previously had the technical capability of using coal as their primary energy source. ERA is publishing these findings and proposed prohibition orders in the Federal Register as required by Section 701(b) of FUA. In accordance with Section 301(b) of FUA, the proposed prohibition orders are not required to contain, at this point in the proceeding, the other pertinent findings that ERA must make before final prohibition orders can be issued. These are (1) that the powerplants have the technical capability to use coal or another alternate fuel as their primary energy source, or they could have such capability without (A) substantial physical modification of the powerplants, or (B) substantial reduction in the rated capacity of the powerplants; and (2) that it is financially feasible for P.S.Co.N.H. to use coal or another alternate fuel as the primary energy source in such powerplants.

(3) In accordance with § 501.51(b)(3) of the Regulations, a comment period of at least three months is to commence after publication of the proposed prohibition orders, during which period P.S.Co.N.H. will be given an opportunity to challenge ERA's initial findings of technical capability contained in these proposed prohibition orders. During this three month comment period, P.S.Co.N.H. is required to furnish ERA with such additional evidence as is necessary to enable ERA to make the other statutory findings set forth above, which are required to be made by ERA prior to issuance of final prohibition orders. P.S.Co.N.H. will also be required, during this period, to identify, but not to demonstrate its entitlement to, any exemptions for which the Schiller Powerplants Nos. 4, 5 and 6 may qualify.

(4) Subsequent to the end of the three-month comment period, ERA will issue a notice of whether ERA intends to proceed with the prohibition orders proceeding. Within three months of the issuance of the notice of intention to proceed with the prohibition orders, the owner or operator of the powerplants that may be subject to the orders may demonstrate prior to issuance of the

final prohibition orders that the powerplants would qualify for an exemption if the prohibitions had been established by rule.

(5) Subsequent to the end of the second three-month period, ERA will, if it intends to issue the final prohibition orders, prepare and publish a notice of availability of the tentative staff decision.

(6) Under the provisions of Section 701(d) of FUA, any interested person may request a public hearing on the proposed prohibition orders and tentative staff decision. Interested persons wishing a hearing must request a hearing within 45 days after publication of the notice of availability of the tentative staff decision. If a hearing is requested, ERA shall provide interested persons with an opportunity to present oral data, views and arguments at a public hearing held in accordance with Subpart C of 10 CFR Part 501.

(7) At the hearing, if any, interested persons will have the opportunity to question the parties about ERA's proposed orders and tentative staff decision, P.S.Co.N.H.'s showing on exemptions and rebuttal of ERA's proposed orders, and ERA's rebuttal to any showing of potential qualification for exemption.

(8) After the hearing, if any, and the second three-month comment period, ERA shall determine whether the final prohibition orders will be issued, based upon ERA's review of the entire administrative record. Copies of the final prohibition orders, if issued, together with a summary of the basis therefor, will be published in the *Federal Register*. Such orders shall not take effect earlier than sixty days after publication.

#### Comment and Public Hearing Procedures

ERA hereby also gives notice of the opportunity to submit written comments, views, and arguments by interested persons regarding these proposed prohibition orders. Comments need not be limited to ERA's technical capability findings, but may include a discussion of all three statutory findings. The initial comment period shall remain open for a period of three months after publication of these proposed orders in the *Federal Register*, unless reduced at the request of the recipient of the proposed prohibition orders pursuant to 10 CFR 501.51(b)(8). Notice of any such change during the time for public comment will be published in the *Federal Register*. Comments should make reference to the

docket numbers set forth in this notice and proposed orders. Comments should address the adequacy and validity of the findings and any other aspects or impacts of the proposed prohibition orders believed to be relevant. Written comments on the proposed prohibition orders should be directed to Public Hearing Management (Case Nos. 52411-2367-04-82, 52411-2367-05-82 and 52411-2367-06-82), U.S. Department of Energy, Box 4629, Room 3214, 2000 M Street, N.W., Washington, D.C. 20461, and should be received before 4:30 p.m. on February 12, 1980.

In accordance with 10 CFR 501.34, any interested person may request a public hearing on the proposed orders. The request must include a description of the person's interest in the proposed prohibition orders, an outline of the anticipated content of the presentation to be made at the public hearing, and an address and telephone number where the person requesting the public hearing may be reached.

Comments and other documents submitted to DOE Public Hearing Management should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Prohibition Orders for the Schiller Powerplants Nos. 4, 5 and 6." Fifteen copies should be submitted. All written comments, all oral presentations, and all other relevant information submitted to or available to ERA will be considered by ERA. Any information or data considered to be confidential by the person furnishing it must be so identified in writing in accordance with 10 CFR 303.9(f). ERA reserves the right to determine the confidential status of the information or data and to treat it in accordance with that determination.

ERA No.	Generating station	Powerplant No.	Megawatt	Location
52588-6124-01-82	Effingham	1	163	Effingham, Ga.

#### Statement of Basis and Rationale for Proposed Prohibition Order

ERA has issued regulations applicable to existing facilities 10 CFR Part 504 (Regulations), to implement the prohibitions contained in Section 301(b) of Title III of FUA. Section 504.5 of the Regulations sets forth the basis upon which ERA will propose to prohibit by order the use of natural gas or petroleum as a primary energy source by a

#### For further information contact:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B-110, Washington, D.C., 20461. (202) 634-2170.

Robert L. Davies (Fuels Conversion-Program Office), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3128L, Washington, D.C., 20461. (202) 634-6557.

G. Randolph Comstock (Office of General Counsel), Department of Energy, 1000 Independence Avenue S.W., Room 6G-087, Washington, D.C. 20585, (202) 252-2967.

Issued in Washington, D.C., November 13, 1979.

Robert L. Davies,

Acting Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 79-35618 Filed 11-16-79; 8:45 am]

BILLING CODE 6450-01-M

[ERA Case No. 52588-6124-01-82]

#### Savannah Electric & Power Co.; Notice and Issuance of Proposed Prohibition Order

The Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice pursuant to Section 701(b) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), 42 U.S.C. 8301 *et seq.*, of the issuance of the following proposed prohibition order which would prohibit the powerplant named below from burning natural gas or petroleum as its primary energy source.

#### Proposed Prohibition Order

Pursuant to the authority granted it by Section 301(b) of FUA, ERA issues this proposed prohibition order to the following powerplant owned by the Savannah Electric and Power Company (SEPCO).

powerplant where ERA finds that the powerplant has or previously had the technical capability to use an alternate fuel as a primary energy source.

SEPCO has reported to ERA that it estimates the potential oil displacement in converting the Effingham unit to an alternate fuel (coal) is approximately 3,056 barrels of oil per day or 1,115,600 barrels annually assuming a utilization factor of 50 percent.

### Finding of Technical Capability

In accordance with Section 301(b) of Title III of FUA, this proposed order is based on a finding by ERA that SEPCO's Effingham Powerplant No. 1 has or previously had the technical capability to use an alternate fuel (coal) as a primary energy source. This finding is based upon information received by ERA from SEPCO that the unit is technically capable of burning coal as an alternate fuel, including a study completed for SEPCO by Reynolds, Smith and Hills, an engineering firm located in Jacksonville, Florida, in August 1979, entitled "Report on Alternative Cases for Coal Conversion of Effingham Generating Unit No. 1, Savannah Electric and Power Company."

The technical capability finding is made in accordance with the requirements of § 504.5(d) of the Regulations, taking into consideration the ability of the unit, from the point of fuel intake, to physically sustain combustion of coal and maintain heat transfer as evidenced by the existing equipment. This finding also recognizes, in accordance with § 504.5(d), that the Effingham unit is capable of burning coal, notwithstanding the fact that minor adjustments must be made to the powerplant before it may burn coal as its primary energy source or that pollution control equipment may be required to meet air quality requirements.

### Other Required Findings

Section 301(b) of FUA states that prior to the issuance of a final prohibition order ERA must also find that: (1) The powerplant has the technical capability to use coal or another alternate fuel as a primary energy source, or it could have such capability without (A) substantial modification of the powerplant or (B) substantial reduction in the rated capacity of the powerplant; and (2) It is financially feasible for the powerplant to use coal or another alternate fuel as its primary energy source in such powerplant.

### Proposed Prohibition Under Title III of FUA

Subject to the other required findings that ERA must make, ERA hereby proposes to prohibit SEPCO's Effingham Powerplant No. 1 from burning petroleum or natural gas as its primary energy source.

### Description of Prohibition Order Proceedings

Pursuant to Section 301 of FUA, ERA has promulgated Regulations applicable

to the issuance of prohibition orders to existing facilities, a summary of which follows:

(1) ERA has performed its initial information gathering with respect to the question of technical capability to burn alternate fuels (coal) and has informed SEPCO that it is considering issuance of a proposed prohibition order. ERA has also had informal discussions with SEPCO concerning the issuance of a proposed prohibition order.

(2) ERA has made a finding that the Effingham unit has or previously had the technical capability of using coal as its primary energy source. ERA is publishing this finding and proposed prohibition order in the Federal Register as required by Section 701(b) of FUA. In accordance with Section 301(b) of FUA, the proposed prohibition order is not required to contain, at this point in the proceeding, the other pertinent findings that ERA must make before a final prohibition order can be issued. These are (1) that the powerplant has the technical capability to use coal or another alternate fuel as a primary energy source, or it could have such capability without (A) substantial physical modification of the powerplant, or (B) substantial reduction in the rated capacity of the powerplant; and (2) that it is financially feasible for SEPCO to use coal or another alternate fuel as a primary energy source in such powerplant.

(3) In accordance with Section 501.51(b)(3) of the Regulations, a public comment period of at least three months is to commence after publication of the proposed prohibition order, during which period SEPCO will be given an opportunity to challenge ERA's initial finding of technical capability contained in this proposed prohibition order. During this three month comment period, under Section 501.51(b)(3) of the Regulations, SEPCO is required to furnish ERA with such additional evidence as is necessary to enable ERA to make the other statutory findings set forth above, which are required to be made by ERA prior to issuance of a final prohibition order. SEPCO will also be required, during this period, to identify, but not to demonstrate its entitlement to, any exemptions for which the Effingham unit may qualify.

(4) Subsequent to the end of the three month comment period, ERA will issue a notice of whether ERA intends to proceed with the prohibition order proceeding. Within three months of the issuance of the notice of intention to proceed with the prohibition order, the owner or operator of a powerplant that may be subject to an order may demonstrate prior to issuance of a final

prohibition order that the powerplant would qualify for an exemption if the prohibition had been established by rule.

(5) Subsequent to the end of the second three month period, ERA will, if it intends to issue a final prohibition order, prepare and publish a notice of availability of a tentative staff decision.

(6) Under the provisions of Section 701(d) of FUA, any interested person may request a public hearing on the proposed prohibition order and tentative staff decision. Interested persons wishing a hearing must request a hearing within 45 days after publication of the notice of availability of the tentative staff decision. If a hearing has been requested, ERA shall provide interested persons with an opportunity to present oral data, views and arguments at a public hearing held in accordance with Subpart C of 10 CFR Part 501.

(7) At the hearing, if any, interested persons will have the opportunity to question the parties about ERA's proposed order and tentative staff decision, SEPCO's showing on exemptions and rebuttal of ERA's proposed order, and ERA's rebuttal to any showing of potential qualification for exemption.

(8) After the hearing, if any, and the second three month period, ERA shall determine whether a final prohibition order will be issued based upon ERA's review of the entire administrative record. Copies of the final prohibition order, if issued, together with a summary of the basis therefore, will be published in the Federal Register. A final order shall not take effect earlier than sixty days after publication.

### Comment and Public Hearing Procedures

ERA hereby also gives notice of the opportunity to submit written comments, views, and arguments by interested persons regarding this proposed prohibition order. Comments need not be limited to ERA's technical capability finding, but may include a discussion of all three statutory findings.

The initial comment period shall remain open for a period of three months after publication of this proposed order in the Federal Register, unless reduced at the request of the recipient of the proposed prohibition order pursuant to § 501.51(b)(8). Notice of any such change during the time for public comment will be published in the Federal Register. Comments should make reference to the docket number set forth in this notice and proposed order. Comments should address the adequacy and validity of the findings and any other

aspects or impacts of the proposed prohibition order believed to be relevant.

Written comments on the proposed prohibition order should be directed to Public Hearing Management (Case No. 52588-6124-01-82), U.S. Department of Energy, Box 4629, Room 3214, 2000 M Street, N.W., Washington, D.C. 20461, and should be received before 4:30 p.m. on February 12, 1980.

In accordance with 10 CFR 501.34, any interested person may request a public hearing on the proposed order. The request must include a description of the person's interest in the proposed prohibition order, an outline of the anticipated content of the presentation to be made at the public hearing, and an address and telephone number where the person requesting the public hearing may be reached.

Comments and other documents submitted to DOE Public Hearing Management should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Prohibition Order for Effingham Powerplant No. 1." Fifteen copies should be submitted. All written comments, all oral presentations, and all other relevant information submitted to or available to ERA will be considered by ERA. Any information or data considered to be confidential by the person furnishing it must be so identified in writing in accordance with 10 CFR 303.9(f). ERA reserves the right to determine the confidential status of the information or data and to treat it in accordance with that determination.

For further information contact:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B-110, Washington, D.C., 20461, (202) 634-2170.

Robert L. Davies (Fuels Conversion-Program Office), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3128L, Washington, D.C., 20461, (202) 634-6557.

G. Randolph Comstock (Office of General Counsel), Department of Energy, 1000 Independence Avenue, N.W., Room 8G-087, Washington, D.C., 20585, (202) 252-2967.

Issued in Washington, D.C., November 14, 1979.

Robert L. Davies,

*Acting Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.*

[FR Doc. 79-35617 Filed 11-16-79; 8:45 am]

BILLING CODE 6450-01-M

### Wallies Penzoil; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Wallace Mays, Jr. D/B/A Wallies Penzoil, Point Marion, Pa. This Proposed Remedial Order charges Wallies Penzoil with pricing violations in the amount of \$4,277, connected with the retail sale of gasoline during the time period August 1, 1979 through September 28, 1979.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Edward F. Momorella, Program Manager for Product Retailers, Department of Energy, Northeast Enforcement District, 1421 Cherry Street, 10th Floor, Philadelphia, Pa. 19102. On or before December 4, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 "M" Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR Section 205.193.

Issued in Philadelphia, Pennsylvania, on the 2nd day of November 1979.

Herbert M. Heitzer,

*District Manager, Office of Enforcement, Northeast District.*

[FR Doc. 79-35627 Filed 11-16-79; 8:45 am]

BILLING CODE 6450-01-M

### Action Taken on Consent Orders

**AGENCY:** Economic Regulatory Administration.

**ACTION:** Notice of Action Taken on Consent Orders.

**SUMMARY:** The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the Office of Enforcement, ERA, and the firms listed below during the month of October. These Consent Orders concern prices charged by retail motor gasoline dealers allegedly in excess of the maximum lawful selling price for motor gasoline. The purpose and effect of these Consent Orders is to bring the consenting firms into present compliance with the Mandatory Petroleum Price Regulations and the General Allocation and Price Regulations, and they do not address or limit any liability with respect to the consenting firms' prior compliance or possible violation of the aforementioned regulations. Pursuant to the Consent Orders, the consenting firms agree to the following actions.

1. Reduce prices for each grade of gasoline to no more than the maximum lawful selling price;

2. Post the maximum lawful selling price, or a certification that the current selling price is equal to or less than the maximum allowed, for each grade of gasoline on each pump used to dispense gasoline, facing each direction from which the pumps are generally viewed by customers, in numbers or letters not less than one-half (1/2) inch high, or (b) post the maximum lawful selling price for each grade of gasoline in a prominent location elsewhere at the retail outlet which is visible to a customer purchasing gasoline in letters not less than four (4) inches high, or (c) post a certification that the current selling price is equal to or less than the maximum allowed in a prominent location elsewhere at the retail outlet which is visible to a customer purchasing gasoline in letters not less than one and one-half (1 1/2) inches high;

3. Properly maintain records required under the aforementioned regulations; and

4. Cease and desist from employing any discriminatory and/or unlawful business practices prohibited by the aforementioned regulations.

For further information regarding these Consent Orders, please contact Leon Snead, Program Manager for Product Retailers, Department of Energy, Economic Regulatory Administration, Enforcement Program Operations, 2000 M Street, NW., Washington, D.C. 20461, telephone number 202-254-5907.

*Firm Name, Firm Address, and Audit Date*

Capitol Hill Exxon, 339 Pennsylvania Ave.,

SE., Washington, D.C. 20003—10-03-79

Johnny's Exxon, 1545 Wisconsin Avenue,

Washington, D.C. 20007—10-15-79

Taylor's Arco, 12871 Gordon Blvd.,

Woodbridge, VA 22191—10-23-79

New Town Shell, South Dakota Ave. & V St.,

NE., Washington, D.C. 20018—9-10-79

Issued in Washington, D.C. on the 9th day

of November, 1979.

Robert D. Gerring,

*Director, Enforcement Program Operations Division, Economic Regulatory Administration.*

[FR Doc. 79-35504 Filed 11-16-79 8:45 am]

BILLING CODE 6450-01-M

### Energy Information Administration

#### Reduction of Reporting Burden

**AGENCY:** Energy Information Administration, Department of Energy

**ACTION:** Statement by the Energy Information Administration (EIA) concerning the Department of Energy's (DOE) continuing program to reduce energy information reporting burden on industry, small businesses, and the public.

**SUMMARY:** The Department of Energy is committed to reducing the burden it places on private industry and individuals to submit information about their businesses or holdings. The Department uses the information it collects to review the domestic energy situation, analyze policy and program alternatives, and enforce compliance with the Department's regulations. The Energy Information Administration collects most of this energy information, and publishes much of it in periodic statistical data reports. Because the EIA collects or maintains this information on behalf of other DOE offices, including the Federal Energy Regulatory Commission and Economic Regulatory Administration, the EIA is responsible for coordinating DOE's program to eliminate unnecessary reporting burden. This program is consistent with the goals of the President's Paperwork Reduction Program, initiated in February 1978, and the Department's Regulatory Reform Task Force, begun January 1978, and chaired by the DOE Deputy Secretary. It should be noted that both the DOE and the President's Paperwork Reduction Programs concentrate on those data collection instruments that are filed on an occasional or recurring basis. DOE also collects information on short-term, single-time studies, which, under normal circumstances, constitute less than one percent of the annual burden hours of reporting imposed on the public. Unless otherwise noted, all the figures in this notice pertain to the annual recurring reporting burden.

This statement is intended to familiarize the public with the progress in reducing respondent burden in FY 1979. It is issued in accordance with initiative number nine of a Notice (44 FR 1032, January 3, 1979) in which DOE proposed 16 new Regulatory Reform Initiatives and updates information contained in a previous Notice (44 FR 27471, May 10, 1979) in which DOE described the specific programs it has to reduce reporting burden and the policies that underlie those programs.

**TO COMMENT ON THIS NOTICE OR FOR FURTHER INFORMATION CONTACT:** Dr. Irene C. Montie, Director, Survey and Statistical Design Division, Office of Energy Data Standards and Statistical Design, Energy Information Administration, Mail Station 4146, Federal Building, 12th and Pennsylvania Avenue, NW, Washington, D.C. 20461, telephone: (202) 633-9464.

**SUPPLEMENTARY INFORMATION:**

- I Background
- II Elimination/Systems Consolidation
- III Statistical Design and Forms Clearance Process

### I. Background

The Department of Energy (DOE) has made substantial progress in reducing the energy information reporting burden on industry, small businesses, and the public. In its first year of existence, October 1977 through September 1978, DOE reduced the total annual reporting burden on persons who fill out DOE forms by nearly one-fourth, from 4.9 million person hours to 3.7 million person hours. In FY 1979, due in large measure to the five separate statutes which comprise the National Energy Act (NEA), signed by President Carter on November 9, 1978, new informational requirements were imposed on the Department. The informational requirements dictated by the NEA, as well as previously mandated collections of information concerning verifiable oil and gas reserves and financial and operational information about major energy companies, have increased the overall reporting burden by nearly 50 percent from the 3.7 million person hours in FY 1978 to 5.4 million person hours in FY 1979.

These new reporting systems currently comprise 43 percent of DOE's total annual reporting burden. When the new reporting systems are subtracted from the total FY 1979 annual burden, the reporting burden requirements on previously existing forms are 3.1 million person hours, a 16-percent decrease from FY 1978, and a 37-percent decrease from the burden at DOE's inception. This decrease occurred in spite of the new forms developed and implemented to satisfy the increased demand in FY 1979 for information on supplies of crude oil, petroleum, and natural gas.

As mentioned above, single-time studies normally constitute less than one percent of the annual responding burden DOE imposes on the public. However, late in FY 1979, building energy conservation forms and pilot energy consumption studies caused the burden for single-time forms to take a short-term quantum leap from approximately 13,000 to 2.3 million person hours. This increased burden is not expected to continue throughout FY 1980.

### II. Elimination/Consolidation Process

Periodically EIA reviews selected, related information systems and reporting forms to determine if they should be integrated, modified or eliminated. Each form or system proposed for review is analyzed by the EIA staff to determine: (a) Its underlying legislative authority and policy justification, (b) the information being collected, (c) the usefulness of reports

based on this information, and (d) the impact its integration, modification or elimination would have on the continued utility of related historical data. If the analysis reveals a significant increase in consolidation cost or adverse impact on the integrity of the data, the proposed consolidation may be reconsidered.

In calendar year 1978 sixteen forms were eliminated or consolidated through this process, and thirteen forms reduced in scope. Fourteen forms were eliminated and an additional fourteen forms reduced in scope in the remainder of FY 1979.

### III. Statistical Design and Forms Clearance Process

In accordance with the Federal Reports Act, every DOE data collection instrument that is used to gather identical information from ten or more non-government entities is approved for official use by the Office of Management and Budget (OMB). The clearance of any such DOE instrument that proposes to collect energy information is first reviewed within the Department to ensure that the form is properly designed from a statistical and programmatic point of view, fully justified, and sufficiently clear to prevent respondent confusion. The EIA manages this review process in the Department, conducts the element-by-element justification of all elements on the data collection instrument, and offers statistical and survey design, forms design, other types of technical assistance to other DOE offices.

Sampling is one of the primary techniques used by EIA to reduce respondent burden. When selected on the basis of appropriate statistical methodology, sample units may be considered representative of all units eligible to be included in a survey. Thus, sampling techniques help reduce burden, especially on small businesses where the size or volume of a business is a major determinant in the survey selection process. In FY 1979 EIA reviewed or designed well over 100 statistical samples. Despite the overall increase in burden due to the previously mentioned mandated requirements, the number of respondents filing DOE forms has been reduced by approximately 25,000 from FY 1978. Excluding new reporting requirements, the number of respondents has been reduced by more than 100,000.

In addition to duplication searches conducted by program offices and task forces, EIA searches current, past and proposed DOE forms to minimize the possibility of duplication of DOE data collection efforts. To aid in these

searches a comprehensive computerized forms clearance management data set was developed and is now being redesigned to provide more flexibility in obtaining outputs. In addition to the EIA forms review and clearance process, other DOE offices employ similar review procedures for energy forms developed for their use. Excluding the new reporting requirements of NEA, the Economic Regulatory Administration reduced its reporting burden on previously existing requirements by 52 percent in FY 1979. FERC is proposing to eliminate 20 forms, totaling 281,600 hours of respondent burden as a result of efforts made in FY 1979.

Issued in Washington, D.C., November 13, 1979.

Lincoln E. Moses,

Administrator, Energy Information Administration.

[FR Doc. 79-35503 Filed 11-16-79; 8:45 am]

BILLING CODE 6450-01-M

## Office of Hearings and Appeals

### Issuance of Decisions and Orders; Week of August 27 Through August 31, 1979

Notice is hereby given that during the week of August 27 through August 31, 1979, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

#### Appeals

*William Acuff, Washburn, Tenn.; DFA-0507, freedom of information*

William Acuff filed an Appeal from a partial denial by the Inspector General of the Department of Energy of a Request for Information which he had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that information initially withheld under exemptions 552(b)(6) and 552(b)(7)(D) should not be released. The requested information consisted of the names of witnesses and identifying detail in Acuff's personnel file.

*Amdahl Corp., Sunnyvale, Calif.; DFA-0569, freedom of information*

Amdahl Corporation appealed from a partial denial of its Freedom of Information Act request. In its Appeal, Amdahl requested that the DOE release portions of documents which had been withheld under Exemption 4 of the FOIA. In considering the Appeal, the DOE determined that the official who had withheld the information had not provided Amdahl with a sufficient explanation for his decision. Therefore, the DOE remanded the

matter with instructions either to release the requested material or to provide Amdahl with specific reasons why the requested material falls within Exemption 4.

#### Request for Exception

*Amerada Hess Corp., New York, N.Y.; DEE-6417, crude oil*

Amerada Hess Corporation (Amerada Hess) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell at upper tier ceiling prices the crude oil which it produces from the Ives Stenbak Silurian Unit (Ives-Stenbak Unit) located in Williams County, North Dakota. In considering the Application, the DOE found that the cost of producing crude oil from the Ives-Stenbak Unit had increased to a level where it now exceeds the revenues the firm can obtain from the sale of the crude oil at the lower tier ceiling price. The DOE found that Amerada Hess had no economic incentive to continue to produce crude oil from the Ives-Stenbak Unit and that it was unlikely that the crude oil in the reservoir underlying the Ives-Stenbak Unit could be recovered by any other firm in the absence of exception relief. The DOE therefore concluded that the application of the ceiling price rule resulted in a gross inequity to Amerada Hess and the other working interest owners. In order to provide the working interest owners with an incentive to continue to produce, the DOE granted an exception which permits Amerada Hess to sell at upper tier ceiling prices 100 percent of the crude oil produced from the Ives-Stenbak Unit for the benefit of the working interest owners for the period June 11, 1979 through December 31, 1979.

*American Agri-Fuels Corp., Kansas City, Mo.; DEE-2179, gasohol*

American Agri-Fuels Corporation filed an Application for Exception from the provisions of 10 CFR, Part 211. In its Application, the firm sought the assignment of a supplier and an allocation of unleaded motor gasoline. In considering the request, the DOE found that exception relief was necessary to enable the firm to produce and market gasohol. In determining that the Application for Exception should be granted, the DOE discussed the following important issues: (i) whether the inability of American Agri-Fuels to obtain an assured supply of unleaded gasoline was directly attributable to the DOE regulatory program; (ii) the importance of encouraging market entry by new, independent firms; and (iii) the importance of encouraging the development of alternative domestic energy sources.

*Cooper and Brain, Inc., Wilmington, Calif.; DEE-1405, crude oil*

Cooper and Brain, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, in which the firm sought retroactive relief that would permit the firm to retain certain revenues realized during 1974 as a result of its alleged improper certification of the Brea Canyon Fee Lease near Wilmington, California, as a stripper well property. In considering the request, the DOE found that the firm failed to establish compelling reasons why retroactive relief

was warranted or to demonstrate that it would experience a severe and irreparable injury in the absence of such relief. Accordingly, exception relief was denied.

*James and Williams Orthopaedic Shoes, Los Angeles, Calif.; DEE-7562, temperature restrictions*

James and Williams Orthopaedic Shoes (James and Williams) filed an Application for Exception from the provisions of 10 CFR Part 490 in which the firm requested that it be allowed to cool its office to 70°F, which is 8° lower than the prescribed level. In considering the request, the DOE found that exception relief was necessary because James and Williams have a disproportionately high number of seriously ill customers who require its health services and whose health might be impaired unless temperatures could be lowered to 70°F. Accordingly, exception relief was granted.

*Phillips Petroleum Co., Bartlesville, Okla.; DXE-7866, crude oil*

Phillips Petroleum Company filed an Application for Exception from the provisions of 10 CFR 212.73 in which the firm sought permission to sell the crude oil produced from the Foote Lease located in Oklahoma County, Oklahoma at prices in excess of the ceiling prices permitted by the Mandatory Petroleum Price Regulations. In considering the request the DOE found that at the applicable ceiling prices the firm would incur an operating loss on the lease and exception relief was necessary to provide the firm with an incentive to continue crude oil production operations. Accordingly, exception relief to the working interest owners was granted in part.

*The Shell Co. (Puerto Rico) Limited, P.R.; DEE-2541, motor gasoline*

On March 16, 1979, the Shell Company (Puerto Rico) Limited filed an Application for Exception from the provisions of 10 CFR Part 211 in which the firm sought relief from the economic hardship it was experiencing because its base period supplier had increased the price of its motor gasoline. The DOE found that the Shell Company (Puerto Rico) Limited was suffering a gross inequity since its competitors could "roll in" their costs into sales throughout the United States but it had no mainland business and was required to recover all of the costs of its Puerto Rican operations in Puerto Rico. Accordingly, exception relief was granted. The Shell Oil Company was directed to supply the applicant with its base period use of motor gasoline, through the purchase of motor gasoline from a Puerto Rican refiner or through the execution of an exchange or processing agreement with such a refiner.

#### Request for Stay

*Mobil Oil Corp., Valley Forge, Pa.; DES-0565, motor gasoline*

Mobil Oil Corporation filed an Application for Stay which, if granted, would stay the effectiveness of an Assignment Order until a determination is issued concerning Mobil's Appeal from the Order, which the ERA Region III issued to Home Oil Company on June 22, 1979. In that Order, Home Oil was designated as the sole base period supplier of

motor gasoline to B&O Mobil Service and Home Oil was permitted to upward certify the assigned volumes to its supplier, Mobil. In considering the Mobil application, the DOE found that the firm would not suffer an irreparable injury if a stay was denied. The DOE also concluded that Mobil had not shown that there was a likelihood of success on the merits of its Appeal. Accordingly, the Application for Stay was denied.

*Shell Oil Co., Houston, Tx., DES-2541, motor gasoline*

Shell Oil company filed an Application for Stay pending judicial review of a Decision and Order which the DOE issued to The Shell Company (Puerto Rico) Limited on August 28, 1979. In considering the Application, the DOE determined that Shell had failed to satisfy any of the criteria for approval of a stay. Accordingly, the stay request pending judicial review was denied. However, the DOE did stay one aspect of the August 28 Order pending the filing of an Application for Modification by Shell.

#### Request for Temporary Stay

*Fina Jobbers Association, Inc., Forest Park Ga., DST-5568, motor gasoline*

Fina Jobbers Association, Inc. filed a Motion for Class Certification and an Application for Temporary Stay in which the firm sought additional supplies of motor gasoline for all branded jobbers of American Petrofina, Inc. (Fina). In considering the Motion for Class Certification, the DOE concluded that Fina Jobbers should be tentatively and conditionally certified as the class representative for all branded Fina jobbers that purchased at least 75 percent of their total supplies of motor gasoline from Fina during the period November 1, 1977 through October 31, 1978. In considering the request for stay, the DOE determined that Fina Jobbers has failed to show that the class would incur an irreparable injury if a temporary stay were denied. Accordingly, the Application for Temporary Stay was denied.

#### Motions For Discovery

*Amoco Oil Co., Chicago, Ill. DEH-2179. DED-2179, gasohol*

Amoco Oil Company filed a Motion for Evidentiary Hearing and a Motion for Discovery in connection with the Proposed Decision and Order that had been issued to American Agri-Fuels Corporation (Case No. DEE-2179). In considering the Motion for Evidentiary Hearing, the DOE found that a hearing previously held in this matter afforded Amoco a sufficient opportunity to present its position with respect to the factual issues raised in the Motion for Evidentiary Hearing. In considering the Motion for Discovery, the DOE found that the Amoco Motion did not fulfill the requirements of 10 CFR 205.66. Accordingly, the Amoco Motions for Evidentiary Hearing and Discovery were denied.

*Standard Oil Co. of Ohio, Cleveland, Ohio. DRZ-0025, discovery*

The Standard Oil Company of Ohio requested that it be permitted to take the deposition of Robert G. Rives, Team Leader in the Office of Special Counsel's Crude

Production Audit Division. In granting the request, the DOE noted that the Office of Special Counsel had agreed to allow Sohio to take Mr. Rives's deposition.

#### Supplemental Orders

*Crown Central Petroleum Corp., Baltimore, Md., DRX-0200 Motor gasoline and distillate*

*Office of Special Counsel, Washington, D.C.*

Crown Central Petroleum Corporation and the Office of Special Counsel jointly requested that the DOE extend a previously issued stay of enforcement proceedings against Crown. In considering the request, the DOE determined that the considerations which led the DOE to grant the previous stay request were still present and therefore determined that any administrative action should be stayed for a period of 60 days.

*Office of Special Counsel (Re Conoco, Inc.), Washington, D.C. DEX-0208, supplemental order*

This Supplemental Order was issued in connection with proceedings initiated under Part 205, Subpart V, of the DOE regulations. In the Order the DOE required Conoco, Inc. to negotiate an escrow agreement with a banking institution approved by the DOE. The escrow account would contain funds that Conoco agreed to pay to the United States in a Consent Order Dated August 11, 1978.

#### Petitions Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

The following firms filed Applications for Exception and/or Interim Order from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be granted:

*Company Name, Location, and Case No.*

*Amerada Hess Corp., Washington, D.C.; DEN-7736.*

*Village Mobil, Medway, Mass.; DEN-4744.*

*Auto Row Texaco, San Jose, Calif.; DEE-4290.*

*Todisco Amoco, E. Boston, Mass.; DEN-4644.*

#### Petitions Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

The following firms filed Applications for Temporary Exception from the provisions of the Motor Gasoline Allocation Regulations. The requests, if granted, would result in an increase in the base period allocation of motor gasoline. The DOE issued Decisions and Orders which determined that the requests be denied:

*Company Name, Location, and Case No.*

*Steamboat Springs Station No. 1, Washington, D.C.; DEL-7534*

*Machardy Oil Co., Danville, Va.; DEO-0117*

#### Dismissals

The following submissions were dismissed without prejudice to refiling at a later date:

*Company Name and Case No.*

*Dick's Pump & Electric, DEE-6897.*

*Park Caldwell & Sons, Inc., DEE-3233; DES-0193.*

*Pete's Sunoco, DEE-7094.*

*Briarvista Chevron, DXE-6125.*

*Jack's Texaco, DEE-4176.*

*Newton American Service Station, DEE-5711.*

*Ward's Service Center, DEE-7611.*

*Blarney Castle Oil Co., DEE-2239; DST-2239.*

*American Air Filter, DEE-3070.*

*Atkinson Oil Co., DEE-2659.*

*Dekalb County School System, DEE-7820.*

*Robert E. Pleasant, DEE-3680.*

*Interstate 84 & Route 6, DEE-3353.*

*Naegele Outdoor Advertising Co., DEE-7174.*

*Patriot Gas & Sales, DEE-5945.*

*The "Corner", DEE-3471.*

*Western Exchange Corporation, DEE-5099.*

*Apollo Oil Co., DES-3338; DST-3338.*

*D. J. Trucking Co., DEE-7123.*

*Daniell E. Wright, DEE-5073.*

*Delta Pet. Corp., DEE-2368; DST-2368.*

*Fancy Gap Gulf, DEE-4759; DST-4759.*

*In-N-Out Car Wash, DRO-0269.*

*Edward H. Spencer, DEE-7705.*

*James Cotton & Grain, DEE-6582.*

*Murphy Grimmer & Co, DEE-5924.*

*Robert Law, DEE-4189; DES-4189.*

*Shell Oil Co., DEE-4640.*

*Smith-Cranford Barber Shop, DEE-7629.*

*Suburban Oil Co., DEE-4612.*

*Thomas F. Ventura, DEE-7088.*

*Trends Publishing, DFA-0334.*

*Wilson Oil & Chemical Inc., DEE-7845.*

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

**Melvin Goldstein,**

*Director, Office of Hearings and Appeals.*

November 9, 1979.

[FR Doc. 79-35505 Filed 11-16-79; 8:45 am]

BILLING CODE 6450-01-M

## ENVIRONMENTAL PROTECTION AGENCY

[FRL 1361-6]

### Availability of Environmental Impact Statements

**AGENCY:** Office of Environmental Review (A-104), US Environmental Protection Agency.

**PURPOSE:** This Notice lists the Environmental Impact Statements (EISs) which have been officially filed with the EPA and distributed to Federal agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's Regulations (40 CFR Part 1506.9).

**PERIOD COVERED:** This Notice includes EIS's filed during the week of November 5 to November 9, 1979.

**REVIEW PERIODS:** The 45-day review period for draft EIS's listed in this Notice is calculated from November 16, 1979 and will end on December 31, 1979. The 30-day review period for final EIS's as calculated from November 16, 1979 will end on December 17, 1979.

**EIS AVAILABILITY:** To obtain a copy of an EIS listed in this Notice you should contact the Federal agency which prepared the EIS. This Notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the Notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Environmental Review, EPA, for further information.

**BACK COPIES OF EIS'S:** Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available with charge from the following sources:

For hard copy reproduction:

Environmental Law Institute, 1346 Connecticut Avenue, NW, Washington, DC 20036.

For hard copy reproduction or microfiche:

Information Resources Press, 2100 M Street, NW, Suite 316, Washington, DC 20037.

**FOR FURTHER INFORMATION CONTACT:** Kathi L. Wilson, Office of Environmental Review (A-104), Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, (202) 245-3006.

**SUMMARY OF NOTICE:** On July 30, 1979, the CEQ Regulations became effective. Pursuant to § 1506.10(a), the 30-day review period for final EIS's received during a given week will now be calculated from Friday of the following week. Therefore, for all final EIS's received during the week of November 5, 1979 to November 9, 1979 the 30-day review period will be calculated from November 16, 1979. The review period will end on December 17, 1979.

Appendix I sets forth a list of EIS's filed with EPA during the week of November 5, 1979 to November 9, 1979. The Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the State(s) and County(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number, if available, is listed in this Notice. Commenting entities on draft EIS's are listed for final EIS's.

Appendix II sets forth the EIS's which agencies have granted an extended review period or EPA has approved a waiver from the prescribed review period. The Appendix II includes the Federal agency responsible for the EIS, the name, address, and telephone number of the Federal agency contact, the title, State(s) and County(ies) of the EIS, the date EPA announced availability of the EIS in the Federal Register and the newly established date for comments.

Appendix III sets forth a list of EIS's which have been withdrawn by a Federal agency.

Appendix IV set forth a list of EIS retractions concerning previous Notices of Availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agency.

Appendix V sets forth a list of reports or additional supplemental information relating to previously filed EIS's which have been made available to EPA by Federal agencies.

Appendix VI sets forth official corrections which have been called to EPA's attention.

Dated: November 14, 1979.

William N. Hedeman, Jr.,

Director, Office of Environmental Review (A-104).

Appendix I.—EIS's Filed With EPA during the Week of November 5 to 9, 1979

#### U.S. ARMY CORPS OF ENGINEERS

Contact: Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272-0121.

#### Draft

Belle River Power Plant, St. Clair County, Mich., November 7: Proposed is the construction and operation of a 1,328 mega-coal-fired electrical generation facility on the St. Clair River, St. Clair County, Michigan, at the existing St. Clair Power Plant site. Water for the proposed once-through cooling system would be supplied from, and discharged into, the Clair River via pipeline. Land designated for the facilities consists of approximately 942 acres in China and East China townships. In addition to the two generating units, the project will require two 665-foot stacks, air pollution control equipment, coal and material storage areas, ash basins, a waste material storage area and river intake and discharge facilities. (Detroit district.) (EIS Order No. 91143)

#### DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Deputy Assistant Secretary, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, (202) 377-4335.

#### National Oceanic and Atmospheric Administration

#### Final

Precious coral fisheries, Western Pacific, FMP, Pacific Ocean, November 9: Proposed is the implementation of a fishery management plan for three species of precious corals in the western Pacific region. The management measures will include: 1) catch quotas, 2) a minimum size for pink coral colonies, 3) establishment of closed beds or refugia, 4) requirement that all coral harvesting be done under permit, and 5) requirement of extensive reporting of operations by permit holders. Comments made by: COE, DOI, State and local agencies, groups, individuals, and businesses. (EIS Order No. 91152.)

#### Draft Supplement

Atlantic groundfish fishery, FMP (DS-4), Atlantic Ocean, November 8: This statement supplements a final EIS, #70722, filed 6-9-77. Proposed is an amendment to the Atlantic groundfish fishery management plan. The amendment: 1) establishes annual optimum yields for cod from the gulf of Maine, cod from Georges Bank and south, haddock and yellowtail flounder for the fishing year beginning October 1, 1979; 2) Establishes a minimum revised mesh size for groundfish fishing by vessels carrying federal fisheries permits for groundfish; 3) establishes a minimum legal fish size limitation for cod and haddock; and 4) recommends that appropriate regulations be established in state waters. (EIS order No. 91140)

#### DEPARTMENT OF DEFENSE, ARMY

Contact: Col. Charles E. Sell, Chief of the Environmental Office, Headquarters DAEN-ZCE, Office of the Assistant Chief of Engineers, Department of the Army, Room 1E676, Pentagon, Washington, D.C. 20310, (202) 694-4269.

#### Draft

Fort George G. Meade, ongoing activities, Anne Arundel, Howard, and Prince Georges Counties, Md., November 9: Proposed is a description of beneficial and adverse environmental effects that result from existing activities and conditions at Fort George G. Meade, Maryland. The description of environmental effects is based upon an analysis of interactions between the existing activities and conditions and the natural and man-made environments within the boundaries of Fort Meade. Anne Arundel, Howard and Prince George's counties were identified as a primary area of influence of Fort Meade for purposes of the social, economic and land use analyses. (EIS Order No. 91150.)

#### DELAWARE RIVER BASIN COMMISSION

Contact: Mr. Brinton Whitall, Secretary, Delaware River Basin Commission, P.O. Box 7360, West Trenton, New Jersey 08628, (609) 883-9500.

#### Draft

Delaware River Basin, level B study, several counties, November 9: Proposed is a management plan for the Delaware River Basin in Delaware, New Jersey, New York and Pennsylvania. The plan would manage

the water resources of the basin by identifying policies, programs and projects in the areas of water conservation; water quality; water supply; flow maintenance; flood loss reduction; fish, wildlife and recreation; energy and navigation. (EIS Order No. 91151.)

#### DEPARTMENT OF ENERGY

Contact: Dr. Robert Stern, Acting Director, NEPA Affairs Division, Department of Energy, Mail Station 4G-064, Forrestal Bldg., Washington, DC 20585, (202) 252-4600.

#### Bonneville Power Administration

##### Draft

Buckley-Summer Lake 500-KV line and substations, several counties, Oregon, November 5: Proposed is the construction of the Buckley-Summer Lake 500-KV transmission line and related facilities in Wasco, Jefferson, Crook, Deschutes, Lake and Klamath Counties, Oregon. The project will include the construction of the Buckley substation near Maupin and the Summer Lake substation near Silver Lake. The length of the line would be 156 miles. The alternatives considered include: (1) local generation, (2) underground, and (3) methods of locating the transmission facilities. (DOE/EIS-0050-DS.) (EIS Order No. 91132.)

#### ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. T. A. Wastler, Chief, Marine Protection Branch (WH-548), Environmental Protection Agency, Washington, D.C. 20460, (202) 245-3051.

##### Draft

Hawaiian Ocean Disposal Sites, Designation, several sites in Pacific Ocean, October 7: Proposed is the designation of five Hawaiian Ocean disposal sites for continuing use for the disposal of maintenance dredged material. The proposed sites are off the islands of Oahu, Kauai, Maui, and Hawaii. The counties involved include Honolulu, Kauai, Maui and Hawaii. The Oahu site would be used by the COE and Navy for the disposal of material from Honolulu and Pearl Harbors. The other sites would be used by the COE as disposal sites for the adjacent harbor. The alternatives considered are no action and use of other sites. (EIS order No. 91141.)

#### ENVIRONMENTAL PROTECTION AGENCY

Contact: Ms. Barbara Taylor, Region V, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353-2307.

##### Draft

Otter Tail Lake Waste Treatment System, Study No. 5, Otter Tail County, Minn., October 8: Proposed is a facility plan for the Otter Tail Lake Waste Treatment Systems located in Otter Tail County, Minnesota. The plan includes extensive sewerage to correct malfunctioning on-site wastewater disposal systems and to protect water quality. The preferred alternative involves: (1) the repair and upgrading of existing on-site systems such as septic tanks and filter fields, (2) grey water/black water separation along problem high groundwater flow segments, (3) creation

of an on-site wastewater management district, and (4) site-specific environmental and engineering analyses of existing on-site systems. (EIS order No. 91148.)

#### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, (202) 755-6306.

##### Draft

Countrywood South Subdivision, Memphis, Shelby County, Tenn., Oct. 8: The proposed action is the issuance of mortgage insurance for the Countrywood South Subdivision located in Shelby County, Tennessee. Countrywood South is a residential development of an approximately 1,153 acre tract of land located northeast of Memphis. The development plan includes approximately 2,511 single family lots, 85 acres of open space which includes a county school and park, and a greenbelt system which will allow unrestricted access to the park and school from various sections of the development. Also included are sites for multi-family and commercial development. (HUD-R04-EIS-79-030) (EIS order No. 91146.)

##### Final

Concord Planned Development in Montbello, Denver, Denver County, Colo., Oct. 6: Proposed is the issuance of HUD Home Mortgage Insurance for the Concord planned development in Montbello in the city and county of Denver, Colorado. The completed development will contain 6,565 single family units and 4,000 multi-family units. At this time, 2,234 single family units and 2,820 multi-family units remain to be constructed. (HUD-R08-EIS-79-XVF.) Comments made by: DOI, HEW, USDA, AHP, State and Local Agencies Groups. (EIS order No. 91136.)

#### DEPARTMENT OF THE INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Bldg., Department of the Interior, Washington, D.C. 20240, (202) 343-3891.

#### Bureau of Land Management

##### Final

Aravaipa Canyon Wilderness, Graham and Pinal Counties, Ariz., Oct. 6: Proposed is the inclusion of the Aravaipa Canyon Wilderness Primitive Area, located in Graham and Pinal Counties, Arizona, in the national wilderness preservation system. The area encompasses 4,044 acres, and will be managed for the retention of primitive and wilderness values and the regulation of public use. The alternatives consider: (1) no action and (2) the increase of the size of the proposed wilderness area. (FES-INT-79-59) Comments made by: COE, DOI, State Agencies, groups, individuals and businesses. (EIS order No. 91137.)

#### National Park Service

##### Draft

Chickasaw National Recreation Area, Murray County, Okla., Oct. 7: Proposed is a

General Management Plan Chickasaw National Recreation Area in Murray County, Oklahoma. The plan would provide coordinated facility development, visitor use programs, and resource management actions. The facilities include a visitor center/headquarters adjacent to the city of Sulphur, a 9.5 mile biking/hiking trail, a 6.5 mile hiking trail, a net of 32 additional campsites, and other facilities. A shallow overflow channel will be constructed to provide a floodwater bypass around Tavertine Nature Center. (DES-79-59) (EIS order No. 91142.)

##### Final

Sequoia and Kings Canyon Nat'l Parks Plan, Tulare County, Calif., November 6: Proposed is a development concept plan for the Giant Forest/Lodgepole Area of Sequoia and Kings Canyon National Parks, Tulare County, California. The plan includes provisions for converting Giant Forest to a day use area, redesigning the campground and the employee community at Lodgepole, developing Clover Creek for visitor lodging and associated services, developing Red Fir for maintenance facilities and a sewage disposal spray field, a public transportation system, and expanding the Dorst Creek Campground for group camping. Comments made by: AHP, USDA, DOI, EPA, State and local agencies, groups, individuals and businesses. (EIS Order No. 91135.)

#### DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426-4357.

#### Federal Highway Administration

##### Draft

MD-410 extension, B/W Parkway to Penny Drive, Prince Georges County, Md., November 5: Proposed is the extension of MD-410 from the Baltimore/Washington Parkway to Penny Drive in Prince Georges County, Maryland. The facility would be extended for 2.6 miles and would be constructed as a four-lane, divided highway. The alternatives consider: (1) No build, (2) three at-grade channelized "T" intersections at Riverdale Road, (3) two at-grade intersections and a "diamond" interchange with MD-450, (4) two interchange configurations combining the US 50/MD-410 interchange with the New Carrollton Metro access interchange, (5) a "T" intersection with Penny Drive, and (6) alternate typical sections, "open" or "closed" type, for the mainline. (FHWA-MD-EIS-79-04-D.) (EIS Order No. 91133.)

##### Final

I-78, I-78/Haafsville to I-78/Still Valley, Warren County, N.J., Leigh and Northampton Counties, Pa., November 5: This statement finalizes the following EIS's concerning the construction of I-78 in New Jersey and Pennsylvania: No. 20040D, filed 6-30-71; No. 20086D, filed 7-7-71; No. 21662F, filed 1-19-72; No. 21928F, filed 2-15-72; No. 31397D, filed 8-22-73; No. 31747D, filed 11-05-73; and No. 60866D, filed 6-10-78. The portion of I-78 under consideration begins at existing I-78 near Haafsville in Leigh County,

Pennsylvania, extends through Northampton County, Pennsylvania and terminates at existing I-78, near Still Valley in Warren County, New Jersey. (FHWA-PA-EIS-73-06-F.) Comments made by: USDA, HUD, DOC, EPA, DOT, DOI, State and local agencies, groups and individuals. (EIS Order No. 91139.)

SW 89th Avenue to I-5, Nyberg Road Bypass, Washington County, Oreg., November 5: Proposed is the improvement of the local street connection to I-5, which is presently SW 89th Avenue, in the city of Tualatin, Washington County, Oregon. The alternatives considered are: (1) No build, (2) the extension and realignment of SW Nyberg Road, and (3) the construction of the SW Tualatin Sherwood Bypass. Both build alternatives would provide four 12-foot travel lanes, two in each direction, paved shoulders, sidewalks, bicycle paths, a median, and a coordinated signal system. (FHWA-OR-EIS-79-02-F.) Comments made by: USDA, COE, DOI, State and local agencies, businesses. (EIS Order No. 91134.)

**Draft Supplement**

Freemont Northwest Bypass, US 77 to US

30, Dodge County, Nebr., November 8: This statement supplements a final EIS, No. 30763, filed on 5-4-73. The supplement concerns the Freemont Northwest Bypass from US 77 to US 30 in Dodge County, Nebraska. The construction will include grading, structures, high type surfacing and surfaced shoulders. The facility is designed as an ultimate four-lane roadway. Two alignment alternatives are considered. (FHWA-NEBR-EIS-72-02-F-DS.) (EIS Order No. 91149.)

**Final Supplement**

US 550, Shiprock to Fruitland, San Juan County, N. Mex., November 6: This statement supplements a final EIS, No. 31178, filed 7-16-73 concerning the improvement of US 550 between Shiprock and Farmington, San Juan County, New Mexico. This statement addresses completion of a portion of the project beginning 13 miles east of Shiprock and terminating at Fruitland. The length of this portion is 2.6 miles which would be widened from the existing two-lanes to four-lanes. Five alternatives were considered. (FHWA-NM-EIS-71-10-FS.) Comments

made by: USDA, DOI, EPA, AHP, State and local agencies. (EIS Order No. 91138.)

**VETERANS ADMINISTRATION**

Contact: Mr. Willard Sittler, Director, Office of Environmental Activities (004A), Veterans Administration, 810 Vermont Avenue, Washington, D.C. 20420, (202) 389-2526.

**Final**

VA Medical Center, Hospital Replacement, Portland, Multnomah County, Oreg., November 8: Proposed is the construction of a replacement hospital for the VA Medical Center located in Portland, Multnomah County, Oregon. The plan is to construct a new 600-bed facility either at the existing site adjacent to a university medical school or at a nearby site adjacent to a private hospital. The proposed expansion would double the size of the existing facility and increase the number of beds to 600. The sites considered are at Marquam Hill or adjacent to Emanuel Hill. Comments made by: DOI, EPA, HUD, AHP, USDA, State and local agencies, individuals and businesses. (EIS Order No. 91144.)

**EIS's Filed During the Week of Nov. 5 to 9, 1979**

Statement title index—by State and County

State	County	Status	Statement title	Accession No.	Date filed	Orig. agency No.
Arizona	Graham	Final	Aravaipa Canyon Wilderness	91137	11-06-79	DOI
	Pinal	Final	Aravaipa Canyon Wilderness	91137	11-06-79	DOI
Atlantic Ocean		Supple	Atlantic Groundfish Fishery, FMP, (DS-4)	91140	11-06-79	DOC
California	Tulare	Final	Sequoia & Kings Canyon Nat'l Parks Plan	91135	11-06-79	DOI
Colorado	Denver	Final	Concord Planned Development in Montbello, Denver	91136	11-06-79	HUD
Hawaii	Several	Draft	Hawaiian Ocean Disposal Sites, Designation	91141	11-07-79	EPA
Maryland	Anne Arundel	Draft	Fort George G. Meade, Ongoing Activities	91150	11-09-79	USA
	Howard	Draft	Fort George G. Meade, Ongoing Activities	91150	11-09-79	USA
	Prince Georges	Draft	MD-410 Extension, B/W Parkway to Pennsy Drive	91133	11-05-79	DOT
		Draft	Fort George G. Meade, Ongoing Activities	91150	11-09-79	USA
Michigan	St. Clair	Draft	Belle River Power Plant	91143	11-07-79	COE
Minnesota	Otter Tail	Draft	Otter Tail Lake Waste Treatment System, Study #5	91148	11-08-79	EPA
Nebraska	Dodge	Supple	Freemont Northwest Bypass, US 77 to US 30	91149	11-08-79	DOT
New Jersey	Northampton	Final	I-78, I-78/Haafsville to I-78/Still Valley	91139	11-05-79	DOT
	San Juan	Final	I-78, I-78/Haafsville to I-78/Still Valley	91139	11-05-79	DOT
New Mexico		Final supp	US-550 Shiprock to Fruitland	91138	11-06-79	DOT
Oklahoma	Nurray	Draft	Chickasaw National Recreation Area	91142	11-07-79	DOI
Oregon	Several	Draft	Buckley-Summer Lake 500 kV Line and Substations	91132	11-05-79	DOE
	Multnomah	Final	VA Medical Center, Hospital Replacement, Portland	91144	11-08-79	VA
Pacific Ocean	Washington	Final	SW 89th Avenue to I-5, Nyberg Road Bypass	91134	11-05-79	DOT
		Draft	Hawaiian Ocean Disposal Sites, Designation	91141	11-07-79	EPA
		Final	Precious Coral Fisheries, Western Pacific, FMP	91152	11-09-79	DOC
Pennsylvania		Final	I-78, I-78/Haafsville to I-78/Still Valley	91139	11-05-79	DOT
Several	Several	Draft	Delaware River Basin, Level B Study	91151	11-09-79	DRBC
	Tennessee	Shelby	Draft	Countrywood South Subdivision, Memphis	91146	11-08-79

**Appendix II.—Extension/Waiver of Review Periods on EIS's Filed With EPA**

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Waiver/extension	Date review terminates
<b>ENVIRONMENTAL PROTECTION AGENCY</b>					
Mr. Eugene Wojcik, Region V, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 353-2157.	O'Hare Water Reclamation Plant, Des Plaines.	Draft suppl. 90996	Sept. 28, 1979	Extension	Nov. 30, 1979.
<b>DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT</b>					
Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755-6306.	Watson Island Theme Park, Udag	Draft 91057	Oct. 19, 1979 (see app. V).	Extension	Dec. 31, 1979.
<b>DEPARTMENT OF TRANSPORTATION</b>					
Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426-4357.	Freemont Northwest Bypass US 77 to US 30.	Draft suppl. 91149	Nov. 16, 1979 (see app. I).	Extension	Jan. 9, 1980.

## Appendix II.—Extension/Waiver of Review Periods on EIS's Filed With EPA—Continued

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Waiver/extension	Date review terminates
DEPARTMENT OF COMMERCE					
Dr. Sidney R. Galler, Deputy Assistant Secretary, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, (202) 377-4335.	Atlantic Groundfish Fishery, FMP.	Draft suppl. 91140	Nov. 16, 1979 (see app. I).	Waiver	Dec. 17, 1979.

## Appendix III.—EIS's Filed With EPA Which Have Been Officially Withdrawn by the Originating Agency

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Waiver/extension	Date review terminates
None.					

## Appendix IV.—Notice of Official Retraction

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Waiver/extension	Date review terminates
None.					

## Appendix V.—Availability of Reports/Additional Information Relating to EIS's Previously Filed With EPA

Federal agency contact	Title of report	Date made available to EPA	Accession No.
U.S. ARMY CORPS OF ENGINEERS			
Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272-0121.	Rochester Harbor Maintenance, Monroe County, New York.	Nov. 8, 1979	91145
DEPARTMENT OF TRANSPORTATION			
Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street S.W., Washington, D.C. 20590, (202) 426-4357.	North Las Vegas Boulevard Interchange.	Nov. 8, 1979	91147
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT			
Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street S.W., Washington, D.C. 20410, (202) 755-6306.	Watson Island Theme Park, Udag, Traffic Analysis.	Nov. 5, 1979 (see app. II)	91157

## Appendix VI.—Official Correction

Federal agency contact	Title of EIS	Filing status/accession No.	Date notice of availability published in "Federal Register"	Waiver/extension	Date review terminates
None.					

[FR Doc. 79-35610 Filed 11-16-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1361-1]

**Intent To Prepare a Draft Environmental Impact Statement****AGENCY:** U.S. Environmental Protection Agency (EPA).**ACTION:** Notice of Intent to prepare a draft Environmental Impact Statement (EIS).**PURPOSE:** In accordance with Section 102(2)(c) of the National Environment Policy Act, EPA has identified a need to prepare an EIS and therefore publishes this Notice of Intent pursuant to 40 CFR 1501.7.**FOR FURTHER INFORMATION CONTACT:** Mr. Clinton B. Spotts, Regional EIS

Coordinator, U.S. Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270.

**SUMMARY:** Description of action: The City of Fayetteville, Washington County, Arkansas, has received a grant [C-05-0366-01] from the U.S. EPA for wastewater treatment facilities planning

in accordance with Section 201 of the Clean Water Act.

Based on the evaluations to be developed in the EIS, EPA will determine whether to award additional funds for detailed design and construction of any wastewater treatment facilities.

2. Public and private participation in the EIS process: Full participation by interested Federal, State or local agencies, public groups, public officials and individuals is invited. The public will be involved to the maximum extent possible and is encouraged to participate in the planning process. Public meetings and workshops will be held during the development of the EIS and facility plan.

3. Scoping: For the purpose of gathering information on significant, environmental issues and to determine the scope of the EIS, EPA will hold:

A Public Meeting, Central Fire Station, 303 W. Center Street, Fayetteville, Arkansas, December 11, 1979 (Tuesday) 7:00 p.m.

4. Timing: EPA estimates the draft EIS will be available for public review and comment about August 1980.

5. Request for copies of draft EIS: Interested parties are encouraged to submit their name and address to the person indicated above for inclusion on the distribution list for the draft EIS and related public notices.

Dated: November 7, 1979.

William N. Hedeman, Jr.,

Director, Office of Environmental Review (A-104).

[FR Doc. 79-35563 Filed 11-16-79; 8:45 am]

BILLING CODE 6560-01-M

## FEDERAL COUNCIL ON THE AGING

### Meeting

The Federal Council on the Aging was established by the 1973 Amendments to the Older Americans Act of 1965 (Pub. L. 93-29, 42 U.S.C. 3015) for the purpose of advising the President, the Secretary of Health, Education, and Welfare, the Commissioner on Aging and the Congress on matters relating to the special needs of older Americans.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App. 1, sec. 10, 1976) that the Council will hold a meeting on December 10 from 9:00 a.m. to 5:00 p.m. in Room 703-705A, Hubert Humphrey Building; December 11 and 12 from 9:00 a.m. to 5:00 a.m. and 9:00 a.m. to 12:30 p.m., respectively in Room 303-305A, Hubert Humphrey Building, 200 Independence Avenue SW., Washington, D.C. 20201.

The agenda will include orientation of new members, a discussion/review on the procedures in geriatric medicine and the energy conference co-convened by the Administration on Aging, National Institutes of Health and the Federal Council. Progress reports will be given by the standing committees of the Council on the Congressionally mandated study; proposed recommendations for a national policy on long term care; employment of older workers; the needs and concerns of the rural and urban elderly, as well as the final disposition of the minority elderly report.

Other issues pertinent to the quality of life of the aged will also be discussed.

Further information on the Federal Council may be obtained from the Federal Council on the Aging, Washington, D.C. 20201, telephone (202) 245-0441. FCA meetings are open for public observation.

Dated: November 13, 1979.

Nelson H. Cruikshank,

Chairman, Federal Council on the Aging.

[FR Doc. 79-35536 Filed 11-16-79; 8:45 am]

BILLING CODE 4110-82-M

## FEDERAL MARITIME COMMISSION

### Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before December 10, 1979. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the

commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. 8900-12.

Filing Party: Stanley O. Sher, Esq., Billig, Sher & Jones, P. C., Suite 300, 2033 K Street, NW., Washington, D.C. 20006.

Summary: Agreement No. 8900-12 amends the basic provisions of the Eighty-Nine Hundred Rate Agreement by establishing comprehensive decision making procedures.

Agreement No. 9548-19.

Filing Party: Marc J. Fink, Billig, Sher & Jones, P.C., Suite 300, 2033 K Street, NW., Washington, D.C. 20006.

Summary: Agreement No. 9548-19, among the member lines of the North Atlantic Mediterranean Freight Conference (Agreement No. 9548-19), would amend the basic agreement to give the Italian and French Rate Committees exclusive jurisdiction over all rate matters within their respective trade areas.

Dated: November 14, 1979.

By order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 79-35571 Filed 11-16-79; 8:45 am]

BILLING CODE 6730-01-M

## FEDERAL RESERVE SYSTEM

### Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage de novo (or continue to engage in an activity earlier commenced de novo), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views 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 interest, or unsound banking practices." Any comment on an application that requests a hearing must include 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 that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than December 10, 1979.

A. *Federal Reserve Bank of Boston*, 30 Pearl Street, Boston, Massachusetts 02106:

Old Stone Corporation, Providence, Rhode Island (mortgage banking and insurance activities; Ohio): To engage, through a proposed de novo indirect subsidiary, DAC Corporation of Ohio, in the origination, sale and servicing of first and second mortgage loans; and the sale of life and accident health insurance directly related to its extension of credit. These activities would be conducted from an office in Columbus, Ohio, serving the general metropolitan area of Columbus and Franklin County, Ohio.

B. *Federal Reserve Bank of New York*, 33 Liberty Street, New York, New York 10045:

Manufacturers Hanover Corporation, New York, New York (commercial finance activities; Illinois, Indiana, Iowa, Michigan, Minnesota, Ohio and Wisconsin): To engage, through a direct subsidiary, Manufacturers Hanover Commercial Corporation (Del.), in making or acquiring, for its own account or for the account of others, loans and other extensions of credit such as would be made by a commercial finance company; and arranging or servicing such loans and other extensions of credit for any person. Such activities will be conducted from an office located in Chicago, Illinois servicing the seven states mentioned above.

C. *Federal Reserve Bank of Cleveland*, 1455 East Sixth Street, Cleveland, Ohio 44101:

Mellon National Corporation, Pittsburgh, Pennsylvania (consumer finance and credit-related insurance activities; Florida, Indiana and Oregon): To engage, through a subsidiary, Freedom Financial Services Corporation in the following activities; General consumer finance activities including acting as insurance agent with respect to the sale of credit life insurance, credit accident and health insurance, and

credit property insurance. These activities will be conducted from offices in: Tampa, Florida, servicing Western Hillsborough County; Terre Haute, Indiana, serving Virgo County; and Pendleton, Oregon, serving Umatilla County. Comments on this application must be received by December 7, 1979.

D. *Federal Reserve Bank of Richmond*, 701 East Byrd Street, Richmond, Virginia 23261:

NCNB Corporation, Charlotte, North Carolina (acquiring and liquidating property acquired from nonbanking subsidiaries; North Carolina, South Carolina, Georgia and Florida): To engage, through a subsidiary MAR, Inc., in the following activities: Acquiring and liquidating real estate and other property presently owned, directly and indirectly, by NCNB Corporation's subsidiaries, NCNB Mortgage Corporation and TranSouth Financial Corporation; which property has previously been obtained by said subsidiaries through foreclosure or otherwise acquired in connection with debts previously contracted. These activities will be conducted from an office in Charlotte, North Carolina, and the area to be served includes the States of North Carolina, South Carolina, Georgia and Florida.

E. *Federal Reserve Bank of Kansas City*, 925 Grand Avenue, Kansas City, Missouri 64198:

1. American Bancorporation, Inc., Kansas City, Missouri (mortgage banking activities; Missouri): To engage, through its subsidiary, American Mortgage Company, in lending secured by real estate mortgages and deeds of trust. These activities will be conducted from an office in Kansas City, Missouri, serving metropolitan Kansas City, Missouri.

2. Century Bancorporation, Inc., Tulsa, Oklahoma (financing and mortgage banking activities; Oklahoma): To engage, through a de novo subsidiary, Action Financial Corporation, in making direct cash installment loans to individuals; Purchasing installment paper arising from retail sales of consumer goods; financing of business accounts receivable and sales of commercial and industrial equipment by small business; making first mortgage real estate loans to finance the purchase of residential commercial property; and making second mortgage loans for various purposes such as home improvement, consolidation of debts, and temporary and long-term working capital. These activities will be conducted from an office in Tulsa, Oklahoma, serving the Tulsa SMSA.

F. *Other Federal Reserve Banks*: None.

Board of Governors of the Federal Reserve System, November 8, 1979.

William N. McDonough,  
Assistant Secretary of the Board.

[FR Doc. 79-35596 Filed 11-16-79; 8:45 am]

BILLING CODE 6210-01-M

### **Cary/Grove Bancorp., Inc.; Formation of Bank Holding Company**

Cary/Grove Bancorp., Inc., Cary, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares (less directors' qualifying shares) of Suburban Bank of Cary/Grove, Cary, Illinois. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 5, 1979. 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.

Board of Governors of the Federal Reserve System, November 13, 1979.

William N. McDonough,  
Assistant Secretary of the Board.

[FR Doc. 79-35594 Filed 11-16-79; 8:45 am]

BILLING CODE 6210-01-M

### **Central Bancorporation, Inc.; Formation of Bank Holding Company**

Central Bancorporation, Inc., Denver, Colorado, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of First National Bank of Glenwood Springs, Glenwood Springs, Colorado; First National Bank in Grand Junction, Grand Junction, Colorado; First National Bank in Aspen, Aspen, Colorado; First National Bank-North in Grand Junction, Grand Junction, Colorado; First National Bank in Craig, Craig, Colorado; Rocky Ford National Bank, Rocky Ford, Colorado; Central Bank of Denver, Denver, Colorado; Central Bank of Aurora, Aurora, Colorado; Central Bank of North Denver, Denver, Colorado; Central Bank of Colorado Springs,

Colorado Springs, Colorado; Central Bank of Academy Boulevard, Colorado Springs, Colorado; Central Bank of Greeley, Greeley, Colorado. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 6, 1979. 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.

Board of Governors of the Federal Reserve System, November 9, 1979.

William N. McDonough,  
*Assistant Secretary of the Board.*

[FR Doc. 79-35507 Filed 11-16-79; 8:45 am]

BILLING CODE 6210-01-M

#### Central Colorado Co., and C.C.B., Inc.; Formation of Bank Holding Company

Central Colorado Company and C.C.B., Inc., Denver, Colorado, have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring 80 per cent or more of the voting shares of Central Bancorporation, Inc., Denver, Colorado, and by indirectly acquiring the voting shares of First National Bank of Glenwood Springs, Glenwood Springs, Colorado; First National Bank in Grand Junction, Grand Junction, Colorado; First National Bank in Aspen, Aspen, Colorado; First National Bank-North in Grand Junction, Grand Junction, Colorado; First National Bank in Craig, Craig, Colorado; Rocky Ford National Bank, Rocky Ford, Colorado; Central Bank of Denver, Denver, Colorado; Central Bank of Aurora, Aurora, Colorado; Central Bank of North Denver, Denver, Colorado; Central Bank of Colorado Springs, Colorado Springs, Colorado; Central Bank of Academy Boulevard, Colorado Springs, Colorado; Central Bank of Greeley, Greeley, Colorado. The factors that are considered in action on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in

writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than December 10, 1979. 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.

Board of Governors of the Federal Reserve System, November 9, 1979.

William N. McDonough,  
*Assistant Secretary of the Board.*

[FR Doc. 79-35508 Filed 11-16-79; 8:45 am]

BILLING CODE 6210-01-M

#### Citibank Interamerica; Establishment of U.S. Branch of a Corporation Organized Under Section 25(a) of the Federal Reserve Act

Citibank Interamerica, Miami, Florida, a corporation organized under section 25(a) of the Federal Reserve Act, has applied for the Board's approval under § 211.4(c)(1) of the Board's Regulation K (12 CFR 211.4(c)(1)), to establish branches in Los Angeles, California; San Francisco, California; Atlanta, Georgia; Chicago, Illinois; Boston, Massachusetts; Minneapolis, Minnesota; St. Louis, Missouri; Cleveland, Ohio; Houston, Texas; and Seattle, Washington. Citibank Interamerica operates as a subsidiary of Citibank, N.A., New York, New York.

The factors that are to be considered in acting on this application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than December 7, 1979. 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, identify specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 7, 1979.

William N. McDonough,  
*Assistant Secretary of the Board.*

[FR Doc. 79-35509 Filed 11-16-79; 8:45 am]

BILLING CODE 6210-01-M

#### Crested Butte Bankshares, Inc.; Formation of Bank Holding Company

Crested Butte Bankshares, Inc., Crested Butte, Colorado, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Crested Butte State Bank, Crested Butte, Colorado. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 10, 1979. 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.

Board of Governors of the Federal Reserve System, November 9, 1979.

William N. McDonough,  
*Assistant Secretary of the Board.*

[FR Doc. 79-35600 Filed 11-16-79; 8:45 am]

BILLING CODE 6210-01-M

#### Delano State Agency, Inc.; Formation of Bank Holding Company

Delano State Agency, Inc., Delano, Minnesota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 69.1 per cent of the voting shares of State Bank of Delano, Delano, Minnesota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 10, 1979. 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.

Board of Governors of the Federal Reserve System, November 9, 1979.

**William N. McDonough,**  
*Assistant Secretary of the Board.*

[FR Doc. 79-35601 Filed 11-16-79; 8:45 am]

BILLING CODE 6210-01-M

### **Hoffman Bancorp, Inc.; Formation of Bank Holding Company**

Hoffman Bancorp, Inc., Hoffman Estates, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring up to 100 per cent of the voting shares (less directors' qualifying shares) of the successor by merger to Suburban Bank of Hoffman-Schaumburg, Schaumburg, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. section 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 5, 1979. 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.

Board of Governors of the Federal Reserve System, November 13, 1979.

**William N. McDonough,**  
*Assistant Secretary of the Board.*

[FR Doc. 79-35595 Filed 11-16-79; 8:45 am]

BILLING CODE 6210-01-M

### **Financial Services Corp. of the Midwest; Proposed Acquisition of Financial Services Life Insurance Co. and Second Financial Services Life Insurance Co.**

Financial Services Corporation of the Midwest, Rock Island, Illinois, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 C.F.R. 225.4(b)(2)), for permission to acquire voting shares of Financial Services Life Insurance Company, and Second Financial Services Life Insurance Company, Phoenix, Arizona.

Applicant states that the proposed subsidiaries would engage in the activities of underwriting as reinsurer credit life insurance and credit accident and health insurance directly related to

extensions of credit by Applicant's credit granting subsidiaries and initially underwritten by an unaffiliated insurance company. These activities would be performed from offices of Applicant's subsidiaries in Phoenix, Arizona, and the geographic areas to be served are the States of Illinois, Iowa, Minnesota, and Wisconsin, and the northeastern portion of North Dakota. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views 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.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 10, 1979.

Board of Governors of the Federal Reserve System, November 9, 1979.

**William N. McDonough,**  
*Assistant Secretary of the Board.*

[FR Doc. 79-35602 Filed 11-16-79; 8:45 am]

BILLING CODE 6210-01-M

### **First Howard Bankshares, Inc.; Formation of Bank Holding Company**

First Howard Bankshares, Inc., Howard, Kansas, has applied for the Board's approval under Section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of The First National Bank of Howard, Howard, Kansas. The factors that are considered in acting on the application

are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 6, 1979. 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.

Board of Governors of the Federal Reserve System, November 13, 1979.

**William N. McDonough,**  
*Assistant Secretary of the Board.*

[FR Doc. 79-35603 Filed 11-16-79; 8:45 am]

BILLING CODE 6210-01-M

### **General Bancorporation, Inc.; Formation of Bank Holding Company**

General Bancorporation, Inc., Broomfield, Colorado, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Broomfield State Bank, Broomfield, Colorado. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 30, 1979. 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.

Board of Governors of the Federal Reserve System, November 9, 1979.

**William N. McDonough,**  
*Assistant Secretary of the Board.*

[FR Doc. 79-35604 Filed 11-16-79; 8:45 am]

BILLING CODE 6210-01-M

### **Hoffman Bancshares, Inc.; Formation of Bank Holding Company**

Hoffman Bancshares, Inc., Hoffman, Minnesota, has applied for the Board's approval under section 3(a)(1) of the

Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 81.4 percent of the voting shares of Farmers State Bank, Hoffman, Minnesota. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than December 10, 1979. 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.

Board of Governors of the Federal Reserve System, November 9, 1979.

**William N. McDonough,**  
*Assistant Secretary of the Board.*

[FR Doc. 79-35605 Filed 11-16-79; 8:45 am]  
BILLING CODE 6210-01-M

#### **New England Merchants Bank International; Establishment of U.S. Branch of a Corporation Organized Under Section 25(a) of the Federal Reserve Act**

New England Merchants Bank International, Boston, Massachusetts, a corporation organized under section 25(a) of the Federal Reserve Act, has applied for the Board's approval under § 211.4(c)(1) of the Board's Regulation K (12 CFR 211.4(c)(1)), to establish a branch in Miami, Florida. New England Merchants International Bank operates as a subsidiary of New England Merchants National Bank, Boston, Massachusetts.

The factors that are to be considered in acting on this application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than December 10, 1979. 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, identify specifically any questions of fact that are in dispute, and summarize

the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, November 8, 1979.

**William N. McDonough,**  
*Assistant Secretary of the Board.*

[FR Doc. 79-35606 Filed 11-16-79; 8:45 am]  
BILLING CODE 6210-01-M

#### **Planters Bancshares, Inc.; Formation of Bank Holding Company**

Planters Bancshares, Inc., Opelousas, Louisiana, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Planters Trust and Savings Bank, Opelousas, Louisiana. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than December 13, 1979. 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.

Board of Governors of the Federal Reserve System, November 13, 1979.

**William N. McDonough,**  
*Assistant Secretary of the Board.*

[FR Doc. 79-35607 Filed 11-16-79; 8:45 am]  
BILLING CODE 6210-01-M

#### **Security Bancorp, Inc.; Acquisition of Bank**

Security Bancorp, Inc., Southgate, Michigan, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of the successor by consolidation to Security Bank of Richmond, Richmond, Michigan. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in

writing to the Reserve Bank to be received not later than December 10, 1979. 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.

Board of Governors of the Federal Reserve System, November 8, 1979.

**William N. McDonough,**  
*Assistant Secretary of the Board.*

[FR Doc. 79-35608 Filed 11-16-79; 8:45 am]  
BILLING CODE 6210-01-M

#### **Security Bancorp, Inc.; Acquisition of Bank**

Security Bancorp, Inc., Southgate, Michigan, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of the successor by consolidation to Keatington State Bank, Lake Orion, Michigan. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than December 10, 1979. 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.

Board of Governors of the Federal Reserve System, November 8, 1979.

**William N. McDonough,**  
*Assistant Secretary of the Board.*

[FR Doc. 79-35609 Filed 11-16-79; 8:45 am]  
BILLING CODE 6210-01-M

#### **GENERAL SERVICES ADMINISTRATION**

[Intervention Notice 94; Case No. 78-92-EL-AIR]

#### **Dayton Power & Light Co., the Public Utility Commission of Ohio; Proposed Intervention in Electric Rate Increase Proceeding; Correction**

In FR Doc. 79-23484 appearing at page 44937 in the Federal Register of July 31, 1979, the case number appearing in the heading after Intervention Notice 94 is

corrected to read Case No. 79-510-EL-AIR.

Dated: November 8, 1979.

Hayden J. Price,

*Acting General Counsel.*

[FR Doc. 79-35501 Filed 11-16-79; 8:45 am]

BILLING CODE 6820-AM-M

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Office of Education

#### National Advisory Council on Adult Education; Meeting

**AGENCY:** National Advisory Council on Adult Education.

**ACTION:** Notice of Meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Adult Education. This notice also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92-463, Sec. 10(a)(2)).

**DATE:** December 6, 1979; 10 a.m. to 1 p.m., Program Effectiveness and Evaluation Committee Meeting; 3 p.m. to 5 p.m., Program Liaison Committee Meeting; 5 p.m. to 7 p.m., Governmental Relations and Legislation Committee Meeting; 7:30 p.m. to 10 p.m., Executive Committee Meeting, December 7, 1979, 9 a.m. to 5 p.m. and December 8, 1979, 8:30 a.m. to 1 p.m., Full Council Meeting.

**ADDRESS:** The Hotel Washington, 15th at Pennsylvania Ave., NW., Washington, D.C.

**FOR FURTHER INFORMATION CONTACT:** Dr. Gary A. Eyre, Executive Director, National Advisory Council on Adult Education, 425 13th St., NW., Washington, D.C. 20004 (202/376-8892).

**SUPPLEMENTARY INFORMATION:** The National Advisory Council on Adult Education is established under Section 313 of the Adult Education Act (20 U.S.C. 1201). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and

other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Council shall be open to the public.

The proposed agenda includes:

Committee Reports.  
Committee Budgets.  
Council Goals, FY-80.  
Election of Officers, 12/7/79, 4:30 p.m.

Records shall be kept of all Council proceedings, and shall be available for public inspection at the Office of the National Advisory Council on Adult Education, 425 13th St., NW., Suite 323, Washington, D.C. 20004.

Signed at Washington, D.C. on November 13, 1979.

Gary A. Eyre,

*Executive Director, National Advisory  
Council on Adult Education.*

[FR Doc. 79-35516 Filed 11-16-79 8:45 am]

BILLING CODE 4110-02-M

## DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

#### National Advisory Council on Vocational Education; Meeting

**AGENCY:** National Advisory Council on Vocational Education.

**ACTION:** Notice of Public meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Vocational Education. It also describes the functions of the Council. Notice of these meetings is required under the Federal Advisory Committee Act, (5 U.S. Code, Appendix I section 10(a)(2)). This document is intended to notify the general public of its opportunity to attend.

**DATE:** December 3, 1979.

**ADDRESS:** Disneyland Hotel, 1150 West Cerritos, Anaheim, California, Santa Cruz Room, Bonita Tower

The National Advisory Council on Vocational Education is established under section 104 of the Vocational Education Amendments of 1968, Pub. L. 90-576. The Council is directed to:

(A) advise the President, the Congress, and the Commissioner concerning the administration of, preparation of general regulations for, and operation of, vocational education programs supported with assistance under this title;

(B) review the administration and operation of vocational education programs under this title, including the

effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this title) to the Secretary for transmittal to the Congress; and (C) conduct independent evaluations of programs carried out under this title and publish and distribute the results thereof.

On December 3, 1979, the National Advisory Council on Vocational Education will meet in regular session from 8:30 A.M. to 2:00 P.M. in the Santa Cruz Room of the Bonita tower, Disneyland Hotel, Anaheim, California. The following agenda will be included in this meeting:

8:30 A.M.—Report on the National Institute of Education's.

2:00 P.M.—Vocational Education Study—Report from the Bureau of Occupational and Adult Education, U.S. Office of Education.

Report from the National Commission for Employment Policy.

Report from the Vice President's Task Force on Youth Employment.

Other Council Business.

On Saturday, December 1, from 7:30 A.M. to 8:30 A.M. a joint meeting of NACVE Special Populations Committee and the Vocational Education Equity Council of the American Vocational Association will be held in Magnolia Room B, Disneyland Hotel. The following Agenda will be discussed:

Sex equity in vocational education: assessing current and future support activities in order to assist equity coordinators in carrying out their responsibilities.

Records shall be kept of all Council proceedings and shall be available for public inspection at the office of the National Advisory Council on Vocational Education, located at 425-13th Street, N.W., Suite 412, Washington, D.C. 20004. For further information call Virginia Solt: (202) 376-8873.

Signed at Washington, D.C. on November 14, 1979

Raymond C. Parrott, *Executive Director,  
National Advisory Council on Vocational  
Education.*

[FR Doc. 79-35535 Filed 11-16-79; 8:45 am]

BILLING CODE 4110-02-M

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Bilingual Education; Desegregation Programs

**AGENCY:** Office of Education, HEW.

**ACTION:** Notice of Closing Date for Transmittal of Applications for Renewal Grants.

Applications are invited for renewal awards for Desegregation Assistance Programs under the Bilingual Education Act.

Authority for this program is contained in section 751 of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 95-561.

(20 U.S.C. 3261)

Eligible applicants are current recipients under section 708(c) of the Emergency School Aid Act. Section 751 continues current projects for FY '80.

The Purpose of this program is to continue financial assistance to successful applicants to establish and operate bilingual education programs incident to desegregation that meet the educational needs of children of limited English proficiency.

**Closing Date for Transmittal of Applications:** To be assured of consideration for funding, applications for renewal grants should be mailed or hand delivered by January 11, 1980.

If the application is late, the Office of Education may lack sufficient time to review it with other renewal applications and may decline to accept it.

**Applications Delivered By Mail:** An application sent by mail should be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.403A, Washington, D.C. 20202.

An applicant should 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 U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner 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 applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

**Applications Delivered By Hand:** An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m.

(Washington, D.C., time) daily, except Saturday, Sunday, and Federal holidays.

**Available Funds:** Funds are available for 19 renewal grants at the level of funding each received for FY '79. The total amount available for all renewals is \$8,600,000.

**Application Forms:** Application forms and program information packages are expected to be ready for mailing by November 20, 1979. They will be mailed to the eligible applicants. Additional copies may be obtained by writing to the Office of Bilingual Education, U.S. Office of Education, (Reporters Building, Room 421), 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Commissioner urges that applicants not submit information that is not requested.

**Applicable Regulations:** The regulations applicable to this program are:

(a) General Provisions Regulations for Office of Education Programs (45 CFR parts 100 and 100a), and

(b) Section 751 of the Elementary and Secondary Education Act of 1965, as amended.

**Note.**—The proposed Education Division General Administrative Regulations (EDGAR) were published in the *Federal Register* on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs.

If EDGAR takes effect before grants are made under the program, those grants will be subject to the following provisions of EDGAR: Subpart A (General); Subpart E (What Conditions Must Be Met by a Grantee?); Subpart F (What Are the Administrative Responsibilities of a Grantee?); and Subpart G (What Procedures Does the Education Division Use to Get Compliance?).

**Further Information:** For further information contact Mr. Charles E. Hansen, Acting Deputy Director, Office of Bilingual Education, U.S. Office of

Education, (Reporters Building, Room 421), 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone (202) 245-2600.

(20 U.S.C. 3261)

Dated: November 15, 1979.

(Catalog of Federal Domestic Assistance Program No 13.403, Bilingual Education)

John Ellis,

*Education Deputy Commissioner for Educational Programs.*

[FR Doc. 79-35643 Filed 11-16-79; 8:45 am]

BILLING CODE 4110-02-M

### Bilingual Education; Elementary and Secondary Program

**AGENCY:** Office of Education, HEW.

**ACTION:** Notice of Closing Date for Transmittal of Applications for Noncompeting Continuation Projects.

Applications are invited for basic noncompeting continuation awards under the Bilingual Education Act.

Authority for this program is contained in sections 703-722 of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 95-561.

(20 U.S.C. 3223-3232)

Eligible applicants are current recipients of basic grants who are operating bilingual education projects with an approved project period in excess of one year, and are proposing to continue their present projects.

The purpose of this program is to continue financial assistance to successful applicants to establish and operate bilingual education programs that meet the educational needs of children of limited English proficiency.

**Closing Date for Transmittal of Applications:** To be assured of consideration for funding, applications for noncompeting continuation awards should be mailed or hand delivered by January 11, 1980.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

**Applications Delivered By Mail:** An application sent by mail should be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.403C, Washington, D.C. 20202.

An applicant should 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 U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner 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 applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

**Applications Delivered by Hand:** An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building, 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturday, Sunday, and Federal holidays.

**Available Funds:** It is anticipated that funds will be available for 405 continuation projects and that the total amount awarded for all projects will be \$74,500,000.

**Application Forms:** Application forms and program information packages are expected to be ready for mailing by November 20, 1979. They will be mailed to each eligible applicant for noncompeting continuations. Additional copies may be obtained by writing to the Office of Bilingual Education, U.S. Office of Education, (Reporters Building, Room 421), 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Commissioner urges that applicants not submit information that is not requested.

**Applicable Regulations:** The regulations applicable to this program are:

(a) General Provisions Regulations for Office of Education Programs (45 CFR parts 100 and 100a), and

(b) The interim final regulations governing the Bilingual Education Program (45 CFR Part 123). The interim final regulations were published in the Federal Register on March 29, 1979 (44 FR 18906).

**Note.**—The proposed Education Division General Administrative Regulations

(EDGAR) were published in the Federal Register on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs.

If EDGAR takes effect before grants are made under the program, those grants will be subject to the following provisions of EDGAR: Subpart A (General); Subpart E (What Conditions Must Be Met by a Grantee?); Subpart F (What Are the Administrative Responsibilities of a Grantee?); and Subpart G (What Procedures Does the Education Division Use to Get Compliance?).

**Further Information:** For further information contact Mr. Charles E. Hansen, Acting Deputy Director, Office of Bilingual Education, U.S. Office of Education, (Reporters Building, Room 421), 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone (202) 245-2600.

(20 U.S.C. 3231)

Dated: November 15, 1979.

(Catalog of Federal Domestic Assistance No. 13.403, Bilingual Education)

John Ellis,

Executive Deputy Commissioner for Educational Programs.

[FR Doc. 79-35842 Filed 11-19-79; 8:45 am]

BILLING CODE 4110-02-M

### Bilingual Education; Training Program

**AGENCY:** Office of Education, HEW.

**ACTION:** Notice of Closing Date For Transmittal of Applications for Noncompeting Continuation Projects.

Applications are invited for noncompeting continuation training projects under the Bilingual Education Act.

Authority for this program is contained in section 723 of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 95-561.

(20 U.S.C. 3233)

Eligible applicants are current recipients of training grants who are operating projects with an approved project period in excess of one year, and are proposing to continue their present projects.

The purpose of this program is to continue financial assistance to successful applicants to establish and operate bilingual education training programs for persons participating in, or preparing to participate in, the conduct of bilingual education programs.

**Closing Date for Transmittal of**

**Applications:** To be assured of consideration for funding, applications

for noncompeting continuation awards should be mailed or hand delivered by January 11, 1980.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

**Applications Delivered By Mail:** An application sent by mail should be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.403E, Washington, D.C. 20202.

An applicant should 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 U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner 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 applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

**Applications Delivered By Hand:** An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturday, Sunday, and Federal holidays.

**Available Funds:** It is anticipated that funds will be available for 103 noncompeting continuation projects and that the total amount awarded for all projects will be \$12,840,000.

**Application Forms:** Application forms and program information packages are expected to be ready for mailing by November 20, 1979. They will be mailed to each eligible applicant for noncompeting continuations. Additional copies may be obtained by writing to the Office of Bilingual Education, U.S. Office of Education, (Reporters Building, Room 421), 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the

regulations, instructions, and forms included in the program information packages. The Commissioner urges that applicants not submit information that is not requested.

**Applicable Regulations:** The regulations applicable to this program are:

- (a) General Provisions Regulations for Office of Education Programs (45 CFR Parts 100 and 100a), and
- (b) The interim final regulations governing the Bilingual Education Program (45 CFR Part 123). The interim final regulations were published in the *Federal Register* on March 29, 1979 (44 FR 18906).

**Note.**—The proposed Education Division General Administrative Regulations (EDGAR) were published in the *Federal Register* on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs.

If EDGAR takes effect before grants are made under the program, those grants will be subject to the following provisions of EDGAR: Subpart A (General); Subpart E (What Conditions Must Be Met by a Grantee?); Subpart F (What Are the Administrative Responsibilities of a Grantee?); and Subpart G (What Procedures Does the Education Division Use to Get Compliance?).

**Further Information:** For further information contact Mr. Charles E. Hansen, Acting Deputy Director, Office of Bilingual Education, U.S. Office of Education, (Reporters Building, Room 421), 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone (202) 245-2600.

(20 U.S.C. 3233)

Dated: November 15, 1979.

(Catalog of Federal Domestic Assistance No. 13.403, Bilingual Education)

John Ellis,

*Executive Deputy Commissioner for Educational Programs.*

[FR Doc. 79-35644 Filed 11-16-79; 8:45 am]

BILLING CODE 4110-02-M

### Bilingual Education; Fellowship Program

**AGENCY:** Office of Education, HEW.

**ACTION:** Notice of Closing Date for Transmittal of Applications for Continuing Participation in the Fellowship Program.

Applications are invited for continuing participation in the fellowship program under the Bilingual Education Act.

Authority for this program is contained in section 723 of the

Elementary and Secondary Education Act of 1965, as amended by Pub. L. 95-561.

(20 U.S.C. 3233)

Eligible applicants are institutions of higher education whose programs have been previously approved by the Commissioner for a period in excess of one year.

The purpose of this program is to provide financial assistance to fulltime graduate students who are preparing to become trainers of bilingual education personnel.

**Closing Date for Transmittal of Applications:** To be assured of consideration for participation, applications for continuing participation in the fellowship program should be mailed or hand delivered by February 15, 1980.

If the application is late, the Office of Education may lack sufficient time to review it with other applications for continuing participation and may decline to accept it.

**Applications Delivered By Mail:** An application sent by mail should be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.403F, Washington, D.C. 20202.

An applicant should 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 U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner 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 applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

**Applications Delivered By Hand:** An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m.

(Washington, D.C., time) daily, except Saturday, Sunday, and Federal holidays.

**Available Funds:** It is anticipated that funds will be available for 12 continuing participation projects serving 210 Fellows with an average fellowship award of \$7,500 for a total cost for all continuing participation projects of \$1,575,000. In calculating the Fellowship stipend, applicants should be guided by 123c.42-43 of the notice of proposed rulemaking (*Federal Register*, June 29, 1979) which includes the method of calculating stipends.

**Application Forms:** Application forms and program information packages are expected to be ready for mailing by November 20, 1979. They will be mailed to each eligible applicant for continuing participation. Additional copies may be obtained by writing to the Office of Bilingual Education, U.S. Office of Education, (Reporters Building, Room 421), 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. The Commissioner urges that applicants not submit information that is not requested.

**Applicable Regulations:** The regulations applicable to this program are:

- (a) General Provisions Regulations for Office of Education Programs (45 CFR parts 100 and 100a), and
- (b) Regulations governing the Bilingual Education Program (45 CFR Part 123). Applicants should base their applications on the notice of proposed rulemaking published in the *Federal Register* on June 29, 1979 (44 FR 38416). When these regulations are published as final regulations and become effective, they will govern awards under this program.

**Note.**—The proposed Education Division General Administrative Regulations (EDGAR) were published in the *Federal Register* on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs.

If EDGAR takes effect before grants are made under the program, those grants will be subject to the following provisions of EDGAR: Subpart A (General); Subpart E (What Conditions Must Be Met by a Grantee?); Subpart F (What Are the Administrative Responsibilities of a Grantee?); and Subpart G (What Procedures Does the Education Division Use to Get Compliance?).

**Further Information:** For further information contact Mr. Charles E. Hansen, Acting Deputy Director, Office

of Bilingual Education, U.S. Office of Education, (Reporters Building, Room 421), 400 Maryland Avenue, S.W., Washington, D.C. 20202, Telephone (202) 245-2600.

(20 U.S.C. 3233)

Dated: November 15, 1979.  
(Catalog of Federal Domestic Assistance No. 13.403, Bilingual Education)

John Ellis,  
Executive Deputy Commissioner for  
Educational Programs.

[FR Doc. 79-35641 Filed 11-16-79; 8:45 am]

BILLING CODE 4110-02-M

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### Indian Reservation Roads

*Cross Reference:* For a document announcing Notice of Memorandum of Agreement between this agency and the Federal Highway Administration, see FR Doc. 79-35494 appearing in the Notices Section of this issue.

BILLING CODE 4310-02-M

### Bureau of Land Management

#### Utah and Colorado; Intent To Hold Public Hearings and To Open a 30-Day Comment Period on the Federal Coal Leasing Target for the Uinta-Southwestern Utah Coal Production Region

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Announcement of public hearings and opening of a 30-day comment period.

**SUMMARY:** This notice advises the public that, pursuant to 43 CFR 3420.3-2(d), the regional coal team for the Uinta-Southwestern Utah Coal Region will hold public hearings and will accept written comments on a Federal coal leasing target to be established for this production region. The information received during the comment period and

at the public hearings will assist the Secretary in establishing the final Federal coal leasing target for the region which covers portions of Utah and Colorado.

**DATES:** Written comments will be received through December 19, 1979. Public hearings will be held on December 3, 4, 5, and 6, 1979.

**ADDRESSES:** Comments should be addressed to Edward F. Spang, Nevada State Director, Bureau of Land Management, Chairman, Regional Coal Team, Federal Building, Room 3008, 300 Booth Street, Reno, Nevada 89509. The locations of the public hearings are listed below under SUPPLEMENTARY INFORMATION.

**FOR FURTHER INFORMATION CONTACT:** Edward F. Spang, (702) 784-5451.

**SUPPLEMENTARY INFORMATION:** As part of his announcement of a new Federal coal management program on June 4, 1979, the Secretary of the Interior set a tentative Federal coal leasing target of 109 million tons for the Uinta-Southwestern Utah Coal Production Region with proposed lease sales to occur over a 2-year period beginning in mid-1981. In addition, the Secretary directed that public comment be received on the tentative leasing target prior to his establishing a final leasing target for the region.

In accordance with the Secretary's direction, the public is invited to present comments at a series of public hearings on the tentative leasing target. Those individuals wishing to speak at the public hearings are asked to provide written copies of their remarks.

The public hearings to obtain comments on the Federal coal leasing target for the region are being combined with the public meetings that are being held to receive comments on the scope of the regional environmental impact statement (EIS) for the region. Accordingly, each general session will consist of a leasing target public hearing followed by a regional EIS scoping meeting. These combined sessions will be held as follows:

Place	Date	Time	Address
Escalante, UT	December 3, 1979	7 p.m.	Gymnasium, Escalante High School, Escalante, UT.
Richfield, UT	December 4, 1979	7 p.m.	Auditorium, Sevier County Court House, 250 North Main, Richfield, UT.
Price, UT	December 5, 1979	7 p.m.	Conference Room, BLM Price River Resource Area Office, 900 North 7th East, Price, UT.
Salt Lake City, UT	December 6, 1979	7 p.m.	Salt Palace, Room 224, 100 South West Temple, Salt Lake City, UT.

Written comments on the leasing target will also be accepted from those

unable to attend the public hearings. These comments should be sent to the

regional coal team chairman, at the address provided above, by December 19, 1979.

The tentative coal leasing target of 109 million tons for the Uinta-Southwestern Utah Region, which was announced by the Secretary on June 4, 1979, was derived from the Department of Energy's (DOE) coal production goals for 1985 and 1990. The goals set by DOE are tentative and likely to be revised. Therefore, public comment is being sought on DOE's production goals as well as the Secretary's preliminary leasing target to assist the Secretary in establishing an appropriate target for this region.

The tentative coal leasing target was derived in the following manner. DOE projected high, medium, and low demand levels for a supply region encompassing Utah and portions of southern and western Colorado. The Department of the Interior (DOI) apportioned the DOE projections to areas of coal production within the DOI-designated Uinta-Southwestern Utah Region based on estimated reserves in both the DOI and DOE coal regions. This process resulted in a minor reallocation of the DOE Production goals to conform to the DOI region. The production goals for the DOI region are stated below for 1985 and 1990:

	1985 (million tons)	1990 (million tons)
Low demand	14.4	16.0
Medium demand	14.5	17.3
High demand	*13.9	20.6

\*DOE's high demand scenario is premised on national, not regional, factors. Increased production in this case would be coming from outside the Uinta-Southwestern Utah Region.

Production in the DOI region in 1976 amounted to 10.1 million tons; those same mines are expected to continue at that level through 1990. Excess capacity to meet demand through 1986 is expected to exist for Federal coal leases on which mining plans have been filed and for Federal coal leases for which no mining plans have been filed and where there is no production. It is uncertain, however, at what level production from these sources will contribute to achieving the overall leasing target because leases not in production by 1986 will be cancelled where the diligence requirements found in the Federal coal management regulations are not met, thereby eliminating excess capacity to a significant degree. Also preference right lease applications (PRLA's) have not been considered in the calculation of the

Federal coal leasing target because of the many uncertainties concerning the processing of PRLA's in this region.

In the Secretary's June 4, 1979, announcement, the tentative target was chosen to meet 1990 medium level demand. The tentative target assumed the difference between current production and the interpolated 1986 production goal of 15.1 million tons was to be met from existing excess capacity. It was also assumed that there would be no excess capacity beyond the 1986 date when diligence requirements are expected to eliminate nonproductive leases.

Therefore, the preliminary leasing target for Federal coal in the Uinta-Southwestern Utah Region is based on the difference between the expected 1986 production of 15.1 million tons and the 1990 medium demand goal of 17.3 million tons, a predicted annual shortfall of 2.2 million tons. The portion of the shortfall to be met by Federal coal, based on a sampling of ownership patterns within known recoverable coal resource areas (KRCRA's) in the region, is 82.9 percent of 2.2 million or 1.8 million tons. Since underground mining is the most likely method of coal extraction within the region, applying the normal recovery factor of 50 percent for underground mining techniques yields a total of 3.65 million tons of in-place Federal coal that would be needed annually by 1990. With an assumed 30-year mine life, the Federal coal leasing target is  $30 \times 3.65$  or approximately 109 million tons of in-place Federal coal. The calculations are shown below.

1990 production goal .....	17.3 million tons, minus
1986 production estimate .....	15.1 million tons, equals
New annual production needed.	2.2, times
Federal ownership proportion ..	.829, equals
Annual production needed from Federal leasing.	1.83, divided by
Underground recovery factor ..	0.5, equals
Annual tonnage required (in-place coal).	3.65, times
Estimated mine life (years) .....	30, equals
Federal coal leasing target .....	109 million tons.

Other factors which could also affect any final leasing decisions in the Uinta-Southwestern Coal Production Region include:

1. The Secretary of the Interior has been granted authority by Public Law 95-554 (92 Stat. 2073) to consider the exchange of coal preference right lease applications held by Utah Power & Light Company located in the Kaiparowits Plateau area for unleased coal lands of equal value. The lands identified for the exchange are located in the Wasatch Plateau. Should the Secretary elect to proceed with the exchange, up to 25,342 acres of coal lands in the Wasatch Plateau could be involved in the

exchange and would not be available for future competitive leasing.

2. No consideration was given to any production potential from the 30 PRLA's (25 in Utah and 5 in Colorado) within the Uinta-Southwestern Utah Region because of the current uncertainty of timing and quantity of such production. Should this uncertainty lessen as the PRLA's are processed, the leasing target or tract scheduling would be adjusted accordingly.

3. The leasing target assumes that a significant portion of leased coal will be in production by 1985—a four-year lead time—and that a six-year lead time applies to the balance of the leasing target. Should these estimates of lead time be altered prior to tract scheduling, the target could be adjusted accordingly.

4. Coal lease applications that have been filed that meet production maintenance or by-pass situations do not count against the leasing target.

5. The 83 percent Federal coal ownership proportion could be revised after examination of ownership patterns in mining units associated with specific tracts.

6. The assumption of a 50 percent recovery factor for underground mining techniques will be adjusted as more tract specific information is developed during coal activity planning.

Reviewers are encouraged to comment on all aspects of the derivation of the preliminary leasing target, on the lead time between lease sale and peak production, and on any margin of error which might be considered in setting final leasing targets. In addition, comments are solicited concerning any information relating to the demand for coal from the region for production of synthetic fuels.

The agenda that will be followed at the target public hearings is as follows:

#### I. Introduction

a. Purpose of holding the public hearing and of obtaining comments on the leasing target.

b. Description of the relationship of this process with the National Environmental Policy Act.

c. Brief description of the Federal coal management program.

d. Description of the role of the regional coal team in the leasing process.

e. Description of the derivation of the preliminary or tentative leasing target.

2. Obtain public comments and recommendations on the Federal coal leasing target for the Uinta-Southwestern Utah Coal Production Region.

3. Close.

Dated: November 14, 1979.

Ed Hastey,

Associate Director.

[FR Doc. 79-35592 Filed 11-16-79; 8:45 am]

BILLING CODE 4310-84-M

### Utah and Colorado; Intent To Hold Public Meetings and To Prepare a Regional Environmental Impact Statement for the Proposed Leasing of Federal Coal in the Uinta-Southwestern Utah Coal Production Region

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Announcement of public meetings and notice of intent to prepare an environmental impact statement (EIS).

**SUMMARY:** This notice advises the public that the Bureau of Land Management intends to hold public meetings to gather information and seek assistance in defining the range of issues and concerns for the preparation of a regional EIS for the proposed leasing of Federal coal beginning in mid-1981 in the Uinta-Southwestern Utah Coal Production Region. The proposed leasing will be carried out in accordance with the Federal coal management program as announced by the Secretary of the Interior on June 4, 1979, and is needed to meet the Department of Energy's regional production goal. This notice is made in accordance with the National Environmental Policy Act (NEPA) and the regulations (40 CFR 1501.7) of the Council on Environmental Quality.

**DATES:** Written comments will be received through December 19, 1979. The public scoping meeting will be held on December 3, 4, 5, and 6, 1979.

**ADDRESSES:** Comments should be addressed to Ron Bolander, Regional Coal EIS Team Leader, Bureau of Land Management (921), 136 East South Temple, Salt Lake City, Utah 84111. The locations of the public meetings are listed below under SUPPLEMENTARY INFORMATION.

**FOR FURTHER INFORMATION CONTACT:** Ron Bolander, (801) 524-4527.

**SUPPLEMENTARY INFORMATION:** The tracts proposed for leasing are within the BLM Utah Planning Units of Wattis, Huntington, Muddy, and Last Chance and within the Forest Service Ferron-Price Planning Unit located within the Manti-LaSal National Forest in Utah. The following general descriptions are being provided to identify the approximate location of the areas that, as a result of preliminary investigation, will most likely contain the specific tracts for possible leasing. Information

is not yet available on the precise boundaries, acreage, or tonnage of the tracts being considered for possible leasing in 1981. More specific information will be available at the public scoping meetings. If leases are issued in these areas, mining will be by underground methods. The areas described below may contain more than one possible lease tract.

1. Gordan Creek area ..... About 3 miles southwest of Scofield, Utah.
2. Monument Peak area ..... About 8 miles south of Scofield, Utah.
3. Gandland Mountain area ..... About 10 miles north and northwest of Hiawatha, Utah.
4. Crandall Canyon area ..... Near State Highway 31, about 12 miles northwest of Huntington, Utah.
5. Meetinghouse Canyon, Lower Cottonwood Canyon, and Trail Mountain areas. For 8 to 15 miles east of Huntington, Utah.
6. North Horn Mountain area .. About 10 miles east of Orangeville, Utah.
7. Castle Valley area ..... From the proximity of Emery, Utah, southward to about 4 miles south of Interstate Highway 70.
8. Muddy Creek area ..... About 6 miles northeast of Emery, Utah.

An information may may be obtained at the Utah State Office at the address listed above. This map will also be available at the scoping meetings. Information depicted on the map includes known recoverable coal resource areas, lands under lease, land that may be leased through exchange, and the location of the delineated tracts (to the extent that the information is available).

Certain lands in the Forest Service Ferron-Price and BLM San Rafael Planning Areas are presently being studied for possible leasing, by exchange, to Utah Power and Light Company as authorized by Public Law 95-554 (92 Stat. 2073). Tracts in the area identified for possible exchange are being delineated and may be offered for possible competitive leasing sometime in the future. However, if the proposed exchange is approved, some or all of the tracts may be eliminated from consideration for competitive leasing.

The alternatives that have been tentatively identified to be analyzed in the EIS include the following: modify the scheduling of lease tracts within a 2-year period beginning in mid-1981; modify the combination of tracts considered as the proposed action and alternatives; delay or defer tracts sales; and not offer Federal coal lease tracts for competitive sale. If further coal development in the Uinta-Southwestern Utah Region does occur, possible major issues will generally be social and economic in nature.

Prior to the preparation of the EIS, the tracts identified in accordance with Federal coal management regulations will be ranked, selected, and scheduled

by a regional coal team (43 CFR 3420.4) for possible sale, and recommendations will be made through the Director of the Bureau of Land Management to the Secretary of the Interior.

The public scoping meetings to assist in defining significant environmental issues and concerns for the preparation of a regional EIS for proposed Federal coal leasing are being combined with the public hearings to obtain comments

Place	Date	Time	Address
Escalante, UT .....	December 3, 1979.....	7 p.m.....	Gymnasium, Escalante High School, Escalante, UT.
Richfield, UT.....	December 4, 1979.....	7 p.m.....	Auditorium, Sevier County Court House, 250 North Main, Richfield, UT.
Price, UT.....	December 5, 1979.....	7 p.m.....	Conference Room, BLM Price River Resource Area Office, 900 North 7th East, Price, UT.
Sale Lake City, UT .....	December 6, 1979.....	7 p.m.....	Salt Palace, Room 224, 100 South West Temple, Salt Lake City, UT.

The agenda for scoping meeting will be as follows:

#### 1. Introduction

a. Purpose and intent of the meeting.  
b. Description of previously defined issues identified during pre-analysis to be considered in the EIS.

c. Alternatives which will include, among others, the proposed action as presently considered in the EIS process and not offering Federal coal lease tracts for competitive sale.

d. Information available from the BLM offices for the use of the public in commenting, including names and addresses where information and comments can be submitted.

#### 2. Solicitation of public comment, recommendations, and issues of major concern to be considered and addressed in the ranking, selection, scheduling, and EIS impact analysis process.

The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, Council on Environmental Quality regulations, other required Federal laws and regulations, and Department of the Interior policies and procedures for compliance with those regulations.

Dated: November 14, 1979.

Ed Hastej,

Associate Director, Bureau of Land Management.

[FR Doc. 79-35583 Filed 11-16-79; 8:45 am]

BILLING CODE 4310-84-M

### Medford District Office, Oregon; Designation of Public Lands for Off-Road Vehicle Use

#### Correction

In FR Doc. 79-30478 appearing on page 56747 in the issue of Tuesday,

on the Federal leasing target for the Uinta-Southwestern Utah Region. Accordingly, each general session will consist of a public hearing on the leasing target followed by a scoping meeting. A separate Federal Register notice discusses the public hearings concerning the regional leasing target. The combined sessions will be held as follows:

October 2, 1979, at the top of the second column, change "Section 31, NE $\frac{1}{4}$ N $\frac{1}{2}$ SE $\frac{1}{4}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;" to read "Section 31, NE $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;"

BILLING CODE 1505-01-M

### National Park Service

#### Cumberland Island National Seashore; Georgia; Designation of Boundary

Section 323 of the Act of November 10, 1978, (92 Stat 3467) authorized a revision of the boundaries of the Cumberland Island National Seashore.

Notice is given that the boundary of the Cumberland Island National Seashore has been revised pursuant to the above act, to include the lands depicted on boundary map numbered CUIS 40,000-D dated January 1978, prepared by the Denver Service Center of the National Park Service.

This map is on file and available for inspection in the administrative office of the Cumberland Island National Seashore, P.O. Box 806, St. Marys, Georgia 31558, and in the offices of the National Park Service, Department of the Interior, Washington, D.C. 20240.

Dated: November 5, 1979.

Joe Brown,

Regional Director, Southeast Region, National Park Service.

[FR Doc. 79-35527 Filed 11-16-79; 8:45 am]

BILLING CODE 4310-70-M

### Fort Caroline National Memorial; Florida; Designation of Boundary

Section 301 of the Act of November 10, 1978, (92 Stat 3467) authorized a revision of the boundaries of the Fort Caroline National Memorial. The Act

provided that within twelve months after the date of the enactment of this Act, the Secretary shall publish in the **Federal Register** a detailed map or other detailed description of the lands added or excluded from the area.

Notice is given that the boundary of the Fort Caroline National Memorial has been revised pursuant to the above act, to include the lands depicted on boundary map numbered 5310/80,000A dated April 1978, prepared by the Land Acquisition Division of the Southeast Region of the National Park Service.

This map is on file and available for inspection in the administrative office of the Fort Caroline National Memorial, 12713 Fort Caroline Road, Jacksonville, Florida 32225, and in the offices of the National Park Service, Department of the Interior, Washington, D.C. 20240.

Dated: November 5, 1979.

**Joe Brown,**  
*Regional Director, Southeast Region,  
National Park Service.*

[FR Doc. 79-35528 Filed 11-16-79; 8:45 am]  
BILLING CODE 4310-70-M

#### **Publication of Federal Consistency Requirements Lowell National Historical Park, Lowell, Mass.**

Notice is hereby given to all federal agencies of the following provisions of Sec. 102 of Pub. L. 95-290, 92 Stat. 290, authorizing the establishment of Lowell National Historical Park:

##### **Cooperation of Federal Agencies**

Section 102. (a) Any Federal entity conducting or supporting activities directly affecting the park or preservation district shall—

(1) consult with, cooperate with, and to the maximum extent practicable, coordinate its activities with the Secretary and with the Commission; and

(2) conduct or support such activities in a manner which (A) to the maximum extent practicable is consistent with the standards and criteria established pursuant to section 302 (a) of this Act, and (B) will not have an adverse effect on the resources of the park or preservation district.

(b) No Federal entity may issue any license or permit to any person to conduct an activity within the park or preservation district unless such entity determines that the proposed activity will be conducted in a manner consistent with the standards and criteria established pursuant to section 302(e) of this Act and will not have an adverse effect on the resources of the park or preservation district.

The boundaries of the park and preservation district herein referred to are depicted on a map entitled "Lowell National Historical Park,

Massachusetts", dated March, 1978, and numbered LOWE-80, 008A, and published in the **Federal Register** on November 19, 1979.

The standards and criteria to be established pursuant to section 302(e) of the Act which are referred to in Section 102 have not been established as of the date of this notice. Until such time as these standards and criteria are established and are published in the **Federal Register**, federal entities are requested to consult with the Superintendent of Lowell National Historical Park and the Director of the Lowell Historic Preservation Commission regarding proposed actions.

To implement Section 102 of the Act federal entities shall coordinate and consult the National Park Service and the Lowell Historic Preservation Commission. All communications should be directed to both of the following: Superintendent, Lowell National Historical Park, 171 Merrimack Street, P.O. Box 1098, Lowell, Massachusetts 01853; and Director, Lowell Historic Preservation Commission, 194 Middle Street, Lowell, Massachusetts 01852.

Dated: September 28, 1979.

**Larry J. Hovig,**  
*Acting Regional Director North Atlantic  
Region.*

[FR Doc. 79-35526 Filed 11-16-79; 8:45 am]  
BILLING CODE 4310-70-M

#### **Gulf Islands National Seashore; Mississippi and Florida; Designation of Boundary**

Section 301 of the Act of November 10, 1978, (92 Stat. 3467) authorized a revision of the boundaries of the Gulf Islands National Seashore. The Act provided that within twelve months after the date of the enactment of this Act, the Secretary shall publish in the **Federal Register** a detailed map or other detailed description of the lands added or excluded from the area.

Notice is given that the boundary of the Gulf Islands National Seashore has been revised pursuant to the above act, to include the lands depicted on boundary map numbered 20,006 dated April 1978, prepared by the Denver Service Center of the National Park Service.

This map is on file and available for inspection in the administrative offices of the Gulf Islands National Seashore, P.O. Box 100, Gulf Breeze, Florida 32561 or 4000 Hanley Road, Ocean Springs, Mississippi 39564, and in the offices of the National Park Service, Department of the Interior, Washington, D.C. 20240.

Dated: November 5, 1979.

**Joe Brown,**  
*Regional Director, Southeast Region,  
National Park Service.*

[FR Doc. 79-35533 Filed 11-16-79; 8:45 am]  
BILLING CODE 4310-70-M

#### **San Antonio Missions Advisory Commission; Establishment**

This notice is issued in accordance with the provisions of Section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463). The Secretary of the Interior is establishing a San Antonio Missions Advisory Commission to render advice to the Secretary of the Interior and officers and employees of the National Park Service on matters relating to the park and with respect to carrying out the provisions of the statute establishing the San Antonio Missions National Historical Park, established pursuant to Pub. L. 95-629 (92 Stat. 3636). The San Antonio Missions Advisory Commission is being established after consultation with the General Services Administration. The certification of establishment is published below. Further information regarding the San Antonio Missions Advisory Commission may be obtained from Shirley M. Luikens, Advisory Boards and Commission, National Park Service, Department of the Interior, Washington, D.C. (202-343-2012).

##### **Certification**

The act establishing the San Antonio Missions National Historical Park places responsibility for development and management of that area in the Secretary of the Interior. In view of these responsibilities and the need to obtain advice and recommendations to meet these responsibilities, I hereby certify that establishment of the San Antonio Missions Advisory Commission is in the public interest.

Dated: November 5, 1979.

**Cecil D. Andrus,**  
*Secretary of the Interior.*

[FR Doc. 79-35529 Filed 11-16-79; 8:45 am]  
BILLING CODE 4310-70-M

#### **Publication of a Boundary Map; Adams National Historic Site, Quincy, Mass.**

There is hereby published a boundary map which details the land associated with the Adams Birthplaces which is being added to the Adams National Historic Site in Quincy, Massachusetts, pursuant to Sec. 312, Pub. L. 95-625, 92 Stat. 3479. Comments on the map should

be addressed to Planning and Design  
Section, North Atlantic Region, National  
Park Service, 15 State Street, Boston,  
Massachusetts 02109.

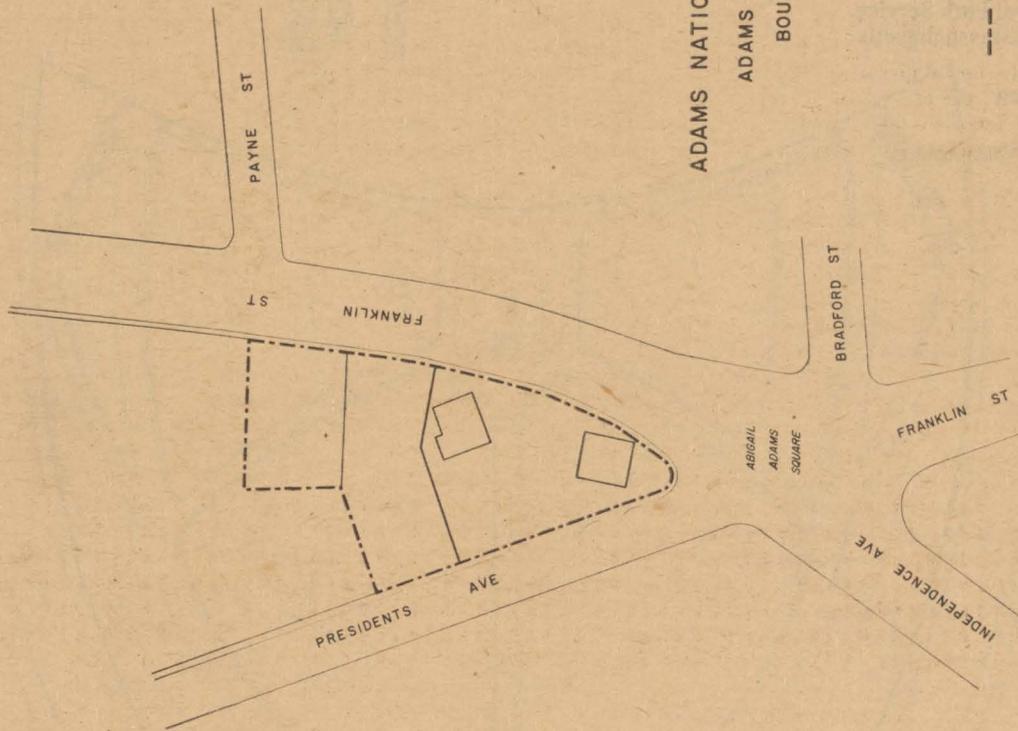
Dated: September 24, 1979.

**Gilbert W. Calhoun,**

*Acting Regional Director, North Atlantic  
Region.*

BILLING CODE 4310-70-M

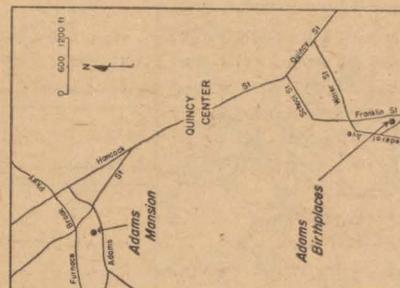
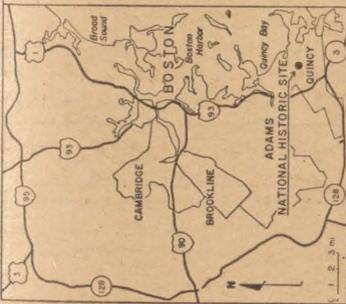
ADAMS NATIONAL HISTORIC SITE  
ADAMS BIRTHPLACES  
BOUNDARY MAP



305-40,002  
NOVEMBER 1978  
UNITED STATES  
DEPARTMENT OF THE INTERIOR  
NATIONAL PARK SERVICE



ESTABLISHED DECEMBER 9, 1946  
BOUNDARY CHANGE NOVEMBER 10, 1978  
DATE DECEMBER 1978  
MAPPED BY N.A.R.O.



**Publication of a Boundary Map;  
Dorchester Heights, Boston, Mass.,  
Boston National Historical Park**

There is hereby published a boundary map which details the land associated with Dorchester Heights which is being added to the Boston National Historical Park in Boston, Massachusetts, pursuant to Sec. 310, Pub. L. 95-625, 92 Stat. 3478. (16 U.S.C. 410 z (a)) and to Sec. 2 (c), Pub. L. 93-431, 88 Stat. 1184. Comments on the map should be addressed to Planning and Design Section, North Atlantic Region, National Park Service, 15 State Street, Boston, Massachusetts 02109.

Dated: September 24, 1979.

**Gilbert W. Calhoun,**

*Acting Regional Director, North Atlantic  
Region.*

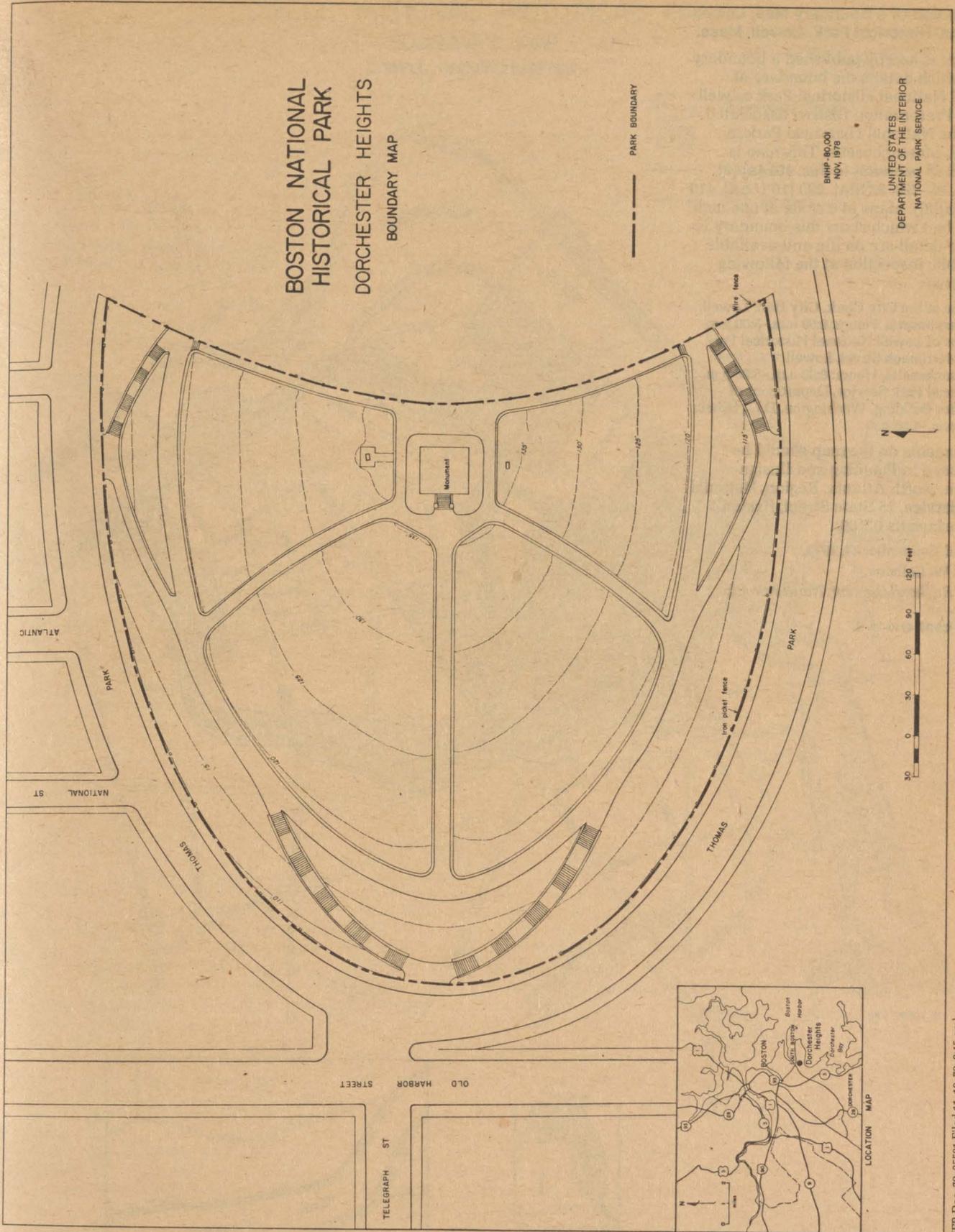
BILLING CODE 4310-70-M

# BOSTON NATIONAL HISTORICAL PARK DORCHESTER HEIGHTS BOUNDARY MAP

PARK BOUNDARY

BNHP-80,001  
NOV, 1978

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
NATIONAL PARK SERVICE



**Publication of a Boundary Map; Lowell National Historical Park, Lowell, Mass.**

There is hereby published a boundary map which details the boundary of Lowell National Historical Park as well as the Preservation District associated with the National Historical Park in Lowell, Massachusetts. This map is published pursuant to Sec. 101 (a) (2), Pub. L. 95-290, 92 Stat. 290 (16 U.S.C. 410 cc-11(a)(2)). Maps at a scale of one inch to 200 feet which show this boundary in greater detail are on file and available for public inspection at the following locations:

1. Office of the City Clerk, City Hall, Lowell, Massachusetts, Hours: 9:00 a.m.-5:00 p.m.
2. Office of Lowell National Historical Park, 171 Merrimack Street, Lowell, Massachusetts, Hours: 8:00 a.m.-5:00 p.m.
3. National Park Service, Department of Interior Building, Washington, D.C., Hours: 8:00 a.m.-4:30 p.m.

Comments on the map should be addressed to Planning and Design Section, North Atlantic Region, National Park Service, 15 State Street, Boston, Massachusetts 02109.

Dated: September 24, 1979.

**Gilbert W. Calhoun,**  
*Acting Regional Director, North Atlantic Region.*

BILLING CODE 4310-70-M

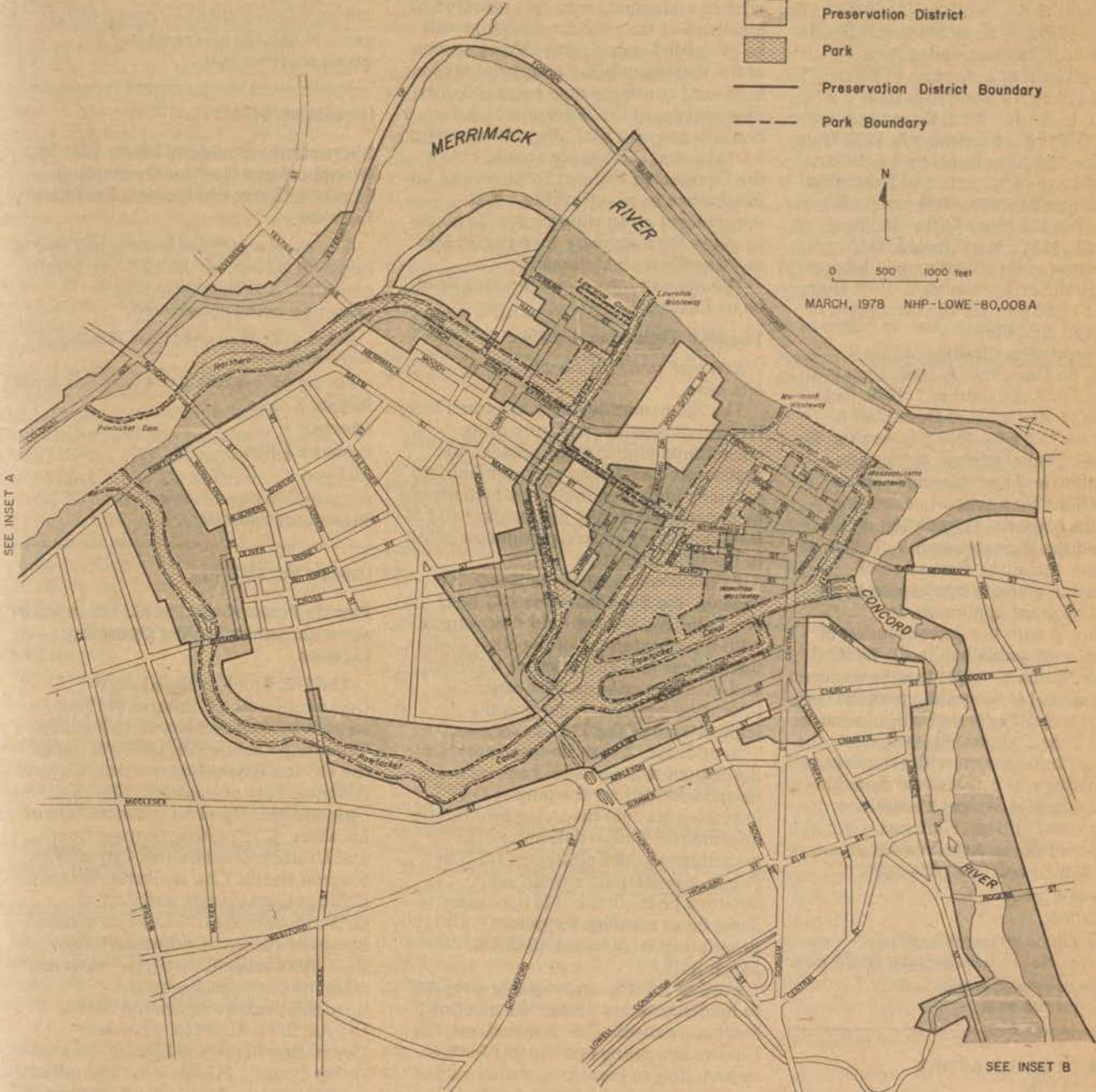
# LOWELL NATIONAL HISTORICAL PARK BOUNDARY MAP LOWELL, MASSACHUSETTS

-  Preservation District
-  Park
-  Preservation District Boundary
-  Park Boundary



0 500 1000 feet

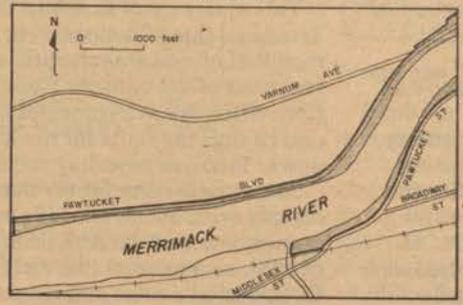
MARCH, 1978 NHP-LOWE-80,008A



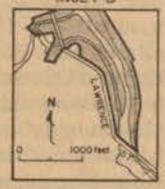
SEE INSET A

SEE INSET B

INSET A



INSET B



**NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES****Special Projects Panel (Folk Arts Section); Meeting**

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Special Projects Panel (Folk Arts Section) to the National Council on the Arts will be held December 6, 1979, from 9:00 a.m.-5:30 p.m.; December 7, 1979, from 9:00 a.m.-5:30 p.m.; and December 8, 1979, from 9:00 a.m.-5:30 p.m. in Room 1422, Columbia Plaza Office Building, 2401 E St., N.W., Washington, D.C.

A portion of this meeting will be open to the public on December 8, 1979, from 9:00 a.m.-1:00 p.m. for the discussion of policy and guidelines.

The remaining sessions of this meeting on December 6, 1979, from 9:00 a.m.-5:30 p.m.; December 7, 1979, from 9:00 a.m.-5:30 p.m.; and December 8, 1979, from 1:00 p.m.-5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the *Federal Register* March 17, 1977, these sessions will be closed to the public pursuant to subsections(c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment of the Arts, Washington, D.C. 20506, or call (202) 634-6070. November 8, 1979.

John H. Clark,

*Director, Office of Council and Panel Operations, National Endowment for the Arts.*

[FR Doc. 79-35502 Filed 11-16-79; 8:45 am]

BILLING CODE 7537-01-M

**NUCLEAR REGULATORY COMMISSION****Advisory Committee on Reactor Safeguards, Ad Hoc Subcommittee on the Three Mile Island, Unit 2, Accident Implications re Nuclear Power Plant Design; Meeting**

The ACRS Ad Hoc Subcommittee on the Three Mile Island, Unit 2 Accident—Implications Re Nuclear Power Plant Design will hold a meeting on December 4, 1979 in Room 1046, 1717 H St., NW,

Washington, DC 20555. Notice of this meeting was published October 18, 1979.

In accordance with the procedures outlined in the *Federal Register* on October 1, 1979, (44 FR 56408), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

**Tuesday, December 4, 1979**

*8:30 a.m. until the conclusion of business.*

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendation to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, the nuclear industry, various utilities, and their consultants, and other interested persons, regarding the implications of the TMI-2 Accident.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of Pub. L. 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Richard K. Major (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m., EST.

Background information concerning items to be discussed at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street, NW., Washington, DC 20555 and at the Government Publications Section,

State Library of Pennsylvania, Education Building, Commonwealth and Walnut Street, Harrisburg, PA 17126.

Dated: November 14, 1979.

John C. Hoyle,

*Advisory Committee Management Officer.*

[FR Doc. 79-35543 Filed 11-16-79; 8:45 am]

BILLING CODE 7590-01-M

**[Docket No. 50-312]****Sacramento Municipal Utility District, (Rancho Seco Nuclear Generating Station); Order Postponing Evidentiary Session**

The evidentiary sessions scheduled to begin on November 27, 1979 are hereby canceled. A revised schedule is presently being considered.

Dated at Bethesda, Md., this 13th day of November 1979.

For the Atomic Safety and Licensing Board.

Richard F. Cole,

*Member.*

Frederick J. Shon,

*Member.*

[FR Doc. 79-35541 Filed 11-16-79; 8:45 am]

BILLING CODE 7590-01-M

**[Docket No. 50-302]****Florida Power Corp., et al.; Issuance of Amendment to Facility Operating License**

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 25 to Facility Operating License No. DPR-72, issued to the Florida Power Corporation, City of Alachua, City of Bushnell, City of Gainesville, City of Kissimmee, City of Leesburg, City of New Smyrna Beach and Utilities Commission, City of New Smyrna Beach, City of Ocala, Orlando Utilities Commission and City of Orlando, Sebring Utilities Commission, Seminole Electric Cooperative, Inc., and the City of Tallahassee (the licensees) which revised the Technical Specifications for operation for the Crystal River Unit No. 3 Nuclear Generating Plant (the facility) located in Citrus County, Florida. The amendment is effective as of the date of issuance.

This amendment modifies the Technical Specifications to indicate a modified offsite organization, clarify the functions of the Nuclear General Review Committee in environmental matters, and change the units for the high rate of power increase reporting requirement.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The

Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the applications for amendment dated July 21, 1977, September 22, 1978, and May 23, 1979 (2) Amendment No. 25 to License No. DPR-72, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Crystal River Public Library, Crystal River, Florida. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 7th day of November 1979.

For the Nuclear Regulatory Commission.

**Morton B. Fairtile,**

*Acting Chief, Operating Reactors Branch #4,  
Division of Operating Reactors.*

[FR Doc. 79-35542 Filed 11-16-79; 8:45 am]

BILLING CODE 7590-01-M.

## NATIONAL TRANSPORTATION SAFETY BOARD

### Relocation of Los Angeles Field Office

Notice is hereby given that the Los Angeles Field Office of the National Transportation Safety Board was moved to new quarters on November 5, 1979. The office is now located at 15000 Aviation Boulevard (P.O. Box 6117), Lawndale, California 90261.

New telephone numbers for the Los Angeles Field Office are:

*Commercial:* 213-536-6041, 213-536-6045  
(Administrative Law Judges).

*Federal Telecommunications:* 966-6041  
(Aviation), 966-6036 (Railroad, Highway),  
966-6045 (Administrative Law Judges).

**William L. Lamb,**

*Chief, Field Investigation Division.*

November 14, 1979.

[FR Doc. 79-35565 Filed 11-16-79; 8:45 am]

BILLING CODE 4910-58-M

## OFFICE OF MANAGEMENT AND BUDGET

### Agency Forms Under Review

#### Background

November 14, 1979.

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

#### List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements.

Each entry contains the following information:

The name and telephone number of the agency clearance officer;

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. In addition, most repetitive reporting requirements or forms that require one half hour or less to complete and a total of 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by an asterisk(\*).

#### Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley E. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

#### DEPARTMENT OF AGRICULTURE

**Agency Clearance Officer—Richard J. Schrimper—447-6201.**

#### *New forms*

Food and Nutrition Service  
Evaluation of the Child Care Food  
Program—Questionnaires

Single time

Child care officials, providers, and  
recipients, 3,604 responses; 2,397  
hours

Charles A. Eilett, 395-5080

#### *Revisions*

Agricultural Stabilization and  
Conservation Service

Report of Purchase of Noninspected  
Peanuts and Inspection Certificate  
and Sales Memorandum

MQ-95, 94, & 94VC

On occasion

Peanut handlers, 600,150 responses;  
150,026 hours

Charles A. Eilett, 395-5080

Economics, Statistics, and Cooperatives  
Service Cost of Production Survey

Annually

Selected Crop Producers, 4,580  
responses; 4,482 hours

Office of Federal Statistical Policy &  
Standard, 673-7974

#### DEPARTMENT OF COMMERCE

**Agency Clearance Officer—Edward  
Michals—377-3627**

#### *New forms*

Bureau of the Census

Post Enumeration Survey, Housing Unit  
Coverage Check Listing Book

D-862

Single time

Households in the U.S., 250,000

responses; 17,500 hours

Office of Federal Statistical Policy &  
Standard, 673-7974

Patent Office

Flexitime Effectiveness Questionnaire  
Single time  
Patent practitioners, 600 responses; 60  
hours  
Richard Sheppard, 395-3211

*Revisions*  
Bureau of Economic Analysis  
Expenditures of United States Travelers  
in Mexico  
BE-575  
Quarterly  
U.S. residents visiting Mexico, 10,000  
responses; 500 hours  
Office of Federal Statistical Policy &  
Standard, 673-7974

Bureau of Economic Analysis  
Survey of U.S. Travelers Visiting  
Canada  
BE-536  
Quarterly  
U.S. residents visiting Canada, 30,000  
responses; 2,000 hours  
Office of Federal Statistical Policy &  
Standard, 673-7974

Bureau of Economic Analysis  
\*Survey of Visitor's Travel Expenses in  
the United States  
BE-572-GFS  
Quarterly  
Foreign visitors, 4,000 responses; 267  
hours  
Office of Federal Statistical Policy &  
Standard, 673-7974

Bureau of Economic Analysis  
\*Travel Questionnaire for U.S.  
Residents  
BE-574  
Quarterly  
U.S. residents who traveled abroad  
40,000 responses; 3,333 hours  
Office of Federal Statistical Policy &  
Standard, 673-7974

Bureau of Economic Analysis  
\*Plant and Equipment Expenditures, and  
Plant and Equipment Expenditures  
Supplement  
BE-452, BE-452S  
Quarterly  
Manufacturing and utilities, 24,000  
responses; 12,000 hours  
Office of Federal Statistical Policy &  
Standard, 673-7974

Bureau of the Census  
\*Construction Project Report  
(Multifamily Residential)  
C-700(R)  
Monthly  
Owners of multifamily residential  
buildings, 30,000 responses; 7,500  
hours  
Office of Federal Statistical Policy &  
Standard, 673-7974

Maritime Administration  
\*Director of Minority and Women  
Contractors With a Capability To  
Service the Maritime Industry  
MA-801

Annually  
Minority/women's business firms, 500  
responses; 125 hours  
Richard Sheppard, 395-3211

*Extensions*  
Bureau of Economic Analysis  
\*Plant and Equipment Expenditures  
Survey (Expansion Industries)  
BE456  
Quarterly  
Professional & nonprofit organizations  
expansion Ind., 24,000 responses;  
12,000 hours  
Office of Federal Statistical Policy &  
Standard, 673-7974

Bureau of Economic Analysis  
\*Receipt and Shipment of United States  
and Mexican Currency Between U.S.  
Banks and Foreigners  
FR465  
Monthly  
Banks in FR Dist. 11 & 12 Deal. in  
Mexican currency transac., 80  
responses; 40 hours  
Office of Federal Statistical Policy &  
Standard, 673-7974

Bureau of Economic Analysis  
\*Plant and Equipment Expenditures  
Survey Annual Supplement (Facturers  
Only)  
BE-452A  
Annually  
Manufacturing and utilities, 3,000  
responses; 1,500 hours  
Office of Federal Statistical Policy &  
Standard, 673-7974

Bureau of Economic Analysis  
\*Plant and Equipment Expenditures  
Survey  
BE-456  
Quarterly  
Nonmanufacturing, 24,000 responses;  
12,000 hours  
Office of Federal Statistical Policy &  
Standard, 673-7974

Bureau of Economic Analysis  
\*Plant and Equipment Expenditures  
Survey Annual Supplement  
BE 456A  
Annually  
Nonmanufacturing, 5,000 responses;  
2,500 hours  
Office of Federal Statistical Policy &  
Standard, 673-7974

**DEPARTMENT OF DEFENSE**  
Agency Clearance Officer—John V.  
Wenderote—697-1195.

*Revisions*  
Departmental and Other Comsec  
Material Report  
SF-153  
Other (see SF-83)  
Description not furnished by agency  
Richard Sheppard, 395-3211

**DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE**

Agency Clearance Officer—William  
Riley—245-7488.

*New forms*  
Office of the Secretary  
Self-Evaluation Requirement of  
Government-Wide Age Discrimination  
Act Regulations  
OS-21-79  
Single time  
Fed. fund recipients employ. 15 or more  
on a full-time basis  
Laverne V. Collins, 395-3214

*Revisions*  
Social Security Administration  
Application for Wife's or Husband's  
Insurance Benefits  
SSA-2-F6  
On occasion  
Wives or Husb. Elig. for monthly  
benefits, 700,000 responses; 116,667  
hours  
Barbara F. Young, 395-6132

Social Security Administration  
Application for Lump-Sum Death  
Payment  
SSA-8-F5  
On occasion  
Indiv. apply. for lump-sum Allow.  
payable under title II, 1,360,000  
responses; 226,667 hours  
Barbara F. Young, 395-6132

Social Security Administration  
Application for Child's Insurance  
Benefits  
SSA-4-F6  
On occasion  
Completed by or on behalf of child of  
liv. wage earn. to SS, 925,000  
responses; 154,167 hours  
Barbara F. Young, 395-6132

*Extensions*  
Food and Drug Administration  
\*Application for Exemption for  
Manufacturing Use  
FD-1674  
On occasion  
Antibiotic manufacturers, 77 responses;  
39 hours  
Richard Eisinger, 395-3214

Food and Drug Administration  
\*Application for Exemption for  
Repacking  
FD-1678  
On occasion  
Antibiotic manufacturers, 22 responses;  
11 hours  
Richard Eisinger, 395-3214

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

Agency Clearance Officer—Robert G. Masarsky—755-5184.

*New forms*

Community Planning and Development Section 312 Questionnaire to Localities Single time  
City staff, 369 responses; 554 hours  
Arnold Strasser, 395-5080

Government National Mortgage Association

\*Liquidation Schedule  
HUD-1710 E

Monthly

Mortgage originators, 9,600 responses; 960 hours  
Arnold Strasser, 395-5080

*Revisions*

Government National Mortgage Association

\*Issuers Monthly Summary Report  
HUD-1710 D

Monthly

Mortgage originators, 9,600 responses; 960 hours  
Arnold Strasser, 395-5080

Government National Mortgage Association

\*Issuers Monthly Accounting Report  
HUD-1710 A

Monthly

Mortgage originators, 9,600 responses; 960 hours  
Arnold Strasser, 395-5080

Government National Mortgage Association

\*Project Mortgage Pool Report  
HUD-1710 C

Monthly

Mortgage originators, 9,600 responses; 960 hours  
Arnold Strasser, 395-5080

Government National Mortgage Association

\*Issuers Monthly Serial Notes  
Accounting Schedule  
HUD-1710 B

Monthly

Mortgage originators, 9,600 responses; 960 hours  
Arnold Strasser, 395-5080

**DEPARTMENT OF LABOR**

Agency Clearance Officer—Philip M. Oliver—523-6341.

*New forms*

Employment Standards Administration  
Impact of Age Discrimination in  
Employment Act: Institution Form,  
Faculty Form  
ESA 99C and 99D

Single time

Tenured faculty members and higher  
education institutions, 2,900  
responses; 1,360 hours

Arnold Strasser, 395-5080

*Reinstatements*

Employment Standards Administration  
41 Code of Federal Regulations 60-1<sup>1</sup>  
CC-60-1

Other (see SF-83)

Fed contr. & Fed. assisted const. contr. &  
sue.

Arnold Strasser, 395-5080

**DEPARTMENT OF TRANSPORTATION**

Agency Clearance Officer—Bruce H. Allen—426-1887.

*New forms*

Research and Special Programs  
Administration

Motor Carrier PU&D Operating Data  
Single time

Common motor carriers with Baltimore  
area terminals, 85 responses; 130  
hours

Steed, Diane K., 395-3176

*Revisions*

Federal Aviation Administration

\*Report of Eye Evaluation  
FAA 8500-7

On occasion

Certain applicants for airman medical  
certificates, 12,000 responses; 3,000  
hours

Edward H. Clarke, 395-5867

Federal Aviation Administration

Application for Airman Medical  
Certificate of Airman Medical and  
Student Pilot Certificate

FAA 8500-8

Annually

Applicant for airman medical  
certificates, 572,000 responses; 286,000  
hours

Edward H. Clarke, 395-5867

**DEPARTMENT OF THE TREASURY**

Agency Clearance Officer—Floyd I. Sandlin—376-0436.

*Revisions*

Bureau of the Mint

Anthony Dollar Coin Use Survey  
Questions

Single time

Cross section of U.S. population, 1,500  
responses; 128 hours

Marsha D. Traynham, 395-6140

<sup>1</sup> Continued use of this recordkeeping requirement has already been approved. By administrative oversight, the Department of Labor allowed clearance for this report to expire. However, because it is the foundation for the Equal Employment Opportunity program outlined in E.O. 11246, OMB has extended clearance for one year.

**GENERAL SERVICES ADMINISTRATION**

Agency Clearance Officer—John F. Gilmore—566-1164.

*New forms*

Repository Information Form (and  
Accompanying Instructions and Cover  
Letters)

On occasion

Archival & manuscript repositories,  
12,000 responses; 12,000 hours  
Laverne V. Collins, 395-3214

**NATIONAL SCIENCE FOUNDATION**

Agency Clearance Officer—Herman Fleming—634-4070.

*Extensions*

Industrial Panel on Science and  
Technology

On occasion

R&D performing companies, 250  
responses; 250 hours  
Laverne V. Collins, 395-3214

**SMALL BUSINESS ADMINISTRATION**

Agency Clearance Officer—John Reidy—653-6081.

*New forms*

Small Business Opinion leader

Single time

Business owners, 10,000 responses; 1,666  
hours  
Richard Sheppard, 395-3211

**U.S. INTERNATIONAL TRADE COMMISSION**

Agency Clearance Officer—Charles Ervin—523-0267.

*New forms*

Importers Questionnaire for Inv. No.  
AA1921-212

Single time

Importers of spun acrylic piled yarn, 35  
responses; 560 hours

Marsha D. Traynham, 395-6140

Producers Questionnaire for Inv. No.  
AA1921-212

Single time

Producers of spun acrylic piled yarn, 20  
responses; 480 hours

Marsha D. Traynham, 395-6140

Stanley E. Morris,

*Deputy Associate Director for Regulatory  
Policy and Reports Management.*

[FR Doc. 79-35613 Filed 11-16-79; 8:45 am]

BILLING CODE 3110-01-M

**SMALL BUSINESS ADMINISTRATION**

[Declaration of Disaster Loan Area No.  
1687; Amdt. No. 2]

**Commonwealth of Puerto Rico;  
Declaration of Disaster Loan Area**

The above numbered Declaration (see  
this issue), and Amendment No. 1 (see

this issue), are amended in accordance with the President's declaration of September 2, 1979, to include Aguada, Barranquitas, Caguas, Comerio, Lares, Orocovis, Rincon, San Sebastian, Vieques, Ciales, Corozal, Gurabo, Juncos, Las Piedras, Loiza, Naranjito, Rio Grande, San Juan, San Lorenzo and Yabucoa Municipalities and adjacent municipalities within the Commonwealth of Puerto Rico. The Small Business Administration will accept applications for disaster relief loans from victims in the above named municipalities and adjacent municipalities within the commonwealth of Puerto Rico. All other information remains the same; i.e., the termination dates for filing applications for physical damage until close of business on November 5, 1979, and for economic injury until the close of business on June 4, 1980.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 26, 1979.

A. Vernon Weaver,  
Administrator.

[FR Doc. 79-35572 Filed 11-16-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1687, Amdt. No. 3]

**Commonwealth of Puerto Rico;  
Declaration of Disaster Loan Area**

The above numbered Declaration (See this issue), Amendment No. 1 (See this issue) and Amendment No. 2 (See this issue), are amended in accordance with the President's declaration of September 2, 1979, to include Albonito Municipality and adjacent municipalities within the Commonwealth of Puerto Rico. The Small Business Administration will accept applications for disaster relief loans from victims in the above named municipality and adjacent municipalities within the commonwealth of Puerto Rico. All other information remains the same; i.e., the termination dates for filing applications for physical damage until close of business on November 5, 1979, and for economic injury until the close of business on June 4, 1980.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 12, 1979.

A. Vernon Weaver,  
Administrator.

[FR Doc. 79-35573 Filed 11-16-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #1679]

**Kansas; Declaration of Disaster Loan Area**

The area of West side of 600 Block of North Broadway, in the City of Pittsburg, Crawford County, Kansas, constitutes a disaster area because of damage resulting from a fire which occurred on June 27, 1979. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 22, 1979, and for economic injury until close of business on May 22, 1980, at:

Small Business Administration, District Office, 12 Grande Building, 5th Floor, 1150 Grande Avenue, Kansas City, Missouri 64106.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 22, 1979.

A. Vernon Weaver,  
Administrator.

[FR Doc. 79-35574 Filed 11-16-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #1679, Amdt. 1]

**Kansas; Declaration of Disaster Loan Area**

The above numbered Declaration (See preceding document) is amended by extending the filing date for physical damage until the close of business on November 30, 1979, and for economic injury until the close of business on June 30, 1980.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 7, 1979.

Edward Norton,  
Acting Administrator.

[FR Doc. 79-35575 Filed 11-16-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #1685]

**New Hampshire; Declaration of Disaster Loan Area**

Rockingham County and adjacent counties within the State of New Hampshire constitute a disaster area as a result of damage caused by a storm, wind and tornado which occurred on August 27, 1979. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on November 2, 1979, and for economic injury until the close of business on June 2, 1980 at:

Small Business Administration, District Office, 55 Pleasant Street, Concord, New Hampshire 03301.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 31, 1979.

A. Vernon Weaver,  
Administrator.

[FR Doc. 79-35576 Filed 11-16-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #1685, Amdt. #1]

**New Hampshire; Declaration of Disaster Loan Area**

The above numbered Declaration (See preceding document) is amended by extending the filing date for physical damage until the close of business on November 30, 1979, and for economic injury until the close of business on June 30, 1980.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 7, 1979.

Edward Norton,  
Acting Administrator.

[FR Doc. 79-35577 Filed 11-16-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #1676]

**New York; Declaration of Disaster Loan Area**

Chautauqua County and adjacent counties within the State of New York constitute a disaster area as a result of damage caused by wind, storms and flooding which occurred on August 7-8, 1979. Applications will be processed under the provisions of Pub. L. 96-38. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 15, 1979, and for economic injury until the close of business on May 15, 1980, at:

Small Business Administration, District Office, Federal Building, Room 1071, 100 South Clinton Street, Syracuse, New York 13260.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 15, 1979.

William H. Mauk, Jr.,  
Acting Administrator.

[FR Doc. 79-35578 Filed 11-16-79; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area No. 1676; Amdt. No. 1]

**New York; Declaration of Disaster Loan Area**

The above numbered Declaration (See preceding document) is amended by extending the filing date for physical damage until the close of business on November 30, 1979, and for economic injury until the close of business on June 30, 1980.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 7, 1979.

Edward Norton,

*Acting Administrator.*

[FR Doc. 79-35579 Filed 11-16-79; 8:45 am]

BILLING CODE 8025-01-M

**[Declaration of Disaster Loan Area #1682]**

**Ohio; Declaration of Disaster Loan Area**

Butler County and adjacent counties within the State of Ohio constitutes a disaster area as a result of damage caused by heavy rains and flooding which occurred on August 1, 1979. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business October 29, 1979, and for economic injury until the close of business on May 29, 1980, at:

Small Business Administration, District Office, Federal Building, U.S. Court House 85, Columbus, Ohio 43215. Small Business Administration, Branch Office, Federal Building, Room 5028, Cincinnati, Ohio 45202.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 29, 1979.

A. Vernon Weaver,  
*Administrator.*

[FR Doc. 79-35580 Filed 11-16-79; 8:45 am]

BILLING CODE 8025-01-M

**[Declaration of Disaster Loan Area No. 1682; Amdt. No. 1]**

**Ohio; Declaration of Disaster Loan Area**

The above numbered Declaration (See preceding document), is amended by extending the filing date for physical damage until the close of business on November 30, 1979, and for economic injury until the close of business on June 30, 1980.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 7, 1979.

Edward Norton,

*Acting Administrator.*

[FR Doc. 79-35581 Filed 11-16-79; 8:45 am]

BILLING CODE 8025-01-M

**[Declaration of Disaster Loan Area No. 1680]**

**Pennsylvania; Declaration of Disaster Loan Area**

Bucks County and adjacent counties within the State of Pennsylvania constitute a disaster area as a result of damage caused by severe storms and flooding which occurred on July 29, 1979. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 25, 1979, and for economic injury until the close of business on May 26, 1980, at:

Small Business Administration, District Office, East Lobby, Suite 400, One Bala Cynwyd Plaza, 231 St. Asaphs Road, Bala Cynwyd, Pa., 19004.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 24, 1979.

A. Vernon Weaver,  
*Administrator*

[FR Doc. 79-35582 Filed 11-16-79; 8:45 am]

BILLING CODE 8025-01-M

**[Declaration of Disaster Loan Area No. 1680, Amdt. 1]**

**Pennsylvania; Declaration of Disaster Loan Area**

The above numbered Declaration (See preceding document) is amended by extending the filing date for physical damage until the close of business on November 30, 1979, and for economic injury until the close of business on June 30, 1980.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 7, 1979.

Edward Norton,

*Acting Administrator.*

[FR Doc. 79-35583 Filed 11-16-79; 8:45 am]

BILLING CODE 8025-01-M

**[Declaration of Disaster Loan Area No. 1687]**

**Commonwealth of Puerto Rico; Declaration of Disaster Loan Area**

As a result of the President's major disaster declaration I find that Arecibo, Arroyo, Barceloneta, Canovanas, Carolina, Dorado, Guayanilla, Guanica, Humacao, Jayuya, Juana Diaz, Manati,

Ponce, Toa Baja and Vega Baja Municipalities and adjacent Municipalities within the Commonwealth of Puerto Rico, constitute a disaster area because of damage resulting from Hurricane David beginning on or about August 29, 1979. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on November 5, 1979, and for economic injury until close of business on June 4, 1980, at:

Small Business Administration, District Office, Chardon and Bolivia Streets, P.O. Box 1915, Hato Rey, Puerto Rico 00919.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 5, 1979.

A. Vernon Weaver,  
*Administrator.*

[FR Doc. 79-35584 Filed 11-16-79; 8:45 am]

BILLING CODE 8025-01-M

**[Declaration of Disaster Loan Area No. 1687, Amdt. No. 1]**

**Commonwealth of Puerto Rico; Declaration of Disaster Loan Area**

The above numbered Declaration (See preceding document) is amended in accordance with the President's declaration of September 2, 1979, to include the following municipalities in the Commonwealth of Puerto Rico.

Adjuntas, Anasco, Cabo Rojo, Catano, Cayey, Ceiba, Cidra, Coamo, Culebra, Fajardo, Guayama, Hormigueros, Lajas, Luquillo, Maricao, Maunabo, Mayaguez, Morovis, Naguabo, Patillas, Penuelas, Sabana Grande, Salinas, San German, Santa Isabel, Utuado, Yauco.

The Small Business Administration will accept applications for disaster relief loans from disaster victims in the above-named municipalities and adjacent municipalities within the Commonwealth of Puerto Rico. All other information remains the same; i.e., the termination dates for filing applications for physical damage is close of business on November 3, 1979, and for economic injury until the close of business on June 4, 1980.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 18, 1979.

A. Vernon Weaver,  
*Administrator.*

[FR Doc. 79-35585 Filed 11-16-79; 8:45 am]

BILLING CODE 8025-01-M

**[Declaration of Disaster Loan Area #1687, Amdt. #4]**

**Commonwealth of Puerto Rico; Declaration of Disaster Loan Area**

The above numbered Declaration (See preceding document), Amendment #1 (See preceding document), Amendment #2 (See preceding document), and Amendment #3 (See preceding document) are amended by extending the filing date for physical damage until the close of business on November 30, 1979, and for economic injury until the close of business on June 30, 1980.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 7, 1979.

Edward Norton,  
*Acting Administrator.*

[FR Doc. 79-35588 Filed 11-16-79; 8:45 am]

BILLING CODE 8025-01-M

**[Declaration of Disaster Loan Area #1674]**

**Wisconsin; Declaration of Disaster Loan Area**

Chippewa County and adjacent counties within the State of Wisconsin constitute a disaster area as a result of damage caused by rainstorm and flooding which occurred on June 29, 1979. Applications will be processed under the provisions of Pub. L. 96-38. Eligible persons, firms and organizations may file applications for loans for physical damage until close of business on October 15, 1979, and for economic injury until the close of business on May 14, 1980, at:

Small Business Administration, District Office, 212 East Washington Ave., 2nd Floor, Madison, Wisconsin 53703.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 24, 1979.

A. Vernon Weaver,  
*Administrator.*

[FR Doc. 79-35587 Filed 11-16-79; 8:45 am]

BILLING CODE 8025-01-M

**[Declaration of Disaster Loan Area #1674; Amdt. #1]**

**Wisconsin; Declaration of Disaster Loan Area**

The above numbered Declaration (See preceding document) is amended by extending the filing date for physical damage until the close of business on November 30, 1979, and for economic injury until the close of business on June 30, 1980.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 7, 1979.

Edward Norton,  
*Acting Administrator.*

[FR Doc. 79-35588 Filed 11-16-79; 8:45 am]

BILLING CODE 8025-01-M

**[Declaration of Disaster Loan Area No. 1683]**

**Wisconsin; Declaration of Disaster Loan Area**

Douglas County and adjacent counties within the State of Wisconsin constitutes a disaster area as a result of damage caused by heavy rains and flooding which occurred on July 2, 1979. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on October 29, 1979, and for economic injury until the close of business on May 29, 1980, at:

Small Business Administration, District Office, 212 East Washington Ave., 2nd Floor, Madison, Wisconsin 53703.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 29, 1979.

A. Vernon Weaver,  
*Administrator.*

[FR Doc. 79-35589 Filed 11-16-79; 8:45 am]

BILLING CODE 8025-01-M

**[Declaration of Disaster Loan Area No. 1683; Amdt. No. 1]**

**Wisconsin; Declaration of Disaster Loan Area**

The above numbered Declaration (See preceding document) is amended by extending the filing date for physical damage until the close of business on November 30, 1979, and for economic injury until the close of business on June 30, 1980.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 7, 1979.

Edward Norton,  
*Acting Administrator.*

[FR Doc. 79-35590 Filed 11-16-79; 8:45 am]

BILLING CODE 8025-01-M

**DEPARTMENT OF TRANSPORTATION**

**Federal Highway Administration**

**Indian Reservation Roads**

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of Memorandum of Agreement between the Bureau of Indian Affairs and the Federal Highway Administration.

**SUMMARY:** Pursuant to 23 U.S.C. 208, the Federal Highway Administration (FHWA) is responsible for approving the location, type, and design, as well as for supervising the construction, of Indian Reservation Roads and Bridges projects. The responsibilities and procedures for coordination between FHWA and the Bureau of Indian Affairs in connection with these projects had been set out in a 1974 interagency Memorandum of Agreement. This document has now been updated and revised in a new Memorandum of Agreement executed by the agencies and taking effect as of July 11, 1979. The most significant revisions are those eliminating provisions for FHWA's formal approval and/or concurrence in system actions and in the contract award process.

FHWA has also published a revised section of its Federal-Aid Highway Program Manual (Volume 6, Chapter 9, Section 17) to incorporate its responsibilities under the Memorandum of Agreement into that format.

Copies of the Memorandum of Agreement and Federal-Aid Highway Program Manual section are available for public inspection and copying. Copies of these documents will be made available on request by contacting Mr. George J. Hutzelmann, Federal Highway Projects Division, at the address provided.

**FOR FURTHER INFORMATION CONTACT:**

Mr. George J. Hutzelmann, Federal Highway Projects Division, 202-426-0460, or Mr. James R. Dann, Office of the Chief Counsel, 202-426-0786, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

(23 U.S.C. 208, 315; 49 CFR 1.48(b))

Issued on November 9, 1979.

John S. Hassell, Jr.,  
*Deputy Administrator.*

[FR Doc. 79-35494 Filed 11-16-79; 8:45 am]

BILLING CODE 4910-22-M

**DEPARTMENT OF THE TREASURY**

**Office of the Secretary**

**Issuance of Additional Boycott Guidelines**

November 14, 1979.

The Treasury Department today issued additional guidelines, consisting of questions and answers, relating to the provisions of the Tax Reform Act of

1976 which deny certain tax benefits for participation in or cooperation with international boycotts.

Guideline H-17 is a revision of the existing guideline while the other guidelines are additions to those issued on January 20, 1978 (Treasury News Release B-653). The guidelines issued today generally are effective for operations occurring after, requests received after, and agreements made after November 3, 1976. However, guidelines M-10 and M-11 are effective for operations occurring after, requests received after, and agreements made after November 23, 1979. In addition, in the case of binding contracts entered into before November 24, 1979, guidelines M-10 and M-11 will not be effective until January 1, 1980.

For purposes of applying the rules in guidelines M-12 and M-13, an explanation offered by Country X is deemed to retroactively interpret and be effective for shipping and insurance certificates required by Country X prior to the date on which the official explanation is given. The Kingdom of Saudi Arabia has offered such an explanation.

All of the guidelines issued today elaborate on principles reflected in the guidelines issued on January 20, 1978. Nonetheless, guidelines M-10 and M-11 are made effective prospectively to avoid a hardship on taxpayers who have misunderstood the applicability of existing guidelines to the facts of guidelines M-10 and M-11.

The principal author of these guidelines was Leonard E. Santos of the Office of the Secretary of the Treasury. Donald C. Lubick, Assistant Secretary (Tax Policy).

D-6. Q: Company C is a partner in foreign or domestic Partnership P. The total partnership interest in Partnership P held directly, indirectly, or constructively by:

1. Company C,
2. All members of the controlled group of corporations of which Company C is a member, and
3. All persons that control (within the meaning of section 304(c)) Company C or a member of the controlled group of corporations of which Company C is a member,

is equal to or less than 50 percent. Partnership P enters into an agreement that constitutes participation in or cooperation with an international boycott. Will that agreement trigger the application of the sanctions of sections 908(a), 952(a)(3), and 995(b)(1)(F) to Company C and the other members of Partnership P? Will that agreement give rise to the presumption that all the

operations in boycotting countries of Company C, of each person that controls or is controlled by (within the meaning of section 304(c)) Company C, and of each member of the controlled group of corporations of which Company C is a member, are operations in connection with which there is participation in or cooperation with an international boycott?

A: The sanctions of sections 908(a), 952(a)(3), and 995(B)(1)(F) will apply to Company C and each member of Partnership P. However, Partnership P's agreement will not give rise to the presumption that all the operations in boycotting countries of Company C and of each person that controls or is controlled by (within the meaning of section 304(c)) Company C are operations in connection with which there is participation in or cooperation with an international boycott. Nor will Partnership P's agreement give rise to the presumption that all the operations in boycotting countries of each member of the controlled group of corporations of which Company C is a member are operations in connection with which there is participation in or cooperation with an international boycott. The answers in the first two sentences would be the same if Company C were an individual and the partnership interest held directly, indirectly, or constructively by the individual did not exceed 50 percent.

H-17. Q: Company C receives an inquiry from Country X about certain goods that Company C manufactures. The inquiry also requests Company C to furnish information about the following matters: whether it does business with Country Y and whether it does business with any United States person engaged in trade in Country Y. Company C furnishes the requested information to Country X. Later, Company C signs a contract with Country X to export goods to Country X. Does Company C's action constitute an agreement under section 999(b)(3)?

A: No. By furnishing such information Company C has not agreed to take any action, as a condition of doing business with Country X, that is described in section 999(b)(3). The answer would be the same if Company C had furnished the information in the form of a certificate, and if the certificate instead stated that neither Company C nor companies from which it purchased goods were blacklisted. See also Answer H-32. However, the furnishing of boycott-related information in response to a prior commitment which is not contemporaneous with the furnishing of the information would

constitute an agreement within the meaning of section 999(b)(3). Information (in a certificate or otherwise) will be considered to be furnished in response to a commitment that is not contemporaneous if, between the time of the commitment and the delivery of the information, conduct to which the information relates could be altered to conform to that information. See Answer H-35.

An agreement under section 999(b)(3) could be inferred from an overall course of conduct that includes the furnishing of information that is not in response to a prior commitment in addition to other factors. An example of another factor which could give rise to such an inference is any concomitant termination or lessening in Company C's relationships with Country Y or with U.S. persons engaged in trade with Country Y, for no valid business reasons. On the other hand, the repeated furnishing of such information would not give rise to such an inference.

H-35. Q: Company C signs a contract with Country X to export goods manufactured by Company C to Country X. The contract provides that Company C will provide Country X with a certificate at the time the goods are shipped indicating that the goods were not manufactured by a blacklisted company. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)?

A: Yes. Company C's contract requiring the presentation of the blacklist certificate constitutes an agreement by Company C to refrain from engaging in activities which will lead to the blacklisting of Company C (with the result that Company C cannot present the requisite certificate). See Answer H-17. The answer would be the same whether the blacklist certificate given by Company C concerns its blacklist status only or the blacklist status of those trading with Company C, and whether Company C itself executes the certificate or transmits a certificate executed by those with whom it trades. The answer would also be the same if the certificate were instead required by the terms of a letter of credit by which payment to Company C is to be made.

H-36. Q: Company C signs a contract with Country X to export goods to Country X. The contract provides that Company C will provide Country X with a certificate in connection with the shipment of goods indicating the country or countries in which the goods originated and the name(s) of the manufacturer(s) of the goods. Company C complies with this requirement and provides the certificate. Does Company

C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)?

A: No. Company C's agreement to provide a certificate identifying the origin and manufacturer of goods exported does not constitute an agreement by Company C to refrain from doing business with any person. See guideline M-9. However, an overall course of conduct which includes providing such certificates in addition to other factors could give rise to such an inference. Repeatedly furnishing such certificates does not constitute such a course of conduct.

M-10. Q: Company C signs a contract to export goods to Country X. The contract requires that Company C provide Country X with a certificate stating that the vessel on which the goods are shipped is eligible to enter into the ports of Country X in conformity with the laws and regulations of Country X. The laws and regulations of Country X prohibit, *inter alia*, blacklisted vessels from calling at its ports. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)?

A: Yes. In the absence of additional circumstances, Company C's contract is deemed to be an agreement to provide a certificate stating that the vessel on which the goods are shipped is not blacklisted. See Answers H-35, M-1, and M-7. The answer is the same whether the shipowner makes the certification which Company C transmits to Country X or Company C makes the certification on behalf of the shipowner. The answer would be the same if the certificate were instead required by the terms of a letter of credit by which Company C is to receive payment.

M-11. Q: The facts are the same as in Question M-10, except that Company C's contract with Country X requires a certificate stating that the insurer of the goods has a duly qualified and appointed agent or representative in Country X. Country X's laws and regulations prohibit, *inter alia*, blacklisted insurance companies from qualifying or appointing an agent in Country X. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)?

A: Yes. In the absence of additional circumstances, Company C's contract is deemed to be an agreement to certify that the insurance company insuring the goods is not blacklisted. See Answers H-35, M-1 and M-7. The answer is the same whether the insurance company provides the certificate which Company

C transmits to Country X or Company C makes the certification on behalf of the insurance company. The answer would be the same if the certificate were instead required by the terms of a letter of credit by which Company C is to receive payment.

M-12. Q: Company C signs a contract to export goods to Country X. The contract requires that Company C provide Country X with the certificate described in guideline M-10. In an explanation of this shipping certificate, Country X states that eligibility, in the context of the certificate, relates to maritime matters such as the age and condition of the ship. Country's X's explanation notes that, in addition, Country X applies a number of laws and regulations to the entry of ships into its ports. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)?

A: No. Country's X's explanation of the general language contained in the certificate indicates that the certificate relates to matters other than the boycott. Accordingly Company C's contractual obligation to provide the shipping certificate does not place Company C in the position of certifying to the non-blacklisted status of ships which it uses, or of selecting ships on the basis of their owners' ability to certify that the ships are not blacklisted. The answer would be the same if the certificate were instead required by the terms of a letter of credit by which Company C is to receive payment.

M-13. Q: Company C signs a contract to export goods to Country X. The contract requires that Company C provide Country X with the certificate described in guideline M-11. In an explanation of this insurance certificate, Country X states that the insurance certification is required to facilitate dealings with insurers by Country X importers in the event of damage to insured goods. Country X's explanation notes that, in addition, Country X applies a number of laws and regulations to the appointment by companies of agents or representatives in Country X. Does Company C's action constitute participation in or cooperation with an international boycott under section 999(b)(3)?

A: No. Country X's explanation of the general language contained in the insurance certificate indicates that the certificate relates to matters other than the boycott. Accordingly, Company C's contractual obligation to provide the insurance certificate does not place Company C in the position of certifying to the non-blacklisted status of its insurers, or of selecting insurers on the

basis of the insurers' ability to certify that they are not blacklisted. The answer would be the same if the certificate were instead required by the terms of a letter of credit by which Company C is to receive payment.

[FR Doc. 79-35539 Filed 11-16-79; 8:45 am]  
BILLING CODE 4810-25-M

[Dept. Circular Public Debt Series—No. 28-79]

## Treasury Notes of November 30, 1981; Series Z-1981

November 14, 1979.

### 1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately \$4,300,000,000 of United States securities, designated Treasury Notes of November 30, 1981, Series Z-1981 (CUSIP No. 912827 KD 3). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities, to the extent that the aggregate amount of tenders for such accounts exceeds the aggregate amount of maturing securities held by them.

### 2. Description of Securities

2.1. The securities will be dated November 30, 1979, and will bear interest from that date, payable on a semiannual basis on May 31, 1980, and each subsequent 6 months on November 30 and May 31, until the principal becomes payable. They will mature November 30, 1981, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of \$5,000, \$10,000, \$100,000, and \$1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

### 3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Wednesday, November 21, 1979. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, November 20, 1979.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is \$5,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed \$1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings

on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5% of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a  $\frac{1}{2}$  of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks

will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

### 4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

### 5. Payment and Delivery

5.1. Settlement for allotted securities must be made or completed on or before Friday, November 30, 1979, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Tuesday, November 27, 1979, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Monday, November 26, 1979, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

## 6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

### Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

**Acting Fiscal,**

*Acting Fiscal Assistant Secretary.*

[FR Doc. 79-35570 Filed 11-16-79; 8:45 am]

BILLING CODE 4810-40-M

## INTERSTATE COMMERCE COMMISSION

[Notice No. 146]

### Assignment of Hearings

November 13, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 129537 (Sub-40F), Reeves Transportation Company, now assigned for hearing on December 3, 1979 at New Orleans, LA is postponed to February 11, 1980 at New Orleans, LA. Location of hearing room will be by subsequent notice.

MC 138550 (Sub-1F), W. Smith Cartage Company, Inc. transferred to Modified Procedure.

MC 134906, Cape Air Freight, Inc., now assigned for hearing on December 3, 1979 (5 days) at Nashville, TN will be held in room 651, Federal Building, 801 Broad Street.

MC 89684 (Sub-49, 54, 57, 58, 63, 74, 78, 81, 85, 91, 92, 100, 103 and M1F), Wycoff Company, Incorporated, now being assigned for hearing on December 15, 1980 at Salt Lake City, UT, location of hearing room will be by subsequent notice.

MC 142703 (Sub-13F), Intermodal Transportation Services, Inc. now assigned for hearing on December 10, 1979 at Columbus, OH will be held (5 days) instead of (3 days).

MC 31389 (Sub-267F), McLean Trucking Company, transferred to Modified Procedure.

MC 26396 (Sub-223F), Popkelda Trucking, Co. d/b/a the Waggoners now assigned for hearing on February 5, 1980 (1 day) at Billings, MT location of hearing room will be by subsequent notice.

MC 129631 (Sub-63F), Pack Transport, Inc., now assigned for hearing on February 8, 1980 (3 days) at Billings, MT location of hearing room will be designated later.

MC 136605 (Sub-93F), Davis Bros. Dist., INC., now assigned for hearing on February 11, 1980 (1 week) at Billings, MT location of hearing room will be designated later.

MC C-8619 Transport of New Jersey, ET AL Investigation of Operations and Practices, No. 36745, Petition for Investigation—Bus Terminal of the Port Authority of New York and New Jersey, now assigned for continued Prehearing Conference on December 2, 1980 (1 day) at New York, NY in a hearing room to be later designated.

MC 56679 (Sub-109F), Brown Transport Corporation, now assigned for hearing on December 11, 1979 (9 days) at Atlanta, GA will be held in Room No. 882, Federal Building, 75 Spring Street.

MC 112991 (Sub-4F), Livingston Transportation Limited, now being assigned for hearing on January 15, 1980 (4 days), at Detroit, MI. in a hearing room to be designated later.

MC 112908 (Sub-9F), Kingsway Transports Limited., now being assigned for hearing on January 21, 1980 (1 week), at Detroit, MI. in a hearing room to be designated later.

MC 77016 (Sub-19F), Budig Trucking Company, transferred to Modified Procedure.

MC 2484 (Sub-54F), E & L Transport Company, transferred to Modified Procedure.

MC 126679 (Sub-9F), Dennis Truck Line, Inc., now assigned for hearing on December 3, 1979, at Atlanta, GA. is canceled and transferred to Modified Procedure.

MC 32967 (Sub-3F), Atlantic Coast Express, Inc., now assigned for hearing on November 26, 1979 at New York, NY. will be held at the Federal Building, Room No. E-2222, 26 Federal Plaza, New York, NY.

MC 133937 (Sub-28F), Carolina Cartage Company, Inc., a South Carolina Corporation, now assigned for hearing on November 15, 1979 at Atlanta, GA. will be held at the State Court Building, Room No. 216, 160 ployr Street, NW., Atlanta, GA.

MC 144957 (Sub-3F), Petercliff, Ltd., now assigned for hearing on December 12, 1979 at Los Angeles, CA. is postponed to January 23, 1980 (3 days), at Los Angeles, CA. in a hearing room to be designated later.

MC 144963 (Sub-1F), W. E. Battles, d/b/a Jobbers Freight Services, now being assigned for hearing on January 21, 1980 (2 Days), at Boise, Idaho in a hearing room to be designated later.

MC 144957 (Sub-5F), Petercliff, Ltd., now being assigned for hearing on January 23, 1980 (3 Days), at Los Angeles, CA. in a hearing room to be designated later.

MC 96878 (Sub-3F), Consolidated Transfer & Warehouse Company, Inc. now being assigned for hearing on January 23, 1980 (3 Days), at Oklahoma City, OK, in a hearing room to be designated later.

MC 112184 (Sub-65F), The Manfredi Motor Transit Co., a corporation, now assigned for hearing on November 27, 1979 at Cincinnati, OH, will be held at the Federal Building, Room No. 8017, 550 Main Street, Cincinnati, OH.

MC 123685 (Sub-24F), Peoples Cartage, Inc., now assigned for hearing on November 29, 1979, at Cincinnati, OH, will be held at the Federal Building, Room 8017, 550 Main Street, Cincinnati, OH.

MC 128616 (Sub-26F), Gelco Courier Services, Inc., now assigned December 3, 1979 at Cincinnati, OH will be held in Room No. 9017, Federal Building, 550 Main Street and December 4, 1979, in Room No. 4022, Federal Building, 550 Main Street, Cincinnati, OH.

MC 145808 (Sub-2F), Red Arrow Delivery Service Co., Inc., now assigned for continued hearing on December 10, 1979 at the Offices of the Interstate Commerce Commission in Washington, DC.

MC 51018 (Sub-11F), the BESL Transfer Company, an Ohio corporation, now assigned for hearing on December 5, 1979, (2 Days) at Cincinnati, OH will be held in Room 9017, Federal Building, 550 Main Street and December 7, 1979 in Room No. 3026, Federal Building, 550 Main Street, Cincinnati, OH.

MC 112963 (Sub-82F), Roy Bros., Inc., now assigned for continued hearing on December 10, 1979 at the Offices of the Interstate Commerce Commission in Washington, DC.

MC 143594 (Sub-6F), National Bulk Transport, Inc., now being assigned for hearing on February 6, 1980 (3 Days), at New Orleans, LA, in a hearing room to be designated later.

MC 142703 (Sub-14F), Intermodal Transportation Services, Inc., now assigned for hearing on December 17, 1979 (5 Days), at Frankfort, KY, is cancelled and advanced to December 10, 1979 (5 Days) at Columbus, OH, in a hearing room to be designated later.

MC 87103 (Sub-31F), Miller Transfer and Rigging Company, transferred to Modified Procedure.

MC 138627 (Sub-52F), Smithway Motor Xpress, Inc., now being assigned for hearing on February 7, 1980 (2 Days) at Omaha, NE, in a hearing room to be designated later.

MC 126118 (Sub-105F), Crete Carrier Corporation, now being assigned for hearing on February 11, 1980 (5 Days) at Lincoln, NE, in a hearing room to be designated later.

MC 141033 (Sub-49F), Continental Contract Carriers Corp., now assigned for hearing on December 6, 1979, at San Francisco, CA, is cancelled and application dismissed.

I & S No. 9228, now assigned for Prehearing Conference on November 27, 1979 at Washington, DC is cancelled.

Agatha L. Mergenovich,  
Secretary.

[FR Doc. 79-35538 Filed 11-16-79; 8:45 am]

BILLING CODE 7035-01-M

**[Directed Service Order No. 1398]**

**Kansas City Terminal Railway Co. Directed To Operate Over Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee); Corrected Supplemental Order No. 10<sup>1</sup>**

Decided: November 13, 1979.

On September 26, 1979, the Commission directed Kansas City Terminal Railway Company (KCT) to provide service as a directed rail carrier (DRC) under 49 U.S.C. 11125 over the lines of the Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) ("RI"). See *Kansas City Term. Ry. Co.—Operate—Chicago, R. I & P.*, 360 I.C.C. 289 (1979), 4 FR 45343 (October 1, 1979).

This Corrected Supplemental Order is being issued to clarify the issue of contracting-out minor track work where there are not sufficient qualified RI employees to perform that work.

Under the section of DSO No. 1398 entitled "Hiring of RI Employees—Rosters," we established a three-level general approach to hiring. See DSO No. 1398, 360 I.C.C. at 302 [44 FR 56347, 1st and 2nd columns]. The DRC was required first to offer available jobs to RI employees in the appropriate crafts or seniority districts. If there were an inadequate number of such employees, the DRC would offer the jobs to RI employees in other seniority districts or crafts. Finally, if there were an insufficient number of RI employees qualified, willing or able to fill particular positions, the DRC could contract-out for the performance of those tasks or, alternatively, provide personnel from its own labor force as if under contract with the directed operation. (Such contracted employees would not be considered "RI employees" for directed-service or other purposes and thus were not to be added to RI employment rosters.)

However, in the section of the decision dealing with "minor" rehabilitation to RI lines and related facilities, we imposed an unqualified ban on contracting-out. See DSO No.

1398, 360 I.C.C. at 304 [44 FR 56348, 1st and 2nd columns]. This was motivated by our belief that such track work could adequately be performed by existing RI maintenance-of-way (or other RI) employees, and by our desire to deter the performance of excessive minor track work unnecessary to the provision of directed service.

Since the time DSO No. 1398 was issued, certain problems have developed which cause us to believe we should modify our treatment of contracting-out in the area of minor track work.

In a telegram from KCT (filed October 29, 1979), the DRC informs us that it is critically short of maintenance-of-way forces to perform normal inspection and maintenance work to track. Unless it is authorized to hire temporary maintenance-of-way employees, the DRC believes it will not be able to perform adequate directed-service operations.

The shortage of RI employees to perform this maintenance work results from the unexpected failure of approximately 174 RI maintenance-of-way employees to return to work following the institution of directed service. In addition, the DRC informs us that there are no extra RI workers in other departments available to perform the requisite maintenance work. Accordingly, the DRC requests authority "to hire new temporary employees for the maintenance-of-way department for not to exceed 59 days, to bring the work force to the pre-directed service level of 1,385 employees."

There are several persuasive reasons why the RI's maintenance-of-way department should be brought up to strength at this time. While, in the first few weeks of directed service, it was possible to perform necessary maintenance-of-way work with reduced forces (since less than 50% of RI lines were then being operated), KCT is now operating approximately 88% of the RI system and anticipates operating approximately 96% of the system during November 1979.

Moreover, minor maintenance-of-way work is presently necessary for track inspections required by FRA track-safety waivers (now covering about 600 miles of RI track), for snow removal, for selected track repair to reduce operating costs, to prevent track from falling out of compliance with track safety standards, and to remove certain cumbersome limitations contained in FRA track-safety waivers. In particular, the temporary maintenance-of-way employees are needed for: (1) Necessary track maintenance for the commuter operations in Chicago, IL; and (2) Essential track repair between Des

<sup>1</sup> On November 5, 1979, a Commission decision purporting to be "Supplemental Order No. 10" was erroneously released and served on the parties to this proceeding [44 FR 65231, Nov. 9, 1979] authorizing KCT to hire temporary maintenance-of-way employees. So-called "Supplemental Order No. 10" had no legal force and effect, as it was not properly cleared in accordance with Commission procedures. KCT was immediately notified of this fact and informed that it did not have Commission authorization to hire temporary maintenance-of-way employees unless and until properly authorized in a "Corrected Supplemental Order No. 10." This decision—"Corrected Supplemental Order No. 10"—is the only authoritative Commission action dealing with KCT's request to hire temporary maintenance-of-way employees.

Moines and Allerton, IA, and between Omaha, NE, and Limon, CO.

In view of the foregoing, we believe there is just cause to modify our prohibition on contracting-out minor track work. However, we shall only permit the DRC to hire temporary maintenance-of-way employees for the duration of the directed service period, not for the 59 days requested by the DRC. Moreover, our modification of the contracting-out prohibition shall be subject to two conditions: (1) No temporary maintenance-of-way employees may be hired by the DRC until after it has obtained written notice from RI labor representatives that no qualified RI employees are presently available to perform the necessary work; and (2) The DRC may not hire more temporaries than are necessary to bring the maintenance-of-way department up to its August 1979 level of 1,385 contract employees.

Moreover, in accordance with our general contracting-out provisions, *supra*, 360 I.C.C. at 302 [44 FR 56317, 1st and 2nd columns], these temporaries shall not be considered permanent "RI employees" for directed-service or any other purposes and thus may not be added to RI employment rosters.

*We find:* 1. This action will not significantly affect either the quality of the human environment or the conservation of energy resources. *See* 49 CFR Parts 1106, 1108 (1978).

*It is ordered:* 1. DSO No. 1398's prohibition against contracting out minor track work, *supra*, 360 I.C.C. at 304 [44 FR 56348, 1st and 2nd columns], is modified as indicated above.

2. This decision shall be effective on its service date.

By the Commission. Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins, and Alexis. Commissioners Gresham and Trantum dissenting. Vice Chairman Stafford not participating.

Agatha L. Mergenovich,  
*Secretary.*

Commissioner Gresham (dissenting)

There are only three weeks remaining in the directed service period. I see no need for this decision.

Commissioner Trantum (dissenting)

As I emphasized in my vote on Supplemental Order No. 9, we are still analyzing which Rock Island lines meet the "essentiality" test for directed service after December 4. At this time, hiring temporary employees in order to operate 96% of the system is simply inappropriate.

[FR Doc. 79-35537 Filed 11-16-79; 8:45 am]

BILLING CODE 7035-01-M

# Sunshine Act Meetings

Federal Register

Vol. 44, No. 224

Monday, November 19, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

## CONTENTS

	<i>Items</i>
Equal Employment Opportunity Commission .....	1
Federal Home Loan Bank Board .....	2, 3, 4
Nuclear Regulatory Commission .....	5
Occupational Safety and Health Review Commission .....	6

1

### EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

**TIME AND DATE:** 9:30 a.m. Tuesday, November 20, 1979.

**PLACE:** Commission Conference Room 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

#### MATTERS TO BE CONSIDERED:

- Proposed Regulations for Implementing Section 504 of the Rehabilitation Act of 1973.
- Staff Report on Pilot Project for Investigating Federal Employee Complaints for publication in the *Federal Register*.
- Revision to the Handicap Regulations.
- Two proposed Sole Source Contracts for services in support of Litigation.
- A proposed change to EEOC Order 110, involving revised mission and function statements for the Office of Systemic Program and the Office of the General Counsel.
- Freedom of Information Act Appeal No. 79-8-FOIA-278, concerning the release of EEO-1 reports.
- Report on Commission Operations by the Executive Director.

#### Closed

Litigation Authorization; General Counsel Recommendations.

**Note.**—Any matter not discussed or concluded may be carried over to a later meeting.

#### CONTACT PERSON FOR MORE

**INFORMATION:** Marie D. Wilson, Executive Officer, Executive Secretariat, at (202) 634-6748.

This notice issued November 13, 1979.

[S-2248-79 Filed 11-15-79; 9:07 am]

BILLING CODE 6570-06-M

2

### FEDERAL HOME LOAN BANK BOARD.

**TIME AND DATE:** November 14, 1979, 4:15 p.m.

**PLACE:** 1700 G Street, NW., sixth floor, Washington, D.C.

**STATUS:** Open meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Franklin O. Bolling (202-377-6677).

#### MATTERS TO BE CONSIDERED:

Application for Holding Company Acquisition: Far West Financial Corporation, Newport Beach, California—State Mutual Savings & Loan Association, Newport Beach, California—Acquisition and Merger into Bell Savings & Loan Association, San Mateo, California.

The above item is being withdrawn from the bank board meeting of November 15, 1979. Announcement is being made at the earliest practicable time.

No. 291, November 14, 1979.

[S-2246-79 Filed 11-14-79; 4:08 pm]

BILLING CODE 6720-01-M

3

### FEDERAL HOME LOAN BANK BOARD.

**"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:** Vol. 44 FR 65697, November 14, 1979.

**PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING:** 1:00 p.m., November 15, 1979.

**PLACE:** 1700 G Street, NW., Sixth floor, Washington, D.C.

**STATUS:** Open meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Franklin O. Bolling (202-377-6677).

**CHANGES IN THE MEETING:** The following item has been added to the agenda for the open meeting.

Loans in Excess of 80 Percent of Value; Three-Family and Four-Family Dwellings.

Announcement is being made at the earliest practicable time.

No. 292, November 15, 1979.

[S-2249-79 Filed 11-15-79; 3:01 pm]

BILLING CODE 6720-01-M

4

### FEDERAL HOME LOAN BANK BOARD.

**"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:** Vol. 44 FR 65697, November 14, 1979.

**PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING:** 1:00 p.m., November 15, 1979.

**PLACE:** 1700 G Street, NW., sixth floor, Washington, D.C.

**STATUS:** Open meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Franklin O. Bolling (202-377-6677).

**CHANGES IN THE MEETING:** The following item has been added to the agenda for the open meeting. This item is continued from the meeting of November 14, 1979.

Application for Holding Company Acquisition: Far West Financial Corporation, Newport Beach, California—State Mutual Savings & Loan Association, Newport Beach, California—Acquisition and Merger into Bell Savings & Loan Association, San Mateo, California.

Announcement is being made at the earliest practicable time.

No. 293, November 15, 1979.

[S-2250-79 Filed 11-15-79; 3:01 pm]

BILLING CODE 6720-01-M

5

### NUCLEAR REGULATORY COMMISSION.

**TIME AND DATE:** Week of November 19.

**PLACE:** Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

**STATUS:** Open and closed (Changes).

#### MATTERS TO BE CONSIDERED:

Monday, November 19; 10:30 a.m.

Briefing on Proposed New 10 CFR Part 60, "Disposal of High-Level Radioactive Wastes in Geologic Repositories—Procedural Aspects (approximately 1½ hours, public meeting) (rescheduled from 1:30 p.m.).

Monday, November 19; 1:30 p.m.

- Discussion of Proposed Amendments to 10 CFR Part 50, Sections 50.33, 50.54 and Appendix E; Plans for Coping with Emergencies at Production and Utilization Facilities (approximately 2 hours, public meeting) (rescheduled from 2:30 p.m.).
- Discussion of Citizen's Advisory Committee (approximately 1 hour, public meeting) (rescheduled from 10:30 a.m.).

Tuesday, November 20; 9:30 a.m.

Continuation of Briefing by NRR on TMI Lessons Learned Report (approximately 2½ hours, public meeting), replaces IE Lessons Learned which is postponed.

Wednesday, November 21; 10:30 a.m.

Briefing on Research and Technical Assistance Projects in Waste Management (approximately 1 hour, public meeting).

Wednesday, November 21; 2:30 p.m.

Discussion of Personnel Matter  
(approximately 1½ hours, closed—exemption  
6).

**CONTACT PERSON FOR MORE  
INFORMATION:** Roger Tweed, (202) 634-  
1410.

Dated: November 14, 1979.

Walter Magee,

*Office of the Secretary.*

[S-2251-79 Filed 11-15-79; 3:46 pm]

BILLING CODE 7590-01-M

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6

**OCCUPATIONAL SAFETY AND HEALTH  
REVIEW COMMISSION.**

**"FEDERAL REGISTER" CITATION OF  
PREVIOUS ANNOUNCEMENT:** 44 FR 63184,  
November 2, 1979.

**PREVIOUSLY ANNOUNCED TIME AND DATE  
OF THE MEETING:** 10 a.m. on November  
15, 1979.

**CHANGES IN THE MEETING:** This meeting  
has been rescheduled for November 16,  
1979, at 10 a.m.

Dated: November 14, 1979.

[S-2247-79 Filed 11-14-79; 4:20 pm]

BILLING CODE 7600-01-M

# Registered Federal Reporter

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Monday  
November 19, 1979

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Part II

## Department of Transportation

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Federal Aviation Administration

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Proposal To Upgrade Regulation of  
Certain Large General Aviation Airplanes  
and Replace Commercial Operator and  
Air Travel Club Regulations

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration**

[14 CFR Parts 43, 65, 91, 121, 123, 125, 135, and 145]

[Docket No. 19779; Notice No. 79-19]

**Proposal To Upgrade Regulation of Certain Large General Aviation Airplanes and Replace Commercial Operator and Air Travel Club Regulations**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rule making.

**SUMMARY:** This notice proposes to substantially upgrade the level of safety required by regulations governing the operation of U.S. registered airplanes certificated to carry 20 or more passengers or a maximum payload of more than 5,000 pounds provided the airplane would not otherwise be operated under Part 121, 135 or 137. The proposed Part 125 would govern large airplanes, other than when engaged by U.S. operators in common carriage. It would include operations of airplanes by lease and aviation service firms, airplane manufacturers with airplanes listed in the general aviation category, air travel clubs, corporations for company transport, and air carriers conducting non revenue operations. The new Part would also apply to certain foreign operators of U.S. registered airplanes. The proposed regulations are part of a continual effort to increase aviation safety and the proposals are a significant step in the FAA's efforts to bring about regulatory simplification.

Airplanes classified as large airplanes that would not be covered by new Part 125 and, therefore, would continue to be governed by the existing general operating rules of Subpart D of Part 91 include the smaller turbojet airplanes used in General Aviation. Airplanes that would continue to be covered by Subpart D include the Lear 23/24/25/35/36, Cessna 500/501/550, Grumman G-73, Falcon 10/20, North American 265, Jet Commander, Hansa HFB 320 and the DH-125.

**DATE:** Comments must be received on or before February 19, 1980.

**ADDRESS:** Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Docket No. 19779, 800 Independence Avenue, S.W., Washington, D.C. 20591; or to be delivered in duplicate to: Room 916, 800 Independence Avenue, S.W., Washington, D.C. 20591. Comments delivered must be marked: Docket No.

19779. Comments may be inspected at Room 916 between 8:30 a.m. and 5:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** Raymond E. Ramakis, Chief, Regulatory Projects Branch, Safety Regulations Staff, Associate Administrator for Aviation Standards, 800 Independence Avenue, S.W., Washington, D.C. 20591, Telephone (202) 755-8716.

**SUPPLEMENTARY INFORMATION:**

**I. Comments Invited**

Interested persons are invited to participate in the making of the proposed rules by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impact that might result from adoption of the proposals contained in this notice are invited. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, S.W., Washington, D.C. 20591. All communications received on or before February 19, 1980, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with the FAA personnel concerned with this rule making will be filed in the docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments on Docket No. 19779." The postcard will be date and time stamped and returned to the commenter.

**II. Availability of NPRM**

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, 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 procedures.

**III. Background**

*A. The Commercial Operator Certification and Operating Rules*

In 1949 the Civil Aeronautics Board adopted Part 45 of the Civil Air Regulations and established, for the first time, certification and operating rules for "commercial operators." The term encompasses a classification of operators who engage in non air carrier operations. In other words, these operators engage in contract operations involving the carriage by aircraft of persons or property for compensation or hire but avoid holding out their services as "common carriers." It is the absence of common carriage that primarily serves to distinguish commercial operators from those common carriers defined as "air carriers" under the Federal Aviation Act of 1958.

Generally "air carriers" are identified as operators who hold appropriate economic authority from the CAB. However, an operator also becomes a common carrier when it "holds itself out" to the public to furnish transportation, even when it holds no authority from the Civil Aeronautics Board. Such an operator would be ineligible for certification under this proposal and would be required to obtain certification as an air carrier.

In prescribing safety regulations and certificate requirements for air carriers, Section 601(b) of the Federal Aviation Act requires full consideration to be given to the duty resting upon air carriers to perform their services with the highest degree of safety in the public interest. The Act also requires classifications of such regulations and certificates to be appropriate to the differences between air transportation and other air commerce. In addition, Section 604 of the Act requires a finding that an air carrier is able to conduct a safe operation and is properly and adequately equipped in order to engage in air transportation.

The Act does not impose on persons engaged in other air commerce, such as commercial operators and air travel clubs, a duty to perform their services with the highest degree of safety. However section 601 of the Act does impose on the FAA the "duty to promote safety of flight of civil aircraft in air commerce by prescribing and revising \* \* \*" equipment and operating standards. Experience indicates that many regulations adopted for air carrier operations are necessary for all large airplane operations in today's operating environment.

In 1970, the Secretary of Transportation directed the Assistant Secretary for Safety and Consumer Affairs, Office of the Secretary of Transportation, to conduct an in-depth study of charter operations utilizing large airplanes. The task force that conducted the investigation under the direction of the Assistant Secretary made several recommendations which were adopted by the Secretary and submitted to the Administrator. One of these recommended the establishment of new regulations governing the operation of large airplanes, pressurized airplanes, and turbine-powered airplanes engaged in private carriage. It was recommended that the new regulations require these airplanes to be operated and maintained in a condition for safe operation appropriate to transport category airplanes, and include requirements for crew proficiency, operations and continued airworthiness. It was also recommended that the regulations require a level of safety comparable to Part 121 of the Federal Aviation Regulations (FAR), but without the detailed administrative and financial requirements for the issuance of a commercial operator certificate prescribed in FAR Part 121. These recommendations were partially implemented by the FAA in 1972 through the adoption of a new Subpart D in FAR Part 91.

The FAA has now had a great deal of experience with Subpart D operations as well as with air carrier operations using the same airplanes. (A detailed analysis of this point is set forth in the economic analysis filed in this Docket.)

Pursuant to its obligations under Section 601 (a) and (b) of the Act, the FAA has extensively reviewed the existing requirements levied upon all non air carrier operators of airplanes certified to carry 20 or more passengers or more than 5,000 pounds maximum payload. This review has led the FAA to the conclusion that there is a need to upgrade the safety requirements for this group of operators. The FAA has also tentatively concluded that it is no longer possible nor necessary to distinguish between the types of operators covered by Subpart D of Part 91, commercial operators under Part 121, and Air Travel Clubs under Part 123 when they are operating these large airplanes.

In short if the proposed regulations are adopted, all operations of airplanes with 20 or more passengers or more than 5,000 pounds maximum payload will be conducted under Parts 121, (new) 125, 135 or 137. This will greatly simplify the FAA's regulatory structure while substantially increasing the minimum

level of safety. In this connection, it should be noted that the 1970 Task Force recognized the need for a consolidation of the regulations in the following recommendation:

"Upon implementing the requirement that all large airplanes, pressurized airplanes and turbine powered airplanes be raised to an acceptable level of safety, commercial operator certification should no longer be required. The regulations should then require that only scheduled and supplemental air carriers engaged in common carriage will be governed by FAR 121 and meet the highest possible degree of safety as required by Section 601(b) of the Federal Aviation Act of 1958. Operators of large or complex airplanes engaged in private carriage should no longer be burdened with economic requirements, but could continue to meet under the new part an acceptable level of safety. FAA field inspectors would no longer be required to make an economic determination of what constitutes operation "for compensation or hire." As air travel club airplanes would also be required by the new regulation to meet the acceptable level of safety, there would no longer be a requirement for FAR 123.

FAA experience has borne out this need.

#### IV. Scope of the Proposed Part 125

Based upon an analysis of airplanes on the U.S. registry as of September 1978, the FAA estimates that approximately 1,200 airplanes would be covered if the proposed regulations were in effect as of that date. These airplanes are operated in non common carriage operations by aircraft lease and aviation service firms, airlines and aircraft manufacturers with certain airplanes registered in the general aviation category, Air Travel Clubs and corporations for business and other miscellaneous transport purposes.

As a basic premise, the proposed regulation eliminates the "compensation or hire" test. The definition of a "commercial operator" set forth in the current Federal Aviation Regulations is essentially the same as that initially adopted by the Civil Aeronautics Board in 1949. As defined, a commercial operator is a person "who, for compensation or hire, engages in the carriage of persons or property, other than as an air carrier \* \* \* ." Where it is doubtful whether the operations are "for compensation or hire," the test applied since 1949 has been "whether the air carriage is merely incidental to the operator's other business or is, in and of itself, major enterprise for profit."

The "compensation or hire" test, which originated with the regulation of ground transportation under the Interstate Commerce Act, is based upon economic considerations and requires a determination to be made as to the type of "compensation or hire" operation

involved before one can identify the applicable rules. This is a test that members of the public have had considerable difficulty applying. It has likewise proved to be a difficult test for FAA surveillance personnel to readily administer. Furthermore, the complexity and vagueness of the compensation or hire concept has encouraged certain operators to resort to subterfuge, frequently involving sham aircraft leasing techniques, to avoid compliance with the commercial operator certification and operating rules. As a result, enforcement of the current regulatory scheme necessitates time-consuming and costly investigations by the FAA and frequent legal reviews. The difficulties in applying the compensation or hire concept have also burdened operators with the necessity of asking the FAA for a large volume of clarifying legal opinions to ensure their compliance with the regulations. In the judgment of the FAA, the inordinate amounts of time spent trying to administer this basic economic test could be far better spent dealing with actual questions of aviation safety.

It further appears that in this era of airline deregulation that "compensation or hire" test is outmoded. In addition to the public benefits of increased safety and ease of understanding and administration, abolition of this test will cause an immediate benefit to Air Travel Clubs, for example, by allowing them increased revenues. Similar revenue gains are also possible for corporate transport and aircraft lease and aviation service firm operators.

The impact of the proposed regulations will of course depend upon the operator's current level of sophistication. The most substantial safety increases will be in the areas of "Certification Rules and Miscellaneous Requirements (Subpart B), which includes changes in operating specifications and imposes duty time limitations; Manual Requirements (Subpart C); Instrument and Equipment Requirements (Subpart F), which includes requirements for weather radar and emergency equipment; Maintenance and Inspections (Subpart G), which is calculated to be the most costly of the upgrades (See below) and Flight Crewmember Requirements (Subpart I).

By far the greatest impact of the proposed regulation will be on the 275 aircraft leasing companies and aviation service firms that operate approximately 635 of the 1,200 airplanes covered by the proposed regulations. A large number of these airplanes have, in the past, been used in operations that were designed to avoid the more strict requirements of

Part 121. The proposed regulations will end these types of subterfuges to the public benefit.

#### V. Summary of Rules Proposed in Subparts of Part 125

The regulations proposed for Part 125 are designed to establish a level of safety at least equivalent to that which air travel clubs must currently meet under the provisions of Parts 121 and 123. The following is a summary of significant regulations proposed.

##### Subpart A—General

**Applicability.** This subpart contains an applicability provision which would make the certification and operating rules of Part 125 applicable to operators of U.S.-registered civil airplanes that are certificated to carry 20 or more passengers or a maximum payload of more than 5,000 pounds. However, Part 125 would not apply when those airplanes were required to be operated under Part 121 or 135 governing air carrier and commercial operators or Part 137 governing agricultural operations. Furthermore, it should be noted that Part 125 would not apply to any rotorcraft operation.

Part 125 would apply to foreign air carriers and other foreign citizens when they undertake the operation of U.S.-registered airplanes governed by the Part. However, when operating the airplanes outside of the United States a foreign citizen would have to comply with only the requirements that the airplane must be inspected in accordance with an FAA-approved inspection program. Compliance with these requirements will enable the FAA to fulfill international obligations to ensure the airworthiness of U.S.-registered airplanes being operated in foreign countries.

**Certificate and Operations Specifications.** In addition, the subpart would require an operator to hold an operating certificate and operations specifications issued under Part 125. The operations specifications will be sufficiently flexible to enable them to be fitted to the operator's particular operations.

These requirements are considered appropriate since a majority of the airplanes governed by Part 125 were originally manufactured for certificated commercial operations. Experience also indicates that these requirements will greatly assist the FAA to effectively carry out its safety surveillance and enforcement responsibilities and will remove burdens previously imposed on operators by economic considerations.

It will be noted that under the proposal an operator must apply for a

Part 125 operating certificate and appropriate operations specifications within 120 days after the effective date of the new rule. Applicants who make timely application may continue to operate under the rules formerly applicable to their operations until the application has been denied or certificate authority has been issued.

**Exclusions.** The Administrator is aware that several hundred airplanes exclusively utilized in private carriage for the purpose of providing transportation in furtherance of a business are included within the proposal as published. These operators have no desire or need to enter into commercial aircraft operations, as would be permitted by the proposal, and the safety record of the corporate fleet indicates that operations under existing Subpart D have provided an acceptable level of safety for these operators.

The FAA recognizes these facts and has considered ways to provide appropriate relief. Such relief could be provided by either a form of deviation authority or an outright exclusion. Deviation authority provides greater flexibility in administration but requires a case by case justification, review, and decision. A specific exclusion in the rule, on the other hand, would be consistent with the recommendation of the Assistant Secretary for Safety and Consumer Affairs, but has the disadvantage of unduly rigid application. Commenters are requested, therefore, to provide information, views, or arguments on how particular needs would be served by either of these approaches or by another appropriate mechanism. These comments should explain what criteria or standards should be used in providing the necessary relief and suggest specific regulatory language to show how this objective could be achieved.

##### Subpart B—Certification Rules and Miscellaneous Requirements

This subpart contains a number of administrative provisions, including procedures governing applications for and the issuance of operating certificates and operations specifications.

In addition, under the rules proposed in this subpart an applicant for a Part 125 certificate would have to show that it had enough qualified management personnel, including a director of operations, to assure that its operations are conducted in accordance with the Part. One qualified person would have to be designated as responsible for scheduling required airplane inspections and for updating approved weight and balance systems for all airplanes.

These management requirements are not extensive and are based upon those currently prescribed for air travel clubs in Part 123. Experience indicates they are the minimum required to ensure an adequate level of safety for operations Part 125 would govern.

Under this proposal a Part 125 operating certificate would remain in effect until surrendered to, or suspended or revoked by, the Administrator.

Duty time limitations are proposed for flight crewmembers that are the same as those currently prescribed for air travel clubs under Part 123. The proposal would require each flight crewmember to be relieved from all duty for at least 8 consecutive hours during any 24-hour period. Experience gained in operations conducted under Part 123 indicates that these duty time limitations have not imposed an undue burden on air travel clubs and have provided an acceptable level of safety. They are, therefore, considered adequate for operations to be governed by Part 125.

The rules proposed in this subpart would prohibit, with certain exceptions, operations over any route that did not have appropriate navigational facilities available. The proposals would also require each certificate holder to have procedures established for locating each flight for which an FAA flight plan is not filed. These requirements will ensure safe en route operations and facilitate search and rescue operations in the event an airplane is overdue or missing. The combination of these rules and the requirements proposed in Subpart K will provide a safe alternative to the flight following system currently prescribed in Part 121.

##### Subpart C—Manual Requirements

It is proposed to require each certificate holder to prepare and keep current a manual of procedures and policies for use by the certificate holder's flight, ground, and maintenance personnel. The manual requirements select a methodology for ensuring that procedures and policies essential for the conduct of safe operations are readily available for the guidance of flight, ground, and maintenance personnel.

##### Subpart D—Airplane Requirements

The proposed rules would require airplanes operated under Part 125 to have appropriate airworthiness certificates and meet applicable airworthiness requirements. In addition, the proposal would require each airplane to be initially weighed prior to being operated under Part 125 and to be weighed every 3 years thereafter to establish its empty weight. This requirement is currently applicable

under Parts 121 and 123. The majority of airplanes governed by proposed Part 125 are of the same or similar type as those now operated under Parts 121 and 123 and will be operated under conditions similar to those involving operations under these Parts. Therefore, the same requirement should apply to Part 125 airplanes.

#### Subpart E—Special Airworthiness Requirements

This subpart prescribes special airworthiness requirements that airplanes governed by Part 125 would have to meet. These requirements are currently prescribed in Parts 121 and 123. They establish minimum standards of airworthiness to ensure that there is adequate protection against the occurrence of fires, suitable ventilation for passengers and crewmembers, and that cargo is carried safely on board the airplane. In addition, the proposal would require a certificate holder to demonstrate emergency evacuation procedures for each type and model of airplane with a seating capacity of more than 44 passengers.

#### Subpart F—Instrument and Equipment Requirements

This subpart prescribes instrument and equipment requirements and provides for use of an approved minimum equipment list (MEL) which authorizes the operation of airplanes when certain instruments and equipment are in an inoperable condition, thereby allowing an operator a measure of operational flexibility. Experience gained in years of operations under Part 121 and its predecessor regulations has established the benefits of an MEL for transport category aircraft with no adverse impact on safety.

Airborne weather radar, currently prescribed in Part 121, is included among the equipment requirements proposed in the interest of safety. This radar equipment facilitates the early detection and location by the pilot of certain areas of turbulence and enables the pilot to avoid such areas or to take such other action as may be necessary in the interest of safety. Operations within the states of Alaska and Hawaii and within certain areas of Canada are excluded from the rule because similar hazardous meteorological conditions rarely occur in those areas.

#### Subpart G—Maintenance and Inspections

This subpart proposes requirements for an FAA-approved maintenance and inspection program. Many proposed requirements are similar to those currently prescribed for air travel clubs

in Part 123. However, an additional requirement is proposed which would require a certificate holder to establish an airplane engine overhaul program that is recommended by the engine manufacturer, or obtain FAA approval of an overhaul program based upon operating experience or accepted industry maintenance practices. Presently, several operators who would be required to operate airplanes under proposed Part 125 have established maintenance programs for their airplane engines that include overhaul times recommended by the manufacturers or approved by the FAA. The performance of periodic overhauls, either using manufacturers' recommended times or a program approved by the FAA, is effective in establishing the reliability of airplane engines and necessary for assuring the airworthiness of airplanes operated under proposed Part 125.

#### Subpart H—Airman and Crewmember Requirements

This subpart proposes rules to ensure that airmen are appropriately certificated and that the composition of the crew complies with the minimum required by the airplane airworthiness certificate or the airplane flight manual.

The proposal would require a flight navigator or approved specialized navigation equipment for any airplane being operated outside the 48 contiguous states when its position cannot be fixed for a period of more than 1 hour. The capability of making a reliable determination of the position of the airplane during international flight is essential to ensuring a safe operation.

#### Subpart I—Flight Crewmember Requirements

This subpart proposes pilot qualifications, including recent experience requirements, initial and recurrent testing requirements, and instrument proficiency check requirements. Under this proposal both the pilot in command and the second in command would have to hold at least a commercial pilot certificate with appropriate category and class ratings and an instrument rating. In addition, the pilot in command would have to have a type rating. For flight under IFR, both of them would have to meet the recent instrument experience requirements prescribed for a pilot in command in Part 61 of the Federal Aviation Regulations.

However, the pilot in command would also have to meet additional flight time requirements, including cross-country flight time, night flight time involving takeoffs and landings, and actual and simulated instrument flight time.

Finally, instrument proficiency check requirements are proposed for each person serving as a pilot in command.

These proposals do not require the pilot in command to hold an airline transport pilot certificate, nor do they prescribe detailed training program requirements. In this respect the proposals differ from the airman qualification and training rules prescribed in Parts 121 and 123. Many of these requirements are not contained in current Subpart D, Part 91.

Under this regulatory scheme great reliance would be placed upon required tests and checks to ensure that airmen are proficient in the performance of their airman functions. These tests and checks are considered adequate to ensure an acceptable level of safety for operations to be governed by Part 125.

#### Subpart J—Flight Operations

This subpart contains rules governing when flight crewmembers may leave their duty stations on the flight deck, who may manipulate the controls, and who may be admitted to the flight deck. Other rules pertain to entering mechanical irregularities in the maintenance log of the airplane by the pilot in command and briefing passengers.

In addition, there are rules that require an FAA inspector be given access to the pilot compartment when the inspector presents the pilot in command with Form FAA 110A, Aviation Safety Inspector's Credentials, in the performance of inspection duties and require that a seat on the flight deck be made available to the FAA inspector suitable for use in conducting en route inspections.

These proposals are based on regulations currently prescribed in Parts 121 and 123 and are necessary to enable the FAA to adequately monitor airplane operations of this type.

#### Subpart K—Flight Release Rules

This subpart proposes requirements for a flight release system and specifies when a flight release is required for a flight and the conditions (such as fuel supply, communication and navigation facilities, and weather minimums) which must be met in order to execute a flight release. These requirements are based on some of those currently prescribed in Parts 121 and 123 for commercial operators and air travel clubs.

The rules require the certificate holder to designate a person who is to exercise operational control over each flight and execute a flight release setting forth the conditions under which the flight will be conducted. A certificate holder may authorize the pilot in command to

exercise such control and execute the flight release without the approval of any other person.

These flight release requirements ensure that responsible personnel carefully consider important factors bearing on the safety of a flight before its release and release it only when they are satisfied that it can be completed safely in accordance with the regulations.

#### Subpart L—Records and Reports

This subpart proposes requirements for preparing crewmember records, flight releases, load manifests, maintenance logs, alteration and repair reports, and airplane airworthiness releases and log entries.

Among other things, these proposals would require certificate holders to report defects or unairworthy conditions to the FAA. Reliable reporting of service difficulties is essential to the analysis and evaluation of maintenance effectiveness and will assure the maintenance of an adequate level of safety.

These proposals are based upon similar requirements currently prescribed in Parts 121, 123, and 135.

#### VI. Amendments Proposed for Parts 91, 121, 123, and 135

##### A. Part 91

###### *Section 91.54—Truth in leasing.*

Section 91.54 currently excludes Part 121 and 135 certificate holders from the truth in leasing requirements prescribed in that section, since those operators maintain full operational control and the FAA is confident they are fully cognizant of their safety responsibilities under the Federal Aviation Regulations. For the same reasons, Part 125 certificate holders would not be required to comply with the truth in leasing requirements in § 91.54.

##### Subpart D—Large and Turbine-Powered Multiengine Airplanes

Under this notice it is proposed to amend the applicability of § 91.181(a) in Subpart D to exclude from its coverage those airplanes that proposed Part 125 would govern.

##### B. Part 121—Commercial Operators

*Applicability.* The rules proposed for new Part 125 consist of a consolidation of many of the rules currently prescribed in Part 123 for air travel clubs and in Part 121 for commercial operators, and will establish a sufficiently high level of safety for commercial operations not involving common carriage. Accordingly, this notice proposes to amend the applicability of the

commercial operator certification and operating rules in Part 121 so that those rules would only apply, in the case of airplane operations, to a commercial operator conducting common carriage operations solely between places within any state of the United States with airplanes certificated to carry 20 or more passengers or a maximum payload of more than 5,000 pounds. Commercial operations conducted with those airplanes, but not involving common carriage, would be governed by proposed Part 125.

*Substitution of Part 125 operating certificate for Part 121 commercial operator certificate.* In addition, it is proposed to amend the certificate provisions in § 121.53 and provide for the termination of Part 121 operating certificates that authorize operations as a commercial operator with large airplanes. The certificate held would terminate, unless the certificate holder applies to the FAA within 120 days after the effective date of this amendment for authority to conduct only common carriage operations solely between points entirely within any state with airplanes certificated to carry 20 or more passengers or a maximum payload of more than 5,000 pounds; or for authority to conduct its operations under the rules of Part 121 governing air carriers.

Under this proposal the operator whose Part 121 certificate terminates would have to obtain a Part 125 operating certificate and comply with the rules in that Part.

##### C. Part 123—Air Travel Clubs

As previously pointed out, the rules proposed for new Part 125 consist of a consolidation of many of the rules currently prescribed in Part 123 for air travel clubs and in Part 121 for commercial operators. Furthermore, the applicability of proposed Part 125 would be broad enough to encompass the airplanes operated by currently certificated air travel clubs.

The FAA believes proposed Part 125 will establish a sufficiently high level of safety for air travel club operations, as well as for other commercial operations not involving common carriage. Accordingly, this notice proposes to revoke Part 123 and regulate air travel club operations under Part 125.

##### D. Part 135—Air Taxi and Commercial Operators

Under this proposal conforming

amendments would be made to the applicability of Part 135 to make it consistent with proposed Part 125.

#### VII. Availability of Regulatory Evaluation

The FAA has determined that this document involves a proposed regulation which is significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to: Raymond E. Ramakis, Chief, Regulatory Projects Branch, Safety Regulations Staff, Associate Administrator for Aviation Standards, 800 Independence Avenue, S.W., Washington, D.C. 20591.

#### VIII. Cost Impact Analysis of Proposed Part 125

##### A. Availability of Impact Report

In keeping with the agency's policy of making a comprehensive analysis of cost impacts of proposed regulations, the FAA contracted with the Aerospace Corporation to estimate the expected costs that would be incurred by the industry should proposed Part 125 be adopted. The Aerospace Corporation prepared a report dated January 31, 1979, which sets forth an industry cost impact assessment of Part 125. After that report was prepared, certain additional regulatory proposals were developed for which separate industry cost impacts were assessed. A draft economic impact assessment covering all regulatory changes in the final proposed Part 125 is also provided. Copies of those reports are available in the FAA Rules Docket for examination by interested persons.

##### B. Summary of Report

In the conduct of the initial industry cost assessment, a data base was developed that identified those specific airplanes and operators that could be affected, along with the nature of the cost impact. The total population was segmented into a number of categories with similar cost impacts. Representative data and actual anticipated costs were gathered and extrapolated to the total population for these categories for each of the proposed rule changes incorporated in Part 125 at the time the assessment was made. For those proposed changes added subsequently, estimates were developed of the number of specific

airplanes that would be subject to a cost impact and representative cost factors were applied to the identified population to determine the likely industry cost impact.

As shown in Tables 1 and 2, the analyses resulted in an estimated initial cost to the industry of \$63.59 million and a recurring annual net cost of \$19.13 million, for a total first year cost of \$82.72 million. The proposed rules that would produce the largest industry cost impacts include "Certification Rules and Miscellaneous Requirements" (Subpart B), "Manual Requirements" (Subpart C), "Instrument and Equipment Requirements" (Subpart F), "Maintenance and Inspections" (Subpart G), and "Flight Crewmember Requirements" (Subpart I), with Subpart G producing the preponderant cost impact. These rules would mandate obtaining an operating certificate, the preparation of operations specifications and manuals, weather radar equipment, operation under an approved airworthiness inspection program, limited flightcrew duty time, and certain recurrent testing of flight crewmembers.

As indicated by reference to Table 3, the category of operator that would be most affected in absolute terms would be the 275 aircraft leasing companies and aviation service firms with \$55.95 million of initial cost and \$15.32 million in annual recurring costs. The 258 corporate transport operators would be the next most impacted with \$4.50 million of initial cost and \$4.07 million in annual recurring costs. Air travel clubs would have increased revenues as a result of the new rules lifting the prohibition of operation of their airplanes for compensation and hire as long as common carriage is not involved. This annual revenue gain of \$2.46 million for the 11 active air travel clubs would be far more than the minimal costs estimated for their compliance with the remaining proposed rule changes. Similar revenue gains are also possible for corporate transport and aircraft lease-aviation service firm operators but these benefits are not reflected in these industry impact estimates.

#### Relationship to Part 91 Subpart E

Part 91, Subpart E prescribes operating noise requirements for operations of aircraft under Parts 91, 121, 123, and 135. This notice does not propose to alter the requirements applicable to any particular aircraft under that rule even though it would be included in a new class for purposes of Part 125. Accordingly, necessary editorial changes will be made to Subpart E on the basis of the proposal.

Table 1.—Total Part 125 Industry Cost Impact Summary

Aircraft type	Type cost <sup>1</sup>	Operator category					Total
		Corporate transport	Lease-service firms	Museum education miscellaneous	Aircraft manufacturers	Travel clubs	
Piston.....	I = 3.33 R = 2.50	32.44 12.22	0.99 0.08	0 0	0 0	0.01 0	36.77 14.79
Turboprop.....	I = 0.88 R = 0.72	5.20 2.02	0.10 0	0 0	0 0	0 0	6.18 2.74
Turbojet.....	I = 0.31 R = 0.86	18.32 1.09	0 0	0.58 0.38	0.02 0	0 0	19.19 2.32
All Aircraft.....	I = 4.50 R = 4.07	55.95 15.32	1.10 0.08	0.58 0.38	0.03 (2.46)	0	62.14 17.39
Total First Year Cost.....	C = 8.57	71.27	1.18	0.94	(2.43)		79.53
Total Industry Cost <sup>2</sup> .....	I = 63.59 R = 19.13 C = 82.72						

<sup>1</sup>I=Initial Cost; R=Annual recurring Cost; C=Total First Year Cost (I+R).

<sup>2</sup>Revenue Gain of \$2.46 million. Aircraft mix precludes engine type breakout.

<sup>3</sup>Includes unallocated costs attributable to aircraft whose registration status is in transition.

Table 2.—Part 125 Cost Impact by Subpart

Subpart	Title	Operator category					Total <sup>2</sup>
		Corporate transport	Lease-service firms	Museum education miscellaneous	Aircraft manufacturers	Air travel clubs	
A	General.....	0.0	0.0	0.0	0.0	0.0	0.0
B	Cert. Rules.....	2.51	3.36	0.08	0.32	0.01	(2.41)
C	Manual Reqs.....	2.04	8.83	0.0	0.02	0.02	10.91
D	Aircraft Reqs.....	0.09	2.25	0.0	0.20	0.0	2.54
E	Airworth Reqs.....	0.51	0.69	0.0	0.0	0.01	1.21
F	Equip. Reqs.....	0.57	1.26	0.0	0.0	0.02	2.02
G	Maint. & Inspect.....	0.19	0.37	0.06	0.0	0.01	0.63
H	Crew Reqs.....	0.0	0.24	0.03	0.0	0.0	0.27
I	Pit. Crew Qualif.....	0.0	0.0	0.0	0.0	0.0	0.0
J	Equip. Reqs.....	0.98	1.87	0.81	0.0	0.0	3.66
K	Maint. & Inspect.....	0.0	0.21	0.08	0.0	0.0	0.29
L	Crew Reqs.....	0.06	46.91	0.0	0.20	0.0	47.17
M	Crew Reqs.....	0.01	0.78	0.0	0.0	0.01	0.80
N	Crew Reqs.....	0.25	0.0	0.0	0.0	0.0	0.25
O	Pit. Crew Qualif.....	0.04	0.0	0.0	0.0	(0.1)	0.03
P	Pit. Crew Qualif.....	0.03	0.02	0.0	0.0	0.0	0.05
Q	Flight Operations.....	0.83	2.46	0.0	0.29	0.0	3.58
R	Flight Operations.....	0.0	0.0	0.0	0.0	0.0	0.0
S	Flight Release.....	0.0	0.02	0.0	0.0	0.0	0.02
T	Flight Release.....	0.00	1.00	0.0	0.00	0.0	2.00
U	Record & Reports.....	0.15	1.78	0.0	0.10	0.0	2.03
V	Record & Reports.....	0.0	0.05	0.0	0.0	0.0	0.05
		0.50	0.55	0.0	0.05	0.0	1.10

<sup>1</sup>Upper Number is Initial Cost, Lower Number is Annual Recurring Cost.

<sup>2</sup>Does not include unallocated cost attributable to aircraft whose registration status was in transition.

<sup>3</sup>Added revenue, shown as cost savings.

<sup>4</sup>Cost savings due to deletion of Part 123 training requirements.

Table 3.—Aircraft and Operators With Cost Impacts From Proposed Part 125 (as of Sept. 30, 1978)

	Piston		Turboprop		Turbojet		Total	
	Number aircraft	Number operators <sup>1</sup>						
Corporate Transport.....	217	181	66	50	43	39	328	258
Aircraft Lease & Service Firms.....	554	257	43	24	38	11	635	275
Museums, Exhibition, Education, Misc.....	87	46	13	4	0	0	100	48
Aircraft Manufacturer.....	0	0	0	0	16	3	16	3
Air Travel Clubs.....	3	3	2	2	12	11	17	11
Unknown Operators <sup>2</sup> .....	97		3		8		108	
Total.....	958		127		117		1,202	

<sup>1</sup>The total data reflects the absolute number of operators even though the same operator may be included in more than one aircraft type.

<sup>2</sup>Identified aircraft listed as "sale reported" or "registration pending" on FAA Aircraft Registration Master File, adjusted for proportional representation of impacted aircraft in total data base.

**The Proposed Amendments**

Accordingly, the Federal Aviation Administration proposes to amend 14 CFR Chapter 1 as follows:

**PART 43—MAINTENANCE, PREVENTIVE MAINTENANCE, REBUILDING, AND ALTERATION****§ 43.15 [Amended]**

1. By amending § 43.15(a) by deleting the words "Part 123" and substituting in lieu thereof the words "Part 125".

**PART 65—CERTIFICATION: AIRMEN OTHER THAN FLIGHT CREWMEMBERS**

2. By revising the last sentence of § 65.85 (paragraphs (a) and (b)) to read as follows:

**§ 65.85 Airframe rating; additional privileges.**

\* \* \* In addition, that person may:  
(a) Perform the 100-hour inspection required by Part 91 of this chapter on an airframe, or any related part or appliance, and approve it for return to service and

(b) Perform the airframe inspections required under Part 125 of this chapter in accordance with applicable inspection procedures.

3. By revising the last sentence of § 65.87 (paragraphs (a) and (b)) to read as follows:

**§ 65.87 Powerplant rating; additional privileges.**

\* \* \* In addition, that person may:  
(a) Perform the 100-hour inspection required by Part 91 of this chapter on a powerplant or propeller, or any part thereof, and approve it for return to service; and

(b) Perform the powerplant and propeller inspections required under Part 125 of this chapter in accordance with applicable inspection procedures.

**PART 91—GENERAL OPERATING AND FLIGHT RULES****§ 91.54 [Amended]**

4. By amending § 91.54(b)(1) (i) and (ii) by deleting the number "123" and substituting in lieu thereof the number "125".

5. By adding a new paragraph (c) to § 91.161 to read as follows:

**§ 91.161 Applicability**

(c) Sections 91.165, 91.169, 91.171, and subpart D of this Part do not apply to an aircraft inspected in accordance with Part 125 of this chapter.

**§ 91.181 [Amended]**

6. By amending the second sentence of § 91.181(a) by deleting Part number "123" and substituting in lieu thereof number "125".

7. In § 91.181(b) by deleting the Part number "123" from the introductory paragraph.

**PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT**

8. By revising § 121.1(a)(5) to read as follows:

**§ 121.1 Applicability**

(a) \* \* \*  
(5) Each commercial operator when it engages in the carriage of persons or property in air commerce for compensation or hire—

- (i) With large aircraft other than airplanes; or
- (ii) As a common carrier solely between places entirely within any state of the United States, with large airplanes certificated to carry 20 or more passengers or a maximum payload of more than 5,000 pounds.

9. By adding a paragraph (f) to § 121.53 to read as follows:

**§ 121.53 Duration of certificate**

(f) Each operating certificate with commercial operator authority for the operation of airplanes issued under this Part and in effect (effective date of amendment) terminates (120 days after effective date of amendment), unless the certificate holder applies prior to that date for authority to:

(1) Conduct its operations in accordance with the Air Carrier rules of Part 121; or

(2) Conduct common carriage operations solely between points entirely within any state of the United States using airplanes certificated to carry 20 or more passengers or a payload of more than 5,000 pounds.

If the certificate holder makes timely application in accordance with this paragraph, a certificate continues in effect until final FAA action is taken on the application.

**PART 123—CERTIFICATION AND OPERATIONS: AIR TRAVEL CLUBS USING LARGE AIRPLANES [REVOKED]**

10. By Revoking Part 123

**PART 135—AIR TAXI AND COMMERCIAL OPERATORS**

11. By amending § 135.1(a)(3) to read as follows:

**§ 135.1 Applicability.**

(a) \* \* \*

(3) The carriage in air commerce of persons or property for compensation or hire as a commercial operator (not an air carrier) in aircraft certificated to carry less than 20 passengers or a maximum payload of 5,000 pounds or less.

**PART 145—REPAIR STATIONS**

12. In § 145.2 by amending the title of that section, by designating the existing paragraph as (a), and by adding a new paragraph (b) to read as follows:

**§ 145.2 Performance of maintenance, preventive maintenance, alterations and required inspections for an air carrier or commercial operator under the continuous airworthiness requirements of Parts 121 and 127, and for airplanes under the inspection program required by Part 125.**

(a) \* \* \*

(b) Each repair station that performs inspections on airplanes governed by Part 125 of this chapter shall do that work in accordance with the inspection program approved for the operator of the airplane.

**New Part 125**

13. By adding to Subchapter G of 14 CFR Chapter 1 a new Part 125 to read as follows:

**PART 125—CERTIFICATION AND OPERATIONS: AIRPLANES CERTIFICATED TO CARRY 20 OR MORE PASSENGERS OR MORE THAN 5000 POUNDS MAXIMUM PAYLOAD****Subpart A—General**

Sec.

- 125.1 Applicability.
- 125.3 Operating certificate and operations specifications required.
- 125.5 Display of certificate.
- 125.7 Definitions.

**Subpart B—Certification Rules and Miscellaneous Requirements**

- 125.21 Application for operating certificate.
- 125.23 Rules applicable to operations subject to this Part.
- 125.25 Management personnel required.
- 125.27 Issue of certificate.
- 125.29 Duration of certificate.
- 125.31 Contents of certificate and operations specifications.
- 125.33 Operations specifications not a part of certificate.
- 125.35 Amendment of operations specifications.
- 125.37 Emergency evacuation.
- 125.39 Duty time limitations.

Sec.

- 125.41 Carriage of narcotic drugs.
- 125.43 Availability of certificate and operations specifications.
- 125.45 Use of operations specifications.
- 125.47 Inspection authority.
- 125.49 Change of address.
- 125.51 Airport requirements.
- 125.53 En route navigational facilities.
- 125.55 Flight locating requirements.

**Subpart C—Manual Requirements**

- 125.71 Preparation.
- 125.73 Contents.
- 125.75 Airplane flight manual.

**Subpart D—Airplane Requirements**

- 125.91 Airplane requirements: general.
- 125.93 Airplane limitations.

**Subpart E—Special Airworthiness Requirements**

- 125.111 General.
- 125.113 Cabin interiors.
- 125.115 Internal doors.
- 125.117 Ventilation.
- 125.119 Fire precautions.
- 125.121 Proof of compliance with § 125.119.
- 125.123 Propeller deicing fluid.
- 125.125 Pressure cross-feed arrangements.
- 125.127 Location of fuel tanks.
- 125.129 Fuel system lines and fittings.
- 125.131 Fuel lines and fittings in designated fire zones.
- 125.133 Fuel valves.
- 125.135 Oil lines and fittings in designated fire zones.
- 125.137 Oil valves.
- 125.139 Oil system drains.
- 125.141 Engine breather lines.
- 125.143 Firewalls.
- 125.145 Fire-wall construction.
- 125.147 Cowling.
- 125.149 Engine accessory section diagram.
- 125.151 Powerplant fire protection.
- 125.153 Flammable fluids.
- 125.155 Shutoff means.
- 125.157 Lines and fittings.
- 125.159 Vent and drain lines.
- 125.161 Fire-extinguishing systems.
- 125.163 Fire-extinguishing agents.
- 125.165 Extinguishing agent container pressure relief.
- 125.167 Extinguishing agent container compartment temperature.
- 125.169 Fire-extinguishing system materials.
- 125.171 Fire-detector systems.
- 125.173 Fire detectors.
- 125.175 Protection of other airplane components against fire.
- 125.177 Control of engine rotation.
- 125.179 Fuel system independence.
- 125.181 Induction system ice prevention.
- 125.183 Carriage of cargo in passenger compartments.
- 125.185 Carriage of cargo in cargo compartments.
- 125.187 Landing gear: aural warning device.
- 125.189 Demonstration of emergency evacuation procedures.

**Subpart F—Instrument and Equipment Requirements**

- 125.201 Inoperable instruments and equipment.

Sec.

- 125.203 Radio and navigational equipment.
- 125.205 Equipment requirements: airplanes under IFR.
- 125.207 Emergency equipment requirements for airplanes having a passenger seating configuration of more than 19 passengers.
- 125.209 Emergency equipment: extended overwater operations.
- 125.211 Seat and safety belts.
- 125.213 Miscellaneous equipment.
- 125.215 Operating information required.
- 125.217 Passenger information.
- 125.219 Oxygen for medical use by passengers.
- 125.221 Icing conditions: operating limitations.
- 125.223 Airborne weather radar equipment requirements.

**Subpart G—Maintenance and Inspection**

- 125.241 Applicability.
- 125.243 Responsibility for airworthiness.
- 125.245 Maintenance, preventive maintenance, and alteration organization.
- 125.247 Inspection program.
- 125.249 Maintenance manual requirements.
- 125.251 Required inspection personnel.

**Subpart H—Airman and Crewmember Requirements**

- 125.261 Airman: limitations on use of services.
- 125.263 Composition of flightcrew.
- 125.265 Flight engineer requirements.
- 125.267 Flight navigator and specialized navigation equipment.
- 125.269 Flight attendants.
- 125.271 Emergency and emergency evacuation duties.

**Subpart I—Flight Crewmember Requirements**

- 125.281 Pilot in command qualifications.
- 125.283 Second in command qualifications.
- 125.285 Pilot qualifications: recent experience.
- 125.287 Initial and recurrent pilot testing requirements.
- 125.289 Initial and recurrent flight attendant crewmember testing requirements.
- 125.291 Pilot in command: instrument proficiency check requirements.
- 125.293 Crewmember: tests and checks, grace provisions, accepted standards.
- 125.295 Check pilot authorization: application and issue.
- 125.297 Approval of airplane simulators and other training devices.

**Subpart J—Flight Operations**

- 125.311 Flight crewmembers at controls.
- 125.313 Manipulation of controls when carrying passengers or cargo.
- 125.315 Admission to flight deck.
- 125.317 Inspector's credentials: admission to pilots' compartment; forward observer's seat.
- 125.319 Emergencies.
- 125.321 Reporting potentially hazardous meteorological conditions and irregularities of ground and navigation facilities.

- Sec.  
 125.323 Reporting mechanical irregularities.  
 125.325 Instrument approach procedures and IFR landing minimums.  
 125.327 Briefing of passengers before flight.  
 125.329 Minimum altitudes for use of autopilot.  
 125.331 Carriage of persons without compliance with the passenger-carrying requirements of this Part.

#### Subpart K—Flight Release Rules

- 125.351 Flight release authority.  
 125.353 Facilities and services.  
 125.355 Airplane equipment.  
 125.357 Communication and navigation facilities.  
 125.359 Flight release under VFR.  
 125.361 Flight release under IFR or over-the-top.  
 125.363 Flight release over water.  
 125.365 Alternate airport for departure.  
 125.367 Alternate airport for destination: IFR or over-the-top.  
 125.369 Alternate airport weather minimums.  
 125.371 Continuing flight in unsafe conditions.  
 125.373 Original flight release or amendment of flight release.  
 125.375 Fuel supply: nonturbine and turbopropeller-powered airplanes.  
 125.377 Fuel supply: turbine-engine-powered airplanes, other than turbopropeller.  
 125.379 Landing weather minimums: IFR.  
 125.381 Takeoff and landing weather minimums: IFR.  
 125.383 Load manifest.

#### Subpart L—Records and Reports

- 125.401 Crewmember record.  
 125.403 Flight release form.  
 125.405 Disposition of load manifest, flight release, and flight plans.  
 125.407 Maintenance log: airplanes.  
 125.409 Reports of defects or unairworthy conditions.  
 125.411 Airworthiness release or airplane log entry.

Appendix A—Additional emergency equipment.

Appendix B—Criteria for demonstration of emergency evacuation procedures under § 125.189.

#### Subpart A—General

##### § 125.1 Applicability.

(a) Except as provided in paragraphs (b) and (c) of this section, this Part prescribes rules governing the operation of U.S.-registered civil airplanes certificated to carry 20 or more passengers or a maximum payload of more than 5000 pounds.

(b) The rules of this Part do not apply to the operation of airplanes specified in paragraph (a) when they are required to be operated under Parts 121, 135, or 137 of this chapter.

(c) The rules of this Part, except § 125.247, do not apply to the operation of airplanes specified in paragraph (a) when they are operated outside the

United States by a person who is not a citizen of the United States.

##### § 125.3 Operating certificate and operations specifications required.

(a) After (\* a date to be specified which will be 120 days after the effective date of Part 125), no person may engage in operations governed by this Part unless an application for an operating certificate and appropriate operations specifications is made on a form and in a manner prescribed by the Administrator and filed with the FAA Flight Standards district office that has jurisdiction over the area in which the applicant's home base of operations is located. Applicants who file an application before (see \* above) may continue to operate under the rules formerly applicable to their operations until the application for an operating certificate required by this Part has been denied or the operating certificate and operations specifications required by this Part have been issued.

(b) The rules of this Part which apply to a certificate holder also apply to any person who engages in any operation governed by this Part without an appropriate certificate and operations specifications required by this Part.

##### § 125.5 Display of certificate.

The certificate holder must display a facsimile of the certificate in each of its aircraft.

##### § 125.7 Definitions.

(a) For the purposes of this Part, "maximum payload means:

(1) For an airplane for which a maximum zero fuel weight is prescribed in FAA technical specifications, the maximum zero fuel weight, less empty weight, less all justifiable airplane equipment, and less the operating load (consisting of minimum flightcrew, foods and beverages and supplies and equipment related to foods and beverages, but not including disposable fuel or oil);

(2) For all other airplanes, the maximum certificated takeoff weight of an airplane, less the empty weight, less all justifiable airplane equipment, and less the operating load (consisting of minimum fuel load, oil, and flightcrew). The allowance for the weight of the crew, oil, and fuel is as follows:

(i) Crew—200 pounds for each crewmember required under this chapter.

(ii) Oil—350 pounds.

(iii) Fuel—the minimum weight of fuel required under this chapter for a flight between domestic points 174 nautical miles apart under VFR weather

conditions that does not involve extended overwater operations.

(b) For the purposes of this Part, "empty weight" means the weight of the airframe, engines, propellers, rotors, and fixed equipment. Empty weight excludes the weight of the crew and payload, but includes the weight of all fixed ballast, unusable fuel supply, undrainable oil, total quantity of engine coolant, and total quantity of hydraulic fluid.

(c) For the purposes of this Part, "maximum zero fuel weight" means the maximum permissible weight of an airplane with no disposable fuel or oil. The zero fuel weight figure may be found in either the airplane type certificate data sheet or the approved Airplane Flight Manual, or both.

(d) For the purposes of this section, "justifiable airplane equipment" means any equipment necessary for the operation of the airplane. It does not include equipment or ballast specifically installed, permanently or otherwise, for the purpose of altering the empty weight of an airplane to meet the maximum payload capacity.

#### Subpart B—Certification Rules and Miscellaneous Requirements

##### § 125.21 Application for operating certificate.

(a) Each applicant for the issuance of an operating certificate must submit an application in a form and manner prescribed by the Administrator to the FAA Flight Standards district office in whose area the applicant proposes to establish or has established its principal operations base. The application must be submitted at least 60 days before the date of intended operations.

(b) Each application submitted under paragraph (a) of this section must contain a signed statement showing the following:

(1) The name and address of each director and each officer or person employed or who will be employed in a management position described in § 125.25.

(2) A list of flight crewmembers with the type of airman certificate held, including ratings and certificate numbers.

##### § 125.23 Rules applicable to operations subject to this Part.

Each person operating an Airplane in operations under this Part shall—

(a) While operating inside the United States, comply with the applicable rules in Part 91 of this chapter; and

(b) While operating outside the United States, comply with Annex 2, Rules of the Air, to the Convention on International Civil Aviation or the

regulations of any foreign country, whichever applies, and with any rules of Parts 61 and 91 of this chapter and this Part that are more restrictive than that Annex or those regulations and that can be complied with without violating that Annex or those regulations. Annex 2 is incorporated by reference in § 91.1(c) of this chapter.

**§ 125.25 Management personnel required.**

(a) Each applicant for a certificate under this Part must show that it has enough qualified management personnel, including at least a director of operations, to assure that its operations are conducted in accordance with the requirements of this Part.

(b) Each applicant shall—

(1) Set forth the duties, responsibilities, and authority of each of its management personnel in the general policy section of its manual;

(2) List in the manual the names and addresses of each of its management personnel;

(3) Designate one qualified person as responsible for the scheduling of inspections required by the manual and for the updating of the approved weight and balance system on all airplanes.

(c) Each certificate holder shall notify the FAA Flight Standards district office charged with the overall inspection of the certificate holder of any change made in the assignment of persons to the listed positions within 10 days, excluding Saturdays, Sundays, and Federal holidays, of such change.

**§ 125.27 Issue of certificate.**

(a) An applicant for a certificate under this subpart is entitled to a certificate if the Administrator finds that the applicant is properly and adequately equipped and able to conduct a safe operation in accordance with the requirements of this Part and the operations specifications provided for in this Part.

(b) The Administrator may deny an application for a certificate under this subpart if the Administrator finds—

(1) That an operating certificate required under this Part or Parts 121, 123, or 135 of this chapter previously issued to the applicant was revoked; or

(2) That a person who was employed in a management position under § 125.25 of this Part with (or has exercised control with respect to) any certificate holder under Parts 121, 123, 125, or 135 of this chapter whose operating certificate has been revoked, will be employed in any of those positions or a similar position with the applicant and that the person's employment or control contributed materially to the reasons for revoking that certificate.

**§ 125.29 Duration of certificate.**

(a) A certificate issued under this Part is effective until surrendered, suspended, or revoked.

(b) The Administrator may suspend or revoke a certificate under section 609 of the Federal Aviation Act of 1958 and the applicable procedures of Part 13 of this chapter for any cause that, at the time of suspension or revocation, would have been grounds for denying an application for a certificate.

(c) If the Administrator suspends or revokes a certificate or it is otherwise terminated, the holder of that certificate shall return it to the Administrator.

**§ 125.31 Contents of certificate and operations specifications.**

(a) Each certificate issued under this Part contains the following:

(1) The holder's name.

(2) A description of the operations authorized.

(3) The date it is issued.

(b) The operations specifications issued under this Part contain the following:

(1) The kinds of operations authorized.

(2) The types and registration numbers of airplanes authorized for use.

(3) Special en route authorizations and limitations.

(4) Special airport authorizations and limitations.

(5) Approval of the provisions of the operator's manual relating to airplane inspections, together with necessary conditions and limitations.

(6) Registration numbers of airplanes that are to be inspected under an approved airplane inspection program under § 125.247.

(7) Procedures for control of weight and balance of airplanes.

(8) Any other item that the Administrator determines is necessary to cover a particular situation.

**§ 125.33 Operations specifications not a part of certificate.**

Operations specifications are not a part of an operating certificate.

**§ 125.35 Amendment of operations specifications.**

(a) The FAA Flight Standards district office charged with the overall inspection of the certificate holder may amend any operations specifications issued under this Part if—

(1) It determines that safety in air commerce requires that amendment; or

(2) Upon application by the holder, that district office determines that safety in air commerce allows that amendment.

(b) The certificate holder must file an application to amend operations

specifications at least 15 days before the date proposed by the applicant for the amendment to become effective, unless a shorter filing period is approved. The application must be on a form and in a manner prescribed by the Administrator and be submitted to the FAA Flight Standards district office charged with the overall inspection of the certificate holder.

(c) Within 30 days after a notice of refusal to approve a holder's application for amendment is received, the holder may petition the Director, Flight Standards Service, to reconsider the refusal to amend.

(d) When the FAA Flight Standards district office charged with the overall inspection of the certificate holder amends operations specifications, that district office gives notice in writing to the holder of a proposed amendment to the operations specifications, fixing a period of not less than 7 days within which the holder may submit written information, views, and arguments concerning the proposed amendment. After consideration of all relevant matter presented, that district office notifies the holder of any amendment adopted, or a rescission of the notice. The amendment becomes effective not less than 30 days after the holder receives notice of the adoption of the amendment, unless the holder petitions the Director, Flight Standards Service, for reconsideration of the amendment. In that case, the effective date of the amendment is stayed pending a decision by the Director. If the Director finds there is an emergency requiring immediate action as to safety in air commerce that makes the provisions of this paragraph impracticable or contrary to the public interest, the Director notifies the certificate holder that the amendment is effective on the date of receipt, without previous notice.

**§ 125.37 Emergency evacuation.**

Each passenger-carrying landplane emergency exit (other than over-the-wing) that is more than 6 feet from the ground with the airplane on the ground and the landing gear extended must have an approved means to assist the occupants in descending to the ground. The assisting means for a floor level emergency exit must be a slide or equivalent approved device suitable for rapid evacuation of passengers. During flight the slide, or equivalent approved device, must be kept readily accessible for immediate installation and use. This paragraph does not apply to the rear window emergency exits of DC-3 airplanes operated with less than 36 occupants, including crewmembers, and

less than five exits authorized for passenger use.

**§ 125.39 Duty time limitations.**

Each flight crewmember must be relieved from all duty for at least 8 consecutive hours during any 24-hour period.

**§ 125.41 Carriage of narcotic drugs.**

If the holder of a certificate issued under this Part permits any airplane owned or leased by that holder to be engaged in any operation that the certificate holder knows to be in violation of § 91.12(a) of this chapter, that operation is a basis for suspending or revoking the certificate.

**§ 125.43 Availability of certificate and operations specifications.**

Each certificate holder shall make its operating certificate and operations specifications available for inspection by the Administrator at its principal operations office.

**§ 125.45 Use of operations specifications.**

(a) Each certificate holder shall keep each of its employees informed of the provisions of its operations specifications that apply to the employee's duties and responsibilities.

(b) Each certificate holder shall maintain a complete and separate set of its operations specifications. In addition, each certificate holder shall insert pertinent excerpts of its operations specifications, or reference thereto, in its manual in such a manner that they retain their identity as operations specifications.

**§ 125.47 Inspection authority.**

(a) Each certificate holder shall allow the Administrator, at any time or place, to make any inspections or tests to determine its compliance with the Federal Aviation Act of 1958, the Federal Aviation Regulations, its operating certificate and operations specifications, or its eligibility to continue to hold its certificate.

**§ 125.49 Change of address.**

Each certificate holder shall notify the FAA Flight Standards district office charged with the overall inspection of its operations, in writing, at least 30 days in advance, of any change in the address of its principal business office, its principal operations base, or its principal maintenance base.

**§ 125.51 Airport requirements.**

(a) No certificate holder may use any airport unless it is adequate for the proposed operation, considering such items as size, surface, obstructions, and lighting.

(b) No pilot of an airplane carrying passengers at night may takeoff from, or land on, an airport unless—

(1) That pilot has determined the wind direction from an illuminated wind direction indicator or local ground communications, or, in the case of takeoff, that pilot's personal observations; and

(2) The limits of the area to be used for landing or takeoff are clearly shown by boundary or runway marker lights.

(c) For the purposes of paragraph (b) of this section, if the area to be used for takeoff or landing is marked by flare pots or lanterns, it must be approved by the Administrator.

**§ 125.53 En route navigational facilities.**

(a) Except as provided in paragraph (b) of this section, no certificate holder may conduct any operation over a route unless nonvisual ground aids are—

(1) Available over the route for navigating airplanes within the degree of accuracy required for ATC; and

(2) Located to allow navigation to any airport of destination, or alternate airport, within the degree of accuracy necessary for the operation involved.

(b) Nonvisual ground aids are not required for—

(1) Day VFR operations that can be conducted safely by pilotage because of the characteristics of the terrain;

(2) Night VFR operations on routes that the Administrator determines have reliable landmarks adequate for safe operation; or

(3) Operations where the use of celestial or other specialized means of navigation, such as an inertial navigation system, is approved.

(c) Except for those aids required for routes to alternate airports, the nonvisual ground navigational aids that are required for approval of routes outside of controlled airspace are specified in the operator's operations specifications.

**§ 125.55 Flight locating requirements.**

(a) Each certificate holder must have procedures established for locating each flight for which an FAA flight plan is not filed that—

(1) Provide the certificate holder with at least the information required to be included in a VFR flight plan;

(2) Provide for timely notification of an FAA facility or search and rescue facility, if an airplane is overdue or missing; and

(3) Provide the certificate holder with the location, date, and estimated time for reestablishing radio or telephone communications, if the flight will operate in an area where communications cannot be maintained.

(b) Flight locating information shall be retained at the certificate holder's principal place of business, or at other places designated by the certificate holder in the flight locating procedures, until the completion of the flight.

(c) Each certificate holder shall furnish the representative of the Administrator assigned to it with a copy of its flight locating procedures and any changes or additions, unless those procedures are included in a manual required under this Part.

**Subpart C—Manual Requirements**

**§ 125.71 Preparation.**

(a) Each certificate holder, other than one who is the only pilot used in the certificate holder's operations, shall prepare and keep current a manual setting forth the certificate holder's procedures and policies acceptable to the Administrator. This manual must be used by the certificate holder's flight, ground, and maintenance personnel in conducting its operations. However, the Administrator may authorize a deviation from this paragraph if the Administrator finds that, because of the limited size of the operation, all or part of the manual is not necessary for guidance of flights, ground, or maintenance personnel.

(b) Each certificate holder shall maintain at least one copy of the manual at its principal operations base.

(c) The manual must not be contrary to any applicable Federal regulations, foreign regulation applicable to the certificate holder's operations in foreign countries, or the certificate holder's operating certificate or operations specifications.

(d) A copy of the manual, or appropriate portions of the manual (and changes and additions) shall be made available to maintenance and ground operations personnel by the certificate holder and furnished to—

(1) Its flight crewmembers; and

(2) The FAA Flight Standards district office charged with the overall inspection of its operations.

(e) Each employee of the certificate holder to whom a manual or appropriate portions of it are furnished under paragraph (d)(1) of this section shall keep it up to date with the changes and additions furnished to them.

(f) Except as provided in paragraph (g) of this section, each certificate holder shall carry appropriate parts of the manual of each airplane when away from the principal operations base. The appropriate parts must be available for use by ground or flight personnel. If a certificate holder carries aboard an airplane all or any portion of the

maintenance part of its manual in microfilm, it must also carry a reading device that provides a legible facsimile image of the microfilmed maintenance information and instructions.

(g) If a certificate holder conducts airplane inspections or maintenance at specified stations where it keeps the approved inspection program manual, it is not required to carry the manual aboard the airplane en route to those stations.

#### § 125.73 Contents.

Each manual shall have the date of the last revision on each revised page. The manual must include—

(a) The name of each management person who is authorized to act for the certificate holder, the person's assigned area of responsibility, and the person's duties, responsibilities, and authority;

(b) Procedures for ensuring compliance with airplane weight and balance limitations;

(c) Copies of the certificate holder's operations specifications or appropriate extracted information, including area of operations authorized, category and class of airplane authorized, crew complements, and types of operations authorized;

(d) Procedures for complying with accident notification requirements;

(e) Procedures for ensuring that the pilot in command knows that required airworthiness inspections have been made and that the airplane has been approved for return to service in compliance with applicable maintenance requirements;

(f) Procedures for reporting and recording mechanical irregularities that come to the attention of the pilot in command before, during, and after completion of a flight;

(g) Procedures to be followed by the pilot in command for determining that mechanical irregularities or defects reported for previous flights have been corrected or that correction has been deferred;

(h) Procedures to be followed by the pilot in command to obtain maintenance, preventive maintenance, and servicing of the airplane at a place where previous arrangements have not been made by the operator, when the pilot is authorized to so act for the operator;

(i) Procedures for the release for, or continuation of, flight if any item of equipment required for the particular type of operation becomes inoperative or unserviceable en route;

(j) Procedures for refueling airplanes, eliminating fuel contamination, protecting from fire (including electrostatic protection), and supervising

and protecting passengers during refueling;

(k) Procedures to be followed by the pilot in command in the briefing under § 125.217;

(l) Flight locating procedures, when applicable;

(m) Procedures for ensuring compliance with emergency procedures, including a list of the functions assigned each category of required crewmembers in connection with an emergency and emergency evacuation;

(n) En route qualification procedures for pilots;

(o) The approved airplane inspection program;

(p) Procedures and instructions to enable personnel to recognize hazardous materials, as defined in Title 49 CFR, and if these materials are to be carried, stored, or handled, procedures and instructions for—

(1) Accepting shipment of hazardous material required by Title 49 CFR, to assure proper packaging, marking, labeling, shipping documents, compatibility of articles, and instructions on their loading, storage, and handling;

(2) Notification and reporting hazardous material incidents as required by Title 49 CFR; and

(3) Notification of the pilot in command when there are hazardous materials aboard, as required to Title 49 CFR;

(q) Procedures for the evacuation of persons who may need the assistance of another person to move expeditiously to an exit if an emergency occurs; and

(r) Other procedures and policy instructions regarding the certificate holder's operations, that are issued by the certificate holder.

#### § 125.75 Airplane flight manual.

(a) Each certificate holder shall keep a current approved Airplane Flight Manual for each type of transport category airplane that it operates.

(b) In each transport-category airplane, the certificate holder shall carry either the manual required by § 125.71, if it contains the information required for the applicable flight manual and this information is clearly identified as flight manual requirements, or an approved Airplane Flight Manual. If the certificate holder elects to carry the manual required by § 125.71, it may revise the operating procedures sections and modify the presentation of performance data from the applicable flight manual if the revised operating procedures and modified performance data presentation are approved by the Administrator.

### Subpart D—Airplane Requirements

#### § 125.91 Airplane requirements: General.

(a) No certificate holder may operate an airplane governed by this Part unless it—

(1) Carries an appropriate current airworthiness certificate issued under this chapter; and

(2) Is in an airworthy condition and meets the applicable airworthiness requirements of this chapter, including those relating to identification and equipment.

(b) Each airplane operated by a certificate holder shall be initially weighed prior to being placed in service and shall be reweighed every 3 calendar years thereafter to establish its empty weight. A certificate holder may use an approved weight and balance control system based on average, assumed, or estimated weight to comply with applicable airworthiness requirements and operating limitations.

#### § 125.93 Airplane limitations.

No certificate holder may operate a land airplane (other than a DC-3, C-46, CV-240, CV-340, CV-440, CV-580, CV-600, CV-640, or Martin 404) in an extended overwater operation unless it is certificated or approved as adequate for ditching under the ditching provisions of Part 25 of this chapter.

### Subpart E—Special Airworthiness Requirements

#### § 125.111 General.

(a) Except as provided in paragraph (b) of this section, no certificate holder may use an airplane powered by airplane engines rated at more than 600 horsepower each for maximum continuous operation unless that airplane meets the requirements of §§ 125.113 through 125.181.

(b) If the Administrator determines that, for a particular model of airplane used in cargo service, literal compliance with any requirement under paragraph (a) of this section would be extremely difficult and that compliance would not contribute materially to the objective sought, the Administrator may require compliance with only those requirements that are necessary to accomplish the basic objectives of this Part.

(c) This section does not apply to any airplane certificated under—

(1) Part 4b of the Civil Air Regulations in effect after October 31, 1946;

(2) Part 25 of this chapter; or

(3) Special Civil Air Regulation 422, 422A, or 422B.

**§ 125.113 Cabin interiors.**

(a) Upon the first major overhaul of an airplane cabin or refurbishing of the cabin interior, all materials in each compartment used by the crew or passengers that do not meet the following requirements must be replaced with materials that meet these requirements:

(1) For an airplane for which the application for the type certificate was filed prior to May 1, 1972, § 25.853 in effect on April 30, 1972.

(2) For an airplane for which the application for the type certificate was filed on or after May 1, 1972, the materials requirement under which the airplane was type certificated.

(b) Except as provided in paragraph (a) of this section, each compartment used by the crew or passengers must meet the following requirements:

(1) Materials must be at least flash resistant.

(2) The wall and ceiling linings and the covering of upholstery, floors, and furnishings must be flame resistant.

(3) Each compartment where smoking is to be allowed must be equipped with self-contained ash trays that are completely removable and other compartments must be placarded against smoking.

(4) Each receptacle for used towels, papers, and wastes must be of fire-resistant material and must have a cover or other means of containing possible fires started in the receptacles.

**§ 125.115 Internal doors.**

In any case where internal doors are equipped with louvres or other ventilating means, there must be a means convenient to the crew for closing the flow of air through the door when necessary.

**§ 125.117 Ventilation.**

Each passenger or crew compartment must be suitably ventilated. Carbon monoxide concentration may not be more than one part in 20,000 parts of air, and fuel fumes may not be present. In any case where partitions between compartments have louvres or other means allowing air to flow between compartments, there must be a means convenient to the crew for closing the flow of air through the partitions when necessary.

**§ 125.119 Fire precautions.**

(a) Each compartment must be designed so that, when used for storing cargo or baggage, it meets the following requirements:

(1) No compartment may include controls, wiring, lines, equipment, or accessories that would upon damage or

failure, affect the safe operation of the airplane unless the item is adequately shielded, isolated, or otherwise protected so that it cannot be damaged by movement of cargo in the compartment and so that damage to or failure of the item would not create a fire hazard in the compartment.

(2) Cargo or baggage may not interfere with the functioning of the fire-protective features of the compartment.

(3) Materials used in the construction of the compartments, including tie-down equipment, must be at least flame resistant.

(4) Each compartment must include provisions for safeguarding against fires according to the classifications set forth in paragraphs (b) through (f) of this section.

(b) *Class A.* Cargo and baggage compartments are classified in the "A" category if a fire therein would be readily discernible to a member of the crew while at that crewmember's station, and all parts of the compartment are easily accessible in flight. There must be a hand fire extinguisher available for each Class A compartment.

(c) *Class B.* Cargo and baggage compartments are classified in the "B" category if enough access is provided while in flight to enable a member of the crew to effectively reach all of the compartment and its contents with a hand fire extinguisher and the compartment is so designed that, when the access provisions are being used, no hazardous amount of smoke, flames, or extinguishing agent enters any compartment occupied by the crew or passengers. Each Class B compartment must comply with the following:

(1) It must have a separate approved smoke or fire detector system to give warning at the pilot or flight engineer stations.

(2) There must be a hand fire extinguisher available for the compartment.

(3) It must be lined with fire-resistant material, except that additional service lining of flame-resistant material may be used.

(d) *Class C.* Cargo and baggage compartments are classified in the "C" category if they do not conform with the requirements for the "A", "B", "D", or "E" categories. Each Class C compartment must comply with the following:

(1) It must have a separate approved smoke or fire detector system to give warning at the pilot or flight engineer station.

(2) It must have an approved built-in fire-extinguishing system controlled from the pilot or flight engineer station.

(3) It must be designed to exclude hazardous quantities of smoke, flames, or extinguishing agents from entering into any compartment occupied by the crew or passengers.

(4) It must have ventilation and draft controlled so that the extinguishing agent provided can control any fire that may start in the compartment.

(5) It must be lined with fire-resistant material, except that additional service lining of flame-resistant material may be used.

(e) *Class D.* Cargo and baggage compartments are classified in the "D" category if they are so designed and constructed that a fire occurring therein will be completely confined without endangering the safety of the airplane or the occupants. Each Class D compartment must comply with the following:

(1) It must have a means to exclude hazardous quantities of smoke, flames, or noxious gases from entering any compartment occupied by the crew or passengers.

(2) Ventilation and drafts must be controlled within each compartment so that any fire likely to occur in the compartment will not progress beyond safe limits.

(3) It must be completely lined with fire-resistant material.

(4) Consideration must be given to the effect of heat within the compartment on adjacent critical parts of the airplane.

(f) *Class E.* On airplanes used for the carriage of cargo only, the cabin area may be classified as a Class "E" compartment. Each Class E compartment must comply with the following:

(1) It must be completely lined with fire-resistant material.

(2) It must have a separate system of an approved type smoke or fire detector to give warning at the pilot or flight engineer station.

(3) It must have a means to shut off the ventilating air flow to or within the compartment and the controls for that means must be accessible to the flightcrew in the crew compartment.

(4) It must have a means to exclude hazardous quantities of smoke, flames, or noxious gases from entering the flightcrew compartment.

(5) Required crew emergency exits must be accessible under all cargo loading conditions.

**§ 125.121 Proof of compliance with § 125.119.**

Compliance with those provisions of § 125.119 that refer to compartment accessibility, the entry of hazardous quantities of smoke or extinguishing agent into compartment occupied by the

crew or passengers, and the dissipation of the extinguishing agent in Class "C" compartments must be shown by tests in flight. During these tests it must be shown that no inadvertent operation of smoke or fire detectors in other compartments within the airplane would occur as a result of fire contained in any one compartment, either during the time it is being extinguished, or thereafter, unless the extinguishing system floods those compartments simultaneously.

#### § 125.123 Propeller deicing fluid.

If combustible fluid is used for propeller deicing, the certificate holder must comply with § 125.153.

#### § 125.125 Pressure cross-feed arrangements.

(a) Pressure cross-feed lines may not pass through parts of the airplane used for carrying persons or cargo unless there is a means to allow crewmembers to shut off the supply of fuel to these lines or the lines are enclosed in a fuel and fume-proof enclosure that is ventilated and drained to the exterior of the airplane. However, such an enclosure need not be used if those lines incorporate no fittings on or within the personnel or cargo areas and are suitably routed or protected to prevent accidental damage.

(b) Lines that can be isolated from the rest of the fuel system by valves at each end must incorporate provisions for relieving excessive pressures that may result from exposure of the isolated line to high temperatures.

#### § 125.127 Location of fuel tanks.

(a) Fuel tanks must be relocated in accordance with § 125.153.

(b) No part of the engine nacelle skin that lies immediately behind a major air outlet from the engine compartment may be used as the wall of an integral tank.

(c) Fuel tanks must be isolated from personnel compartments by means of fume- and fuel-proof enclosures.

#### § 125.129 Fuel system lines and fittings.

(a) Fuel lines must be installed and supported so as to prevent excessive vibration and so as to be adequate to withstand loads due to fuel pressure and accelerated flight conditions.

(b) Lines connected to components of the airplane between which there may be relative motion must incorporate provisions for flexibility.

(c) Flexible connections in lines that may be under pressure and subject to axial loading must use flexible hose assemblies rather than hose clamp connections.

(d) Flexible hoses must be of an acceptable type or proven suitable for the particular application.

#### § 125.131 Fuel lines and fittings in designated fire zones.

Fuel lines and fittings in each designated fire zone must comply with § 125.157.

#### § 125.133 Fuel valves.

Each fuel valve must—

- (a) Comply with § 125.155;
- (b) Have positive stops or suitable index provisions in the "on" and "off" position; and
- (c) Be supported so that loads resulting from its operation or from accelerated flight conditions are not transmitted to the lines connected to the valve.

#### § 125.135 Oil lines and fittings in designated fire zones.

Oil line and fittings in each designated fire zone must comply with § 125.157.

#### § 125.137 Oil valves.

- (a) Each oil valve must—
  - (1) Comply with § 125.155;
  - (2) Have positive stops or suitable index provisions in the "on" and "off" positions; and
  - (3) Be supported so that loads resulting from its operation or from accelerated flight conditions are not transmitted to the lines attached to the valve.
- (b) The closing of an oil shutoff means must not prevent feathering the propeller, unless equivalent safety provisions are incorporated.

#### § 125.139 Oil system drains.

Accessible drains incorporating either a manual or automatic means for positive locking in the closed position must be provided to allow safe drainage of the entire oil system.

#### § 125.141 Engine breather lines.

(a) Engine breather lines must be so arranged that condensed water vapor that may freeze and obstruct the line cannot accumulate at any point.

(b) Engine breathers must discharge in a location that does not constitute a fire hazard in case foaming occurs and so that oil emitted from the line does not impinge upon the pilots' windshield.

(c) Engine breathers may not discharge into the engine air induction system.

#### § 125.143 Firewalls.

Each engine, auxiliary power unit, fuel-burning heater, or other item of combusting equipment that is intended for operation in flight must be isolated from the rest of the airplane by means of firewalls or shrouds, or by other equivalent means.

#### § 125.145 Fire-wall construction.

Each fire wall and shroud must—

- (a) Be so made that no hazardous quantity of air, fluids, or flame can pass from the engine compartment to other parts of the airplane;
- (b) Have all openings in the fire wall or shroud sealed with close-fitting fireproof grommets, bushings, or firewall fittings;
- (c) Be made of fireproof material; and
- (d) Be protected against corrosion.

#### § 125.147 Cowling.

(a) Cowling must be made and supported so as to resist the vibration, inertia, and air loads to which it may be normally subjected.

(b) Provisions must be made to allow rapid and complete drainage of the cowling in normal ground and flight attitudes. Drains must not discharge in locations constituting a fire hazard. Parts of the cowling that are subjected to high temperatures because they are near exhaust system parts or because of exhaust gas impingement must be made of fireproof material. Unless otherwise specified in these regulations, all other parts of the cowling must be made of material that is at least fire resistant.

#### § 125.149 Engine accessory section diaphragm.

Unless equivalent protection can be shown by other means, a diaphragm that complies with § 125.145 must be provided on air-cooled engines to isolate the engine power section and all parts of the exhaust system from the engine accessory compartment.

#### § 125.151 Powerplant fire protection.

(a) Designated fire zones must be protected from fire by compliance with §§ 125.153 through 125.159.

(b) Designated fire zones are—

- (1) Engine accessory sections;
- (2) Installations where no isolation is provided between the engine and accessory compartment; and
- (3) Areas that contain auxiliary power units, fuel-burning heaters, and other combustion equipment.

#### § 125.153 Flammable fluids.

(a) No tanks or reservoirs that are a part of a system containing flammable fluids or gases may be located in designated fire zones, except where the fluid contained, the design of the system, the materials used in the tank, the shutoff means, and the connections, lines, and controls provide equivalent safety.

(b) At least one-half inch of clear airspace must be provided between any tank or reservoir and a firewall or shroud isolating a designated fire zone.

**§ 125.155 Shutoff means.**

(a) Each engine must have a means for shutting off or otherwise preventing hazardous amounts of fuel, oil, deicer, and other flammable fluids from flowing into, within, or through any designated fire zone. However, means need not be provided to shut off flow in lines that are an integral part of an engine.

(b) The shutoff means must allow an emergency operating sequence that is compatible with the emergency operation of other equipment, such as feathering the propeller, to facilitate rapid and effective control of fires.

(c) Shutoff means must be located outside of designated fire zones, unless equivalent safety is provided, and it must be shown that no hazardous amount of flammable fluid will drain into any designated fire zone after a shutoff.

(d) Adequate provisions must be made to guard against inadvertent operation of the shutoff means and to make it possible for the crew to reopen the shutoff means after it has been closed.

**§ 125.157 Lines and fittings.**

(a) Each line, and its fittings, that is located in a designated fire zone, if it carries flammable fluids or gases under pressure, or is attached directly to the engine, or is subject to relative motion between components (except lines and fittings forming an integral part of the engine), must be flexible and fire-resistant with fire-resistant, factory-fixed, detachable, or other approved fire-resistant ends.

(b) Lines and fittings that are not subject to pressure or to relative motion between components must be of fire-resistant materials.

**§ 125.159 Vent and drain lines.**

All vent and drain lines, and their fittings, that are located in a designated fire zone must, if they carry flammable fluids or gases, comply with § 125.157, if the Administrator finds that the rupture or breakage of any vent or drain line may result in a fire hazard.

**§ 125.161 Fire-extinguishing systems.**

(a) Unless the certificate holder shows that equivalent protection against destruction of the airplane in case of fire is provided by the use of fireproof materials in the nacelle and other components that would be subjected to flame, fire-extinguishing systems must be provided to serve all designated fire zones.

(b) Materials in the fire-extinguishing system must not react chemically with the extinguishing agent so as to be a hazard.

**§ 125.163 Fire-extinguishing agents.**

Only methyl bromide, carbon dioxide, or another agent that has been shown to provide equivalent extinguishing action may be used as a fire-extinguishing agent. If methyl bromide or any other toxic extinguishing agent is used, provisions must be made to prevent harmful concentrations of fluid or fluid vapors from entering any personnel compartment either because of leakage during normal operation of the airplane or because of discharging the fire extinguisher on the ground or in flight when there is a defect in the extinguishing system. If a methyl bromide system is used, the containers must be charged with dry agent and sealed by the fire-extinguisher manufacturer or some other person using satisfactory recharging equipment. If carbon dioxide is used, it must not be possible to discharge enough gas into the personnel compartments to create a danger of suffocating the occupants.

**§ 125.165 Extinguishing agent container pressure relief.**

Extinguishing agent containers must be provided with a pressure relief to prevent bursting of the container because of excessive internal pressures. The discharge line from the relief connection must terminate outside the airplane in a place convenient for inspection on the ground. An indicator must be provided at the discharge end of the line to provide a visual indication when the container has discharged.

**§ 125.167 Extinguishing agent container compartment temperature.**

Precautions must be taken to ensure that the extinguishing agent containers are installed in places where reasonable temperatures can be maintained for effective use of the extinguishing system.

**§ 125.169 Fire-extinguishing system materials.**

(a) Except as provided in paragraph (b) of this section, each component of a fire-extinguishing system that is in a designated fire zone must be made of fireproof materials.

(b) Connections that are subject to relative motion between components of the airplane must be made of flexible materials that are at least fire-resistant and be located so as to minimize the probability of failure.

**§ 125.171 Fire-detector systems.**

Enough quick-acting fire detectors must be provided in each designated fire zone to assure the detection of any fire that may occur in that zone.

**§ 125.173 Fire detectors.**

Fire detectors must be made and installed in a manner that assures their ability to resist, without failure, all vibration, inertia, and other loads to which they may be normally subjected. Fire detectors must be unaffected by exposure to fumes, oil, water, or other fluids that may be present.

**§ 125.175 Protection of other airplane components against fire.**

(a) Except as provided in paragraph (b) of this section, all airplane surfaces aft of the nacelles in the area of one nacelle diameter on both sides of the nacelle centerline must be made of material that is at least fire resistant.

(b) Paragraph (a) of this section does not apply to tail surfaces lying behind nacelles unless the dimensional configuration of the airplane is such that the tail surfaces could be affected readily by heat, flames, or sparks emanating from a designated fire zone or from the engine from a designated fire zone or from the engine compartment of any nacelle.

**§ 125.177 Control of engine rotation.**

(a) Except as provided in paragraph (b) of this section, each airplane must have a means of individually stopping and restarting the rotation of any engine in flight.

(b) In the case of turbine engine installations, a means of stopping the rotation need be provided only if the Administrator finds that rotation could jeopardize the safety of the airplane.

**§ 125.179 Fuel system independence.**

(a) Each airplane fuel system must be arranged so that the failure of any one component does not result in the irrecoverable loss of power of more than one engine.

(b) A separate fuel tank need not be provided for each engine if the certificate holder shows that the fuel system incorporates features that provide equivalent safety.

**§ 125.181 Induction system ice prevention.**

A means for preventing the malfunctioning of each engine due to ice accumulation in the engine air induction system must be provided for each airplane.

**§ 125.183 Carriage of cargo in passenger compartments.**

(a) Except as provided in paragraph (b) or (c) of this section, no certificate holder may carry cargo in the passenger compartment of an airplane.

(b) Cargo may be carried aft of the foremost seated passengers if it is

carried in an approved cargo bin that meets the following requirements:

(1) The bin must withstand the load factors and emergency landing conditions applicable to the passenger seats of the airplane in which the bin is installed, multiplied by a factor of 1.15, using the combined weight of the bin and the maximum weight of cargo that may be carried in the bin.

(2) The maximum weight of cargo that the bin is approved to carry and any instructions necessary to ensure proper weight distribution within the bin must be conspicuously marked on the bin.

(3) The bin may not impose any load on the floor or other structure of the airplane that exceeds the load limitations of that structure.

(4) The bin must be attached to the seat tracks or to the floor structure of the airplane, and its attachment must withstand the load factors and emergency landing conditions applicable to the passenger seats of the airplane in which the bin is installed, multiplied by either the factor 1.15 or the seat attachment factor specified for the airplane, whichever is greater, using the combined weight of the bin and the maximum weight of cargo that may be carried in the bin.

(5) The bin may not be installed in a position that restricts access to or use of any required emergency exit, or of the aisle in the passenger compartment.

(6) The bin must be fully enclosed and made of material that is at least flame resistant.

(7) Suitable safeguards must be provided within the bin to prevent the cargo from shifting under emergency landing conditions.

(8) The bin may not be installed in a position that obscures any passenger's view of the "seat belt" sign, "no smoking" sign, or any required exit sign, unless an auxiliary sign or other approved means for proper notification of the passenger is provided.

(c) All cargo may be carried forward of the foremost seated passengers and carry-on baggage may be carried alongside the foremost seated passengers if the cargo (including carry-on baggage) is carried either in approved bins as specified in paragraph (b) of this section or in accordance with the following:

(1) It is properly secured by a safety belt or other tie down having enough strength to eliminate the possibility of shifting under all normally anticipated flight and ground conditions.

(2) It is packaged or covered in a manner to avoid possible injury to passengers.

(3) It does not impose any load on seats or the floor structure that exceeds

the load limitation for those components.

(4) Its location does not restrict access to or use of any required emergency or regular exit, or of the aisle in the passenger compartment.

(5) Its location does not obscure any passenger's view of the "seat belt" sign, "no smoking" sign, or required exit sign, unless an auxiliary sign or other approved means for proper notification of the passenger is provided.

#### § 125.185 Carriage of cargo in cargo compartments.

When cargo is carried in cargo compartments that are designed to require the physical entry of a crewmember to extinguish any fire that may occur during flight, the cargo must be loaded so as to allow a crewmember to effectively reach all parts of the compartment with the contents of a hand fire extinguisher.

#### § 125.187 Landing gear: Aural warning device.

(a) Each large airplane must have a landing gear aural warning device that functions continuously under the following conditions:

(1) For airplanes with an established approach wing-flap position, whenever the wing flaps are extended beyond the maximum certificated approach climb configuration position in the Airplane Flight Manual and the landing gear is not fully extended and locked.

(2) For airplanes without an established approach climb wing-flap position, whenever the wing flaps are extended beyond the position at which landing gear extension is normally performed and the landing gear is not fully extended and locked.

(b) The warning system required by paragraph (a) of this section—

(1) May not have a manual shutoff;

(2) Must be in addition to the throttle-actuated device installed under the type certification airworthiness requirements; and

(3) May utilize any part of the throttle-actuated system including the aural warning device.

(c) The flap position sensing unit may be installed at any suitable place in the airplane.

#### § 125.189 Demonstration of emergency evacuation procedures.

(a) Each certificate holder must show, by actual demonstration conducted in accordance with paragraph (a) of Appendix B to this Part, that the emergency evacuation procedures for each type and model of airplane with a seating capacity of more than 44 passengers, that is used in its passenger-carrying operations, allow the

evacuation of the full seating capacity, including crewmembers, in 90 seconds or less, in each of the following circumstances:

(1) A demonstration must be conducted upon the initial introduction of a type and model of airplane into passenger-carrying operations. However, the demonstration need not be repeated for any airplane type or model that has the same number and type of exits, the same cabin configuration, and the same emergency equipment as any other airplane used by the certificate holder in successfully demonstrating emergency evacuation in compliance with this paragraph.

(2) A demonstration must be conducted—

(i) Upon increasing by more than 5 percent the passenger seating capacity for which successful demonstration has been conducted; or

(ii) Upon a major change in the passenger cabin interior configuration that will affect the emergency evacuation of passengers.

(b) Each certificate holder operating or proposing to operate one or more landplanes in extended overwater operations, or otherwise required to have certain equipment under § 125.209, must show, by a simulated ditching conducted in accordance with paragraph (b) of Appendix B to this Part, that it has the ability to efficiently carry out its ditching procedures.

### Subpart F—Instrument and Equipment Requirements

#### § 125.201 Inoperable instruments and equipment.

(a) No person may take off an airplane unless the following instruments and equipment are in an operable condition:

(1) Instruments and equipment that are either specifically or otherwise required by the airworthiness requirements under which the airplane is type certificated and which are essential for safe operations under all operating conditions.

(2) Instruments and equipment required by an airworthiness directive to be in operable condition unless the airworthiness directive provides otherwise.

(b) No person may take off any airplane with inoperable instruments or equipment installed, other than those described in paragraph (a) of this section, unless the following conditions are met:

(1) An approved Minimum Equipment List exists for the airplane type.

(2) The airplane has within it a letter of authorization, issued by the FAA

Flight Standards district office having certification responsibility for the certificate holder, authorizing operation of the airplane under the Minimum Equipment List. The letter of authorization may be obtained by written request of the certificate holder. The Minimum Equipment List and the letter of authorization constitute a supplemental type certificate for the airplane.

(3) The approved Minimum Equipment List must provide for the operation of the airplane with the instruments and equipment in an inoperable condition.

(4) The airplane records available to the pilot must include an entry describing the inoperable instruments and equipment.

(5) The airplane is operated under all applicable conditions and limitations contained in the Minimum Equipment List and the letter authorizing the use of the list.

(c) Without regard to the requirements of paragraph (a)(1) of this section, an airplane with inoperable instruments or equipment may be operated under a special flight permit under §§ 21.197 and 21.199 of this chapter.

#### § 125.203 Radio and navigational equipment.

(a) No person may operate an airplane unless it has two-way radio communications equipment able, at least in flight, to transmit to, and receive from, ground facilities 25 miles away.

(b) No person may operate an airplane over-the-top unless it has radio navigational equipment able to receive radio signals from the ground facilities to be used.

(c) No person may operate an airplane carrying passengers under IFR or in extended overwater operations unless it has at least the following radio communication and navigational equipment appropriate to the facilities to be used which are capable of transmitting to, and receiving from, at any place on the route to be flown, at least one ground facility:

(1) Two transmitters, (2) two microphones, (3) two headsets or one headset and one speaker, (4) a marker beacon receiver, (5) two independent receivers for navigation, and (6) two independent receivers for communications.

(d) For the purposes of paragraphs (c)(5) and (c)(6) of this section, a receiver is independent if the function of any part of it does not depend on the functioning of any part of another receiver. However, a receiver that can receive both communications and navigational signals may be used in place of a separate communications

receiver and a separate navigational signal receiver.

#### § 125.205 Equipment requirements: Airplanes under IFR.

No person may operate an airplane under IFR unless it has—

- (a) A vertical speed indicator;
- (b) A free-air temperature indicator;
- (c) A heated pitot tube for each airspeed indicator;
- (d) A power failure warning device or vacuum indicator to show the power available for gyroscopic instruments from each power source;
- (e) An alternate source of static pressure for the altimeter and the airspeed and vertical speed indicators;
- (f) At least two generators each of which is on a separate engine, or which any combination of one-half of the total number are rated sufficiently to supply the electrical loads of all required instruments and equipment necessary for safe emergency operation of the airplane; and

(g) Two independent sources of energy (with means of selecting either), of which at least one is an engine-driven pump or generator, each of which is able to drive all gyroscopic instruments and installed so that failure of one instrument or source does not interfere with the energy supply to the remaining instruments or the other energy source. For the purposes of this paragraph, each engine-driven source of energy must be on a different engine.

(h) For the purposes of paragraph (f) of this section, a continuous inflight electrical load includes one that draws current continuously during flight, such as radio equipment, electrically driven instruments, and lights, but does not include occasional intermittent loads.

(i) An airspeed indicating system with heated pitot tube or equivalent means for preventing malfunctioning due to icing.

(j) A sensitive altimeter.

(k) Instrument lights providing enough light to make each required instrument, switch, or similar instrument, easily readable and installed so that the direct rays are shielded from the flight crewmembers' eyes and that no objectionable reflections are visible to them. There must be a means of controlling the intensity of illumination unless it is shown that nondimming instrument lights are satisfactory.

#### § 125.207 Emergency equipment requirements for airplanes having a passenger seating configuration of more than 19 passengers.

(a) No person may operate an airplane having a passenger seating configuration, excluding any pilot seat,

of more than 19 seats unless it is equipped with the following emergency equipment:

(1) One approved first aid kit for treatment of injuries likely to occur in flight or in a minor accident, which meets the following specifications and requirements:

(i) Each first aid kit must be dust and moisture proof and contain only materials that either meet Federal Specifications GSK-319a, as revised, or as approved by the Administrator.

(ii) Required first aid kits must be readily accessible to the cabin flight attendants.

(iii) At time of takeoff, each first aid kit must contain at least the following or other contents approved by the Administrator:

Contents:	Quantity
Adhesive bandage compressors, 1 in.....	18
Antiseptic swabs .....	20
Ammonia inhalents .....	10
Bandage compressors, 4 in.....	8
Triangular bandage compressors, 40 in.....	5
Burn compound, 1/2 oz or an equivalent of other burn remedy .....	6
Arm splint, noninflatable.....	1
Leg splint, noninflatable.....	1
Roller bandage, 4 in.....	4
Adhesive tape, 1-in standard roll.....	2
Bandage scissors.....	1

(2) A crash axe carried so as to be accessible to the crew but inaccessible to passengers during normal operations.

(3) Signs that are visible to all occupants to notify them when smoking is prohibited and when safety belts should be fastened. The signs must be so constructed that they can be turned on and off by a crewmember. They must be turned on for each takeoff and each landing and when otherwise considered to be necessary by the pilot in command.

(4) The additional emergency equipment specified in Appendix A of this Part.

(b) *Megaphones.* Each passenger-carrying airplane must have a portable battery-powered megaphone or megaphones readily accessible to the crewmembers assigned to direct emergency evacuation, installed as follows:

(1) One megaphone on each airplane with a seating capacity of more than 60 and less than 100 passengers, at the most rearward location in the passenger cabin were it would be readily accessible to a normal flight attendant seat. However, the Administrator may grant a deviation from the requirements of this subparagraph if the Administrator finds that a different location would be more useful for evacuation of persons during an emergency.

(2) Two megaphones in the passenger cabin on each airplane with a seating

capacity of more than 99 and less than 200 passengers, one installed at the forward end and the other at the most rearward location where it would be readily accessible to a normal flight attendant seat.

(3) Three megaphones in the passenger cabin on each airplane with a seating capacity of more than 199 passengers, one installed at the forward end, one installed at the most rearward location where it would be readily accessible to a normal flight attendant seat, and one installed in a readily accessible location in the mid-section of the airplane.

(c) Each item of equipment must be inspected regularly under inspection periods established in the operations specifications to ensure its condition for continued serviceability and immediate readiness to perform its intended emergency purposes.

**§ 125.209 Emergency equipment: Extended overwater operations.**

(a) No person may operate an airplane in extended overwater operations unless it carries, installed in conspicuously marked locations easily accessible to the occupants if a ditching occurs, the following equipment:

(1) An approved life preserver equipped with an approved survivor locator light, or an approved flotation means, for each occupant of the aircraft. The life preserver or other flotation means must be easily accessible to each seated occupant. If a flotation means other than a life preserver is used, it must be readily removable from the airplane.

(2) Enough life rafts (with proper buoyancy) to carry all occupants of the airplane, and at least the following equipment for each raft clearly marked for easy identification—

(i) One canopy (for sail, sunshade, or rain catcher);

(ii) One radar reflector (or similar device);

(iii) One life raft repair kit;

(iv) One bailing bucket;

(v) One signaling mirror;

(vi) One police whistle;

(vii) One raft knife;

(viii) One CO<sub>2</sub> bottle for emergency inflation;

(ix) One inflation pump;

(x) Two oars;

(xi) One 75-foot retaining line;

(xii) One magnetic compass;

(xiii) One dye marker;

(xiv) One flashlight having at least two size "D" cells equivalent;

(xv) At least one approved pyrotechnic signaling device;

(xvi) A 2-day supply of emergency food rations supplying at least 1,000 calories a day for each person;

(xvii) One sea water desalting kit for each two persons that raft is rated to carry, or two pints of water for each person the raft is rated to carry;

(xviii) One fishing kit; and

(xix) One book on survival appropriate for the area in which the airplane is operated.

(b) No person may operate and airplane in extended overwater operations unless there is attached to one of the life rafts required by paragraph (a) of this section, a survival type emergency locator transmitter that meets § 37.200 of this chapter. Batteries used in this transmitter must be replaced (or recharged, if the batteries are rechargeable) when the transmitter has been in use for more than 1 cumulative hour, and also when 50 percent of their useful life (or for rechargeable batteries, 50 percent of their useful life of charge), as established by the transmitter manufacturer under § 37.200(g)(2) of this chapter, has expired. The new expiration date for the replacement or recharged batteries must be legibly marked on the outside of the transmitter. The battery useful life or useful life of charge requirements of this paragraph do not apply to batteries (such as water-activated batteries) that are essentially unaffected during probable storage intervals.

**§ 125.211 Seat and safety belts.**

(a) No person may operate an airplane unless there are available during the takeoff, en route flight, and landing—

(1) An approved seat or berth for each person on board the airplane who is at least 2 years old; and

(2) An approved safety belt for separate use by each person on board the airplane who is at least 2 years old, except that two persons occupying a berth may share one approved safety belt and two persons occupying a multiple lounge or divan seat may share one approved safety belt during en route flight only.

(b) During the takeoff and landing of an airplane, each person on board shall occupy an approved seat or berth with a separate safety belt properly secured about that person. However, a person who is not at least 2 years old may be held by an adult who is occupying a seat or berth. A safety belt provided for the occupant of a seat may not be used during takeoff and landing by more than one person who is at least 2 years old.

(c) Each sideward facing seat must comply with the applicable

requirements of § 25.785 (c) of this chapter.

(d) No certificate holder may take off or land an airplane unless each passenger seat back is in the upright position. Each passenger shall comply with instructions given by a crewmember in compliance with this paragraph. This paragraph does not apply to seats on which cargo or persons who are unable to sit erect for a medical reason are carried in accordance with procedures in the certificate holder's manual if the seat back does not obstruct any passenger's access to the aisle or to any emergency exist.

(e) Each occupant of a seat equipped with a shoulder harness must fasten the shoulder harness during takeoff and landing, except that, in the case of crewmembers, the shoulder harness need not be fastened if the crewmember cannot perform his required duties with the shoulder harness fastened.

**§ 125.213 Miscellaneous equipment.**

No person may conduct any operation unless the following equipment is installed in the airplane:

(a) If protective fuses are installed on an airplane, the number of spare fuses approved for the airplane and appropriately described in the certificate holder's manual.

(b) A windshield wiper or equivalent for each pilot station.

(c) A power supply and distribution system that meets the requirements of §§ 25.1309, 25.1331, 25.1351 (a) and (b) (1) through (4), 25.1353, 25.1355, and 25.1431(b) or that is able to produce and distribute the load for the required instruments and equipment, with use of an external power supply if any one power source or component of the power distribution system fails. The use of common elements in the system may be approved if the Administrator finds that they are designed to be reasonably protected against malfunctioning. Engine-driven sources of energy, when used, must be on separate engines.

(d) A means for indicating the adequacy of the power being supplied to required flight instruments.

(e) Two independent static pressure systems, vented to the outside atmospheric pressure so that they will be least affected by air flow variation or moisture or other foreign matter, and installed so as to be airtight except for the vent. When a means is provided for transferring an instrument from its primary operating system to an alternative system, the means must include a positive positioning control and must be marked to indicate clearly which system is being used.

(f) A placard on each door that is the means of access to a required passenger emergency exist to indicate that it must be open during takeoff and landing.

(g) A means for the crew, in an emergency, to unlock each door that leads to a compartment that is normally accessible to passengers and that can be locked by passengers.

#### § 125.215 Operating information required.

(a) The operator of an airplane must provide the following materials, in current and appropriate form, accessible to the pilot at the pilot station, and the pilot shall use them:

- (1) A cockpit checklist.
- (2) An emergency cockpit checklist containing the procedures required by paragraph (c) of this section, as appropriate.
- (3) Pertinent aeronautical charts.
- (4) For IFR operations, each pertinent navigational en route, terminal area, and approach and letdown chart.
- (5) One engine-inoperative climb performance data and, if the airplane is approved for use in IFR or over-the-top operations, that data must be sufficient to enable the pilot to determine that the airplane is capable of carrying passengers over-the-top or in IFR conditions at a weight that will allow it to climb, with the critical engine inoperative, at least 50 feet a minute when operating at the MEAs of the route to be flown or 5,000 feet MSL, whichever is higher.

(b) Each cockpit checklist required by paragraph (a)(1) of this section must contain the following procedures: (1) Before starting engines; (2) Before takeoff; (3) Cruise; (4) Before landing; (5) After landing; (6) Stopping engines.

(c) Each emergency cockpit checklist required by paragraph (a)(2) of this section must contain the following procedures, as appropriate:

- (1) Emergency operation of fuel, hydraulic, electrical, and mechanical systems.
- (2) Emergency operation of instruments and controls.
- (3) Engine inoperative procedures.
- (4) Any other emergency procedures necessary for safety.

#### § 125.217 Passenger information.

(a) No person may operate an airplane carrying passengers unless it is equipped with passenger information signs that meet the requirements of § 25.791 of this chapter. The signs must be constructed so that the crewmembers can turn them on and off. They must be turned on for each takeoff and each landing and when otherwise considered to be necessary by the pilot command.

(b) No passenger or crewmember may smoke while the no smoking sign is lighted and each passenger shall fasten that passenger's seat belt and keep it fastened while the seat belt sign is lighted.

#### § 125.219 Oxygen for medical use by passengers.

(a) Except as provided in paragraphs (d) and (e) of this section, no certificate holder may allow the carriage or operation of equipment for the storage, generation or dispensing of medical oxygen unless the unit to be carried is constructed so that all valves, fittings, and gauges are protected from damage during that carriage or operation and unless the following conditions are met—

- (1) The equipment must be—
  - (i) Of an approved type or in conformity with the manufacturing, packaging, marking, labeling, and maintenance requirements of Title 49 CFR Parts 171, 172, and 173, except § 173.24(a)(1);
  - (ii) When owned by the certificate holder, maintained under the certificate holder's approved maintenance program;
  - (iii) Free of flammable contaminants on all exterior surfaces; and
  - (iv) Appropriately secured.
- (2) When the oxygen is stored in the form of a liquid, the equipment must have been under the certificate holder's approved maintenance program since its purchase new or since the storage container was last purged.
- (3) When the oxygen is stored in the form of a compressed gas as defined in Title 49 CFR § 173.300(a)—

- (i) When owned by the certificate holder, it must be maintained under its approved maintenance program; and
- (ii) The pressure in any oxygen cylinder must not exceed the rated cylinder pressure.
- (4) The pilot in command must be advised when the equipment is on board and when it is intended to be used.
- (5) The equipment must be stowed, and each person using the equipment must be seated so as not to restrict access to or use of any required emergency or regular exit or of the aisle in the passenger compartment.

(b) When oxygen is being used, no person may smoke and no certificate holder may allow any person to smoke within 10 feet of oxygen storage and dispensing equipment carried under paragraph (a) of this section.

(c) No certificate holder may allow any person other than a person trained in the use of medical oxygen equipment to connect or disconnect oxygen bottles

or any other ancillary component while any passenger is aboard the airplane.

(d) Paragraph (a)(1)(i) of this section does not apply when that equipment is furnished by a professional or medical emergency service for use on board an airplane in a medical emergency when no other practical means of transportation (including any other properly equipped certificate holder) is reasonably available and the person carried under the medical emergency is accompanied by a person trained in the use of medical oxygen.

(e) Each certificate holder who, under the authority of paragraph (d) of this section, deviates from paragraph (a)(1)(i) of this section under a medical emergency shall, within 10 days, excluding Saturdays, Sundays, and Federal holidays, after the deviation, send to the FAA Flight Standards district office charged with the overall inspection of the certificate holder a complete report of the operation involved, including a description of the deviation and the reasons for it.

#### § 125.221 Icing conditions: Operating limitations.

(a) No pilot may take off an airplane that has—

- (1) Frost, snow, or ice adhering to any rotor blade, propeller, windshield, or powerplant installation, or to an airspeed, altimeter, rate of climb, or flight attitude instrument system;
- (2) Snow or ice adhering to the wings or stabilizing or control surfaces; or
- (3) Any frost adhering to the wings, or stabilizing or control surfaces, unless that frost has been polished to make it smooth.

(b) Except for an airplane that has ice protection provisions that meet § 34 of Appendix A of Part 121 or those for transport category airplane type certification, no pilot may fly—

- (1) Under IFR into known or forecast light or moderate icing conditions; or
- (2) Under VFR into known light or moderate icing conditions; unless the airplane has functioning deicing or anti-icing equipment protecting each rotor blade, propeller, windshield, wing, stabilizing or control surface, and each airspeed, altimeter, rate of climb, or flight attitude instrument system.

(c) Except for an airplane that has ice protection provisions that meet § 34 of Appendix A of Part 121 or those for transport category airplane type certification, no pilot may fly an airplane into known or forecast severe icing conditions.

(d) If current weather reports and briefing information relied upon by the pilot in command indicate that the forecast icing condition that would

otherwise prohibit the flight will not be encountered during the flight because of changed weather conditions since the forecast, the restrictions in paragraphs (b) and (c) of this section based on forecast conditions do not apply.

**§ 125.223 Airborne weather radar equipment requirements.**

(a) No person may operate an airplane governed by this Part in passenger-carrying operations unless approved airborne weather radar equipment is installed in the airplane.

(b) No person may begin a flight under IFR or night VFR conditions when current weather reports indicate that thunderstorms, or other potentially hazardous weather conditions that can be detected with airborne weather radar equipment, may reasonably be expected along the route to be flown, unless the airborne weather radar equipment required by paragraph (a) of this section is in satisfactory operating condition.

(c) If the airborne weather radar equipment becomes inoperative in route, the airplane must be operated under the instructions and procedures specified for that event in the manual required by § 125.71.

(d) This section does not apply to airplanes used solely within the State of Hawaii, within the State of Alaska, within that part of Canada west of longitude 130 degrees W, between latitude 70 degrees N, and latitude 53 degrees N, or during any training, test, or ferry flight.

(e) Without regard to any other provision of this part, an alternate electrical power supply is not required for airborne weather radar equipment.

**Subpart G—Maintenance and Inspection**

**§ 125.241 Applicability.**

This subpart prescribes rules, in addition to those prescribed in other Parts of this chapter, for the maintenance of airplanes (including the airframe, airplane engines, propellers, appliances and each item of emergency and survival equipment) operated under this Part.

**§ 125.243 Responsibility for airworthiness.**

The certificate holder is primarily responsible for—

(a) The airworthiness of its airplanes, including airframes, airplane engines, propellers, appliances, and parts thereof;

(b) The performance of the maintenance, preventive maintenance, and alteration of its airplanes, including airframes, airplane engines, propellers, appliances, emergency equipment, and parts thereof, in accordance with its

manual and the regulations of this chapter;

(c) The performance and scheduling of inspections required by this Part; and

(d) Ensuring that maintenance personnel make appropriate entries in the airplane and maintenance records indicating the airplane has been approved for return to service after maintenance has been performed.

**§ 125.245 Maintenance, preventive maintenance, and alteration organization.**

(a) Each person with whom the certificate holder arranges for the performance of its maintenance (other than required inspections), preventive maintenance, or alterations must have an organization adequate to perform that work.

(b) Each person with whom the certificate holder arranges for the performance of any inspection required by its manual in accordance with paragraph 125.249(b)(2) must have an organization adequate to perform that work.

**§ 125.247 Inspection program.**

(a) No person may operate an airplane unless the replacement times for life-limited parts specified in the airplane data sheets or other documents approved by the Administrator are complied with and the airplane, including the airframe, engines, propellers, appliances, survival equipment, and emergency equipment, is inspected in accordance with an inspection program. Defects disclosed between inspections and as a result of inspections shall be corrected in accordance with Part 43 of this chapter.

(b) No person may operate an airplane unless it has been inspected in accordance with an approved maintenance inspection program.

(c) The inspection program must include the following information in an inspection manual:

(1) Instructions, procedures, and standards for the conduct of inspections for the particular make and model airplane, including necessary tests and checks. The instructions and procedures must set forth in detail the parts and areas of the airframe, engines, propellers, and appliances, including emergency equipment required to be inspected.

(2) A schedule for the performance of the inspections that must be performed under the program expressed in terms of the time in service, calendar time, number of system operations, or any combination of these.

(d) No person may be used to perform the inspections required by this Part unless that person is qualified to

perform maintenance under Part 43 of this chapter.

(e) No person may operate any airplane unless the installed engines have been maintained in accordance with the overhaul periods recommended by the manufacturer or a program approved by the Administrator. Engine overhaul periods will be specified in the inspection program required by § 125.247(b).

(f) Maintenance inspection programs that may be approved for use under this Part include, but are not limited to, the following:

(1) A continuous inspection program that is part of a current continuous airworthiness maintenance program approved for use by a certificate holder under Part 121 or 135 of this chapter.

(2) A current inspection program recommended by the manufacturer of airplane, airplane engine, propeller, or appliance.

(3) An inspection program developed by the certificate holder and approved by the Administrator.

**§ 125.249 Maintenance manual requirements.**

(a) Each certificate holder shall put in its manual the chart or description of the certificate holder's organization required by § 125.25 and a list of persons with whom it has arranged for the performance of any of its inspections.

(b) Each certificate holder shall put in its manual the programs required by § 125.247 that must be followed in performing inspections of that certificate holder's airplane(s), including airframes, airplane engines, propellers, rotors, appliances, emergency equipment, and parts, and must include at least the following:

(1) The method of performing routine and nonroutine inspections (other than required inspections).

(2) A designation of the items that must be inspected (required inspections), including at least those that could result in a failure, malfunction, or defect endangering the safe operation of the airplane if not performed properly or if improper parts or materials are used.

(3) The method of performing required inspections.

(4) Procedures for the reinspection of work performed under previous required inspection findings ("buy-back procedures").

(5) Procedures, standards, and limits necessary for required inspections and acceptance or rejection of the items required to be inspected.

(6) Instructions to prevent any person who performs any item of work from

performing any required inspection of that work.

(7) Procedures to ensure that required inspections, as a result of work interruptions, are properly completed before the airplane is released to service.

(c) Each certificate holder shall put in its manual a suitable system (which may include a coded system) that provides for the retention of the following information—

(1) A description (or reference to data acceptable to the Administrator) of the work performed;

(2) The name of the person performing the work; and

(3) The name or other positive identification of the individual approving the work.

#### § 125.251 Required inspection personnel.

(a) No person may use any person to perform required inspections unless the person performing the inspection is appropriately certificated, properly trained, qualified, and authorized to do so.

(b) No person may perform a required inspection if that person performed the item of work required to be inspected.

#### Subpart H—Airman and Crewmember Requirements

##### § 125.261 Airman: Limitations on use of services.

(a) No certificate holder may use any person as an airman nor may any person serve as an airman unless that person—

(1) Holds an appropriate current airman certificate issued by the FAA;

(2) Has any required appropriate current airman and medical certificates in that person's possession while engaged in operations under this Part; and

(3) Is otherwise qualified for the operation for which that person is to be used.

(b) Each airman covered by paragraph (a) of this section shall present the certificates for inspection upon the request of the Administrator.

##### § 125.263 Composition of flightcrew.

(a) No certificate holder may operate an airplane with less than the minimum flightcrew in the airworthiness certificate or the Airplane Flight Manual approved for that type airplane and required by this Part for the kind of operation being conducted.

(b) In any case in which this Part requires the performance of two or more functions for which an airman certificate is necessary, that requirement is not satisfied by the performance of multiple

functions at the same time by one airman.

(c) On each flight requiring a flight engineer, at least one flight crewmember, other than the flight engineer, must be qualified to provide emergency performance to the flight engineer's functions for the safe completion of the flight if the flight engineer becomes ill or is otherwise incapacitated. A pilot need not hold a flight engineer's certificate to perform the flight engineer's functions in such a situation.

##### § 125.265 Flight engineer requirements.

(a) No person may operate an airplane for which a flight engineer is required by the type certification requirements without a flight crewmember holding a current flight engineer certificate.

(b) No person may serve as a required flight engineer on an airplane unless, within the preceding 6 calendar months, that person has had at least 50 hours of flight time as a flight engineer on that type airplane, or the Administrator has checked that person on that type airplane and determined that person is familiar and competent with all essential current information and operating procedures.

##### § 125.267 Flight navigator and specialized navigation equipment.

(a) No certificate holder may operate an airplane outside the 48 contiguous States and the District of Columbia when its position cannot be reliably fixed for a period of more than 1 hour, without—

(1) A flight crewmember who holds a current flight navigator certificate; or

(2) Specialized means of navigation approved which enables a reliable determination to be made of the position of the airplane by each pilot seated at that person's duty station.

(b) Operations where a flight navigator or special navigation equipment, or both, are required are specified in the operations specifications of the operator.

##### § 125.269 Flight attendants.

(a) Each certificate holder shall provide at least the following flight attendants on each passenger-carrying airplane used:

(1) For airplanes having more than 19 but less than 51 passengers—one flight attendant.

(2) For airplanes having more than 50 but less than 101 passengers—two flight attendants.

(3) For airplanes having more than 100 passengers—two flight attendants plus one additional flight attendant for each

unit (or part of a unit) of 50 passengers above 100 passengers.

(b) The number of flight attendants approved under paragraphs (a) and (b) of this section are set forth in the certificate holder's operations specifications.

(c) During takeoff and landing, flight attendants required by this section shall be located as near as practicable to required floor level exits and shall be uniformly distributed throughout the airplane to provide the most effective egress of passengers in event of an emergency evacuation.

##### § 125.271 Emergency and emergency evacuation duties.

(a) Each certificate holder shall, for each type and model of airplane, assign to each category of required crewmember, as appropriate, the necessary functions to be performed in an emergency or a situation requiring emergency evacuation. The certificate holder shall show those functions are realistic, can be practically accomplished, and will meet any reasonably anticipated emergency including the possible incapacitation of individual crewmembers or their inability to reach the passenger cabin because of shifting cargo in combination cargo-passenger airplanes.

(b) The certificate holder shall describe in its manual the functions of each category of required crewmembers under paragraph (a) of this section.

#### Subpart I—Flight Crewmember Requirements

##### § 125.281 Pilot in command qualifications.

No certificate holder may use any person, nor may any person serve, as pilot in command of an airplane unless that person—

(a) Holds at least a commercial pilot certificate, an appropriate category, class, and type rating, and an instrument rating;

(b) Has had at least 1,200 hours of flight time as a pilot, including 500 hours of cross-country flight time, 100 hours of night flight time, including at least 10 night takeoffs and landings, and 75 hours of actual or simulated instrument flight time, at least 50 hours of which were actual flight; and

(c) For flight under IFR, meets the recent instrument experience requirements prescribed for a pilot in command in Part 61 of this chapter.

##### § 125.283 Second in command qualifications.

No certificate holder may use any person, nor may any person serve, as second in command of an airplane unless that person—

(a) Holds at least a commercial pilot certificate with appropriate category and class ratings, and an instrument rating; and

(b) For flight under IFR, meets the recent instrument experience requirements prescribed for a pilot in command in Part 61 of this chapter.

**§ 125.285 Pilot qualifications: recent experience.**

(a) No certificate holder may use any person, nor may any person serve, as a required pilot flight crewmember unless within the preceding 90 days that person has made at least three takeoffs and landings in the type airplane in which that person is to serve. The takeoffs and landings required by this paragraph may be performed in a visual simulator approved under § 125.287 to include takeoff and landing maneuvers.

However, any person who fails to qualify for a 90-consecutive-days period following the date of that person's last qualification under this paragraph must reestablish recency of experience as provided in paragraph (b) of this section.

(b) A required pilot flight crewmember who has not met the requirements of paragraph (a) of this section may reestablish recency of experience by making at least three takeoffs and landings under the supervision of a check airman, in accordance with the following:

(1) At least one takeoff must be made with a simulated failure of the most critical powerplant.

(2) At least one landing must be made from an ILS approach to the lowest ILS minimums authorized for the certificate holder.

(3) At least one landing must be made to a complete stop.

(c) A required pilot flight crewmember who performs the maneuvers prescribed in paragraph (b) of this section in a visual simulator must—

(1) Have previously logged 100 hours of flight time in the same type airplane in which the pilot is to serve;

(2) Be currently qualified in another airplane of the same group; and

(3) Be observed on the first two landings made in operations under this Part by an approved check airman who acts as pilot in command and occupies a pilot seat. The landings must be made in weather minimums that are not less than those contained in the certificate holder's operations specifications for Category I Operations and must be made within 45 days following completion of simulator training.

(d) A check airman who observes the takeoffs and landings prescribed in paragraphs (b) and (c)(3) of this section shall certify that the person being

observed is proficient and qualified to perform flight duty in operations under this Part, and may require any additional maneuvers that are determined necessary to make this certifying statement.

**§ 125.287 Initial and recurrent pilot testing requirements.**

(a) No certificate holder may use any person, nor may any person serve as a pilot, unless, since the beginning of the 12th calendar month before that service, that person has passed a written or oral test, given by the Administrator or an authorized check pilot, on that person's knowledge in the following areas—

(1) The appropriate provisions of Parts 61, 91, and 125 of this chapter and the operations specifications and the manual of the certificate holder;

(2) For each type of airplane to be flown by the pilot, the airplane powerplant, major components and systems, major appliances, performance and operating limitations, standard and emergency operating procedures, and the contents of the approved Airplane Flight Manual or equivalent, as applicable;

(3) For each type of airplane to be flown by the pilot, the method of determining compliance with weight and balance limitations for takeoff, landing and en route operations;

(4) Navigation and use of air navigation aids appropriate to the operation or pilot authorization, including, when applicable, instrument approach facilities and procedures;

(5) Air traffic control procedures, including IFR procedures when applicable;

(6) Meteorology in general, including the principles of frontal systems, icing, fog, thunderstorms, and windshear, and, if appropriate for the operation of the certificate holder, high altitude weather;

(7) Procedures for avoiding operations in thunderstorms and hail, and for operating in turbulent air or in icing conditions; and

(8) New equipment, procedures, or techniques, as appropriate.

(b) No certificate holder may use any person, nor may any person serve, as a pilot in any airplane unless, since the beginning of the 12th calendar month before that service, that person has passed a competency check given by the Administrator or an authorized check pilot in that class of airplane to determine that person's competence in practical skills and techniques in that airplane or class of airplane. The extent of the competency check shall be determined by the Administrator or authorized check pilot conducting the competency check. The competency

check may include any of the maneuvers and procedures currently required for the original issuance of the particular pilot certificate required for the operations authorized and appropriate to the category, class and type of airplane involved. For the purposes of this paragraph, type, as to an airplane, means any one of a group of airplanes determined by the Administrator to have a similar means of propulsion, the same manufacturer, and no significantly different handling or flight characteristics.

(c) The instrument proficiency check required by § 125.291 may be substituted for the competency check required by this section for the type of airplane used in the check.

(d) For the purposes of this Part, competent performance of a procedure or maneuver by a person to be used as a pilot requires that the pilot be the obvious master of the airplane with the successful outcome of the maneuver never in doubt.

(e) The Administrator or authorized check pilot certifies the competency of each pilot who passes the knowledge or flight check in the certificate holder's pilot records.

(f) Portions of a required competency check may be given in an airplane simulator or other appropriate training device, if approved by the Administrator.

**§ 125.289 Initial and recurrent flight attendant crewmember testing requirements.**

No certificate holder may use any person, nor may any person serve, as a flight attendant crewmember, unless, since the beginning of the 12th calendar month before that service, the certificate holder has determined by appropriate initial and recurrent testing that the person is knowledgeable and competent in the following areas as appropriate to assigned duties and responsibilities:

(a) Authority of the pilot in command;

(b) Passenger handling, including procedures to be followed in handling deranged persons or other persons whose conduct might jeopardize safety;

(c) Crewmember assignments, functions, and responsibilities during ditching and evacuation of persons who may need the assistance of another person to move expeditiously to an exit in an emergency;

(d) Briefing of passengers;

(e) Location and operation of portable fire extinguishers and other items of emergency equipment;

(f) Proper use of cabin equipment and controls;

(g) Location and operation of passenger oxygen equipment;

(h) Location and operation of all normal and emergency exits, including evacuation chutes and escape ropes; and

(i) Seating of persons who may need assistance of another person to move rapidly to an exit in an emergency as prescribed by the certificate holder's operations manual.

**§ 125.291 Pilot in command: Instrument proficiency check requirements.**

(a) No certificate holder may use any person, nor may any person serve, as a pilot in command of an airplane under IFR unless, since the beginning of the sixth calendar month before that service, that person has passed an instrument proficiency check and the Administrator or an authorized check pilot has so certified in a letter of competency.

(b) No pilot may use any type of instrument approach procedure under IFR unless, since the beginning of the sixth calendar month before that use, the pilot has satisfactorily demonstrated at least one instrument approach procedure using an ILS, a VOR and an NDB facility, and has been issued a letter of competency under paragraph (h) of this section. These instrument approach procedures must include at least one straight-in approach, one circling approach in conjunction with a VOR or an NDB, and one missed approach. Each approach procedure demonstrated must be conducted to the published minimum for that procedure.

(c) The instrument proficiency check required by paragraph (a) of this section consists of an oral or written equipment test and a flight check under simulated or actual IFR conditions. The equipment test includes questions on emergency procedures, engine operation, fuel and lubrication systems, power settings, stall speeds, best engine-out speed, propeller and supercharger operations, and hydraulic, mechanical, and electrical systems, as appropriate. The flight check includes navigation by instruments, recovery from simulated emergencies, and standard instrument approaches involving navigational facilities which that pilot is to be authorized to use.

(1) For a pilot in command of an airplane, the instrument proficiency check must include the procedures and maneuvers for a commercial pilot certificate with an instrument rating and, if required, for the appropriate type rating.

(2) The instrument proficiency check must be given by an authorized check airman or by the Administrator.

(d) If the pilot in command is assigned to pilot only one type of airplane, that pilot must take the instrument

proficiency check required by paragraph (a) of this section in that type of airplane.

(e) If the pilot in command is assigned to pilot more than one type of airplane, that pilot must take the instrument proficiency check required by paragraph (a) of this section in each type of airplane to which that pilot is assigned, in rotation, but not more than one flight check during each period described in paragraph (a) of this section.

(f) Portions of a required flight check may be given in an airplane simulator or other appropriate training device, if approved by the Administrator.

(g) The Administrator or authorized check pilot issues a letter of competency to each pilot who passes the instrument proficiency check. The letter of competency authorizes the use of instrument approach procedures and facilities under Part 97 of this chapter and, if the pilot passes the autopilot check, authorizes the use of an autopilot system in place of a second in command.

**§ 125.293 Crewmember: Tests and checks, grace provisions, accepted standards.**

(a) If a crewmember who is required to take a test or a flight check under this Part completes the test or flight check in the calendar month before or after the calendar month in which it is required, that crewmember is considered to have completed the test or check in the calendar month in which it is required.

(b) If a pilot being checked under this subpart fails any of the required maneuvers, the person giving the check may give additional training to the pilot during the course of the check. In addition to repeating the maneuvers failed, the person giving the check may require the pilot being checked to repeat any other maneuvers that are necessary to determine the pilot's proficiency. If the pilot being checked is unable to demonstrate satisfactory performance to the person conducting the check, the certificate holder may not use the pilot, nor may the pilot serve, as a flight crewmember in operations under this Part until the pilot has satisfactorily completed the check.

**§ 125.295 Check pilot authorization: Application and issue.**

Each certificate holder desiring FAA approval of a check pilot shall submit a request in writing to the FAA Flight Standards district office charged with the overall inspection of the certificate holder. The Administrator may issue a letter of authority to each check pilot if that pilot passes the appropriate oral and flight test. The letter of authority

lists the tests and checks in this Part that the check pilot is qualified to give, and the category, class and type airplane, where appropriate, for which the check pilot is qualified.

**§ 125.297 Approval of airplane simulators and other training devices.**

(a) Airplane simulators and other training devices approved by the Administrator may be used in checks required in this subpart.

(b) Each airplane simulator and other training device that is used in checks required under this subpart must meet the following requirements:

(1) It must be specifically approved for—

- (i) The certificate holder;
- (ii) The type airplane and, if applicable, the particular variation within type for which the training or check is being conducted; and
- (iii) The particular maneuver, procedure, or crewmember function involved;

(2) It must maintain the performance, functional, and other characteristics that are required for approval.

(3) It must be modified to conform with any modification to the airplane being simulated that changes the performance, functional, or other characteristics required for approval.

**Subpart J—Flight Operations**

**§ 125.311 Flight crewmembers at controls.**

(a) Except as provided in paragraph (b) of this section, each required flight crewmember on flight deck duty must remain at the assigned duty station with seat belt fastened while the airplane is taking off or landing and while it is en route.

(b) A required flight crewmember may leave the assigned duty station—

(1) If the crewmember's absence is necessary for the performance of duties in connection with the operation of the airplane;

(2) If the crewmember's absence is in connection with physiological needs; or

(3) If the crewmember is taking a rest period and relief is provided—

(i) In the case of the assigned pilot in command, by a pilot qualified to act as pilot in command.

(ii) In the case of the assigned second in command, by a pilot qualified to act as second in command of that airplane during en route operations. However, the relief pilot need not meet the recent experience requirements of § 125.285.

**§ 125.313 Manipulation of controls when carrying passengers or cargo.**

No pilot in command may allow any person to manipulate the controls of an airplane while carrying passengers

during flight, nor may any person manipulate the controls while carrying passengers during flight, unless that person is—

(a) A qualified pilot of the certificate holder operating that airplane;

(b) An authorized pilot safety representative of the Administrator or of the National Transportation Safety Board who has the permission of the pilot in command, is qualified in the airplane, and is checking flight operations;

(c) A pilot of another certificate holder who has the permission of the pilot in command and is qualified in the airplane; or

(d) A pilot in training status under the instruction of a qualified pilot of the certificate holder operating that airplane.

**§ 125.315 Admission to flight deck.**

(a) No person may admit any person to the flight deck of an airplane unless the person being admitted is—

(1) A crewmember;

(2) An FAA inspector or an authorized representative of the National Transportation Safety Board who is performing official duties; or

(3) Any person who has the permission of the pilot in command.

(b) No person may admit any person to the flight deck unless there is a seat available for the use of that person in the passenger compartment, except—

(1) An FAA inspector or an authorized representative of the Administrator or National Transportation Safety Board who is checking or observing flight operations; or

(2) A certificated airman employed by the certificate holder whose duties require an airman certificate.

**§ 125.317 Inspectors credentials: Admission to pilots' compartment: Forward observer's seat.**

(a) Whenever, in performing the duties of conducting an inspection, an FAA inspector presents an Aviation Safety Inspector credential, FAA Form 110A, to the pilot in command of an airplane operated by the certificate holder, the inspector must be given free and uninterrupted access to the pilot compartment of that airplane. However, this paragraph does not limit the emergency authority of the pilot in command to exclude any person from the pilot compartment in the interest of safety.

(b) A forward observer's seat on the flight deck, or forward passenger seat with headset or speaker, must be provided for use by the Administrator while conducting en route inspections. The suitability of the location of the seat

and the headset or speaker for use in conducting en route inspections is determined by the Administrator.

**§ 125.319 Emergencies.**

(a) In an emergency situation that requires immediate decision and action, the pilot in command may take any action considered necessary under the circumstances. In such a case, the pilot in command may deviate from prescribed operations, procedures and methods, weather minimums, and this chapter, to the extent required in the interests of safety.

(b) In an emergency situation arising during flight that requires immediate decision and action by appropriate management personnel in the case of operations conducted with a flight following service and which is known to them, those personnel shall advise the pilot in command of the emergency, shall ascertain the decision of the pilot in command, and shall have the decision recorded. If they cannot communicate with the pilot, they shall declare an emergency and take any action that they consider necessary under the circumstances.

(c) Whenever emergency authority is exercised, the pilot in command or the appropriate management personnel shall keep the appropriate ground radio station fully informed of the progress of the flight. The person declaring the emergency shall send a written report of any deviation, through the operator's director of operations, to the Administrator within 10 days, exclusive of Saturdays, Sundays, and Federal holidays, after the flight is completed or, in the case of operations outside the United States, upon return to the home base.

**§ 125.321 Reporting potentially hazardous meteorological conditions and irregularities of ground and navigation facilities.**

Whenever the pilot in command encounters a meteorological condition or an irregularity in a ground or navigational facility in flight, the knowledge of which the pilot in command considers essential to the safety of other flights, the pilot in command shall notify an appropriate ground station as soon as practicable.

**§ 125.323 Reporting mechanical irregularities.**

The pilot in command shall ensure that all mechanical irregularities occurring during flight are entered in the maintenance log of the airplane at the next place of landing. Before each flight, the pilot in command shall ascertain the status of each irregularity entered in the log at the end of the preceding flight.

**§ 125.325 Instrument approach procedures and IFR landing minimums.**

No person may make an instrument approach at an airport except in accordance with IFR weather minimums and instrument approach procedures set forth in the certificate holder's operations specifications.

**§ 125.327 Briefing of passengers before flight.**

(a) Before each takeoff, each pilot in command of an airplane carrying passengers shall ensure that all passengers have been orally briefed on—

(1) Smoking;

(2) Use of seat belts;

(3) The placement of seat backs in an upright position before takeoff and landing;

(4) Location and means for opening the passenger entry door and emergency exits;

(5) Location of survival equipment;

(6) If the flight involves extended overwater operation, ditching procedures and the use of required flotation equipment;

(7) If the flight involves operations above 12,000 feet MSL, the normal and emergency use of oxygen; and

(8) Location and operation of fire extinguishers.

(b) Before each takeoff, the pilot in command shall ensure that each person who may need the assistance of another person to move expeditiously to an exit if an emergency occurs and that person's attendant, if any, has received a briefing as to the procedures to be followed if an evacuation occurs. This paragraph does not apply to a person who has been given a briefing before a previous leg of a flight in the same airplane.

(c) The oral briefing required by paragraph (a) of this section shall be given by the pilot in command or a member of the crew. It shall be supplemented by printed cards for the use of each passenger containing—

(1) A diagram and method of operating the emergency exits; and

(2) Other instructions necessary for the use of emergency equipment on board the airplane.

Each card used under this paragraph must be carried in the airplane in locations convenient for the use of each passenger and must contain information that is appropriate to the airplane on which it is to be used.

(d) The certificate holder shall describe in its manual the procedure to be followed in the briefing required by paragraph (a) of this section.

(e) If the airplane proceeds directly over water after takeoff, the briefing

required by paragraph (a) of this section must be done before takeoff.

(f) If the airplane does not proceed directly over water after takeoff, no part of the briefing required by paragraph (a) of this section has to be given before takeoff but the entire briefing must be given before reaching the overwater part of the flight.

**§ 125.329 Minimum altitudes for use of autopilot.**

(a) Except as provided in paragraphs (b), (c), and (d) of this section, no person may use an autopilot at an altitude above the terrain which is less than 500 feet or less than twice the maximum altitude loss specified in the approved Airplane Flight Manual or equivalent for a malfunction of the autopilot, whichever is higher.

(b) When using an instrument approach facility other than ILS, no person may use an autopilot at an altitude above the terrain that is less than 50 feet below the approved minimum descent altitude for that procedure, or less than twice the maximum loss specified in the approved Airplane Flight Manual or equivalent for a malfunction of the autopilot under approach conditions, whichever is higher.

(c) For ILS approaches when reported weather conditions are less than the basic weather conditions in Section 91.105 of this chapter, no person may use an autopilot with an approach coupler at an altitude above the terrain that is less than 50 feet above the terrain, or the maximum altitude loss specified in the approved Airplane Flight Manual or equivalent for the malfunction of the autopilot with approach coupler, whichever is higher.

(d) Without regard to paragraphs (a), (b), or (c) of this section, the Administrator may issue operations specifications to allow the use, to touchdown, of an approved flight control guidance system with automatic capability, if—

(1) The system does not contain any altitude loss (above zero) specified in the approved Airplane Flight Manual or equivalent for malfunction of the autopilot with approach coupler; and

(2) The Administrator finds that the use of the system to touchdown will not otherwise adversely affect the safety standards of this section.

**§ 125.331 Carriage of persons without compliance with the passenger-carrying provisions of this part.**

The following persons may be carried aboard an airplane without complying with the passenger-carrying requirements of this Part:

(a) A crewmember.

(b) A person necessary for the safe handling of animals on the airplane.

(c) A person necessary for the safe handling of hazardous materials (as defined in Subchapter C of Title 49 CFR).

(d) A person performing duty as a security or honor guard accompanying a shipment made by or under the authority of the U.S. Government.

(e) A military courier or a military route supervisor carried by a military cargo contract operator if that carriage is specifically authorized by the appropriate military service.

(f) An authorized representative of the Administrator conducting an en route inspection.

(g) A person authorized by the Administrator.

**Subpart K—Flight Release Rules**

**§ 125.351 Flight release authority.**

(a) No person may start a flight without authority from the person authorized by the certificate holder to exercise operational control over the flight.

(b) No person may start a flight unless the pilot in command or the person authorized by the certificate holder to exercise operational control over the flight has executed a flight release setting forth the conditions under which the flight will be conducted. The pilot in command may sign the flight release only when both the pilot in command and the person authorized to exercise operational control believe the flight can be made safely, unless the pilot in command is authorized by the certificate holder to exercise operational control and execute the flight release without the approval of any other person.

(c) No person may continue a flight from an intermediate airport without a new flight release if the airplane has been on the ground more than 6 hours.

**§ 125.353 Facilities and services.**

During a flight, the pilot in command shall obtain any additional available information of meteorological conditions and irregularities of facilities and services that may affect the safety of the flight.

**§ 125.355 Airplane equipment.**

No person may release an airplane unless it is airworthy and is equipped as prescribed.

**§ 125.357 Communication and navigation facilities.**

No person may release an airplane over any route or route segment unless communication and navigation facilities

equal to those required by § 125.53 are in satisfactory operating condition.

**§ 125.359 Flight release under VFR.**

No person may release an airplane for VFR operation unless the ceiling and visibility en route, as indicated by available weather reports or forecasts, or any combination thereof, are and will remain at or above applicable VFR minimums until the airplane arrives at the airport or airports specified in the flight release.

**§ 125.361 Flight release under IFR or over-the-top.**

Except as provided in § 125.363, no person may release an airplane for operations under IFR or over-the-top unless appropriate weather reports or forecasts, or any combination thereof, indicate that the weather conditions will be at or above the authorized minimums at the estimated time of arrival at the airport or airports to which released.

**§ 125.363 Flight release over water.**

(a) No person may release an airplane for a flight that involves extended overwater operation unless appropriate weather reports or forecasts, or any combination thereof, indicate that the weather conditions will be at or above the authorized minimums at the estimated time of arrival at any airport to which released or to any required alternate airport.

(b) Each certificate holder shall conduct extended overwater operations under IFR unless it shows that operating under IFR is not necessary for safety.

(c) Each certificate holder shall conduct other overwater operations under IFR if the Administrator determines that operation under IFR is necessary for safety.

(d) Each authorization to conduct extended overwater operations under VFR and each requirement to conduct other overwater operations under IFR will be specified in the operations specifications.

**§ 125.365 Alternate airport for departure.**

(a) If the weather conditions at the airport of takeoff are below the landing minimums in the certificate holder's operations specifications for that airport, no person may release an airplane from that airport unless the flight release specifies an alternate airport located within the following distances from the airport of takeoff:

(1) *Airplanes having two engines.* Not more than 1 hour from the departure airport at normal cruising speed in still air with one engine inoperative.

(2) *Airplanes having three or more engines.* Not more than 2 hours from the departure airport at normal cruising

speed in still air with one engine inoperative.

(b) For the purposes of paragraph (a) of this section, the alternate airport weather conditions must meet the requirements of the certificate holder's operations specifications.

(c) No person may release an airplane from an airport unless that person lists each required alternate airport in the dispatch or flight release.

**§ 125.367 Alternate airport for destination: IFR or over-the-top.**

(a) Except as provided in paragraph (b) of this section, each person releasing an airplane for operation under IFR or over-the-top shall list at least one alternate airport for each destination airport in the flight release.

(b) An alternate airport need not be designated for IFR or over-the-top operations where the airplane carries enough fuel to meet the requirements of §§ 125.375 and 125.377 for flights outside the 48 contiguous States and the District of Columbia over routes without an available alternate airport for a particular airport of destination.

(c) For the purposes of paragraph (a) of this section, the weather requirements at the alternate airport must meet the requirements of the operator's operations specifications.

(d) No person may release a flight unless that person lists each required alternate airport in the flight release.

**§ 125.369 Alternate airport weather minimums.**

No person may list an airport as an alternate airport in the flight release unless the appropriate weather reports or forecasts, or any combination thereof, indicate that the weather conditions will be at or above the alternate weather minimums specified in the certificate holder's operations specifications for that airport when the flight arrives.

**§ 125.371 Continuing flight in unsafe conditions.**

(a) No pilot in command may allow a flight to continue toward any airport to which it has been released if, in the opinion of the pilot in command, the flight cannot be completed safely, unless, in the opinion of the pilot in command, there is no safer procedure. In that event, continuation toward that airport is an emergency situation.

**§ 125.373 Original flight release or amendment of flight release.**

(a) A certificate holder may specify any airport authorized for the type of airplane as a destination for the purpose of original release.

(b) No person may allow a flight to continue to an airport to which it has

been released unless the weather conditions at an alternate airport that was specified in the flight release are forecast to be at or above the alternate minimums specified in the operations specifications for that airport at the time the airplane would arrive at the alternate airport. However, the flight release may be amended en route to include any alternate airport that is within the fuel range of the airplane as specified in § 125.375 or § 125.377.

(c) No person may change an original destination or alternate airport that is specified in the original flight release to another airport while the airplane is en route unless the other airport is authorized for that type of airplane.

(d) Each person who amends a flight release en route shall record that amendment.

**§ 125.375 Fuel supply: Nonturbine and turbopropeller-powered airplanes.**

(a) Except as provided in paragraph (b) of this section, no person may release for flight or takeoff, a nonturbine or turbopropeller-powered airplane unless, considering the wind and other weather conditions expected, it has enough fuel—

(1) To fly to and land at the airport to which it is released;

(2) Thereafter, to fly to and land at the most distant alternate airport specified in the flight release; and

(3) Thereafter, to fly for 45 minutes at normal cruising fuel consumption.

(b) If the airplane is released for any flight other than from one point in the contiguous United States to another point in the contiguous United States, it must carry enough fuel to meet the requirements of subparagraphs (1) and (2) of paragraph (a) of this section and thereafter fly for 30 minutes plus 15 percent of the total time required to fly at normal cruising fuel consumption to the airports specified in subparagraphs (1) and (2) of paragraph (a) of this section, or fly for 90 minutes at normal cruising fuel consumption, whichever is less.

(c) No person may release a nonturbine or turbopropeller-powered airplane to an airport for which an alternate is not specified under § 125.367(b) unless it has enough fuel, considering wind and other weather conditions expected, to fly to that airport and thereafter to fly for 3 hours at normal cruising fuel consumption.

**§ 125.377 Fuel supply: Turbine-engine-powered airplanes other than turbopropeller.**

(a) Except as provided in paragraph (b) of this section, no person may release for flight or takeoff a turbine-

powered airplane (other than a turbopropeller-powered airplane) unless, considering the wind and other weather conditions expected, it has enough fuel—

(1) To fly to and land at the airport to which it is released;

(2) Thereafter, to fly to and land at the most distant alternate airport specified in the flight release; and

(3) Thereafter, to fly for 45 minutes at normal cruising fuel consumption.

(b) For any operation outside the 48 contiguous United States and the District of Columbia, unless authorized by the Administrator in the operations specifications, no person may release for flight or take off a turbine-engine powered airplane (other than a turbopropeller-powered airplane) unless, considering wind and other weather conditions expected, it has enough fuel—

(1) To fly to and land at the airport to which it is released;

(2) After that, to fly for a period of 10 percent of the total time required to fly from the airport of departure and land at the airport to which it was released;

(3) After that, to fly to and land at the most distant alternate airport specified in the flight release, if an alternate is required; and

(4) After that, to fly for 30 minutes at holding speed at 1,500 feet above the alternate airport (or the destination airport if no alternate is required) under standard temperature conditions.

(c) No person may release a turbine-engine-powered airplane (other than a turbopropeller airplane) to an airport for which an alternate is not specified under § 125.367(b) unless it has enough fuel, considering wind and other weather conditions expected, to fly to that airport and thereafter to fly for at least 2 hours at normal cruising fuel consumption.

(d) The Administrator may amend the operations specifications of a certificate holder to require more fuel than any of the minimums stated in paragraph (a) or (b) of this section if the Administrator finds that additional fuel is necessary on a particular route in the interest of safety.

**§ 125.379 Landing weather minimums: IFR.**

(a) If the pilot in command of an airplane has not served 100 hours as pilot in command in operations under this Part in the type of airplane being operated, the MDA or DH and visibility landing minimums in the certificate holder's operations specification are increased by 100 feet and one-half mile (or the RVR equivalent). The MDA or DH and visibility minimums need not be

increased above those applicable to the airport when used as an alternate airport, but in no event may the landing minimums be less than 300 and 1.

(b) The 100 hours of pilot-in-command experience required by paragraph (a) may be reduced (not to exceed 50 percent) by substituting one landing in operations under this Part in the type of airplane for 1 required hour of pilot-in-command experience if the pilot has at least 100 hours as pilot in command of another type airplane in operations under this Part.

(c) Category II minimums, when authorized in the certificate holder's operations specifications, do not apply until the pilot in command subject to paragraph (a) of this section meets the requirements of that paragraph in the type of airplane the pilot is operating.

**§ 125.381 Takeoff and landing weather minimums: IFR.**

(a) Regardless of any clearance from ATC, if the reported weather conditions are less than that specified in the certificate holder's operations specifications, no pilot may—

(1) Take off an airplane under IFR; or  
(2) Except as provided in paragraph (c) of this section, land an airplane under IFR.

(b) Except as provided in paragraph (c) of this section, no pilot may execute an instrument approach procedure if the latest reported visibility is less than the landing minimums specified in the certificate holder's operations specifications.

(c) If a pilot initiates an instrument approach procedure when the latest weather report indicates that the specified visibility minimums exist, and a later weather report indicating below minimums conditions is received after the airplane—

(1) Is on an ILS final approach and has passed the outer marker,  
(2) Is on final approach using a radio range station or comparable facility, has passed the appropriate facility, and has reached the authorized MDA, or  
(3) Is on PAR final approach and has been turned over to the final approach controller,

the approach may be continued and a landing may be made if the pilot in command finds, upon reaching the authorized MDA or DH, that actual weather conditions are at least equal to the minimums prescribed in the operations specifications.

**§ 125.383 Load manifest.**

(a) Each certificate holder is responsible for the preparation and accuracy of a load manifest in duplicate containing information concerning the

loading of the airplane. The manifest must be prepared before each takeoff and must include—

- (1) The number of passengers;
- (2) The total weight of the loaded airplane;
- (3) The maximum allowable takeoff weight for that flight;
- (4) The center of gravity limits;
- (5) The center of gravity of the loaded airplane, except that the actual center of gravity need not be computed if the airplane is loaded according to a loading schedule or other approved method that ensures that the center of gravity of the loaded airplane is within approved limits. In those cases, an entry shall be made on the manifest indicating that the center of gravity is within limits according to a loading schedule or other approved method;
- (6) The registration number of the airplane or flight number;
- (7) The origin and destination; and
- (8) Identification of crewmembers and their crew position assignments.

(b) The pilot in command of an airplane for which a load manifest must be prepared shall carry a copy of the completed load manifest in the airplane to its destination. The certificate holder shall keep copies of completed load manifests for at least 30 days at its principal operations base, or at another location used by it and approved by the Administrator.

**Subpart L—Records and Reports**

**§ 125.401 Crewmember record.**

- (a) Each certificate holder shall—
- (1) Maintain current records of each crewmember that shows whether or not that crewmember complies with this chapter (e.g., proficiency and route checks, airplane and route qualifications, any required physical examinations, and flight time records); and
  - (2) Record each action taken concerning the release from employment or physical or professional disqualification of any flight crewmember and keep the record for at least 6 months thereafter.

(b) Each certificate holder shall maintain the records required by paragraph (a) of this section at its principal operations base, or at another location used by it and approved by the Administrator.

(c) Computer record systems approved by the Administrator may be used in complying with the requirements of paragraph (a) of this section.

**§ 125.403 Flight release form.**

- (a) Except as provided in paragraph (c) of this section, the flight release may

be in any form but must contain at least the following information concerning each flight:

- (1) Company or organization name.
- (2) Make, model, and registration number of the airplane being used.
- (3) Number and date of flight.
- (4) Name of each flight crewmember, flight attendant, and pilot designated as pilot in command.
- (5) Departure airport, destination airports, alternate airports, and route.
- (6) Minimum fuel supply (in gallons or pounds).
- (7) A statement of the type of operation (e.g., IFR, VFR).

(b) The airplane flight release must contain, or have attached to it, weather reports, available weather forecasts, or a combination thereof.

**§ 125.405 Disposition of load manifest, flight release, and flight plans.**

(a) The pilot in command of an airplane shall carry in the airplane to its destination the original or a signed copy of the—

- (1) Load manifest required by § 135.383;
- (2) Flight release;
- (3) Airworthiness release;
- (4) Pilot route certification; and
- (5) Flight plan.

(b) If a flight originates at the principal operations base of the certificate holder, it shall retain at that base a signed copy of each document listed in paragraph (a) of this section.

(c) Except as provided in paragraph (d) of this section, if a flight originates at a place other than the principal operations base of the certificate holder, the pilot in command (or another person not aboard the airplane who is authorized by the operator) shall, before or immediately after departure of the flight, mail signed copies of the documents listed in paragraph (a) of this section to the principal operations base.

(d) If a flight originates at a place other than the principal operations base of the certificate holder and there is at that place a person to manage the flight departure for the operator who does not depart on the airplane, signed copies of the documents listed in paragraph (a) of this section may be retained at that place for not more than 30 days before being sent to the principal operations base of the certificate holder. However, the documents for a particular flight need not be further retained at that place or be sent to the principal operations base, if the originals or other copies of them have been previously returned to the principal operations base.

(e) The certificate holder shall:

(1) Identify in its operations manual the person having custody of the copies of documents retained in accordance with paragraph (d) of this section; and

(2) Retain at its principal operations base either the original or a copy of the records required by this section for at least 30 days.

**§ 125.407 Maintenance log: Airplane.**

(a) Each person who takes action in the case of a reported or observed failure or malfunction of an airframe, engine, propeller, or appliance that is critical to the safety of flight shall make, or have made, a record of that action in the airplane's maintenance log.

(b) Each certificate holder shall have an approved procedure for keeping adequate copies of the record required in paragraph (a) of this section in the airplane in a place readily accessible to each flight crewmember and shall put that procedure in the certificate holder's manual.

**§ 125.409 Reports of defects or unairworthy conditions.**

Each certificate holder shall report the occurrence or detection of each failure, malfunction, or defect in a form and manner prescribed by the Administrator.

**§ 125.411 Airworthiness release or airplane log entry.**

(a) No certificate holder may operate an airplane after maintenance, preventive maintenance, or alterations are performed on the airplane unless the person with whom the certificate holder arranges for the performance of the maintenance, preventive maintenance, or alterations, prepares or causes to be prepared—

- (1) An airworthiness release; or
- (2) An appropriate entry in the airplane log.

(b) The airworthiness release or log entry required by paragraph (a) of this section must—

(1) Be prepared in accordance with the procedures set forth in the certificate holder's manual;

(2) Include a certification that—

- (i) The work was performed in accordance with the requirements of the certificate holder's manual;

(ii) All items required to be inspected were inspected by an authorized person who determined that the work was satisfactorily completed;

(iii) No known condition exists that would make the airplane unairworthy; and

(iv) So far as the work performed is concerned, the airplane is in condition for safe operation; and

(3) Be signed by an authorized certificated mechanic or repairman

except that a certificated repairman may sign the release or entry only for the work for which that person is employed and certificated.

Notwithstanding subparagraph (3) of this paragraph, after maintenance, preventive maintenance, or alterations performed by a repair station certificated under the provisions of Subpart C of Part 145, the airworthiness release or log entry required by paragraph (a) of this section may be signed by a person authorized by that repair station.

(c) When an airworthiness release form is prepared, the certificate holder must give a copy to the pilot in command and must keep a record thereof for at least 2 months.

(d) Instead of restating each of the conditions of the certification required by paragraph (b) of this section, the certificate holder may state in its manual that the signature of an authorized certificated mechanic or repairman constitutes that certification.

**Appendix A—Additional Emergency Equipment.**

(a) *Means for emergency evacuation.* Each passenger-carrying landplane emergency exit (other than over-the-wing) that is more than 8 feet from the ground with the airplane on the ground and the landing gear extended, must have an approved means to assist the occupants in descending to the ground. The assisting means for a floor level emergency exit must meet the requirements of § 25.809(f)(1) of this chapter in effect on April 30, 1972, except that, for any airplane for which the application for the type certificate was filed after that date, it must meet the requirements under which the airplane was type certificated. An assisting means that deploys automatically must be armed during taxiing, takeoffs, and landings. However, if the Administrator finds that the design of the exit makes compliance impractical, the Administrator may grant a deviation from the requirement of automatic deployment if the assisting means automatically erects upon deployment and, with respect to required emergency exits, if an emergency evacuation demonstration is conducted in accordance with § 125.207. This paragraph does not apply to the rear window emergency exit of DC-3 airplanes operated with less than 36 occupants, including crewmembers, and less than five exits authorized for passenger use.

(b) *Interior emergency exit marking.* The following must be complied with for each passenger-carrying airplane:

(1) Each passenger emergency exit, its means of access, and its means of opening must be conspicuously marked. The identity and location of each passenger emergency exit must be recognizable from a distance equal to the width of the cabin. The location of each passenger emergency exit must be indicated by a sign visible to occupants approaching along the main passenger aisle. There must be a locating sign—

(i) Above the aisle near each over-the-wing passenger emergency exit, or at another

ceiling location if it is more practical because of low headroom;

(ii) Next to each floor level passenger emergency exit, except that one sign may serve two such exits if they both can be seen readily from that sign; and

(iii) On each bulkhead or divider that prevents fore and aft vision along the passenger cabin, to indicate emergency exits beyond and obscured by it, except that if this is not possible the sign may be placed at another appropriate location.

(2) Each passenger emergency exit marking and each locating sign must meet the following:

(i) For an airplane for which the application for the type certificate was filed prior to May 1, 1972, each passenger emergency exit marking and each locating sign must be manufactured to meet the requirements of § 25.812(b) of this chapter in effect on April 30, 1972. On these airplanes, no sign may continue to be used if its luminescence (brightness) decreases to below 100 microlamberts. The colors may be reversed if it increases the emergency illumination of the passenger compartment. However, the Administrator may authorize deviation from the 2-inch background requirements if the Administrator finds that special circumstances exist that make compliance impractical and that the proposed deviation provides an equivalent level of safety.

(ii) For an airplane for which the application for the type certificate was filed on or after May 1, 1972, each passenger emergency exit marking and each locating sign must be manufactured to meet the interior emergency exit marking requirements under which the airplane was type certificated. On these airplanes, no sign may continue to be used if its luminescence (brightness) decreases to below 250 microlamberts.

(c) *Lighting for interior emergency exit markings.* Each passenger-carrying airplane must have an emergency lighting system, independent of the main lighting system. However, sources of general cabin illumination may be common to both the emergency and the main lighting systems if the power supply to the emergency lighting system is independent of the power supply to the main lighting system. The emergency lighting system must—

(1) Illuminate each passenger exit marking and locating sign; and

(2) Provide enough general lighting in the passenger cabin so that the average illumination, when measured at 40-inch intervals at seat armrest height, on the centerline of the main passenger aisle, is at least 0.05 foot-candles.

(d) *Emergency light operation.* Except for lights forming part of emergency lighting subsystems provided in compliance with § 25.812(g) of this chapter (as prescribed in paragraph (h) of this section) that serve no more than one assist means, are independent of the airplane's main emergency lighting systems, and are automatically activated when the assist means is deployed, each light required by paragraphs (c) and (h) must comply with the following:

(1) Each light must be operable manually and must operate automatically from the independent lighting system—

(i) In a crash landing; or  
 (ii) Whenever the airplane's normal electric power to the light is interrupted.

(2) Each light must—

(i) Be operable manually from the flightcrew station and from a point in the passenger compartment that is readily accessible to a normal flight attendant seat;

(ii) Have a means to prevent inadvertent operation of the manual controls; and

(iii) When armed or turned on at either station, remain lighted or become lighted upon interruption of the airplane's normal electric power.

Each light must be armed or turned on during taxiing, takeoff, and landing. In showing compliance with this paragraph, a transverse vertical separation of the fuselage need not be considered.

(3) Each light must provide the required level of illumination for at least 10 minutes at the critical ambient conditions after emergency landing.

(e) *Emergency exit operating handles.*

(1) For a passenger-carrying airplane for which the application for the type certificate was filed prior to May 1, 1972, the location of each passenger emergency exit operating handle and instructions for opening the exit must be shown by a marking on or near the exit that is readable from a distance of 30 inches. In addition, for each Type I and Type II emergency exit with a locking mechanism released by rotary motion of the handle, the instructions for opening must be shown by—

(i) A red arrow with a shaft at least  $\frac{3}{4}$  inch wide and a head twice the width of the shaft, extending along at least 70 degrees of arc at a radius approximately equal to  $\frac{3}{4}$  of the handle length; and

(ii) The word "open," in red letters 1 inch high placed horizontally near the head of the arrow.

(2) For a passenger-carrying airplane for which the application for the type certificate was filed on or after May 1, 1972, the location of each passenger emergency exit operating handle and instructions for opening the exit must be shown in accordance with the requirements under which the airplane was type certificated. On these airplanes, no operating handle or operating handle cover may continue to be used if its luminescence (brightness) decreases to below 100 microlamberts.

(f) *Emergency exit access.* Access to emergency exits must be provided as follows for each passenger-carrying airplane:

(1) Each passageway between individual passenger areas, or leading to a Type I or Type II emergency exit, must be unobstructed and at least 20 inches wide.

(2) There must be enough space next to each Type I or Type II emergency exit to allow a crewmember to assist in the evacuation of passengers without reducing the unobstructed width of the passageway below that required in paragraph (f)(1) of this section. However, the Administrator may authorize deviation from this requirement for an airplane certificated under the provisions of Part 4b of the Civil Air Regulations in effect before December 20, 1961, if the Administrator finds that special circumstances exist that provide an equivalent level of safety.

(3) There must be access from the main aisle to each Type III and Type IV exit. The access from the aisle to these exits must not be obstructed by seats, berths, or other protrusions in a manner that would reduce the effectiveness of the exit. In addition—

(i) For an airplane for which the application for the type certificate was filed prior to May 1, 1972, the access must meet the requirements of § 25.813(c) of this chapter in effect on April 30, 1972; and

(ii) For an airplane for which the application for the type certificate was filed on or after May 1, 1972, the access must meet the emergency exit access requirements under which the airplane was certificated.

(4) If it is necessary to pass through a passageway between passenger compartments to reach any required emergency exit from any seat in the passenger cabin, the passageway must not be obstructed. However, curtains may be used if they allow free entry through the passageway.

(5) No door may be installed in any partition between passenger compartments.

(6) If it is necessary to pass through a doorway separating the passenger cabin from other areas to reach any required emergency exit from any passenger seat, the door must have a means to latch it in open position, and the door must be latched open during each takeoff and landing. The latching means must be able to withstand the loads imposed upon it when the door is subjected to the ultimate inertia forces, relative to the surrounding structure, listed in § 25.561(b) of this chapter.

(g) *Exterior exit markings.* Each passenger emergency exit and the means of opening that exit from the outside must be marked on the outside of the airplane. There must be a 2-inch colored band outlining each passenger emergency exit on the side of the fuselage. Each outside marking, including the band must be readily distinguishable from the surrounding fuselage area by contrast in color. The markings must comply with the following.

(1) If the reflectance of the darker color is 15 percent or less, the reflectance of the lighter color must be at least 45 percent. "Reflectance" is the ratio of the luminous flux reflected by a body to the luminous flux it receives.

(2) If the reflectance of the darker color is greater than 15 percent, at least a 30 percent difference between its reflectance and the reflectance of the lighter color must be provided.

(3) Exits that are not in the side of the fuselage must have the external means of opening and applicable instructions marked conspicuously in red or, if red is inconspicuous against the background color, in bright chrome yellow and, when the opening means for such an exit is located on only one side of the fuselage, a conspicuous marking to that effect must be provided on the other side.

(h) *Exterior emergency lighting and escape route.*

(1) Each passenger-carrying airplane must be equipped with exterior lighting that meets the following requirements:

(i) For an airplane for which the application for the type certificate was filed prior to May

1, 1972, the requirements of § 25.812 (f) and (g) of this chapter in effect on April 30, 1972.

(ii) For an airplane for which the application for the type certificate was filed on or after May 1, 1972, the exterior emergency lighting requirements under which the airplane was type certificated.

(2) Each passenger-carrying airplane must be equipped with a slip-resistant escape route that meets the following requirements:

(i) For an airplane for which the application for the type certificate was filed prior to May 1, 1972, the requirements of § 25.803(e) of this chapter in effect on April 30, 1972.

(ii) For an airplane for which the application for the type certificate was filed on or after May 1, 1972, the slip-resistant escape route requirements under which the airplane was type certificated.

(i) *Floor level exits.* Each floor level door or exit in the side of the fuselage (other than those leading into a cargo or baggage compartment that is not accessible from the passenger cabin) that is 44 or more inches high and 20 or more inches wide, but not wider than 46 inches, each passenger ventral exit (except the ventral exits on M-404 and CV-240 airplanes) and each tail cone exit must meet the requirements of this section for floor level emergency exits. However, the Administrator may grant a deviation from this paragraph if the Administrator finds that circumstances make full compliance impractical and that an acceptable level of safety has been achieved.

(j) *Additional emergency exits.* Approved emergency exits in the passenger compartments that are in excess of the minimum number of required emergency exits must meet all of the applicable provisions of this section except paragraph (f), (1), (2), and (3) and must be readily accessible.

(k) On each large passenger-carrying turbojet powered airplane, each ventral exit and tailcone exit must be—

(1) Designed and constructed so that it cannot be opened during flight; and

(2) Marked with a placard readable from a distance of 30 inches and installed at a conspicuous location near the means of opening the exit, stating that the exit has been designed and constructed so that it cannot be opened during flight.

#### Appendix B—Criteria for Demonstration of Emergency Evacuation Procedures Under § 125.189

(a) *Aborted takeoff demonstration.*

(1) The demonstration must be conducted either during the dark of the night or during daylight with the dark of the night simulated. If the demonstration is conducted indoors during daylight hours, it must be conducted with each window covered and each door closed to minimize the daylight effect. Illumination on the floor or ground may be used, but it must be kept low and shielded against shining into the airplane's windows or doors.

(2) The airplane must be in a normal ground attitude with landing gear extended.

(3) Stands or ramps may be used for descent from the wing to the ground. Safety equipment such as mats or inverted life rafts may be placed on the ground to protect

participants. No other equipment that is not part of the airplane's emergency evacuation may be used to aid the participants in reaching the ground.

(4) The airplane's normal electrical power sources must be deenergized.

(5) All emergency equipment for the type of passenger-carrying operation involved must be installed in accordance with the certificate holder's manual.

(6) Each external door and exit and each internal door or curtain must be in position to simulate a normal takeoff.

(7) A representative passenger load of persons in normal health must be used. At least 30 percent must be females. At least 5 percent must be over 60 years of age with a proportionate number of females. At least 5 percent, but not more than 10 percent, must be children under 12 years of age, prorated through that age group. Three life-size dolls, not included as part of the total passenger load, must be carried by passengers to simulate live infants 2 years old or younger. Crewmembers, mechanics, and training personnel who maintain or operate the airplane in the normal course of their duties may not be used as passengers.

(8) No passenger may be assigned a specific seat except as the Administrator may require. Except as required by item (12) of this paragraph, no employee of the certificate holder may be seated next to an emergency exit.

(9) Seat belts and shoulder harnesses (as required) must be fastened.

(10) Before the start of the demonstration, approximately one-half of the total average amount of carry-on baggage, blankets, pillows, and other similar articles must be distributed at several locations in the aisles and emergency exit access ways to create minor obstructions.

(11) The seating density and arrangement of the airplane must be representative of the highest capacity passenger version of that airplane the certificate holder operates or proposes to operate.

(12) Each crewmember must be a member of a regularly scheduled line crew, must be seated in that crewmember's normally assigned seat for takeoff, and must remain in that seat until the signal for commencement of the demonstration is received.

(13) No crewmember of passenger may be given prior knowledge of the emergency exits available for the demonstration.

(14) The certificate holder may not practice, rehearse, or describe the demonstration for the participants nor may any participant have taken part in this type of demonstration within the preceding 6 months.

(15) The pretakeoff passenger briefing required by § 125.327 may be given in accordance with the certificate holder's manual. The passengers may also be warned to follow directions of crewmembers, but may not be instructed on the procedures to be followed in the demonstration.

(16) If safety equipment as allowed by item (3) of this section is provided, either all passenger and cockpit windows must be blacked out or all of the emergency exits must have safety equipment to prevent disclosure of the available emergency exits.

(17) Not more than 50 percent of the emergency exits in the sides of the fuselage of

an airplane that meet all of the requirements applicable to the required emergency exits for that airplane may be used for the demonstration. Exits that are not to be used in the demonstration must have the exit handle deactivated or must be indicated by red lights, red tape or other acceptable means, placed outside the exits to indicate fire or other reason that they are unusable. The exits to be used must be representative of all of the emergency exits on the airplane and must be designated by the certificate holder, subject to approval by the Administrator. At least one floor level exit must be used.

(18) All evacuees, except those using an over-the-wing exit, must leave the airplane by a means provided as part of the airplane's equipment.

(19) The certificate holders approved procedures and all of the emergency equipment that is normally available, including slides, ropes, lights, and megaphones, must be fully utilized during the demonstration.

(20) The evacuation time period is completed when the last occupant has evacuated the airplane and is on the ground. Evacuees using stands or ramps allowed by item (3) above are considered to be on the ground when they are on the stand or ramp: *Provided*, That the acceptance rate of the stand or ramp is no greater than the acceptance rate of the means available on the airplane for descent from the wing during an actual crash situation.

(b) *Ditching demonstration.* The demonstration must assume that daylight hours exist outside the airplane and that all required crewmembers are available for the demonstration.

(1) If the certificate holder's manual requires the use of passengers to assist in the launching of liferafts, the needed passengers must be aboard the airplane and participate in the demonstration according to the manual.

(2) A stand must be placed at each emergency exit and wing with the top of the platform at a height simulating the water level of the airplane following a ditching.

(3) After the ditching signal has been received, each evacuee must don a life vest according to the certificate holder's manual.

(4) Each liferaft must be launched and inflated according to the certificate holder's manual and all other required emergency equipment must be placed in rafts.

(5) Each evacuee must enter a liferaft and the crew members assigned to each liferaft must indicate the location of emergency equipment aboard the raft and describe its use.

(6) Either the airplane, a mockup of the airplane, or a floating device simulating a passenger compartment must be used.

(i) If a mockup of the airplane is used, it must be a life-size mockup of the interior and representative of the airplane currently used by or proposed to be used by the certificate holder and must contain adequate seats for use of the evacuees. Operation of the emergency exits and the doors must closely simulate those on the airplane. Sufficient wing area must be installed outside the over-the-wing exits to demonstrate the evacuation.

(ii) If a floating device simulating a passenger compartment is used, it must be representative, to the extent possible, of the passenger compartment of the airplane used in operations. Operation of the emergency exits and the doors must closely simulate operation on that airplane. Sufficient wing area must be installed outside the over-the-wing exits to demonstrate the evacuation. The device must be equipped with the same survival equipment as is installed on the airplane, to accommodate all persons participating in the demonstration.

(Sections 313, 601 through 610, and 1102, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354, 1421-1430 and 1502); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655 (c)).)

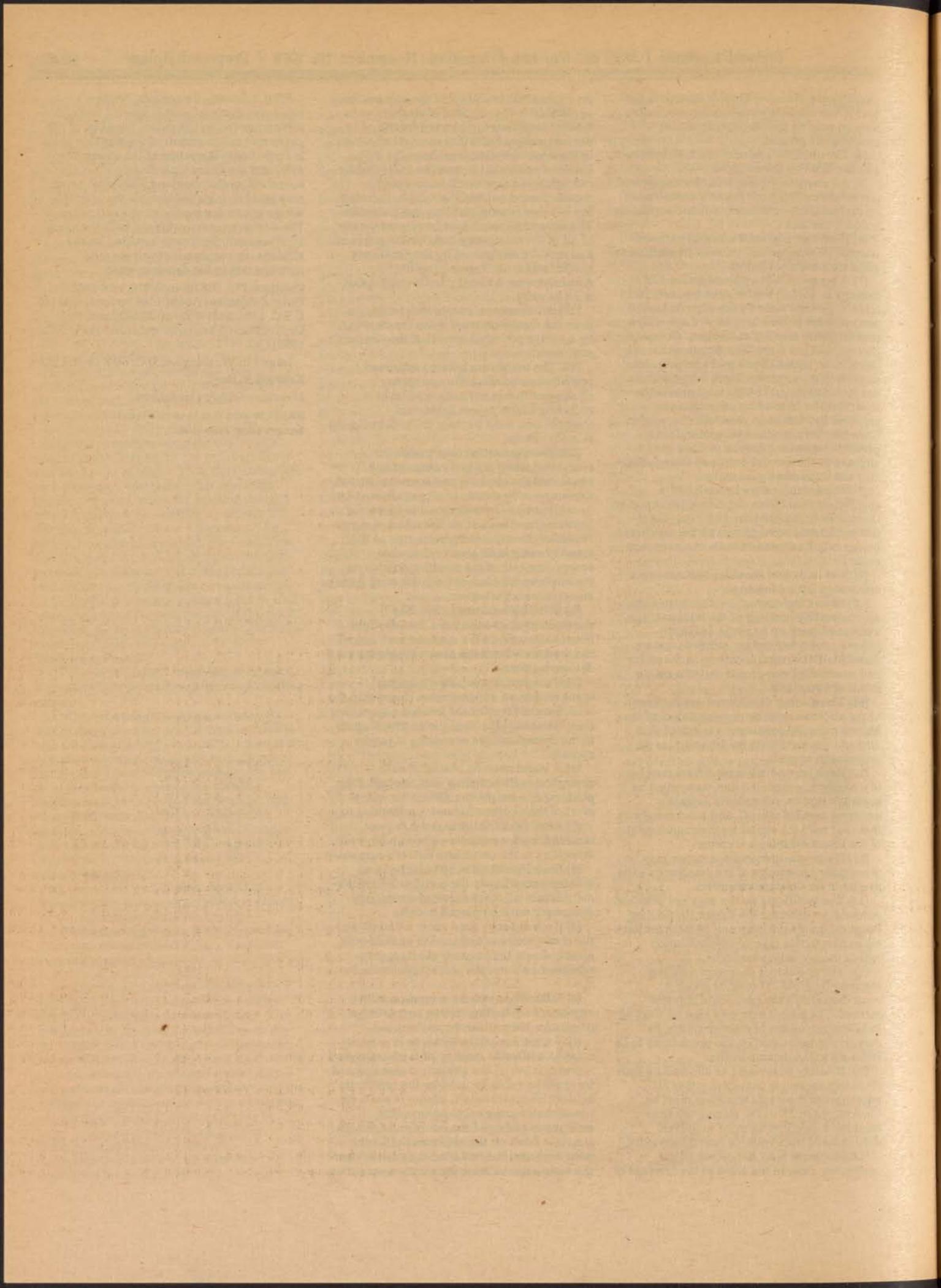
Issued in Washington, D.C. on Nov. 9, 1979.

**Kenneth S. Hunt,**

*Director of Flight Operations.*

[FR Doc. 79-35231 Filed 11-16-79; 8:45 am]

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# **Federal Register**

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**Part III**

## **Department of Commerce**

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**National Oceanic and Atmospheric  
Administration**

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**Bering Sea and Aleutian Islands  
Groundfish Fishery; Proposed  
Implementation of Fishery Management  
Plan**

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Parts 611 and 675

## Bering Sea and Aleutian Islands Groundfish Fishery; Notice of Preliminary Approval of Fishery Management Plan and Proposed Implementing Regulations

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA)/Commerce.

**ACTION:** Proposed regulations.

**SUMMARY:** Preliminary approval has been given to the Bering Sea and Aleutian Islands Area Groundfish Fishery Management Plan (FMP). Regulations to implement the FMP are proposed. The proposed regulations are applicable to vessels of the United States and foreign nations fishing for groundfish in the fishery conservation zone (FCZ) of the Bering Sea and Western Aleutian Islands. Portions of the proposed regulations also apply to U.S. fish processors who process fish harvested in the management area.

**DATE:** Comments on the FMP and proposed implementing regulations will be received until January 18, 1980.

**ADDRESS:** Comments may be submitted to: Denton R. Moore, Acting Chief, Permits and Regulations Division, National Marine Fisheries Service, Washington, D.C. 20235.

**FOR FURTHER INFORMATION CONTACT:** Harry L. Rietze, Director, Alaska Region, National Marine Fisheries Service, Juneau, Alaska 99802, Telephone: (907) 586-7221.

**SUPPLEMENTARY INFORMATION:****A. History and Scope of the FMP**

The Fishery Management Plan for the Groundfish Fishery in the Bering Sea and Aleutian Islands area was prepared by the North Pacific Fishery Management Council (Council) pursuant to the Fishery Conservation and Management Act of 1976, as amended (16 U.S.C. 1801 et seq., "the Act"). The FMP contains conservation and management measures applicable to foreign and U.S. vessels fishing for pollock, yellowfin sole, turbot (Arrowtooth flounder, Greenland turbot), other flatfishes, Pacific cod, Atka mackerel, sablefish, Pacific ocean perch, other rockfishes, squid, and other species in the FCZ of the Bering Sea and Aleutian Island area (management area).

The FMP does not pertain to vessels fishing for Pacific halibut, salmon and steelhead, Tanner crab, horsehair crab, lyre crab, dungeness crab, King crab, shrimp, snails, herring, coral, and clams. Retention of these species by foreign vessels is prohibited under the Act unless species allocations are held under other management plans. Retention by U.S. vessels is permitted unless prohibited by other applicable law.

The FMP and proposed implementing regulations will supersede those portions of 50 CFR 611.93 (Bering Sea and Aleutian Islands Trawl and Herring Gillnet Fishery) which pertain to species other than herring. Within the next month, NOAA intends to propose amendments to the herring regulations for 1980. These regulations will be coordinated with any final regulations implementing the groundfish FMP.

The Council approved the draft FMP and draft environmental impact statement on July 27, 1978. Public hearings were held in Seattle, Washington, and in Kodiak, Unalaska and Anchorage, Alaska. Following the close of the public comment period on January 10, 1979, the FMP was revised and subsequently approved by the Council on March 27, 1979. The FMP, except for a reserved section, was submitted to the Secretary of Commerce (Secretary) on April 23, 1979. The reserved section was submitted on June 4, 1979. On July 17, 1979, the Council requested an extension of the Secretarial review period to review the results of the 1979 processor survey, and consider possible amendments to the FMP. On September 10, 1979, an amendment to the FMP was submitted to the Secretary for review. On October 19, 1979, the Assistant Administrator, acting pursuant to a delegation of authority from the Secretary of Commerce, gave preliminary approval to the FMP (including the reserved section) and the amendment under the authority of section 305(a) of the Act. The FMP, as amended, and proposed implementing regulations are published for public comment.

**B. Major Provisions of the FMP and Proposed Implementing Regulations**

The management measures established in the FMP were developed by the Council in accordance with the national standards (section 301(a) of the Act), and the following conservation and management objectives: (1) allow rebuilding of halibut and other depressed groundfish stocks; (2) reduce gear conflicts between mobile and stationary gear users; (3) provide an opportunity for U.S. fishing industry

involvement in the fishery limited only by the optimum yield (OY) of individual species and objective (1); and (4) allow foreign participation consistent with objectives (1) and (3).

The FMP establishes an OY for each species (or species group) in the fishery. Where a species is comprised of discrete stocks, separate OY's are specified. When the combined U.S. and foreign catch in the fishery reaches the OY for any species, all fishing by vessels harvesting that species in the management area (or appropriate sub-area) is prohibited.

The FMP considers most fish stocks to be healthy. However, the need for further information and research about individual species and the dynamics of the fishery is recognized. To assure that lack of information will not have an adverse impact on fishery resources, the FMP generally uses conservative estimates of MSY and allowable biological catch (ABC). OY's have been set so that the level of abundance is at or above the level required to produce MSY. The FMP also establishes vessel reporting requirements to monitor the level of catch and to provide further information about the resource.

The basis and purpose of specific management measures are set out in the FMP. Generally stated, the policy objectives of the FMP are furthered by a combination of area closures, harvest limitations and reporting requirements. Objective one of the FMP is to be achieved by (1) prohibiting foreign fishing and limiting fishing by U.S. vessels in designated areas during the winter months when the incidence of juvenile halibut is high; (2) requiring immediate return to the sea of all halibut taken (except by permitted U.S. longliners during halibut season) to avoid covert targeting on this species; and (3) imposing catch limitations on depressed stocks (sablefish and Pacific ocean perch) at a level designed to allow rebuilding rather than maintenance of these stocks. Prohibition of foreign trawling and limitation of U.S. trawling in areas heavily utilized by set gear (pot) fishermen is a measure designed to further objective two.

Objectives three and four are to be achieved by making available to vessels of foreign nations only that amount of fish which will not be harvested by U.S. vessels. The FMP makes initial estimates of domestic annual harvest (DAH), domestic annual processing (DAP), joint venture processing (JVP) and total allowable level of foreign fishing (TALFF). However, because of the uncertainties involved in estimating the amounts of fish which will be harvested or processed by U.S. vessels

and processors, the FMP also establishes a reserve amount of fish (approximately 5 percent of the total OY) as a hedge against uncertainty. The FMP and proposed regulations require periodic in-season reassessment of these initial estimates, and apportionment of reserve amounts between U.S. and foreign fishing according to the standards and procedures stated in the regulations. The regulations also authorize direct transfer to TALFF of any portion of the DAH which will not be harvested by vessels of the United States. Apportionments from the reserve are authorized at periodic intervals throughout the season so that foreign nations will have a reasonable opportunity to harvest any increased allocations. Transfers from DAH to TALFF are scheduled so that accurate forecasts can be made while providing ample opportunity for foreign nations to harvest any additional allocations.

These reassessment procedures, which include provision for public comment, when combined with the vessel and processor reporting requirements are intended to further the objectives of national standards one, two, and six, by: (1) providing flexibility to meet in-season contingencies; (2) allowing incorporation of the most recent information available; and (3) allowing adjustments to assure full utilization of available resources.

The FMP and proposed regulations contain two other provisions of particular interest.

(1) *Non specified species.* The FMP creates a category of "non-specified species". This category is comprised of species and species groups of no current or foreseeable economic value, which are taken by the groundfish fishery only as an incidental by-catch to target fisheries. This class includes invertebrates such as starfish, sea urchins, and jelly fish, and miscellaneous non-commercial finfish such as hagfish, rattails, and lumpsuckers. The OY for non-specified species is defined as "The catch whether retained or discarded." Thus, the OY is limited only by limits on target species. Because the catch of these species is so small, the MSY is considered to be equal to, or higher than, the OY. No foreign fee would be charged, and records will be kept only by observers on foreign vessels.

The purpose of this provision is to take into account and monitor catch of little-known species, without imposing record-keeping requirements which, in view of the number of species involved, would be complex and unduly burdensome. Observers will keep records on the status of these species.

The FMP states that the Council will consider an appropriate plan amendment should foreign nations target on these species or abundance appear reduced. Retention of non-specified species by U.S. vessels can be monitored under the reporting requirements proposed.

(2) *Reporting Requirements.* The proposed regulations require reporting by owners or operators of fishing vessels and by U.S. processors of fish harvested in the management area. The vessel reporting requirements for U.S. vessels include a requirement that non-processed fish, (i.e., fish transferred, sold or consumed at sea) harvested in the management area be reported. The purpose of this requirement is to monitor the "non-processed fish" component of the OY, and to develop better information on which to base future estimates of domestic annual harvest.

The FMP states that reporting requirements imposed on U.S. vessels "should" be of the same degree of specificity as the foreign fishing regulations (FMP, section 14.3.1.5). NOAA agrees that more precise record-keeping is desirable for evaluating the status of stocks and the effects of fishing effort on these stocks. However, development of an effective U.S. vessel reporting system will require considerable expense, and extensive consultation and coordination between the National Marine Fisheries Service (NMFS), the State of Alaska, and owners and operators of fishing vessels. NOAA intends to consider this matter during 1980, and will propose amendments to the regulations when a proposal has been developed.

The proposed regulations require U.S. processors who process fish harvested in the management area to report the amount of fish they have processed and expect to process during certain specified periods. Processor reports are required by the Act, as amended (see P.L. 95-354). The quarterly report is considered the minimum which can be required and still receive the information necessary to derive reasonable estimates of domestic annual processing.

### C. Other Applicable Law

#### (1) *Marine Mammal Protection Act*

After the comment period on the draft plan, the Council expanded the sections of the FMP relating to marine mammals. The FMP emphasizes the paucity of scientific information on the relationship between marine mammals and changes in commercial fishing levels or strategies. However, the Council concluded that the FMP was consistent

with the Requirements of the Marine Mammal Protection Act principally because (1) the best available information indicates that the marine mammals most likely to be affected by commercial fishing in the management area are at or above the level of optimum sustainable population; and (2) the total amount of fishing authorized by the FMP is less than the average amount harvested during the last five years.

#### (2) *Endangered Species Act*

Several species of endangered whales and two species of endangered birds occur in the Bering Sea and Aleutian Islands area. The Council concluded that the fishing activities authorized by the FMP are not likely to jeopardize the continued existence of any endangered species or result in the destruction or adverse modification of a critical habitat. The National Marine Fisheries Service concurs in the conclusion of the Council, but has sought a consultation under section 7 of the Endangered Species Act in relation to endangered whales. Copies of the consultation request are available from the Regional Director, Alaska Region, NMFS at the address previously stated.

#### (3) *Coastal Zone Management Act*

After submission of the FMP by the Council to the Secretary for review, a Coastal Zone Management Program for the State of Alaska was approved by the Department of Commerce. The NMFS has therefore submitted the FMP and amendment to the State of Alaska for determination of consistency with the Alaska Coastal Zone Management Program. It is anticipated that a determination will be made during the comment period on these proposed regulations. The final environmental impact statement will be revised to indicate this submission and the section 7 consultation under the Endangered Species Act.

### D. Other Matters

The Assistant Administrator for Fisheries, under a delegation of authority from the Secretary, has made an initial determination that the FMP, as amended, is necessary and appropriate for conservation and management of the groundfish fishery, and is consistent with the national standards, the other provisions of the Act and other applicable law. A draft regulatory analysis under Executive Order 12044 has been prepared. Copies may be obtained from the Regional Director, Alaska Region, NMFS (address stated previously). A revised environmental impact statement will be filed with EPA.

Signed this 2nd day of November 1979 in Washington, D.C.

Winfred H. Meibohm,  
Executive Director, National Marine  
Fisheries Service.

Authority: 16 U.S.C. 1801 *et seq.*

1. It is proposed to delete 50 CFR § 611.93 and substitute a new § 611.93 as follows:

**§ 611.93 Bering Sea and Aleutian Islands fishery.**

(a) *Purpose.* (1) This section regulates foreign fishing for squid, octopus, and all species of finfishes except salmon, Pacific halibut, steelhead, and herring within that portion of the Bering Sea, and that portion of the North Pacific Ocean adjacent to the Aleutian Islands west of 170° W. longitude, over which the United States exercises exclusive fishery management authority under the

Act (hereinafter referred to in this section as the "management area").

(2) For regulations governing fishing in the Bering Sea and Aleutian Islands groundfish fishery by vessels of the United States, see 50 CFR Part 675. Regulations governing foreign fishing for Tanner crab, snails, and herring are set forth in 50 CFR §§ 611.91, 611.94, and 611.95, respectively.

(3) The specifications of total allowable level of foreign fishing (TALFF) and reserves in this section are effective from January 1 through December 31, unless amended.

(b) *Authorized fishery.*—(1) *TALFF's and Reserves.* (i) The optimum yields (OY's), initial estimates of domestic annual harvest (DAH), total allowable levels of foreign fishing (TALFF's), and the amounts of fish set aside in a reserve are specified in Table I of this section.

following dates, and after consultation with the North Pacific Fishery Management Council, the Regional Director shall reassess each DAH amount set forth in Table I and apportion to TALFF such parts thereof as he determines to be appropriate in accordance with paragraph (b)(2)(iii) of this section: June 2 and August 2.

(iii) *Standards and Procedure for Apportionment.*

(A) *General.* The Regional Director shall apportion under paragraphs (b)(2)(i) and (b)(2)(ii) of this section such amounts as he determines will not be harvested by vessels of the United States during the remainder of the fishing year. The amount of reserve which the Regional Director determines will be harvested by vessels of the United States may, in the discretion of the Regional Director, be either apportioned to the estimate of domestic annual harvest (DAH) or retained in the reserve as eligible for later apportionment under paragraph (b)(2)(iii)(F) of this section.

(B) *Factors.* In determining whether or not amounts proposed to be apportioned under paragraphs (b)(2)(i) and (b)(2)(ii) of this section will be harvested by vessels of the United States during the remainder of the fishing year, the Regional Director shall consider the following factors, although he shall not be limited to these factors:

(1) Reported United States catch and effort by species and area compared to previously projected United States harvesting capacity;

(2) Projected United States catch and effort by species and area for the remainder of the fishing year;

(3) Amounts of fish, particularly United States harvested fish, already purchased or processed by United States fish processors during the fishing year, compared to previously projected processing capacity of United States fish processors;

(4) Projected processing capacity, and utilization of that capacity for the processing of United States harvested fish, by United States fish processors for the remainder of the fishing year;

(5) Amounts of United States harvested fish already purchased or processed by foreign fishing vessels, compared to previously projected levels of such purchase or processing.

(C) *Allocation of increases and decreases in DAH among DAP, JVP, and DNP.* The Regional Director shall allocate any increases or decreases in DAH amounts resulting from apportionments under paragraphs (b)(2)(i) and (b)(2)(ii) of this section among the three components of DAH: the estimates of domestic annual

Table I.—Bering Sea and Aleutian Islands Fishery Optimum Yields, TALFF's, and Reserves

[In metric tons]

Reference: Species group	Sub-area <sup>1</sup>	ABC=OY	Reserve	Initial DAH	Initial TALFF
Pollock	Bering Sea	1,000,000	50,000	19,550	930,450
Pollock	Aleutian	100,000			100,000
Yellowfin sole		117,000	5,850	2,050	109,100
Turbots		90,000	4,500	1,075	84,425
Other flatfishes <sup>2</sup>		61,000	3,050	1,300	56,650
Pacific cod		58,700	2,935	24,265	31,500
Pacific ocean perch	Bering Sea	3,250	162	1,380	1,708
Pacific ocean perch	Aleutian	7,500	375	1,380	5,745
Other rockfish		7,727	500	1,550	5,677
Sablefish	Bering Sea	3,500	350	700	2,450
Sablefish	Aleutian	1,500	150	700	650
Atka mackerel		24,800	1,240	100	23,460
Squid		10,000	500 <sup>3</sup>	50	9,450
Others		74,249	3,712	2,000	68,537
Total		1,559,226	73,324	56,100	1,429,802

<sup>1</sup>BS=Bering Sea (Statistical Areas I, II, III combined). AL=Aleutian Island Area (Statistical Area IV). Includes territorial waters.

<sup>2</sup>Excluding Pacific halibut.

(ii) *Species definitions.* (A) The term "unallocated species" means for purposes of this section the following: shrimps (*Pandalidae*); scallops (*Pectinidae*); snails (*Gastropoda*); Pacific herring (*Clupea harengus pallasii*); salmonids (*Salmonidae*); Pacific halibut (*Hippoglossus stenolepis*); king crab (*Paralithodes* spp.); Tanner crab (*Chionoecetes opilio*, *C. bairdi*); Dungeness crab (*Cancer magister*); corals (*Colenterata*); surf clam (*Spisula solidissima*); horsehair crab (*Erimacrus isenbeckii*); and lyre crab (*Hyas lyratus*). Foreign allocations for these species exist, if at all, only under other fishery management plans.

(B) The term "other species" means for purposes of this section the following: sculpins; sharks; skates; eulachon; smelts; capelin; and octopus.

(C) The term "non-specified species" means for purposes of this section all finfishes and marine invertebrates except pollock; cod; flounders; Atka mackerel; sablefish; rockfishes; squids; other species; and unallocated species.

(2) *Apportionment to TALFF of Reserves and Initial DAH.* (i) *Apportionment of Reserves.* As soon as practicable after each of the following dates, and after consultation with the North Pacific Fishery Management Council, the Regional Director shall apportion to TALFF up to one-fourth (¼) of each reserve amount set forth in Table I, in accordance with paragraph (b)(2)(iii) of this section: February 2, April 2, June 2, and August 2.

(ii) *Apportionment of Initial DAH.* As soon as practicable after each of the

processing (DAP); joint venture processing (JVP); and domestic non-processed fish (DNP).

(D) *Public comment.*

(1) Comments may be submitted to the Regional Director concerning:

(i) Whether and the extent to which vessels of the United States will harvest reserve or DAH amounts during the remainder of the fishing year; and

(ii) Whether and the extent to which United States harvested groundfish can or will be processed by United States fish processors or by foreign processing vessels.

Comments should be addressed to Director, Alaska Region, NMFS, P.O. Box 1668, Juneau, Alaska 99802, and must be received by the Regional Director no later than 5 days before the relevant date specified in paragraph (b)(2)(i) or (b)(2)(ii) of this section.

(2) The Regional Director shall consider any timely comments submitted in accordance with this paragraph in determining whether and to what extent vessels of the United States will harvest reserve or DAH amounts during the remainder of the fishing year, and whether any part of such amounts will be allocated to TALFF under paragraphs (b)(2)(i) and (b)(2)(ii) of this section.

(3) The Regional Director shall compile, in aggregate form, the most recent available reports on (i) level of catch and effort by vessels of the United States fishing for ground fish in the Bering Sea and Aleutian Islands fishery; and (ii) amounts of United States harvested groundfish taken in the Bering Sea and Aleutian Islands fishery and processed by United States fish processors or delivered at sea to foreign fishing vessels. These data shall be available for public inspection during business hours (8:00 a.m.-4:30 p.m., Monday-Friday) at the National Marine Fisheries Service Alaska Regional Office, Federal Building, Room 453, 709 West Ninth Street, Juneau, Alaska 99802, during the last 15 days of each comment period.

(E) *Procedure.* As soon as practicable after each of the dates specified in paragraphs (b)(2)(i) and (b)(2)(ii) of this section, the Regional Director shall publish in the **Federal Register**:

(1) any reserve amounts to be apportioned to TALFF or DAH;

(2) any DAH amounts to be apportioned to TALFF;

(3) the distribution of amounts apportioned to or from DAH among DAP, JVP, and DNP;

(4) the reasons for any apportionments and their distribution; and

(5) responses to any comments received.

(F) *Add-on.* If, following any of the four dates specified in paragraph (b)(2)(i) of this section, the Regional Director apportions less than 25 percent of any reserve amount to TALFF and DAH, the nonapportioned part of that 25 percent shall be added to the reserve amounts available for apportionment on the next date specified in paragraph (b)(2)(i) of this section.

(3) *Fishing permitted.* (i) The catching in the management area and retention of any groundfish for which a nation has an allocation is permitted, except as provided in this section.

(ii) The Regional Director shall issue a notice of closure, pursuant to the procedures of § 611.15(c), prohibiting fishing with specified gear types for any groundfish species or species group in the management area or the appropriate portion thereof when he determines that one or more of the following catch limitations will be reached:

(A) Optimum yield (OY) for the groundfish species or species group: The Regional Director shall issue a notice prohibiting fishing using trawl gear for groundfish in the management area or portion thereof by vessels subject to this section, until January 1 *except* that if the optimum yield for sablefish, turbot, Pacific cod or "other species" will be reached, the Regional Director shall prohibit fishing for groundfish in that management area or portion thereof by all vessels subject to this section until January 1;

(B) Total allowable level of foreign fishing (TALFF) for any groundfish species or species group: The Regional Director shall issue a notice prohibiting fishing using trawl gear for groundfish in the management area or portion thereof, *except* that if the TALFF for sablefish, Pacific cod, turbot or "other species" will be reached, the Regional Director shall prohibit fishing for groundfish in that management area or portion thereof by all vessels subject to this section.

(C) The allocation of a nation for any groundfish species, or species group: The Regional Director shall issue a notice prohibiting fishing using trawl gear for groundfish in the management area or portion thereof, *except* that if the allocation of sablefish, Pacific cod, turbot, or "other species" will be reached, the Regional Director shall prohibit fishing for groundfish in that management area or portion thereof by all vessels of that nation.

(iii) On the effective date of a notice of closure issued by the Regional Director pursuant to the procedures of § 611.15(c), fishing by vessels of that nation is prohibited for the groundfish

species or species groups, in the areas and during the periods stated in the notice. A notice of closure issued pursuant to paragraph (b)(3) of this section shall not apply to any receipt or processing by foreign vessels of United States harvested fish which is authorized by permit issued by the Department of Commerce under the Act. Foreign receipt and processing of U.S. harvested fish may continue until specifically prohibited under the procedures prescribed in the applicable permit.

(iv) A notice issued pursuant to this paragraph shall expire (A) on the effective date of a notice issued pursuant to 611.15(c) rescinding that previous notice; or (B) when the time period stated in that notice expires.

(4) *Fishing prohibited.* Whether or not a nation receives a notice issued under paragraph (b)(3) of this section, fishing for groundfish by trawl vessels of a nation is prohibited when that nation's national allocation for any groundfish species is reached; and fishing for groundfish by all vessels of a nation is prohibited when that nation's national allocation for sablefish, Pacific cod, turbot or "other species" is reached.

(c) *Closed areas.* (1) *General.* (i) Except as provided elsewhere in this section, all foreign fishing is prohibited between 3 and 12 nautical miles from the baseline used to measure the territorial sea.

(ii) Foreign fishing vessels holding permits to receive United States harvested fish may receive only United States harvested fish in the management area between 3 and 12 nautical miles from the baseline from which the United States territorial sea is measured. Except as may be authorized elsewhere in this part, the receipt of foreign-caught fish by foreign vessels in such 3 to 12 mile area is prohibited.

(2) *Trawling.* Trawling by foreign vessels is prohibited in the areas and during the periods which follow:

(i) At all times in the Bristol Bay "Pot Sanctuary" which is the area enclosed by straight lines from Cape Sarichef light at 54°36' N. latitude, 164°55'42" W. longitude; to 55°18' N. latitude, 166°10' W. longitude; to 56°20' N. latitude, 163°00' W. longitude; to 57°10' N. latitude, 163°00' W. longitude; to 58°10' N. latitude, 160°00' W. longitude; then due south along 160°00' W. longitude to the Alaska Peninsula.

(ii) At all times in the area between 172° W. longitude and 178°30' W. longitude south of a line connecting the following coordinates in the order listed: 53°14' N. latitude, 172°00' W. longitude; 52°13' N. latitude, 176°00' W. longitude; 52°00' N. latitude, 178°00' W. longitude;

and 52°00' N. latitude, 178°30' W. longitude.

(iii) From December 1 to June 1, in the following two areas:

(A) The area bounded by straight lines connecting the following coordinates in the order listed: 54°36' N. latitude, 164°55'42" W. longitude (Cape Sarichef light); 52°40' N. latitude, 170°00' W. longitude; 55°30' N. latitude, 170°00' W. longitude; 55°30' N. latitude, 166°47' W. longitude; 56°00' N. latitude, 167°45' W. longitude; 56°00' N. latitude, 166°00' W. longitude; 56°30' N. latitude, 166°00' W. longitude; 56°30' N. latitude, 163°00' W. longitude; 56°20' N. latitude, 163°00' W. longitude; 55°16' N. latitude, 166°10' W. longitude; 54°36' N. latitude, 164°55'42" W. longitude (Cape Sarichef light).

(B) The area bounded by straight lines connecting the following coordinates in the order listed: 56°18' N. latitude, 170°24' W. longitude; 56°20' N. latitude, 169°03' W. longitude; 56°12' N. latitude, 168°46' W. longitude; 55°56' N. latitude, 169°10' W. longitude; 55°56' N. latitude, 170°24' W. longitude; 56°18' N. latitude, 170°24' W. longitude.

(iv) From January 1 to June 30 landward of 12 nautical miles from the baseline from which the territorial sea is measured in the area bounded by straight lines connecting the following coordinates in the order listed between 178°30' W. longitude and 179°00' E. longitude: 52°51' N. latitude, 178°30' W. longitude; 52°51' N. latitude, 179° E. longitude; 51°15' N. latitude, 179° E. longitude; 51°15' N. latitude, 178°30' W. longitude; 52°51' N. latitude, 178°30' W. longitude. Trawling is permitted in this area and seaward of three nautical miles from the baseline from which the territorial sea is measured from July 1-December 31.

(v) From January 1 to April 30 in the area west of 178°30' W. longitude, except that trawling is permitted in this area and seaward of three nautical miles from the baseline from which the territorial sea is measured from May 1 to December 31.

(3) *Longlining.* (i) Longlining by foreign vessels is permitted in the area west of 172°00' W. longitude and seaward of three nautical miles from the baseline from which the territorial sea is measured.

(ii) Longlining by foreign vessels is prohibited from December 1 to June 1 in water less than 500 meters deep in the following two areas:

(A) The area bounded by straight lines connecting the following coordinates in the order listed: 54°36' N. latitude, 164°55'42" W. longitude (Cape Sarichef light); 52°40' N. latitude, 170°00' W. longitude; 55°30' N. latitude, 170°00'

W. longitude; 55°30' N. latitude, 166°47' W. longitude; 56°00' N. latitude, 167°45' W. longitude; 56°30' N. latitude, 166°00' W. longitude; 56°30' N. latitude, 163°00' W. longitude; 56°20' N. latitude, 163°00' W. longitude; 55°16' N. latitude, 166°10' W. longitude; 54°36' N. latitude, 164°55'42" W. longitude. (Cape Sarichef light).

(B) The area bounded by straight lines connecting the following coordinates in the order listed: 56°18' N. latitude, 170°24' W. longitude; 56°20' N. latitude, 169°03' W. longitude; 56°12' N. latitude, 168°46' W. longitude; 55°56' N. latitude, 169°10' W. longitude; 55°56' N. latitude, 170°24' W. longitude; 56°18' N. latitude, 170°24' W. longitude.

(d) *Open areas.* Except for the closed areas set forth in paragraph (c) of this section, foreign fishing may be conducted beyond 12 nautical miles from the baseline used to measure the territorial sea in the entire management area.

(e) *Additional Statistical Report.* Each nation whose vessels fish for groundfish in the management area shall report, by May 30 of the following year, annual catch and effort statistics as follows:

(1) Effort in hours trawled, number of longline units (300 fathoms of longline or groundline per unit) and number of hooks per unit, number of pots, duration of soaking time for longlines and pots, and number of days fished, by vessel class, by gear type, by month, by 1/2° (latitude) x 1° (longitude) statistical area; and

(2) Catch in metric tons, by vessel class, by gear type, by month, by 1/2° (latitude) x 1° (longitude) statistical area, by the following species categories: yellowfin sole; rock sole; flathead sole; arrowtooth flounder; greenland turbot; other flounders; Pacific Ocean perch; Pacific cod, sablefish (blackcod); walleye (Alaska) pollock; Atka mackerel; any other species taken in excess of 1,000 metric tons; and "other species."

2. It is proposed to add 50 CFR 675 as follows:

## PART 675—GROUND FISH OF THE BERING SEA

### Subpart A—General

Sec.	
675.1	Purpose and scope.
675.2	Definitions.
675.3	Relation to other laws.
675.4	Permits.
675.5	Reporting requirements.
675.6	[Reserved].
675.7	General prohibitions.
675.8	Enforcement.
675.9	Penalties.

### Subpart B—Management Measures

675.20	General limitations.
675.21	[Reserved].
675.22	Time and area closures.
675.23	[Reserved].
675.24	[Reserved].
675.25	[Reserved].

Authority: 16 USC 1801, et seq.

### Subpart A—General

#### § 675.1 Purpose and scope.

(a) Regulations in this part govern fishing for groundfish by vessels of the United States within that portion of: (1) the Bering Sea and (2) the North Pacific Ocean adjacent to the Aleutian Islands west of 170° W. longitude, over which the United States exercises exclusive fishery management authority under the Act.

(b) For regulations governing fishing in the Bering Sea and Aleutian Islands Groundfish fishery by fishing vessels other than vessels of the United States, see 50 CFR § 611.93.

(c) These regulations implement the Bering Sea and Aleutian Islands groundfish fishery management plan developed by the North Pacific Fishery Management Council.

#### § 675.2 Definitions.

In addition to the definitions in the Act, and unless the context requires otherwise, the terms used in this part shall have the following meanings (some definitions in the Act have been repeated here to aid understanding of the regulations):

*Act* means the Fishery Conservation and Management Act of 1976, 16 USC §§ 1801-1882, Public Law 94-265, as amended.

*ADF&G* means the Alaska Department of Fish and Game.

*Assistant Administrator* means the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, United States Department of Commerce, or an individual to whom the Assistant Administrator for Fisheries has delegated appropriate authority.

*Authorized Officer* means:

(a) Any commissioned, warrant, or petty officer of the United States Coast Guard;

(b) Any certified enforcement or special agent of the National Marine Fisheries Service;

(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary and the Commandant of the Coast Guard to enforce the provisions of the Act; or

(d) Any Coast Guard personnel accompanying and acting under the

direction of any person described in paragraph (a) of this definition.

*Bering Sea and Aleutian Islands management area* means the fishery conservation zone (FCZ) in the Bering Sea, and that portion of the FCZ in the North Pacific Ocean that is adjacent to the Aleutian Islands and west of 170° W. longitude.

(a) The Bering Sea sub-area of the management area means that portion of the FCZ contained in areas I, II, and III of Figure 2.

(b) The Aleutian Islands sub-area of the management area means that portion of the FCZ contained in area IV of Figure 2.

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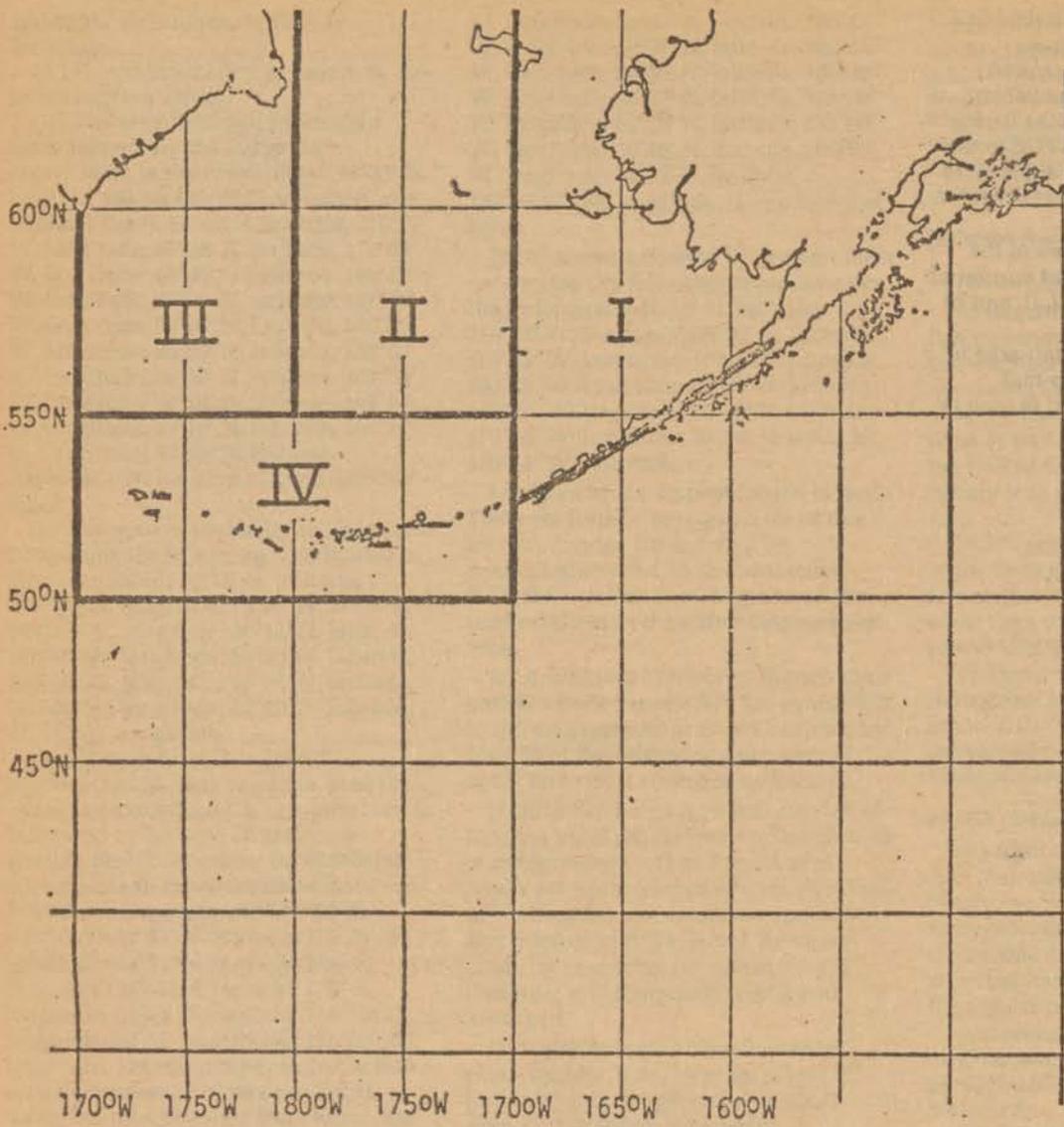


Figure 2.--Major statistical areas in the Bering Sea.

**Fishery**, for the purposes of this part, means all fishing for groundfish which is conducted in the Bering Sea and Aleutian Islands management area and adjacent territorial waters.

(a) The Bering Sea sub-area of the fishery means areas I, II, and III of Figure 2.

(b) The Aleutian Islands sub-area of the fishery means area IV of Figure 2.

**Fishery Conservation Zone (FCZ)** means that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

**Fishing** means any activity, other than scientific research activity conducted by a scientific research vessel, which involves:

(a) The catching, taking or harvesting of fish;

(b) The attempted catching, taking or harvesting of fish;

(c) Any other activity which can reasonably be expected to result in the catching, taking or harvesting of fish; or

(d) Any operations at sea in support of, or in preparation for, any activity described in paragraphs (a), (b), or (c) of this definition.

**Fishing vessel** means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for: (a) fishing; or (b) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation or processing.

**Groundfish** means pollock, cod, any species of flounder and sole, Pacific ocean perch, other rockfish, sablefish, Atka mackerel, squid, octopus; all other marine invertebrates except shrimp, scallops, snails, king crab, Tanner crab, Dungeness crab, horsehair crab, lyre crab, coral, and clams; and all other finfish except salmonids, herring, and Pacific halibut. The scientific means of these species are as follows:

Pollock means *Theragra chalcogrammus*;

Cod means *Gadus macrocephalus*;

Arrowtooth flounder means *Atheresthes stomias*;

Other flounder means *Pleuronectiformes* (order) not specifically defined;

Yellowfin sole means *Limanda aspera*;

Rock sole means *Lepidopsetta bilineata*;

Flathead sole means *Hippoglossoides elassodon*;

Pacific ocean perch means *Sebastes alutus*;

Atka mackerel means *Pleurogrammus monopterygius*;

Other rockfish means *Scorpaenidae* (family) not specifically defined;

Sablefish means *Anoplopoma fimbria*;

Squid means *sepoid* and *teuthoid squid*;

Octopus means *Octopoda*, not specifically defined;

Salmonids means of the family

*Salmonidae*;

Pacific halibut means *Hippoglossus stenolepis*;

Herring means *Clupea harengus pallasi*;

Landing means off-loading fish.

**Longline** means a stationary, buoyed, and anchored line with hooks or pots (other than king or Tanner crab pots) attached, or the taking of fish by means of such a device.

**Operator**, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

**Owner**, with respect to any vessel, means:

(a) Any person who owns that vessel in whole or in part;

(b) Any character of the vessel, whether bareboat, time, or voyage;

(c) Any person who acts in the capacity of a charterer, including but not limited to parties to a management agreement, operating agreement, or any similar agreement that bestows control over the destination, function or operation of the vessel; or

(d) Any agent designated as such by any person in paragraphs (a), (b), or (c) of this definition.

**Person** means any individual (whether or not a citizen or national of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

**Regional Director** means Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802, or an individual to whom the Alaska Regional Director has delegated appropriate authority.

**Trawl** means a bag shaped net dragged through the water to capture fish.

**Vessel of the United States** means

(a) A vessel documented or numbered by the Coast Guard under United States law; or

(b) A vessel which is registered under the laws of any State.

**United States fish processors** means facilities located within the United States for, and vessels of the United States used or equipped for, the processing of fish for commercial use or consumption.

**United States harvested fish** means fish caught, taken, or harvested by vessels of the United States within any fishery regulated by a fishery

management plan or preliminary fishery management plan implemented under the Act.

#### § 675.3 Relation to other laws.

(a) **Federal law.** For other regulations governing fishing by vessels of the United States for halibut see the regulations of the International Pacific Halibut Commission. For regulations governing fishing for Tanner crab, see 50 CFR 671; for those governing fishing for groundfish in the Gulf of Alaska, see 50 CFR 672; for those governing salmon fishing, see 50 CFR 674; for those governing permits and certificates of inclusion for the taking of marine mammals, see 50 CFR 216.24.

(b) **State law.** Certain responsibilities relating to the issuance of permits, data collection, and enforcement may be performed by personnel of the State of Alaska under an agreement with NOAA/NMFS and the United States Coast Guard.

(c) **Delegations of authority.** The Assistant Administrator has delegated to the Regional Director authority to take actions pursuant to §§ 675.20(b) and 675.22 of this Part, and to apportion reserves and release portions of the DAH pursuant to § 675.20(d) of this Part.

#### § 675.4 Permits.

(a) **General.** No vessel of the United States may fish for groundfish in the Bering Sea and Aleutian Islands management area without first obtaining a permit issued under this Part. Such permits shall be issued without charge.

(b) **Application.** A vessel owner may obtain a permit required under the preceding subsection by submitting to the Regional Director a written application containing the following information:

- (1) The applicant's name, mailing address, and telephone number;
- (2) The name of the vessel;
- (3) The vessel's U.S. Coast Guard documentation number or State registration number;
- (4) The home port of the vessel;
- (5) The length of the vessel;
- (6) The type of fishing gear to be used; and
- (7) The signature of the applicant.

The Regional Director may accept a completed State of Alaska commercial fishing license application in satisfaction of the requirements of this subsection.

(c) **Issuance.** (1) Upon receipt of a properly completed application, the Regional Director shall issue a permit required by paragraph (a) of this section.

(2) Upon receipt of an incomplete or improperly completed application, the Regional Director shall notify the

applicant of the deficiency in the application. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application shall be considered abandoned.

(d) *Notification of change.* Any person who has applied for and received a permit under this section shall give written notification of any change in the information provided under paragraph (b) of this section to the Regional Director within 30 days of the date of that change.

(e) *Duration.* A permit issued under this section shall authorize the permitted vessel to fish for groundfish in the Bering Sea and Aleutian Islands management area during a single specified year, and shall continue in full force and effect until December 31 of the year for which it was issued, or until it is revoked, suspended, or modified pursuant to 50 CFR Part 621 (Civil procedures).

(f) *Alteration.* No person shall alter, erase, or mutilate any permit issued under this section. Any such permit that has been intentionally altered, erased, or mutilated shall be invalid.

(g) *Transfer.* Permits issued under this section are not transferable or assignable. Each such permit shall be valid only for the vessel for which it is issued.

(h) *Inspection.* Any permit issued under this section must be carried aboard the vessel whenever the vessel is fishing for groundfish in the Bering Sea and Aleutian Islands management area. The permit shall be presented for inspection upon request of any authorized officer.

(i) *Sanctions.* Subpart D of 50 CFR 621 (Civil procedures) shall govern the imposition of permit sanctions against a permit issued under this section. As specified in that subpart D, a permit may be revoked, modified, or suspended if the permitted vessel is used in the commission of an offense prohibited by the Act or these regulations; and such a permit shall be revoked if a civil penalty or criminal fine imposed under the Act and pertaining to a permitted vessel is not paid.

#### § 675.5 Reporting requirements.

##### (a) *Fishing vessel reporting requirements.*

(1) *Port of Landing in Alaska.* The operator of any fishing vessel regulated under this part whose port of landing is in the State of Alaska shall, for each sale or delivery on land of groundfish taken in the Bering Sea and Aleutian Islands management area, be responsible for the submission to

ADF&G of an accurately completed State of Alaska fish ticket.

(i) At the election of the vessel operator, the fish ticket required under paragraph (a)(1) of this section shall be either

(A) Submitted by the vessel operator directly to the ADF&G within one week after such fish are sold or delivered; or

(B) Prepared, at the request of the operator, by the purchaser and submitted by the purchaser to ADF&G within one week after such fish are received by the purchaser. For purposes of this paragraph, a "purchaser" is any person who receives on land groundfish taken from the Bering Sea and Aleutian Islands management area for a commercial purpose from a fishing vessel regulated under this part.

(ii) In addition to the requirements of paragraph (a)(1)(i) of this section, each operator (or purchaser, if the fish ticket is submitted in accordance with paragraph (a)(1)(i)(B) of this section) shall accurately state on each fish ticket:

(A) The quantity and types of gear used;

(B) The total time fished with each gear type; and

(C) The total number of hauls for each gear type.

##### (2) *Port of Landing outside Alaska.*

The operator of any fishing vessel regulated under this part whose port of landing is outside the State of Alaska shall submit a completed State of Alaska fish ticket, or an equivalent document containing all of the information required on an Alaska fish ticket, together with the additional information required by paragraph (a)(1)(ii) of this section, to the ADF&G within one week after the date of each sale or delivery of any groundfish taken in the Bering Sea and Aleutian Islands management area. The address to which these documents must be sent is: Director, Commercial Fish Division, Alaska Department of Fish and Game Headquarters, Subport Building, Juneau, Alaska 99801.

##### (3) *Sale, delivery, or consumption at sea.*

(i) The operator of any fishing vessel regulated under this part shall, for each sale, delivery or consumption at sea of unlanded groundfish taken in the Bering Sea and Aleutian Islands management area, submit the following information to ADF&G:

(A) A completed State of Alaska fish ticket, or an equivalent document containing all of the information required on an Alaska fish ticket;

(B) The additional information specified in paragraph (a)(1)(ii) of this section; and

(C) A statement indicating whether or not the vessel to which any sale or delivery was made was a vessel of the United States.

(ii) The information required by paragraph (a)(3)(i) of this section shall be submitted to ADF&G within one week of the first return of that vessel to port following such sale, delivery, or consumption.

##### (b) *Processor Reporting*

*Requirements.* On March 31, June 30, September 30, and December 31, each United States fish processor who has, during the six months preceding the date in question, processed United States harvested groundfish taken in the Bering Sea and Aleutian Islands management area, shall report to the Regional Director the following information:

(1) The quantity of United States harvested groundfish from the Bering Sea and Aleutian Islands management area that the processor has processed during the three-month period since the previous reporting date specified above in paragraph (b) of this section;

(2) The quantity of groundfish that the processor has the capacity to process during the six-month period following the current reporting date; and

(3) The quantity of United States harvested groundfish from the Bering Sea and Aleutian Islands management area that the processor expects to process during the six-month period following the current reporting date.

#### § 675.6 [Reserved]

#### § 675.7 General prohibitions.

It shall be unlawful for any person to:

(a) Fish for groundfish in the Bering Sea and Aleutian Islands management area with a vessel of the United States which does not have aboard a valid permit issued pursuant to this part;

(b) Possess, have custody or control of, ship, transport, import, export, offer for sale, sell or purchase any fish taken or retained in violation of the Act, this part, or any other regulation or permit issued under the Act;

(c) Refuse to permit an authorized officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Act, this part, or any other regulation or permit issued under the Act;

(d) Forcibly assault, resist, oppose, impede, intimidate, or interfere with any authorized officer in the conduct of any search or inspection described in paragraph (c) of this section;

(e) Resist a lawful arrest for any act prohibited by this part;

(f) Interfere with, delay, or prevent, by any means, the apprehension or arrest

of another person knowing that such other person has committed any act prohibited by this part:

(g) Violate any other provision of this part, the Act, or any other regulation or permit issued under the Act.

#### § 675.8 Enforcement.

(a) *General.* The owner or operator of any fishing vessel regulated under this part shall immediately comply with instructions issued by an authorized officer to facilitate safe boarding and inspection of the fishing vessel, its gear, equipment, and catch for purposes of enforcing the Act and this part.

(b) *Signals.* Upon being approached by a Coast Guard cutter or aircraft, or other vessel or aircraft authorized to enforce the Act, the operator of a fishing vessel shall be alert for signals conveying enforcement instructions. The following signals extracted from the International Code of Signals are among those which may be used:

(1) "L" meaning "You should stop your vessel instantly,"

(2) "SQ3" meaning "You should stop or heave to; I am going to board you,"

(3) "RY CY" meaning "You should proceed at slow speed, a boat is coming to you," and

(4) "AA AA AA etc." which is the call to an unknown station.

(c) *Boarding.* A vessel signaled to stop or heave to for boarding shall:

(1) Stop immediately and lay to or maneuver in such a way as to permit the authorized officer and his party to come aboard;

(2) If requested, provide a safe ladder for the authorized officer and his party;

(3) When necessary to facilitate the boarding, provide a man rope, safety

line, and illumination for any ladder, and

(4) Take such other actions as necessary to ensure the safety of the authorized officer and his party and to facilitate the boarding.

#### § 675.9 Penalties.

Any person or fishing vessel found to be in violation of this part will be subject to the civil and criminal penalty provisions and forfeiture provisions prescribed in the Act, in 50 CFR Parts 620 (Citations) and 621 (Civil procedures), and in other applicable law.

### Subpart B—Management Measures

#### § 675.20 General limitations.

(a) *Optimum yield.* The optimum yield (OY), initial estimates of domestic annual harvest (DAH), initial estimates for total allowable level of foreign fishing (TALFF), and reserves for the fishery are set forth in Table I of this section. These specifications are for a fishing year beginning on January 1 and ending on December 31. When the combined catch by foreign and United States vessels in the fishery or applicable sub-area of the fishery reaches the OY amount for a species, further fishing which involves the catching or taking of that species is prohibited in the management area or applicable sub-area for the remainder of the fishing year.

(b) *Winter Halibut-Saving Areas catch limit.*

(1) *Area defined.* The two winter halibut-saving areas consist of all

waters encompassed by straight lines connecting the following points, in the order listed:

(i) 54°36' N latitude—164°55'42" W longitude (Cape Sarichef Light)  
56°40' N latitude—170°00' W longitude;  
55°30' N latitude—170°00' W longitude;  
55°30' N latitude—166°47' W longitude;  
56°00' N latitude—167°45' W longitude;  
56°00' N latitude—166°00' W longitude;  
56°30' N latitude—166°00' W longitude;  
56°30' N latitude—167°45' W longitude;  
56°20' N latitude—163°00' W longitude;  
55°16' N latitude—166°10' W longitude;  
54°36' N latitude—164°55'42" W longitude (Cape Sarichef Light); and

(ii)

56°18' N latitude—170°24' W longitude;  
56°20' N latitude—169°03' W longitude;  
56°12' N latitude—168°46' W longitude;  
55°56' N latitude—169°10' W longitude;  
55°56' N latitude—170°24' W longitude; and  
56°18' N latitude—170°24' W longitude.

(2) *Trawl.* During the period from December 1 to May 31, no more than 2,000 metric tons of groundfish may be taken by trawl gear in the two Winter Halibut Saving Areas combined.

(3) *Longline.* During the period from December 1 to May 31, no more than 2,000 metric tons of groundfish may be taken with longline gear in water less than 500 meters deep in the two Winter Halibut Saving Areas.

(c) *Field orders.* (1) If the Regional Director determines that any OY set forth in Table I will be reached, he shall issue a field order pursuant to § 675.22(b) prohibiting fishing for all groundfish species in the management area or sub-area to which that OY applies, except that the Regional Director shall not prohibit, under this section, fishing for sablefish by fishing vessels using longline gear unless he determines that an OY for sablefish will be reached.

(2) If the Regional Director determines that the catch limit specified in § 675.20(b)(2) will be reached, he shall issue a field order pursuant to § 675.22(b) prohibiting trawling in the winter halibut-savings areas until June 1.

(3) If the Regional Director determines that the catch limit specified in § 675.20(b)(3) will be reached he shall issue a field order pursuant to § 675.22(b) prohibiting longlining in waters less than 500 meters deep in the winter halibut-savings areas until June 1.

(4) Fishing for groundfish in the Bering Sea and Aleutian Islands management area contrary to any field order issued under this subsection is prohibited from the effective date of such field order.

(d) *Apportionment to TALFF of Reserves and Initial DAH.*—(1)

Table 1.—Bering Sea and Aleutian Islands Fishery Optimum Yields, TALFF's, and Reserves

[In metric tons]

Reference: Species group	Sub-area <sup>1</sup>	ABC=OY	Reserve	Initial DAH	Initial TALFF
Pollock	Bering Sea	1,000,000	50,000	19,550	930,450
Pollock	Aleutian	100,000			100,000
Yellowfin sole		117,000	5,850	2,050	109,100
Turbots		90,000	4,500	1,075	84,425
Other flatfishes <sup>2</sup>		61,000	3,050	1,300	56,650
Pacific cod		58,700	2,935	24,265	31,500
Pacific ocean perch	Bering Sea	3,250	162	1,380	1,708
Pacific ocean perch	Aleutian	7,500	375	1,380	5,745
Other rockfish		7,727	500	1,550	5,677
Sablefish	Bering Sea	3,500	350	700	2,450
Sablefish	Aleutian <sup>2</sup>	1,500	150	700	650
Atka mackerel		24,800	1,240	100	23,460
Squid		10,000	500	50	9,450
Others		74,249	3,712	2,000	68,537
Total		1,559,226	73,324	56,100	1,429,802

<sup>1</sup>BS=Bering Sea (Statistical Areas I, II, III combined). AL=Aleutian Island Areas (Statistical Area IV). Includes territorial waters.

<sup>2</sup>Excluding Pacific halibut.

**Apportionment of Reserves.** As soon as practicable after each of the following dates, and after consultation with the North Pacific Fishery Management Council, the Regional Director shall apportion to TALFF up to one fourth (¼) of each reserve amount set forth in Table I, in accordance with paragraph (d)(3) of this section. February 2, April 2, June 2, and August 2.

(2) **Apportionment of Initial DAH.** As soon as practicable after each of the following dates, and after consultation with the North Pacific Fishery Management Council, the Regional Director shall reassess each DAH amount set forth in Table I and apportion to TALFF such parts thereof as he determines to be appropriate in accordance with paragraph (d)(3) of this section: June 2 and August 2.

(3) **Standards and procedure for apportionment.**—(i) **General.** The Regional Director shall apportion under paragraphs (d)(1) and (d)(2) of this section such amounts as he determines will not be harvested by vessels of the United States during the remainder of the fishing year. The amount of reserve which the Regional Director determines will be harvested by vessels of the United States may, in the discretion of the Regional Director, be either apportioned to the estimate of domestic annual harvest (DAH) or retained in the reserve as eligible for later apportionment under paragraph (d)(3)(vi) of this section.

(ii) **Factors.** In determining whether or not amounts proposed to be apportioned under paragraphs (d)(1) and (d)(2) of this section will be harvested by vessels of the United States during the remainder of the fishing year, the Regional Director shall consider the following factors, although he shall not be limited to these factors:

(A) Reported United States catch and effort by species and area compared to previously projected United States harvesting capacity;

(B) Projected United States catch and effort by species and area for the remainder of the fishing year;

(C) Amounts of fish, particularly United States harvested fish, already purchased or processed by United States fish processors during the fishing year, compared to previously projected processing capacity of United States fish processors;

(D) Projected processing capacity, and utilization of that capacity for the processing of United States harvested fish, by United States fish processors for the remainder of the fishing year;

(E) Amounts of United States harvested fish already purchased or processed by foreign fishing vessels,

compared to previously projected levels of such purchase or processing.

(iii) **Allocation of increases and decreases in DAH among DAP, JVP, and DNP.** The Regional Director shall allocate any increases or decreases in DAH amounts resulting from apportionments under paragraphs (d)(1) and (d)(2) of this section among the three components of DAH: the estimates of domestic annual processing (DAP); joint venture processing (JVP); and domestic non-processed fish (DNP).

(iv) **Public comment.** (A) Comments may be submitted to the Regional Director concerning:

(1) Whether and the extent to which vessels of the United States will harvest reserve or DAH amounts during the remainder of the fishing year; and

(2) Whether and the extent to which United States harvested groundfish can or will be processed by United States fish processors or by foreign processing vessels.

Comments should be addressed to Director, Alaska Region, NMFS, P.O. Box 1668, Juneau, Alaska 99802, and must be received by the Regional Director no later than 5 days before the relevant date specified in paragraph (d)(1) or (d)(2) of this section.

(B) The Regional Director shall consider any timely comments submitted in accordance with this paragraph in determining whether and to what extent vessels of the United States will harvest reserve or DAH amounts during the remainder of the fishing year, and whether any part of such amounts will be allocated to TALFF under paragraphs (d)(1) and (d)(2) of this section.

(C) The Regional Director shall compile, in aggregate form, the most recent available reports on (1) level of catch and effort by vessels of the United States fishing for groundfish in the Bering Sea and Aleutian Islands fishery; and (2) amounts of United States harvested groundfish taken in the Bering Sea and Aleutian Islands fishery and processed by United States fish processors or delivered at sea to foreign fishing vessels. These data shall be available for public inspection during business hours (8:00 a.m.—4:30 p.m., Monday–Friday) at the National Marine Fisheries Service Alaska Regional Office, Federal Building, Room 453, 709 West Ninth Street, Juneau, Alaska 99802, during the last 15 days of each comment period.

(v) **Procedure.** As soon as practicable after each of the dates specified in paragraphs (d)(1) and (d)(2) of this section, the Regional Director shall publish in the Federal Register.

(A) any reserve amounts to be apportioned to TALFF or DAH;

(B) any DAH amounts to be apportioned to TALFF;

(C) the distribution of amounts apportioned to or from DAH among DAP, JVP, and DNP;

(D) the reasons for any apportionments and their distribution; and

(E) responses to any comments received.

(vi) **Add-on.** If, following any of the four dates specified in paragraph (d)(1) of this section, the Regional Director apportions less than 25 percent of any reserve amount to TALFF and DAH, the nonapportioned part of that 25 percent shall be added to the reserve amounts available for apportionment on the next date specified in paragraph (d)(1) of this section.

(e) **Prohibited species.** (1) Prohibited species, for the purpose of this part, means any species of fish caught while fishing for groundfish in the Bering Sea and Aleutian Islands management area, the retention of which is prohibited by other applicable law. Any catch of Pacific halibut by fishing vessels regulated under this part is catch of prohibited species, unless retention is authorized by regulations of the International Pacific Halibut Commission. Any catch of Tanner crab or salmon by vessels regulated under this part is catch of a prohibited species.

(2) The operator of each vessel regulated under this part shall minimize its catch of prohibited species.

(3) The operator of each vessel regulated under this part shall sort its catch as soon as possible after retrieval of the catch and, after allowing for sampling by an observer (if any), shall return any catch of prohibited species or parts thereof to the sea immediately with a minimum of injury regardless of its condition.

(4) It shall be a rebuttable presumption that any prohibited species found onboard a fishing vessel regulated under this part was caught and retained in violation of this subsection.

#### § 675.21 [Reserved]

#### § 675.22 Time and area closures.

(a) **Field Orders.**—(1) **Contents.** Field Orders issued by the Regional Director under this part shall include the following information: (i) the reason for the opening or closure; (ii) a description of the area to be opened or closed; and (iii) the effective date of such opening or closure.

(2) **Public Notice.** No field order issued under this section shall be effective until:

(i) it is filed for publication in the **Federal Register**;

(ii) it has been posted for 48 hours, and otherwise made available to the public, in accordance with procedures customarily used by the ADF&G for posting and publicizing of similar notices of closure; and

(iii) it has been broadcast for 48 hours at those time intervals, channels and frequencies customarily used by the ADF&G to broadcast similar notices of closure.

(3) *Effectiveness.* A field order issued pursuant to this subsection shall remain in effect until (i) any expiration date stated in a field order or a notice published by the Regional Director pursuant to this section; or (ii) December 31 of the year in which the field order was issued, whichever is earlier.

(b) *Open area.* Except as provided in paragraph (c) of this section, or in any field order issued under § 675.20(c) of this part, the Bering Sea and Aleutian Islands management area is open to fishing for groundfish year-round.

(c) *Closed area trawl.* Trawling is prohibited from June 15 to October 31 in the Bristol Bay Pot Sanctuary which consists of all waters encompassed by straight lines connecting the following points, in the order listed:

54°36'N latitude-164°55'42"W longitude (Cape Sarichef Light);  
55°16'N latitude-166°10'W longitude;  
56°20'N latitude-163°00'W longitude;  
57°10'N latitude-163°00'W longitude;  
58°10'N latitude-160°00'W longitude; and  
Intersection of 160°00'W longitude with the Alaska Peninsula.

§ 675.23 [Reserved]

§ 675.24 [Reserved]

§ 675.25 [Reserved]

3. It is proposed to amend 50 CFR 611.20, Total allowable level of foreign fishing, by deleting all species lines under the Bering Sea and Aleutian Islands heading except the line for "Herring, Pacific."

**Fishery Management Plan and Final Environmental Impact Statement for the Groundfish Fishery in the Bering Sea/Aleutian Island Area**

March 23, 1979.

*Final*

North Pacific Fishery Management Council, P.O. Box 3136 DT, Anchorage, Alaska 99510.

The North Pacific Fishery Management Council has prepared a Fishery Management Plan and Final Environmental Impact Statement for the *Groundfish Fishery in the Bering Sea/Aleutian Island Area* as directed by the Fishery Conservation and Management Act of 1976 (P.L. 94-265).

The NPFMC approved this combined DFIS/DEMP on July 27, 1979, as a draft for

distribution during the public comment period. It was offered for public review and comment as follows:

Seattle, October 7, 1978  
Kodiak, October 10, 1978  
Unalaska, October 12, 1978  
Anchorage, October 31, 1978

Additional opportunity for public comment was offered in:

Anchorage, November 31, 1978

during the regular monthly meeting of the Council. At the close of the public comment period on January 10, 1979, the draft was revised with respect to comments received during the review period.

Final Council review and acceptance was conducted March 23, 1979, in Juneau, Alaska, during the regular monthly meeting of the Council.

This Fishery Management Plan is herewith forwarded to the Secretary of Commerce as the official recommendation for the conduct of the groundfish fishery in the Bering Sea/Aleutian Island area.

**Jim H. Branson,**  
*Executive Director,*  
*North Pacific Fishery Management Council.*

1.0 *Table of Contents.*

3.0 *Executive Summary [Reserved].*

4.0 *Introduction to the Plan.*

4.1 *Description of the Management Unit.*

4.2 *Goals for Management Plan.*

4.3 *Operational Definitions of Terms.*

5.0 *Description of the Fishery.*

5.1 *Areas and Stocks Involved.*

5.1.1 *Description of Areas.*

5.1.2 *Description of Stocks.*

5.2 *History of Exploitation.*

5.2.1 *Domestic Fishery.*

5.2.2 *Foreign Fishery.*

6.0 *History of Management.*

6.1 *Domestic.*

6.1.1 *Measures Employed to Regulate Fishery.*

6.1.2 *Purposes of Regulatory Measures.*

6.2 *Foreign.*

6.2.1 *Measures Employed to Regulate the Fishery.*

6.2.2 *Purposes of Regulatory Measures.*

6.3 *Effectiveness of Management Measures.*

7.0 *History of Research.*

7.1 *United States.*

7.2 *Foreign.*

8.0 *Socio-Economic Characteristics of the Domestic Fishery.*

8.1 *Commercial Fishery.*

8.1.1 *Commercial Fishing Fleet.*

8.1.2 *Commercial Processing Industry.*

8.1.3 *Products and Markets.*

8.2 *Recreational Fishery.*

8.3 *Subsistence Fishery.*

8.4 *Indian Treaty Fishery.*

8.5 *Area Community Characteristics.*

8.6 *Interaction Between User Groups.*

8.6.1 *Trawl vs. Halibut.*

8.6.2 *Trawl vs. Crabs.*

8.6.3 *Trawl vs. Salmon.*

8.6.4 *Trawl vs. Sablefish Longline and Pots.*

8.6.5 *Foreign vs. domestic trawling.*

8.7 *Revenues Derived from the Fishery.*

8.7.1 *Federal Revenues.*

8.7.2 *State Revenues.*

9.0 *Biological and Environmental Characteristics of the Fishery.*

9.1 *Life History Features.*

9.2 *Stock Units.*

9.3 *Data Sources.*

9.3.1 *Catch and Effort Data.*

9.3.2 *Biological Data.*

9.4 *Quality of Data.*

9.5 *Ecological Relationships.*

9.5.1 *Environmental Characteristics.*

9.5.2 *Biological Characteristics.*

9.5.3 *Ecosystem Characteristics.*

9.6 *Current Status of Stocks.*

9.7 *Estimate of Future Stock Conditions.*

10.0 *Other Considerations Which May Affect the Fishery.*

10.1 *International Pacific Halibut Commission.*

10.2 *Marine Mammal Protection Act of 1972.*

10.2.1 *Endangered Species Act.*

10.3 *Offshore Petroleum Production.*

10.4 *Bio-Economic Factors.*

10.5 *Crab-bait Trawl Fishery.*

11.0 *Optimum Yield.*

12.0 *Catch and Capacity Characteristics.*

12.1 *Domestic Annual Capacity and Expected Harvest.*

12.1.1 *Domestic Commercial Processing Characteristics.*

12.1.2 *Commercial Fishing Fleet.*

12.2 *Expected Domestic Annual Harvest/Processing Capacity.*

13.0 *Allocation Between Foreign and Domestic Fishermen.*

13.1 *Reserve.*

13.2 *Total Allowable Level of Foreign Fishing.*

14.0 *Proposed Management Regime.*

14.1 *Specific Management Objectives.*

14.2 *Areas, Fisheries, and Stocks Involved.*

14.3 *Management Measures and Their Rationale.*

14.3.1 *Domestic.*

14.3.2 *Foreign.*

14.4 *Operations Needs and Costs.*

14.5 *Effects of the Management Regime on Availability, Cost and Quality of Fishery Products.*

15.0 *Relationship of Recommended Management Measures to FCMS National Standards or Other Applicable Laws.*

16.0 *Research Needs.*

17.0 *Plans for Council Review and Monitoring of the Plan.*

18.0 *References.*

19.0 *Appendices.*

Appendix I—*Sample Community Profiles.*

Appendix II—*Pollock Cohort Analyses.*

Appendix III—*Description of Closed Areas.*  
Annex I—*Derivation of Allowable Biological Catch (ABC).*

Annex II—*Derivation of Expected Domestic Annual Processing and Capacity Intent (DAP) and Harvest (DAH).*

Annex III—*Derivation of Total Allowable Level of Foreign Fishing (TALFF).*

Annex IV—*Catch Statistics of the Bering Sea/Aleutian Groundfish Fishery.*

Annex V—*Information on Marine Mammal Populations.*

Annex VI—*Species Categories Which Apply to the Bering Sea/Aleutian Groundfish Fishery.*

*List of Tables*

1. *Commercially Utilized Demersal Fishes in the Eastern Bering Sea and Aleutian Island Region.*

2. Number of U.S. and Canadian Vessels Over 5 Net Tons that Fished Halibut in the Bering Sea, 1930-1977.
3. Estimated Catches of Pacific Cod in the Eastern Bering Sea, 1864, 1882-1950.
4. Catch of Halibut by Canadian and U.S. Vessels in the Bering Sea and Aleutian Areas, 1930-1977.
5. Number of Japanese Vessels Operating in the Eastern Bering Sea and Their Catches, 1933-1937 and 1940-41.
6. Number of Fleets in the Japanese Mothership Fishery and Number of Vessels in the Japanese North Pacific Trawl and Longline-Gillnet Fisheries and Landbased Trawl Fishery.
7. Monthly Range in Number of USSR Vessels Operating in the Eastern Bering Sea and Aleutian Islands in 1966-77.
8. Number of Vessels Operating in the Korean Groundfish Fishery in the Eastern Bering Sea, Aleutian Islands and Gulf of Alaska, 1968-1974.
9. Range of Size of Catcher Boats in the Japanese Mothership Fishery and Typical Trawl Gear Used Based on a Sample of the Fleets in 1970 and 1975.
10. Range in Size of Vessels in the North Pacific Trawl Fishery and Typical Gear Used for Principal Target Species From a Sample of the Fleet in 1974 and 1976.
11. Range in Size of Longline Vessels and Typical Gear Used in the North Pacific Longline-Gillnet Fishery From a Sample of the Fleet in 1969, 1972 and 1976.
12. Typical Trawl Dimensions Used on Soviet BMRT Factory Stern Trawlers for Pollock and Atka Mackerel Based on Data of U.S. Observers in 1976 and 1977.
13. Vessel Size and Fishing Gear Dimensions of Three ROK Independent Stern Trawlers Boarded by U.S. Observers in 1977.
14. Historical Summary of Alaska Groundfish Regulations.
15. Catch Quotas Applicable to Japanese and Soviet Fisheries in the Eastern Bering Sea and Aleutian Island Areas in 1973-1976.
16. 1977 Groundfish and Squid Catch Limitations for Foreign Fisheries in the Eastern Bering Sea and Aleutian Islands Region.
17. Relative Abundance of Juvenile Halibut by Age Groups From the Bering Sea Index Stations.
18. 1975 World and Northeast Pacific Production of Selected Groundfish.
- 18a. U.S. Groundfish Utilization and Prices (continued).
19. The Average Incidence and Weight of Halibut in Japanese Trawls in the Bering Sea, By Month and Area, 1969-1974.
20. Life History Characteristics of Principal Groundfish Species in the Eastern Bering Sea and Aleutians.
21. Biomass, Annual Consumption, Annual Turnover Rate and Relative Monthly Consumption of Different Species and/or Ecological Groups in the Eastern Bering Sea as Computed With DYNAMES II.
22. Annual Consumption by Marine Birds and Mammals in the Eastern Bering Sea as Computed with DYNAMES II.
23. Hold Capacity of Combination Crabber-Trawlers.
24. Changes in Number of Registered Shellfish Vessels, Western Alaska 1975-1977.

25. Number of Additional Fishing Trips Available by Comingation Vessel Class and Trip Length for 1976.
26. Harvest Capacity of Groundfish Based on Utilization of Unused Fishing Time, Estimated From 1976 Landing Times.

#### List of Figures

1. Bottom Features in the Bering Sea and Aleutian Island Region.
2. Geographical Locations in the Eastern Bering Sea and Aleutian Islands.
3. Average Annual Catches of Groundfish in the Aleutian Island Area and Eastern Bering Sea.
4. Average Annual Catches of Groundfish in the Aleutian Island Area and Eastern Bering Sea.
5. Areas Fished by the Japanese Mothership Fleets in 1972.
6. Areas Fished by the Japanese North Pacific Trawl Fishery in 1974.
7. Areas Fished by the Japanese North Pacific Longline Vessels in 1974.
8. USSR Fishing Area For Flounders in the Eastern Bering Sea in 1971.
9. USSR Fishing Area For Pacific Ocean Perch in 1971.
10. USSR Fishing Area in the Eastern Bering Sea Targeting Mainly on Pollock.
11. Korean Fishing Areas.
12. Foreign Catches of Groundfish in the Eastern Bering Sea (East of 180 Degrees) and By Species or Species Group, 1954-1976.
13. Catch Trends of Flounders by Foreign Fisheries in the Eastern Bering Sea, 1954-1976.
14. Catch Trends of Roundfish (Other Than Pollock) by Foreign Fisheries in the Eastern Bering Sea.
15. Foreign Catches of Groundfish in the Aleutian Island Area (170 Degrees West-170 Degrees East), by Nation and By Species or Species Group.
16. Foreign Catches of Commercially Important Species of Roundfish (Other than POP) in the Aleutian Island Area, 1962-1976.
17. Catch Trends of Flounders by Foreign Fisheries in the Aleutian Island Area, 1962-1976.
- 18a. Area/Time Closures and Restrictions for Japanese Trawl Fisheries in the Southeastern Bering Sea Effective Through Dec. 31, 1976.
- 18b. Area/Time Closures and Restrictions for Soviet Trawl Fisheries in the Southeastern Bering Sea Effective Through Dec. 31, 1976.
19. Area/Time Closures and Restrictions for Fisheries of the Polish People's Republic in the Gulf of Alaska and Bering Sea Effective Through Dec. 31, 1976.
20. Provisions of the U.S.-ROK Fisheries Agreement Effective Through Dec. 12, 1977.
21. Distribution of Biomass and Numbers of Walleye Pollock Within Different Year Classes.
22. Distribution of "Consumption" with Age of Walleye Pollock, as Percent of Total Biomass.
23. Distribution of Group 3 Pollock (35cm long) in August, Computed with DYNAMES II.
24. Distribution of Group I Pollock (juvenile) in August, Computed with DYNAMES II.

25. Areas Under Consideration for Oil Leasing.
26. Fishery Management Plan Area.
27. Location of "Winter Halibut Savings Areas" and the "Bristol Bay Pot Sanctuary."

#### 4.0 Introduction to the Plan

This Fishery Management Plan (FMP) has been developed by the North Pacific Fishery Management Council and is for the groundfish fishery, excluding halibut and herring, of the Bering Sea/Aleutian Island area. It is intended to replace all of the current Preliminary Fishery Management Plan (PFMP) for the Trawl and Herring Gillnet Fisheries of the Bering Sea and Aleutians except that portion dealing with herring, and that portion of the PFMP for the Sablefish Fishery of the Bering Sea and Northeastern Pacific Ocean which covers the Bering Sea/Aleutian Region. Both of those PFMP's were developed by the National Marine Fisheries Service and implemented by the Secretary of Commerce in early 1977.

One feature of the format of this FMP is that such items as Allowable Biological Catch, Expected Domestic Annual Harvest, Total Allowable Level of Foreign Fishing, and annual catch statistics which are likely to change from time to time have been arranged in Annexes. This should facilitate both the drafting and review process when such changes are made in the future.

#### 4.1 Description of the Management Unit

The geographical extent of this Management Unit is the entire Fishery Conservation Zone (FCZ) of the Bering Sea, including Bristol Bay and Norton Sound, and that portion of the FCZ of the North Pacific Ocean which is adjacent to the Aleutian Islands west of 170°W.

In terms of both the fishery and the groundfish resource, the Bering Sea/Aleutian groundfish fishery (excluding halibut) forms a distinct management unit. The history of fishery development, target species and species composition of the commercial catch, bathymetry, and oceanography are all much different in that Region than in the adjacent Gulf of Alaska. Although many species occur over a broader range than the Bering Sea/Aleutian Region, with only a few exceptions (e.g. halibut and perhaps sablefish) stocks of common species in this Region are believed different from those in the adjacent Gulf of Alaska.

Even though the International Pacific Halibut Commission is responsible for management of the North American Pacific halibut fishery, the potential adverse impact on halibut of a fishery for other groundfish species is so great that it must be taken into account in the management of the groundfish fishery. Therefore, certain pertinent aspects of the halibut resource and the directed fishery it supports are described in this Fishery Management Plan. Throughout this document, the terms "groundfish" and "bottomfish" exclude Pacific halibut unless otherwise noted.

This Fishery Management Plan follows almost exactly the "Outline for Fishery Management Plans" adopted by the North Pacific Council and forms the major component of an Environmental Impact Statement which assesses the effect that

implementation of this Plan is expected to have on the environment of the region which encompasses the eastern Bering Sea and Aleutian Island archipelago.

#### 4.2 Goals for Management Plan

The North Pacific Fishery Management Council has determined that all its fishery management plans should, in order to meet the requirements of its constituency, the resources and FCMA, achieve the following goals:

1. Promote conservation while providing for the optimum yield from the Region's groundfish resource in terms of: providing the greatest overall benefit to the nation with particular reference to food production and recreational opportunities; avoiding irreversible or long-term adverse effects on fishery resources and the marine environment; and insuring availability of a multiplicity of options with respect to the future uses of these resources.

2. Promote, where possible, efficient use of the fishery resources but not solely for economic purposes.

3. Promote fair and equitable allocation of identified available resources in a manner such that no particular group acquires an excessive share of the privileges.

4. Base the plan on the best scientific information available.

In accomplishing these broad objectives a number of secondary objectives have been considered:

- a. Conservation and management measures have taken into account the unpredictable characteristics of future resource availability and socio-economic factors influencing the viability of the industry.

- b. Where possible, individual stocks of fish are managed as a unit throughout their range, but such management is in due consideration of other impacted resources.

- c. In such instances when stocks have declined to a level below that capable of producing MSY, management measures promote rebuilding the stocks. In considering the rate of rebuilding, factors other than biological considerations have been taken into account.

- d. Management measures, while promoting efficiency where practicable, are designed to avoid disruption of existing social and economic structures where fisheries appear to be operating in reasonable conformance with the Act and have evolved over a period of years as reflected in community characteristics, processing capability, fleet size and distribution. These systems and the resources upon which they are based are not static, but change in the existing regulatory regime should be the result of considered action based on data and public input.

- e. Management measures should contain a margin of safety in recommending allowable biological catches when the quality of information concerning the resource and ecosystem is questionable. Management plans should provide for accessing biological and socio-economic data in such instances where the information base is inadequate to effectively establish the biological parameters of the resource or to reasonably establish optimum yield. This plan has identified information and research required for further plan development.

f. Fishing strategy has been designed in such a manner as to have minimal impact on other fisheries and the environment.

#### 4.3 Operational definitions of Terms

##### 1. Determinants of catch levels.

- a. Maximum sustainable yield (MSY) is an average over a reasonable length of time of the largest catch which can be taken continuously from a stock under current environmental conditions. It should normally be presented with a range of values around its point estimate. Where sufficient scientific data as to the biological characteristics of the stock do not exist or the period of exploitation or investigation has not been long enough for adequate understanding of stock dynamics, the MSY will be estimated from the best information available.

- b. Equilibrium yield (EY) is the annual or seasonal harvest which allows the stock to be maintained at approximately the same level of abundance (apart from the effects of environmental variation in successive seasons or years).

- c. Acceptable biological catch (ABC) is a seasonally determined catch that may differ from MSY for biological reasons. It may be lower or higher than MSY in some years for species with fluctuating recruitment. It may be set lower than MSY in order to rebuild overfished stocks.

- d. Optimum yield (OY) may be obtained by a plus or minus deviation from ABC for purposes of promoting economic social or ecological objectives as established by law and public participation processes. Ecological objectives where they primarily relate to biological purposes and factors, are included in the determination of ABC. Where biological objectives relate to resolving conflicts and accommodating competing uses and values, they are included as appropriate with economic and/or social objectives. OY may be set higher than ABC in order to produce higher yields from other more desirable species in a multispecies fishery. It might be set lower than ABC in order to provide larger sized individuals or a higher average catch per unit effort.

##### 2. Determination of domestic annual fishing capacity, expected harvest, and fishing capacity.

- a. Domestic annual fishing capacity (DAC) is the total potential physical capacity of the fleets, modified by logistic factors. The components of the concept are:

- (1) An inventory of total potential physical capacity, defined in terms of appropriate vessel and gear characteristics (e.g. size, horsepower, hold capacity, gear design, etc.).

- (2) Logistic factors determining total annual fishing capacity (e.g. variations in vessel and gear performance, trip length between fishing locations and landing points, weather constraints, etc.).

- b. Expected domestic annual fisheries harvest (DAH) is the domestic annual fishing capacity modified by other factors which will determine estimates of what the fleets will harvest (e.g., how fishermen will respond to price changes in the subject species and other species, etc.).

- b. Expected domestic annual processing capacity (DAP) includes an estimation of the processors as well as the amount of harvest they intend to process in any given plan year.

In this management plan, DAH is equal to DAP. These concepts should be placed in a dynamic context of past trends and future projections. For example, physical fleet capacity should not simply be last season's inventory of vessels and hold measurements (although this is appropriate for present interim planning), but also next year's projected movement into and out of the fishery. Vessels under construction should be included and attrition should be estimated. The determination of domestic annual fishing capacity, expected harvest and processing capacity and intent should be made on the best available information.

3. Determination of total allowable level of foreign fishing (TALFF). The foreign allowable catch is determined by deducting the expected domestic annual expected harvest from the optimum yield.

#### 5.0 Description of Fishery

##### 5.1 Areas and Stocks Involved

###### 5.1.1 Description of areas

The Bering Sea/Aleutian Island region with respect to U.S. extended jurisdiction is defined as those waters lying south of the Bering Strait, east of the U.S.-U.S.S.R. convention line of 1867, and extending south of the Aleutian Islands for 200 miles between the convention line and 170°W (Figures 1 and 2). Waters lying south of lines joining headlands in the eastern Aleutian Islands, east of 170°W, are considered a part of the Gulf of Alaska management area. The most prominent and unique feature of the Bering Sea is the extensive continental shelf in the eastern and northern portion of the sea. It constitutes approximately 80% of the total shelf area in the Bering Sea (Hood and Kelly 1974) and is one of the world's largest. For the Bering Sea as a whole, 44% of its 2.3 million km<sup>2</sup> area is continental shelf, 13% continental slope, and 43% deepwater basin. A number of large bays, including Bristol and Kuskokwim Bays and Norton Sound on the Alaska coast, makes the coast line of the Bering Sea highly irregular. The area of all bays in the Bering Sea makes up 11.1% of the total area of the sea (Gershanovich 1963).

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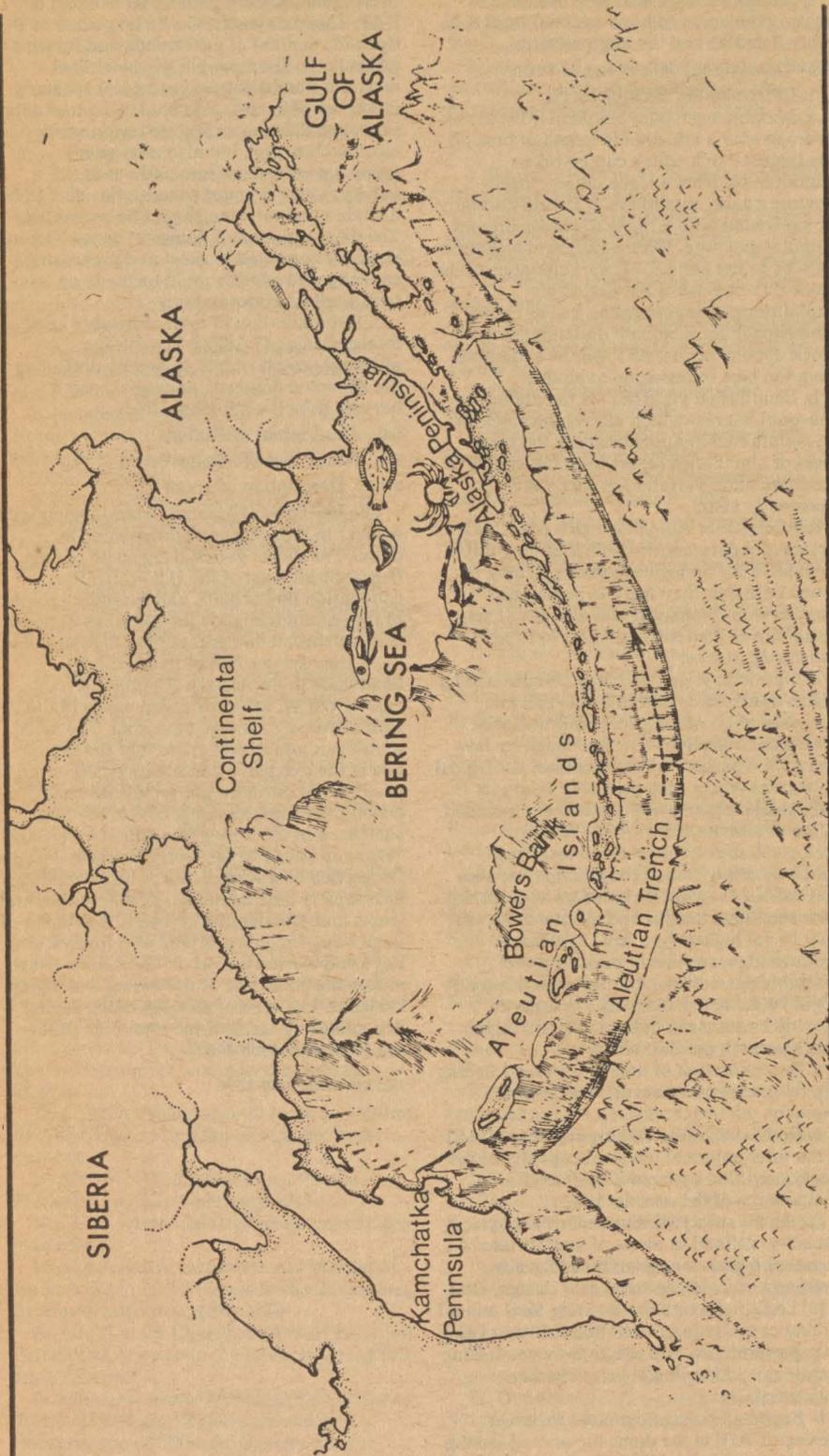


Figure 1.--Bottom features of Bering Sea and Aleutian Islands regions

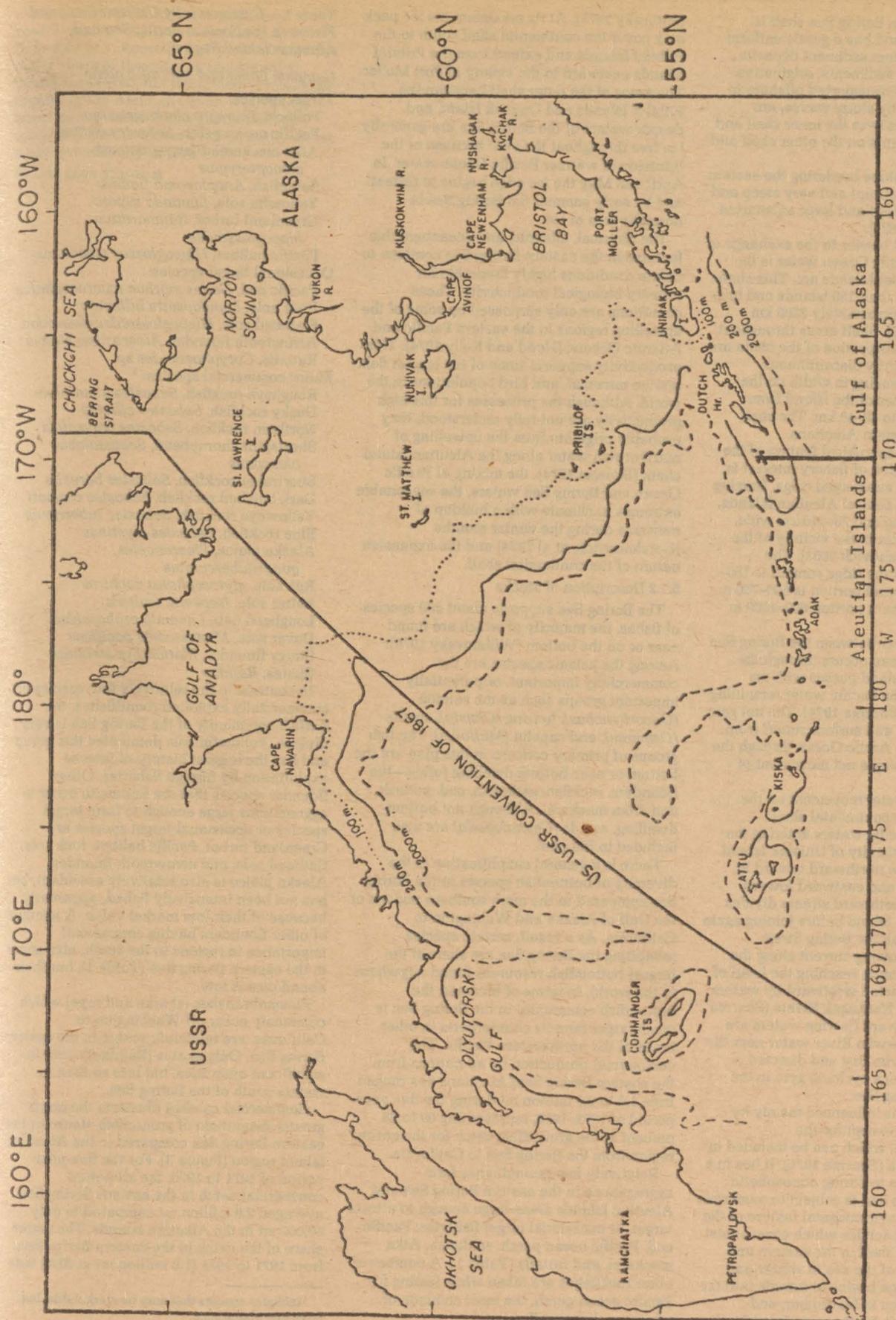


Figure 2.--Geographical locations in the eastern Bering Sea and Aleutian Islands.

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The broad eastern Bering Sea shelf is extremely smooth and has a gentle uniform gradient resulting from sediment deposits (Sharma 1974). The sediments, originating along the coast and transported offshore in graded suspension by storm waves, are predominantly sands over the inner shelf and silt and clay sediments on the other shelf and slope.

The continental slope bordering the eastern Bering Sea shelf is abrupt and very steep and is scoured with valleys and large submarine canyons (Sharma 1974).

Forming a partial barrier to the exchange of Bering Sea and Pacific Ocean water is the Aleutian-Commander Islands arc. This chain is made up of more than 150 islands and has a total length of approximately 2260 km (Gershanovich 1963). Shelf areas throughout most of the Aleutians portion of the chain are narrow (and frequently discontinuous between islands) ranging in width on the north and south sides of the island from about 4 km or less to 42-46 km. The shelf broadens in the eastern Aleutians.

An additional geographical feature of the Aleutian Island region of fishery interest is Bowers Ridge. The submerged ridge, forming an arc off the west-central Aleutian Islands, is about 550 km long and 75-110 km wide, becoming even wider in the vicinity of the Rat Islands (Gershanovich 1963). The southern portion of the ridge summit is 150-200 m deep, the central portion is 600-700 m deep, and the northern portion 800-1000 m deep.

Exchange of water between the Bering Sea and the Pacific Ocean occurs through the various Aleutian Island passes with an estimated 14% of the Pacific water remaining in the Bering Sea (Sharma 1974). The net gain from Pacific water and surface runoff from rivers is lost to the Arctic Ocean through the Bering Strait, creating a net movement of water northward.

The dominant water movement on the eastern Bering Sea continental shelf originates from Pacific waters entering the Bering Sea in the vicinity of Unimak Island. These waters move northward toward St. Matthews Islands and eastward toward Bristol Bay. The northward stream divides near St. Matthews Island before joining again and passing through the Bering Strait.

The eastward flowing current along the Alaska Peninsula upon reaching the head of Bristol Bay is deflected westward by waters from Kvichak and Nushagak Rivers (Sharma 1974). These westward flowing waters are mixed with Kuskokwim River water near the mouth of Kuskokwim Bay and directed southward, forming a cyclonic gyre in the southeastern Bering Sea.

The Bering Sea is influenced mainly by subarctic climate, except for the southernmost part, which can be included in the temperate zone (Sharma 1974). It lies in a region of moderate to strong atmospheric pressure gradients and is subject to numerous storms. A major environmental feature of the Bering Sea is the pack ice which covers most of the continental shelf in the eastern and northern sections of the sea in winter and spring. The ice edge begins to intrude into the northern Bering Sea in November, and normally reaches its maximum in late March

(Potocsky 1975). At its maximum the ice pack may cover the continental shelf south to the Pribilof Islands and extend from the Pribilof Islands eastward to the vicinity of Port Moller. The areas of the outer shelf between the Pribilof Islands and Unimak Island and deeper waters of the Bering Sea are generally ice free throughout the year because of the intrusion of warmer Pacific Ocean water. In April and May the ice edge begins to retreat and by early summer the Bering Sea is normally free of ice.

The physical, climatic, and oceanographic features in the eastern Bering Sea combine to create conditions highly favorable for primary biological productivity. These conditions are only surpassed by some of the upwelling regions in the eastern Pacific and Atlantic Oceans (Hood and Kelly 1974). This productivity supports some of the largest fish, marine mammal, and bird populations in the world. Although the processes for this high productivity are not fully understood, they probably originate from the upwelling of nutrient-rich water along the Aleutian Island chain (Sharma 1974), the mixing of Pacific Ocean and Bering Sea waters, the seasonable extremes in climate with a buildup of nutrients during the winter months (Gershanovich, et al 1974) and the expansive nature of the continental shelf.

#### 5.1.2 Description of stocks

The Bering Sea supports about 300 species of fishes, the majority of which are found near or on the bottom (Wilimovsky 1974). Among the pelagic species are the commercially important, or potentially important groups such as the salmon (*Oncorhynchus*), herring (*Clupea*), smelts (*Osmerus*), and capelin (*Mallotus*). The fish groups of primary concern in this plan are the bottom or near-bottom dwelling forms—the flounders, rockfish, sablefish, cod, pollock, and Atka mackerel. Although not bottom-dwelling, squids (*Cephalopoda*) are also included in the plan.

There is a general simplification in the diversity of bottomfish species in the Bering Sea compared to the more southern regions of the Gulf of Alaska and Washington to California. As a result, certain species inhabiting the Bering Sea are some of the largest bottomfish resources found anywhere in the world. In terms of biomass, the bottomfish community in the Bering Sea is much larger than its counterparts in other areas of the northeastern Pacific. The commercial production by all nations from the eastern Bering Sea/Aleutians has ranged from 1.6 to 2.3 million mt during the five year period of 1971-1975, representing 69 to 86 percent of the groundfish catch for the entire region from the Bering Sea to California.

Relatively few groundfishes form aggregations in the eastern Bering Sea and Aleutian Islands areas large enough to attract target, or occasional target fisheries: Pacific cod, Pacific ocean perch, sablefish, Atka mackerel, and rattails (Table 1). A number of other rockfishes are taken while fishing for Pacific ocean perch, the most common of which are listed in Table 1.

**Table 1.—Commercially Utilized Demersal Fishes in the Eastern Bering Sea and Aleutian Island Region**

#### Common name and scientific name

##### Target species:

Pollock, *Theragra chalcogramma*  
Pacific ocean perch, *Sebastes alutus*  
Atka mackerel, *Pleurogrammus monopterygius*  
Sablefish, *Anoplopoma fimbria*  
Yellowfin sole, *Limanda aspera*  
Greenland turbot, *Reinhardtius hippoglossoides*  
Pacific halibut, *Hippoglossus stenolepis*

##### Occasional target species:

Pacific cod, *Gadus morhua macrocephalus*  
Rock sole, *Lepidopsetta bilineata*  
Flathead sole, *Hippoglossoides elassodon*  
Arrowtooth flounder, *Atheresthes stomias*  
Rattails, *Coryphaenoides* sp.

##### Minor commercial species:<sup>1</sup>

Rougheye rockfish, *Sebastes aleutianus*  
Dusky rockfish, *Sebastes ciliatus*  
Northern rockfish, *Sebastes polyspinis*  
Shortspine thornyhead, *Sebastolobus alascanus*  
Shortraker rockfish, *Sebastes borealis*  
Dark botched rockfish, *Sebastes crameri*  
Yelloweye rockfish, *Sebastes ruberrimus*  
Blue rockfish, *Sebastes mystinus*  
Alaska plaice, *Pleuronectes quadrituberculatus*  
Rex sole, *glyptocephalus zachirus*  
Butter sole, *Isopsetta isolepis*  
Longhead dab, *Limanda proboscidea*  
Dover sole, *Microstomus pacificus*  
Starry flounder, *Platichthys stellatus*  
Skates, *Rajidae*

In contrast to the relatively few species of commercially exploited roundfishes, the flatfish community of the Bering Sea is very diverse. Yellowfin sole dominates this group and has the longest history of intense exploitation by foreign fisheries. Other flounder species that are known to occur in aggregations large enough to form target species or occasional target species are Greenland turbot, Pacific halibut, rock sole, flathead sole, and arrowtooth flounder. Alaska plaice is also relatively abundant, but has not been intensively fished, apparently because of their low market value. A number of other flounders having commercial importance in regions to the south, also occur in the eastern Bering Sea (Table 1), but their abundance is low.

Elasmobranches (sharks and rays) which commonly occur off Washington to California, are relatively scarce in the eastern Bering Sea. Only skates (*Rajidae*) occur in significant quantities, but less so than in waters south of the Bering Sea.

Commercial catches illustrate the much greater magnitude of groundfish stocks in the eastern Bering Sea compared to the Aleutian Island region (Figure 3). For the five-year period of 1971 to 1975, the all-nation commercial catch in the eastern Bering Sea averaged 2.0 million mt compared to only 59,000 mt in the Aleutian Islands. The major share of the catch in the eastern Bering Sea from 1971 to 1975 (1.6 million mt or 81%) was

<sup>1</sup> Includes species that may be marketable, but have low abundance.

made up of pollock. Other roundfish contributed 8% to the average catch and flounders 11%. Roundfish also contributed the major share of the catch in the Aleutian Island area (84%), but the principal roundfish species in the Aleutian region was Pacific ocean perch rather than pollock. Pollock catches in the Aleutians averaged only about 10,000 mt annually in 1971-1975.

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## ALEUTIAN ISLANDS AREA

59,000 mt

## EASTERN BERING SEA

2,032,000 mt

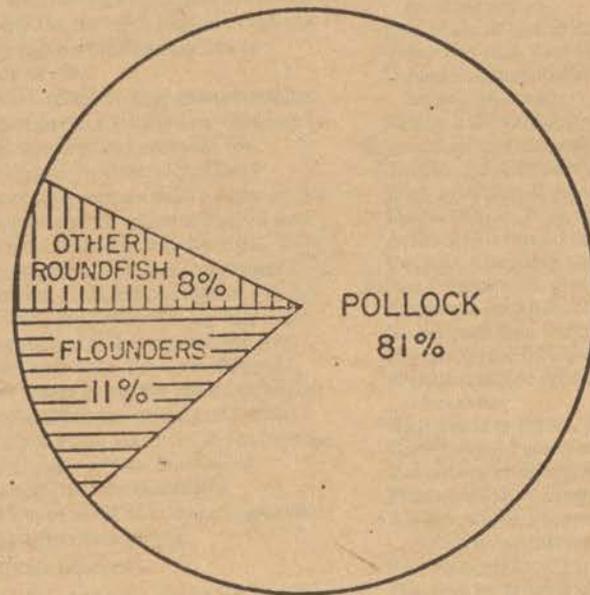
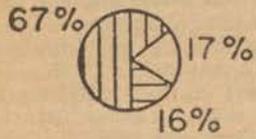


Figure 3.--Average annual catches of groundfish in the Aleutian Island area and the eastern Bering Sea, 1971-75.

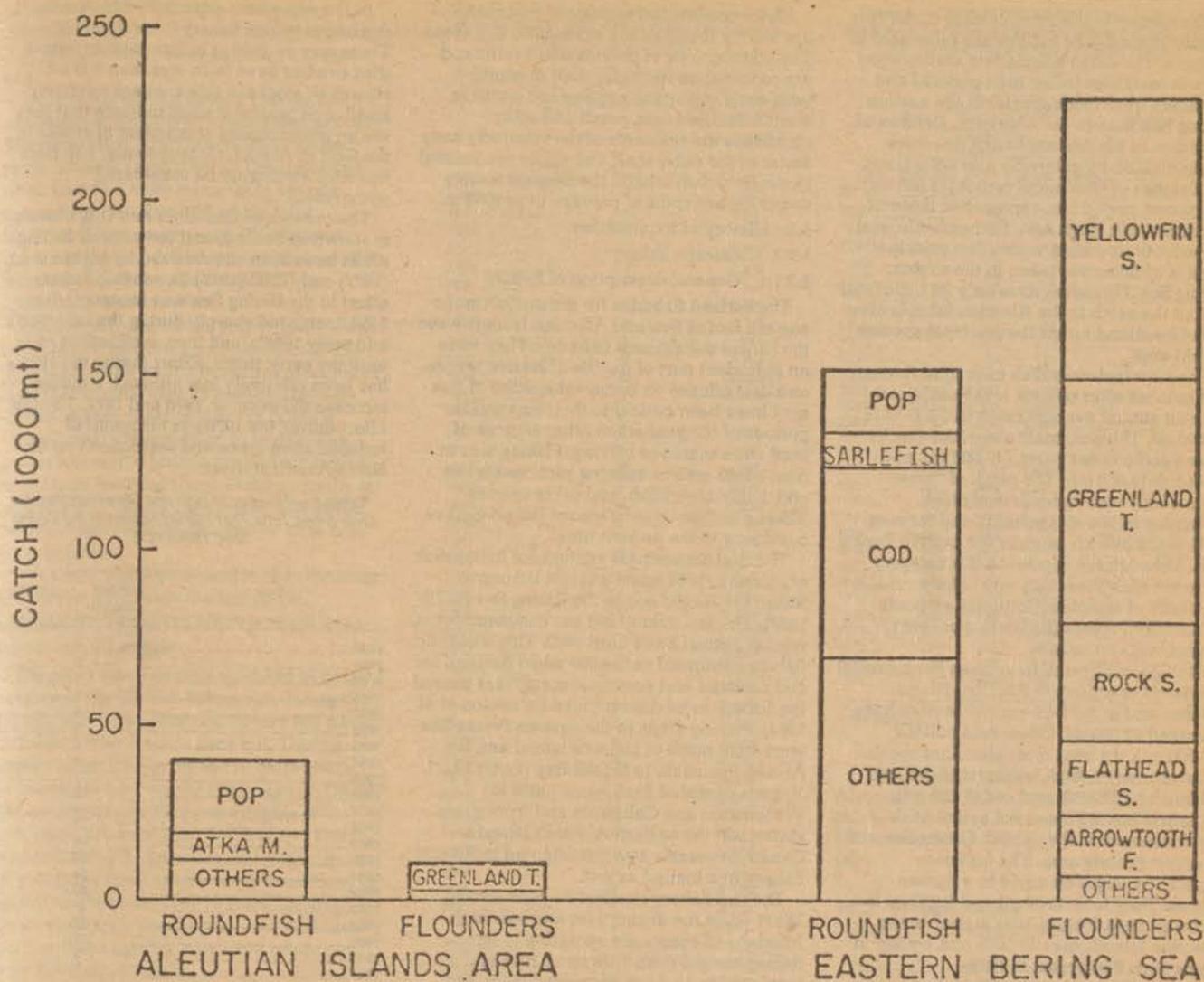


Figure 4.--Average annual catches of groundfish (excluding pollock) in the Aleutian Island area and eastern Bering Sea, 1971-75.

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The species make-up of catches in the two regions exclusive of pollock are illustrated in Figure 4. The data demonstrate that catches of both roundfish (other than pollock) and flounders were much greater in the eastern Bering Sea than in the Aleutians. Catches of flounders in the eastern Bering Sea were predominated by yellowfin sole (79,000 mt), but catches of Greenland turbot (71,000 mt) in this recent period has approached those of yellowfin sole. Rock sole, flathead sole, and arrowtooth flounders were other principal species of flounders taken in the eastern Bering Sea. Flounders form only an incidental part of the catch in the Aleutian Islands area with Greenland turbot the principal species in that area.

The principal roundfish in eastern Bering Sea catches after pollock was Pacific cod with an annual average catch in 1971-75 of 55,000 mt. The next most abundant species were Pacific ocean perch (17,000 mt) and sablefish (9,000 mt). The catch of "other groundfish" was also relatively high, averaging 69,000 mt annually, and forming 5.6% of the overall catch in the eastern Bering Sea. Although the species in this category were not identified, they most likely consist primarily of sculpins (Cottidae), eelpouts (Zoarcidae), skates (Rajidae), poachers (Agonidae) and rattails.

Pacific ocean perch have been the principal species of roundfish in Aleutian Island catches and in 1971-75 annual catches have averaged 22,000 mt. Other than pollock (10,000 mt), the next most abundant species in catches were Atka mackerel (4,000 mt), sablefish (2,700 mt), and cod (1,500 mt).

Little is known about the extent of the squid resource in the eastern Bering Sea and Aleutian Islands area. The Japanese apparently target on squid to a limited degree. They took 4,300 mt and 5,900 mt in 1975 and 1976. Fishing was mainly in the Aleutian Islands area in 1975 and mainly in the eastern Bering Sea in 1976.

The depth distribution of principal commercial species varies by species and by season. Species of flounders that occupy the shallowest depths on the continental shelf (generally shallower than 100 m during summer) are yellowfin sole, Pacific halibut, rock sole, and Alaska plaice. The distribution of flathead sole is centered in deeper water than the above species, mainly occupying waters on the outer shelf (100-200 m), but also ranging onto the continental slope. The large flounders (Greenland turbot and arrowtooth flounder) occupy the deepest water with adults mainly located on the continental slope; they also occupy shelf waters, but mainly only the juvenile portion of the population.

In winter most of the flounders retreat to waters of the outer shelf and upper slope to avoid the sub-zero temperatures that extend over much of the eastern Bering Sea shelf in winter and early spring. These bathymetric migrations are most extensive for those flounders occupying the inter shelf in summer such as yellowfin sole, rock sole, Alaska plaice, and Pacific halibut. The migrations of Pacific halibut result in their occupying the greatest depth range of all flounders, extending from shallow bays to slope waters of over 500 m in depth.

Major commercial species of groundfish are mainly found on the outer shelf and slope. The distributions of pollock and Pacific cod are centered on the outer shelf in summer with some shifting to upper slope water in winter. Pacific ocean perch and other rockfishes are residents of the relatively deep water of the outer shelf and upper continental slope. Sablefish inhabit the deepest waters occurring to depths of perhaps over 1000 m.

## 5.2 History of Exploitation

### 5.2.1 Domestic fishery

#### 5.2.1.1 General description of fishery

The earliest fisheries for groundfish in the eastern Bering Sea and Aleutian Islands were the Native subsistence fisheries. They were an important part of the life of Native people, and dependence on demersal species of fish may have been critical to their survival in periods of the year when other sources of food were scarce or lacking. Fishing was in near-shore waters utilizing such species as cod, halibut, rockfish, and other species. These small-scale subsistence fisheries have continued to the present time.

The first commercial venture for bottomfish occurred in 1864 when a single schooner fished for Pacific cod in the Bering Sea (Cobb 1927). The cod fishery did not commence on a regular annual basis until 1882. This domestic fishery continued until 1950 when demand for cod declined and economic conditions caused the fishery to be discontinued (Alverson et al. 1964). Fishing areas in the eastern Bering Sea were from north of Unimak Island and the Alaska Peninsula to Bristol Bay (Cobb 1927). Vessels operated from home ports in Washington and California and from shore stations in the eastern Aleutian Islands. Canadian vessels also participated in the cod fishery to a limited extent.

The cod fishery reached its peak during WWI when the demand for cod was high. Numbers of schooners operating in the fishery ranged from 1-16 up to 1914 and increased to 13-24 in the period 1915-20. Estimated catches during the peak of the fishery ranged annually from 12,000-14,000 mt (Pereyra et al. 1976). Numbers of vessels in the fishery declined following 1920 until the fishery was terminated in 1950.

Halibut were reported as being present in the Bering Sea by United States cod vessels as early as the 1800's. However, halibut from the Bering Sea did not reach North American markets until 1928 (Thompson and Freeman 1930). Small and infrequent landings of halibut were made by United States and Canadian vessels between 1928 and 1950, but catches were not landed every year until 1952 (Dunlop et al. 1964). The catch by North American setline vessels increased sharply between 1958 and 1963 and then declined steadily until 1972. Since 1972, the catch has remained stable at a relatively low level. The decline in the catch was a result of reduced abundance which led to severe restriction on the fleet. The reduction in abundance was caused by a combination of factors: the North American setline fishery, the Japanese setline fishery, incidental catches of juvenile halibut in foreign trawl fisheries, and adverse environmental conditions. The relative importance of each of these factors is not clear at this time.

In the Aleutians, exploitation by the North American setline fishery is relatively low. There was no fishing before 1960 and since then catches have been less than 200 mt. However, stocks in this area are relatively small, and tagging studies indicate that they are an intermingling component of stocks in the Gulf of Alaska. Consequently, fish from this area should not be considered unexploited.

The number of Canadian and U.S. vessels is shown in Table 2, and the units of fishing effort have been summarized by Myhre et al. (1977) and IPHC (1977). In general, fishing effort in the Bering Sea was meager before 1958, increased sharply during the late 1950's and early 1960's, and then declined steadily until the early 1970's. Effort during the 1970's has been relatively low although a modest increase did occur in 1976 and 1977. The low effort during the 1970's is the result of reduced abundance and restrictions on the North American fleet.

Table 2.—Number of U.S. and Canadian Vessels Over 5 Net Tons That Fished Halibut in the Bering Sea, 1930-1977

Year	United States	Canada
1930.....	3	
1931.....	8	
1933.....	1	
1945.....	1	
1950.....	1	
1952.....	9	
1953.....	6	
1954.....	2	
1955.....	1	
1956.....	3	2
1957.....	1	
1958.....	7	14
1959.....	19	20
1960.....	35	31
1961.....	34	27
1962.....	43	33
1963.....	51	53
1964.....	36	32
1965.....	19	15
1966.....	4	11
1967.....	17	19
1968.....	11	17
1969.....	7	16
1970.....	6	13
1971.....	4	13
1972.....	6	9
1973.....	7	3
1974.....	6	1
1975.....	8	3
1976.....	10	1
1977.....	19	1

Fishing effort in the Aleutians is very low because halibut stocks are relatively small and the distance to major ports is long.

Present participation by North American nationals in commercial fisheries for bottomfish in the Bering Sea and Aleutian Islands is confined mainly to the relatively small longline fishery for halibut by United States and Canadian fishermen. Some crab vessels may also fish bottomfish occasionally for use as crab bait. A brief, one-vessel exploratory effort occurred for sablefish in the southeastern Bering Sea in 1977. The native subsistence fishery mainly utilizes non-demersal species such as herring and salmon.

#### 5.2.1.2 Description of vessels and gear

The domestic cod fishery was carried out mainly to sailing schooners ranging in length from 30-46 m and equipped for dory fishing

(Alverson et al. 1964). The dories were approximately 4 m in length and operated by a single fisherman using handlines to take cod.

Most of the halibut fishing vessels are schooners or seine-type vessels that are over 30 net tons and land their catch in major ports. Smaller vessels out of Unalaska and Adak also fish halibut but these vessels account for less than 10% of the total landings. There is also a small subsistence fishery in the Pribilof Islands and a few other locations, but little is known about the vessels or catch involved.

The halibut vessels use setline gear which consists of a longline on which branchlines (gangions), each with a hook, are attached at regular intervals, usually about every 6-8 meters. A unit of setline gear is called a "skate" and is about 550 m in length. The gear is left on the bottom for periods from 4 to 30 hours (soaking time). Fishing usually is conducted at depths between 90 and 275 m, but may take place as shallow as 27 m or as deep as 550 m.

The vessels and gear used in the Aleutians are similar to those in the Bering Sea although the amount of effort is much less.

#### 5.2.1.3 Catch trends

The numbers of vessels used and estimated catches in the eastern Bering Sea during the history of the domestic cod fishery are given in Table 3. The catches shown in Table 3 are estimates for the Bering sea in metric tons roundweight as given by Pereyra et al. (1976). The estimates are based on weights of processed products from Cobb (1927) and Bower (1927-53). As indicated by Pereyra et al. (1974) the catches should be considered as approximations because of some uncertainty about the conversion factors used and some portion of the catches may have originated from the Gulf of Alaska.

Numbers of vessels in the cod fishery and estimated catches reached their peak during World War I when the demand for cod was high. During the period of 1915-19, estimated catches ranged from about 12,000 to 14,000 mt. Following this period, catches declined until termination of the fishery in 1950.

Estimated peak catches of cod in the domestic fishery are relatively small when contrasted with those from the recent foreign fisheries in the eastern Bering Sea which have ranged over 50,000 mt in some years.

Table 4 shows the annual catch of halibut in the Bering Sea and Aleutian areas by Canadian and U.S. fishermen from 1930 to 1977. In the Bering Sea, the annual catch was less than 200 mt before 1958, but then rose sharply to about 4,900 mt in 1963. The catch then declined steadily to a low of 173 mt in 1973. Since then, the catch has increased slightly and was about 450 mt in 1977. The decline in catch since 1963 was the result of reduced abundance and restrictions on the fishery. In years of high production, the catch was split about evenly between Canadian and U.S. vessels although since 1972 the U.S. share has been larger.

Table 3.—Estimated Catches of Pacific Cod in the Eastern Bering Sea, 1864, 1882-1950<sup>1</sup> (From Pereyra et al. 1976)

Year	Number vessels	Estimated <sup>1</sup> catch (mt)
1864	1	23
1882	2	673
1883	5	1,944
1884	3	1,887
1885	3	1,510
1886	2	1,219
1887	1	944
1888	2	1,500
1889	0	0
1890	1	245
1891	6	2,102
1892	6	3,316
1893	4	1,658
1894	5	2,699
1895	5	2,638
1896	7	3,633
1897	6	4,337
1898	4	1,745
1899	7	3,995
1900	8	4,168
1901	7	4,015
1902	12	6,270
1903	10	6,116
1904	11	6,400
1905	18	8,654
1906	11	7,758
1907	9	6,216
1908	11	7,643
1909	12	8,511
1910	9	6,589
1911	10	7,887
1912	9	5,485
1913	9	6,180
1914	13	9,817
1915	13	12,016
1916	13	13,947
1917	16	13,946
1918	17	12,719
1919	17	12,140
1920	24	8,576
1921	6	3,102
1922	10	5,923
1923	17	8,951
1924	15	9,889
1925	14	10,489
1926	7	9,924
1927	7	6,887
1928	8	7,083
1929	9	7,851
1930	8	7,674
1931	4	4,314
1932	5	4,692
1933	5	5,779
1934	7	6,361
1935	5	5,713
1936	5	5,008
1937	4	4,885
1938	3	3,963
1939	3	3,960
1940	4	4,129
1941	3	2,940
1942	1	814
1943	0	0
1944	1	656
1945	1	639
1946	2	997
1947	2	1,041
1948	1	1,006
1949	1	850
1950	1	688

<sup>1</sup>Original catch data in numbers of fish for 1864, 1882-1925 from Cobb (1927) and weight of cured products for 1926-50 from Bower (1927-1953) are converted to round weight in metric tons from conversion factors provided by Cobb (1927).

<sup>2</sup>Catches for 1916 to 1925 also include offshore catches from the North Pacific Ocean.

Table 4.—Catch of Halibut by Canadian and U.S. Vessels in the Bering Sea and Aleutian Areas, 1930-77. Catch in Metric Tons, Round Weight

Year	Bering Sea			Aleutian		
	Canada	U.S.	Total	Canada	U.S.	Total
1930		62	62			
1931		82	82			
1933		11	11			
1945		3	3			
1952		152	152			
1953		137	137			
1954		24	24			
1955		27	27			
1956	51	107	158			
1957		24	24			
1958	731	582	1,313			
1959	1,442	1,065	2,507			
1960	2,016	1,392	3,408	10		10
1961	1,163	1,231	2,394			
1962	2,113	2,304	4,417		12	12
1963	2,886	2,022	4,908	38		38
1964	758	847	1,605		1	1
1965	356	449	805			
1966	385	336	721	45		45
1967	668	776	1,444		9	9
1968	402	395	797	5		5
1969	404	340	744		53	53
1970	536	148	684	33		33
1971	440	83	523		1	1
1972	149	293	442	7	12	19
1973	58	115	173	28		28
1974	101	162	263	60	3	63
1975	102	215	317	3		3
1976	37	278	315	56	11	67
1977*	84	366	450	162	16	178

\*Preliminary.

There was no catch reported in the Aleutian area before 1960. Until 1976, annual catches fluctuated between 1 and 67 mt; in 1977 preliminary data indicate a catch of 178 mt.

#### 5.2.2 Foreign Fishery

##### 5.2.2.1 General description of fisheries

Nationals from six foreign countries have conducted groundfish fisheries in the eastern Bering Sea and Aleutian Islands. One of these, the Canadian halibut fishery, was previously described under the domestic fishery because of its small size and similarity to the U.S. fishery for halibut. Of the other foreign fisheries, Japan has had the longest history of exploitation in region and has mounted the greatest effort over the years. The first documented fishery for demersal species by the Japanese in the eastern Bering Sea dates back to an exploratory effort in 1930. This was followed by a relatively small-scale fishery which had its origin in 1954. Excluding Canada, the second foreign nation to send demersal fishing fleets to the eastern Bering Sea and the nation having the second largest removals of groundfish in the region has been the USSR. Their fisheries commenced in 1958.

In 1966 a trawler from the Republic of Korea (ROK) exploring fishing grounds in the eastern Bering Sea and Aleutian Islands. A commercial operation followed in 1967 but the number of vessels and magnitude of the catch by ROK fishermen has remained much smaller than that by Japan and the USSR. The Republic of China (Taiwan) has also had a fishery in the eastern Bering Sea since late 1974, but involving only one or two trawlers.

Polish vessels fished briefly in the eastern Bering Sea in 1973 (Law Enforcement Division 1975). Since then, Poland has agreed to abstain from further fishing in the eastern Bering Sea. Although allowed to fish in certain waters of the Aleutian Islands, Polish vessels have not operated there.

#### 5.2.2.1.1 Japanese fishery

Following the initial exploratory effort by two trawlers in 1930, the Japanese returned to the eastern Bering Sea with a mothership-catcher boat operation in 1933 (Forrester, et al. 1974). The fleet was composed of an 8,000 ton mothership and several catcher boats including 400 gross ton side-trawlers and 88 gross ton pair trawlers. Fishing was off Bristol Bay with the emphasis on pollock for the production of fish meal. The catch was processed aboard the mothership and transported back to Japan aboard transport vessels. This fishery continued to operate until 1937 when prices of fish meal declined causing the fisheries to terminate. Catches in this period ranged up to 43,000 mt with pollock the major species taken.

A second mothership-type operation was conducted in the eastern Bering Sea by Japan in 1940-41 (Forrester, et al. 1974). Target species was yellowfin sole that were frozen for human consumption. Catches in the two-year period ranged from 9,600 to 12,200 mt (Table 5).

With the signing of the peace treaty between the United States and Japan in 1952, restrictions on Japanese distant-water fisheries were removed, and in 1954, fishing in the eastern Bering Sea was resumed. The Japanese post-war fishery for groundfish developed into several components, the four principal ones being the mothership fishery, North Pacific trawl fishery, North Pacific longline-gillnet fishery, and the landbased fishery.

The number of mothership fleets and number of vessels in the other fisheries are given in Table 6 along with a description of each type of fishery in the accompanying footnotes. As shown in Table 6, the mothership fishery can be divided into four additional types depending on the target species and processing methods. These are the freezing fleets which targeted on flounders in the period 1954-60; the freezing fleets operating since 1960 that continued to target on flounders, but also targeted on other species, the meal and minced fish fleets which originally took flounders for fish meal, but since 1964 have targeted on pollock for the production of minced fish, as well as fish meal and the longline-gillnet fleet which took halibut, cod, sablefish and herring for freezing.

The mothership fishery has accounted for the largest share of the Japanese catch in the Bering Sea since 1954. In the recent period of 1971-76 the mothership fishery took 64% of the total catch, the North Pacific trawl fishery 31%, the land-based fishery 5%, and North Pacific longline-gillnet fishery 0.3% (Sasaki 1977).

*Mothership fishery.*—Forrester et al. (1974) divided the history of the mothership fishery into three periods based on target species, methods of processing catches, and expansion of fishing grounds.

In the first period (1954-57), the fishery was relatively small involving two to four 8,000 gross ton motherships of the freezer-factoryship type and trawlers of the 200-300 ton class as catcher boats. The fleets operated for about one month between August and October between the salmon driftnet and Antarctic whaling seasons. Fishing was off Bristol Bay and the catch, consisting of flounders (primarily yellowfin sole) was frozen.

In the second period (1958-63), the fishery expanded throughout the Bering Sea with diversification of fishing methods and target species (Table 6). Fish meal operations were initiated in 1958 utilizing flounders in the eastern Bering Sea which were processed by 9,000 gross ton motherships operating from April to September. Each mothership was supplied with fish by 20 Danish seiners and pair trawlers. The freezing fleets described in the previous period also continued to fish and catches of yellowfin sole reached their peak in this period, ranging between 420,000 and 554,000 mt annually in 1960-62 including catches by the USSR.

Another mothership operation beginning in the 1958-63 period was the longline-gillnet fishery consisting of 500 gross ton motherships and 100 gross ton longliners. These vessels fished for halibut and sablefish for freezing along the continental slope off Cape Navarin starting in 1958. In 1960 they began fishing operations for Pacific ocean perch along the continental slope between the Pribilof Islands and Cape Navarin and in 1963 expanded their area of operations to Bowers Banks off the Aleutian Islands.

The fleets involved in the yellowfin sole fishery for freezing also extended their operations to include halibut, sablefish, and Pacific ocean perch and together with the longline-gillnet fleets expanded their area of operations to the continental slope in the central and northern Bering Sea and to Aleutian Island waters. The fishing season which had previously been about one month was lengthened to four to nine months and winter fishing was initiated in 1961-62.

The third period (1964 to present) is characterized by the development of the pollock fishery. With the decline in abundance of yellowfin sole (due to overfishing in the early 1960's), and the development in 1964 of techniques for processing minced fish (surimi) on-board motherships, the main Japanese effort shifted to pollock. Fish meal and frozen products became a by-product of these operations. Pollock has dominated Japanese catches since 1962 and from 1971-76 has formed over 80% of the total Japanese groundfish catch in

Table 5.—Number of Japanese Vessels Operating in the Eastern Bering Sea and Their Catches, 1933-37 and 1940-41 (From Forrester et al., 1974)

Year	Number of fleets	Number of catcher boats			Catch (metric tons)			
		Total	Trawl	Pair trawl	Total	Flat fishes	Pacific pollock	Other fishes
1933	1	5	5		3,300	?	?	?
1934	1	5	5		14,953	1,385	11,645	1,923
1935	1	11	3	8	28,629	2,869	23,553	2,207
1936	1	8	4	4	26,622	1,003	23,000	2,610
1937	1	13	3	10	43,383	9,310	31,316	2,757
1940	1	8		8	9,577	6,941	24	2,612
1941	1	12	4	8	12,226	9,839	1,287	1,100

Table 6.—Number of Fleets in the Japanese Mothership Fishery and Number of Vessels in the Japanese North Pacific Trawl and Longline-Gillnet Fisheries and Land-Based Trawl Fishery (Data From Forrester et al. 1974; Yamaguchi 1974, 1975; Sasaki 1977)

Year	Number of mothership fleets				Total	Number of independent vessels		
	Freezing fleet <sup>1</sup> (for flounders only)	Freezing fleet <sup>2</sup> (including other than flounders)	Meal and mince-fleet <sup>3</sup>	Longline gillnet fleet <sup>4</sup>		North Pacific Trawl fishery <sup>5</sup>	North Pacific longline gillnet fishery <sup>6</sup>	Land-based trawl fishery <sup>7</sup>
1954	2				2	2		
1955	2				2	3		
1956	4				4	1		
1957	4				4			
1958	2				4			
1959	4				6			
1960	3	1	5	4	13			
1961		13	5	14	32	3		54
1962		11	5	5	21	2		70
1963		10	2	5	17	2		93
1964		6	4	2	12	2		103
1965		6	4	2	12	2		126
1966		8	4	1	13	2		172
1967		7	5	2	14	42	22	173
1968		6	5	1	12	42	22	184
1969		5	5	1	11	42	21	182
1970		3	6	1	10	42	22	182
1971		5	6	1	12	42	22	182
1972		4	6	(*)	10	42	22	182
1973		4	6		10	42	26	182
1974		4	8		10	42	30	182
1975		3	5		8	35	27	182
1976		3	5		8	54	32	182

<sup>1</sup>Flounder fleet: The fleets, each composed of a mothership of 7,000-9,000 tons, equipped with freezing facilities and having several 300-ton class trawlers attached to it, caught mainly yellowfin sole for freezing off Bristol Bay.

<sup>2</sup>Freezing fleet: The fleets, each composed of a mothership of 5,000-10,000 tons with freezing equipment, accompanied by trawlers as well as Danish seiners, which also fished longlines and gillnets, caught halibut, blackcod, herring, Pacific ocean perch, etc. The fleets operated along the continental slope between Unimak Pass and Cape Navarin, in the Gulf of Olyutorskii, and in Aleutian waters.

<sup>3</sup>Fish meal (minced fish) fleet: The fleets, each composed of a mothership of 9,000-14,000 tons, equipped with fish-meal plants, accompanied by 20-30 pair trawlers and Danish seiners, caught yellowfin sole on the eastern Bering Sea flats, and turbot along the continental slope in the eastern Bering Sea for production of fish meal. From 1964, the fleet switched to production of minced fish with a minced-fish plant, utilizing pollock caught in the eastern Bering Sea. The fleet also has freezing facilities and produces frozen fish.

<sup>4</sup>Longline-gillnet fleet: The fleets, each composed of a small mothership of 200-2,500 tons, accompanied by gillnetters and longliners, caught halibut, cod, blackcod, and herring to be frozen. The fishing grounds were along the continental slope from the Pribilof Islands and Cape Navarin-Gulf of Olyutorskii.

<sup>5</sup>North Pacific trawl fishery: This fishery is conducted by independent large trawlers, and the catch is frozen on board. The number of trawlers larger than 3,000 tons engaged in the fishery, on board which minced fish and fish meal are produced, has increased since 1968. Transport vessels were not used in this fishery until 1966. However, since 1967 a considerable number of transport ships have been used to carry the products of this fishery. The figures for 1967 and thereafter indicate the numbers of vessels licensed for this fishery.

<sup>6</sup>North Pacific longline-gillnet fishery: This fishery is conducted by independent longline-gillnetters, and the catch is processed on board. When filled with frozen products they return to their bases in Japan. The numbers of vessels in this table are the numbers licensed annually for this fishery.

<sup>7</sup>Landbased trawl fishery: This fishery consists of independent operations by Danish seiners and stern trawlers of 100-350 tons. The vessels process the catch on board, produce frozen goods, and return to Japan when they are filled. Extensive areas, including the Okhotsk Sea and waters around the northern Kurile Islands, are permitted for their operation. The number of vessels operated in the Bering Sea is not known. The figures in this table indicate the number of vessels licensed.

\*From 1972-76 these fleets are included in the freezing fleets.

the eastern Bering Sea and Aleutian Islands area. The pollock fishery has become a year-around effort while the flounder fishery principally for yellowfin sole became a winter fishery in 1969-70 with the season generally lasting from October to March. Catcher boats in the mothership fishery have been pair trawlers, Danish seiners, side-trawlers, and stern trawlers. Side-trawlers have been phased out of the fishery and the number of Danish seiners has declined with pair trawlers becoming the mainstay of the fleet.

The winter fishing grounds for flounders were mainly north of Unimak Island and occasionally west and east of the Pribilof Islands. The major fishing grounds for pollock have been along the outer continental slope and upper slope from Unimak Pass northwestward toward Cape Navarin. Typical fishing areas of the mothership fishery are shown in Figure 5.

*North Pacific trawl fishery.*—This second major type of Japanese fishery consists of independent factory trawlers larger than 500 tons that both fish and process their own catch (Forrester et al. 1974). Products are minced fish, frozen fish, and fish meal. The products are transshipped to Japan by refrigerated transport.

In the initial period of this fishery (1954-59), one to three independent trawlers fished in the eastern Bering Sea for yellowfin sole. Since 1961 they have also exploited (for freezing) halibut, sablefish, Pacific ocean perch, and other species along the continental slope in the central and northern Bering Sea and in Aleutian Island waters. In 1967 the number of licenses issued for independent trawlers was increased to 42 and has ranged from 35 to 54 in later years (Table 6). Greater numbers of larger trawlers in the 3,000-5,000 ton class (equipped with machinery for producing surimi) resulted in a rapid increase in the pollock catch by this fishery. By 1970, 80% of the total groundfish catch by these vessels was pollock.

The main effort by the independent trawlers is in the eastern Bering Sea where year-around operations are conducted for pollock. Other species taken are cod and various flounders. The number of vessels generally increase from a low in mid-winter to a peak in summer involving from 20 to 40 trawlers (Enforcement and Surveillance Division 1971 and 1973; Law Enforcement Division 1974, 1975, and 1977).

In the Aleutian Islands the trawlers target on Pacific ocean perch and take lesser amounts of pollock and various other groundfish. Fishing in the Aleutians is concentrated along the shelf edge in the central and western part of the chain with some effort in the eastern Islands. Maximum effort is in summer or early fall with the number of vessels reaching 7 to 18 in peak

months (Enforcement and Surveillance Division 1971 and 1973; Law Enforcement Division 1974, 1975, and 1977).

Areas of the fishery are illustrated in Figure 6.

*North Pacific longline-gillnet fishery.*—Herring and sablefish are the principal species taken by this fishery. The vessels operate independently, and when filled with fresh fish or frozen products, return to Japan. From 1963 to 1966 there were 18-19 vessels licensed in this fishery to operate north of 50°N and between 170°E and 170°W, but records of the number of vessels actually operating, the areas of operation, and the species taken are not available (Forrester et al. 1974).

In 1967 the number of longline-gillnet vessels licensed was increased to 22. Fishing by these 200-500 gross ton vessels has mainly been in the northeastern Pacific ocean where the catch was almost exclusively sablefish with some rockfish taken. The vessels operate year-around and normally remain on the grounds for two to four month periods until their hold capacity of about 400 mt is reached (Law Enforcement Division 1974).

Fishing for sablefish in the eastern Bering Sea and along the Aleutian Islands by the North Pacific longline vessels has been sporadic with only a few vessels fishing briefly each year. The areas of fishing in these regions as well as in the Gulf of Alaska in 1974 are shown in Figure 7.

*Landbased trawl fishery.*—This fishery, conducted by independent trawlers of 100-350 tons are prohibited by regulation from transshipping their catch in offshore waters (Forrester et al. 1974) and therefore return to Japan when storage capacity is filled. Their catches are chiefly flounders, Pacific ocean perch, and sablefish. When initiated in the early 1960's, the fishery was restricted to waters north of 46°N and between 153°E and 170°E. In June 1963 the area was expanded eastward to 175°W and in September 1967 to 170°W. Major fishing grounds are along the continental slope from Cape Olyutorskii to Cape Navarin and off the Pribilof Islands. Gear consisted mainly of Danish seines early in the fishery but stern trawls became the major gear in later years. From the 54 vessels licensed to operate in the fishery in 1961, the number grew to 184 in 1968 and has been 182 since 1969 (Table 6). The number of licensed vessels actually operating in this fishery is unknown.

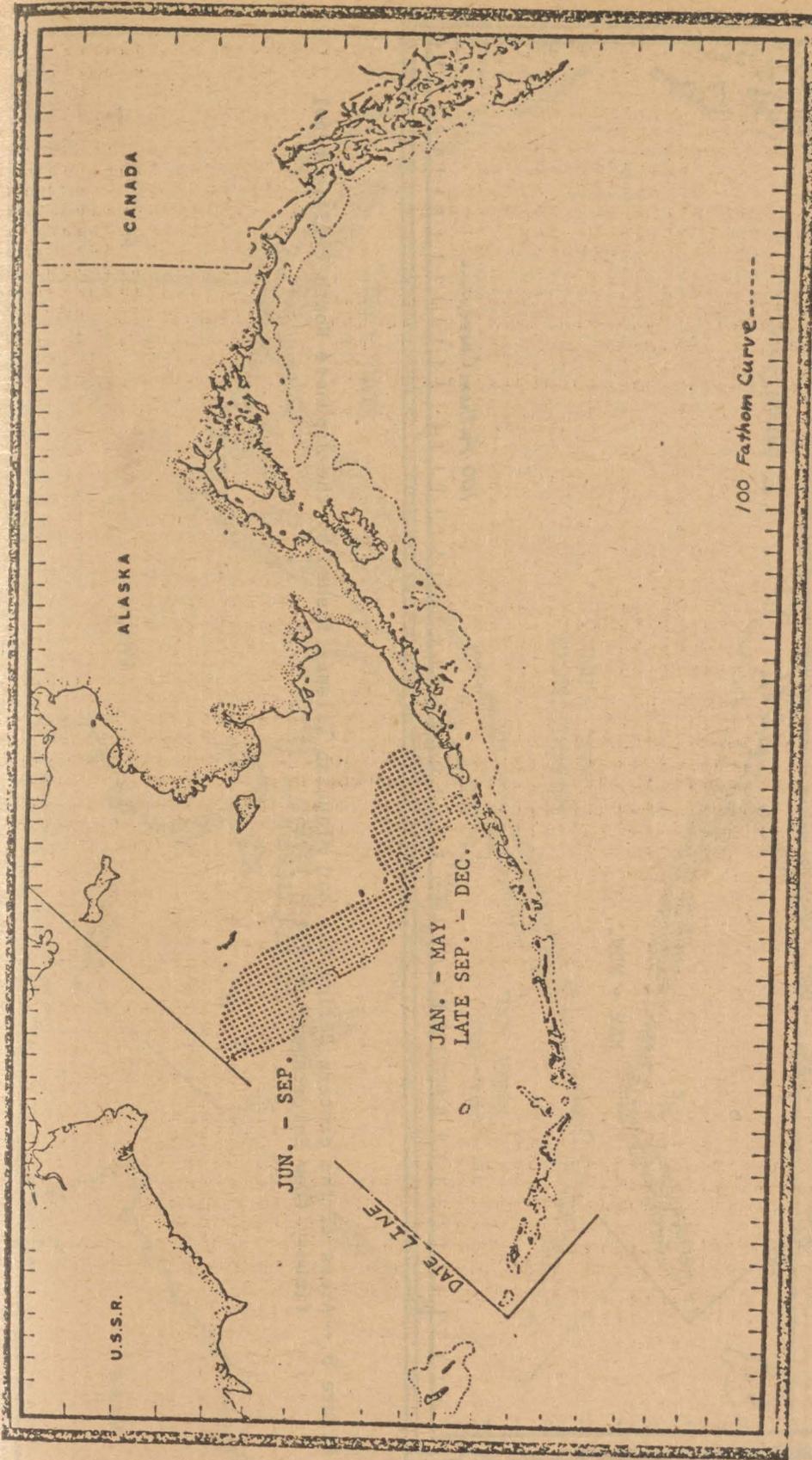


Figure 5.--Areas fished by the Japanese mothership fleets in 1972 (from Law Enforcement Division 1974).

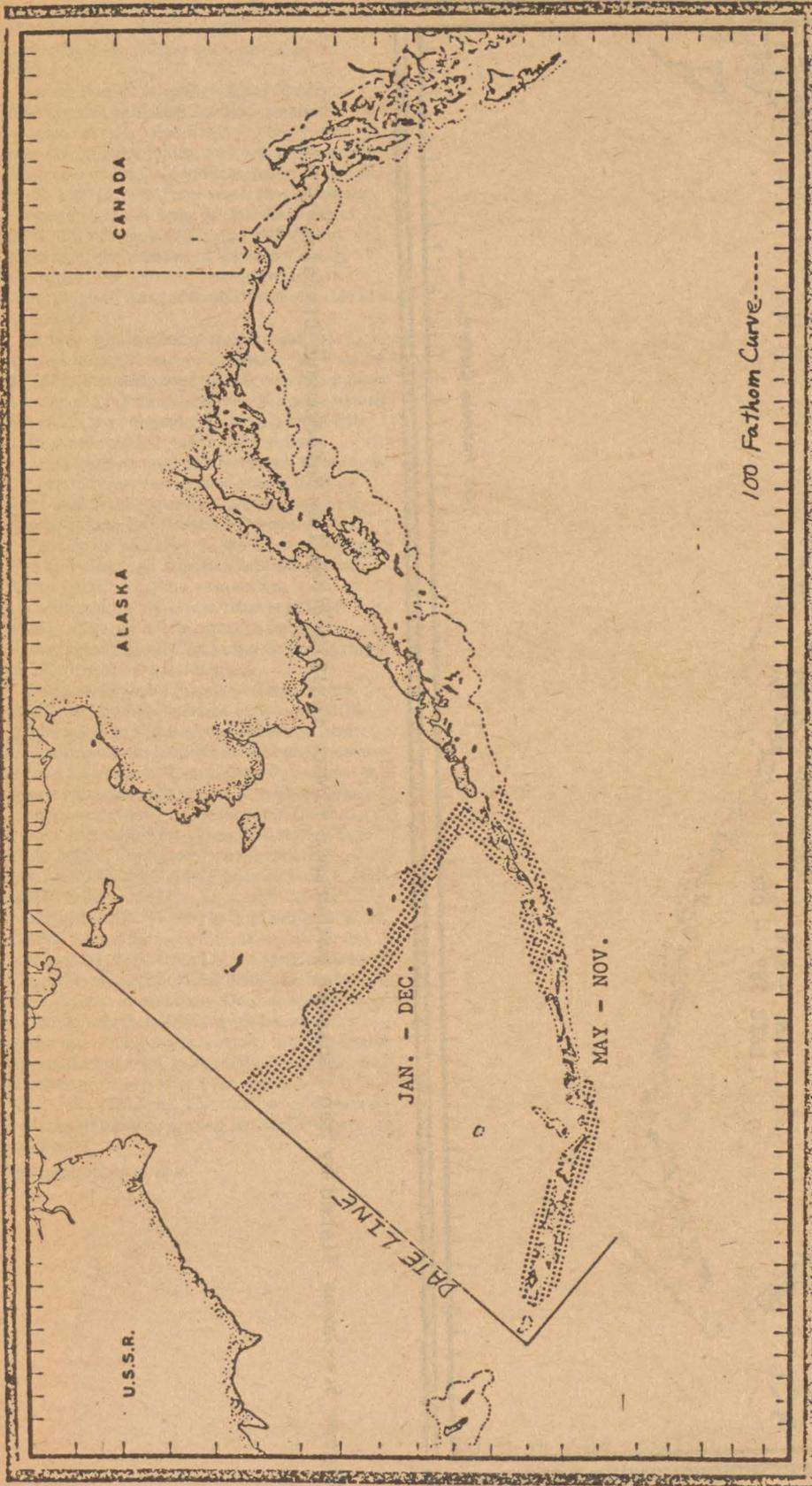


Figure 6.--Areas of the eastern Bering Sea and Aleutian Islands fished by the Japanese North Pacific trawl fishery (Law Enforcement Division 1974).

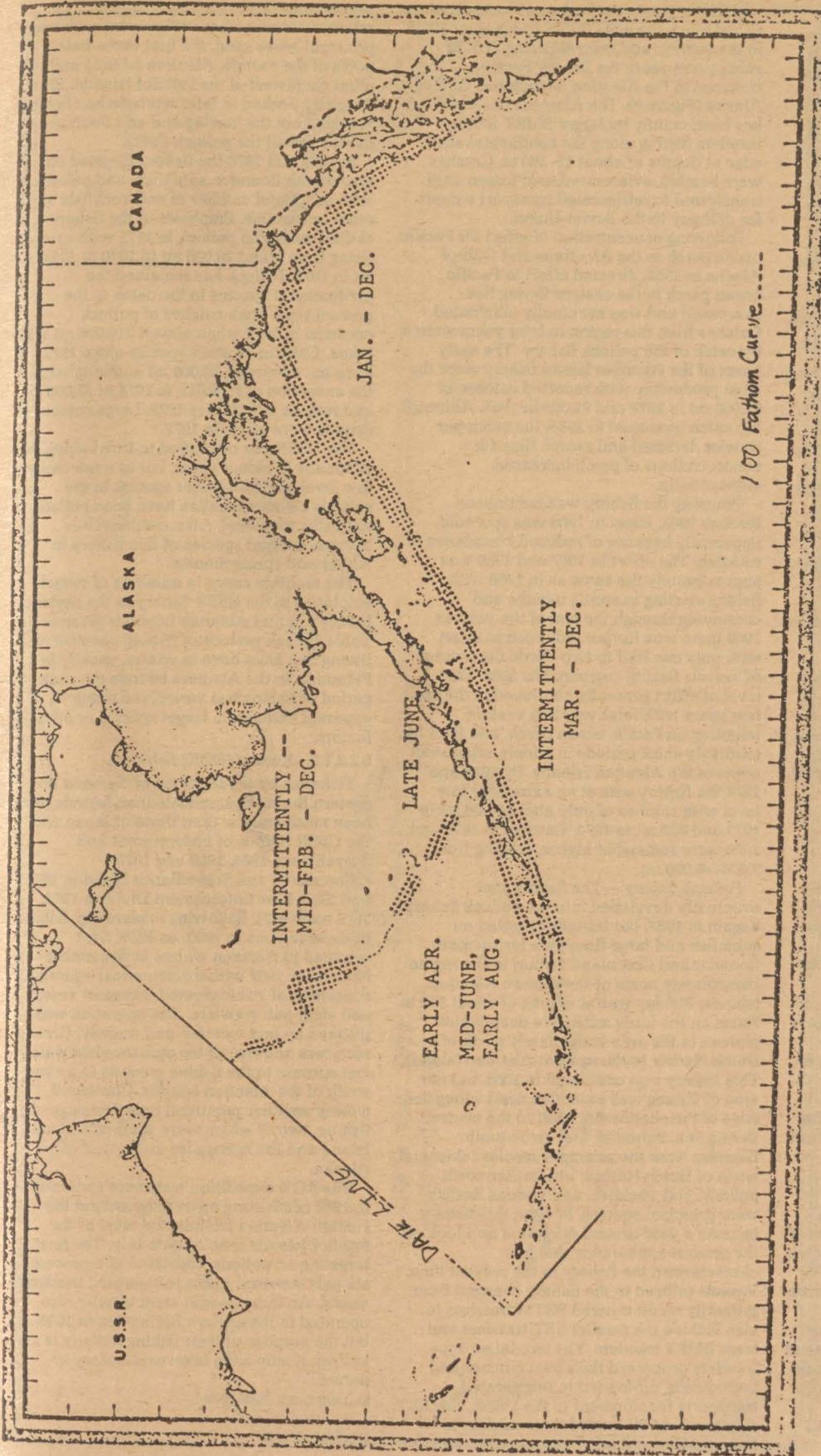


Figure 7.--Areas fished by Japanese North Pacific longline vessels in 1974 (Law Enforcement Division 1977).

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## 5.2.2.1.2 Soviet fishery

The first commercial-scale operations by the USSR off Alaska, following exploratory work in 1957-58, was a fishery for flounders in the eastern Bering Sea starting in 1959 (Chitwood 1969). Like the Japanese, the Soviets have expanded their fisheries since its inception in terms of effort, target species, and fishing areas. There have been three major groundfish fisheries in the eastern Bering Sea and Aleutian Islands: a flounder fishery in the southeastern Bering Sea, a rockfish fishery primarily in the Aleutian Islands, and a pollock fishery along the other continental shelf from Unimak Pass to northwest of the Pribilof Islands. In describing these fisheries, information is used from Chitwood (1969), Forrester et al. (1974), Haskell (1964), Office of Enforcement and Surveillance (1965, 1967-70), Enforcement and Surveillance Division (1971, 1973), and Law Enforcement Division (1974, 1975, 1977).

**Flounder fishery.**—The Soviet flounder fishery was a winter operation throughout its history extending usually from November to April and peaking in February or March. The fishing grounds (Figure 8) were in areas where aggregations of yellowfin sole and other flounders form in winter after migrations from shallower waters of the inner shelf. The primary target species was yellowfin sole which comprised a high proportion of the catches with other flounders such as rock sole, flathead sole, Alaska plaice, starry flounder, and arrowtooth flounder making up most of the remainder. Vessels participating in this fishery have ranged from smaller side trawlers (SRT) to medium (SRTM) and large independent stern trawlers (BMRT) and support vessels (see Section 5.2.2.2 for description of vessel types). Side trawlers delivered their catches to factory ships or processing refrigerated transports, which froze the fish for later transport to the Soviet Union. The larger trawlers freeze their own catches.

The first few years of the Soviet flounder fishery (1959-63) involved about 30 trawlers supported by a factory ship and refrigerated transport vessels. Catches in that period probably ranged between 60,000 and 155,000 mt. In the next three years effort was increased in this fishery with the number of trawlers rising to 40 in 1964, 50-60 in 1965, and 70-100 in 1966. The fishery peaked in terms of numbers of trawlers from 1966 and 1968 with the maximum number reaching 70-100 in the peak months of fishing in January, February or March. In those peak years, the flounder fishery represented the largest effort by the Soviets in Alaskan waters.

Starting in 1969, the Soviet effort for flounders generally declined, presumably because abundance of yellowfin sole was lower than in previous years. The numbers of vessels in peak months decreased to between 50 and 80 in 1969-72. Although a peak of 70 vessels fished in 1972, there was a sharp drop in catches of flounders to about 13,000 mt from over 70,000 mt or more in the previous three years. In 1973 the flounder fishery failed to develop. Effort was limited to a two-week period by four trawlers. The Soviets have not resumed this fishery to the present time.

**Pacific ocean perch fishery.**—The Soviet fishery for Pacific ocean perch and other

rockfish began in 1960 when 25 to 30 trawlers fished along the edge of the continental shelf in the eastern and central Bering Sea. In subsequent years the fishery became centered in the Aleutian Islands and Gulf of Alaska (Figure 9). The Aleutian Island fishery has been mainly by larger BMRT factory trawlers fishing along the continental shelf edge at depths of about 15-280 m. Catches were headed, eviscerated, and frozen until transferred to refrigerated transport vessels for delivery to the Soviet Union.

Following concentration of effort for Pacific ocean perch in the Aleutians and Gulf of Alaska in 1963, directed effort to Pacific ocean perch in the eastern Bering Sea decreased and was eventually eliminated. Catches from this region in later years were a by-catch of the pollock fishery. The early years of the Aleutian Island fishery were the most productive with reported catches of 61,000 mt in 1974 and 71,000 in 1965. Although the catch increased in 1965, the catch per trawler declined and search time for concentrations of perch increased substantially.

Whereas the fishery was continuous through 1965, effort in 1966 was sporadic, apparently because of reduced abundance of rockfish. The effort in 1967 and 1968 was approximately the same as in 1966 with fishing starting in spring months and continuing through the end of the year. In 1969 there was further reduction in effort with only one-half to two-thirds the number of vessels fishing compared to 1968. This level of effort generally continued in the next few years with relatively few vessels targeting on Pacific ocean perch, and then for relatively short periods in widely separated areas of the Aleutian Islands. By 1973 and 1974 the fishery was at an extremely low level with catches of only about 3,000 mt in 1973 and 800 mt in 1974. Catches in 1975 and 1976 were somewhat higher, ranging from 7,000-8,000 mt.

**Pollock fishery.**—The fishery that eventually developed into the pollock fishery began in 1967, but initially targeted on sablefish and large flounders (arrowtooth flounder and Greenland turbot) in the region immediately north of the eastern Aleutian Islands. Fishing was at depths of about 550 to 730 m on the fairly extensive deep-water plateau in the area immediately north of Dutch Harbor in the eastern Aleutian Islands. This fishery was continued in 1968, but the area of fishing was extended north along the edge of the continental shelf to the central Bering Sea. Sablefish and arrowtooth flounder were the principal species taken just north of Dutch Harbor, but farther north, pollock, cod, rockfish, and various flatfish were principal species. In 1969, this fishery became a year-around operation and took on the general appearance that has characterized the fishery to the present time. Vessels utilized in the fishery changed from primarily medium-sized SRTM trawlers to also include the smaller SRT trawlers and large BMRT trawlers. The two larger type trawlers processed their own catches and periodically off-loaded to refrigerated transports for shipment to the USSR. The SRT side trawlers off-loaded their catches to factory ships and other support ships for

processing. The fishing area became relatively standardized (Figure 10) with two principal areas used, the first immediately north of the eastern Aleutian Islands and the other northwest of the Pribilof Islands. Effort normally peaked in later winter when fishing vessels from the herring and and flounder fishery joined the pollock fleet.

In 1969 and 1970 the fishery targeted on arrowtooth flounder, sablefish, and pollock with incidental catches of cod, rockfish, and other bottomfish. Emphasis of the fishery shifted mainly to pollock in 1971 with catches rising from about 36,000 mt in 1970 to 234,000 mt in 1971. Pollock has remained the predominant species in the catch to the present time. Peak catches of pollock occurred in 1974 when almost 310,000 mt was taken. Catches of other species since 1972 have not exceeded 20,000 mt annually with the exception of rockfish in 1974 at 32,000 mt and rattails at 48,000 in 1972. Large catches of rattails were taken in 1972.

The USSR has continued to trawl along the Aleutians in recent years, but at a relatively low level of effort. Major species in the catches besides rockfish have been pollock and Atka mackerel. Atka mackerel has become a target species of this fishery in winter and spring months.

The monthly range in numbers of vessels employed in the USSR fishery in the eastern Bering Sea and Aleutian Island is given in Table 7. Peak periods of fishing the eastern Bering Sea have been in winter, usually in February. In the Aleutian Islands the peak period of fishing has varied, reflecting apparent changes in target species or other factors.

## 5.2.2.1.3 Korean (ROK) fishery

Fisheries by the Republic of Korea in the eastern Bering Sea and Aleutian Islands have been much smaller than those of Japan and the USSR (Office of Enforcement and Surveillance 1968, 1969 and 1970; Enforcement and Surveillance Division 1971 and 1973; Law Enforcement Division 1974, 1975 and 1977). Following exploratory fishing in these regions in 1966, an ROK fleet returned to Alaskan waters in September-November 1967 with a commercial operation consisting of a refrigerated transport vessel and eight pair trawlers. The operation was plagued by bad weather and tragedy. Crew members and two of the pair trawlers were lost enroute to the fishing grounds in a storm south of the Aleutian Islands. Continued stormy weather permitted only five days of fishing, two of which were south of Unimak Island and the remainder in the Gulf of Alaska.

The ROK expedition was more successful in 1968 conducting operations around the eastern Aleutian Islands and west of the Pribilof Islands from May to July. The fleet, targeting on pollock, consisted of a processor, six pair trawlers, and a refrigerated transport vessel. An independent stern trawler also operated in the eastern Bering Sea in 1968, but the purpose of their fishing activity is not known; it may have been exploratory in nature.

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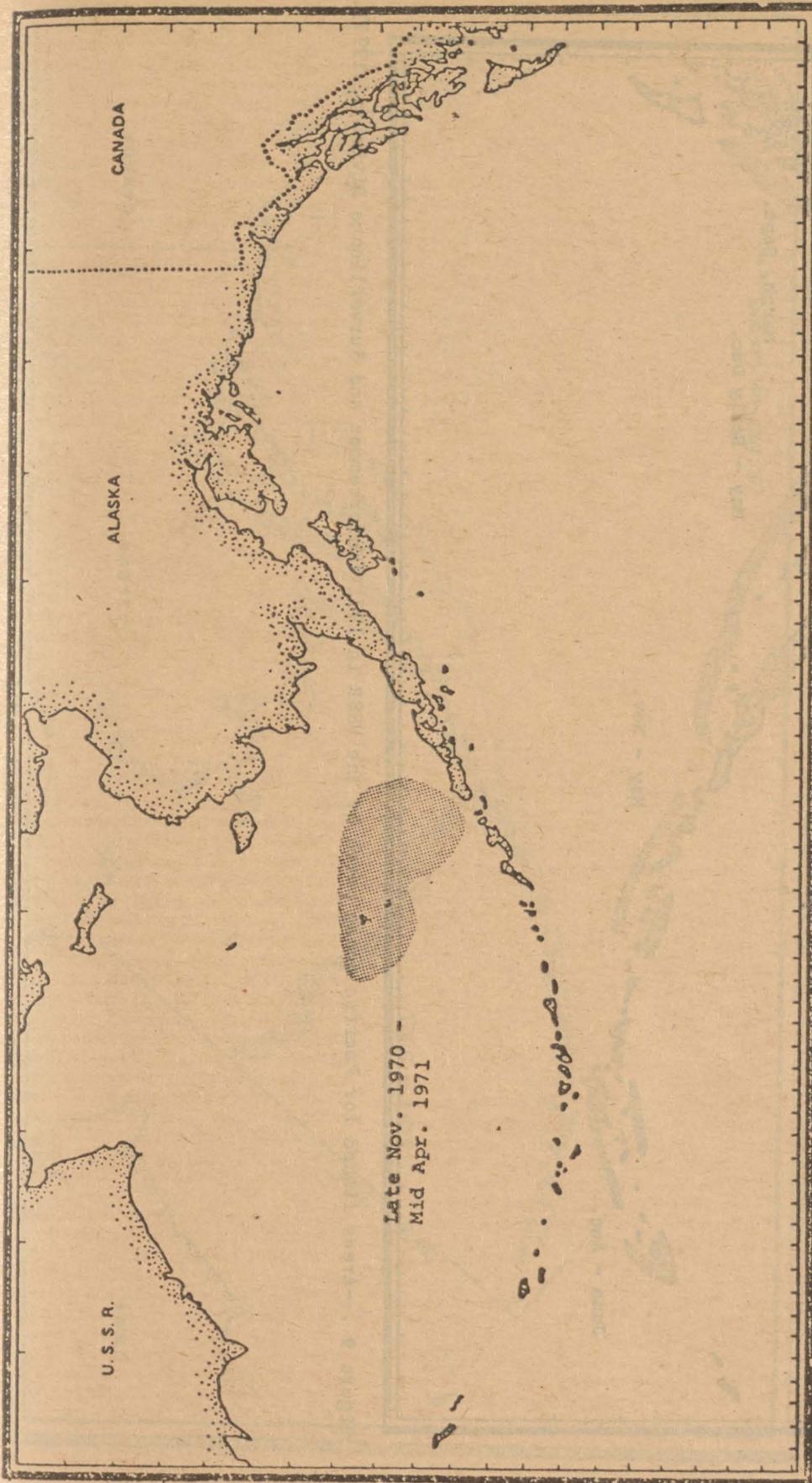


Figure 8.--USSR fishing area for flounders in the eastern Bering Sea in 1971 (Enforcement and Surveillance Division 1973).

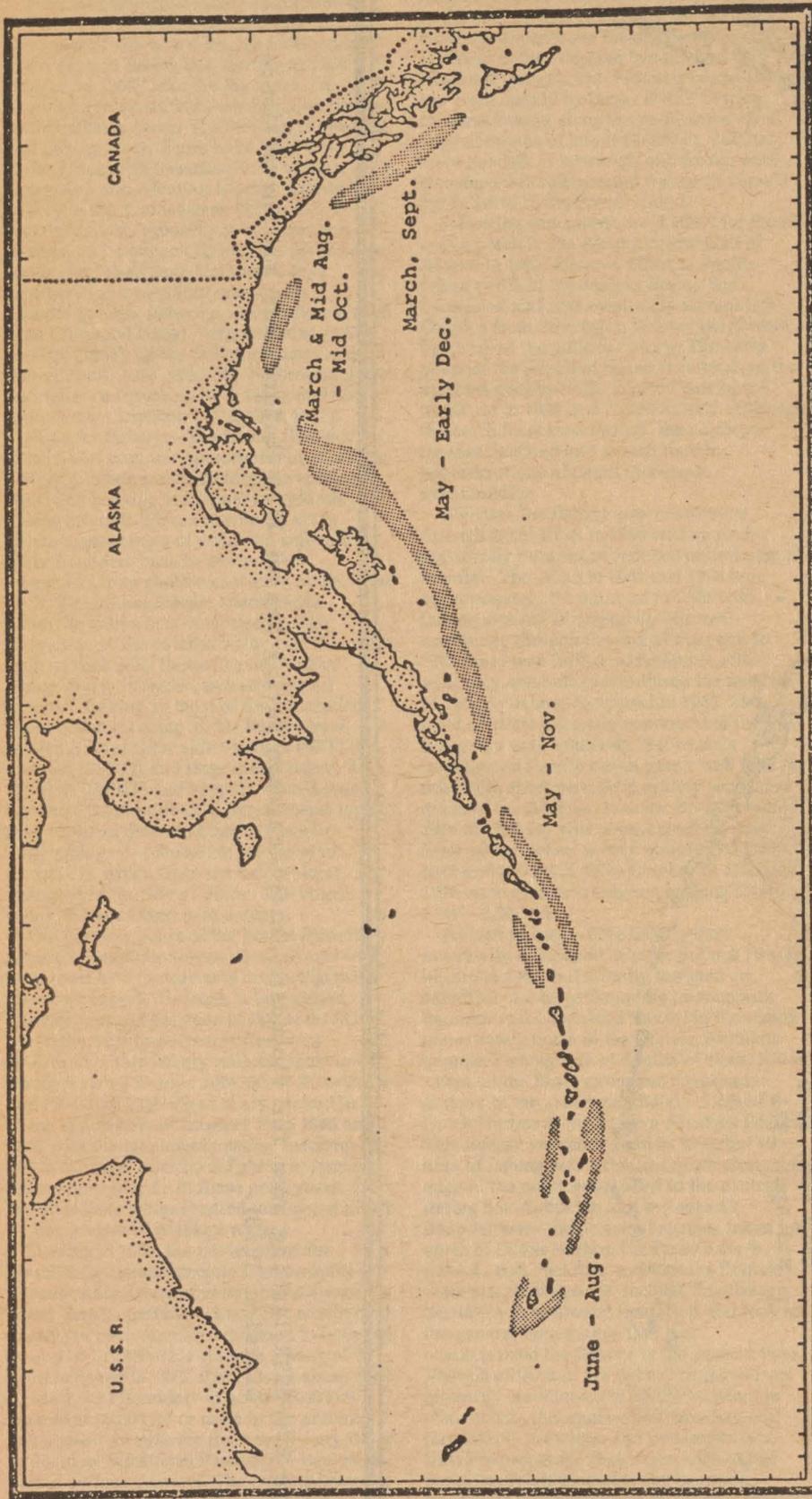


Figure 9 .--Areas fished for Pacific ocean perch by the USSR in 1971 (Enforcement and Surveillance Division, 1973).

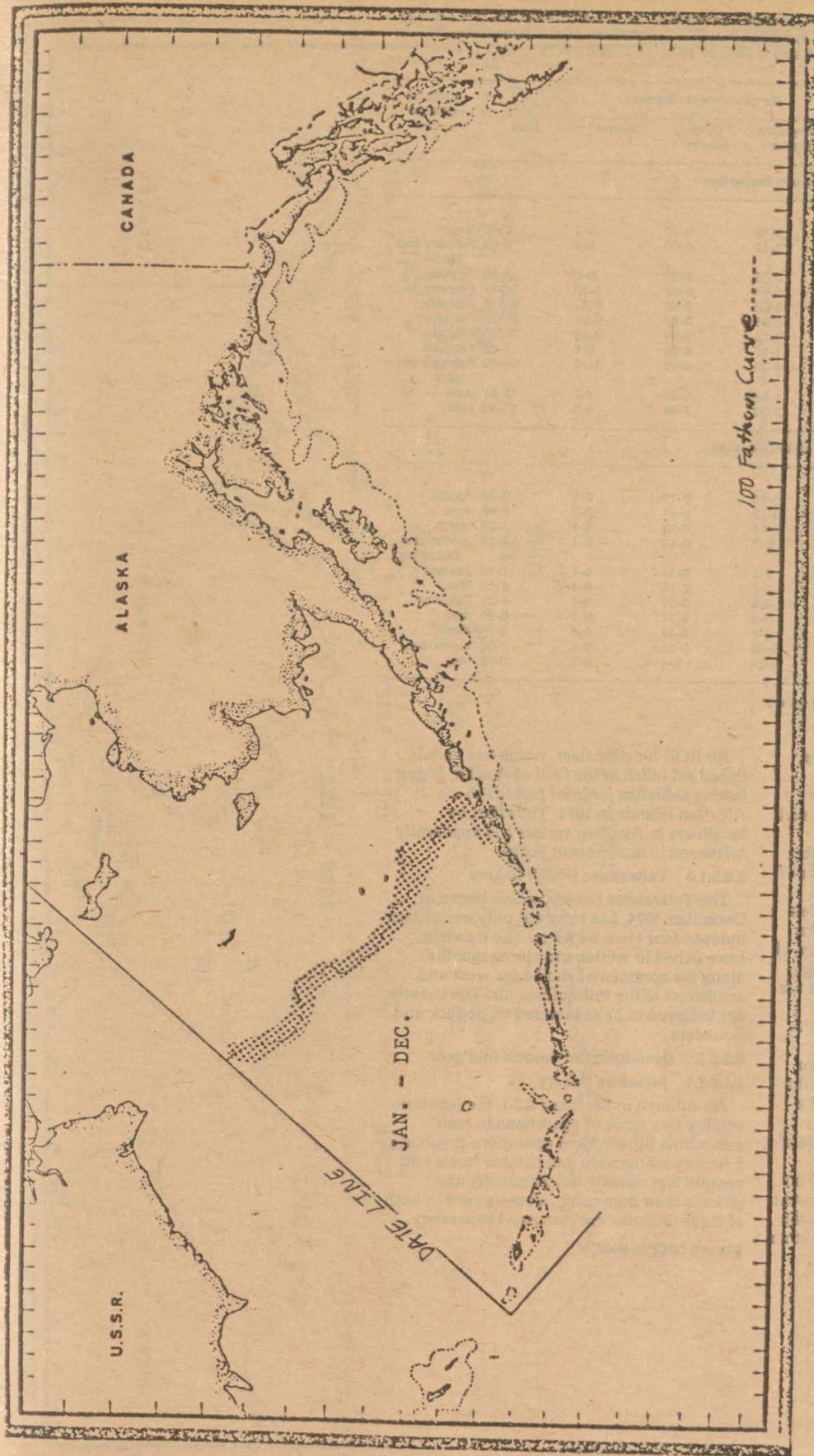


Figure 10.--Fishing areas in the eastern Bering Sea for the USSR fishery targeting mainly on pollock (Law Enforcement Division 1974).

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**Table 7.—Monthly Range in Number of U.S.S.R. Vessels Operating in the Eastern Bering Sea and Aleutian Islands in 1966-77 (Office of Enforcement and Surveillance 1967-70; Enforcement and Surveillance Division 1971 and 1973; Law Enforcement Division 1974, 1975, and 1977)**

Year:	Range in monthly number				Total	Month of maximum number
	Factory ships <sup>1</sup>	Factory stern trawlers	Other trawlers	Support <sup>2</sup>		
<b>Eastern Bering Sea</b>						
1966	0-14	0-15	0-40	0-3	0-72	March.
1967	0-15	0-12	0-60	0-3	0-90	February and March.
1968	0-13	0-25	2-60	0-2	2-99	February.
1969	0-8	0-50	6-67	1-23	7-147	February.
1970	0-7	0-52	8-92	0-22	9-173	February.
1971	0-8	0-65	5-87	0-21	6-171	February.
1972	0-8	0-39	1-89	0-21	3-155	February.
1973	0-6	1-27	6-60	0-6	7-82	February.
1974	0-5	4-30	6-51	1-10	14-79	February and April.
1975	0-4	4-13	5-36	1-7	13-51	June.
1976	0-5	2-30	7-48	0-6	13-86	April.
<b>Aleutian Islands</b>						
1966	0-3	0-10	0-10	0-1	0-24	August.
1967	0-6	0-12	0-21	0-3	0-42	June.
1968	0-4	0-14	0-23	0-1	7-28	March.
1969	0	0-7	0-13	0-1	3-14	January and December.
1970	0	0-5	0-14	0-1	1-15	January.
1971	0	0-6	2-15	0-1	6-17	May.
1972	0-1	0-5	3-19	0-1	4-21	December.
1973	0	0-4	6-17	0-3	6-20	April.
1974	0	0-2	0-19	0-5	0-24	March.
1975	0-1	0-30	0-10	0-4	2-33	September.
1976	0	0-27	0-4	0-5	0-32	May.

<sup>1</sup>Including all processing and refrigerated transport vessels.

<sup>2</sup>Including tankers, tugs, cargo, and repair ships.

In later years the ROK fishing fleet was enlarged to include factory ships and additional pair trawlers and independent stern trawlers, and eventually longliners and a Danish seiner (Table 8). Based on the number of vessels in the fishery, ROK effort reached its maximum in 1976. The number of vessels shown in Table 8 includes those fishing for herring in the eastern Bering Sea and for other species in the Gulf of Alaska. The principal target species along the edge of the continental shelf in the eastern Bering Sea has continued to be pollock. Some of the trawlers have also fished in the Aleutian Islands for rockfish and pollock. Until 1972, fishing was limited to spring and summer months, but by 1973 the independent stern trawlers had begun to fish in winter months as well. By 1974 the areas of fishing by the trawl fleet had become fairly extensive (Figure 11). Estimates by U.S. surveillance of the ROK fishery indicated that pollock catches ranged between 1,200 and 26,000 mt from 1968 to 1975. The pollock catch reported by the Koreans for 1976 was 85,000 mt in the eastern Bering Sea and 500 mt in the Aleutian Islands area.

An ROK longline fleet, which has mainly fished sablefish in the Gulf of Alaska, began fishing sablefish for brief periods in the Aleutian Islands in 1974. The effort by longliners in Aleutian waters has apparently increased in more recent years.

#### 5.2.2.1.4 Taiwanese (ROC) fishery

The Taiwanese fishery, which began in December 1974, has involved only one or two independent stern trawlers. The trawlers have fished in winter and spring months along the continental shelf edge west and southwest of the Pribilof Islands. The vessels are believed to have targeted on pollock and flounders.

#### 5.2.2.2. Description of vessels and gear

##### 5.2.2.2.1 Japanese fishery

As outlined in Section 5.2.2.1, the Japanese employ two types of operations in their groundfish fishery, fleet operations involving a factory mothership and catcher boats and vessels that operate independently and process their own catch. Vessels used in each of these fisheries are discussed separately.

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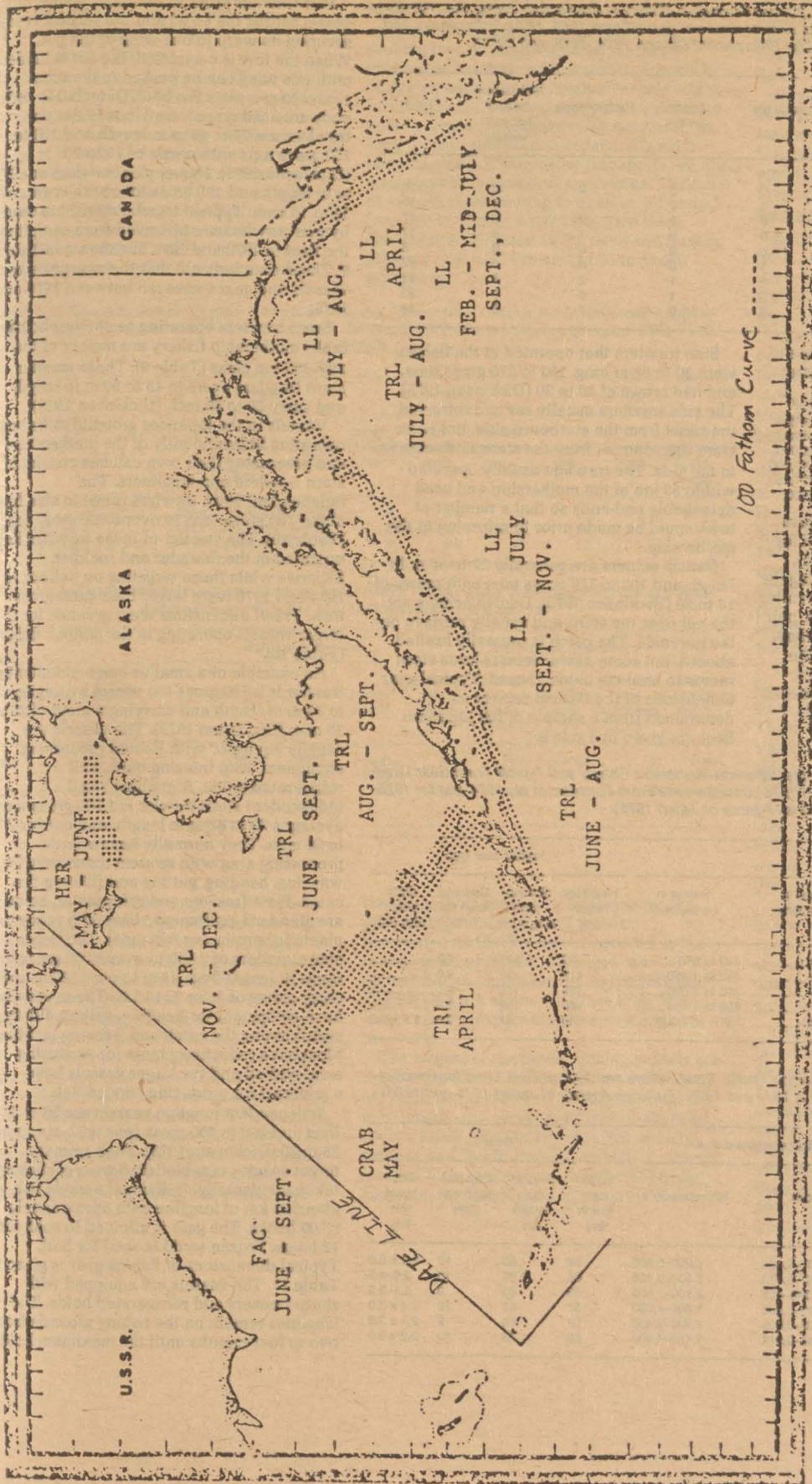


Figure 11.--Fishing areas of the Republic of Korea fisheries in 1974 (Law Enforcement Division 1977).

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**Table 8.—Number of Vessels Operating in the Korean Groundfish Fishery in the Eastern Bering Sea, Aleutian Islands, and Gulf of Alaska, 1968-74 (Office of Enforcement and Surveillance 1969, 1970; Enforcement and Surveillance Division 1971, 1973; Law Enforcement Division 1974, 1975, and 1977).**

Year	Pair trawlers	Stern trawlers	Long-liners	Danish seiners	Factory ships	Processors and/or transport vessels	Total
1968	6	1	0	0	0	2	9
1969	7	4	0	0	1	3	15
1970	11	2	0	0	2	2	17
1971	10	3	0	0	1	3	17
1972	0	6	0	0	0	0	6
1973	8	10	1	0	3	0	22
1974	22	5	8	1	2	3	41
1975	0	13	9	1	0	0	23
1976	29	16	12	0	1	0	58

Types of mothership fleets and the range in size of motherships as reported by Forrester et al. 1974 are as follows:

Type of fleet	Size of motherships (gross tons)
Flounder freezing fleets	7,000 to 9,000.
General freezing fleets	5,000 to 10,000.
Mincd fish and fish-meal fleets	9,000 to 27,000.
Longline-gillnet fleets	200 to 2,500.

The motherships are equipped to process catches into such products as frozen fish for human consumption, minced fish (surimi), and meal and oil. Catcher boats supplying the motherships with fish have been of five major types: Longline-gillnetters, side trawlers, pair trawlers, Danish seiners, and stern trawlers. Side trawlers have been phased out of the fishery and the number of Danish seiners have declined. Pair trawlers have become the principal vessel type in the freezing and minced fish and fish-meal fleet.

Side trawlers that operated in the fishery were 30 to 52 m long, 150 to 370 gross tons, and had crews of 20 to 30 (Dickinson 1973). The side trawlers usually set and retrieved the trawl from the starboard side, but some were rigged to set from the stern and retrieve to the side. The trawlers usually operated within 55 km of the mothership and used detachable cod-ends so that a number of tows could be made prior to returning to the mothership.

Danish seiners are generally 27 to 46 m in length and 100 to 150 gross tons with crews of 18 to 20 (Dickinson 1973). Danish seiners set the net over the stern and usually retrieve on the port side. The catch is normally brailled aboard, but some newer seiners have stern ramps to haul the catch aboard. Typical gear dimensions of the Danish seiners as determined from a sample of the Japanese fleet are given in Table 9.

**Table 9.—Range in Size of Catcher Boats in the Japanese Mothership Fishery and Typical Trawl Gear Used Based on a Sample of the Fleets in 1970 and 1975 (Data for 1969 From Forrester et al., 1974 and for 1975 From Fisheries Agency of Japan 1975)**

Year and type	Vessels		Typical gear type			
	Range in gross tons	Range in horsepower	Head-rope length (m)	Ground-rope length (m)	Cod-end mesh size (cm)	Otter board size (m)
1970 Danish seine	85 to 300	440 to 650	93	101	7.3	
1975 Danish seine	96 to 125	450 to 1,350	115	130	9.0	
1970 Pair trawl	88 to 195	310 to 1,200	139	152	9.1	
1975 Pair trawl	115 to 215	650 to 1,400	146	162	9.0	
1975 Stern trawl	297 to 349	1,200 to 2,500	48	57	9.0	1.9 x 3.2

**Table 10.—Range in Size of Vessels in the North Pacific Trawl Fishery and Typical Gear Used for Principal Target Species From a Sample of the Fleet in 1974 and 1976 (Fisheries Agency of Japan 1974 and 1976)**

Target species	Year	Range in vessel size		Gear			
		Gross tons	Horsepower	Head-rope length (m)	Ground-rope length (m)	Cod-end mesh size (cm)	Otter board size (m)
Pollock	1974	3,037-5,460	4,000-5,900	66	65	10	3.2 x 5.0
	1976	2,455-5,470	3,500-5,700	66	89	10	2.6-4.3
Yellowfin sole	1974	349-499	2,100-2,500	53	60	9	2.1-3.3
	1976	349-3,500	1,600-4,000	57	69	10	2.4 x 3.0
Rockfish	1974	499-3,608	1,500-4,400	50	64	9	2.4 x 3.8
	1976	349-3,914	1,420-4,400	60	73	10	2.2 x 3.3

Pair trawlers work in two-boat teams, one vessel setting the trawl and the second vessel securing its warp to one wing of the net. When the tow is completed, the net is hauled until one wing can be passed to the other vessel to complete the haul. Detachable cod-ends are used on pair trawlers. Older pair trawlers are 27 to 46 m in length and 100 to 150 gross tons with crews of 15 to 20 (Dickinson 1973). Newer pair trawlers are 37 m in length and 185 gross tons with crews of 14 to 16 men. Typical trawl dimensions used by pair trawlers are observed from sampling the fleet in 1970 and 1975 are shown in Table 9. These data indicate that the average size of vessels and gear increased between 1970 and 1975.

Stern trawlers operating as catcher boats in the mothership fishery are mainly of the 300-350 ton class (Table 9). These smaller stern trawlers average 43 to 50 m in length and carry 20 to 30 men (Dickinson 1973).

Vessels in the Japanese groundfish fishery operating independently of the motherships and processing their own catches consist of stern trawlers and longliners. The independent stern trawlers range in size from about 350 gross tons to over 5,000 gross tons (Table 10). The smaller of these trawlers have operated in the flounder and rockfish fisheries while those targeting on pollock in 1974 and 1976 were larger than 2,000 gross tons. Trawl dimensions were greatest for the larger vessels operating in the pollock fishery (Table 10).

An example of a smaller independent stern trawler is a 500 gross ton vessel averaging 52 to 58 m in length and carrying a crew of 20 to 35 men (Dickinson 1973). The vessels are usually equipped with limited processing equipment, ship freezing units, and refrigerated holds. A medium sized independent stern trawler is 1,500 gross tons, averages 70 to 82 m in length, and carries 70 to 90 men. They normally have a large processing area with modern machinery for washing, heading, gutting and filleting the catch. Plate freezers and refrigerated holds are standard equipment along with reduction plants for producing fish meal. The larger stern trawlers of 2,500 to over 5,000 gross tons range in length from 88 m to over 120 m and carry crews of from 90 to 135. These vessels have equipment for heading, gutting, filleting, and skinning the catch and freezing facilities. Most have reduction plants for producing meal and oil and the larger vessels have equipment for producing minced fish.

Independent longline vessels are 36 to 52 m long and 200 to 500 gross tons with crews of 25 to 30 (Dickinson 1973). Their primary target species is sablefish. Some rockfish are taken incidentally. Individual vessels fish about 23 km of longline with approximately 8,000 hooks. The gear is allowed to soak for 12 hours. Frozen squid is used for bait. Typical dimensions of fishing gear is given in Table 11. The vessels are equipped with sharp freezers and refrigerated holds. The longlines remain on the fishing grounds from two to four months until the maximum hold

capacities of about 400 mt is reached, after which they return to home ports (Law Enforcement Division 1974).

#### 5.2.2.2.2 Soviet fishery

Similar to the Japanese groundfish operations, the USSR fishery also employ catcher boats that deliver their catches to factory ships or to processing and freezing transport vessels and vessels that operate independently of factoryships and process their own catches. The USSR has perhaps utilized the flotilla concept of fishing operations to a greater degree than any other nation (Pruter 1976). To allow the fishing vessels to operate at sea for long periods,

they are closely supported by numerous other types of vessels including base ships that carry fleet administrators and staff and provide logistic support, factoryships for processing catches, refrigerator transports to replenish stores on the catcher vessels and to receive, freeze, and transport their catches to home ports, and oil tankers, passenger ships, tugs, patrol vessels and occasionally even hospital ships. Refrigerated transports are the mainstays of the support operations. They are of various sizes ranging from 46 to 151 m and from 650 to almost 9,700 gross tons (Law Enforcement Division 1977). Base and factory ships are 110 to 174 m and 5,000 to 18,000 gross tons.

They are somewhat smaller than the BMRT's, the most common of which is 2,657 gross tons and 82 m long, but has the advantage of a larger deck area aft for handling gear and fish.

Dimensions of typical gear used on Soviet BMRT trawlers fishing for pollock and Atka mackerel are given in Table 12. Data from U.S. observer reports indicate that vertical openings on trawls used for pollock may range from 5-30 m.

#### 5.2.2.2.3 Korean and Taiwanese fisheries

Information on vessels and gear used in the ROK groundfish fisheries is not as well documented as that for the Japanese and the USSR fisheries. Methods of operation are similar to those of the Japanese and Soviets in that they also use factoryship-catcher boat operations as well as stern trawlers, longliners and Danish seiners operating independent of factoryships. The number and size of vessels has increased since the fishery began. Initially, the Koreans used pair trawlers of about 33 m and 133 gross tons and processed the catch aboard vessels ranging in size from 828-957 gross tons (Office of Enforcement and Surveillance 1969). In 1969 they employed a 9,400 gross ton factoryship, 142 m long to process catches of the pair trawl fleet. Independent stern trawlers also entered the fishery in 1969 ranging in size from 131-1,518 gross tons and 35 to 77 m in length (Office of Enforcement and Surveillance 1970).

The subsequent modernization of the Korean fleet is illustrated by information from U.S. Observer reports in 1977 (Table 13). These data indicate that independent stern trawlers in the ROK fleet are comparable in size to the largest trawlers in the Japanese and Soviet fleets with some exceeding 5,000 gross tons. The three vessels observed were targeting on pollock and gear dimensions given in Table 13 may be representative of trawls used by ROK independent trawlers in the pollock fishery.

The Taiwanese have used 1 or 2 independent stern trawlers in their small scale fishery in the eastern Bering Sea. The size of the vessels and dimensions of the gear used are unknown.

#### 5.2.2.3 Catch trends

Complete catch statistics for groundfish taken by foreign fisheries in the eastern Bering Sea and Aleutian Islands regions have not been available throughout the history of the fishery. Japan has provided the longest and most detailed series of catch data. However, even the Japanese have not always identified some of the flounders to species in their catch data (INPFC 1976). Beginning in 1964, Japan has submitted detailed statistics for their groundfish fisheries to the United

Table 11.—Range in Size of Longline Vessels and Typical Fishing Gear Used in the North Pacific Longline-Gillnet Fishery From a Sample of the Fleet in 1969, 1972, and 1976 (Fishery Agency of Japan 1969, 1973, and 1976)

Bait	Year	Vessels		Groundline			Gangion		
		Range in gross tons	Range in horsepower	Length of hachi (m)	Gear diameter (mm)	Number hooks per hachi	Length (m)	Diameter (mm)	Size of hook (mm) or size number
Frozen squid	1969	275-499	510-1230	75	9.0	40	1.5	2.0	63x14
Frozen squid	1972	300-500	710-1900	75	8.0	35	1.3		20
Frozen squid	1976	382-500	540-1110	75	8.0	42	1.3		20

Table 12.—Typical Trawl Dimensions Used on Soviet BMRT Factory Stern Trawlers for Pollock and Atka Mackerel Based on Data of U.S. Observers in 1976 and 1977

Target species	Range in vessel size			Typical gear dimensions				
	Length (m)	Gross tons	Horsepower	Head-rope length (m)	Ground-rope length (m)	Cod-end mesh size (cm)	Cod-end liner mesh size (cm)	Otter boards (kgs.)
Pollock	78-87	2657-3837	2000-2320	77.4	77.4	5.0-6.0	3	1600-1800
Atka mackerel	78-87	2581-3510	2000	31.0	44.0	5.0	3	1200

<sup>1</sup> Round to oval variable in size.

<sup>2</sup> Round to oval.

Two basic kinds of fishing vessels have been used by the Soviets, side trawlers and factory stern trawlers (Pruter 1976). Three size classes of side trawlers have been used. Smallest and oldest of the side trawlers is the SRT of 265-335 gross tons, 38 m in length with crews of 22-26 men. The next larger of the side trawlers is the SRTR class of refrigerated medium trawlers of 505-630 gross tons and about 52 m, carrying crews of 26-28. Largest of the refrigerated side trawlers is the SRTM class of about 700 gross tons and 54 m with a crew of about 30. The larger of the side trawlers, particularly the SRTM's frequently operate independently processing and freezing their own catches, but some may

transship their catches to factoryships for processing. A new class of trawler designated as SRTK's have appeared in the fishery in more recent years and are apparently an improvement on the SRTM's. The SRTK's are about 775 gross tons, have stern ramps for more efficient trawling over the stern.

The largest of the Soviet fishing vessels are the factory stern trawlers, the most common of which is the BMRT of 3,170 gross tons, 85 m in length, and carrying a crew of about 90 (Pruter 1976). The factory trawlers usually process and freeze their own catch. A newer class of factory stern trawler, the RTM has come into increasing use in recent years.

States and Canada through INPFC. The identification of catches and reporting of all principal commercial species has probably improved since then. The USSR began to report catch statistics to the United States through bilateral agreement in 1967. Not until 1972 was there a reasonably good breakdown of catches to individual species and even then a detailed area breakdown of their catches was not available. The ROK did not report their catch statistics in detail until 1976. Prior to the reporting of statistics by the USSR and the ROK, their catches have been

estimated through U.S. surveillance of the fisheries.

Because of the lack of statistics from some nations and the irregular method of reporting certain species, available catch data for foreign fisheries may not reflect actual exploitation of all species. Statistics for primary target species such as pollock, yellowfin sole, rockfish and sablefish are assumed to be relatively accurate. Since 1970 the catch data for most other commercially important species has probably improved.

catch statistics may therefore inaccurately reflect actual catch trends for these species. Catches of flathead sole apparently peaked in 1971 at 51,000 mt and those for rock sole in 1972 at 61,000 mt (Figure 13). Catches have declined substantially in more recent years which may have resulted to some degree from the reduction in the yellowfin sole fishery where these species are taken incidentally to yellowfin sole. There have been no indications of recent substantial reductions in abundance of these species (Bakkala and Wakabayashi 1977).

Catches of Alaska plaice have not shown major fluctuations (Annex IV). This species is also taken incidentally in the yellowfin sole fishery and may not always have been identified in catches. The largest reported catch for this species was about 6,900 mt in 1969. Catches since 1969 have ranged from about 300 mt to 3,400 mt.

Catches of turbot (arrowtooth flounder and Greenland turbot) were relatively high in early years of the eastern Bering Sea fishery ranging over 50,000 mt in 1961 and 1962. Japanese fisheries targeted on arrowtooth flounder in this period for the production of fish meal (Takahashi 1976). Catches dropped below 40,000 mt in 1963-70 as these species were only taken incidentally in the pollock and other directed fisheries. Catches of Greenland turbot increased markedly after 1970 in both the Japanese and the USSR fisheries (Annex IV). Total catches of Greenland turbot reached almost 70,000 mt in 1974 and since 1972 have approached or exceeded catches of yellowfin sole.

Reported catches of Pacific halibut in the eastern Bering Sea were relatively small compared to those of other principal flounders. Largest annual catches were made in 1960 (6,900 mt), 1962 (7,900 mt), and 1963 (7,500 mt), and 1971 (4,900 mt). Catches have declined in subsequent years reaching a low of 145 mt in 1976.

Not shown in Annex IV are incidental catches of halibut taken by Japanese trawl fisheries targeting on other species. Japan is prohibited from retaining trawl-caught halibut in the eastern Bering Sea, but most released fish die from injuries received during capture. Estimates from observer data indicate that the incidental catch in the eastern Bering Sea increased from about 50 mt in 1954 to over 2,000 mt in 1961; after declining during 1962-63, the catch again increased and peaked at about 3,000 mt in 1971-72 (Hoag and French 1976). Since then, the incidental catch has declined as a result of reduced fishing effort and time/area closures, designed to protect halibut.

Before 1977, Soviet trawlers retained trawl-caught halibut in the Bering Sea. Their catch of halibut, however, was included with other species and not reported separately until 1972. The reported catch since then declined from 490 mt in 1972 to 58 mt in 1976 (Annex IV). The reported catch, however, may be too low. Hoag and French (1976) estimated that the Soviet halibut catch averaged about 750 mt during 1959-1970 and then increased sharply to about 2,000 mt during 1971-1974. The catch has probably declined since then due to restrictions on the Soviet fishery.

With the concentration of Japanese fishing effort on pollock starting in 1964, catches of

Table 13.—Vessel Size and Fishing Gear Dimensions of Three ROK Independent Stern Trawlers Boarded by U.S. Observers in 1977

Name	Vessels			Gear					
	Length (m)	Gross tons	Horse-power	Number in crew	Head-rope length (m)	Ground-rope length (m)	Vertical opening (m)	Cod-end mesh size (cm)	Otter board size (m)
Salvia.....	84	2,285	3,200	58	59	78	6	10	2.5 x 3.8
Shin An Ho.....	106	5,680	6,000	157	80	75	7	10	3.0 x 5.0
Heung Yang Ho.....	104	5,377	5,800	92	74	105	38	10	3.0 x 4.8

*Eastern Bering Sea.*—Historical trends in total groundfish catches by foreign fisheries in the eastern Bering Sea since 1954 are illustrated in Figure 12; catch statistics by individual species and nation are given in Annex IV. Total catches of groundfish in the eastern Bering Sea have reached two peaks. The first and smaller of these peaks occurred between 1959 and 1963 when Japan and the USSR were targeting on yellowfin sole. Total estimated catches of yellowfin sole and other species reached a maximum of 715,000 mt in 1961. Catches dropped sharply in the succeeding two years, because of a decline in abundance of yellowfin sole, ranging between 300,000 and 400,000 mt during 1963-65. With the development of the Japanese pollock fishery, total groundfish catches rose rapidly after 1965 and by 1971 exceeded 2 million mt. The total catches of groundfish peaked at 2.2 million mt in 1972 and then declined as catch restrictions were placed on pollock and other species through bilateral agreements between the United States and Japan and the USSR. These catch restrictions stemmed from evidence of deterioration of the various resources. By 1976 total catches had been reduced to less than 1.5 million mt. Throughout the history of foreign exploitation of groundfish in the eastern Bering Sea, Japan has been by far the major user nation (Figure 12). In the early years of the fishery, when yellowfin sole was the major target species, Japan accounted for 68-90% of the total annual groundfish catch in the eastern Bering Sea. This proportion has remained high in later years as pollock became the major target species, ranging from 76-89% annually. Japanese catches peaked at 1.8 million mt in 1972.

Through 1970, the USSR fished primarily for flounders in the eastern Bering Sea and until that year their total catches of groundfish remained less than 200,000 mt

(Figure 12). In subsequent years, as their pollock fishery developed, catches of groundfish increased, peaking at 410,000 mt in 1974.

Catches by the ROK have apparently been relatively small. Estimated catches based on U.S. surveillance of their fisheries were no larger than 26,000 mt through 1975 (Annex IV). In 1976, however, the ROK reported a total groundfish catch in the eastern Bering Sea of 88,000 mt. Pollock accounted for 85,000 mt of this total.

Flounders (primarily yellowfin sole) were the major species in the eastern Bering Sea catches until 1964, after which pollock predominated (Figure 12). The proportions of pollock in foreign catches generally increased between 1965 and 1970 ranging from 57-79%. From 1971 to 1976 they formed 81-85% of the total groundfish catch. Species of roundfish, other than pollock, have been less abundant than pollock and flounders in catches.

Catch trends of individual species of flounders in the eastern Bering Sea are illustrated in Figure 13. Catches of yellowfin sole reached extremely high levels from 1960 to 1962 with removals of over 1.4 million mt by Japan and the USSR. Catches of this magnitude were more than the stock could sustain and abundance of yellowfin sole declined. Following this deterioration of the resource, catches fell to about 100,000 mt or less, but increased again to reach the 160,000-170,000 mt level in some years between 1967 and 1971. Since 1971, catches have fallen well below 100,000 mt, in part due to the absence of a directed fishery on flounders by the USSR and perhaps to winter area closures in the southeastern Bering Sea which may have reduced catches of yellowfin sole by Japan.

As discussed previously, rock sole, flathead sole, and Alaska plaice have not always been identified in catches, particularly prior to about 1970. Reported

this species rose rapidly to reach 700,000 mt in 1968 (Figure 12). With the entry of the USSR and the ROK into the pollock fishery and greater effort by the Japanese, catches continued to increase reaching a peak of over 1.8 million mt in 1972. With the implementation of catch limitations stemming from evidence of overfishing on pollock, catches declined, falling to about 1.2 million mt in 1976.

Catch trends of demersal roundfish, other than pollock, are illustrated in Figure 14. Peak catches of sablefish and Pacific ocean perch were taken rather early in the fishery. Maximum harvests of sablefish occurred in 1961 and 1962 when 26,000 and 28,500 mt were taken. Catches were relatively stable at a lower level of 9,500-16,000 mt from 1966 to 1972, but declined thereafter falling to 2,700 mt in 1976. Following the peak catch of Pacific ocean perch in 1961 of 47,000 mt, catches dropped to a level of 17,000-29,000 mt from 1962 to 1968 and then declined to 3,600 mt in 1973. A second peak of 39,000 mt was reached in 1974 which was followed by another decline to 16,000 mt in 1978.

Catches of Pacific cod increased steadily in earlier years of the fishery to reach levels of more than 50,000 mt by 1968. Annual catches have been relatively stable since then, ranging around 50,000 mt with the largest catch of 70,000 mt taken in 1970.

The "other groundfish" category represents catches of various species of non-or low commercial value that are taken incidental to target species. Major species groups in this category are probably sculpins, poachers, eelpouts, skates and rattails. Reported catches of this group increased sharply after 1970. A large catch of rattails (48,500 mt) by the USSR mainly accounted for the exceptionally large total catch of "other groundfish" in 1972. The recent general increase in catches of this species category may stem from better reporting rather than an actual increase in catches.

*Aleutian Island*—Characteristics of the foreign fisheries in the Aleutian Island region differ from those in the eastern Bering Sea in a number of respects. Overall catches have been much lower in the Aleutians, trends in catches and major species in catches have differed in the two regions, and the USSR rather than Japan has taken the greatest share of the catches in the Aleutians (Figure 15, Annex IV). Total catches of groundfish reached their peak early in the history of foreign exploitation of the Aleutian Island resources (Figure 15). Due almost entirely to catches of Pacific ocean perch and other rockfish, catches of all groundfish reached a peak of 114,000 mt in 1965. Since then, total catches have fluctuated at a lower level and shown a general overall decline. In 1975 and 1976, catches were in the range of 55,000-60,000 mt. The USSR has taken the largest share of the catches in the Aleutians with the exception of some recent years. Rockfish (mainly Pacific ocean perch) has been the primary target species in the Aleutians of both Japan and the USSR. Catches of demersal roundfish have increased markedly since 1973, perhaps due in part to better reporting of these species, but also because the USSR has had a target fishery on Atka mackerel in this period. Catches of Atka

mackerel reached 20,000 mt in 1976. Catches of "other roundfish" have exceeded those of rockfish since 1973 because of the decline in abundance of Pacific ocean perch (Low et al. 1977) and the increase in catches of Atka mackerel and better reporting or actual increases in catches of such species as pollock and Pacific cod.

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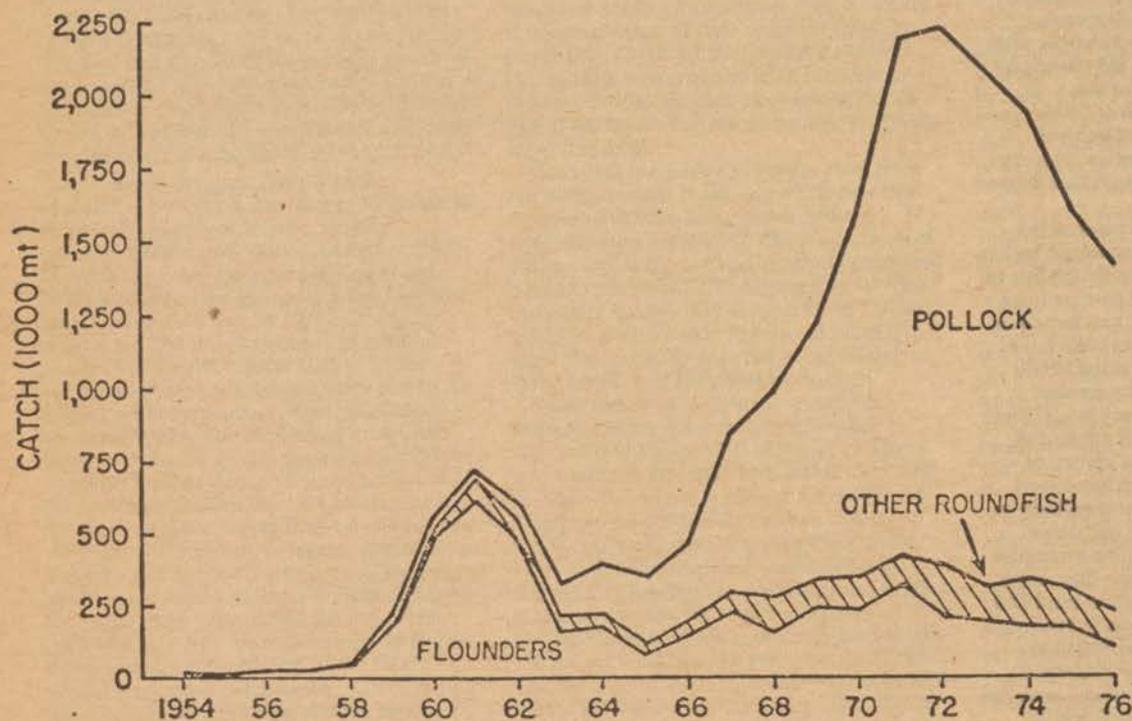
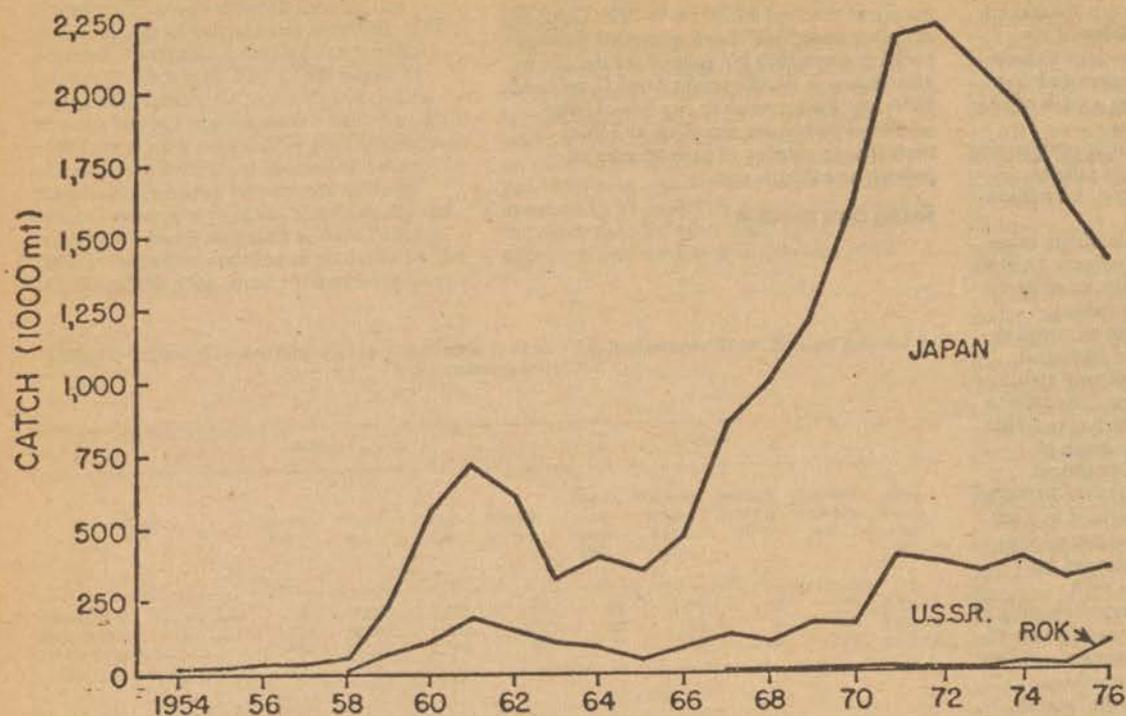


Figure 12.--Foreign catches of groundfish in the eastern Bering Sea (east of 180°) by nation (upper panel) and by species or species group (lower panel), 1954-76.

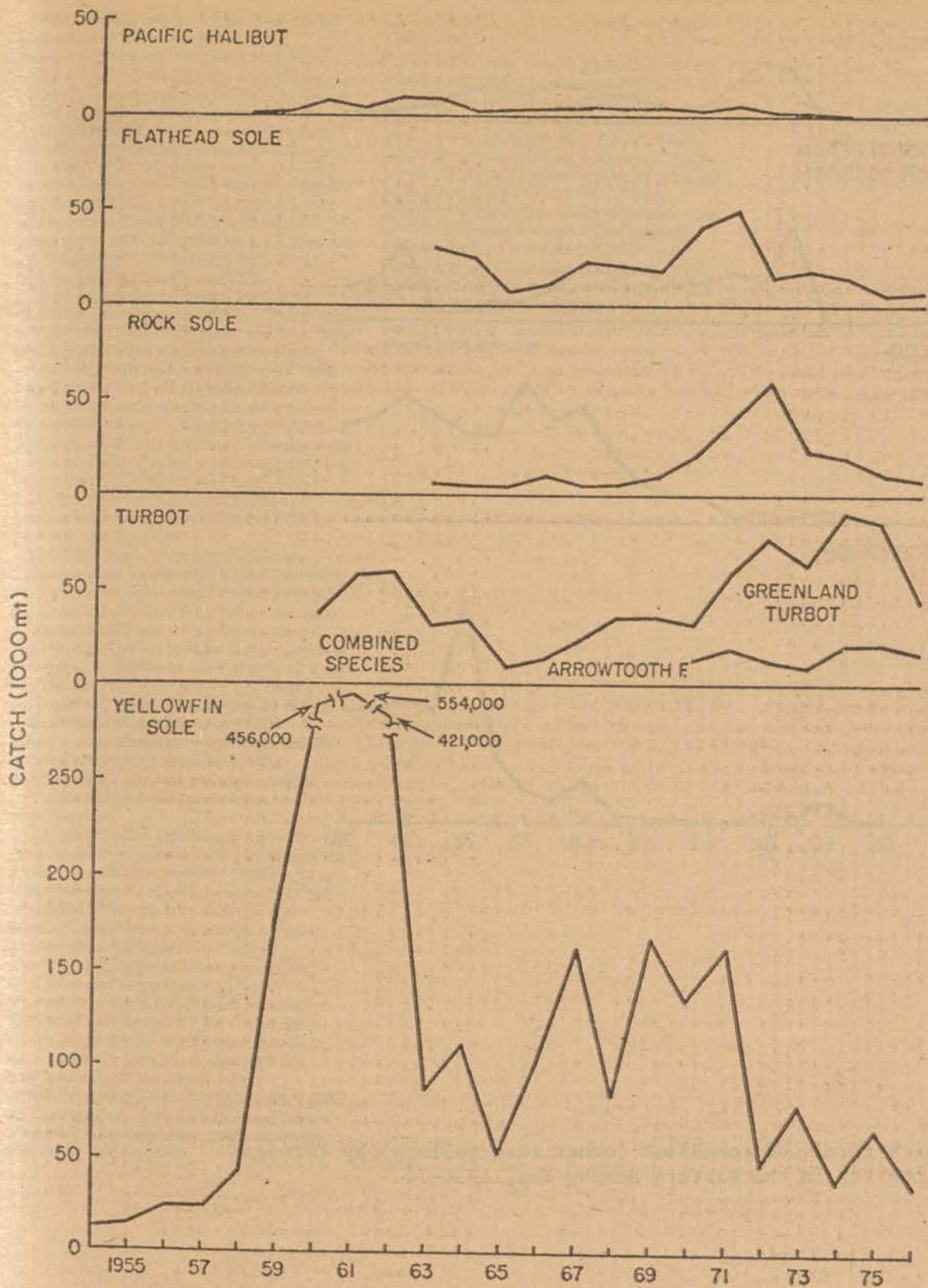


Figure 13.--Catch trends of flounders by foreign fisheries in the eastern Bering Sea, 1954-76.

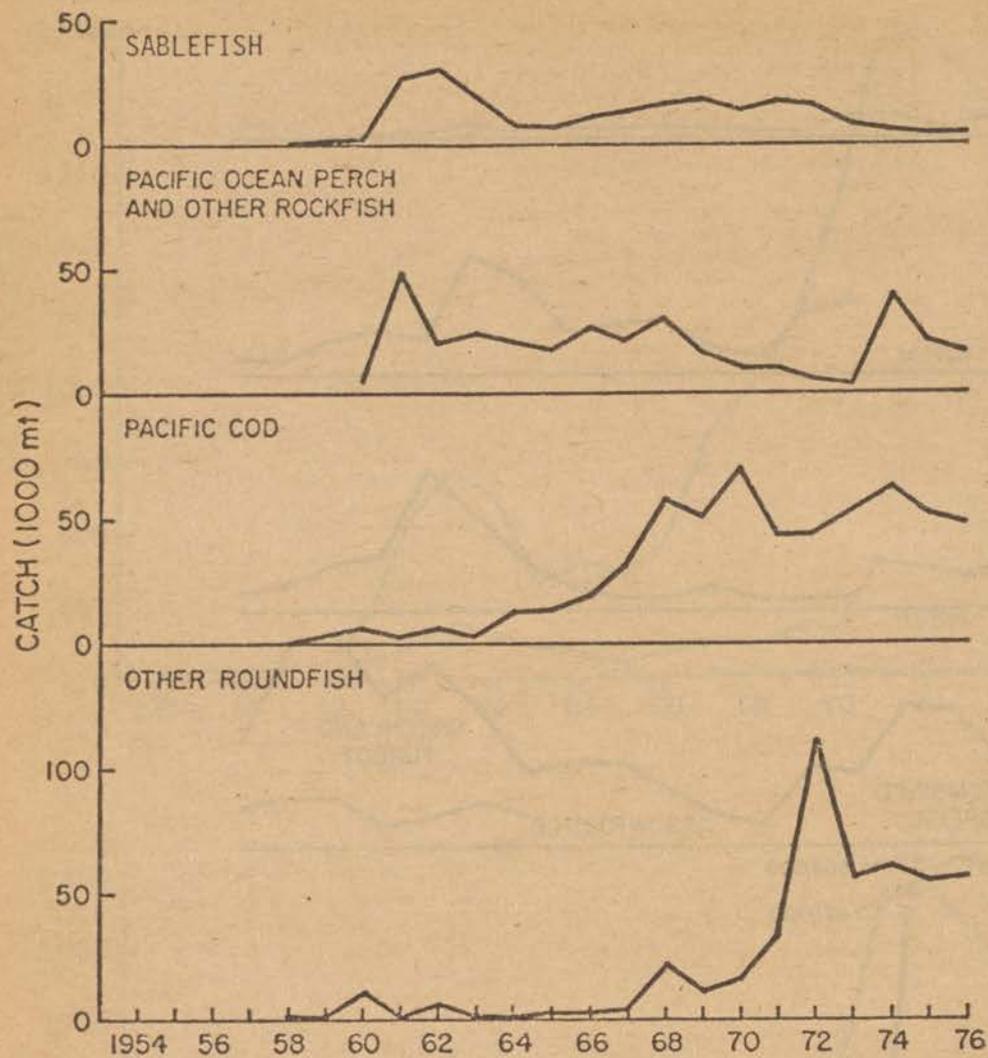


Figure 14.--Catch trends of roundfish (other than pollock) by foreign fisheries in the eastern Bering Sea, 1954-76.

Flounders have formed a relatively small proportion of the total catches in the Aleutians. The small flounders (yellowfin sole, rock sole, flathead sole, and Alaska plaice) occupy this region in low abundance based on catch statistics (Annex IV). The main species of flounders taken have been Greenland turbot and arrowtooth flounder.

Catches of Pacific ocean perch and other rockfish reached their peak in 1965 at 109,000 mt (Figure 15). Since then they have shown an almost continual decline with minor increases in 1970, 1972, and 1974. Catches fell again following 1974 to range from about 17,000-18,000 mt in 1975 and 1976.

Catch trends for individual species of roundfish, other than rockfish are illustrated in Figure 16. Catches of Pacific cod have been small, showing some increases in recent years with a peak catch of 3,800 mt in 1976. This increase may simply reflect better identification and reporting of cod in the fisheries. Catches of sablefish have remained relatively stable at a low level throughout the period of foreign fishing in the Aleutians. The largest catch of 3,600 mt was taken in 1972. Sable fish have been a target species of longline fisheries by Japan and the ROK in Aleutian Island waters.

The USSR began to report significant catches of Atka mackerel in 1972. From 1974 to 1976 catches rose rapidly as the Soviets concentrated effort on this species, reaching 20,000 mt in 1976 and exceeding catches of any other groundfish species in the Aleutians in the year. Reported catches of pollock have also increased in recent years reaching a peak of 23,000 mt in 1974. Almost all of the catch in 1973-76 was taken by USSR fisheries. It is unknown whether the Soviets directed some effort to pollock in the Aleutian region in these years or whether they were an incidental part of catches in other fisheries.

Catches of "other groundfish" have shown fluctuations from year to year, but no definite trend. This category probably consists mainly of non-commercial species or species of low commercial value such as sculpins and rattails. Fluctuations in this catch category may result partially from methods of recording and reporting these species. In 1972, when the largest catch of "other groundfish" occurred, the USSR reported 5,300 mt of rattails and 9,700 mt of sculpins. In later years the Soviets did not identify these species in their catch statistics and their total annual catches of "other roundfish" ranged from only about 200-1,600 mt. The reported Japanese catches of "other groundfish" increased from 1968 reaching 8,000 mt in 1974 and 1975.

responsible for this rise in catches of turbot (Annex IV).

Flounders have in most years formed only a minor part of the total groundfish catch in the Aleutian Islands area (Figure 17). Reported annual catches of small flounders have usually been less than 100 mt. After reaching a peak of almost 1,300 mt in 1975, annual catches of Pacific halibut have ranged from about 400 mt to less than 150 mt. Reported catches of arrowtooth flounder and Greenland turbot were also low until 1970, after which they increased sharply, with Greenland turbot the primary species taken. Catches in 1972-75 ranged from about 12,000 to 14,000 mt. Japanese fisheries were

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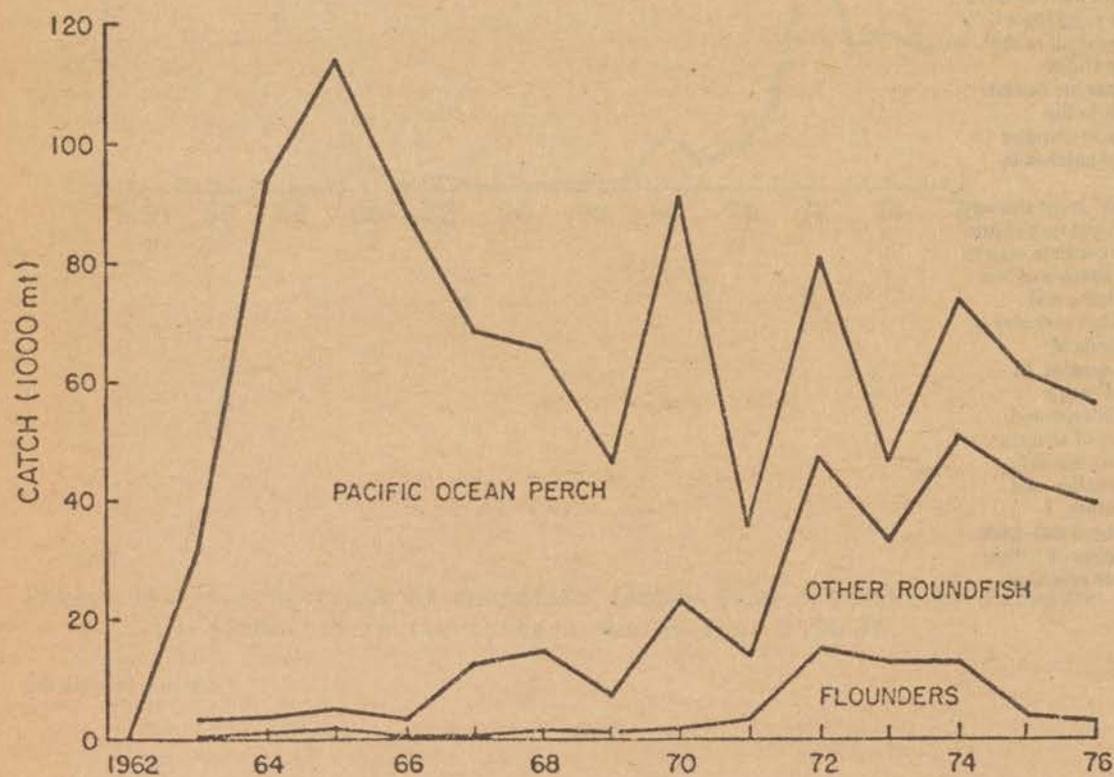
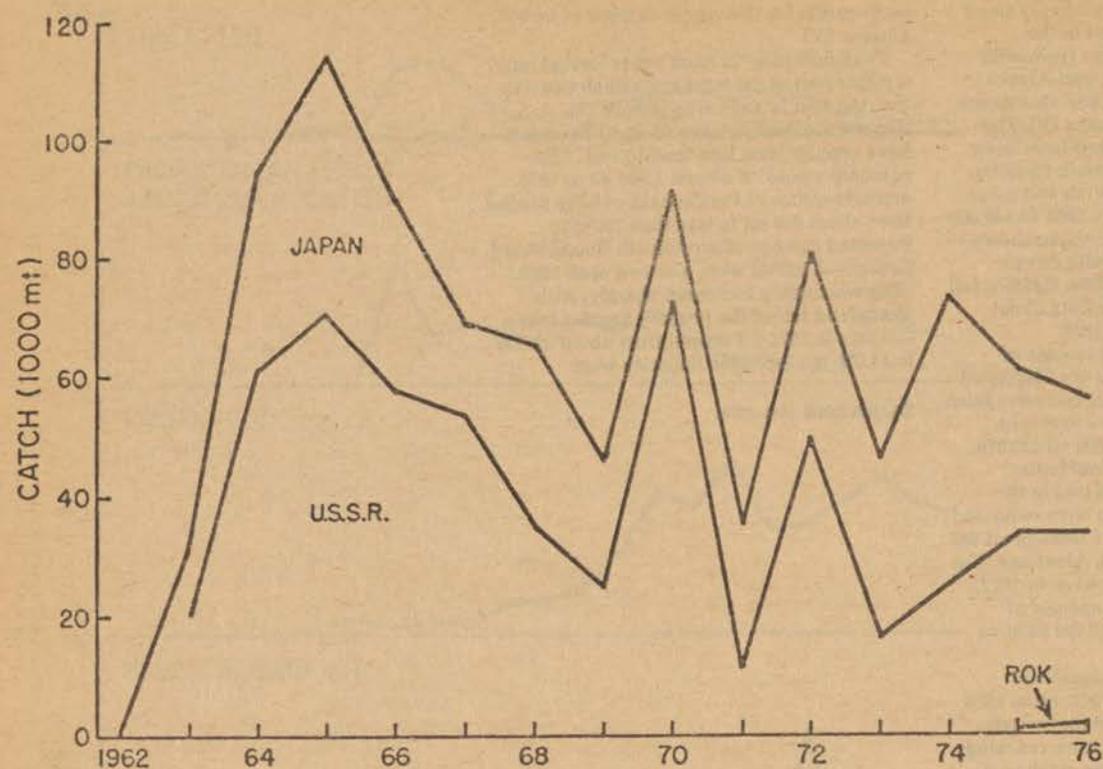


Figure 15.--Foreign catches of groundfish in the Aleutian Island area (170°W - 170°E) by nation (upper panel) and by species or species group (lower panel), 1962-76.

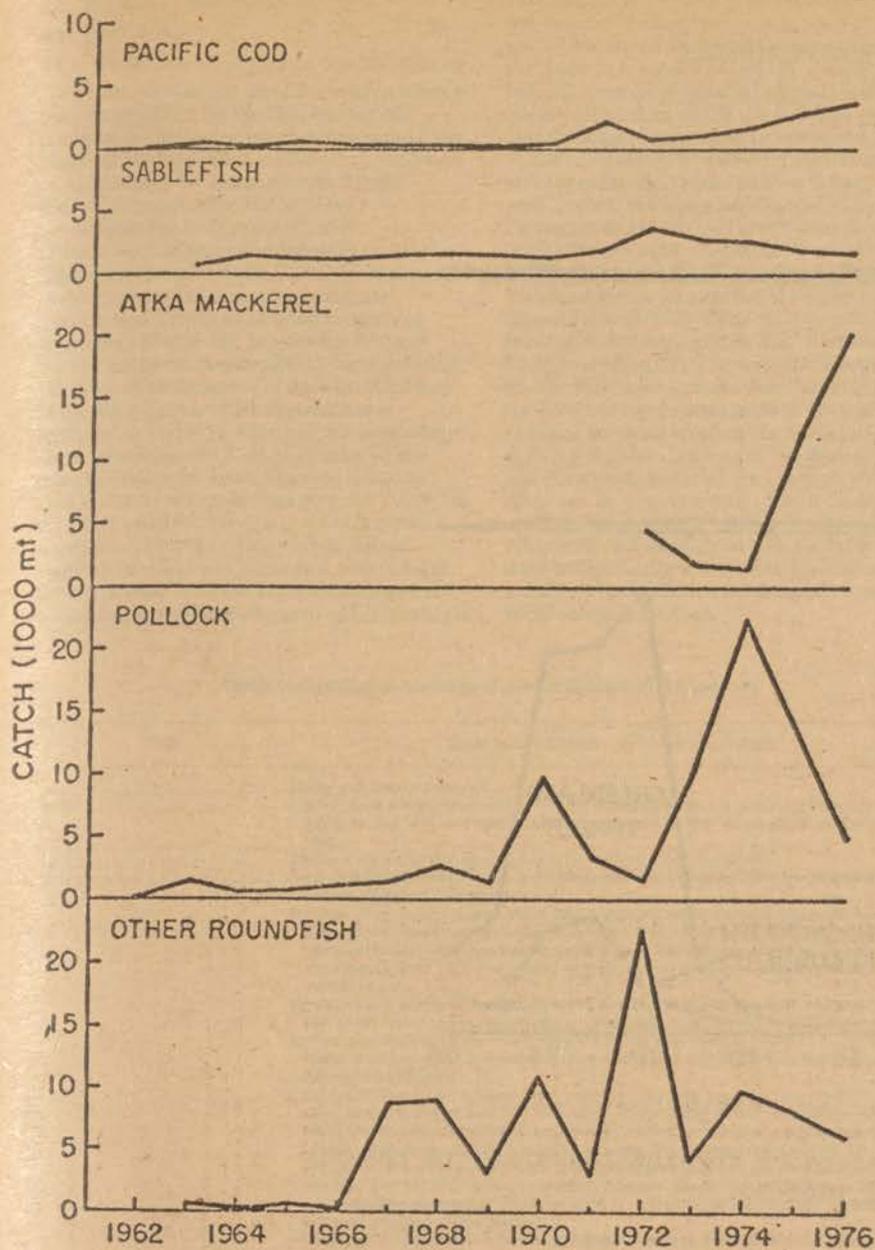


Figure 16.--Foreign catches of commercially-important species of roundfish (other than Pacific ocean perch) in the Aleutian Island area, 1962-76.

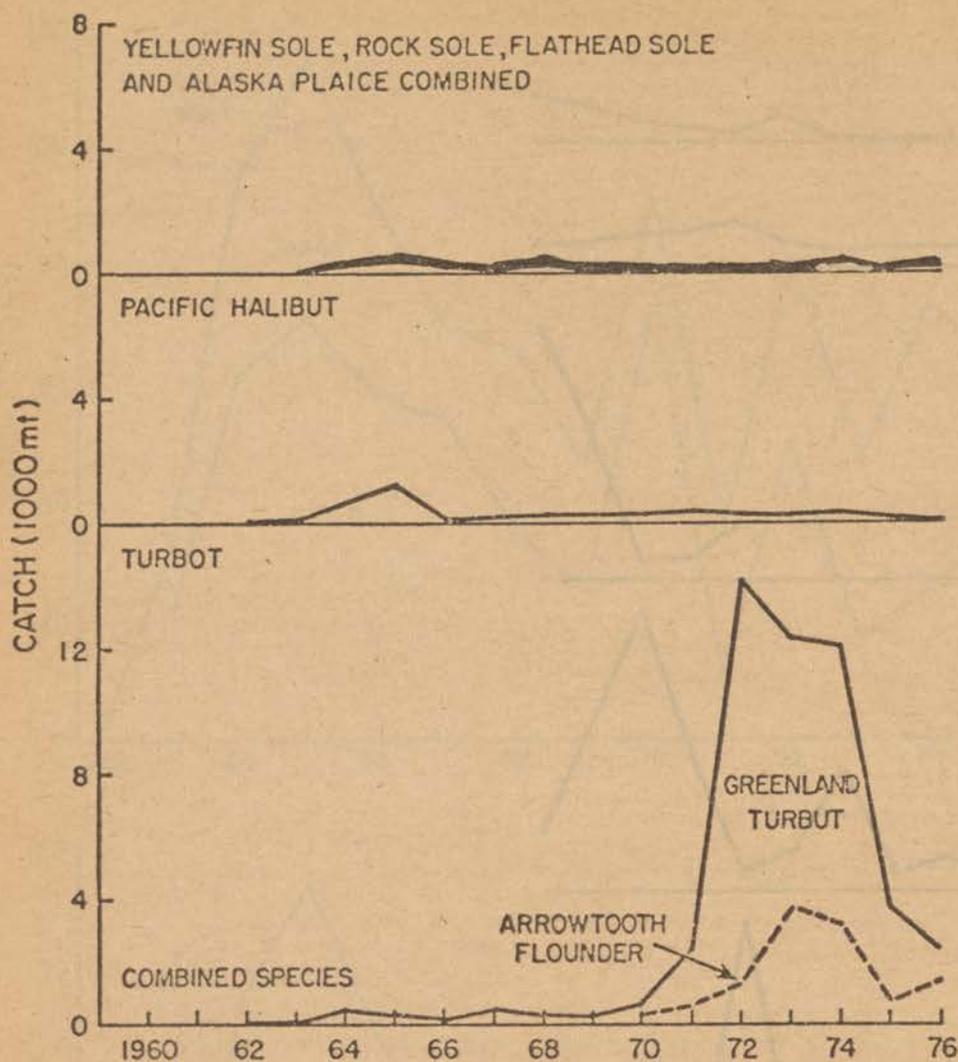


Figure 17.--Catch trends of flounders by foreign fisheries in the Aleutian Island area, 1962-76.

## 6.0 History of Management

## 6.1 Domestic

## 6.1.1 Measures employed to regulate fishery

Fishery restrictions on U.S. Nationals have been established by the U.S. Bureau of Commercial Fisheries (the predecessor of the National Marine Fisheries Service), the State of Alaska and the International Pacific Halibut Commission. The BCF was responsible for both research and management of domestic fisheries in Alaska before statehood in 1958. The BCF imposed restrictions on the size, character, and operation of trawls to be used to capture groundfish (Table 14). In 1959 the State of Alaska assumed responsibility for regulating the groundfish fisheries of Alaska. A history of the state's groundfish regulations is included in Table 14. Many of the regulations were specific to the Gulf of Alaska where domestic fisheries have been more active.

In addition to regulations given in Table 14, the State of Alaska requires all commercial fishermen landing any species of fish or shellfish in Alaska to possess a commercial fishing license, and the captain or owner of all fishing vessels are required to license their

vessels and the fishing gear employed. Buyers are required to keep records of each purchase and show the number and name of the vessel, the State license number of the vessel, date of landing, pounds purchased of each species, statistical area in which the fish was caught, and the kind of gear used in taking the fish.

The chronology of different regulatory measures for the Pacific halibut fishery as well as their rationale are discussed by Dunlop et al. (1964), Bell (1967) and Skud (1977). Before 1963, the North American halibut fishery in the Bering Sea was managed by the International Pacific Halibut Commission (IPHC). From 1963 to 1977, IPHC recommended regulations, but these had to be approved by the International North Pacific Fisheries Commission (INPFC). Since the onset of regulations in 1932, several changes have occurred in the boundaries defining regulatory areas in the Bering Sea and Aleutians. Some of the changes were in response to tagging studies that indicated a relationship between halibut stocks in the Aleutians and the Gulf of Alaska. However, most of the changes were designed to obtain a desired distribution of fishing effort and to facilitate enforcement.

Table 14.—Historical Summary of Alaska Groundfish Regulations

Year	Legal gear, Definitions, and Other Regulations
	Earlier records not available.
1940	Use of trawls prohibited except for shrimp, flounders when not capturing, injuring or destroying other food fish, and spider and King crab west of 150° W. longitude exclusive of Cook Inlet.
1942	Trawls prohibited in fishing for salmon, herring, and Dungeness crab.
1948	Gear restrictions: Trawls. The size, character, and operation of otter trawls in Alaskan waters are limited as follows: <ol style="list-style-type: none"> <li>Otter trawls having mesh smaller than 5 inches stretched measure between knots in the bag and 6 inches stretched measure between knots in the wings are prohibited. Provided, that otter trawls now in use having mesh smaller than that specified may be used through the calendar year 1949 if registered with the Regional Director, Fish and Wildlife Service, Juneau, Alaska.</li> <li>The use of any devices attached to the footrope or elsewhere, such as chain "ticklers", which may cause undue disturbance or destruction of the bottom, is prohibited.</li> <li>The use of otter trawls in any area which the International Fisheries Commission has found to be populated by small immature halibut and accordingly has closed to all halibut fishing, is prohibited.</li> <li>All operators of otter trawls shall maintain a running log on forms furnished showing date, type and size of mesh of trawl used, each locality fished, the time and duration of each tow and the estimated poundage and number or average weight of each species caught. Such logs shall be available for inspection by representatives of the Fish and Wildlife Service at any reasonable time, and the duplicate sheets shall be transmitted to the Fish and Wildlife Service at periodic intervals. On or before December 15 of each year complete statistics of operation shall be submitted to the Fish and Wildlife Service on forms provided for the purpose.</li> <li>The use of any trawl in commercial fishing for salmon, herring, and Dungeness crabs is prohibited.</li> </ol>
1949	The following species besides salmon were defined as commercial fish: <ul style="list-style-type: none"> <li>Albacore (<i>Germa atalunga</i>) tuna</li> <li>Cod (<i>Gadus macrocephalus</i>) codfish, true cod, gray cod</li> <li>Eulachon (<i>Thaleichthys pacificus</i>) smelt, hooligan</li> <li>Halibut (<i>Hippoglossus stenolepis</i>)</li> <li>Herring (<i>Clupea pallasii</i>)</li> <li>Lingcod (<i>Ophiodon elongatus</i>)</li> <li>Rockfish (all species of genus <i>Sebastes</i> also known as rockcod and sea bass)</li> <li>Sablefish (<i>Anoplopoma fimbria</i>) black cod</li> <li>Sheefish (<i>Stenodus mackenzii</i>) inconnu</li> <li>Sole and flounder (all species of family Pleuronectidae)</li> </ul>
1958	Trawl fishermen no longer required to fill out log books.
1959	Alaska Statehood
	Trawls illegal for taking crab.
1960	Longlines and trawls may be used to take groundfish. Longlines are the only legal gear with which to take sablefish within S.E. Alaska. Halibut are to be regulated according to IPHC regulations 5AAC 39.390.
1961	All defined legal gear became legal for the taking of groundfish excepting S.E. sablefish.
1967	S.E. sablefish: A 2½", #20 thread or less gillnet may be aboard vessel for taking bait.
1968	S.E.: Sablefish taken incidentally by longline or otter trawl may be retained in an amount not to exceed ten percent, by weight, of each landing.
1970	Pots became legal sablefish gear within S.E.
1972	Incidental allowable catch of sablefish increased to 20%. 1962 regulation (5 AAC 39.390) referring to IPHC management of halibut repealed.

Table 14.—Historical Summary of Alaska Groundfish Regulations—Continued

Year	Legal gear, Definitions, and Other Regulations
1976	<p>An untreated cotton escape for sablefish pots required within S.E. Also under General Provisions, Groundfish Fishery, Gear for Groundfish.</p> <p>(a) Groundfish may be taken by trawls, hand troll gear, seines, longlines and pots except as legal gear may be further restricted by groundfish gear regulations of chs. 03-39 of this title and except as follows:</p> <ol style="list-style-type: none"> <li>(1) king and tanner crab pots as defined in chs 34 and 35 of this title may not be used to take groundfish in the areas where the regulations define those pots.</li> <li>(2) groundfish taken by power gurdy troll gear being fished for salmon consistent with applicable state laws and regulations are legally taken and possessed.</li> <li>(3) All commercial longline or skate gear buoys or kegs shall be marked with the permanent department registration number of the vessel fishing this gear.</li> </ol>
1977	<p>Crab pots are not defined for all areas. The most restrictive definitions are as follows:</p> <p>A king crab pot is a pot with rigid tunnel eye openings and which individually are a <i>minimum</i> of five inches in one dimension, and tunnel eye opening perimeters which individually are larger than 30 inches.</p> <p>A tanner crab pot is a pot with rigid tunnel eye openings which individually are a <i>maximum</i> of five inches in one dimension, and tunnel eye opening perimeters which individually are larger than 30 inches; or a pot which tapers from its base to a top consisting of one horizontal opening of undescribed size.</p> <p>Same as 1976 except that sunken or diving gillnets may be used for groundfish upon issuance of a permit by the commissioner (ADF&amp;G).</p>

Except for a period in the late 1940's and early 1950's and again in 1963-64, quotas have not been used to manage Bering Sea halibut stocks. Instead, restrictions have been based on the length of the season. Until the late 1950's, the Bering Sea season coincided with that of IPHC Area 3 (the Gulf of Alaska west of Cape Spencer), but by the early 1960's, the opening of the Bering Sea often was a month earlier than in Area 3. The earlier opening was established to encourage fishermen to exploit Bering Sea stocks. Since 1965, the fishing time has been limited to three weeks or less in the spring and fall or both. This curtailment was necessary because of the drastic decline in abundance of halibut.

Other regulations include licensing requirements, gear restrictions, minimum size limits, and closed areas. IPHC requires that all setline vessels over 5 net tons be licensed; there is no fee and annual renewal is not required. Licensed vessels must maintain a log book showing the daily catch, effort, and the fishing area. From 1932 to 1973, vessels also were required to "clear" for fishing a particular area and submit a "statistical return" at the completion of each trip. These requirements have since been deleted.

In 1938, the regulations prohibited the use of set nets for catching halibut. Nets of any kind were prohibited in 1944, and this restriction has continued to the present day. The definition of nets was expanded to include pots in 1972. IPHC's justification of trawl prohibition was based on evidence that halibut caught by trawls usually are below the optimum harvesting size.

The size limit of halibut was introduced into the regulations in 1940. The minimum size at that time was 5 pounds, head-off, dressed. The purpose of the size limit was to reduce the catch of halibut that were below the optimum harvest size, but there also was an economic reason. The industry favored the regulation because small halibut were often

of poorer shipping quality and of lower value. In 1973, the minimum size limit was increased and expressed in terms of length: 32 inches from the tip of the lower jaw to the end of the middle of the tail. The increase was justified based on an increase in growth rate.

In 1967, IPHC Area 4E in southeastern Bering Sea was declared a nursery area and a year-round closure was instituted that still is in effect.

#### 6.1.2 Purposes of regulatory measures

The limited number of groundfish regulations implemented by the State of Alaska were primarily designed for the protection of species of high commercial value such as salmon, herring, juvenile halibut, and shellfish. Examples of such regulations were the restrictions on use of pot gear, gillnets, otter trawls, and seines (Table 14).

With regard to halibut, IPHC is restricted by the present convention to manage for MSY and cannot consider other goals or economic factors. Regulations in the Bering Sea and Aleutians were designed to accomplish this goal. Specifically, season and quota restrictions controlled fishing mortality; minimum size limits, gear restrictions, and closed areas reduced the mortality on suboptimum sized halibut; the timing of the seasons and the area designations affected the distribution of fishing effort and facilitated enforcement; licensing, and statistical requirements provided scientific information on stock condition.

#### 6.2 Foreign

##### 6.2.1 Measures employed to regulate the fishery

A number of regulatory measures affecting groundfish fisheries have been implemented through public laws and international agreements prior to enactment of the U.S. Fishery Conservation and Management Act of 1976. Initial regulatory measures originated from the International Convention for the High Seas Fisheries of the North Pacific

Ocean involving Canada, Japan, and the United States, which was brought into force in 1953. The Convention provided for establishment of the International North Pacific Fisheries Commission (INPFC) to provide and coordinate scientific studies necessary to ascertain and recommend conservation measures required to ensure maximum sustained productivity of fishery resources in the Convention area (Forrester et al. 1974). One of the provisions of the Convention prohibited Japan from fishing halibut in certain areas and, starting in 1958 Japan agreed to abstain from fishing halibut providing that stocks of halibut continued to meet qualifications for abstention, e.g., that the stocks were under substantial exploitation by two or more of the contracting parties.

In 1962 member nations of INPFC agreed that halibut east of 175° W in the Bering Sea no longer continued to qualify for abstention (Forrester et al. 1974). Following the removal of halibut from the abstention list, joint conservation measures were implemented by member nations of INPFC in 1963 which included a catch quota of 5,000 mt in a triangular area east of 170° W. Following a catch of 5,000 mt in the quota area in 1963, catches dropped abruptly and Japan withdrew her longline fleet from the quota area after 1964. Although agreement between INPFC member nations was never reached to return halibut to the abstention list, Japan has not chosen to conduct a target fishery on halibut east of 175° W since 1964.

U.S. Public Law 88-308, enacted in May 1964, made it unlawful for foreign vessels to fish within the 3-mile territorial waters of the United States or to fish for designated fishery resources of the adjacent U.S. Continental Shelf. In October 1966, U.S. Public Law 89-658 established a 9-mile contiguous fishery zone adjacent to the U.S. 3-mile territorial sea. The law provided that the United States would have the same jurisdiction over fisheries within this newly created zone as it had within its 3-mile territorial waters subject to the continuation of traditional fisheries by foreign nations.

In 1964, the U.S. initiated bilateral agreements with Japan and the USSR to allow continuation of their traditional fisheries within the contiguous zone in certain areas of Alaska (Office of Enforcement and Surveillance 1968). One provision of the 1964 agreements was the establishment of a king crab pot sanctuary adjacent to the north side of Unimak Island and the western Alaska Peninsula that prohibited trawling year-round. The purpose of the sanctuary was to prevent gear conflicts between mobile foreign gear and domestic fixed gear. An adjacent area, closed to trawling during winter, in order to reduce incidental catches of juvenile halibut, was added in later bilateral agreements.

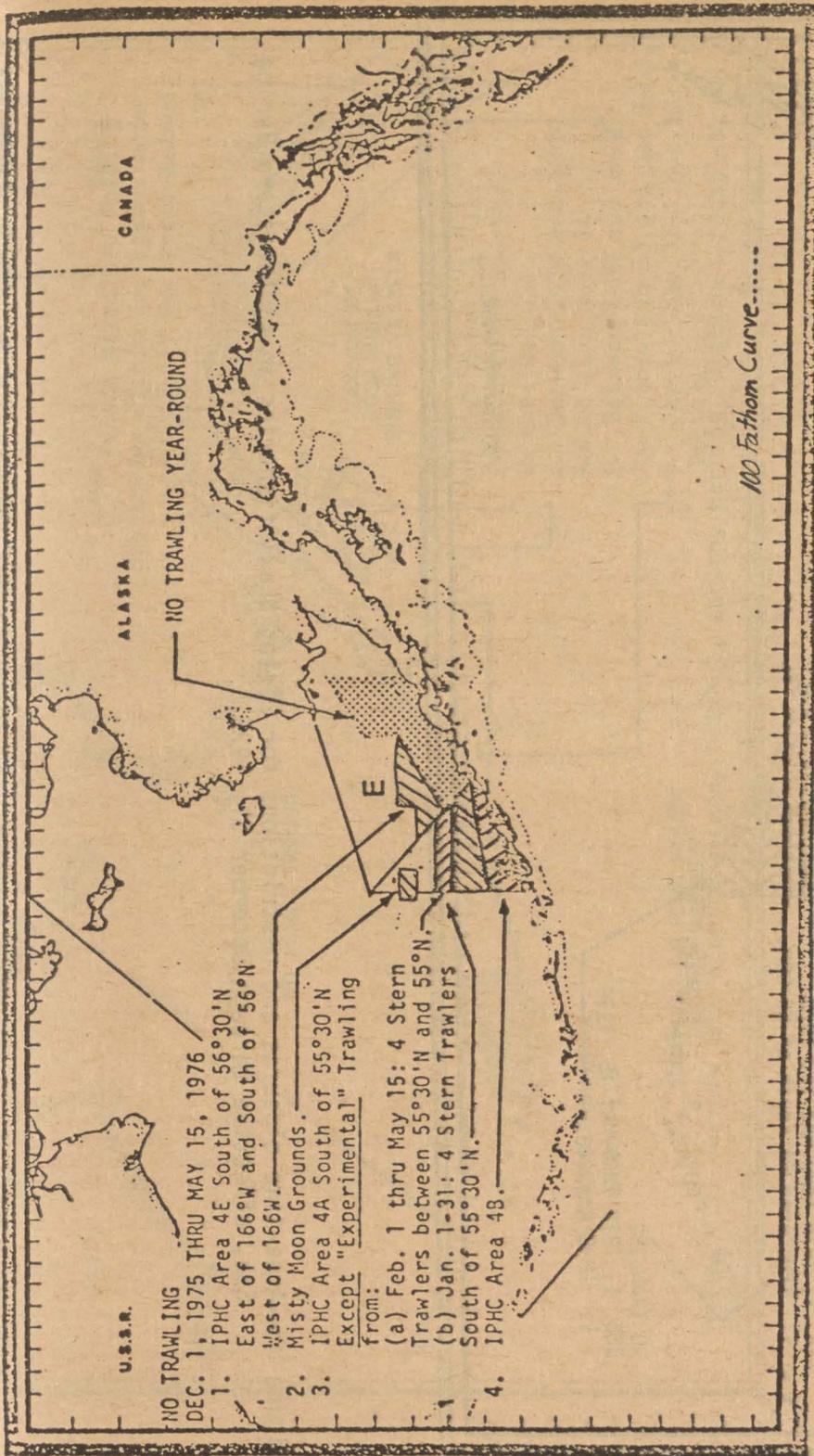


Figure 18a--Area-time closures and restrictions for Japanese trawl fisheries in southeastern Bering Sea, effective through December 31, 1976.

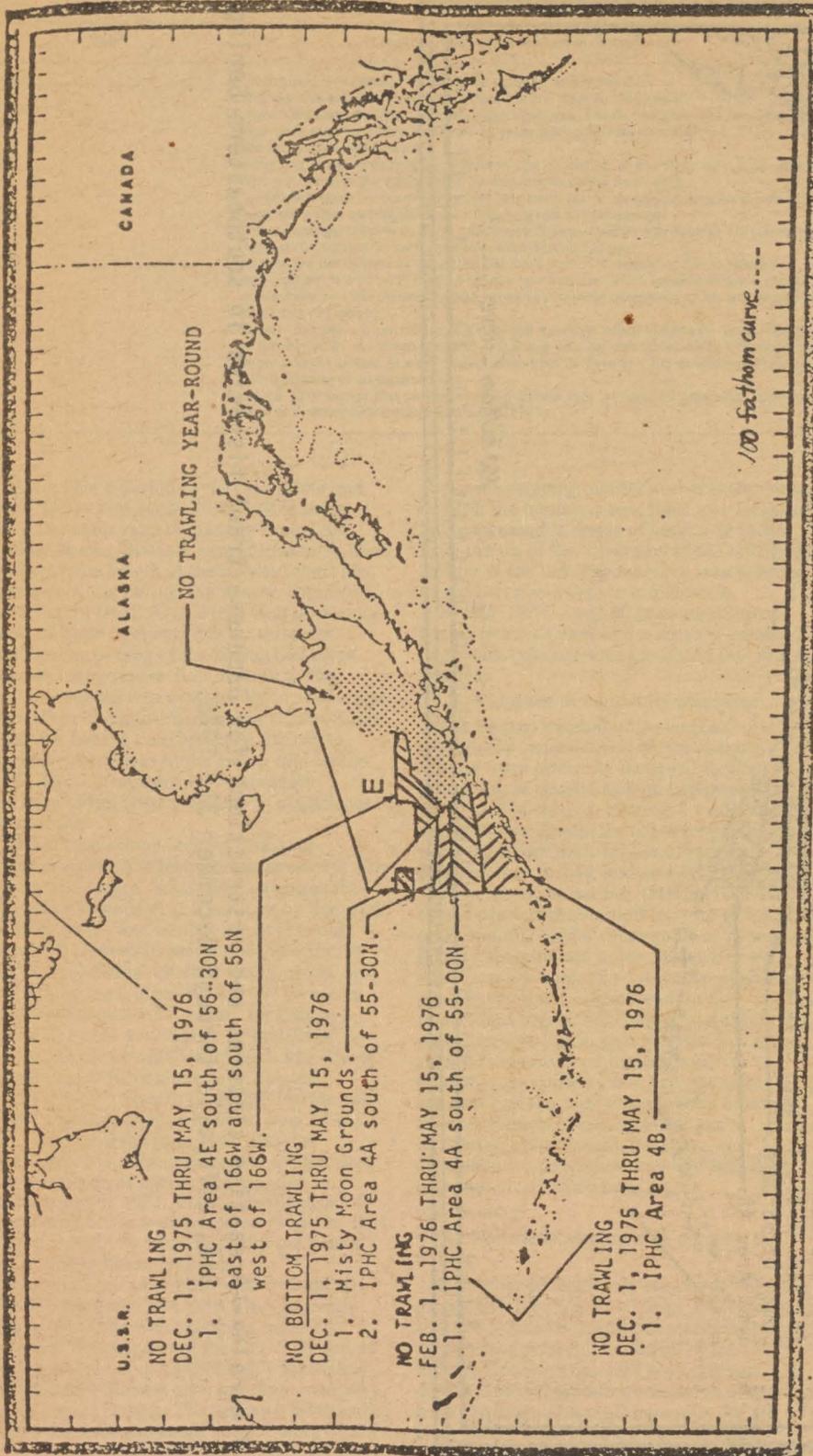


Figure 18b--Area-time closures and restrictions for Soviet trawl fisheries in southeastern Bering Sea, effective through December 31, 1976.

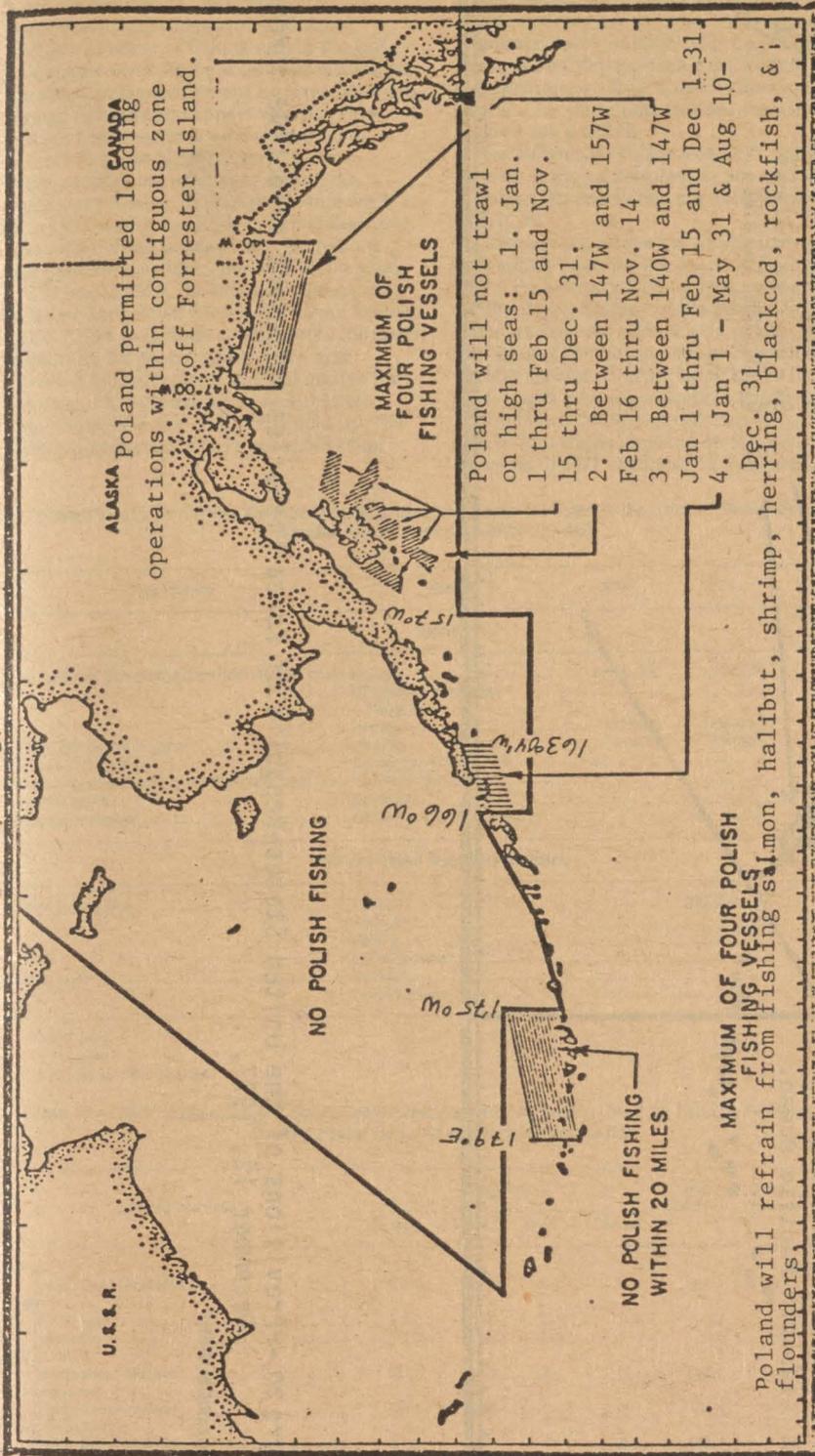


Figure 19.--Area-time closures and restrictions for fisheries of the Polish People's Republic in the Gulf of Alaska and Bering Sea, effective through December 31, 1976.

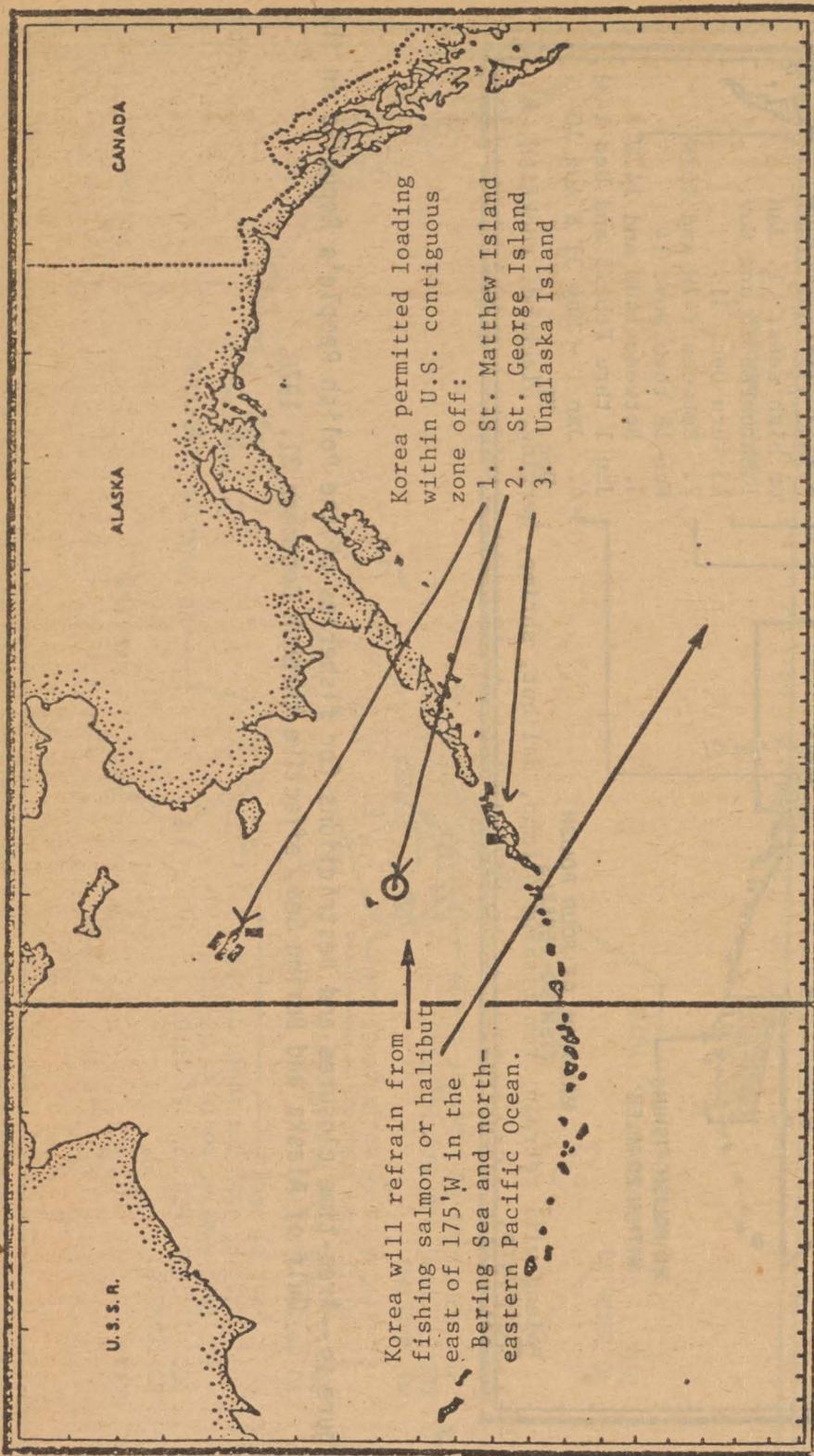


Figure 20.--Provisions of the United States-Republic of Korea Fisheries Agreement effective through December 12, 1977.

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The agreements with Japan and the USSR were renegotiated at two-year intervals. Subsequent agreements created some changes in areas of fishing within the U.S. contiguous zone, and provided areas within the zone for transshipment of cargo between foreign fishing and support vessels. This series of agreements was expanded to include Canada in 1970, allowing for reciprocal fishing privileges within the contiguous fishing zone. Agreements were also signed with the ROK in November 1972, and with Poland in May 1975. No fishery agreements have been signed with Taiwan.

Starting in 1973, the bilateral agreements between the United States and Japan and the USSR begin to include catch quotas for these nations in the eastern Bering Sea and Aleutian Island regions. Annual quotas for the years 1973-76 are given in Table 15.

In addition to the crab pot sanctuary, the bilateral agreements have provided other

area-time closures to Japanese and Soviet trawl fisheries for the protection of halibut. These closures are designed to reduce the incidental catch of halibut by trawl fisheries in areas and time periods that halibut form concentrations. Area-time closures currently in effect for these fisheries are shown in Figures 18a and 18b.

Restrictions on Polish and ROK fishing vessels in the eastern Bering Sea and Aleutian Island regions are shown in Figures 19 and 20.

Current regulations pertaining to foreign groundfish fisheries are found in Section V-A of the Preliminary Fishery Management Plan for the Trawl Fishery of the Bering Sea and Aleutian Islands, and include catch limitations, prohibition on the retention of certain species of importance to the United States, and time-area closures to prevent gear conflicts and provide protection to halibut. Catch limitations imposed on foreign fisheries in 1977 are listed in Table 16.

## 6.2.2 Purposes of regulatory measures

Most of the regulatory measures pertaining to foreign groundfish fisheries in the eastern Bering Sea and Aleutian Islands were implemented for conservation of halibut stocks and to prevent gear conflicts between foreign trawlers and domestic fixed gear (crab pots and halibut setlines). In negotiating these restrictions on foreign fisheries in international waters, certain concessions were provided the fisheries involved in terms of fishing and loading privileges within the U.S. contiguous fishing zone.

With the decline in abundance of halibut in the eastern Bering Sea in the mid-1960's, negotiations were directed toward reducing or preventing foreign fisheries from targeting on halibut. When it became apparent that these measures were not creating the desired improvement in the condition of the halibut stock, other measures involving time-area closures were negotiated to reduce the incidental catch of halibut by foreign trawl fleets. The retention of trawl-caught halibut was also prohibited.

As evidence became available of deterioration in the condition of other bottomfish stocks in the eastern Bering Sea and Aleutian Islands, negotiations were initiated to limit or reduce foreign catches of these species in an attempt to arrest these declines and restore the resources to higher productivity. Catch quotas for Japanese and Soviet fisheries were first implemented in 1973 and were carried forward, with some modifications, until 1977 when foreign fisheries came under jurisdiction of the U.S. Fishery Conservation and Management Act.

## 6.3 Effectiveness of Management Measures (foreign and domestic)

Closures to foreign trawling of crab and halibut fishing areas have undoubtedly reduced conflicts between the foreign trawlers and U.S. fixed gear. Gear losses have continued, but recent losses have occurred outside areas closed to foreign trawling.

Restrictions on the North American setline fishery have reduced fishing mortality on stocks of adult halibut, but the primary problem appears to be a reduction in the number of young halibut entering the fishery. Recent time-area closure have reduced the incidental catch by foreign trawlers and the abundance of young has increased since 1972 (Table 17). Although the increase is encouraging, it will not improve conditions in the setline fishery for several years, and abundance is still well below that in the 1960's. The present poor condition of the resource probably is a result of several factors: excessive setline removals in the early 1960's, high incidental catches of juvenile halibut by foreign trawlers in the 1960's and early 1970's, and reduced productivity from adverse environmental conditions (Hoag, 1976). Because halibut are a long-lived species, rehabilitation of the resource will be a lengthy process regardless of present management measures.

Regulations in the form of catch quotas implemented in 1973 and later years to mitigate the deterioration in condition of

Table 15.—Catch Quotas Applicable to Japanese and Soviet Fisheries in the Eastern Bering Sea and Aleutian Island Region in 1973-76 (MT)

Area/fishery	Species	1973	1974	1975-76
<b>Japan</b>				
Eastern Bering Sea mothership-North Pacific trawl	Pollock	1,500,000	1,300,000	1,100,000
	Groundfish other than Pollock			160,000
North Pacific longline-gillnet	Herring	<sup>1</sup> (33,000)	<sup>1</sup> (33,000)	15,000
	Herring	<sup>2</sup> (4,600)	<sup>2</sup> (4,600)	3,000
Land-based dragnet	Groundfish (all species)			35,000
Aleutian region mothership-North Pacific trawl and longline-gillnet	Pacific Ocean perch			9,600
	Sablefish			1,200
Land-based dragnet	Groundfish (all species)			8,500
<b>Union of Soviet Socialist Republics</b>				
Eastern Bering Sea	Flatfish		100,000	( <sup>3</sup> )
	Pollock			210,000
	Herring			30,000
	Other species			120,000
Aleutian region	Rockfish			12,000
	Other species			16,000

<sup>1</sup> 1969 level.

<sup>2</sup> 1971 level.

<sup>3</sup> Included in other species.

Table 16.—1977 Groundfish and Squid Catch Limitations (1,000 Metric Tons) for Foreign Fisheries in the Eastern Bering Sea and Aleutian Islands Region

Species and area	Nation				Total assigned	Unassigned <sup>1</sup>	Total foreign allocation
	Japan	U.S.S.R.	ROK	Taiwan			
Pollock:							
Bering Sea/Aleutians	792.3	112.7	40.0	5.0	950.0	0	950.0
Sablefish:							
Bering Sea	<sup>2</sup> 3.6	<sup>2</sup> 0.6	<sup>2</sup> 0.4	<sup>2</sup> 0.2	4.8	0.2	5.0
Aleutians	<sup>2</sup> 2.0	<sup>2</sup> 0.2	<sup>2</sup> 0.2	0	2.4	0	2.4
Pacific cod:							
Bering Sea/Aleutians	38.1	17.2	0	0	55.3	2.7	58.0
Yellowfin sole:							
Bering Sea/Aleutians	62.1	40.8	0	0	102.9	3.1	106.0
Other flounders:							
Bering Sea/Aleutians	61.5	40.4	0	0	101.9	3.1	105.0
Pacific ocean perch:							
Bering Sea	2.8	3.5	0	0	6.3	0.2	6.5
Aleutians	6.5	8.1	0	0	14.6	0.4	15.0
Other groundfish:							
Bering Sea	40.4	17.4	1.6	0.2	59.6	0	59.6
Aleutians	23.1	9.9	0.89	0.11	34.0	0	34.0
Squid:							
Bering Sea/Aleutians	10.0	0	0	0	10.0	0	10.0

<sup>1</sup> Portion of total foreign allocation unassigned for possible use by a domestic fishery.

<sup>2</sup> Includes incidental trawl catch.

<sup>3</sup> Incidental catch only.

other groundfish species in the eastern Bering Sea and Aleutians have perhaps begun to show some benefit for certain species while not for others. Other factors such as year-class strength, time-area closures designed to protect halibut but also beneficial to other species, and the reduction of effort on some species, may have also influenced the current status of some stocks.

Catch limitations have reduced the catch of pollock from over 1.8 million mt in 1972 to 950,000 mt in 1977. Based on analysis of catch and effort data from the commercial fishery the abundance of pollock declined through 1975 (Low et al. 1977). Preliminary evidence that abundance in 1976 was similar to that in

1975 (INPFC 1977) offers some indication of an arrest in the decline of pollock abundance in the eastern Bering Sea. Lower fishing mortality, stemming from the catch limitations, have probably helped to lessen the decline in the pollock stock and may be contributing to a halt in this decline.

For species such as Pacific ocean perch and sablefish there has been, as yet, no evidence that catch restrictions have improved the poor condition of these stocks. In the case of long-lived and slow growing species like Pacific ocean perch and sablefish several years will be required before evidence is available to judge the effectiveness of current management policies.

Table 17.—Relative Abundance of Juvenile Halibut by Age Groups from the Bering Sea Index Stations, 1966-1977

[From IPHC 1977b]

Year	Age 2	Age 3	Age 4	Age 5	Age 6	Age 7	Total
	Number per hour trawled						
1966	0.2	17.2	4.9	7.6	0.9	0.2	31.0
1967	.6	4.3	4.6	6.0	.5	.6	16.6
1968	.3	6.4	1.8	3.1	.5	.4	12.5
1969	2.7	4.1	4.7	.4	.7	.2	12.8
1970	.4	8.8	2.0	.7	.2		12.1
1971	3.7	2.6	7.6	.3			14.2
1972	.1	2.0	.5	.4	.1		3.1
1973	.1	3.7	1.9	.7	.2		6.6
1974	.1	1.2	3.7	.8	.3		6.1
1975	.5	3.2	5.3	2.0	.7	.1	11.8
1976	.3	6.5	4.5	1.2	.3	.1	12.9
1977	.4	5.4	9.5	2.1	1.4	.1	18.9

There is evidence that the condition of stocks of yellowfin sole, rock sole, flathead sole and Alaska plaice have improved or remained relatively stable in recent years (Wakabayashi and Bakkala 1977; Bakkala and Wakabayashi 1977). Their condition has benefited from a series of relatively strong year-classes originating in the late 1960's. Winter time-area closures in the southeastern Bering Sea, designed for the protection of halibut, also benefit these species because they form winter concentrations in this area as well. The absence of a directed Soviet fishery on these species of flounders since 1972 may have additionally benefited the stocks. Thus, factors other than management measures directly applicable to the four small flounder species may be responsible for their current status. Catch limitations, however, are designed to maintain and improve their productivity.

For other principal species considered in

the plan (Pacific cod, Atka mackerel, arrowtooth flounder, Greenland turbot, and squid) information is lacking to adequately assess the current condition of the stocks relative to the recent past. There is no evidence to suggest that the stocks are depressed and catch limitations are designed to maintain the population at current levels.

#### 7.0 History of research

Investigations of groundfish resources of the eastern Bering Sea have been conducted by the United States, Canada, Japan, and USSR. U.S. research efforts have been of the longest duration (1880 to present) and were initiated to assist the development of U.S. cod and halibut fisheries. As these and other fishery resources of the eastern Bering Sea became increasingly utilized, and in some cases overfished in the decades of the 1960's and 1970's, investigations became more directed towards providing guidelines for resource management and conservation.

#### 7.1 United States<sup>1</sup>

The first major study of the demersal fishery resources of any consequence occurred in 1890 when the U.S. Fish Commission's steamer *Albatross* was directed into the southeastern Bering Sea to determine the locations and characteristics of important cod-fishing grounds (Rathbun 1894). Later in 1911, the *Albatross* also investigated halibut banks just north of Unimak Island (Alexander 1913). In 1930 the International Pacific Halibut Commission (IPHC) conducted exploratory setline fishing along the Aleutian Islands and tagging of halibut in Makushin Bay on the north side of Unalaska Island (Dunlop et al. 1964).

The first extensive and systematic survey of demersal fishery resources of the eastern Bering Sea was conducted in 1941 by the U.S. Fish and Wildlife Service (Fishery Market News 1942). Bottom trawling was conducted in the southeastern Bering Sea north to St. Lawrence Island, and in Norton Sound. Although the primary purpose of the survey was to locate areas of king crab abundance, information was also collected on the quantities and types of demersal fish encountered.

Continued interest in the commercial potential of crab and groundfish of the eastern Bering Sea resulted in further investigations after World War II. There were cooperative U.S. Government-industry ventures in the northeastern Bering Sea in 1947 (King 1949) and in 1948 (Wigutoff and Carlson 1950). The IPHC resumed exploratory setline fishing and tagging of halibut in the eastern Bering Sea in the 1950's (Dunlop et al. 1964).

With the development and intensification of fisheries in the eastern Bering Sea in the 1950's and 1960's, U.S. and IPHC research surveys began to be conducted in a more systematic and standardized manner. These investigations initially sought improved information on changes in abundance and recruitment of king crab and halibut, but other species were also later included. The U.S. Bureau of Commercial Fisheries (now the National Marine Fisheries Service) began systematic annual bottom trawl surveys in the southeastern Bering Sea in 1955 to obtain information on the distribution, abundance, biology, and recruitment of king crab. These surveys were interrupted for the period 1962-1965, but were continued in 1966. In 1968, Tanner crab was included in these surveys and received special study, and in 1971

<sup>1</sup>Includes Canadian research done in cooperation with the U.S., within the framework of the International Pacific Halibut Commission.

biological studies of important groundfish species were also added. These annual crab-groundfish surveys are a continuing activity by the NMFS. In the late summer of 1975 and spring of 1976, NMFS conducted multivessel groundfish and shellfish surveys in the eastern Bering Sea to provide baseline environmental information to the Bureau of Land Management's Outer Continental Shelf Environmental Assessment Program.

Beginning in 1963 and annually since 1965, the IPHC has been systematically monitoring by means of bottom trawl surveys the distribution and abundance of young halibut in the eastern Bering Sea (Best 1969 a and b; 1970; 1974).

In recent years, U.S. observers have been placed aboard foreign fishing and processing vessels to examine catches of target species (primarily pollock), and incidentally-caught halibut.

## 7.2 Foreign

Japanese research investigations in the eastern Bering Sea began in the mid-1950's, although there had been some experimental trawl fishing on bottomfish by Japanese commercial interests in this region in the early 1930's (Kibesake 1965). In 1956 the *Oshoro Maru* engaged in limited exploratory trawl fishing in the eastern Bering Sea. The *Oshoro Maru* has continued investigations from the 1950's to present time (Hokkaido University 1957, 1960, 1964-66). Other limited trawling investigations were conducted in 1961 through 1964 (Shimonoseki University of Fisheries 1966; Tsuruta et al. 1962).

Extensive and systematic surveys of eastern Bering Sea groundfish by the Japanese were begun in 1963 by the Japan Fishery Agency (JFA), and have continued annually with the exception of 1972 (Japan Fishery Agency 1975b). These surveys have covered broad areas of the continental shelf, and in some years the shelf edge and upper continental slope. Included in the Japanese investigations have been tagging studies on halibut, sablefish, pollock, and yellowfin sole.

The Japanese have been collecting catch and effort statistics and biological information from their groundfish fisheries since 1964, and providing these data to the U.S. through the International North Pacific Fisheries Commission.

Although the Soviet Union conducted limited exploratory surveys in the eastern Bering Sea in the early 1930's and early 1950's (Moiseev 1963), their first extensive investigations of demersal fish and shellfish resources in the eastern Bering Sea were during 1957-63. The main purpose of these surveys was the determination of the extent and potential uses of resources prior to commercial exploitation by the Soviet fleet. Information was also gathered on the biology of important species populations and environmental features associated with their distributions (Moiseev 1963-64; 1970).

Since 1963, the Soviet Union has continued its research on eastern Bering Sea fishery resources, which have included pollock and other demersal fishes.

## 8.0 Socio-Economic Characteristics of the Domestic Fishery

### 8.1 Commercial Fishery

#### 8.1.1 Commercial fishing fleet

In 1977 less than 100,000 pounds of groundfish was landed and sold for human consumption. The number of vessels operating in the fishery has been so small that specific information cannot be disclosed without violating the confidentiality of individual reports. There is a slightly larger groundfish fishery for bait for use by crab boats operating in the area, although fish tickets are not made out systematically when the groundfish are caught or sold. Alaska Department of Fish and Game biologists, extrapolating from a similar bait fishery operating in the Gulf of Alaska, and considering the size of the crab fishery and number of boats known to be catching groundfish for bait in the Bering Sea area, have estimated the harvest for this purpose at about 450 mt in 1977, and as high as 1,300 mt in 1978.

In all, the total domestic commercial groundfish catch in the Bering Sea/Aleutian region (excluding halibut) is believed to have been no more than 1,500 mt in any recent year.

#### 8.1.2 Domestic commercial processing industry

Although substantial freezing and transshipping facilities are located at Dutch Harbor, with the exception of very small amounts of groundfish frozen for crab bait no groundfish processing (except halibut) has occurred in this region in recent years.

#### 8.1.3 Products and Markets

The viability of a domestic Bering Sea groundfish fishery will ultimately depend on the ability of U.S. industry to market products at prices which cover their production costs. An understanding of these market conditions will be important for the accurate determination of DAH. Although the U.S. and world groundfish markets are not fully understood, it appears that there are not at present significant opportunities to market Bering Sea groundfish at prices which will cover U.S. costs of production. For at least the near term, the domestic groundfish fishery in the Bering Sea will be limited to local markets for bait and to demonstration projects. The market for fishery products is in a state of change, however, and it is entirely possible that new markets could open up in the near future. One possible change might come from management actions taken to deliberately influence market conditions.

It is at least theoretically possible that the determination of OY could influence markets and prices. For any commodity a reduction in supply from one source, such as foreign groundfish landings, may improve market opportunities for other suppliers, such as U.S. fishermen. At present there is no information on whether this relationship is significant for Bering Sea stocks, or whether it might be sufficient to overcome costs of U.S. operations.

Table 18 illustrates the importance of the Northeast Pacific (FAO area 67, including the Pacific Coast above California) in production of pollock, flounders, and cod. In 1975 the Northeast Pacific produced 20% of the world's pollock, 16% of the world's flounders, and 3% of the world's cod. For these groundfish species the likelihood of influencing world price through manipulation of OY is low due to the relatively small share

of world production coming from the northeastern Pacific. For example, if the pollock OY for the eastern Bering Sea was to be set 30 percent below ABC in an attempt to increase the world price for that species, world pollock supply would be reduced by something less than 6 percent ( $30\% \times 20\% = 6\%$ ). However, for particular markets (e.g., the Japanese market for "surimi", it might be possible for reductions in foreign allocations to have an influence on either price offered for U.S. products or the willingness of customers to consider buying such specific products from U.S. processors.

If it were found that such a relationship did exist, its exploitation would present an additional set of tradeoffs between the management objectives of domestic industry development, consumer interest and price, full utilization of the resource and U.S. foreign policy interests. No such relationship has yet been identified; therefore, no adjustments to OY for this purpose have been made.

Table 18.—1975 World and Northeast Pacific Production of Selected Groundfish (Metric Tons)

	World total	Percentage produced in	
		Northeast Pacific (FAO area 67)	Northeast Pacific
Pollock and Saithe.....	5709117	1117858	20
Flounders.....	1146276	179145	16
Atlantic and Pacific cod	2589088	70815	3

Published information on U.S. groundfish utilization and prices is reported in Table 18a. Apparent consumption for any period is a derived figure; the sum of beginning stocks, domestic productions and imports, less ending stocks and exports.

In 1977 U.S. apparent groundfish consumption was 803.4 million pounds, 364 million pounds of fresh and frozen fillets and 438.9 million pounds of sticks and portions. Eighty percent of fillets and essentially all the frozen blocks used in sticks and portions were imported.

1977 retail prices for groundfish fillets ranged from \$3.32 per pound for fresh flat fillets to \$1.68 per pound for frozen ocean perch fillets. An average price for all sticks and portions was \$1.77 per pound. Historically groundfish prices have risen at a greater rate than general inflation, while prices of substitutes such as beef, pork and poultry have not kept pace.

The distribution of groundfish consumption by region and market type is not available from published sources. However, approximations were obtained by consultation with industry. Over half the stick and portion production is sold to institutions; the remainder is sold to households. Within the institutional category, most fish sticks are sold to such public institutions as schools, hospitals, and military installations, whereas restaurants are the major institutional buyers of fish portions.

Institutions buy an even greater proportion of frozen fish fillets. Within the institutional category, most fillets are sold to restaurants.

On a geographic basis, frozen groundfish consumption is higher in the midwest and south where alternate fish products are not as readily available.

Table 18a.—U.S. Groundfish Utilization and Prices

Product and species	Supplies and Utilization (Millions pounds product weight)					Apparent consumption
	Beginning stocks	Domestic production	Imports	Total	Ending stocks	
Fresh and frozen fillets.....	53.2	70.7	303.9	427.8	63.3	364.5
Cod.....	16.2	25.4	122.2	163.8	27.2	136.6
Flatfish (Flounder and Turbot).....	17.6	24.2	95.6	137.4	18.9	118.5
Haddock.....	5.1	10.5	40.9	56.5	7.7	48.8
Ocean perch.....	14.3	10.6	45.2	70.1	9.5	60.6
Sticks and portions.....	31.1	*(437.8)	.6	469.4	30.5	438.9
Sticks, cooked.....						
Cod.....						
Haddock.....						
Pollock.....						
Whiting.....						
Portions, raw breaded.....						
Cod.....						
Haddock.....						
Pollock.....						
Whiting.....						
Blocks.....	61.1	4.6	385.1	450.8	73.2	**377.6
Cod.....						
Cod minced.....						
Flounder.....						
Haddock.....						
Pollock.....						
Pollock, Alaska.....						
Whiting.....						
Wolffish.....						
Total.....	145.4	*75.3	699.6		167.0	**803.4

Table X 1977 U.S. Groundfish Supplies, Utilization and Prices.

Source: National Marine Fisheries Service, NOAA, *Foodfish Market Review and Outlook*, December 1977.

\*Excludes production of sticks and portions from imported blocks.

\*\*Excludes blocks but includes sticks and portions.

	Prices (cents per pound 1977 dollar)				
	Wholesale			Retail	
	Exvessel	Fresh	Frozen	Fresh	Frozen
Fresh and frozen fillets.....					
Cod.....	25.5	162.3	91.1	253.1	169.7
Flatfish (Flounder and Turbot).....	47.6		116.7	331.5	235.5
Haddock.....	33.6	161.6	104.9	253.7	185.3
Ocean perch.....	15.3		93.1		168.0
Sticks and Portions.....					177.0
Sticks, cooked.....					
Cod.....			109.1		
Haddock.....			111.3		
Pollock.....			74.9		
Whiting.....			72.3		
Portions, raw breaded.....					
Cod.....			109.7		
Haddock.....			111.7		
Pollock.....			73.7		
Whiting.....			70.3		
Blocks.....					
Cod.....			97.8		
Cod minced.....			36.1		
Flounder.....			95.6		
Haddock.....			101.4		
Pollock.....			60.4		
Pollock, Alaska.....			60.7		
Whiting.....			54.4		
Wolffish.....			87.9		

## 8.2 Recreational Fishery

Historically, there was no recreational fishing in the Bering Sea/Aleutian area; presently, the effort is small, if indeed it exists, and is conducted in inshore waters.

## 8.3 Subsistence Fishery

Subsistence fishing activities of Native Alaskans in the Bering Sea/Aleutian area pre-dated history. To what extent the subsistence effort was conducted in offshore waters can be based only on scant historical reference and oral tradition. The vast majority of these efforts were concentrated on salmon, anadromous char and river herring, taken for the most part by various methods in inshore waters.

Additional efforts were conducted offshore on halibut and cod. One example of the cod fishery is that of the village of Mekoryuk, on Nunivak Island, where fishing activity offshore was conducted until the late 1940's, when, for reasons unknown, the cod failed to appear in their accustomed waters. As a consequence, that fishery does not exist at the present time. The bulk of the subsistence effort offshore was directed against otter, seal, sea lion, walrus, polar bear and birds and eggs inhabiting islands and rocks.

## 8.4 Indian Treaty Fishery

No Indian (Native Aleut-Indian-Eskimo) treaty fishing rights are reserved in the Fishery Conservation Zone.

## 8.5 Area Community Characteristics

Profiles for over 100 Alaskan coastal communities, several of which are located in or near the Bering Sea/Aleutian region, are available for reference at the following sites:

North Pacific Fishery Management Council headquarters, Anchorage, AK.

National Marine Fisheries Service, Alaska Regional Office, Juneau, AK.

National Marine Fisheries Service, Northwest Regional Office, Seattle, WA.

Alaska Department of Fish and Game headquarters, Juneau, AK.

A sample community profile is shown in Appendix I.

## 8.6 Interaction Between User Groups

## 8.6.1 Trawl vs. halibut

The halibut fishery in the Bering Sea and Aleutians is affected by domestic fisheries for crab and shrimp and by foreign fisheries for groundfish. The kind of impacts include destruction of gear, preemption of fishing grounds, and a reduction in abundance that results from the incidental capture of halibut. The North American setline catch peaked in 1963 at 4,900 mt but has been below 500 mt since 1972.

The effects of current domestic operations on both the halibut fishery and resource are less than those of foreign fisheries. Gear conflicts are minimal, and the annual incidental catch of halibut by domestic trawlers is probably less than 100 mt (however, domestic king crab and shrimp fisheries may take incidentally up to 1,000 mt of halibut). A greater impact on the halibut fishery could occur if domestic effort toward groundfish increases.

Regarding foreign fisheries, halibut fishermen occasionally report instances of gear destruction or preemption of grounds. The most important effect of foreign fishing is that of incidental catches. Foreign vessels target on species other than halibut but halibut are taken incidentally in substantial numbers; although regulations require that halibut be released, most die from injuries received during capture.

Hoag and French (1976) used data collected by observers on Japanese trawlers to examine the incidental catch of halibut. The average incidence and size during 1969-1974 is shown by area and month in Table 19. The incidence was highest in the southeastern Bering Sea in the winter and spring. The majority of the halibut were 3 to 7 years old and less than 5 kg. More recent data from observers (Hoag and French, ms.) show a similar seasonal picture, although the rate of incidence is lower because critical areas have been closed to trawling. In February and March 1978, observers were, for the first time, aboard two Japanese longline vessels fishing the southeastern Bering Sea. Their data show that when the longliners fished in shallow water (220-320m) for Pacific cod the incidence of halibut became extremely high (30 halibut per mt of catch; about 14% by weight). The incidence was much lower (1.5 halibut per mt) when the vessels fished in deeper water (500-620 meters) and the target species were Greenland turbot and sablefish. The average weight of halibut was about 5 kg and the observers reported that most of the halibut were released alive.

Hoag and French (1976) estimated the annual incidental catch of halibut by the Japanese and Soviet trawl fisheries from 1954 to 1974. Their estimates show that the total incidental catch in the Bering Sea peaked in 1971 at 11,500 mt but then dropped to about 5,800 mt in 1974. However, about one-third to one-half of this catch occurs in the western Bering Sea and may have only limited effect on the North American fishery. Since 1974, foreign trawling has been prohibited in specific areas of the southeastern Bering Sea during the winter and spring to reduce the incidental catch of halibut. These closures along with a reduction in fishing effort have sharply reduced the incidental catch. Preliminary projections indicate that the incidental trawl catch in the eastern Bering Sea has declined from about 7,000 mt in 1971 to less than 2,000 mt in 1976.

The incidental catch of halibut in the Aleutians is much less than in the Bering Sea, probably around 500 mt.

Hoag (1976) used estimates of the incidental halibut catch and assessed the effect of trawling on the North American setline fishery. The results showed that trawling reduced the survival of juvenile halibut and, therefore, recruitment to the setline fishery. Because the incidental catch consists of juvenile halibut, the yield loss to the setline fishery occurs for many years after a given incidental catch, i.e. over the projected lifetime of the fish in the setline fishery. Also, the magnitude of the eventual loss is about 20 percent greater than the magnitude of the incidental trawl catch itself because growth exceeds natural mortality at young age. In the eastern Bering Sea, the estimated annual yield loss in recent years has been about 5,000 mt and represents over 95 percent of the total potential catch (i.e. of the total potential production, setlines take less than 5 percent). The recent reductions in the incidental catch will not significantly benefit the setline fishery for several years.

In 1977, the average incidence rate for halibut in all foreign trawl fisheries is estimated to have been 0.267 individuals per metric ton of total groundfish catch; average weight of incidentally caught halibut was 8.99 kg.

## 8.6.2 Trawl vs crabs

U.S. observers aboard Foreign trawlers sample the catch prior to sorting by species and count the number of crabs in each sample per unit weight of the entire sample. This provides an incidence rate, expressed as number of crabs per metric ton of total catch. Average incidence rates for particular statistical areas and quarters are then multiplied by the corresponding total catch of each country, and summed over quarters to arrive at an estimate of total incidental crab catch, by nation, for the year.

Before 1977, U.S. observers were only aboard Japanese independent stern trawlers (large trawlers) and groundfish motherships. No valid technique was available for

Table 19.—The Average Incidence and Weight of Halibut in Japanese Trawls in the Bering Sea, by Month and Area, 1969-1974.

Month	Area					E
	A	B	C	De	Dw	
	Incidence (Number per metric ton)					
January			0.054		0.070	25.437
February	0.163		2.787		0.196	2.629
March	5.779	4.930	0.476		0.720	8.073
April	2.935	1.341	1.465		0.012	2.516
May	7.145	6.976	1.022		0.131	3.062
June		0.000	1.155		1.114	1.987
July			0.040	0.013	0.066	0.000
August	0.021		0.157	0.013	0.103	
September	0.008	0.000	0.187		0.007	
October	0.018	0.000	0.023		0.037	0.022
November	0.064				0.049	1.266
December	0.014		0.249		0.074	27.643
	Average size (kg)					
January			3.20		2.28	0.39
February	0.69		1.14		5.90	1.07
March	0.90	0.81	1.46		2.66	0.48
April	0.93	0.80	1.00		0.68	1.33
May	0.64	0.41	1.22		1.59	1.153
June			2.76		6.11	1.94
July			3.01	3.50	7.45	
August	17.73		7.42	3.50	2.03	
September	7.30		3.68		4.44	
October	3.55		8.70		4.70	2.38
November	1.33				5.15	2.17
December	0.66		5.37		2.57	0.85

extrapolating incidence rates observed in those two fleets over the Japanese landbased dragnet (small trawlers), Soviet, or Korean trawl fleets. In 1977, however, all fleets were observed and estimated incidental catches of crabs are as follows (number of crabs):

Country	King crab	Tanner crab
Japan	583,400	17,446,000
USSR	1,200	3,500
ROK	11,200	54,000
Total	595,800	17,503,500

Between 65 and 70 percent of the incidental Tanner crab catch was *C. opilio*. Incidence rates for both king and Tanner crabs were highest in the Japanese landbased dragnet fleet.

To provide some insight into recent trends, estimates of incidental crab catches by the Japanese mothership and independent stern trawl fleets during 1973-77 are (number of crabs):

Year	King crab	Tanner crab
1973	465,600	112,000,000
1974	489,900	155,000,000
1975	155,900	60,000,000
1976		26,000,000
1977	297,300	9,600,000

In 1977, the average incidence rate for king crabs in all foreign trawl fisheries is estimated to have been 0.481 individuals per metric ton of total groundfish catch; average weight of incidentally caught king crabs was 1.15 kg. Comparable values for Tanner crabs are estimated to have been 12.970 individuals/mt and 0.33 kg average weight.

#### 8.6.3 Trawl vs salmon

Using the same sampling methods as for halibut and crabs, data collected by U.S. observers produced the following estimates of incidental salmon catches in 1977:

Country	Total number of salmon
Japan	23,890
ROK	23,798
USSR	42
Total	47,730

Of this total, 91 percent were chinook salmon (*O. tshawytscha*) and 9 percent chum salmon (*O. keta*).

In 1977, the average incidence rate for salmon in all foreign trawl fisheries is estimated to have been 0.030 individuals per metric ton of total groundfish catch; average weight of incidentally caught salmon was 4.0 kg.

#### 8.6.4 Trawl vs. sablefish longlines and pots

Japanese longline fishermen report that the trawl fishery has expanded geographically and bathymetrically to the point where traditional sablefish longline grounds have been pre-empted. If the condition of sablefish

stocks in this region improve to the point where they could support a viable domestic fishery (see Section 9.6), the stated interest of U.S. fishermen for developing a longline and pot fishery for that species could be thwarted by the risk of gear conflicts with trawlers unless gear separation measures are affected.

#### 8.6.5 Foreign vs domestic trawling

With the exception of a very small crab bait fishery, no domestic trawling has taken place in the region. Many U.S. fishing interests perceive the presence of fleets of large foreign trawlers as a de facto impediment to the development of a domestic groundfish trawl fishery in the Bering Sea because of the possibility of: (1) preemption of favored grounds by concentrations of foreign vessels that are 2-3 times the size of

the largest U.S. trawlers, and (2) competition for fish by foreign vessels that can apparently operate successfully at levels of abundance and average fish sizes that are less than that required for economic operation of domestic trawlers. (See also Section 10.4.)

#### 8.7 Revenues derived from fishery

Federal revenues are based on charges placed on foreign fisheries, while state (Alaska) revenues are based on fees and taxes placed on the domestic fishery.

#### 6.7.1 Federal revenues

A summary of U.S. revenues expected in 1978 from charges placed on foreign nations fishing for groundfish within the FCMA zone in the Bering Sea/Aleutians area is presented below:

Expected Revenue From Foreign Nations, Bering Sea/Aleutians, Groundfish, 1978

Type of revenue	Total dollars	Source of dollars			
		Japan	U.S.S.R.	R.O.K.	Taiwan
Income—vessel fee	566,700	226,000	269,500	65,800	4,800
Income—poundage fee	7,230,600	4,995,400	2,012,900	202,400	19,900
Reimbursable income (U.S. observer cost)	294,100	224,900	54,500	14,700	
Fines and penalties					
Total	8,090,800	5,446,300	2,336,900	282,900	24,700

Revenues from vessel and poundage fees total \$7,796,700 for 1978. Reimbursable income (to cover the cost of placing U.S. observers aboard foreign fishing vessels in the Bering Sea/Aleutians area) is tentatively estimated at \$294,100. Fines and penalties are tied to violations and are, therefore, variable income items. The expected total federal revenue for 1978 is around \$8,090,800.

#### 8.7.2 State revenues

Aside from the halibut fishery, virtually no domestic groundfish fishery has existed in the Bering Sea/Aleutians area in recent times. The approximate state revenues derived from the fishery in 1977 are presented below:

Type of revenue	Statewide total, 1977 <sup>1</sup>	Bering Sea-Aleutians groundfish fishery	
		Halibut	Other
Raw fish tax	\$3,830,280	\$5,000	(?)
Cold storage tax (including freezer ship)	2,372,785	5,000	(?)
Vessel and gear license	654,220	200	(?)
Commercial fish licenses	430,836	50	(?)
Total	7,288,121	10,250	(?)

<sup>1</sup> Source: Alaska State Department of Revenue.

<sup>2</sup> Negligible to none.

## 9.0 Biological and Environmental Characteristics of the Fishery

### 9.1 Life History Features

Most of the principal groundfish species

spawn either in the winter or early spring. Cod, sablefish, and the large flounders, Pacific halibut, arrowtooth flounder, and Greenland turbot, spawn during the winter months in deep water. Most other groundfish species reproduce during the spring (March-June). Atka mackerel is a summer spawner.

The principal groundfish species can be placed into three groups based on their reproduction. Cod, rock sole, and Atka mackerel lay adhesive demersal eggs. Pollock, sablefish, and most flatfish have pelagic eggs. Pacific ocean perch have internal fertilization and release pelagic larvae.

There is considerable variation between species in the amount of eggs or young produced (Table 20). Upon reaching maturity, cod may release over 1,000,000 eggs. Halibut and sablefish are also highly fecund. Pacific ocean perch and Atka mackerel are the least fecund of the groundfish group. Fecundity of all species is generally directly related to size of the female, a characteristic which, among vertebrates, is unique.

Among the principal groundfish species are the long-lived fishes which reach sexual maturity late in life, such as the Pacific ocean perch and the large flounders, Pacific halibut and Greenland turbot. Mortality due to natural causes is relatively low in these species. In contrast, pollock, cod, and Atka mackerel are short-lived and mature at an early age (3-4). Both pollock and cod have relatively high natural mortality and growth rates. Sablefish, Alaska plaice, and the various species of sole mature at ages intermediate to those species groups mentioned above.

Table 20.—Life History Characteristics of Principal Groundfish Species in the Eastern Bering Sea and Aleutians<sup>1</sup>

Life history characteristics	Species					
	Pollock	Cod	Sablefish	Ocean perch	Halibut	Arrowtooth flounder
Bottom depths of common occurrence (fathom).	30-200	10-150	50-450	50-250	10-250	30-300
Depths of high availability by season (fathom).	100-200 (winter), 50-150 (summer)	50-150 (winter), less than 100 (summer)	200-250 (winter), 100-450 (summer)	150-250 (winter), 80-150 (summer)	50-225 (winter), 10-100 (summer)	150-300 (winter), 80-200 (summer)
Spawning period	March to July	January to May	December to April	March to June	November to March	December to February
Maximum age	17 years	12 years	20 years	30 years	42 years	22 years
Average age at maturity (female)	3 years	4 years	7 years	7 years	12 years	9-11 years
Average size at maturity (female)	30 cm	73 cm	71 cm	27 cm	125 cm	55 cm
Instantaneous natural mortality rate, M <sup>2</sup>	0.43	0.30-0.45	0.22	0.27	0.17	0.2
Growth completion rate, K (female)	0.28	0.30	0.14 <sup>2</sup>	0.11	0.10	0.10
Fecundity at average size at maturity	100,000	1,000,000 to 2,000,000	400,000	10,000	700,000	?

Life history characteristics	Species					
	Greenland turbot	Flathead sole	Rock sole	Yellow fin sole	Alaska plaice	Atka mackerel
Bottom depths of common occurrence (fathom).	50-350	30-200	10-100	10-300	20-90	Coastal and open sea.
Depths of high availability by season (fathom).	300-500 (winter), 80-400 (summer)	100-200 (winter), 50-150 (summer)	20-100 (winter), 20-50 (summer)	50-150 (winter), 20-50 (summer)	50-70 (winter), 20-50 (summer)	Offshore (winter), inshore (summer)
Spawning period	October to December	March to June	March to June	June to August	May to June	June to September
Maximum age	25 years	21 years	16 years	21 years	19 years	?
Average age at maturity (female)	13-14 years	6 years	4-5 years	9 years	8 years	3-4 years
Average size at maturity (female)	70 cm	29 cm	22 cm	26 cm	30 cm	33-35 cm
Instantaneous natural mortality rate, M <sup>2</sup>	?	0.2	0.26	0.25	0.2	?
Growth completion rate, K (female)	0.10	0.11	0.15	0.11-0.18	0.1	?
Fecundity at average size at maturity	25,000	50,000	200,000	800,000	100,000	9,000

<sup>1</sup> Values and time periods given to this table are approximations.

<sup>2</sup> Sexes combined.

<sup>3</sup> Many of the biological and population parameters shown in this table are being reevaluated with ecosystem modeling techniques and, therefore, are subject to change.

Squid is made up of several species where life history features are poorly known. They live at midwater and near surface depths as compared to the near or on-bottom habitat of groundfish. The season of spawning for at least some species may extend from spring to fall. Sexual maturity may be reached in two years or less. Like Pacific ocean perch, fertilization is internal for squid. The fertilized eggs are released enmeshed in a gelatinous material, and the number of eggs spawned per individual is low compared to that of groundfish species.

## 9.2 Stock units.

The groundfish and squid resources considered in this Plan consist of species that are wide ranging in their general distribution, occurring in the eastern Bering Sea, Aleutian waters, and in the Gulf of Alaska. Within each of these major geographical regions separate stocks or populations of these species may exist, but our state of knowledge is such that we cannot be certain of this possibility for most species. Research results and fisheries information indicate that for most species resident stocks exist in each

major region (E. Bering Sea, Aleutians, and Gulf of Alaska). For other species, such as Pacific halibut and those of squid, this may not be the case.

Those species that are generally considered to have separate stocks residing in the Aleutians as well as the eastern Bering Sea are pollock, yellowfin sole, sablefish, Atka mackerel, Pacific ocean perch, Pacific cod, Greenland turbot, arrowtooth flounder and various species of sole.

For pollock the eastern Bering Sea stock is larger than that of the Aleutians. There has also been some speculation that in the eastern Bering Sea proper, this species may be further subdivided into a northern and a southern stock, primarily because spawning concentrations have been found north as well as south of the Pribilof Islands. (Japan Fishery Agency 1974 b). However, it is difficult to confirm such a separation since there apparently is a considerable amount of mixing of fish through seasonal north-south movements as evidenced from tagging studies.

Tagging studies indicate the existence of separate spawning stocks for eastern Bering

Sea yellowfin sole, one of which resides in waters north of a line between the Pribilof Islands and Cape Avinof and another south of this line, with only a limited exchange between them (Wakabayashi 1974). Studies of differences in growth rate, meristic features, and genetic characters, however, have not been conclusive (Wakabayashi et al. 1977). Furthermore, U.S. researchers estimate that about 90% of the total yellowfin sole biomass of the eastern Bering Sea lies in the southern stock area, making the question of less practical importance. Therefore, until more definitive results are obtained, all yellowfin sole of the eastern Bering Sea will be considered as belonging to one stock.

Adult sablefish live mainly in offshore waters at bottom depths of 200 meters and greater throughout their geographical range. Their movements appear to be localized from tagging studies which show that most recovered fish have been taken in the same general area where they had been tagged and released (Low 1977). A few tagged fish, however, have been recovered a considerable distance from their area of release, and some of these movements have been between major geographical areas, such as the Gulf of Alaska and Bering Sea. These extensive movements, although few, demonstrate that some exchange of fish between major areas does occur, and that separate stocks, if they do exist, may be biologically closely related. At this stage of our knowledge it may be best to consider sablefish as being comprised of separate stocks throughout its geographical range, but that minor intermixing of the stocks does occur. For managing fisheries on these stocks, it may be convenient to treat these stocks as four major and distinct groups; an eastern Bering Sea group, an Aleutian group, a Gulf of Alaska group, and a U.S. west coast group.

There is some circumstantial evidence that Atka mackerel may be comprised of localized stocks throughout its geographical range which includes waters off Kamachatka and the Aleutians, and the eastern Bering Sea and western Gulf of Alaska. The species seeks certain bottom areas for spawning and will return to these areas year after year to reproduce (Rass 1970). Only a few of these areas have been determined, but it is likely that more exist and the spawning concentrations associated with each probably should be considered to be discrete stocks. Until more precise evidence of the location of specific spawning areas becomes available, concentrations in the Aleutian area, the eastern Bering Sea area, and the western Gulf of Alaska will be assumed to comprise separate stocks.

For Pacific ocean perch, differences in biological features (e.g., growth rate) between eastern Bering Sea and Aleutian fish suggest that each of these areas has its own unique stock (Chikuni 1974).

Evidence for the separation of other principal groundfish species (cod, turbot, flathead sole, rock sole, and plaice) is not available but as a conservative measure, each of these species will be considered to be comprised of separate stocks in the Aleutians and eastern Bering Sea.

Available evidence suggests significant movement of halibut between the eastern and western Bering Sea and between the eastern Bering Sea and the northeastern Pacific Ocean (Best 1977, Dunlop et al. 1964). Circulation patterns indicate that eggs and larvae spawned in the eastern Bering Sea should remain within the Bering Sea. However, the cyclonic circulation in the area will transport eggs and larvae in a northwesterly direction and the current is sufficient to transport larvae to the Asian Coast. It is also likely that larvae originating in the Gulf of Alaska are transported into the Bering Sea.

Large numbers of juvenile halibut inhabit the eastern Bering Sea, and this region may serve as a nursery ground for other regions. Recoveries of tagged juveniles are meager but indicate a movement into the Gulf of Alaska. One juvenile tagged west of the Pribilof Islands was recovered in southeastern Alaska five years later. Tagging data are more extensive for adult halibut and show movements as far south as northern California; Dunlop et al (1964) estimated an emigration rate of 24% over a 7-year period. Tagging also indicates movements from the Gulf into the Bering Sea and between eastern and western Bering Sea, but these movements appear to be relatively infrequent.

In the Aleutians, tagging and other studies indicate that the halibut in the region are an intermingling component of stocks in the Gulf of Alaska and British Columbia (Bell 1967). The total amount of bottom area suitable for halibut in the Aleutians is small and the overall productivity of the region is much less than in the Bering Sea and other regions of the northeast Pacific. Nevertheless, halibut are sufficiently concentrated in local areas to provide good catches for a few vessels.

Squid resources of the eastern Bering Sea and Aleutian waters are believed to be mainly comprised of five species that are wide ranging in their distribution in northern waters. Four of these species (*Gonatus fabricii*, *Gonatus magister*, *Gonatopsis borealis*, and *Morotenthis robustus*) inhabit the near surface and mid-waters of the outer continental shelf and beyond the shelf. The other species (*Rossia pacifica*) prefers inshore waters where it forages throughout the water column. All these squid species are, therefore, much more mobile than most of the groundfishes and apparently roam quite freely throughout their range. Because of this capability, it is assumed that there is considerable intermingling of individuals from different regions; hence, each squid species may be considered as having one interbreeding population common to the Bering Sea, Aleutians, and the western Gulf of Alaska.

### 9.3 Data Sources

#### 9.3.1. Catch and effort data

Catch and effort statistics are collected on a continuing basis from two main sources: from the commercial fishery and from research surveys. Commercial fishery data are used mainly to compute CPUE trends to monitor the relative abundance of stocks under exploitation. In addition to CPUE computation, trawl survey information can also be used to estimate standing stocks.

Commercial fishery data of sufficient detail and precision for Bering Sea/Aleutian stock assessment studies are:

(1) Catch and effort statistics of the Japanese mothership, longline-gillnet, and North Pacific trawl and land-based trawl fisheries as provided through INPFC;

(2) Catch and effort statistics collected by U.S. observers stationed aboard foreign vessels.

Under the FCMA, similar type of rather precise catch and effort statistics will soon become available from all nations participating in this region's groundfish fishery.

Catch and effort statistics are also obtained from research trawl surveys conducted by the United States' National Marine Fisheries Service, Fishery Agency of Japan, and the International Pacific Halibut Commission. Data from the Fishery Agency of Japan are made available to the U.S. in publications, the INPFC and during bilateral scientific meetings. The International Pacific Halibut Commission conducts an annual assessment of juvenile halibut abundance in the Bering Sea which provides catch and effort information concerning not only halibut but many other groundfish species as well.

Statistics from Japanese fishing operations have been among the most detailed and complete of any nation in the world. In general, they are by species,  $\frac{1}{2}^{\circ}$  Latitude by  $1^{\circ}$  Longitude statistical areas, month, gear type, and vessel class. An exception however, has been Japan's land-based trawl fishery from which the available statistics have been less timely and in less detail. This appears to reflect the fact that they have been collected at the provincial level in Japan rather than by the Fishery Agency of Japan, as has been the case for the other fisheries.

Although improving since the early 1970's, statistics provided by the U.S.S.R. have generally reflected only gross catches of imprecise species groupings for very large statistical areas. Until very recently, effort information has either been lacking entirely or in a form that had little utility for assessing relative abundance (e.g., catch per tow without reference to tow duration).

As regards other nations fishing for bottomfish in the Bering Sea/Aleutian Region, Poland has provided statistics in detail comparable to those of Japan for its very limited fishery. Since 1968, South Korea has conducted a growing groundfish fishery in the Region but no statistics concerning it are available for the period prior to 1976 and those acquired since have been incomplete. Operations by Taiwanese vessels have been few and no statistics have yet been reported.

For status of stock evaluations, the catch and effort data bases generally relied upon are those of the Japanese fisheries, and research surveys conducted by Japan, the United States, and IPHC.

#### 9.3.2 Biological data

Biological data concerning Bering Sea/Aleutian groundfish resources are collected on a continuing basis from the commercial fishery and from research surveys. Those from the commercial fisheries have generally been limited to length-frequency samples from the Japanese fisheries until U.S.

observers were placed aboard foreign vessels to sample the catch. The observer program covers a significant portion of the several foreign fishing fleets and has been constructing an extensive data base on length, weight, age and sex of the principal species taken by foreign fisheries.

The most comprehensive source of biological information is that collected during trawl surveys conducted by the United States' National Marine Fisheries Service. In these surveys, length, weight, age, and sex information and at times, sexual maturity and stomach content data, are collected for all species encountered during the surveys. Annual research surveys conducted by the Fishery Agency of Japan and the Soviet Pacific Scientific Research Institute of Fisheries and Oceanography have also provided excellent sources of information on life history, abundance, and distribution of principal species.

#### 9.4 Quality of data

To be most useful in the evaluation of stock condition and sustainable yield, data from the commercial fisheries should include the catch by species and the quality and quantity of effective effort expended to take this catch; they should be provided for relatively small geographical areas and time periods. In this way trends in catch and standardized catches-per-unit-of-effort (CPUE) can be monitored by precise time-area units so reliable inferences may be drawn concerning stock abundance. In addition, biological sampling should be adequate to estimate size and age composition of the catch, by time and area. These basic fisheries data (catch, effective effort, age and size composition) provide much of the input for determining mortality rates, relative year class strength, changes in stock density, recruitment, and other population characteristics upon which the condition of stocks can be measured.

Japan provides very detailed statistics on her fisheries (see Section 9.3), but even these are deficient in terms of fishing effort, age and size data, and completeness in reporting catches by species. The fishing power of the Japanese fleet has increased because of increases in vessel horsepower, improvements in fish detecting and harvesting gears, and experience acquired by the fishermen of the grounds, making difficult (perhaps impossible) adjustments to the reported nominal effort to reflect true fishing power. There is also the problem of determining what proportion of the total fishing effort was expended on each major species.

Until recent years data on size composition of the principal species harvested by Japan were insufficient because of incomplete areal and seasonal coverages, and the lack of associated age data to accompany the size information.

The U.S.S.R. has had a very poor history of reporting on her fisheries. There was virtually no breakdown of the catch by statistical areas that is useful in stock assessment nor were there data on the age and size composition of the catch. Likewise, data provided by other nations have virtually no utility for stock assessment purposes.

The problem of inadequate detail of commercial fishery information has been

partially solved as the U.S. observer program has expanded in scope to sample the foreign commercial catch. This program is also addressing the question of the accuracy and precision of reported catch data.

In addition to the observer program which provides a reliable source of catch, effort, and biological data, research vessel surveys provide an independent and, at times, less biased means of estimating the condition of groundfish stocks. The surveys are conducted in such a manner that estimates of age and size composition and other population characteristics can be obtained for the resource complex as a whole within the survey area, whereas commercial fisheries often concentrate on certain species, sizes of fish, and specific areas. Since research surveys can be done in a standardized manner, CPUE from the surveys serves as a very meaningful indicator of changes in fish density by time and area. Furthermore, surveys of juvenile or pre-recruit fish can best be done by means of research surveys; such surveys provide one of the few means by which predictions of incoming year class strengths can be obtained. There is also the relatively new approach of assessing stock size by acoustical sounding.

The main deficiency in existing survey data is the lack of areal coverage. Because of limitations in budget and physical aspects of the gear and vessels, the deeper waters (greater than 200 m) are generally not surveyed. Therefore, portions of the stocks of deep water flounders (arrowtooth flounder and Greenland turbot), sablefish, Pacific ocean perch and even pollock are not fully sampled. What the research surveys lack in coverage, however, is made up in detail which augments the broader but less precise data base obtained from the commercial fisheries.

## 9.5 Ecological relationships

### 9.5.1 Environmental characteristics

The Bering Sea shelf, with an area of some 1 million km<sup>2</sup>, is about twice the size of that of the Barents Sea or the North Sea. On the average, it is slightly deeper than the North Sea but shallower than the Barents Sea. The bottom is trawlable over most of the shelf. The Aleutian Island shelves are relatively narrow and rocky, similar to that of the Gulf of Alaska.

Relatively weak tidal currents dominate the Bering Sea shelf. The permanent flow is sluggish and, therefore, the exchange of water masses between shallow and deep areas is very slow. On the other hand, the tidal currents around the Aleutian Islands are relatively strong and strong semi-permanent currents flow through the passes between the islands, effecting the water exchange between the deeper part of the Bering Sea and the central North Pacific.

Central and northern parts of the Bering Sea shelf are ice covered part of the year. Due to the absence of temperature and salinity stratification in the waters over the shelf during autumn and winter, cold water (0°C) is formed there under the ice from surface to bottom. This cold water on the bottom can persist until mid-summer and affects the distribution and migrations of demersal fish.

The annual range of temperature change over the Bering Sea continental shelf (from surface to about 150 m depth) can exceed 10°C. Over deep water near the Aleutian chain this annual change is less than 5°C. There is a subsurface temperature maximum of about 3.5°C, with associated high salinity, at a depth of about 150 m in the whole region under consideration. The areas along the continental slope, where this warmer subsurface layer intercepts the slope, are important overwintering areas for many demersal and even some pelagic fish (e.g. herring).

Of the oceanographic processes and their year-to-year variations, the following are the most significant in respect to the biota: 1) year-to-year variation of ice cover in the central and south-central part of the Bering Sea shelf; 2) the autumnal turnover of water masses on the shelf (returning nutrients from deeper layers and near the bottom to surface layers); 3) considerable monthly surface layer temperature anomalies (up to 3°C) in the central and southern Bering Sea; 4) formation of subzero bottom temperatures on the Bering Sea shelf; and 5) rapid flushing of the Aleutian Island shelves.

### 9.5.2 Biological characteristics

The Bering Sea is a typical high latitude area, with relatively few species, among which some dominate quantitatively to a high degree over the others. In scarcely any other ocean region is one fish species quantitatively so dominant as pollock in the Bering Sea. Rather pronounced cannibalism occurs in dominant species in general and cannibalistic interactions cause long-term quantitative changes in the ecosystem complex.

The most pronounced biological characteristic of the Bering Sea and Aleutian Islands are the presence of large numbers of marine mammals (e.g. 1.4 million fur seals alone) and birds (ca. 10 million shearwaters arriving each summer), which consume together at least as many fish as the commercial catch of all nations from this region.

Another basic biological characteristic of the Bering Sea is the presence of benthos on the extensive continental shelf, providing a food source (and support) for flatfish communities and for commercially exploitable crabs. The abundant benthos in the northern half of the Bering Sea contains, however, little "fish food"; most of it is made up of large, hard shelled clams. This northern benthos is similar to other high-latitude benthos, where a phenomenon called "successive accumulation of generations" occurs.

A fourth general biological characteristic of the Bering Sea/Aleutian region is the relatively high basic organic productivity. This high productivity is largely caused by deep autumn/winter turnover which returns regenerated nutrients to the surface layers. This high organic production (combined with relatively slow decomposition rate of organic detritus in colder waters) causes the presence of a high standing crop of larger zooplankters (euphausiids) and boreal squids (gonatid squids), which in turn serve as an important food source for fish (and partly for mammals and birds). Thus, several semi-demersal fish

species (e.g. pollock, rockfishes, etc.) are less dependent upon benthic food and can live a pelagic life over deep water in the Bering Sea/Aleutian region.

### 9.5.3 Ecosystem characteristics

In the marine ecosystem there are intensive interactions between different species, their prey items, and environmental factors. Changes in abundance and distribution of one species (e.g. caused by fishery) affect the abundance and distribution of other species as well. Therefore, wise fisheries management requires the quantitative knowledge of all of these interactions; single species population dynamics' approaches are no longer fully adequate for modern fisheries management.

The quantitative processes in the marine ecosystem are beginning to be simulated and studied with numerical, dynamic, deterministic marine ecosystem reproduction models. A few results, pertinent to management of the Bering Sea groundfish fishery are presented briefly in this section. These results originate from the Dynamical Numerical Marine Ecosystem Model (DYNUMES III), currently in use at the Northwest and Alaska Fisheries Center, Seattle.

The DYNUMES III model permits the determination of equilibrium biomasses of individual species and groups of species (Table 21). Individual biomasses have also been calculated for both the juvenile and exploitable portions of populations (Figure 21). It is of interest to note that the total biomass of, for instance, all finfish varies but little from one year to another in a given region, but individual species can have considerable long/period fluctuations (periods usually larger than 10 years) in abundance, whereby some species incline and others decline in abundance.

The DYNUMES model permits the computation of the main component of "natural mortality"—i.e. grazing and the determination of the portions grazed, for instance, by mammals and by other fish (Figure 22). Grazing (consumption) is computed in trophodynamic computations. The results also allow the computation of annual turnover rates of the biomasses (Table 21).

In ecosystem sense, there is no "surplus" production in the sea for man to take. The question is mainly one of balance between ecosystem components, i.e. changes in target species biomasses and the resultant changes in the biomasses of prey, predator, and competitor species. The determination of such fishery-induced changes is one of the major objectives of the DYNUMES model.

Table 21.—Biomass, annual consumption, annual turnover rate, and relative monthly consumption of different species and/or ecological groups in the eastern Bering Sea, as computed with DYNUMES II

Species/ecological group	Mean biomass (B) 10 <sup>3</sup> tons	Annual consumption 10 <sup>3</sup> tons	Annual turnover rate C/B	% of biomass consumed per month
Pollock.....	8,235	5,820	0.7	5.8
Herring.....	3,260	2,970	0.9	7.7
Other pelagic fish....	6,870	6,595	1.0	8.7

Species/ecological group	Mean biomass (B) 10 <sup>3</sup> tons	Annual consumption 10 <sup>3</sup> tons	Annual turnover rate C/B	% of biomass consumed per month
Yellowfin sole.....	1,475	866	0.8	4.9
Other flatfish.....	2,030	1,630	0.8	6.7
Other gadids.....	2,540	2,690	0.9	8.1
Other demersal fish	2,550	2,790	1.1	9.0
<b>Total finfish ..</b>	<b>27,260</b>	<b>23,350</b>	<b>0.86</b>	
Squids.....	4,050	3,020	0.75	6.4
Benthos.....	25,600	19,730	0.77	6.3
Zooplankton.....		83,970		
Phytoplankton.....		(52,500)		

The results of conservative computations of the consumption of fish and other ecological groups by marine mammals and birds in the eastern Bering Sea are given in Table 22 (the computations are conservative in the sense that the lowest estimates of the number of mammals and their food requirements were used). The results show that mammals consume more than twice as much finfish as is taken in the total commercial catch. This strongly implies that finfish yield is at least as much a function of marine mammal abundance as it is a function of the finfish fishery itself.

The DYNUMES model shows that an intensive fishery can be, in some cases, beneficial to the production of biomass. Adult pollock are cannibalistic on juvenile pollock. The growth rate of juvenile fish, which feed mainly on euphausiids, is considerably higher than the growth rate of older fish. When an intensive fishery removes older, cannibalistic pollock, the grazing pressure on juveniles is relieved and productivity of the pollock biomass, at large, is enhanced. The model also indicates that in an underexploited population, cannibalistic interaction would result in a self-generating cycle of pollock abundance with a period of about 12 years.

Intraspecific cannibalism, as well as interspecific predator-prey relations cause a partial spatial separation of juveniles and adults (see Figures 23 and 24).

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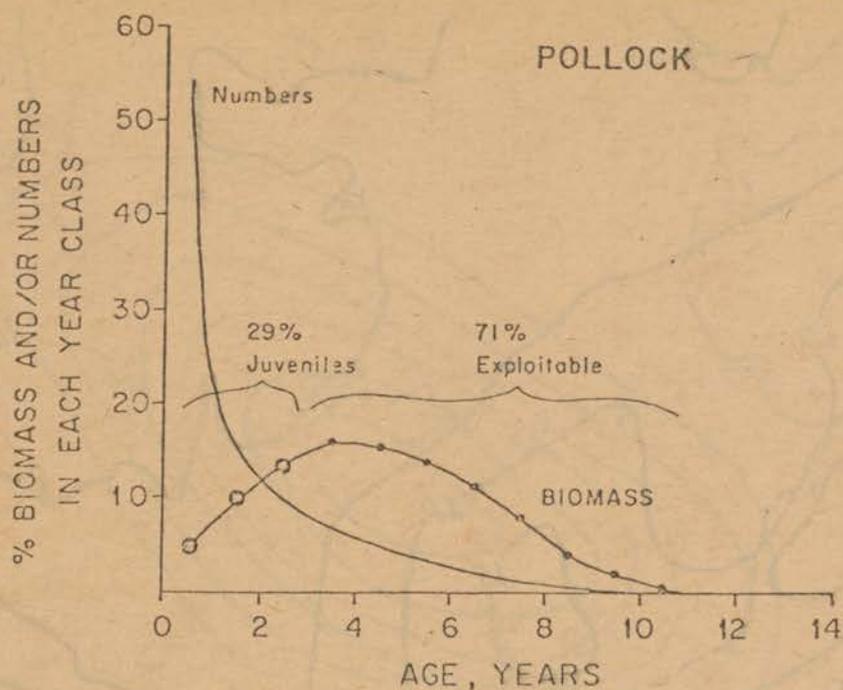


Figure 21--Distribution of biomass and numbers of walleye pollock within different year classes (% of total).

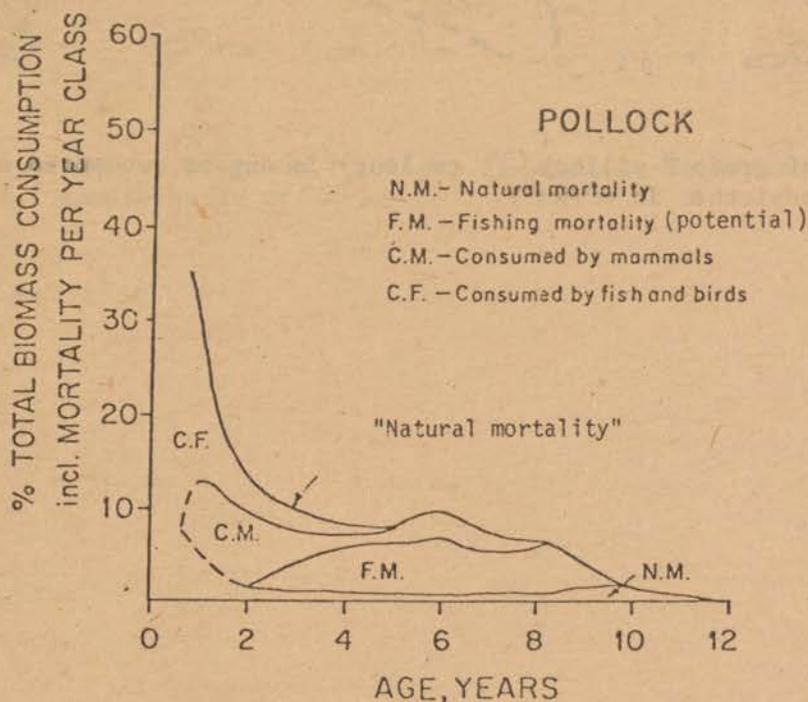


Figure 22.--Distribution of "consumption" with age of walleye pollock, as percent of total biomass.

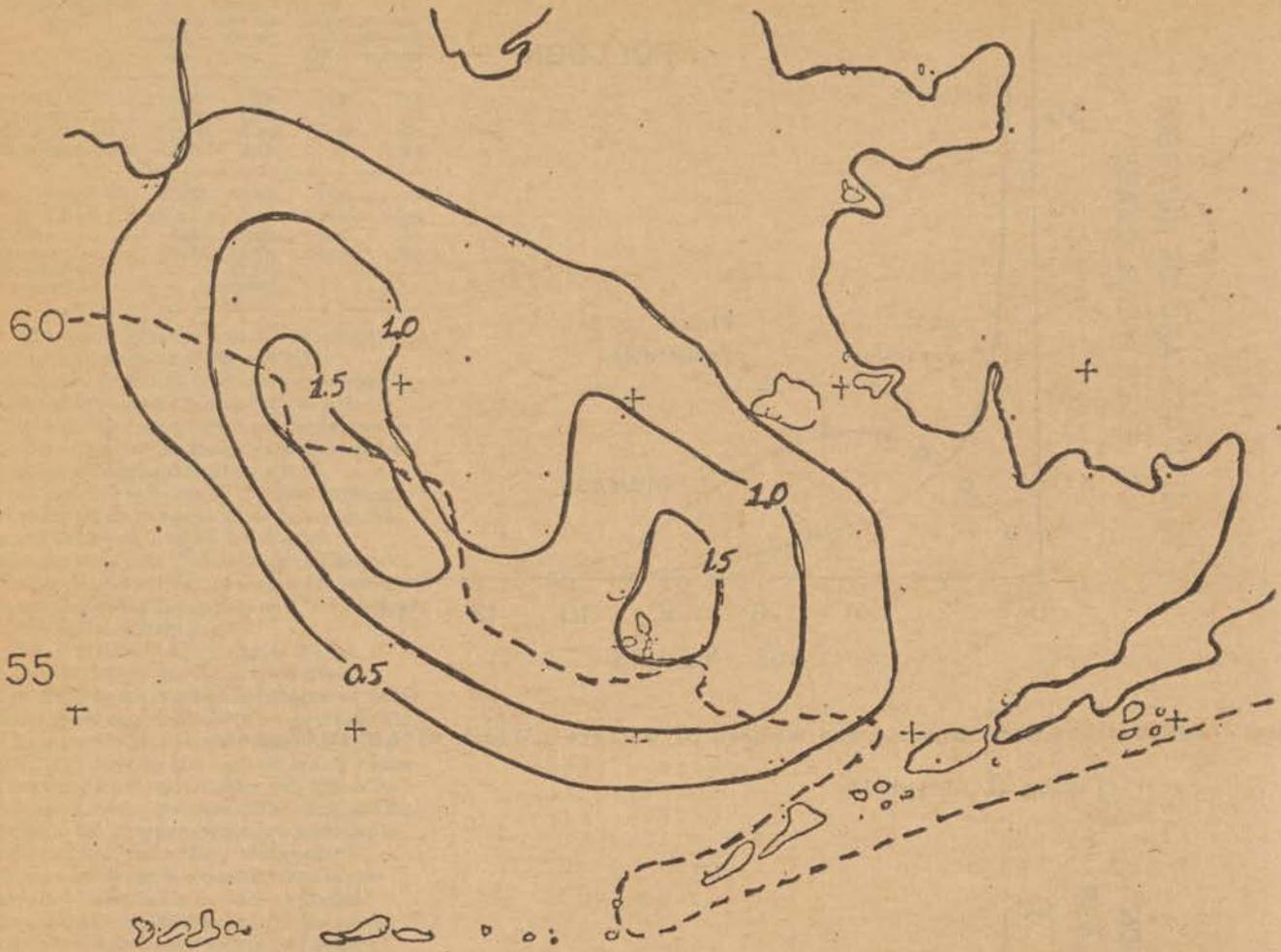


Figure 23 --Distribution of group 3 pollock (35 cm long) in August, computed with DYNUMES II (isopleths in mt/km<sup>2</sup>).

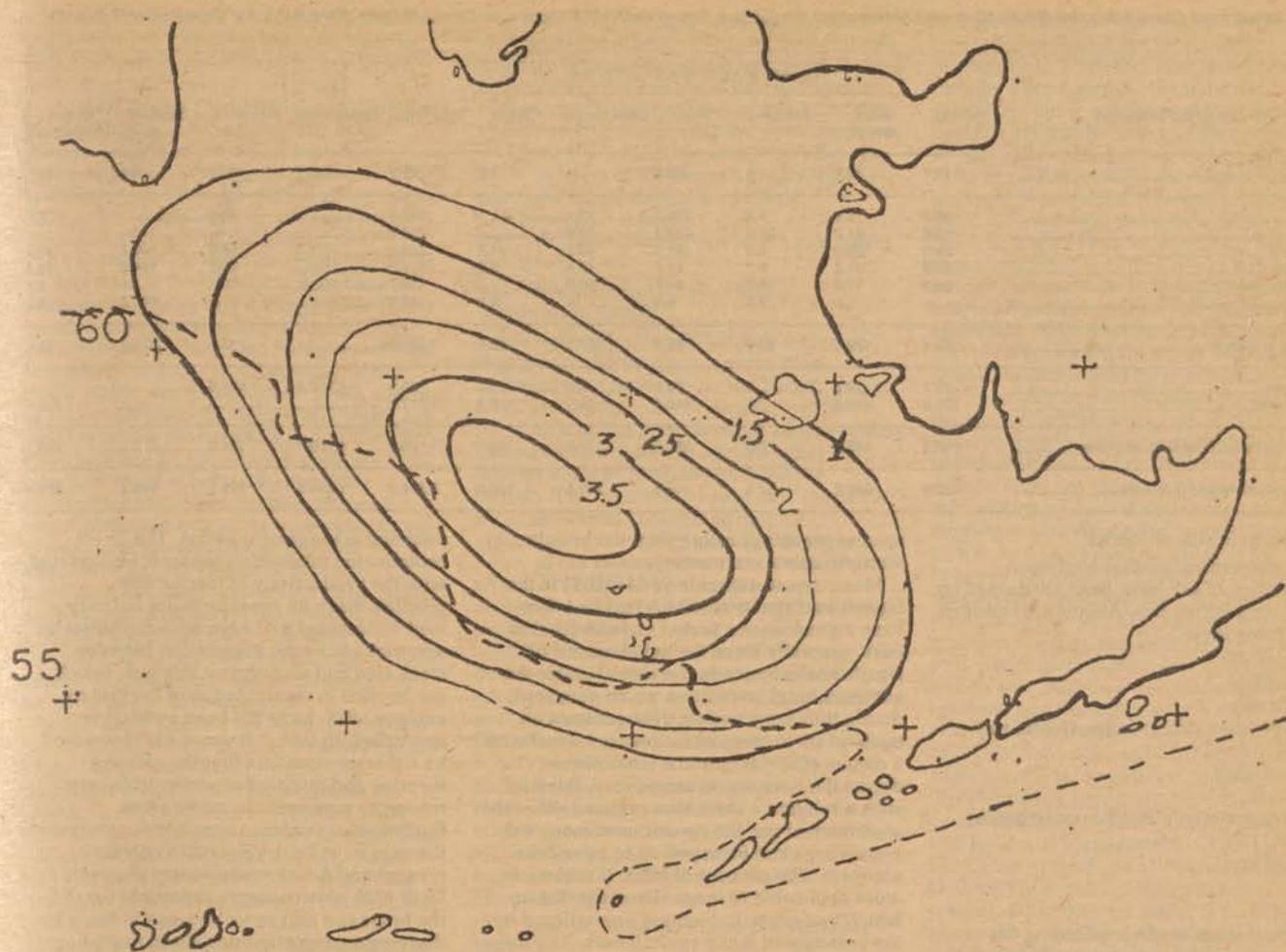


Figure 24 -- Distribution of group 1 pollock (juvenile) in August, computed with DYNUMES II (isopleths in  $\text{mt}/\text{km}^2$ ).

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Table 22—Annual Consumption by Marine Birds and Mammals in the Eastern Bering Sea (in 10<sup>3</sup> tons), as Computed with DYNUMES II ("Conservative" Inputs).

Species/group of species	Species/group of species consumed						Total finfish	Zooplankton	Squids	Benthos	"Others" (Unspecified)
	Herring	Other pelagic	Salmon	Pollock	Other gadids	Flatfish					
Marine birds.....	11.7	40.3	1.5	26.3	+	1.9	81.7	105.2	13.2	2.8	14.3
Fur seal.....	26.5	6.8	8.5	322.3	22.1		388.5		44.2		6.8
Sea lion.....	16.8	11.2	22.4	182.2	19.6		252.2		+		+
Bearded seal.....	25.0	25.0	8.3	83.5	41.7	41.7	225.2		66.8	509.2	33.4
Harbor seal.....	66.9	31.2	6.7	89.2	13.4	8.9	216.3		89.2	104.8	13.4
Ringed/ribbon seal.....	24.2	47.5	3.0	84.7	30.3		189.7		30.3	+	9.1
Walrus.....	+	+	1.6	6.6	+	4.9	13.1		+	311.4	3.3
Total pinnipeds.....	159.4	123.7	50.8	768.5	127.1	55.5	1,285.0		230.5	925.4	68.0
Baleen whales.....	20.7	27.7		13.8	6.9		69.1	1,189.3	124.5		+
Toothed whales.....	231.5	408.5	0.5	340.4	68.1	68.1	1,117.1				245.1
Total, whales, porpoises, dolphins.....	252.2	436.2	0.5	354.2	74.0	68.1	1,186.2	1,189.3	124.5		245.1
Total by birds and mammals.....	423.3	600.2	52.8	1,149.0	201.1	125.5	2,552.9	1,294.5	479.5	928.2	327.4

### 9.6 Current Status of Stocks

Stock assessment studies leading to determination of OY have been conducted on the following Bering Sea/Aleutian groundfish species categories:

Alaska pollock  
Pacific halibut  
Yellowfin sole  
Turbot (arrowtooth flounder, Greenland turbot)  
Other flatfishes  
Pacific cod  
Rockfishes (primarily Pacific ocean perch)  
Sablefish  
Atka mackerel  
Squid  
Others

Results of those studies, including the determination of maximum sustainable yield, current equilibrium yield, and acceptable biological catch are contained in Annex I to this Plan.

The approach used in Bering Sea groundfish assessment is to (1) determine statistical trends that relate to stock condition and/or (2) apply applicable population dynamics theories and models to determine stock characteristics and their dynamics, and finally (3) assess the overall condition of the stock, often-times empirically, by taking into account statistical trends and population dynamics theories and models. The techniques used to analyze the data vary considerably from species to species depending on the quality and completeness of the available data bases. For each of the above species or species groups, the biological production potential, in terms of maximum sustainable yield (MSY), current equilibrium yield (EY), and acceptable biological catch (ABC), has been determined. The units for which these biological potentials have been derived are species or

species groupings rather than the broader multiple species or ecosystems.

Maximum sustainable yield (MSY) is the largest average catch which can be taken from a stock over a period of years (in this case, generally since the development of significant fisheries in the 1960's) under the environmental conditions which persisted during that same period. This assumes an equilibrium in the population associated with a degree of stability in the environment during the time period considered. Even for such a relatively short time period neither the environment nor the dynamics of many fish populations can be expected to have been constant. The concept of MSY, therefore, is more applicable to longer-lived species in which variations in biomass are buffered by the presence of many year classes. Any long term stability in survival and recruitment, even in these populations is probably exceptional. As a general rule, therefore, MSY cannot be directly applied as a goal for fisheries management without proper evaluation of statistical trends in stock condition, such as can be inferred from current CPUE and age composition. In some instances, recent changes in environmental conditions may constrain current population growth to level far below historic levels of MSY. Under such circumstances the population would be at a lower level of equilibrium which may permit only a correspondingly low level of harvest, and even the most drastic of management measures may not restore a stock to some former level of productivity.

The present state of the science is inadequate to predict the capacity of environment for the production of fishery resources, ascertain with any certainty whether the depletion was a consequence of natural factors of overfishing, or to predict with confidence the consequences of

remedial management action. The complicated interaction processes associated with the productivity of marine fish populations in an ecosystem are not very well understood and even such fundamental assumptions as the association between stock size and recruitment strength, which are implicit in manipulation of harvest to achieve MSY, have not been verified or quantified. In fact, it is generally recognized by fisheries scientists that the existing theories and models pertaining to fishery resources management suffer some fundamental inadequacies, and concepts and theories must be developed to answer present and future management demands. Until such new concepts supersede the old, the latter can still serve as a useful basis for deriving management decisions, providing their limitations and underlying assumptions are recognized and evaluated with the best available information. This is the philosophy and approach used throughout this plan.

In contrast to MSY, equilibrium yield (EY) is based on the best estimates of the current condition of stocks. It is the annual or seasonal harvest which, theoretically, will maintain a stock at approximately the same level of abundance (apart from the effects of environmental variation) in succeeding seasons or years. In both under- and overexploited stocks, EY is less than MSY. When, on the basis of statistical trends, survey data, or other information, there is reason to believe that the abundance of stock is below that required to produce MYS, EY is then the maximum production that can be sustained under current population conditions. To rebuild such stocks to more productive levels, the annual or seasonal catch would have to be set below EY. This leads to the concept of acceptable biological catch (ABC).

By definition, ABC is a seasonally determined catch that may differ from MSY

for biological reasons. It may be lower or higher than MSY in some years for species with fluctuating recruitment. It may be set lower than MSY in order to rebuild overfished stocks. Operationally, ABC is the final, biologically-based estimate in the process leading to the determination of optimum yield (OY). The determination of OY is accomplished through the following steps: MSY to EY to ABC and, considering socio-economic elements of the fishery, to OY.

An important factor in determining ABC is an appraisal of the biological data base to evaluate its quality and completeness. If it is found lacking, a conservative approach to exploitation may be called for until evidence is produced to support a contention that higher yields can be sustained. In the absence of such evidence only catch levels which are equal to or less than the low end of the MSY-EY ranges can be considered relatively free from the risk of overexploitation. This concept acknowledges the possibility of overexploitation but, in the biological sense, overexploitation can lead to reduced abundance or undesirable ecosystem imbalance that might prevail for years while underexploitation leaves the resource base in a healthy condition, need only have a temporary effect on user groups, and, to some extent, the temporary loss to the users may be made up the following year.

In instances where a reasonably firm data base indicates that a stock is "healthy" in the context of current environmental and ecosystem conditions—i.e., is capable of producing the maximum equilibrium yield that then prevailing environmental conditions will allow—ABC may appropriately be set well into (rather than at the low end of) the current EY range, even though EY is believed to be lower than MSY. Similarly, next year's ABC may be set higher than this year's EY if higher than average recruitment is predicted (for instance, from prerecruit surveys).

#### 9.7 Estimate of Future Stock Conditions

With the exception of Pacific ocean perch, Pacific halibut, and sablefish all other groundfish species in the Bering Sea/Aleutian Region are believed to be at levels of abundance equal to or greater than those that would produce MSY. The management regime described in Section 14.0 is designed to keep those healthy stocks at or somewhat above the level of abundance required for MSY, while providing sufficient relief to halibut, ocean perch, and sablefish so that their stocks can rebuild.

With particular regard to halibut, winter trawl closures of the past several years (which are continued in this Plan) appear to have been responsible for reversing the downward trend in juvenile halibut abundance.

In addition, there is no evidence of natural phenomena that could be expected to cause either serious biological or socio-economic consequences, although the possibility of undetected year class failures, declines in growth rate, or other adverse symptoms cannot be completely discounted. On the other hand, unforeseen enhancements of stocks condition are equally likely.

With the implementation of this plan, the short-term outlook for stock conditions is good.

In the context of long-term expectations, we are just now beginning to understand and quantify the complex relations among species and between the biota and the environment of this ecosystem (see Section 9.5). Until this understanding is much further developed, we are unable to predict the long-term effect on the ecosystem of the current, single species management strategies or of subtle environmental changes.

10.0 Other considerations which may affect the fishery

#### 10.1 International Pacific Halibut Commission (IPHC)

The fishery for Pacific halibut, a species that is part of this region's groundfish community, remains under the jurisdiction of IPHC and is, therefore, exempt from the provisions of this Plan. A major source of the fishing mortality on this species—that by incidental trawl catches—is, however, beyond IPHC control. As long as Council and IPHC objectives concerning halibut utilization remain identical, coordination between the two organizations is easily affected. Should halibut management philosophies diverge—for example, because the broader-based Council constituency objects to constraints on trawl fishery developed caused by overriding halibut-saving measures—a major social, political, and, perhaps, diplomatic (because of Canadian involvement in IPHC and in the halibut fishery) confrontation could be precipitated. Furthermore, management actions taken in the Bering Sea that adversely affect halibut are likely to have a significant impact on the Gulf of Alaska halibut stock and fishery because of the interchange of halibut between the two regions.

#### 10.2 Marine Mammal Protection Act of 1972

The FCMA of 1976 specifies that FMP's must be "consistent with . . . any other applicable law." The Marine Mammal Protection Act of 1972 is one that has a most serious impact on this FMP. There are large populations of many marine mammal species in the Bering Sea which are covered by the 1972 Act. The Act declares that marine mammals have "esthetic and recreational, as well as economic" value. To further these values, it provides that the "primary objective" of marine mammal management "should be to maintain the health and stability of the marine ecosystem." The Act further provides that "whenever consistent with this primary objective, it should be the goal to obtain an optimum sustainable population (of marine mammals) keeping in mind the optimum carrying capacity of the environment."

Pursuant to provisions of both Acts, this FMP is cognizant of the ecosystem and mammal population requirements. As reported in an earlier section on "Ecosystem Characteristics," a dynamic numerical marine ecosystem model is currently in use to study ecosystem interactions, including those by marine mammals. The Plan Development Team of this FMP is acutely aware and is striving for an "ecosystem approach" for managing the marine resources. It will, however, be some time (3-5 years) before an appropriate ecosystem model has become far

enough developed, and empirically tested, to begin to be relied upon for resource management. Until that time, single species models will be applied to the fishery resources, but in a manner that will retain balance among the various fish components, be generally conservative, and be determined to be not detrimental to current marine mammal populations. The manner in which MSY, EY, and ABC were derived for each fish stock in Annex I has indirectly taken into consideration the volume of fish needed by marine mammals for their sustenance. For example, natural mortality of fish stocks is taken into consideration in stock assessments and in its present application, includes the predation component by marine mammals.

Concerning marine mammal populations in the Bering Sea/Aleutian region, the Team has solicited expert advice from the Marine Mammal Division of the Northwest and Alaska Fisheries Center and summarized information on their distribution and migration, abundance and trends, feeding habits, and any problems induced by fisheries. Accounts of seven important species that are affected by the fisheries are given in Annex V. These species are the northern sea lion, northern fur seal, bearded seal, ringed seal, harbor seal, large seal, and ribbon seal. Although specific ranges of optimum sustainable population has not been clearly determined for these species, the impact of fisheries can be inferred from marine mammal population trends. The Final Environmental Impact Statement on Consideration of a Waiver of the Moratorium and Return of Management of Certain Marine Mammals to the State of Alaska (DOC and DOI, 1977) considered the population of six species, other than fur seals, to be at levels above the lower level of optimum sustainable population. Northern fur seals are managed for maximum productivity and may also be at or above the lower level of optimum sustainable population.

Of the seven species, the seal lions and fur seals might be significantly affected by groundfish harvest levels. Although the northern sea lion population in Alaska has generally increased since the early 1900's and is now at a relatively high level, a 50% decline in seal lion population has been noted since the late 1950's in the eastern Aleutian Islands. The factors that may have caused this decline are not certain but probably include (1) a westward shift in distribution since population abundance to the western Aleutians appears to be high; (2) commercial fisheries interaction since groundfish (primarily pollock) forms a significant portion of their diet; (3) disease such as leptospirosis; and (4) other unknown population control factors. This decline in abundance is of concern and should be watched more closely. The proposed total groundfish OY for 1980 for the Aleutian region is below past catch levels and if the abundance of fish is limiting for sea lions in this region, this FMP should leave more fish for sea lion consumption.

The northern fur seal is the other species that may be significantly impacted by groundfish fisheries in that fur seals compete with Man for groundfish for their sustenance. Fishes are estimated to constitute about 80%

of their diet and pollock is the only groundfish species covered by this FMP which forms a dominant portion of their diet. The average size pollock observed in fur seal stomachs is 20 cm indicating that the pollock utilized by fur seals have not yet been subjected to the commercial fishery which take pollock larger than 25 cm. The actual impact of diet on the fur seal population is, however, more intricate and has not yet been quantified. Based on population size trends which became stable during the period of highest fish harvest and the proposal that pollock catches remain below historical high levels, it appears that measures in this FMP should also leave more pollock for fur seal consumption. The ecosystem modelling studies have shown that the removal of larger sized pollock from the population may actually increase the abundance of juvenile pollock as effects of cannibalism is reduced.

The other five species of marine mammals do not seem to be adversely impacted by the groundfish fishery in that these mammals feed primarily on pelagic fish, cephalopods, benthos, and crustaceans. Four of these seal (bearded, ringed, harbor, and large) populations are known to be high and stable. The ribbon seal population is believed to be relatively low, which has been attributed to commercial hunting by the Soviet sealing fleet. In recent years, this species has been afforded increased protection by Soviet sealing regulations and its numbers may be increasing again. Some groundfish eaten by ribbon seals but little direct competition is known to exist between ribbon seals and Man for fishery resources.

Although direct competition for food fish is one of many factors that affect marine mammal populations, the other factors are not readily quantifiable. Some of these mammals may be sensitive to disturbances created by fishing activities and may leave the area under such harassments. Harbor seals and ribbon seals are known to display such sensitivity, but it is difficult to quantify the effect of fishing on their behavior and abundance. It is noted that some harassments take place, such as the use of explosives to scare away mammals during fishing operations. It is also important to note that the groundfish fishery covered by this FMP account for some marine mammal mortality by the fishing gear. Preliminary estimates of marine mammal incidental mortality due to foreign fishing vessels in 1978 (Marine Mammal Division, George Harry, pers. comm.) were 8.57 animals per 10,000 metric tons of groundfish by the Japanese fishing fleet, 1.69 by the Soviet fleet, and 9.84 in the Korean fleet. Assuming an overall incidental mortality rate of 8.57 animals per 10,000 mt of groundfish, the total incidental mortality on marine mammals, most of which are expected to be northern (stellar) sea lions, is estimated to be 1,237 animals based on a total OY of 1,443,500 mt of groundfish proposed by this FMP.

Overall, the proposed groundfish FMP should reduce competition with marine mammals for fish when compared to the past decade. The proposed total groundfish OY is about 25 percent below the average catch of 1969-76, thereby leaving more fish for marine mammal consumption.

On the other hand, restrictions on killing or harassing seals and sea lions according to the Marine Mammal Protection Act results in an unknown but probably significant economic loss to the fishermen. First, in the setline fishery, some of these seals and sea lions mutilate or remove part of the catch before it can be taken aboard. Second, large numbers of the animals often gather around trawlers and attack halibut, salmon, and crabs which, as a conservation measure, are required to be returned to the sea. Third, and of greatest import, the maintenance of large populations of marine mammals—seals, sea lions, porpoises, and whales—has a profound impact on the abundance of commercial fish species. This impact is both direct, through predation on commercial species, and indirect, through grazing on the same food organisms utilized by commercial fish species.

The effect of such interaction is being studied by an ecosystem simulation model. In order to develop the model to encompass the ecosystem approach for managing the marine resources of the region, better information on the mammals and their interactions with other components of the ecosystem must be obtained. It will take time to refine and test this management for management purposes.

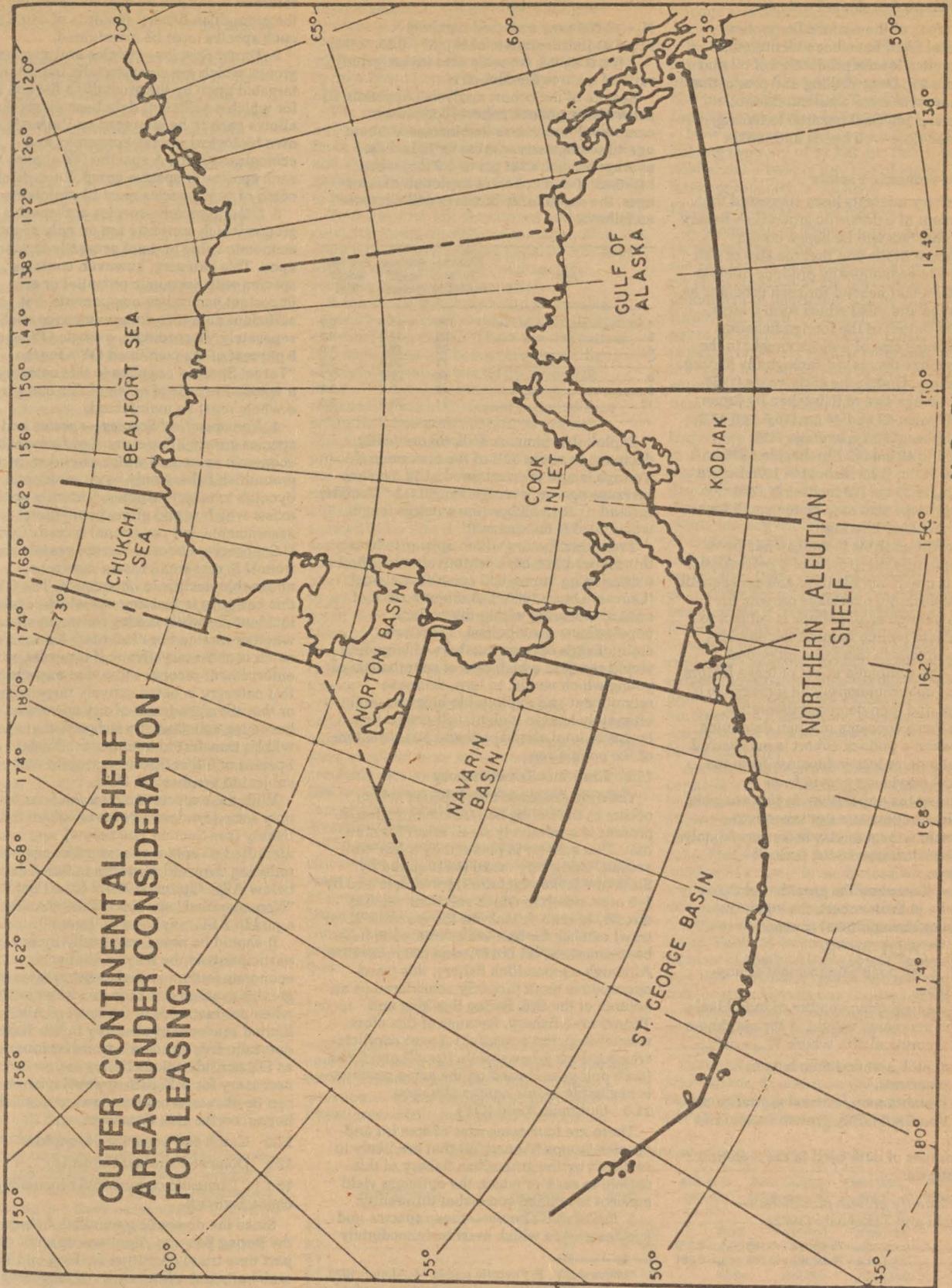
All fishermen, foreign and domestic, are required under the provisions of the Marine Mammal Protection Act of 1972 to obtain a marine mammal certificate of inclusion if any marine mammals might be taken incidental to the conduct of their fishing operation.

#### 10.2.1 Endangered Species Act

The Federal action proposed in this fishery management plan is not likely to jeopardize the continued existence of endangered or threatened species, or result in the destruction or modification of habitat critical to those species.

BILLING CODE 3510-22-M

Figure 25



U.S. Department of the Interior Map

BILLING CODE 3510-22-C

### 10.3 Offshore Petroleum Production

Large areas of the eastern Bering Sea Continental Shelf have been identified as proposed sites for the production of oil and gas (Figure 25). Once drilling and production begin, there will arise a potential for oil pollution and physical hazards to fishing, such as sea-floor well heads and tanker traffic.

### 10.4 Bio-economic Factors

U.S. fishery interests have suggested that development of a domestic groundfish fishery in the Bering Sea will be based on the production of filets and that the size of fish necessary to economically produce filets is greater than that needed for such products as fish sausage and meal which form a large part of the output of the foreign fisheries.

The average size of pollock caught in the Bering Sea has decreased through the history of the fishery. During the early years (1964-69), the average size of fish taken by Japan varied between 42 and 44 cm (16.5 and 17.3 inches). Subsequently, average size decreased to 40 cm (15.7 inches) in 1972 and as low as 31 cm (12.2 inches) in 1975 before recovering to 33 cm (13 inches) in 1976. Current average size may be too small for efficient machine filleting.

The cohort analysis technique has been used to quantify the growth of a pollock year-class to its maximum biomass and subsequent decay as mortality overtakes growth. In theory, a year-class of pollock is subject to natural death (which reduces the number) and growth (which increases individual weight). The combined effect of these factors is that the cohort biomass will increase to a maximum and then decrease thereafter. Utilizing these concepts one can determine the age when a pollock cohort is maximized and what gain or loss in biomass from the theoretical maximum occurs from restructuring the population. In this analysis, species interactions are not taken into consideration; the analysis is concerned only with material change to the pollock population.

In order to explore the growth and decay phases of a pollock cohort, the equation (Alverson & Carney, 1975) is used:

$$P_t = (N_0 e^{-Mt}) W_{\infty} (1 - e^{-Kt})^b$$

where  $P_t$  is the population weight at any specific time,

$N_0$  is the beginning number of individuals,  $W_{\infty}$  is the maximum weight at the maximum average theoretical size where  $W_{\infty} = aL_{\infty}^b$  ( $a$  = constant,  $L_{\infty}$  = maximum length,  $b$  = exponent),

$M$  is the instantaneous natural mortality rate,  $K$  is the Von Bertalanffy growth factor, and  $t$  is time.

The sources of data used in the equation are as follows:

#### Von Bertalanffy growth parameters— Yamaguchi and Takahashi (1972)

Male	$L_{\infty} = 75.40$	$K = -0.165$	$t_0 = 0.273$
Female	$L_{\infty} = 76.20$	$K = -0.163$	$t_0 = 0.291$

#### Length-weight relationship parameters—

Male	$a = 0.00952$	$b = 2.916$
Female	$a = 0.00820$	$b = 2.958$

### Other Input Parameters

$N_0 = 10,000$  (any assumed number)  
 $M = 0.43$  (best estimate of  $M$ ) ( $M = 0.35, 0.375, 0.4, 0.45, 0.5, 0.6$  were also investigated)  
 ratio of male to female = 1:1

Results of the cohort analysis (Appendix II) show that a pollock cohort (both sexes combined) maximizes its biomass at about age 4 (average size = 38 cm or 15 inches, average weight = 393 gm or 0.9 lbs) when  $M = 0.43$ . If that cohort is exploited at later ages, the exploitable biomass will decrease as follows:

Age	Biomass (% of maximum)	Average length (inches)	Average weight (lbs)
4	100	15.1	0.9
5	98	17.3	1.3
6	86	19.2	1.8
7	71	20.8	2.2
8	56	22.2	2.7
9	42	23.3	3.1
10	31	24.3	3.5

Exploitable biomass will, theoretically, decrease to about 50% of the maximum if average length is maintained at 22.2 inches (average age = 8; average weight = 2.7 pounds) instead of at 15 inches (the average length when yield is maximized).

Two other factors which appear to bear on this matter have been tentatively identified in a developing, numerical ecosystem model (Laevastu et al. 1976<sup>1</sup>). A major source of natural mortality within the pollock population is cannibalism. Therefore, maintenance of large numbers of large fish would result in a high rate of cannibalism of young which would, in turn, decrease recruitment and exploitable biomass, and ultimately lead to violent, self-generating cycles in total abundance and size structure of the population.

### 10.5 Crab-bait Trawl Fishery

The only domestic trawl fishery which occurs in the Bering Sea/Aleutian region at present is a relatively small effort for crab bait. This activity is pursued by a few crab vessels, using very small (as required by State of Alaska regulation) trawl nets and by 1-3 otter trawlers which sell their catches directly to crab vessels on the grounds. Total trawl catches for bait are estimated to have been about 450 mt in 1977 and 900 mt in 1978. Although a groundfish fishery, this trawl operation is more properly considered as an adjunct of the U.S. Bering Sea king and Tanner crab fishery. Because of this close relationship, the potential for gear conflicts—which is high when mobile (trawl) and fixed (crab pot) gear is used on the same grounds—is negligible in this unique situation.

### 11.0 Optimum Yield (OY)

There are four categories of species and species groups (Annex VI) that are likely to be taken by the groundfish fishery of this region, to each of which the optimum yield concept is applied somewhat differently:

1. *Prohibited Species*—those species and species groups which must be immediately

<sup>1</sup>Laevastu, T., F. Favorite and B. McAlister. 1976. A dynamic numerical marine ecosystem model for evaluation of marine resources in eastern Bering Sea. Northwest & Alaska Fisheries Center, Natl. Mar. Fish. Serv. Processed report, 69 p.

returned to the sea by vessels operating in the groundfish fishery. Records of catch of each species must be maintained.

2. *Target Species*—species and species groups which are commercially important, targeted upon by the groundfish fishery, and for which a sufficient data base exists that allows each to be managed on the basis of its own biological, social, economic, and ecological merits. A specific OY applies to each species or species group. Records of catch of each species must be maintained.

3. *Other Species*—species and species groups which currently are on only slight economic value and not generally targeted upon. This category, however, contains species with economic potential or are important ecosystem components, but sufficient data is lacking to manage each separately. Accordingly, a single OY, equal to 5 percent of the combined OY's for the "Target Species", applies to this category as a whole. Records of catch of this category as a whole must be maintained.

4. *Non-specified Species*—species and species groups of no current or foreseeable economic value and which are taken by the groundfish fishery only as an accidental bycatch to target fisheries. Virtually no data exists which would allow population assessments, but occasional records from U.S. observers aboard foreign vessels and from U.S. research vessels shown no noticeable decline in abundance. The OY for this category is that amount which is taken incidentally while fishing for target species, whether retained or discarded. No record of catch is necessary. (Note: If observer or enforcement records show that any species in this category is being actively targeted upon or that the abundance of any species is becoming substantially reduced, that species will be transferred to either the Target Species or Other Species category and subject to an absolute OY.)

With the expectation over the near term of only a modest domestic involvement in this fishery (see Section 12.0 below), and having identified no social or economic reasons for reducing the yield of stocks in this fishery below ABC, Optimum Yield for all but the "Non-specified" species will be considered equal to ABC, as shown in Annex I.

It should be noted, especially by foreign participants in the fishery, that such economic factors as higher catch rates or greater average size than can be expected when production is at the level of ABC, or limited seasonal availability to this fishery by domestic fishing vessels could be introduced as OY considerations if they are considered necessary for U.S. fishery development, and can be shown to not have an unreasonable impact on the U.S. consumer.

### 12.0 Catch and capacity descriptors

#### 12.1 Domestic Annual Capacity

##### 12.1.1 Domestic commercial processing characteristics

Since the domestic groundfish fishery in the Bering Sea and Aleutians consists of a part time trawl operation for king and Tanner crab bait, and a few weeks of longlining for halibut each year, there essentially is not industry to describe. The information presented is more of a description of the

latent groundfish capacity of the current shellfish industry including some expansion plans.

A survey was made of the majority of the companies which process shellfish in the eastern Aleutian Islands (Unalaska and Akutan) and the western end of the Alaska Peninsula. The central and northeastern Alaska Peninsula and Bristol Bay plants, except as they might represent investment and contribute to gross sales of the parent companies with operations further west, were not considered because of their inability to be operated year round either because of ice or specialization for summer salmon processing.

Representatives of ten companies with 16 operations in the Aleutians and western Alaska Peninsula were contacted. Responses to all questions were not obtained due to the tentative nature and lack of completeness of plans of groundfish operations in 1979, or because company policy precluded divulging certain information.

Seven of the companies with operations in the area indicate gross annual sales of a total of 192.5 million dollars. This amounts to 43% of the total first wholesale value of all fisheries products processed in Alaska in 1976, the latest year for which data are available.

Since several of Alaska's major processing companies are represented in the relatively small number of companies with operations in the area, an average gross expanded to include all operators is not included in this section because it would likely provide an inflated representation of the size of the marketing structure of the westward processors.

Of the fifteen companies known to have operations in the western Alaska Peninsula-Aleutian Islands, nine indicated current plant investments totalling 61.5 million dollars. As in the case of total sales, this is considered atypical since almost all the major companies operating in Alaska are represented in the sample.

It should be noted however, that the companies with operations in the area are heavily involved in the fish processing business in Alaska through plant investment, and account for a substantial portion of the resources processed in the state.

The processing industry in westward Alaska is highly dependent upon transient labor. The small villages of Unalaska and Akutan have inadequate workforces to handle the catches of the large, modern Bering Sea crab fleet. In the early period of the fishery, workers from the Pribilof Islands and the coastal Eskimo villages were recruited for processing work. While the industry still depends on Alaskan help to a considerable extent, the expansion of processing capacity as a result of the growing Tanner crab fishery and the displacement of the Japanese and Russian king crab fisheries in the Bering Sea have necessitated increased recruitment from the other states.

One of the problems processors have had to cope with is processing the crabs, especially king crab, fast enough to get the catcher boats turned around and back to the fishing grounds. As the fleet grows in size and efficiency, the processor is faced with a

shorter season in which to get enough product to make a profit, while keeping the "turn around" time for the vessels delivering crab short so that the skippers do not find it in their best interest to seek markets elsewhere.

The solution to these particular problems has been to create a large transient work force and the facilities to house it. Shoreside and shipboard bunkhouse facilities in the eastern Aleutians currently have the capacity to house approximately 2,400 workers.

To the extent that the current and planned capacity would be suitable for groundfish, the daily freezing and holding capacity has been used as an indication of the domestic processor's groundfish capacity.

Plans for 1979 include some processing capacity at Unalaska which will be dedicated entirely to groundfish. There are indications that such plans are being considered, by several companies, but target dates are indefinite. Several of the company representatives interviewed believed that groundfish and crab operations are not compatible, i.e., groundfish cannot be processed in a vacant corner of a crab plant, nor can crab processing lines be torn out or modified for short periods of time to convert a plant to finfish processing. The consensus seemed to be that if there were to be a serious attempt to process groundfish on a production basis, the plant would have to be planned and built from the ground up in order to provide for the efficiency necessary to profit from a high volume-low priced product. None of the shellfish processors indicated that groundfish could be handled while the crab season is open, for reasons discussed above.

Estimates of freezing and holding capacities, and the percentage of time a plant would be available for processing groundfish were obtained from seven companies involving eleven operators. Estimates of from 20% to 50% were made of the plants' annual capacity that would be available for diversification.

The seven companies represent a cumulative daily freezing capacity of 520 metric tons. This capacity would be available 37 percent of the year, on the average. Therefore, if it is assumed, as it was for the Gulf of Alaska groundfish fishery, that a processing plant can operate 250 days a year, then

$$520 \text{ mt} \times .37 \times 250 = 48,100 \text{ mt}$$

would represent the estimated annual capacity of the processors in the area during the crab off-season. Since there is some question as to the ability to process and freeze groundfish during crab seasons, no

attempt has been made to estimate capacity during those periods of time.

In addition to the estimated off-season capacity in the shellfish fishery, there are plans to have 6,250 mt of capacity exclusively designed for groundfish. Total estimated capacity would then be 54,350 mt.

Nine processors indicated a cumulative holding capacity of 13,900 mt. This would hold about a twenty day run of the off-season freezing capacity in the area.

#### 12.1.2 Commercial fishing fleet

A projection of domestic annual capacity for groundfish in the Bering Sea is limited by the fact that to date there has been virtually no effort directed at the harvesting of groundfish in the Bering Sea by U.S. fishermen. Since a domestic trawl fishery has yet to be developed, an estimate of domestic capacity must rely upon a determination of the types of existing vessels that are likely to succeed in the fishery and how much fishing time will be available to them.

NORFISH, a Sea Grant program at the University of Washington, has been involved in an analysis of the shellfish fleet in the state of Alaska, with reference to the future development of a domestic trawl fishery. A classification system was developed for characterizing shellfish vessels on the basis of such characteristics as length, horsepower, hull type and gear types employed.<sup>1</sup> Certain types of shellfish vessels are likely candidates for entry into a trawl fishery, based on their trawling capability and other features. In particular, combination crabber-trawler type vessels (classes 8.1 to 8.5) have the largest potential fishing power of the existing shellfish vessels for the harvesting of groundfish. Subsequent estimates of capacity are based on these vessel classes, since they are expected to provide most of the initial future capacity.

An initial estimate of domestic harvest capacity can be obtained by examining the hold capacity of the combination vessels, shown in Table 23. This estimate assumes a packing factor of 40 pounds of iced fish per cubic foot of space. Also included are the number of vessels in each class which have made shrimp landings and provide a minimum estimate of the number of combination vessels currently equipped to trawl. Table 24 indicates the change in number of combination vessels between 1975 and 1977. The net increase in number of combination vessels has resulted in an overall increase in total hold capacity of 10 per cent over the past two years.

<sup>1</sup> NORFISH Technical Report #61. The Classification, Enumeration, Characteristics and Economic Performance of Alaskan Fishing Vessels, NEPAC Progress Report II. 1976. 23 pp.

Table 23.—Hold Capacity of Combination Crabber-Trawler Vessels

NORFISH class	No. of registered vessels	Keel length (feet)	Ave. hold capacity (cu. ft.) <sup>1</sup>	Total capacity (40 lbs./cu. ft.)	Class total (lbs.)	Number to trawl shrimp
8.1	30	59.1-70	2800	112,000	3,380,000	11
8.2	65	70.1-82	3000	120,000	7,800,000	24
8.3	38	82.1-90	3500	140,000	5,320,000	8
8.4	32	90.1-100	5500	220,000	7,040,000	1
8.5	14	100.1-120	7500	300,000	4,200,000	0
	179				27,720,000 (or 12,375 MT)	

<sup>1</sup> Revised figures provided from shellfish research group sessions held by Alaska Commercial Fisheries Entry Commission, 1977.

**Table 24.—Changes in Number of Registered Shellfish Vessels, Western Alaska, 1975–77**

Class	No. registered 1975	No. boats gained	No. boats lost	Net gain	No. registered 1977	No. registered SE Alaska 1977
8.1	25	5	1	4	29	1
8.2	65	9	10	-1	64	1
8.3	31	4	0	4	35	3
8.4	28	4	0	4	32	0
8.5	13	3	2	1	14	0

<sup>1</sup> Southeast Alaska vessels were tabulated separately since the 1975 survey did not include them.

Another factor affecting capacity is the amount of fishing time available. If it can be assumed that the domestic trawl fishery will begin primarily as an off-season fishery for shellfish fishermen, currently unused fishing time within the fleet would provide an estimate of time available for harvest of groundfish. To determine if there is unused capacity within the combination vessel classes, an analysis of the landing record of each vessel was performed.<sup>2</sup> The frequency distribution of interlanding times was used to derive an estimate of maximum trip length for each species fished. The maximum trip length was adjusted to take into consideration the limitation of holding time on board for various species. Allowing for a layup of 60 days per vessel, the number of additional fishing trips available by vessel class and trip length were calculated. Table 25 summarizes these results.

Given the current limitations in holding catches on board, particularly in the case of pollock, a 4 to 7 day trip length seems reasonable to expect. If 20 to 30 metric tons per day is a realistic catch rate in the Bering Sea, then the domestic annual capacity could be expected to be about 157 thousand metric tons, as indicated in Table M. This estimate was calculated by ignoring 1 to 3 day intervals and adding in the appropriate number of 4 to 7 day trips which could be made from within the longer time intervals listed in Table 26.

It should be noted that this estimate of domestic annual capacity assumes that all combination vessels are currently equipped to trawl. In fact, perhaps half of the fleet would require extensive modification beforehand. This figure is also high considering unused effort that might be directed towards Gulf of Alaska groundfish fisheries instead of the Bering Sea. Conversely, if trawling for groundfish in the Bering Sea proves to be more profitable than participating in alternative fisheries, the estimate of domestic annual capacity would need to be adjusted upward.

<sup>2</sup> Methods used are detailed in NORFISH Paper NPB3, Pragmatic Approaches to Fisheries Management for Optimum Yield—Determination of Supply Curve for a Domestic Alaska Pollock Fishery, 1977, 7 pp; and in Technical Report #79 (In prep.).

**Table 25.—Number of Additional Fishing Trips Available by Combination Vessel Class and Trip Length for 1976<sup>1</sup>**

Potential trip length	Vessel class				
	8.1	8.2	8.3	8.4	8.5
1-3 days	20	108	22	21	6
4-7 days	24	76	25	23	10
8-14 days	19	47	23	25	6
15-21 days	9	26	14	12	4
22-30 days	5	40	13	13	6
31-60 days	11	31	8	5	3
>60 days	23	74	38	40	11
No. of vessels	21	65	31	28	10

<sup>1</sup> These figures allow for 60 days layup per vessel.

<sup>2</sup> These totals vary from Tables 1 and 2 because they are based on the actual number of vessels which made landings.

**Table 26.—Harvest Capacity of Groundfish Based on Utilization of Unused Fishing Time, Estimated From 1976 Landing Times**

	Vessel class				
	8.1	8.2	8.3	8.4	8.5
Number of 4-7 day trips available	302	1007	433	426	139
Number of vessels available	21	65	31	28	10
Number of trips per vessel	14	15	14	15	14
Number of days to fill boat at catch rate of 24MT/day	2	2.5	3	4.5	6
Annual Capacity in 10 <sup>6</sup> pounds	33.8	120.8	60.6	93.7	41.7
Total: 156,518 M.T.					

## 12.2 Expected Domestic Annual Harvest (DAH)

Expected domestic annual harvest (DAH) is the estimated portion of the U.S. groundfish harvest which will be utilized by domestic processors (DAP), the estimated portion, which will enter non-processed markets (DNP) and the estimated portion, if any, delivered to foreign processors (JVP) which are permitted to receive U.S. harvested groundfish in the Fishery Conservation Zone.

U.S. groundfish processing capacity is currently estimated to be 54,350 metric tons annually (Section 12.1.1). U.S. commercial fishing fleet capacity is currently estimated to be 156,518 metric tons (Section 12.1.2). Neither of these estimates, however, allow a projection of the domestic intent to catch and process except to define physical maximums. In order to estimate DAP all processors located in or adjacent to this region were surveyed to determine their specific plans for handling groundfish during the plan year. The results of this survey are given in Annex II.

Non-processed fish (DNP) is derived from estimates of the quantities and species of groundfish that enter non-processed fish markets. The principal utilization is for pot bait in the crab fisheries with lesser quantities used as bait in the longline

fisheries. Minor quantities are used in this region for direct household consumption (subsistence fisheries). Determination of DNP is based on reported sales, interviews with fishermen who utilize groundfish catches for bait and surveys of communities in the region whose inhabitants utilize groundfish for direct consumption. Projected utilization in the plan year takes account of changing demands related to changes in magnitude of the crab fisheries, the primary users in this category.

JVP is the U.S. harvested portion of the OY in excess of the capacity and intent of U.S. processors to utilize or for which actual domestic markets are not available that will be delivered to foreign processors who are authorized to receive such U.S. harvested fish in the Fishery Conservation Zone. Estimates of utilization in this category are derived from surveys of the companies who intend to have joint venture operations in the Bering Sea during the plan year. The results of that survey are given in Annex II.

Since estimates of future production by processors are made without benefit of any previous processing or harvesting experience in this fishery it is difficult, if not impossible, for them to be completely accurate. It is generally recognized by those processors making the estimates that their figures are optimal and based on assumptions that frequently may not materialize. Machinery or installation delays, changes in markets, better than normal alternative fisheries for the fishing fleets (or processors) may all affect their actual production. Therefore, a DAH reassessment system and release mechanism is established through this plan and by regulation to allow adjustments in DAH during the plan year.

Production by U.S. fishermen and processors shall be reassessed periodically based on:

1. production to date during the year;
2. current fishing and production activity; and
3. projections for additional production during the remainder of the year based on demonstrated capacity, both in processing and harvesting sectors.

Releases from DAH to TALFF shall be made by the NMFS Regional Director after consultation with the Council. No release or transfer shall be made if such release is likely to have an adverse biological, economic, or social consequence.

13.0 Allocations between foreign and domestic fishermen

## 13.1 Reserve

As mentioned in Section 12.2 and Annex II, U.S. participation in the fishery in the near future is expected to consist of a relatively modest catch for crab bait and limited pilot efforts for foodfish production.

In order to prevent OY's from being exceeded without preventing unexpected domestic fishery development; i.e. an unanticipated increase in U.S. catching capability and intent, 500 mt or 5 percent of

the OY (whichever is the greater) of each species will be held in reserve for allocation late in the year on the basis of domestic need. Specific reserve amounts are shown in Annex III.

Unless specifically withheld by the NMFS Regional Director acting with the advice of the Council, up to 25 percent of the reserve of each species will be released to TALFF every two months, beginning with the end of the second month of the fishing year, with the intention that by the end of the eighth month of the fishing year, all of the reserve will either be made available to foreign fishermen or reserved for domestic use.

#### 13.2 Total Allowable Level of Foreign Fishing (TALFF)

The initial TALFF for each species shall be determined by the equation  $TALFF = OY - DAH - Reserve$ . TALFF may increase during the year as reserves are apportioned between domestic and foreign fishermen, or if after reassessment during the year it is found that not all of it will be used by U.S. processors and harvesters, DAH may be released to TALFF. Initial TALFF's are shown in Annex III. The estimation of DAH is shown in Annex II.

#### 14.0 Proposed Management Regime

##### 14.1 Specific Management Objectives

A. Continue rebuilding the halibut resource so that a viable halibut setline fishery is again available to American fishermen.

B. Rebuild depleted groundfish stocks to, and maintain healthy groundfish stocks at levels of abundance that will produce MSY.

C. Provide an opportunity for U.S. involvement in the Bering Sea/Aleutian groundfish fishery, limited only by the OY of individual species and objectives A and B above.

D. Allow foreign participation in the fishery, consistent with objectives A, B, and C above.

Objective A will be accomplished by winter restrictions on fishing in areas where juvenile halibut are known to concentrate. Objective B, as it pertains to Pacific ocean perch and sablefish, will be accomplished by setting OY below current equilibrium yield (see Section 9.8.2. and Annex I) so that abundance can rebuild to the level necessary to produce MSY. Objectives C and D will be accomplished as provided for under Sections 12.2, 13.1, and 13.2.

##### 14.2 Area, Fisheries, and Stocks Involved

This Fishery Management Plan and its Management Regime applies:

A. To the U.S. Fishery Conservation Zone of that portion of the North Pacific Ocean adjacent to the Aleutian Islands which is west of 170°W, and of the entire Bering Sea (see Figure 26).

B. To all foreign and domestic fishing vessels operating in the area described in A above, except:

1. U.S. and Canadian fishermen when they are operating under IPHC regulations;

2. Those U.S. vessels which are operating legally in any fishery for shellfish

C. To all stocks of finfish and squid except salmon, steelhead trout, Pacific halibut, and herring which are distributed or are exploited predominantly in the area described in A, above.

#### 14.3 Management Measures and Their Rationale

##### 14.3.1 Domestic

###### 14.3.1.1 Permit requirements

All U.S. vessels operating in that part of the Bering Sea/Aleutian groundfish fishery which is under Council jurisdiction must have on board a current permit issued by the Secretary of Commerce or, if considered acceptable by the Secretary, a State of Alaska vessel license.

###### 14.3.1.2 Prohibited species

In accordance with existing state and federal statutes.

###### 14.3.1.3 Area closures

###### A. General. None

###### B. Trawl

1. "Bristol Bay Pot Sanctuary" (as described in Appendix III and Figure 27)—domestic trawling will only be permitted during open seasons of the U.S. Bering Sea crab fisheries.

2. "Winter Halibut-savings Areas" (as described in Appendix III and Figure 27):

(i) December 1–May 31—domestic trawling will be permitted only until the total U.S. trawl catch from this area exceeds 2,000 mt;

(ii) June 1–November 30—no closures.

3. Other areas—no closures

###### Rationale:

To prevent high incidental catches and mortality of juvenile halibut which are known to occur in winter concentrations in the "Bristol Bay Pot Sanctuary" and the "Winter Halibut-savings Areas" while allowing for some expansion in primarily the traditional crab-bait trawl fishery and the initial development of a human consumption fishery.

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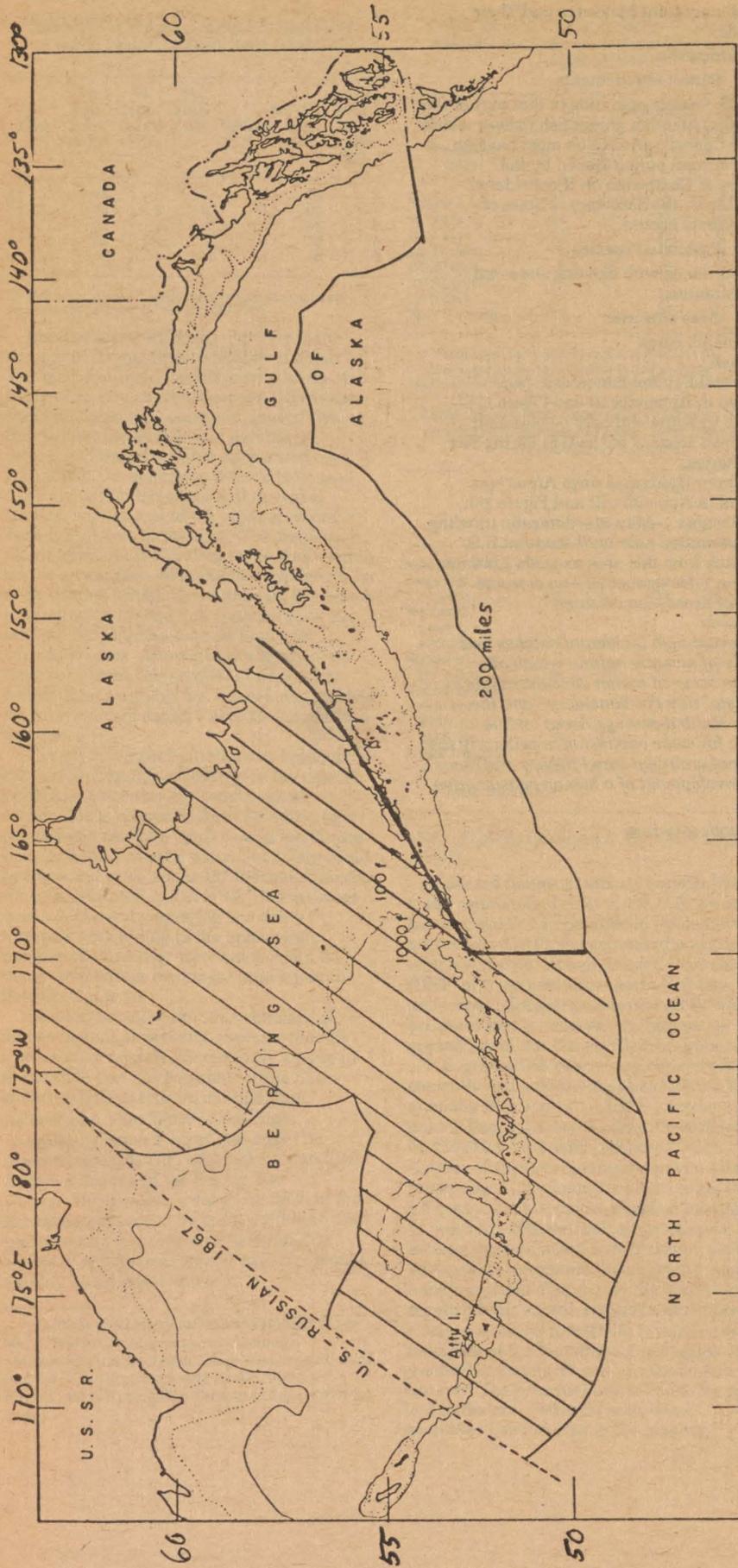


Figure 26.--Area (diagonal lines) over which this Fishery Management Plan applies.

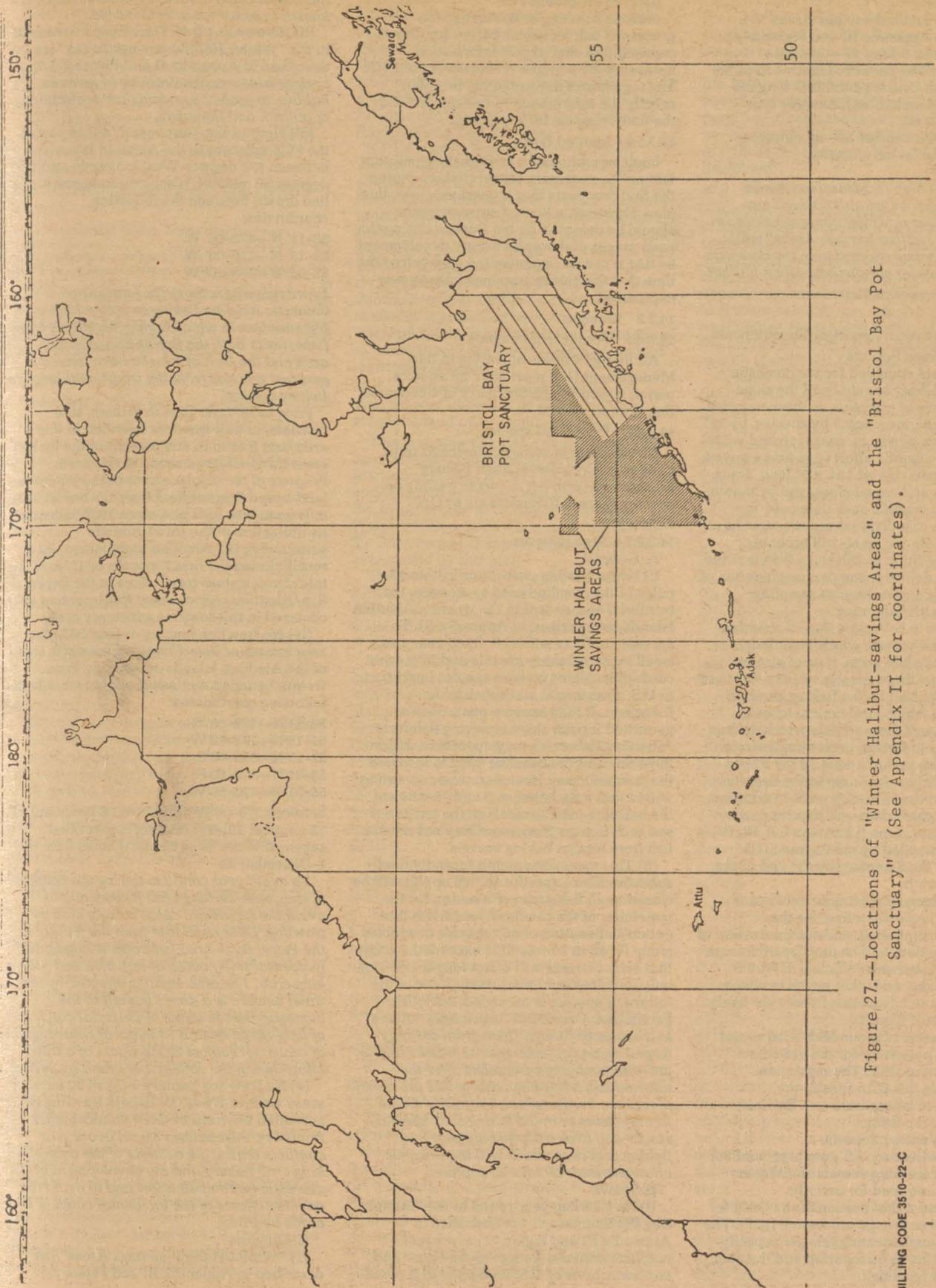


Figure 27.--Locations of "Winter Halibut-savings Areas" and the "Bristol Bay Pot Sanctuary" (See Appendix II for coordinates).

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## C. Longline

1. "Winter Halibut-savings Areas" (as described in Appendix III and Figure 27):

(i) December 1–May 31—domestic longlining will be permitted landward of the 500 m isobath until the total U.S. longline catch (excluding halibut) from this area exceeds 2,000 mt.

(ii) June 1–November 30—no closures.

2. Other areas—no closures.

## Rationale:

To prevent high incidental catch and mortality of juvenile halibut which are known to occur in winter concentrations in the "Winter Halibut-savings Areas" while allowing for some expansion in the domestic setline fishery for species other than halibut.

## 14.3.1.4 Gear restrictions

None.

## 14.3.1.5 Statistical Reporting Requirements

## (A) Fishermen Reports

Fishery data compiled for the domestic groundfish fishery should be of the same general degree of precision as those required of foreign fishermen: catch by species, by ½° Lat. x 1° Long. Areas, by gear type and vessel class, and by month; effort (e.g., hours towed, # hooks, # pots) by ½° Lat. x 1° long. areas, by gear type and vessel class, and by month.

In order to compile such data sets, the performance of individual vessels must be made available. To do so will probably require, in addition to fish sales tickets made out for each delivery, one or a combination of the following: logbooks; port sampling; interviews with fishermen.

In addition to collecting this information from domestic vessels which land their catches at Alaskan ports, it must also be collected from those vessels which sell or use their catch for bait on the fishing grounds, from vessels which land their catches in other states, and from vessels which deliver their catches to foreign processing vessels.

Annual data compilations, in the above format, should be available to the Secretary by May 31 of the following year. In addition, preliminary catch data—by species and by major statistical area (i.e. Areas I, II, III, IV)—should be compiled by month and made available to the Secretary by the end of the following month.

Arrangements, including financing and schedule of implementation, for the collection, compilation, and summarization of these fishery data will be developed through consultations between officials of NMFS, State of Alaska, and other states in which landings of catch from this fishery are likely.

## (B) Processor Reports

All processors of groundfish shall report information necessary for the periodic reassessment of DAP. The regulation implementing this plan specify the information to be reported and the time schedule for reporting.

## (C) Joint Venture Reports

Persons delivering U.S. caught groundfish to foreign processing vessels shall report information required for periodic reassessment of that portion of the DAH to be delivered to foreign processors (JVP). The regulations implementing this plan specify the information to be reported and the time schedule for reporting.

## (D) Non Processed Fish

Persons catching or delivering non-processed fish for use as bait or for direct consumption shall report information necessary for periodic reassessment of DNP. The regulations implementing this plan specify the information to be reported and the time schedule for reporting.

## 14.3.1.6 Limited Entry

Implementation of a limited entry program will not be necessary for this fishery during the first few years that it operates under this plan. However, a limited entry program should be designed by the Council during the early stages of domestic fishery development so that it can be implemented well before the time that the fishery becomes fully or over-capitalized.

## 14.3.2 Foreign

## 14.3.2.1 Permit requirements

All foreign vessels operating in this Management Unit must have on board a permit issued by the Secretary of Commerce. Required by FCMA.

## 14.3.2.2 Prohibited species

No retention of salmon, steelhead trout, halibut, or Continental Shelf Fishery Resources to prevent covert targeting on species of special importance to U.S. fishermen.

## 14.3.2.3 Area closures

## A. General

(i) No harvesting year-round within 12 miles of the baseline used to measure the territorial sea, except in the western Aleutian Islands as described in Appendix III. To prevent conflicts with U.S. fixed gear and small inshore fishery vessels and to prevent catch of localized inshore species important to U.S. commercial and subsistence fishermen. If joint venture operations are permitted foreign ships receiving fish from American fishermen may operate to within three miles of the baseline used to measure the territorial sea. However, when operating within that area between 3 and 12 miles of the baseline used to measure the territorial sea such foreign processors may not receive fish from foreign fishing vessels.

(ii) This management unit (or individual sub-area where specific quotas apply) will be closed to all fishermen of a nation for the remainder of the calendar year when that nation's allocation of any species or species group listed in Annex III is exceeded, except that such closures will affect longline fishing only if the national allocation of any of the following species is exceeded: sablefish; Pacific cod; Greenland turbot; and, "others" to discourage foreign fleets from covertly targeting on depleted species/stocks and to prevent damaging by-catches after the allowed catch has been taken; this provision places the burden of responsibility on the foreign fleets to avoid taking such species/stocks and to develop fishing gear and fishing practices which will minimize or eliminate their incidental capture.

## B. Trawl

(i) No trawling year-round in the "Bristol Bay Pot Sanctuary", (as described in Appendix III and Figure 72) to prevent conflicts between foreign mobile gear and concentrations of U.S. crab pots; to prevent

incidental catch of juvenile halibut which are known to concentrate in this area.

(ii) No trawling from December 1 to May 31 in the "Winter Halibut-savings Areas" (as described in Appendix II and Figure 27) to protect winter concentrations of juvenile halibut, to protect spawning concentrations of pollock and flounders.

(iii) No trawling year-round in that part of the FCZ adjacent to the Aleutian Islands between 172 degrees West longitude and 178 degrees 30 minutes West longitude south of a line drawn between the following coordinates:

53-14' N—172-00' W

52-13' N—176-00' W

52-00' N—178-30' W

to provide a sanctuary for foreign and domestic longline fishing in recognition of the situation in which highly developed trawl fisheries in both the Bering Sea/Aleutian area and the Gulf of Alaska have tended to preempt grounds from the traditional longline fishing method.

Prior to 1977, no Danish seiners, side trawlers, or pair trawlers operated in this area, and less than one percent of the foreign stern trawl effort occurred in this area. Because of the displacement of the Japanese land-based dragnet fleet from the Soviet 200-mile zone that fleet has, since 1977, increased its utilization of the trawl grounds surrounding the Aleutian archipelago. As a result, during the first 7 months of 1978, of the total foreign stern trawl effort in the Bering Sea/Aleutian region, about three percent (3%) occurred in this longline sanctuary area.

(iv) No trawling January 1–June 30 in the area known as Petrel Bank on the north side of the Aleutian Islands comprising those waters bounded by lines drawn to include the following coordinates:

52-51' N—178-30' W

51-15' N—178-30' W

51-15' N—179-00' E

52-51' N—179-00' E

52-51' N—178-30' W

between 178-30' W and 179-00' E landward of 12 nautical miles. Trawling is permitted seaward of the three nautical miles from July 1–December 31.

To avoid gear conflicts during the conduct of the domestic king crab fishery and to avoid the incidental catch of king crab by trawling. Data available from the fishery in the Petrel Bank area indicates a substantial incidental trawl catch of red, blue and golden king crab. The crab savings effected by the trawl closure is a direct benefit to the domestic fleet in terms of potential catch and of long-range benefit in terms of conservation of crabs not subject to the rigors of a trawl effort during the softshell or moulting period.

(v) No trawling January 1–April 30 in other areas west of 178-30' W Except trawling is permitted seaward of three nautical miles from May 1–December 31. To avoid gear conflicts during the conduct of the domestic king crab fishery and the development of the domestic bottomfish effort and to avoid the adverse effects of the incidental catch of king crabs by trawl.

## C. Longline

(1) "Winter Halibut-savings Areas" (as described in Appendix III and Figure 27):

- (i) December 1-May 31—no longlining landward of the 500 m isobath.  
 (ii) June 1-November 30—no closures.

To prevent high incidental catch and mortality of juvenile halibut which are known to occur in winter concentrations in the "Winter Halibut-savings Areas".

- (2) Other areas—no closures.

(3) Throughout the area west of 172-00'W, longlining is permitted seaward of three nautical miles.

#### 14.4 Operational Needs and Costs (1000's dollars)

114 man-months of foreign fishery observer coverage	1370
NWAFG allocation compliance analyses	10
MMFS computerized foreign fishery information system	36
NMFS Alaska Regional Office Management Division	435
NOAA/Justice administration of penalties	12
800 Coast Guard ship patrol days	2,800
2500 Coast Guard aerial patrol hours	1,900
State of Alaska fishery data collection	11
<b>Total</b>	<b>5,574</b>

<sup>1</sup> Reimbursed by foreign governments to the U.S. Treasury.

Costs of federal, state, and IPHC biological research are not included inasmuch as they would be financed in the absence of this management plan.

#### 14.5 Effects of the Management Regime on Availability, Cost, and Quality of Fishery Products

Except where necessary to restore depleted stocks (Pacific Ocean perch, Pacific halibut, and sablefish), optimum yields have been set equal to maximum biological production. The total OY for the Bering Sea-Aleutian groundfish fishery during 1979 is 1,409,400 mt, some 34,000 mt greater than that allowed by the Preliminary Management Plan for 1978—hence, availability of fishery products will not be reduced.

Although any management measure is likely to add expense to a fishery, the fishery restrictions proposed by the FMP are the minimum necessary to assure healthy stocks of all species, and most are carry-overs from the past several years—therefore, costs of fishery products should neither be unreasonably inflated nor significantly increased as a result of implementation of this FMP.

The management regime of this FMP is not expected to have any effect on the quality of commodities produced from Bering Sea/Aleutian groundfishes.

As has been discussed earlier in Section 8.1.3, it seems highly unlikely that management actions taken in the Bering Sea will have any significant effect on the availability, cost, or quality of groundfish products to U.S. consumers. Therefore, specific management actions including the determination of optimum yield, have not been taken for the express purpose of addressing consumer interests. However, in future years this situation may change. At that time it will be necessary to more explicitly take into account consumer interests. Several studies are currently under way to provide the information upon which such decisions can be based. The largest of these is a contract let by the U.S. Department of Commerce to examine both international and national opportunities for the

development of underutilized species in the U.S. fisheries conservation zone. Although primarily focused on opportunities for domestic industry development, this study should provide a good deal of useful information on patterns of groundfish consumption and prices. Particularly, it will fill important gaps in our understanding of foreign groundfish markets.

Other studies funded by the National Marine Fisheries Service, Northwest and Alaska Fisheries Center, and the Pacific and North Pacific Councils will provide further useful information. The proper orientation of near term research efforts to reflect consumer interests is probably the most important thing that can be done at this stage. If accomplished, it will insure that the information is available upon which decisions representative of consumer interests can be made when they are required in future Bering Sea and Aleutian groundfish management plans.

#### 15.0 Relationship of recommended management measures to FCMA national standards and other applicable laws

This management plan can be considered an extension of the Preliminary Fishery Management Plan (PFMP) for the Bering Sea and Aleutian Trawl Fishery and portions of the PFMP for the Sablefish Setline/Trap Fishery, both prepared and implemented by the Secretary of Commerce, and which are superseded by this plan.

The management regime described in Section 14.0 is considered to be in conformance with the seven national standards set forth in Section 301 of the FCMA.

The U.S. is party to the following international conventions which directly or indirectly address conservation and management needs of groundfish in the Bering Sea/Aleutian Region: The International Convention for the High Seas Fisheries of the North Pacific Ocean (INPFC), and the Convention Between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (IPHC).

This plan has a most significant relationship to the management of the Pacific halibut fishery which continues to be vested in the International Pacific Halibut Commission. Many of the management measures contained herein are for the expressed purpose of mitigating a severe crisis in the domestic halibut fishery by recognizing a situation in which the trawl fishery (and possibly the sablefish setline fishery) could be a major contributor to declining halibut abundance.

There are no Indian treaty fishing rights for groundfish in the fishery conservation zone in the Bering Sea/Aleutian region.

The Constitution of the State of Alaska states the following in Article XIII:

Section 2. General Authority. The legislature shall provide for the utilization, development, and conservation of all natural resources belonging to the State, including land and waters, for the maximum benefit of its people.

Section 4. Sustained Yield. Fish, forest, wildlife, grasslands, and all other

replenishable resources belonging to the State shall be utilized, developed, and maintained on the sustained yield principle, subject to preferences among beneficial uses.

Section 15. No Exclusive Right of Fishery, has been amended to provide the State the power "to limit entry into any fishery for purposes of resource conservation" and "to prevent economic distress among fishermen and those dependent upon them for a livelihood".

#### 16.0 Research needs

Research will be required to (1) find means of improving the accuracy of commercial catch statistics, (2) refine estimates of abundance and biological characteristics of stocks through research resource surveys, (3) improve the capability for predicting changes in resource abundance, composition, and availability, (4) develop means of reducing the incidental catch of non-target species, and (5) identify subpopulations.

Catches reported by the foreign fishing fleets provide a means of monitoring the progress of the fisheries towards catch quotas. Later these catch statistics are examined with associated fishing effort to compute CPUE, an index of stock abundance. Discrepancies have been found between reported catches by foreign vessel skippers and those estimated by U.S. observers aboard these vessels. Observer's estimates have been generally greater than those reported by the vessel's master, suggesting under-reporting of catches by the foreign fleets. This problem needs to be examined and steps taken to improve the accuracy of reported catch statistics.

Estimates of biomass of specific groundfish resources have been obtained through resource surveys using bottom trawls. For such semi-demersal species as pollock and cod, biomass estimates through research vessel trawl surveys have so far been underestimated because of the lack of knowledge of the portion of the stocks in the water column that lie above the stratum sampled by the trawl. Studies are required to determine the efficiency at which research trawls capture pollock, cod, and other semi-demersal forms in order to improve the accuracy of biomass estimates of these species.

Long-term fisheries management requires reliable forecasting of stock conditions. Until now forecasts have been based mainly on past events, such as trends in abundance indices (CPUE's) and size and age composition of specific resources without any consideration of the interactions of these resources with each other and the environment. Studies need to be continued to determine for predictive purposes those factors that have major influences on the abundance, composition, and distribution of resources, and there is a critical need for annual pre-recruit surveys (i.e., of young fish before they enter the fisheries) so that a measure of their abundance can be used to forecast later contributions to the exploitable stock.

For purposes of conservation and harvesting efficiency, fishing gear should be modified or developed which will reduce the by-catch of halibut, crabs, and other important species in the trawl fisheries.

Although these species are immediately returned to the sea after capture, they still suffer an added source of mortality from their capture and handling.

Within the eastern Bering Sea-Aleutian region there undoubtedly exist subpopulations of species that, because of their unique biological features (e.g. growth and mortality) should be managed as separate stocks. Research, therefore, is required to provide a firm basis for the identification and delineation of specific stock units.

The paucity of specific information concerning sablefish, Pacific Ocean perch, Atka mackerel, arrowtooth flounder, and Greenland turbot has required an empirical approach to management. Although some information on these species has recently been gathered by U.S. observers aboard foreign fishing vessels and from foreign fisheries statistics, direct assessment of abundance and stock condition has not been accomplished. In the past, surveys have essentially been restricted to the Continental Shelf of the eastern Bering Sea with very little effort directed to the Continental Slope where these and other species are known to concentrate. No assessment surveys have been conducted in the Aleutian region where important stocks of Pacific ocean perch, sablefish, and Atka mackerel occur. Geographic and bathymetric extensions of research surveys to these areas should be considered.

The several squids which are present in the region form another resource for which very little information is available. The squid fishery is presently of small magnitude but, because of intuitive indications of very large abundances, exploitation is expected to increase substantially. If the sustainable potential of this resource is to be realized, basic taxonomic, distributional, biological, and abundance studies will soon have to be initiated.

Finally, but in the long run most importantly, the complex ecosystem will have to be accurately modelled so that bio-environmental processes can be understood and inter-species—including birds and marine mammals—relationships can be quantified and relied upon in determining optimum yields.

17.0 Statement of council intentions to review the plan after approval by the Secretary of Commerce

The North Pacific Fishery Management Council will, after approval and implementation of this plan by the Secretary, maintain a continuing review of the fisheries managed under this plan through the following methods:

1. Maintain close liaison with the management agencies involved, usually the Alaska Department of Fish and Game and the National Marine Fisheries Service, to monitor the development of the fisheries and the activity in the fisheries.

2. Promote research to increase their knowledge of the fishery and the resource, either through Council funding or by recommending research projects to other agencies.

3. Conduct public hearings at appropriate times and in appropriate locations, usually at

the close of a fishing season and in those areas where a fishery is concentrated, to hear testimony on the effectiveness of the management plans and requests for changes.

4. Consideration of all information gained from the above activities and development if necessary, of amendments to the management plan. The Council will also hold public hearings on proposed amendments prior to forwarding them to the Secretary for possible adoption.

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## 19.0 Appendices

- I—Sample community profile.  
II—Pollock cohort analyses.  
III—Descriptions of closed areas.

## Appendix I. Aleutian Subregion Community Profile (Ref. Sec. 8.5)

## Water

Settled areas in the subregion are accessible only by air or water transport. Even these modes are severely limited by weather conditions. Communities are small and far apart, making the feasibility of waterborne commercial transportation systems marginal.

Passenger service by water is limited. The Alaska Marine Highway does not serve this area. Residents wishing to travel by water depend primarily on unscheduled service provided by fishing boats. A Dutch Harbor resident provides scheduled passenger and freight service with the M/V ISLANDER between Amaknak and Unalaska Islands and is considering expanding to a ferry system serving Umnak, Unalaska, Amaknak, Akutan, and Akun Islands.

Deep water occurs along the south shores of the Aleutian Islands. Unimak Pass is the most frequently used passage between the North Pacific and Bering Sea. Although sheltered harbors and coves capable of handling deep-draft vessels occur frequently throughout the Chain, improved harbor facilities are few.

Monthly waterborne freight service is provided from Seattle to Captains Bay on Unalaska Island, to Unalaska and to Adak, service to Sand Point and Dutch Harbor is twice monthly. The vessel carries containerized cargo, some of which comes from Anchorage. Atka has no airport but is served monthly by a tug from Adak Naval Station. Attu and Shemya receive the major portion of their supplies annually through a military-contracted private operation. The M/V PRIBILOF, operated by the Aleutian Pribilof Island Association, provides waterborne freight service to St. Paul and St. George, Pribilof Islands, and the M/V North Star III, operated by the Bureau of Indian Affairs, services certain communities on an annual basis.

## Air

The Cold Bay International Airport, constructed by the U.S. Army Corps of Engineers in the early 1940's, is a major transportation hub for the Aleutian Chain and a key refueling station for trans-Pacific flights between the Far East and the continental United States. Flight time through Cold Bay is an hour or more shorter to the San Francisco and Los Angeles area than by way of Anchorage. Sixteen major air carriers or charter airlines used this airport during the past two years.

Many smaller air taxi services and charter airlines use the Cold Bay Airport and, while

the volume is not great, the service to the people in the area is most significant.

Local service is available by Reeve Aleutian Airways serving the Alaska Peninsula, the Aleutian Chain, and St. Paul in the Pribilof Islands. This airline provides access to all military sites and many of the smaller communities. Although St. George Island in the Pribilofs lacks facilities for handling large commercial aircraft, National Marine Fisheries has inaugurated a charter service from King Salmon and Dillingham to

St. George approximately once a week.

#### Land

With the minor exception of a few local roads within the communities, no highway system exists in the Aleutian Subregion.

#### Appendix II. (Ref. Section 10.4)

Cohort analyses which show growth and decay of a pollock biomass under different instantaneous rates of natural mortality (Tables A-C).

Table A.—Cohort Analysis To Determine the Growth and Decay of a Pollock Cohort Starting With 10,000 Individuals and Assuming 0.350 Natural Mortality Rate

Age	Female population				Male population				Combined sexes			
	Biomass (lb)	Percent of max biomass	Length (in)	Weight (lb)	Biomass (lb)	Percent of max biomass	Length (in)	Weight (lb)	Biomass (lb)	Percent of max biomass	Length (in)	Weight (lb)
1	344	15	5.6	.0	344	15	5.7	.0	344	15	5.7	.0
2	1,047	47	9.3	.2	1,051	46	9.3	.2	1,049	46	9.3	.2
3	1,711	77	12.4	.5	1,731	76	12.5	.5	1,721	76	12.4	.5
4	2,114	95	15.0	.9	2,154	94	15.1	.9	2,134	94	15.1	.9
5	2,231	100	17.2	1.3	2,286	100	17.3	1.3	2,258	100	17.3	1.3
6	2,129	95	19.1	1.7	2,193	96	19.2	1.8	2,161	96	19.2	1.8
7	1,897	85	20.7	2.2	1,962	86	20.9	2.3	1,930	85	20.8	2.2
8	1,609	72	22.1	2.6	1,670	73	22.2	2.7	1,639	73	22.2	2.7
9	1,315	59	23.3	3.1	1,369	60	23.4	3.2	1,342	59	23.3	3.1
10	1,045	47	24.2	3.5	1,091	48	24.4	3.6	1,068	47	24.3	3.5
11	812	36	25.1	3.8	850	37	25.2	4.0	831	37	25.2	3.9
12	620	28	25.8	4.1	651	28	26.0	4.3	636	28	25.9	4.2
13	467	21	26.4	4.4	491	21	26.6	4.6	479	21	26.5	4.5
14	348	16	26.9	4.7	366	16	27.1	4.9	357	16	27.0	4.8
15	257	12	27.3	4.9	271	12	27.5	5.2	264	12	27.4	5.0
16	188	8	27.7	5.1	199	9	27.9	5.4	193	9	27.8	5.2

Table B.—Cohort Analysis To Determine the Growth and Decay of a Pollock Cohort Starting With 10,000 Individuals and Assuming 0.375 Natural Mortality Rate

Age	Female population				Male population				Combined sexes			
	Biomass (lb)	Percent of max biomass	Length (in)	Weight (lb)	Biomass (lb)	Percent of max biomass	Length (in)	Weight (lb)	Biomass (lb)	Percent of max biomass	Length (in)	Weight (lb)
1	336	17	5.6	.0	336	17	5.7	.0	336	17	5.7	.0
2	996	51	9.3	.2	1000	50	9.3	.2	998	50	9.3	.2
3	1587	81	12.4	.5	1606	80	12.5	.5	1596	80	12.4	.5
4	1913	97	15.0	.9	1949	97	15.1	.9	1931	97	15.1	.9
5	1969	100	17.2	1.3	2017	100	17.3	1.3	1993	100	17.3	1.3
6	1833	93	19.1	1.7	1887	94	19.2	1.8	1860	93	19.2	1.8
7	1593	81	20.7	2.2	1647	82	20.9	2.3	1620	81	20.8	2.2
8	1317	67	22.1	2.6	1367	68	22.2	2.7	1342	67	22.2	2.7
9	1050	53	23.3	3.1	1093	54	23.4	3.2	1072	54	23.3	3.1
10	814	41	24.2	3.5	850	42	24.4	3.6	832	42	24.3	3.5
11	617	31	25.1	3.8	646	32	25.2	4.0	631	32	25.2	3.9
12	460	23	25.8	4.1	482	24	26.0	4.3	471	24	25.9	4.2
13	338	17	26.4	4.4	355	18	26.6	4.6	346	17	26.5	4.5
14	245	12	26.9	4.7	258	13	27.1	4.9	252	13	27.0	4.8
15	177	9	27.3	4.9	186	9	27.5	5.2	181	9	27.4	5.0
16	126	6	27.7	5.1	133	7	27.9	5.4	130	7	27.8	5.2

Table C.—Cohort Analysis To Determine the Growth and Decay of a Pollock Cohort Starting With 10,000 Individuals and Assuming 0.400 Natural Mortality Rate

Age	Female population				Male population				Combined sexes			
	Biomass (lb)	Percent of max biomass	Length (in)	Weight (lb)	Biomass (lb)	Percent of max biomass	Length (in)	Weight (lb)	Biomass (lb)	Percent of max biomass	Length (in)	Weight (lb)
1	328	19	5.6	.0	327	18	5.7	.0	327	19	5.7	.0
2	947	55	9.3	.2	951	53	9.3	.2	949	54	9.3	.2
3	1,472	85	12.4	.5	1,490	84	12.5	.5	1,481	84	12.4	.5
4	1,731	100	15.0	.9	1,763	99	15.1	.9	1,747	99	15.1	.9
5	1,737	100	17.2	1.3	1,780	100	17.3	1.3	1,759	100	17.3	1.3
6	1,577	91	19.1	1.7	1,624	91	19.2	1.8	1,601	91	19.2	1.8
7	1,337	77	20.7	2.2	1,383	78	20.9	2.3	1,360	77	20.8	2.2
8	1,079	62	22.1	2.6	1,119	63	22.2	2.7	1,099	62	22.2	2.7
9	839	48	23.3	3.1	873	49	23.4	3.2	856	49	23.3	3.1
10	634	36	24.2	3.5	662	37	24.4	3.6	648	37	24.3	3.5
11	469	27	25.1	3.8	490	28	25.2	4.0	480	27	25.2	3.9
12	341	20	25.8	4.1	357	20	26.0	4.3	349	20	25.9	4.2
13	244	14	26.4	4.4	256	14	26.6	4.6	250	14	26.5	4.5
14	173	10	26.9	4.7	182	10	27.1	4.9	177	10	27.0	4.8
15	121	7	27.3	4.9	128	7	27.5	5.2	125	7	27.4	5.0
16	85	6	27.7	5.1	89	5	27.9	5.4	87	5	27.8	5.2

Table D.—Cohort Analysis To Determine the Growth and Decay of a Pollock Cohort Starting With 10,000 Individuals and Assuming 0.430 Natural Mortality Rate

Age	Female population				Male population				Combined sexes			
	Biomass (lb)	Percent of max biomass	Length (in)	Weight (lb)	Biomass (lb)	Percent of max biomass	Length (in)	Weight (lb)	Biomass (lb)	Percent of max biomass	Length (in)	Weight (lb)
1	318	21	5.6	.0	318	20	5.7	.0	318	21	5.7	.0
2	892	58	9.3	.2	896	57	9.3	.2	894	58	9.3	.2
3	1346	88	12.4	.5	1362	87	12.5	.5	1354	87	12.4	.5
4	1535	100	15.0	.9	1564	100	15.1	.9	1549	100	15.1	.9
5	1495	97	17.2	1.3	1532	98	17.3	1.3	1514	98	17.3	1.3
6	1318	86	19.1	1.7	1357	87	19.2	1.8	1337	86	19.2	1.8
7	1084	71	20.7	2.2	1121	72	20.9	2.3	1102	71	20.8	2.2
8	848	55	22.1	2.6	881	56	22.2	2.7	864	56	22.2	2.7
9	640	42	23.3	3.1	666	43	23.4	3.2	653	42	23.3	3.1
10	470	31	24.2	3.5	490	31	24.4	3.6	480	31	24.3	3.5
11	337	22	25.1	3.8	353	23	25.2	4.0	345	22	25.2	3.9
12	238	15	25.8	4.1	249	16	26.0	4.3	243	16	25.9	4.2
13	165	11	26.4	4.4	174	11	26.6	4.6	169	11	26.5	4.5
14	114	7	26.9	4.7	120	8	27.1	4.9	117	8	27.0	4.8
15	77	5	27.3	4.9	82	5	27.5	5.2	79	5	27.4	5.0
16	52	3	27.7	5.1	55	4	27.9	5.4	54	3	27.8	5.2

Table E.—Cohort Analysis To Determine the Growth and Decay of a Pollock Cohort Starting With 10,000 Individuals and Assuming 0.450 Natural Mortality Rate

Age	Female population				Male population				Combined sexes			
	Biomass (lb)	Percent of max biomass	Length (in)	Weight (lb)	Biomass (lb)	Percent of max biomass	Length (in)	Weight (lb)	Biomass (lb)	Percent of max biomass	Length (in)	Weight (lb)
1	312	22	5.6	.0	311	22	5.7	.0	311	22	5.7	.0
2	857	60	9.3	.2	861	60	9.3	.2	859	60	9.3	.2
3	1267	89	12.4	.5	1282	89	12.5	.5	1275	89	12.4	.5
4	1417	100	15.0	.9	1444	100	15.1	.9	1430	100	15.1	.9
5	1353	95	17.2	1.3	1386	96	17.3	1.3	1370	96	17.3	1.3
6	1169	82	19.1	1.7	1203	83	19.2	1.8	1186	83	19.2	1.8
7	942	66	20.7	2.2	974	67	20.9	2.3	958	67	20.8	2.2
8	723	51	22.1	2.6	750	52	22.2	2.7	737	52	22.2	2.7
9	535	38	23.3	3.1	557	39	23.4	3.2	546	38	23.3	3.1
10	384	27	24.2	3.5	401	28	24.4	3.6	393	27	24.3	3.5
11	270	19	25.1	3.8	283	20	25.2	4.0	277	19	25.2	3.9
12	187	13	25.8	4.1	196	14	26.0	4.3	191	13	25.9	4.2
13	127	9	26.4	4.4	134	9	26.6	4.6	131	9	26.5	4.5
14	86	6	26.9	4.7	90	6	27.1	4.9	88	6	27.0	4.8
15	57	4	27.3	4.9	60	4	27.5	5.2	59	4	27.4	5.0
16	38	3	27.7	5.1	40	3	27.9	5.4	39	3	27.8	5.2

Table F.—Cohort Analysis To Determine the Growth and Decay of a Pollock Cohort Starting With 10,000 Individuals and Assuming 0.500 Natural Mortality Rate

Age	Female population				Male population				Combined sexes			
	Biomass (lb)	Percent of max biomass	Length (in)	Weight (lb)	Biomass (lb)	Percent of max biomass	Length (in)	Weight (lb)	Biomass (lb)	Percent of max biomass	Length (in)	Weight (lb)
1	297	26	5.6	.0	296	25	5.7	.0	296	25	5.7	.0
2	776	67	9.3	.2	779	66	9.3	.2	777	66	9.3	.2
3	1091	94	12.4	.5	1104	93	12.5	.5	1097	94	12.4	.5
4	1180	100	15.0	.9	1182	100	15.1	.9	1171	100	15.1	.9
5	1054	91	17.2	1.3	1080	91	17.3	1.3	1067	91	17.3	1.3
6	866	75	19.1	1.7	891	75	19.2	1.8	879	75	19.2	1.8
7	664	57	20.7	2.2	687	58	20.9	2.3	675	58	20.8	2.2
8	485	42	22.1	2.6	503	43	22.2	2.7	494	42	22.2	2.7
9	341	29	23.3	3.1	355	30	23.4	3.2	348	30	23.3	3.1
10	233	20	24.2	3.5	243	21	24.4	3.6	238	20	24.3	3.5
11	156	13	25.1	3.8	163	14	25.2	4.0	160	14	25.2	3.9
12	103	9	25.8	4.1	108	9	26.0	4.3	105	9	25.9	4.2
13	66	6	26.4	4.4	70	6	26.6	4.6	68	6	26.5	4.5
14	43	4	26.9	4.7	45	4	27.1	4.9	44	4	27.0	4.8
15	27	2	27.3	4.9	29	2	27.5	5.2	28	2	27.4	5.0
16	17	1	27.7	5.1	18	2	27.9	5.4	18	1	27.8	5.2

Table G.—Cohort Analysis To Determine the Growth and Decay of a Pollock Cohort Starting With 10,000 Individuals and Assuming 0.600 Natural Mortality Rate

Age	Female population				Male population				Combined sexes			
	Biomass (lb)	Percent of max biomass	Length (in.)	Weight (lb)	Biomass (lb)	Percent of max biomass	Length (in.)	Weight (lb)	Biomass (lb)	Percent of max biomass	Length (in.)	Weight (lb)
1	268	33	5.6	.0	268	33	5.7	.0	268	33	5.7	.0
2	635	79	9.3	.2	638	78	9.3	.2	636	78	9.3	.2
3	808	100	12.4	.5	818	100	12.5	.5	813	100	12.4	.5

Table G.—Cohort Analysis To Determine the Growth and Decay of a Pollock Cohort Starting With 10,000 Individuals and Assuming 0.600 Natural Mortality Rate

Age	Female population				Male population				Combined sexes			
	Biomass (lb)	Percent of max biomass	Length (in.)	Weight (lb)	Biomass (lb)	Percent of max biomass	Length (in.)	Weight (lb)	Biomass (lb)	Percent of max biomass	Length (in.)	Weight (lb)
4	778	96	15.0	.9	792	97	15.1	.9	785	97	15.1	.9
5	639	79	17.2	1.3	655	80	17.3	1.3	647	80	17.3	1.3
6	475	59	19.1	1.7	489	60	19.2	1.9	482	59	19.2	1.8
7	330	41	20.7	2.2	341	42	20.9	2.3	335	41	20.8	2.2
8	218	27	22.1	2.6	226	28	22.2	2.7	222	27	22.2	2.7
9	139	17	23.3	3.1	144	18	23.4	3.2	141	17	23.3	3.1
10	86	11	24.2	3.5	90	11	24.4	3.6	88	11	24.3	3.5
11	52	6	25.1	3.8	54	7	25.2	4.0	53	7	25.2	3.9
12	31	4	25.8	4.1	32	4	26.0	4.3	32	4	25.9	4.2
13	18	2	26.4	4.4	19	2	26.6	4.6	19	2	26.5	4.5
14	11	1	26.9	4.7	11	1	27.1	4.9	11	1	27.0	4.8
16	6	1	27.3	4.9	6	1	27.5	5.2	6	1	27.4	5.0
16	3	0	27.7	5.1	4	0	27.9	5.4	4	0	27.8	5.2

### Appendix III (Ref. Sections 14.3.1 and 14.3.2)

#### Bristol Bay Pot Sanctuary

The portion of the Fishery Conservation Zone encompassed by straight lines connecting the following points, in the order listed:

Cape Sarichef Light (54°36'—164°55'42"W)  
55°16'N—166°10'W  
56°20'N—163°00'W  
57°10'N—163°00'W  
58°10'N—160°00'W  
Intersection of 160°00'W with the Alaska Peninsula

#### Winter Halibut-Savings Areas

That portion of the Fishery Conservation Zone encompassed by straight lines connecting the following points, in the order listed:

Cape Sarichef Light (54°36'N—164°55'42"W)  
52°40'N—170°00'W  
55°30'N—170°00'W  
55°30'N—166°4'W  
56°00'N—167°45'W  
56°00'N—166°00'W  
56°30'N—166°00'W  
56°30'N—163°00'W  
56°20'N—163°00'W  
55°16'N—166°10'W  
55°16'N—166°10'W  
Cape Sarichef Light (54°36'N—164°55'42"W)  
and  
56°18'N—170°24'W  
56°20'N—169°03'W  
56°12'N—168°46'W  
55°56'N—169°10'W

#### Trawl Area Closures

A. Foreign trawling is prohibited in the area between 172-00'W and 178-30'W within the FCZ south of a line drawn to connect the following coordinates:

53-14'N—172-00'W  
52-13'N—176-00'W  
52-00'N—178-30'W

B. Foreign trawling is prohibited from January 30-June 1 in the area known as Petrel Bank on the north side of the Aleutian Islands between the following coordinates:

52-51'N—178-30'W  
51-15'N—178-30'W  
51-15'N—179-00'E  
52-51'N—179-00'E  
52-51'N—178-30'W

Except that foreign trawling is permitted seaward of three nautical miles from the baseline from which the Territorial Sea is measured from July 1-December 31.

C. Foreign trawling is prohibited from January 1-April 30 in other areas west of 178-30'W except that foreign trawling is permitted from May 1-December 31 seaward of three nautical miles from the baseline from which the Territorial Sea is measured in other areas west of 178-30'W which are otherwise not described in (B) of this section.

#### Annex I.—Derivation of Acceptable Biological Catch

Stock assessment studies leading to determinations of acceptable biological catch (ABC) are reported in this Annex for the following Bering Sea/Aleutian groundfish species categories:

- I.1 Alaska pollock
- I.2 Yellowfin sole
- I.3 Turbots (Arrowtooth flounder and Greenland turbot)
- I.4 Other flatfishes
- I.5 Pacific cod
- I.6 Pacific ocean perch and other rockfishes
- I.7 Sablefish (Blackcod)
- I.8 Atka mackerel
- I.9 Squid
- I.10 Pacific halibut
- I.11 Other included species

A summary of those determinations is

The fishery for pollock began in earnest after 1964, and took eight years to reach a peak catch of almost 1.9 million metric tons in 1972 (Table I.1). The decline in catch thereafter was due partially to fishery restrictions on the amount of catch and on declining stock abundance. Although there may be more than one stock of pollock in the Bering Sea, the estimation of maximum sustainable yield is made for the entire resource customarily fished by Japan, the U.S.S.R., and other nations in the eastern Bering Sea.

Table I.1—MSY, EY, and ABC Values for Groundfish in the Bering Sea/Aleutian Region During 1979 (1000's mt)

Species	Sub-area <sup>1</sup>	MSY	EY	ABC=OY	(1978 OY)	(1978-79 change)
Pollock	BS	1,100-1,600	1,000	1,000	(950)	(+50)
	AL	?	?	100		
Yellowfin sole		169-260	117	117	(106)	(+11)
Turbots		100	90-95	90		
Other Flatfishes		44.3-76.8	=MSY	61	(139)	(+12)
Cod		58.7	=MSY	58.7	(58)	(+0.7)
Pacific ocean perch	BS	32	6.5	3.25	(6.5)	
	AL	75	15	7.5	(15)	
Other rockfish		?	?	7.7		(*)
Sablefish	BS	11.35	3.5	3.5	(5)	(-1.5)
	AL	1.85	1.5	1.5	(1.5)	(0)
Atka mackerel		33	Unknown	24.8	(24.8)	(0)
Squid		≥ 10	≥ 10	10	(10)	(0)
Pacific halibut		5	0.3	(*)		
Other included species		89.4	89.4	74.2	(93.6)	(-19.4)
Total <sup>3</sup>		1,702.2 - 2,325.7	1,446.5 - 1,484.0	1,559.23	(1,409.4)	(+149.83)

<sup>1</sup>BS = Eastern Bering Sea Area (Statistical Areas I, II, III combined).

AL = Aleutian Area (Statistical Area IV).

<sup>2</sup>Subject to separate FMP.<sup>3</sup>Excluding Pacific halibut.

\*Included under "others" in 1978.

Based on fisheries statistics that indicated declining stock abundance, it is believed that catch levels, which ranged from 1.58 to 1.87 million mt between 1971 and 1974, cannot be sustained. Maximum sustainable yield has been estimated by two methods: the general production model of Pella and Tomlinson (1967) and the method of Alverson and Pereyra (1967) for obtaining first approximations of yield per exploitable biomass. Estimates thus derived, from data available prior to 1974, ranged from 1.11 to 1.58 million mt (Low 1974). Incorporation of 1974-76 data and using the procedure of Rivard and Bledsoe (1977) results in an MSY estimate of 1.5 million mt, within the 1.1-1.6 million mt range determined by Low (1974).

### I.1.2 Equilibrium Yield

#### Overall Abundance

The relative abundance of the exploitable portion of the stock is generally measured by catch-per-unit-of-effort (CPUE) indices. Since the Bering Sea groundfish fishery is multi-nation, multi-vessel class, multi-gear and multi-species, there is considerable uncertainty as to the best use of CPUE data to measure pollock abundance. For some time, it has been felt that the CPUE of Japanese pair trawlers is more indicative of stock abundance than that of other vessel types because those vessels seek out pollock as the primary target species and consistently account for a large proportion of the pollock harvest. There is also considerable uncertainty as to which way the data should be organized and statistically analyzed. Factors such as time, area, and fishing power can influence CPUE and must be accounted for when computing CPUE. After years of considerable debate and refinement of CPUE procedures among scientists at International North Pacific Fisheries Commission (INPFC) meetings, the following CPUE indices have come to be relied upon.

Table I.2.—Annual Catch (metric tons) of Pollock in the Eastern Bering Sea, 1964-77 (INPFC Proceedings, 1977)

Year	Nation			Total
	Japan <sup>a</sup>	U.S.S.R. <sup>b</sup>	ROK <sup>c</sup>	
1964	174,792			174,792
1965	230,551			230,551
1966	261,678			261,678
1967	550,362			550,362
1968	700,981		1,200	702,181
1969	830,494	27,295	5,000	862,789
1970	1,231,145	20,420	5,000	1,256,565
1971	1,513,923	219,840	10,000	1,743,763
1972	1,651,438	213,896	9,200	1,874,534
1973	1,475,814	280,005	3,100	1,758,919
1974	1,252,777	309,613	26,000	1,588,390
1975	1,136,731	216,567	3,438	1,356,736
1976	989,670	179,212	85,331	1,254,213
1977	868,732	63,467	45,227	997,426

<sup>a</sup>From Japan Fisheries Agency (Conservation areas A, B, C, D, D<sub>1</sub>, & E).<sup>b</sup>USSR trawl fishery east of 180° longitude in the Bering Sea.<sup>c</sup>Estimates based on U.S. surveillance of ROK fishing activities.

#### Procedures by U.S. Scientists

(A) Catch per horsepower-hour of trawling by Japanese pair trawlers as described by Low et al. (1977). Effort, in this case has been adjusted for horse-power changes and CPUE's are weighted by caught of all vessels and area.

(B) Catch per hour of trawling by research vessels used by the U.S. National Marine Fisheries Service in annual surveys of the Bering Sea as described by Alton and Bakkala (1976). Standard survey pattern, area, and gear type are used in the surveys and changes in fishing power of different vessels used are adjusted for.

#### Procedure by Japanese Scientists

(C) Catch per hour of trawling of different tonnage classes of fishing vessels and gear types which are eventually standardized to catch per standard pair trawling hour (Ikeda et al. 1977).

#### Procedure Developed by INPFC Working Group

(D) Catch per standardized pair trawl effort as described in a special INPFC working group document.<sup>1</sup> In this procedure, CPUE's of selected tonnage categories of fishing vessels and gear types within four standard area-time periods are standardized to pair trawl CPUE.

Using the above mentioned procedures the following CPUE values are derived:

Year	Procedure A <sup>1</sup>	Procedure B <sup>2</sup>	Procedure C <sup>3</sup>	Procedure D <sup>4</sup>
1964	9.5			
1965	18.3			
1966	23.6			
1967	21.3			
1968	23.8			194
1969	31.5			154
1970	18.7			175
1971	14.2			172
1972	14.2			189
1973	8.6	46.5	12.4	166
1974	10.4	34.2	10.9	118
1975	9.3	21.5	9.5	100
1976	9.4	56.4	9.3	103
1977			9.3	

<sup>1</sup>Mt per hour (pair trawl).<sup>2</sup>Kg per km trawled in comparative area standardized to catch rates by R/V Oregon.<sup>3</sup>Mt per hour (pair trawl).<sup>4</sup>Expressed as percentage of 1975 pair trawl CPUE.

By assuming CPUE to be proportional in abundance, one may infer that the exploitable biomass of pollock declined from the late 1960's to an historic low in 1975, then increased slightly in 1976 and 1977. Additional information on year class strength (see later section) however, indicates that the exploitable biomass will probably increase slightly in 1978.

#### Age Structure and Year Class Strength

Although this species may live longer than 12 years, the fishery is generally dependent on three age groups. Without the buffering effect of an accumulation of year-classes distributed over a wide range of age groups, productivity of the stock can be expected to respond very rapidly to variations in recruitment.

Trawl survey information by NMFS shows that in 1971, age 2 to 8 fish were rather abundant in the stock (Figure I.1). Since then, the fishery has taken most of the older, larger fish and by 1976 the dominant age groups were 2, 3, and 4 year olds. The information also indicates that the fishery in 1975, 1976, and possibly 1977, depended heavily on the strong 1972 year class (age 3 fish in 1975, age 4 fish in 1976, and age 5 fish in 1977); analyses of commercial fishery data, by size groups, tend to confirm that indication (Table I.3). Age 3 fish correspond to sizes below 28 cm, age 3 fish are from 28-34 cm, and age 4 fish from 34-40 cm. Japanese scientists

<sup>1</sup>Report of the working group on average density index computation for pollock in the eastern Bering Sea to the INPFC Biology and Research Committee, June 30, 1977, 31 p.

(Anon. 1978) have presented preliminary size composition data from the 1976 and 1977 fisheries which show that two groups of pollock, 22-34 cm and 42-50 cm, were of higher relative abundance in the catch during

1977 than in 1976 (Figure I.2). This has been interpreted as a reflection of stronger than normal 1972 and 1975 year classes. If the 1975 year class is strong, it will persist as age 3 in 1978 and age 4 in 1979.

#### EASTERN BERING SEA POLLOCK (SURVEY DATA)

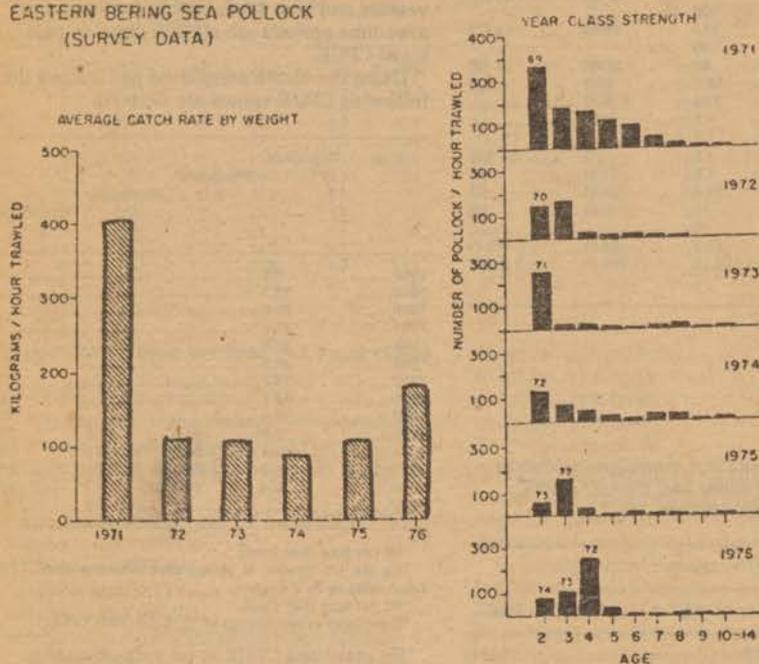


Figure I.1.--Catch rates and age composition depicting year class strength of pollock determined by NMFS research surveys, 1971-1976.

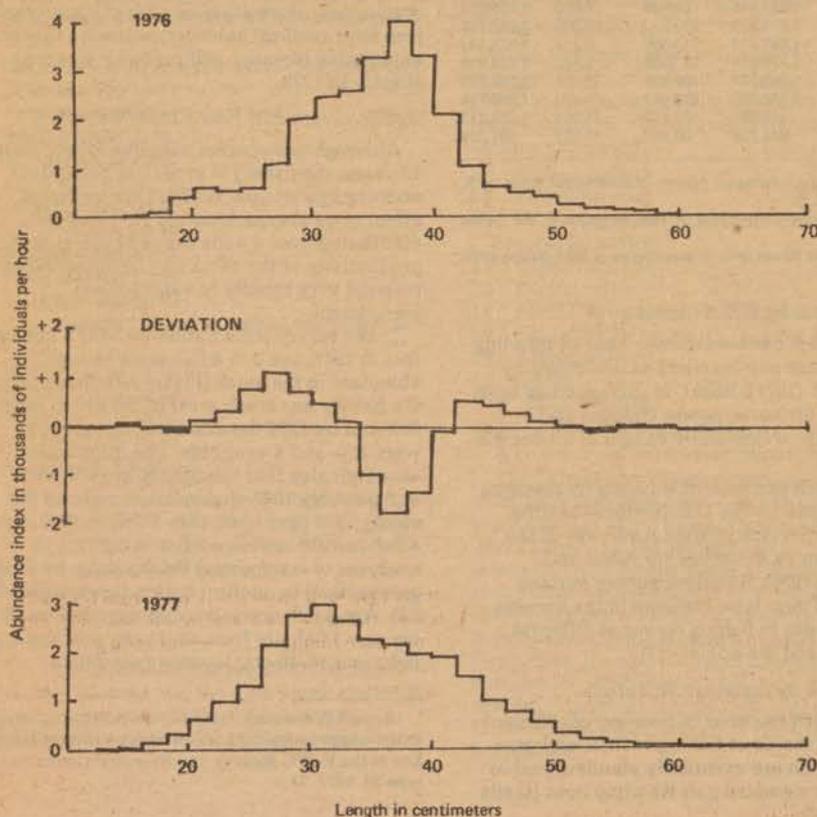


Figure I.2.--Size frequency distribution of pollock in the eastern Bering Sea determined by Fishery Agency of Japan, 1975-1976.

Table I.3—Contribution of Various Size Groups of Pollock to the Total Catch of Pollock in Numbers and Weight Taken in the Japanese Eastern Bering Sea Pollock Fisheries, 1964-76

Year	Numbers (percent) (cm)				Weight (percent) (cm)			
	<28	28-34	34-40	≥40	<28	28-34	34-40	≥40
1964	0.3	5.8	21.7	72.2	0.2	1.9	13.0	84.9
1965	0.3	1.6	13.6	84.3	0.0	0.6	7.6	91.8
1966	0.8	10.1	23.4	65.7	0.2	3.7	13.1	83.0
1967	0.1	2.7	21.8	75.4	0.0	0.9	13.2	85.9
1968	0.3	5.6	24.0	70.1	0.1	2.1	13.6	84.2
1969	0.4	3.0	21.3	75.4	0.1	1.0	13.0	85.9
1970	1.2	6.9	30.3	61.6	0.2	2.9	20.6	76.3
1971	1.9	11.9	26.9	59.3	0.4	5.0	17.8	76.7
1972	2.4	18.0	27.0	52.5	0.5	7.6	18.4	73.5
1973	5.8	15.6	39.3	39.4	1.5	7.7	32.2	58.5
1974	9.6	28.4	15.0	47.0	4.0	25.4	23.7	46.9
1975	8.1	47.5	29.7	14.7	2.6	25.3	35.7	36.4
1976	8.2	32.9	39.3	19.6	2.0	20.2	41.9	35.9

Although nothing is yet known about the 1976 year class, if it is of average strength the exploitable biomass of pollock should continue to increase from the low level in 1975 as the 1975 year class becomes fully recruited to the fishery. Japanese scientists, relying on projected CPUE calculations by age group, believe that pollock abundance will continue to increase through 1980 (Anon. 1978). In relation to 1976, their calculations show that exploitable abundance in 1977 dropped to 84 percent but will increase to 118 percent in 1978, 137 percent by 1979 and 133 percent by 1980.

Given annual removals averaging 1.3 million mt during 1975-76, the fact that 1975-77 CPUE trends were stable or slightly upward and average size of pollock in the commercial catch increased (Table I.4; in 1976, average size was near that where yield per recruit is maximized—see Section 10.4), it appears that the catch was very close to EY. The strong 1972 year class was an important contributor to the catch during that period.

In 1977-78, the 1972 year class would have been of declining but still significant importance to the exploitable stock. That decline, however, should have been more than balanced by a reduced average annual catch of no more than 965,000 mt (978,300 mt catch in 1977; OY of 950,000 mt in 1978). Therefore, during this period, catch would probably have been somewhat less than EY.

In 1979, the 1972 year class will no longer be a significant factor in the pollock fishery. Except for a weak 1974 year class, other succeeding year classes (1973, 1975, 1976) appear to be of at least average strength but none show signs of being as abundant as that of 1972. The 1977-78 catches are likely to be slightly below the EY for that period resulting in some carry-over to 1979 that, in turn, should balance the final phase-out of the 1972 year class. EY in 1979 is expected to be close to that of 1977-78, or about 1,000,000 mt.

### I.1.3 Acceptable Biological Catch

The exploitable pollock biomass has been demonstrably subject to wide fluctuations in abundance caused by naturally induced variations in recruitment. As long as catch is maintained near EY—i.e. not permitted to aggravate a natural decline in abundance leading to an adverse spawner-recruit effect—significant changes in standing stock will be determined by environmental and ecosystem factors rather than fishing. Even

though EY is currently below MSY, "rebuilding" to the level of abundance that can produce MSY will have to await natural increases in recruitment. Setting OY 50,000 or 100,000 mt below EY will have little rebuilding effect because: (1) the high rate of natural mortality exhibited by this species will result in only part of that surplus accruing to the standing stock; and (2) at reasonably healthy levels of adult abundance, more spawners will probably not result in any significant enhancement of recruitment three or four years later.

Table I.4.—Average Size of Pollock Taken in the Japanese Eastern Bering Sea Pollock Fisheries (1964-76)

Year	Average size (cm)		
	U.S. Fisheries Agency Japan*	U.S. observers aboard Japanese vessels <sup>b</sup>	U.S. observers aboard Soviet vessels <sup>b</sup>
1964	42.7		
1965	44.3		
1966	42.6		
1967	43.2		
1968	42.7		
1969	42.8		
1970	40.8		
1971	40.3		
1972	39.8		
1973	37.7	36.8	
1974	35.3	32.0	
1975		31.7	30.0
1976		33.4	37.0

\* Mean size based on size and catch data provided by the Fisheries Agency of Japan through INPFC.

<sup>b</sup> Mean size based on size composition data collected by U.S. observers aboard foreign vessels.

Inasmuch as the decline in abundance noted during the late 1960's and 1970's has been arrested and current recruitment appears to be at least of average strength, ABC is considered equivalent to EY—1,000,000 mt

### The Occurrence of Pollock in Deep Water

During June-July 1978, the Japanese R/V *Tomi Maru 52* conducted a hydroacoustic-midwater trawl-handline survey of that portion of the Bering Sea which is beyond the Continental Shelf to investigate the occurrence of a deep-water component of the pollock population. The survey track is

shown in Figure 1-3. Mr. E. Nunnallee of the NWAFC participated in part of the cruise.

A total trackline distance of approximately 6000 mm was surveyed hydroacoustically. Sampling was conducted at 78 midwater trawl and 16 handline stations; 76 of the hauls were 1 hour in duration and 2 were approximately 1/2 hour.

### Pollock Distribution/Behavior and Abundance

The most notable feature of the survey was that it revealed pollock were present in essentially all parts of the survey area; pollock echo sign was detected almost continuously. Although what could be considered commercially important concentrations were found at only a few locations, it was clearly evident that the aggregate biomass was significant. Pollock occurred in 72 of the 78 hauls; most catches were less than 200 fish (100 kg).

In general, the highest abundance, as indicated by both echogram records and trawl sampling, was within 50-150 miles of the Aleutian Chain in waters deeper than 1000 meters. Abundance was relatively low adjacent to the shelf areas; the lowest densities appeared to be in the northwestern part of the survey region from the shelf edge to about 75-100 miles south. In the eastern part of the region, moderate densities were observed to within about 50 miles of the shelf.

There was little evidence of significant quantities of fish at depths greater than 200 meters and the occurrence of echo sign normally dropped off rapidly at depths greater than about 125-150m. During the day fish were generally concentrated between 50 and 150 m. At night this "band" of fish became more dispersed and rose in the water column. There was a difference between day and night trawl catch rates, with the average day catch rate being significantly higher. This can be attributed mainly to the less dense night time aggregations.

A very rough, and probably conservative, estimate of the biomass of the off-shelf component of the pollock population was made using the mean catch per 1 hour haul to calculate an average density, assuming the trawl caught all fish in its path. Other assumptions were:

Trawl mouth opening 900m<sup>2</sup> (30 x 30 m)  
Ave. thickness of pollock layer 100m  
Mean weight per fish 0.5 kg

The mean fish density estimate was 1.06 x 10-5 kg/m<sup>3</sup> and the resulting biomass estimate was 840,000 metric tons.

### Pollock Size Composition

A total of approximately 16,000 trawl caught pollock were measured from off-shelf trawl stations. The mean length was 46.9 cm. There was an unusually symmetric and narrow distribution of lengths, and a pronounced lack of young fish. Over 99% of the fish were from 39 to 55 cm; 82% were between 44 and 50 cm. As shown in Figure I-4, the size distribution of this deep-water component of the pollock population differs significantly from that typically found in commercial catches taken over the shelf.

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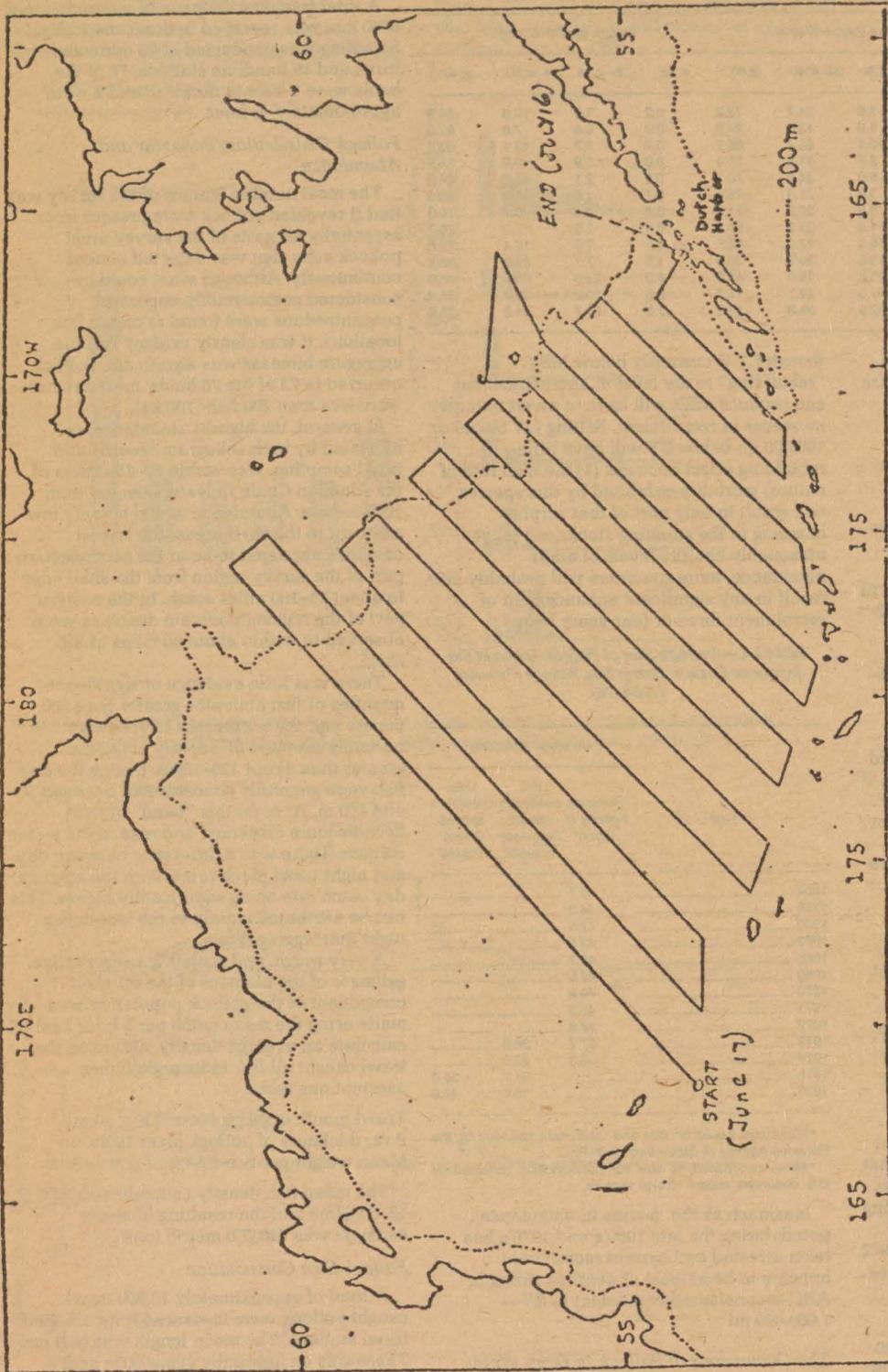


Figure I-3 Trackline covered by the R/V Tomi Maru 52 during June-July, 1978 pollock survey.

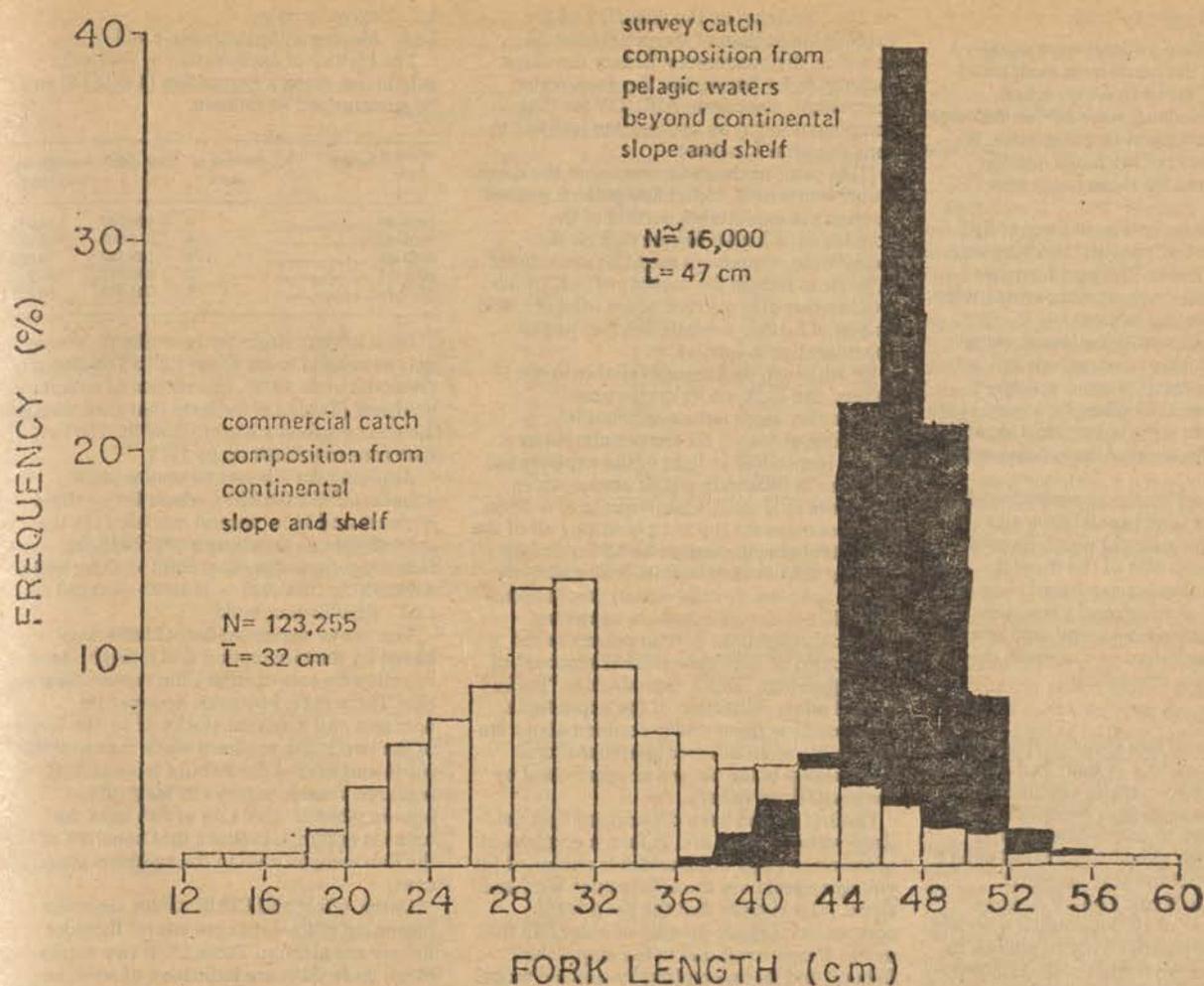


Figure I-4

Composition of length frequency distribution of pollock caught by midwater trawl by the Tomi Maru 52 during the 1978 deep water survey of the Bering Sea and those caught by commercial fishing operations during 1977. Commercial catch data were collected by U.S. observers aboard Japanese, Soviet and South Korean vessels and weighted by nation.

*Catches of Non-target Species*

Species other than pollock were usually a small fraction of the catch from each trawl haul. "Lumpfish" (smooth lumpfish, *Aptocyclus ventricosus*) were by far the most frequently occurring non-target species. It occurred in 45 (58%) of the hauls and the average catch/haul for these hauls was 11 fish.

Squid were the second most frequently occurring incidental "species" but they were taken in only 10 hauls. The squid catches included several large specimens which were probably *Moroteuthis robusta*.

Relatively dense scattering layers were sometimes observed and occasionally sampled with the trawl when it appeared pollock were present in them. However, hauls made in the layers were not productive and they accounted for most of the catches with no pollock.

The degree to which the composition of the nontarget species (and possibly the size composition of the pollock) was influenced by the codend mesh size of the trawl is unknown. The codend consisted of inner and outer bags, each of which had approximately 2 inch mesh (stretched measure), and chafing gear (further information on the mesh size of the codend is being requested).

*Hook and Line Catches*

At most hook and line stations, fishing took place for approximately 1/2 hour and about 100-200 pollock were usually captured for tagging. Since the tagging is being done only to obtain information on movements and migrations, the fish would be released even if their physical condition was marginal.

Research by the Japan Fishery Agency during the summer of 1978 identified a widely dispersed but substantial body of pollock in midwater beyond the continental shelf of the central Bering Sea (Nunnallee, 1978). Midwater trawl samples from that deep-water area produced a conservative biomass estimate of 840,000 mt (swept-area technique,  $q=1.0$ ) and a size composition which is much different from that of the commercial fishery which operates over the continental shelf and slope.

This difference in size composition leads to the speculation that pollock distribution changes with size, with the larger individuals tending to a pelagic existence beyond the continental slope and beyond the commercial fisheries as they currently operate.

The discovery of this deep-water component of the Bering Sea pollock population raises questions about the size of the exploitable biomass and estimates of MSY, EY and ABC/OY of the population as a whole.

Assuming that the deep-water and shallow-water i.e., those available to the commercial fishery, pollock are both components of the same spawning population and that recruitment to the deep-water component is via the exploited, shallow-water component, three interrelated considerations are germane:

(1) Once recruited to the deep-water component, pollock will no longer be subjected to exploitation by the slope/shelf fishery. Therefore, in any one year abundance of the deep-water component has

no direct bearing on the ABC/OY of the exploitable portion of the population. If, however, the commercial fishery develops techniques for harvesting the deep-water component, a separate ABC/OY for that component might be appropriate (subject to consideration 3, below).

(2) If, prior to their recruitment to the deep-water component, individual pollock passed through the exploitable portion of the population, a higher fishing rate on the exploitable component might be considered in order to reduce the number of fish which would otherwise survive, move offshore, and be lost of further exploitation (subject to consideration 3, below).

(3) Although no longer available to the fishery, the deep-water component presumably represents a substantial spawning potential for the population as a whole (especially in light of the exponential increase in fecundity which accompanies increases in length). Maintenance of a deep-water component (by not permitting all of the exploitable component to be taken and by limiting the development of fishing directly on the deep-water component) would seem desirable to assure adequate spawning potential regardless of fluctuations in the abundance of the exploitable component of the population. Such a reproductive "buffer" should allow utilization of the exploitable component without undue concern about the possibility of an adverse spawner-recruit relationship being caused or aggravated by the shelf/slope fishery.

Until: (1) it has been determined that the deep-water pollock are, in fact, a component of the same population which is exploited (at younger ages) over the continental shelf and slope; (2) it is clear that the deep-water component is made up only of older fish that are no longer available to the slope/shelf fishery; and (3) an empirically-derived model has been developed<sup>1</sup> in which the relation between slope/shelf exploitation and abundance of the deep-water component can be demonstrated, the only change that will be considered in the Bering Sea pollock ABC/OY because of the discovery of the deep-water component is that of a separate ABC/OY for fishing in deep water.

During 1979, in addition to the 1,000,000 mt ABC/OY for pollock in the traditional fishing areas (i.e., statistical areas I, II, and III), a separate ABC/OY of 100,000 mt is designated for statistical Area IV. This special ABC/OY should be more than sufficient to support exploratory or experimental fishing operations in this new fishing area, will provide a substantial but controlled opportunity to expand the pollock fishery to an apparently unused segment of the population, and, if utilized, will produce further information about the deep-water component that can be used for future population evaluations and management decisions.<sup>2</sup>

<sup>1</sup>The construction of such a model was begun by the NMFS Northwest and Alaska Fisheries Center, Seattle.

<sup>2</sup>Records of the Japanese research survey which identified the deep-water component of the pollock population showed highest concentrations within 50/150 miles of the Aleutian chain in water depths greater than 1,000 m. Most of that described region lies within statistical Area IV.

**I.2 Yellowfin sole****I.2.1 Maximum Sustainable Yield**

The history of exploitation of yellowfin sole in the eastern Bering Sea (Table I.5) can be summarized as follows:

Period	Number of years	Total catch	Average annual catch
1954-58.....	5	120,247	24,049
1959-62.....	4	1,615,869	403,967
1963-68.....	6	599,567	99,928
1969-71.....	3	460,612	153,537
1972-75.....	5	300,453	60,091

Prior to 1963 virgin (or near virgin) biomass was estimated to be about 1.3 to 3 million mt (Wakabayashi 1976). The results of cohort analyses (Table I.6) indicate that exploitable biomass reached a historic low in 1969 but then rose to 910,000 mt by 1975.

Applying the Alverson-Pereyra yield equation (MSY 0.5 MBo, where Bo = virgin biomass and M = natural mortality) to the pre-1963 biomass estimate results in the following approximation:  $MSY = 0.5 \times 0.26 \times 1,300,000$  to  $2,000,000 = 169,000 - 260,000$  mt.

**I.2.2 Equilibrium Yield**

The above determination of MSY was based on the assumption that a single stock of yellowfin sole occupies the eastern Bering Sea. There may, however, be separate northern and southern stocks. If so, the larger of the two is the southern stock that winters south and east of the Pribilof Islands. U.S. research vessels surveys in May 1976, a season when intermixing of fish from the areas is minimal, indicate that about 93% of the fish were located in the southern stock area.

Catch, effort and CPUE values since the beginning of the Japanese winter flounder fishery are given in Table I.7. If two stocks exist, these data are indicative of only the southern (larger) one. There are two CPUE trends shown: that of pair trawlers and of stern trawlers.

**Table I.5.—Annual Catch (Metric Tons) of Yellowfin Sole in the Eastern Bering Sea (East of 180° and North of 54° N). (INPFC Proceedings, 1977)**

Year	Japan	U.S.S.R.	Total
1954.....	12,562	0	12,562
1955.....	14,690	0	14,690
1956.....	24,697	0	24,697
1957.....	24,145	0	24,145
1958.....	39,153	5,000	44,153
1959.....	123,121	62,200	185,321
1960.....	360,103	96,000	456,103
1961.....	399,542	154,200	553,742
1962.....	281,103	139,600	420,703
1963.....	20,504	65,306	85,810
1964.....	48,880	62,297	111,177
1965.....	26,039	27,771	53,810
1966.....	45,423	56,930	102,353
1967.....	60,429	101,789	162,228
1968.....	40,834	43,355	84,189
1969.....	81,449	85,685	167,134
1970.....	59,851	73,228	133,079
1971.....	82,179	78,220	160,399
1972.....	34,846	13,010	47,856
1973.....	75,724	2,516	78,240
1974.....	37,947	4,288	42,235
1975.....	59,715	* 16,060	* 75,775
1976.....	* 61,082	* 5,133	* 66,347

\* Preliminary data.

\* Fishing year data from mothership, North Pacific longline-gillnet, and North Pacific trawl fisheries. Calendar year data for landbased dragnet fishery.

\* Included catches of all small flounders.

**Table I.6.—Biomass of Age 6 and Older Yellowfin Sole and Numbers of Age 6 Fish (as an Index of Recruitment) in the Eastern Bering Sea as Estimated by Cohort Analysis. (INPFC Proceeding, 1977)**

Year	Biomass ( $\times 10^3$ mt)				Number age 6 fish ( $\times 10^4$ )	Year class of age 6 fish
	Southern stock area	Northern stock area	Total of estimates by stock area	Estimate for data combined over stock areas		
1963					2,941	1957
1964	840.3	132.0	972.3	912.5	2,276	1958
1965	868.0	144.2	1,012.2	960.7	1,765	1959
1966	867.8	145.0	1,012.8	969.0	1,507	1960
1967	774.9	140.2	915.1	879.0	921	1961
1968	567.5	102.9	670.4	635.4	1,266	1962
1969	508.3	103.8	612.1	604.0	1,026	1963
1970	593.2	135.0	728.2	720.8	928	1964
1971	551.6	102.8	654.4	648.2	980	1965
1972	580.9	83.9	664.8	660.0	1,420	1966
1973	739.0	112.7	851.7	849.1	2,407	1967
1974	654.6	108.4	763.0	761.4	2,345	1968
1975	779.9	131.8	911.7	910.2	2,169	1969

**Table I.7.—Catch, Effort, and CPUE for Yellowfin Sole by the Japanese Trawl Fisheries in the Southern Stock Area for 1/2° by 1° Statistical Blocks and Months in Which Yellowfin Sole Made up 50 Percent or More of Total Catch of Groundfish.**

Gear type	Fishing year	Catch (mt)	Hours	Average hp	Thousands of hp hours	CPUE (mt per thousand hp-hours)
Pair trawl	1969-70	14,250	1,925	1,200	2,310	6.17
	1970-71	26,766	1,762	1,200	2,114	12.66
	1971-72	25,873	2,937	1,400	4,112	6.29
	1972-73	32,354	2,788	1,400	3,903	8.29
	1973-74	27,234	1,853	1,400	2,594	10.50
	1974-75	32,456	833	1,400	1,166	27.84
Stern trawl	1975-76	41,206	1,002	1,400	1,403	29.37
	1969-70	8,559	1,997	1,650	3,295	1.99
	1970-71	2,266	558	1,400	781	2.90
	1971-72	8,479	2,176	1,325	2,883	2.94
	1972-73	11,319	5,030	1,400	7,042	1.61
	1973-74	3,765	2,814	1,400	3,940	0.96
1974-75	3,078	3,515	1,250	4,394	0.70	
1975-76	12,331	2,109	1,250	2,636	4.68	

**Table I.8.—Catch Rates From Comparative Area Sampled by the U.S. National Marine Fisheries Service Since 1973 in the Eastern Bering Sea. Catch Rates (Metric Tons Per km Trawled) Have Been Standardized to That of the Research Vessel Oregon**

Species	1973	1974	1975	1976
Pollock	46.54	34.22	21.54	56.36
Yellowfin sole	54.05	86.65	80.49	80.35
Pacific cod	4.80	4.20	8.68	4.47
Rock sole	9.99	12.94	14.74	22.72
Flathead sole	4.94	9.94	7.02	9.75
Alaska plaice	3.68	3.38	9.67	12.81
Greenland turbot	1.17	2.17	1.47	1.94
Arrowtooth flounder	1.09	1.12	1.42	2.98
Pacific halibut	0.27	0.51	1.11	0.88

There are differences in trends in the two gear types, but since stern trawlers are usually employed as scout vessels to locate concentrations of yellowfin sole, their CPUE may not reflect relative abundance as well as do CPUE trends of pair trawlers. Pair trawl

CPUE cannot be directly compared for the period before and after the 1974-75 season because of changes in fishing strategy (from 24 hours operation prior to the 1974-75 winter season to daylight hour fishing after that) and gear improvements (anchored reflectors have recently been used by the vessels to stay on fish concentrations). Therefore the large increase between 1973-74 and 1974-75 is partially an artifact of increased fishing power. Standardized CPUE data from NMFS trawl surveys in a comparative area fished each year since 1973 also indicate a substantial increase in yellowfin sole abundance between 1973 and 1974 (Table I.8). Two of the NMFS surveys (one in late summer 1975 and the other in spring 1976) covered an expanded survey area which is believed to encompass the major part of the distribution of yellowfin sole. Using the area-swept technique of Alverson and Pereyra (1969), standing stock estimates for age groups available to the commercial fishery (age 6 and older) were as follows:

Month(s) and year	Biomass estimate (mt)	95% Confidence interval
August-October 1975	891,917	831,226-1,152,606
June 1976	1,099,731	610,131-1,569,331

Based on the 1975 research survey, equilibrium yield was calculated by Bakkala and Hirschhorn (1976) to be 126,000 mt with a confidence interval of 106,000 to 147,000 mt. Wakabayashi (1976) estimated that equilibrium yield in the same period was 117,000 mt. On the basis of data through 1975 Wakabayashi, Bakkala, and Low (1977) inferred that a conservative approximation of equilibrium yield would be the low end of the above range—106,000 mt.

A cohort analysis was conducted to determine population age structure and abundance. The procedure used was developed by Pope (1972) and specific details of the calculations are given by Wakabayashi et al. (1977).

Results of the cohort analysis (Table I.6) indicate that the biomass of age 6 and older fish increased from 1971 to 1975. Although details of the analysis demonstrated variations in year class strength (Figure I.5 and I.6), it is evident that the many year classes included in the population buffered much of the variation in recruitment. Projected estimates of biomass from cohort analysis also suggest that the improvement of yellowfin sole resource, which started in 1973 or earlier, continued at least through 1976 and into 1977. Preliminary information from both the 1977 NMFS trawl survey and from observers sampling the 1977-78 Japanese fishery indicates that abundance is remaining high. Moreover, because of operational factors (not reduced availability), the total allowable catch was not taken in 1977 and may not be achieved in 1978.

Considering the conservative nature of the estimate of EY based on data through 1975 and the positive trends indicates since then, EY is believed to have increased by perhaps 10 percent, to 117,000 mt.

### 1.2.3 Acceptable Biological Catch

This resource has rebounded surprisingly well from a state of depletion in mid-1960's. Current abundance is high (55-85% of the estimated virgin biomass) and all fishery and biological indicators are positive. Furthermore, the average catch in 1977-78 was well below the conservative estimate of EY which, considering the low natural mortality of the species, should provide additional enhancement to the population in 1979. Accordingly, ABC is considered equivalent to current EY—117,000 mt.

### 1.3 Turbot (arrowtooth flounder and Greenland turbot)

Under the Preliminary Fishery Management Plans for 1977 and 1978, the management of all flatfishes, other than Pacific halibut and yellowfin sole, was grouped under an "other flounders" category consisting of arrowtooth flounder, Greenland turbot, flathead sole, rock sole, Alaska plaice, and a few other minor species. However, the species within this category may be separated into two main complexes by virtue of their biology and bathymetric distribution.

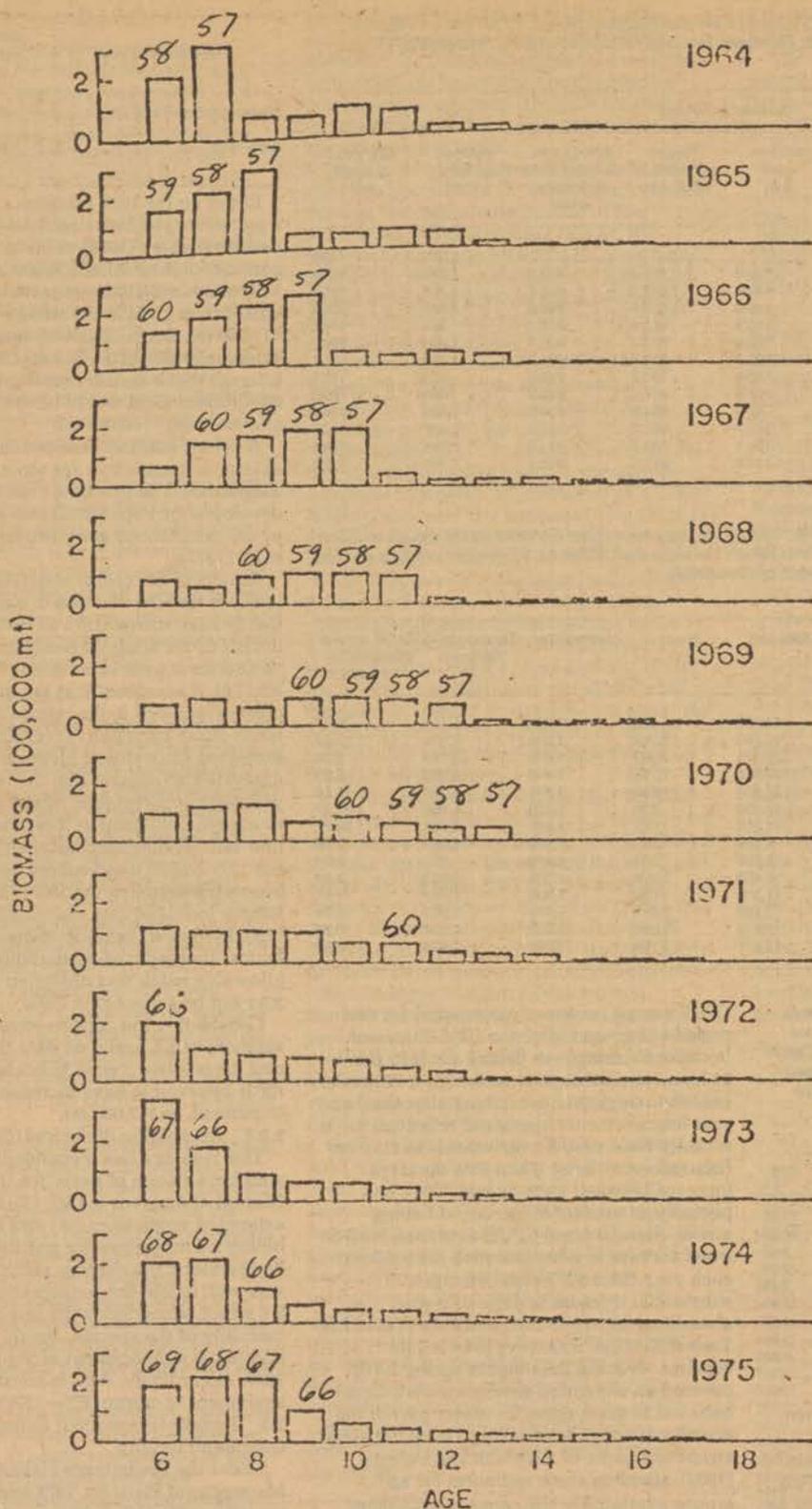


Figure 1.5.--Estimated biomass of yellowfin sole from cohort analysis for age groups available to the fishery.

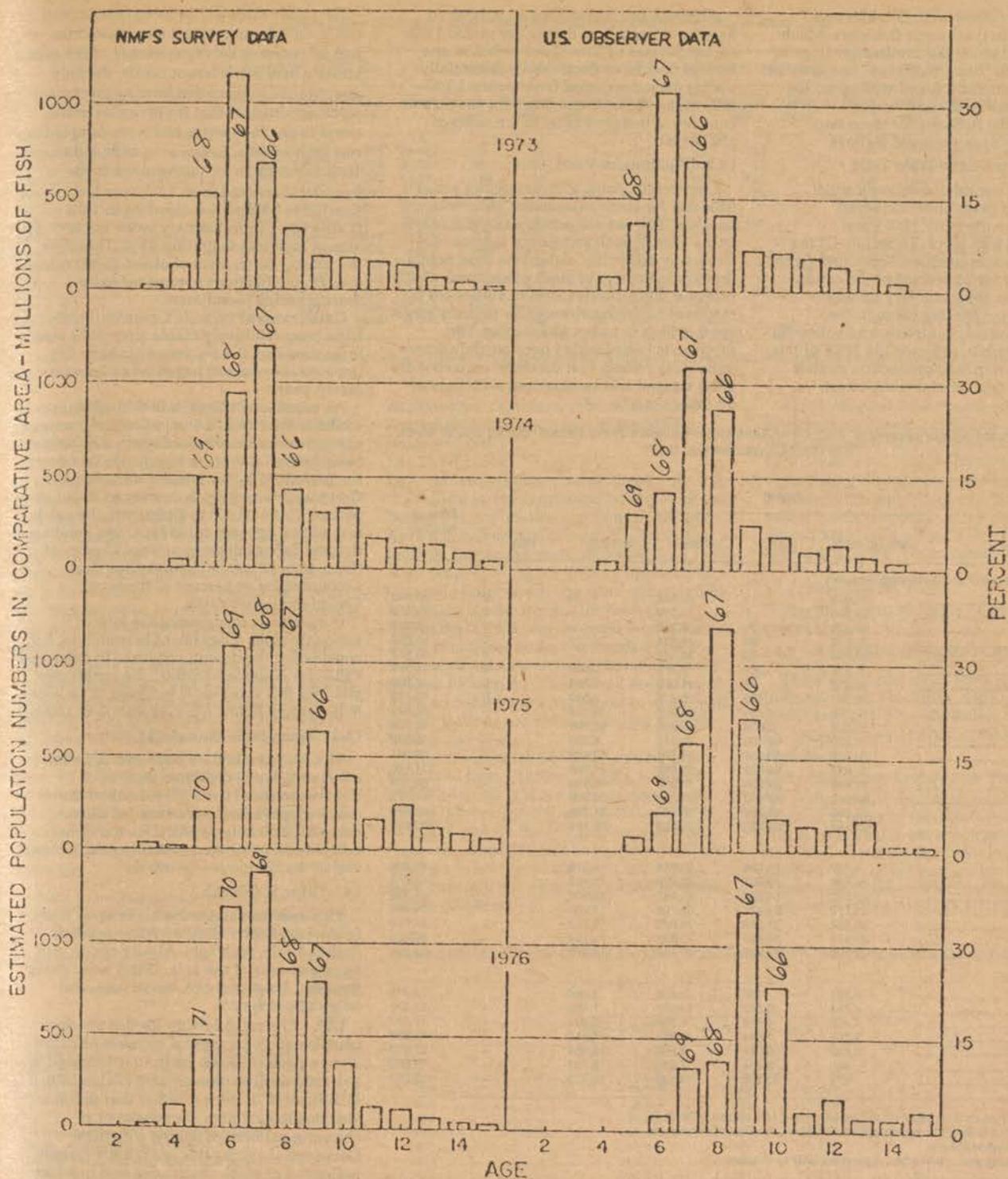


Figure 1.6.--Age composition of yellowfin sole as shown by data from U.S. research vessel surveys in June-August and by U.S. observer samples from the Japanese flounder fishery in October-November. Year classes for certain age groups are shown in appropriate bars.

The turbot (arrowtooth flounder and Greenland turbot) are large flatfishes which are distributed along the continental slope in deep water; the "other flatfishes" are small in size and are generally found well up on the continental shelf in shallow water. Furthermore, the fisheries for these two flounder complexes are quite distinct.

#### I.3.1 Maximum Sustainable Yield

After a long period of relatively small catches, turbot production increased substantially in the early 1970's and continues at a high level (Table I.9). Of the two species in this complex Greenland turbot has accounted for 80 percent of the catch.

Since turbot are secondary or only occasional target species taken in the fisheries for pollock, sablefish, and yellowfin sole, it is difficult to estimate the MSY of this complex with standard production models which rely on commercial catch-effort statistics.

Although catches averaging 105,000 mt have been sustained during the period 1972-76, catch rates of Greenland turbot in one foreign fleet have decreased substantially during the same period (see section I.3.2, following). Accordingly, MSY for the turbot complex is believed to be in the order of 100,000 mt.

#### I.3.2 Equilibrium Yield

Commercial catch-effort statistics are of little use for stock assessment of turbot because they are not primary target species. In the case of such secondary species, it is extremely difficult to determine data points that are indicative of stock abundance. Catch rates for these species tend to vary more in response to fishing strategy for primary target species than to turbot abundance. The problem is compounded because data from individual vessels that do target on turbot are often merged and summarized with data of all other vessels.

Given the difficulty in using commercial CPUE data for non-target species and the lack of research survey coverage of the depth strata where adult turbot reside, the only quantitative information bearing on current stock condition is that for juveniles which occur in shallow water and were sampled by research vessels. In one area sampled since 1973, catch rates for young arrowtooth flounder increased from 1.1 kg per km trawled to 3 kg per km trawling in 1976 (Table I.8); the preliminary value for 1977 was almost identical to that for 1976. Therefore, the current catch level of about 21,000 metric tons (Table I.9) does not appear to be detrimental to recruitment.

Catch rates of juvenile Greenland turbot have been relatively stable since 1974 also indicating that fishery removals have not impacted Greenland turbot recruitment in recent years.

As mentioned above, it is difficult to evaluate the condition of individual species using catch rates of mixed species fisheries. Nonetheless, it may be significant that during the period 1972-76 when the total annual Greenland turbot catch decreased about 16 percent (from 95,300 to 79,800 mt), the catch rate of that species in the Japanese landbased dragnet fishery decreased from 32 percent (from 40 to 27 mt/100 hours). This fleet accounted for 44 percent of the total Greenland turbot catch.

In summary, recognizing the lack of adequate stock assessment information, but considering the downward trend in catch and CPUE for Greenland turbot, the equilibrium yield for this complex is believed to be about 5-10 percent below MSY, or 90,000-95,000 mt.

#### I.3.3 Acceptable Biological Catch

The inadequate data base available for evaluating stock condition and the downward trend in CPUE for one of the species in one fleet are cause for slight concern. Accordingly, ABC for the turbot complex is considered equivalent to the low end of the EY range—90,000 mt.

#### I.4 Other Flatfishes

This species complex is made up of the following smaller shallow water species; flathead sole, rock sole, Alaska plaice, and trace amounts of rex sole, Dover sole, starry flounder, longhead dab, butter sole, and lefteye flounders.

I.4.1 The catch history for this species complex shows a general increase of catches up to a peak of 95,000 mt in 1971 followed by a drastic decline through 1975 (Table I.10). It is difficult to discern whether that decline was due to declining abundance or to changing patterns of fishing activities. Commercial catch rates are not necessarily indicative of stock abundance and together with a lack of biological information on these

Table I.9.—Annual Catch of Greenland Turbot and Arrowtooth Flounders in the Eastern Bering Sea in Metric Tons (INPFC proceedings, 1977)

Year	Japan*			U.S.S.R.	ROK	Total all nations
	MS-LG-NPT <sup>b</sup>	LBD <sup>c</sup>	Total			
<b>Turbots (Greenland turbot and arrowtooth flounder)</b>						
1960	36,843	0	36,843	—	0	36,843
1961	57,348	2	57,350	—	0	57,350
1962	58,226	84	58,310	—	0	58,310
1963	31,565	69	31,634	—	0	31,634
1964	34,493	49	34,542	—	0	34,542
1965	7,970	307	8,277	1,800	0	10,077
1966	10,938	97	11,035	2,200	0	13,235
1967	20,741	1,733	22,474	2,639	0	25,113
1968	17,808	4,789	22,597	15,252	—	37,849
1969	13,582	9,674	23,256	16,798	—	40,054
1970	14,509	16,003	30,512	8,220	—	38,732
1971	30,690	20,801	51,491	17,460	—	68,951
1972	27,038	59,823	86,861	24,265	—	111,126
1973	33,485	39,568	73,053	16,576	—	89,629
1974	42,096	43,170	85,266	29,509	—	114,775
1975	39,386	37,364	75,750	31,928	—	107,678
1976	*43,162	*35,620	*78,782	25,111	—	*103,893
<b>Greenland turbot</b>						
1970	5,188	15,696	20,884	4,976	—	25,860
1971	24,409	12,561	36,970	10,271	—	47,241
1972	25,583	54,898	80,481	14,858	—	95,339
1973	30,778	31,924	62,702	12,265	—	74,967
1974	39,334	37,549	76,883	10,862	—	87,742
1975	37,941	34,890	72,831	12,194	—	85,025
1976	*42,885	*27,904	*70,789	8,979	—	*79,768
<b>Arrowtooth flounder</b>						
1970	9,321	307	9,628	3,244	—	12,872
1971	6,281	8,240	14,521	7,189	—	21,710
1972	1,455	4,925	6,380	9,407	—	15,787
1973	2,707	7,644	10,351	4,311	—	14,662
1974	2,762	5,621	8,383	18,650	—	27,033
1975	445	2,474	2,919	19,734	—	22,653
1976	*277	*3,858	*4,135	16,132	—	*20,267

\*Catches are from data on file with the Japanese and U.S. National Sections.

<sup>b</sup>Mothership, North Pacific longline-gillnet, and North Pacific trawl fisheries.

<sup>c</sup>Landbased dragnet fishery.

<sup>d</sup>Catch for fishing year, November of previous year to October.

<sup>e</sup>Preliminary.

<sup>f</sup>Dash denotes fishing but no reported catch.

Table I.10.—All Nation Catches of Other Flatfishes in the Bering Sea in Metric Tons

Year	East of 180 (INPFC area 1 + 2)				West of 180 (INPFC area 3 + 4)				Aleutians (INPFC area 5)				Total—all areas			
	Rock sole	Flathead sole	Alaska plaice	Total	Rock sole	Flathead sole	Alaska plaice	Total	Rock sole	Flathead sole	Alaska plaice	Total	Rock sole	Flathead sole	Alaska plaice	Total
1963	5,002	29,625	975	35,602	1,640	74	4	1,718	27	14		41	6,669	29,713	979	37,361
1964	3,238	25,288	1,838	30,364	1,306	1,287	10	2,603	152	43	45	240	4,696	26,618	1,893	33,207
1965	3,678	6,713	979	11,370	36	26		62	147	128	41	316	3,861	6,867	1,020	11,748
1966	9,104	11,020	4,633	24,757		63		63	82	25		107	9,186	11,108	4,633	24,927
1967	4,762	23,437	3,853	32,052	154	594		748	25	32		57	4,941	24,063	3,853	32,857
1968	5,250	21,575	2,619	29,444	261	586		847	17	186		203	5,528	22,347	2,619	30,494
1969	9,240	18,563	6,942	34,745	774	435		1,209	2	2		4	10,016	19,000	6,942	35,958
1970	20,123	41,152	3,402	64,677	900	932	79	1,911	2	11		13	21,025	42,095	3,481	66,601
1971	40,419	51,024	992	92,435	1,962	540	31	2,533	1	16		17	42,382	51,580	1,023	94,985
1972	60,824	15,690	290	76,804	1,714	511	40	2,265	5	4		9	62,543	16,205	330	79,078
1973	23,835	18,141	1,917	43,893	1,862	472	59	2,393	2	24		26	25,899	18,637	1,976	46,512
1974	19,975	14,917	2,388	37,280	655	234		889	36	41		77	20,666	15,192	2,388	38,246
1975	11,145	5,545	2,614	19,304	507	112	1	620	3	1		4	11,655	5,658	2,615	19,928

Source: Wakabayashi, K. and R. Bakkala. 1977. Estimated Catches of Flounders by species in the Bering Sea, U.S. Natl. Mar. Fish. Serv., Northwest Fish. Center. Document submitted to Intl. North Pac. Fish. Comm. 27 p. (Document 1964)

species, MSY is difficult to determine. Because declines in catches in 1973 and 1975 are believed to be due, at least in part, to operational changes in the Soviet fishery and to winter area closures in the southeastern Bering Sea, the recent average catch level may have little bearing on MSY.

By assuming that the complex had been fully utilized prior to 1975, the average catch (1963-74) of 44,300 mt should approximate MSY. Furthermore, if the complex had been fully utilized prior to 1975, the Schaefer model indicates that by 1975 biomass would be about half of its virgin level. A NMFS trawl survey in 1975 (swept area technique) indicated a standing stock of 232,000-334,100 mt of flathead and rock sole (Table I.11) implying a virgin biomass of 462,000-668,200 mt. Inasmuch as plaice and dab are virtually unutilized by the fisheries, they are excluded from the following computations. If  $m = 0.23$  for this complex (Section 9.1; flathead sole 0.2, roc, sole 0.26), the Alverson-Pereyra yield equation produces an estimated of MSY of 53,200-76,800 mt ( $0.5 \times 0.23 \times 462,400-668,200$ ).

Table I.11.—Estimated Biomass of the "Other Flatfish" Complex in the Eastern Bering Sea by the U.S. National Marine Fisheries Service in 1975

Species	Mean CPUE <sup>1</sup>	Estimated biomass <sup>2</sup>	Percent frequency of occurrence
Rock sole	5.73	138,300-202,000	66
Alaska plaice	4.11	101,800-152,800	41
Flathead sole	3.89	93,900-132,100	69
Longhead dab	0.37	8,000-14,200	19

<sup>1</sup> Mean catch per unit effort, kg/kg trawled.

<sup>2</sup> 95% confidence limits in metric tons.

Source: Pereyra et al. (1976), Table IX-26.

Therefore, estimates of MSY range from a low of 44,300 mt (as described on page I-27) to 76,800 mt (the high end of the above range).

#### I.4.2 Equilibrium Yield

There is no evidence to suggest that the MSY for this species complex is unattainable.

#### I.4.3 Acceptable Biological Catch

This species complex appears healthy and a significant portion of it (plaice and longhead dab) are yet to come under

exploitation. Therefore, ABC is considered equivalent to the mid-point of the MSY range—61,000 mt.

#### I.5 Pacific Cod

##### I.5.1 Maximum Sustainable Yield

Pacific cod are distributed widely over the Bering Sea continental shelf and slope and have a distributional pattern similar to that of pollock. During the early 1960's, when a fairly large Japanese longline fishery operated on the continental slope, cod were harvested by longliners for the frozen fish market. Beginning in 1964, the Japanese North Pacific trawl fishery for pollock expanded and cod became an important incidental catch in the pollock fishery. At present, cod are believed to be an occasional target species when high concentrations are detected during pollock fishing operations.

The annual catch of Pacific cod by Japan increased from 19,100 mt in 1974 to about 74,600 mt in 1970; since then, catches have varied between 40,000 and 50,400 mt (Table I.12). Catches by the USSR have only been reported since 1971 and have increased from 4,000 mt in 1971 to 18,500 mt in 1975. Since 1973, the total cod catch has varied between 55,000-67,000 mt.

Few biological data concerning cod are available, and their incidental occurrence in the trawl catch makes questionable the use of CPUE trends for evaluating stock condition. Considering that the cod catch grew very quickly in the mid-1960's and then became rather stable thereafter, the average catch since 1968 should reflect at least a minimal estimate of MSY. That average is 58,700 mt.

##### I.5.2 Equilibrium Yield

The MSY of 58,700 mt is believed to be achievable.

##### I.5.3 Acceptable Biological Catch

The above estimate of MSY is considered to be minimal. Therefore, ABC is considered equivalent to MSY—58,700 mt.

#### I.6 Pacific Ocean Perch and Other Rockfishes

##### I.6.1 Maximum Sustainable Yield

Pacific ocean perch is the most abundant rockfish species in the North Pacific. Chikuni (1975) identified to main stocks in the Bering Sea: an Eastern Slope stock along the southern part of the eastern Bering Sea continental slope and an Aleutian stock along both sides of the Aleutian Islands.

Table I.12.—Pacific Cod Catches by Nation in the Bering Sea\* 1964-76 [Source: INPFC Proceedings 1977]

Year	Japan			U.S.S.R.	ROK	Total all nations
	MS-LG-NPT <sup>b</sup>	LBD <sup>c</sup>	Total			
1964	19,078	— <sup>d</sup>	19,078	— <sup>d</sup>	0	19,078
1965	15,710	1,638	17,348		0	17,348
1966	17,347	1,693	19,040		0	19,040
1967	30,728	2,780	33,508		0	33,508
1968	52,309	11,426	63,735		— <sup>e</sup>	63,735
1969	45,078	8,221	53,299			53,299
1970	61,335	13,278	74,613			74,613
1971	33,076	13,281	46,357	4,139		50,496
1972	34,776	5,158	39,934	7,028		46,962
1973	39,489	6,099	45,588	12,980		58,568
1974	44,364	6,058	50,422	16,592		67,014
1975	<sup>f</sup> 33,089	3,448	36,537	18,486	49	<sup>g</sup> 55,072
1976	<sup>f</sup> 34,976	4,754	39,730	18,912	306	<sup>g</sup> 58,948

\* Catches are from data on file with the Japanese and U.S. National Sections.

<sup>b</sup> Mothership, North Pacific longline-gillnet, and North Pacific trawl fisheries.

<sup>c</sup> Landbased dragnet fishery.

<sup>d</sup> Catch for fishing year, November of previous year to October.

<sup>e</sup> Preliminary.

<sup>f</sup> Dash denoted fishing but no reported catch.

Table 1.13.—Annual Catch of Pacific Ocean Perch in the Bering Sea in Metric Tons

Year	Japan <sup>a</sup>			U.S.S.R. <sup>b</sup>			Total		
	Eastern slope	Aleutian	Total	Eastern slope	Aleutian	Total	Eastern slope	Aleutian	Total
1960	1.1		1.1	5.0		5.0	6.1		6.1
1961	13.0		13.0	34.0		34.0	47.0		47.0
1962	12.9	0.2	13.1	7.0		7.0	19.9	0.2	20.1
1963	17.5	0.8	18.3	7.0	20.0	27.0	24.5	20.8	45.3
1964	14.4	29.3	43.7	11.5	61.0	72.5	25.9	90.3	116.2
1965	7.8	38.1	45.9	9.0	71.0	80.0	16.8	109.1	125.9
1966	17.5	28.2	45.7		57.7	60.4	20.2	85.9	106.1
1967	19.6	9.3	28.9	2.7	46.6	46.6	19.6	55.9	75.5
1968	28.4	18.3	46.7	3.1	26.6	29.7	31.5	44.9	76.4
1969	14.5	15.6	30.1	0.0	23.2	23.2	14.5	36.8	53.3
1970	9.9	13.8	23.5	0.0	53.3	53.3	9.9	66.9	76.8
1971	9.8	14.6	24.4	0.0	7.2	7.2	9.8	21.8	31.6
1972	5.5	8.6	14.1	0.2	24.6	24.8	5.7	33.2	38.9
1973	2.7	9.3	12.0	1.0	2.5	3.5	3.7	11.8	15.5
1974	6.6	21.7	28.3	7.4	0.8	8.2	14.0	22.4	36.5
1975	3.2	8.5	11.7	5.4	8.1	13.5	8.6	16.6	25.2
1976	2.8	10.3	13.1						

<sup>a</sup> Figures are compiled from both statistics for the mothership-longline North Pacific trawl fishery and the landbased dragnet fishery.

<sup>b</sup> Including some amounts of rockfishes, *Sebastes*, spp. other than Pacific ocean perch, except for 1975.

Table 1.14.—Pacific Ocean Perch Catch and Effort Data of Stern Trawlers in the Japanese Mothership-Longline North Pacific Trawl Fishery by Vessel Class in the Eastern Bering Sea Slope Region. 1968-1976

Year	Vessel class <sup>a</sup>						
	3	4	5	6	7	8	9
(A) Catch in metric tons							
1968	895	3,847	695	1,938	378	10,012	1,776
1969	361	3,709	102	258	94	4,037	2,103
1970	77	215	78	55	301	3,168	1,495
1971	96	1,558	35	203	992	1,855	459
1972	0	1,005	317	7	410	313	1,276
1973		351	0	199	487	146	242
1974		416	90	520	700	609	442
1975		552	204	343	784	171	246
1976		257	188	148	704	70	434
(B) Fishing effort in hundred hours trawled							
1968	104	298	26	18	1	67	46
1969	95	264	17	15	12	95	125
1970	103	293	18	2	34	122	139
1971	125	411	21	19	35	146	266
1972	120	348	29	13	49	140	198
1973		163	13	16	35	118	297
1974		147	27	39	37	171	310
1975		303	55	41	38	158	263
1976		286	34	4	11	135	227
(C) Percentage composition in total ocean perch catch by vessel class category							
1968	4	19	3	10	2	49	9
1969	3	31	1	2	1	34	18
1970	1	4	1	1	6	58	27
1971	2	30	1	4	19	35	9
1972	0	29	9	+	12	9	37
1973		21	0	12	28	9	14
1974		12	3	15	21	18	13
1975		22	8	14	32	7	-10
1976		13	10	8	36	4	22
(C) CPUE in mt per hour trawled							
1968	.08	.13	.26	1.10	2.55	1.50	.39
1969	.03	.14	.06	.18	.08	.42	.17
1970	.01	.01	.04	.23	.09	.26	.11
1971	.01	.04	.02	.11	.28	.13	.02
1972		.03	.10	.01	.07	.02	.05
1973		.02		.12	.14	.01	.01
1974		.03	.03	.13	.19	.04	.01
1975		.02	.04	.08	.21	.01	.01
1976		.01	.05	.4	.62	.01	.02

<sup>a</sup> No data for classes 1 and 2. 1973 and 1974 data converted to pre-1973 gross tonnage classification of 1 = 71-100, 2 = 101-200, 3 = 201-300, 4 = 301-500, 5 = 501-1000, 6 = 1001-1500, 7 = 1501-2500, 8 = 2501-3500, 9 = 3501 and above.

Of these two, commercial catch records (Table 1.13) indicate that the Aleutian stock is much larger than that of the Eastern Slope. Catches peaked at about 47,000 mt in the Eastern Slope Region in 1961, whereas they peaked at 109,000 mt in the Aleutian Region in 1965. Since then, catches have declined drastically in both regions. This decline is attributed mainly to lower stock abundance caused by the removal of larger, older fish.

Under ideal resource conditions, MSY for the Eastern Slope stock was estimated to be as high as 32,000 mt while that for the Aleutian stock may be as high as 75,000 mt (Chikuni 1975). Whether or not the ecosystem could again support a population large enough to sustain catches of that magnitude is unknown.

No information is available bearing on the MSY of the other rockfish species.

1.6.2 Equilibrium Yield

Since 1960, the Eastern Slope region has produced perch catches in excess of 30,000 mt only twice (1961 and 1968). Following each such instance, catches fell substantially (Table 1.13); after the large 1968 catch, catch and catch rate both dropped to very low levels. An inspection of catch (Table 1.13) and catch rate (1.14) indicates that perch stocks of the Eastern Slope Region must not have been able to support a fishery of 10,000-15,000 mt annually without detrimental effects to the already low level of stock abundance.

In the Aleutian Region, there were more obvious signs of overexploitation in the early stages of the fishery when amounts in excess of 90,000 mt were taken consecutively from 1964 through 1966. Since then, except for a high catch in 1970, production has dropped and during the period 1971-75 averaged only 21,200 mt. It is evident that the sustained annual catch of 75,000 mt estimated by Chikuni cannot now be realized.

It was the consensus of Japanese, U.S., and Canadian scientists at the 1975 INPFC meeting, that Pacific ocean perch stocks are at a relatively low level of abundance and generally not in good condition. The opinion is derived from various state of stock indicators including (i) a continuous decline in CPUE after 1968; (ii) drastic reductions in the availability of all sizes of ocean perch through the period 1969-72; (iii) a heavy dependence in the fishery after 1968 on young-small fish; and (iv) the lack of any evidence of strong year, incoming classes.

In the Eastern Slope Region, catch, fishing effort, and CPUE data indicate that stock abundance has declined severely from the 1960's and has fluctuated at a low level in the 1970's (Table 1.14). Although most effort in the Eastern Slope Region is not directed specifically at Pacific ocean perch, and CPUE may not be the best index of abundance, continuing low ocean perch harvests despite high effort levels do suggest relatively low abundance. Also, catch rates have declined to very low levels since the early 1970's at depths beyond 125 m where most of the Pacific ocean perch grounds are found (Figure 1.7). The spawning stocks of Pacific ocean perch in the Eastern Slope Region is also considered to be substantially reduced from earlier levels. It is believed that the early extensive ocean perch harvests by Japan and the USSR had removed most of the larger and

older fish from the stock, dramatically affecting its reproductive potential. Chikuni (1975) reported that the fecundity of ocean perch in this region (number of eggs) was as follows: 10,000 at age 7, 29,000 at age 10, 75,000 at age 15, 122,000 at age 20, and 162,000 at age 25. Extensive harvests of older, more fecund fish must have severely reduced larval production in later years, but reduced recruitment as yet has not been directly related to a decline in larval production.

In the Aleutian Region, the stock has also declined in abundance. CPUE data from both the Japanese independent stern trawl fishery (Table I.15) and the land-based dragnet

fishery (Table I.16) show that abundance has been fluctuating at a very low level relative to earlier years since 1971. For example, class 4 and 7 stern trawlers (301-500 gross tons and 1500-2500 gross tons, respectively), which accounted for the majority of annual ocean perch catches by stern trawlers, suffered severe declines in CPUE from 1968 to 1974 (Table I.15). In both cases, catch rates in 1976 were less than 30% of levels attained in 1968, and, on the basis of catch trends, it is believed that stock abundance in 1968 was already reduced considerably from earlier years.

Table I.15.—Pacific Ocean Perch Catch and Effort Data for Stern Trawlers of the Japanese Mothership-Longline North Pacific Trawl Fishery by Vessel in the Aleutian Region, 1968-1976

Year	Vessel class <sup>a</sup>					
	4	5	6	7	8	9
<b>(A) Catch in metric tons</b>						
1968	12,157	280	32	2,711	6,787	532
1969	7,290	440	0	4,839	1,125	144
1970	2,384	1,227	0	7,741	249	82
1971	3,322	889	1,038	4,984	2,249	449
1972	3,527	1,318	645	2,035	188	135
1973	4,591	0	995	1,881	0	0
1974	10,196	1,564	1,326	2,507	25	16
1975	3,720	972	764	1,815	666	0
1976	3,976	784	392	1,462	45	0
<b>(B) Fishing effort in number of hours trawling</b>						
1968	8,575	115	8	216	759	772
1969	1,952	333	0	910	178	38
1970	1,755	600	0	976	161	25
1971	4,543	634	383	720	785	174
1972	6,533	546	492	388	114	56
1973	3,592	0	658	530	36	0
1974	12,249	1,816	964	529	70	22
1975	11,170	1,233	543	521	509	0
1976	8,926	866	629	499	244	0
<b>(C) Percentage composition of total ocean perch catch by vessel class<sup>b</sup></b>						
1968	54	1	+	12	30	2
1969	51	3	0	34	8	1
1970	20	10	0	66	2	1
1971	26	7	8	38	17	3
1972	45	17	8	26	2	2
1973	61	0	13	25	0	0
1974	63	10	8	16	0	+
1975	46	12	9	22	8	0
1976	59	12	6	22	1	0
<b>(D) Catch (in metric tons) per hour trawled</b>						
1968	1.4	2.4	4.0	12.6	8.9	0.7
1969	3.7	1.3	.....	5.3	6.3	3.8
1970	1.4	2.0	.....	7.9	1.5	3.3
1971	0.7	1.4	2.7	6.9	2.9	2.6
1972	0.5	2.4	1.3	5.2	1.6	2.4
1973	1.3	.....	1.5	3.5	.....	.....
1974	0.8	0.9	1.4	4.7	0.4	0.7
1975	0.3	0.8	1.4	3.5	1.3	.....
1976	0.4	0.9	0.6	3.3	0.2	.....

<sup>a</sup> No data for classes 1, 2, and 3 which are mainly side and pair trawls. 1973 and 1974 data converted to pre-1973 gross tonnage classification of 1 = 71-100, 2 = 101-200, 3 = 201-300, 4 = 301-500, 5 = 501-1000, 6 = 1001-1500, 7 = 1501-2500, 8 = 2501-3500, 9 = 3501 and above.

<sup>b</sup> Totals may fall short of 100% because of rounding method.

Table 1.16.—Catch and effort data of stern trawlers of the Japanese land-based dragnet fishery in the Aleutian Region, 1969–76.

Year	Catch of all species in mt	Catch of Pacific ocean perch in mt	Percentage of POP in total catch	Total effort in hours	CPUE of POP in mt per hour
1969	5,478	1,246	23	3,850	.32
1970	4,550	1,956	43	5,040	.39
1971	5,977	1,664	28	6,567	.25
1972	17,801	651	4	17,169	.04
1973	16,230	1,873	12	12,792	.15
1974	24,851	5,571	22	22,593	.25
1975	8,067	1,268	16	8,593	.15
1976	8,514	2,663	31	9,597	.27

Notation: POP is Pacific ocean perch; mt is metric tons.

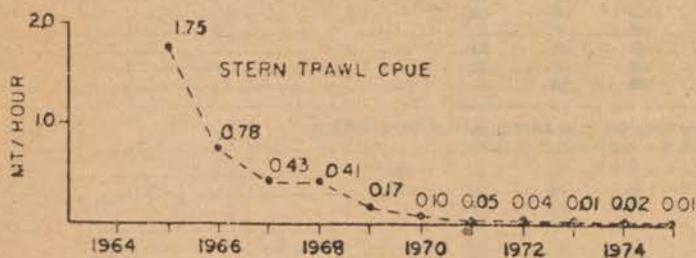
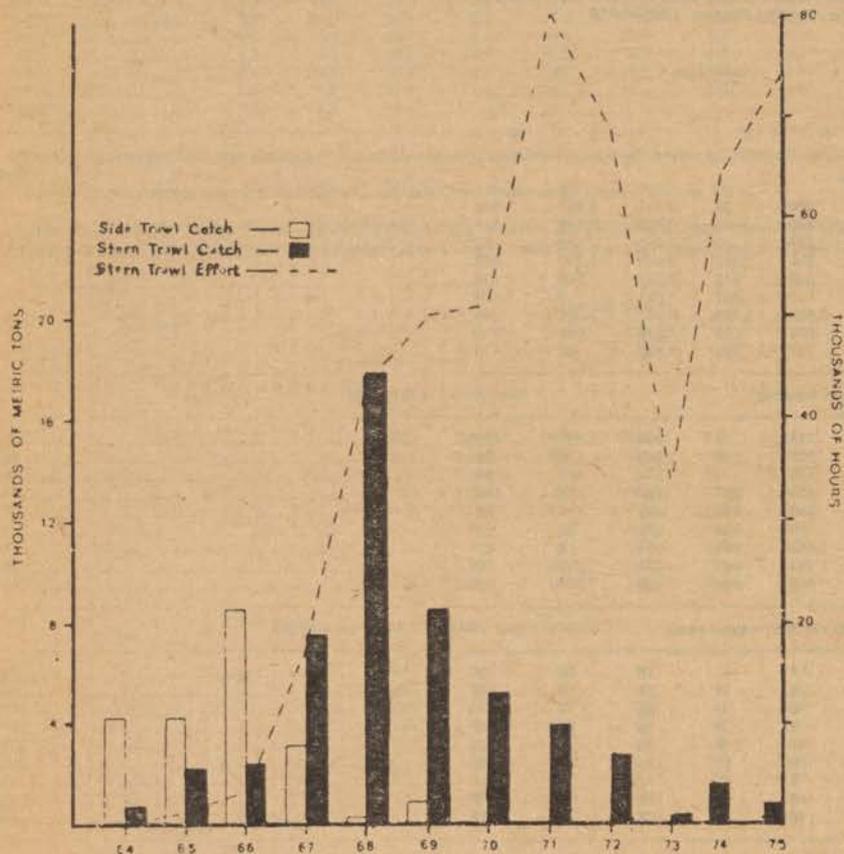


Figure 1.7.—Annual catches of Pacific ocean perch by side and stern trawlers, and stern trawl effort by the Japanese mother-ship, longline, and North Pacific trawl fisheries, in areas of the Eastern Slope Region where depths exceed 125 meters.

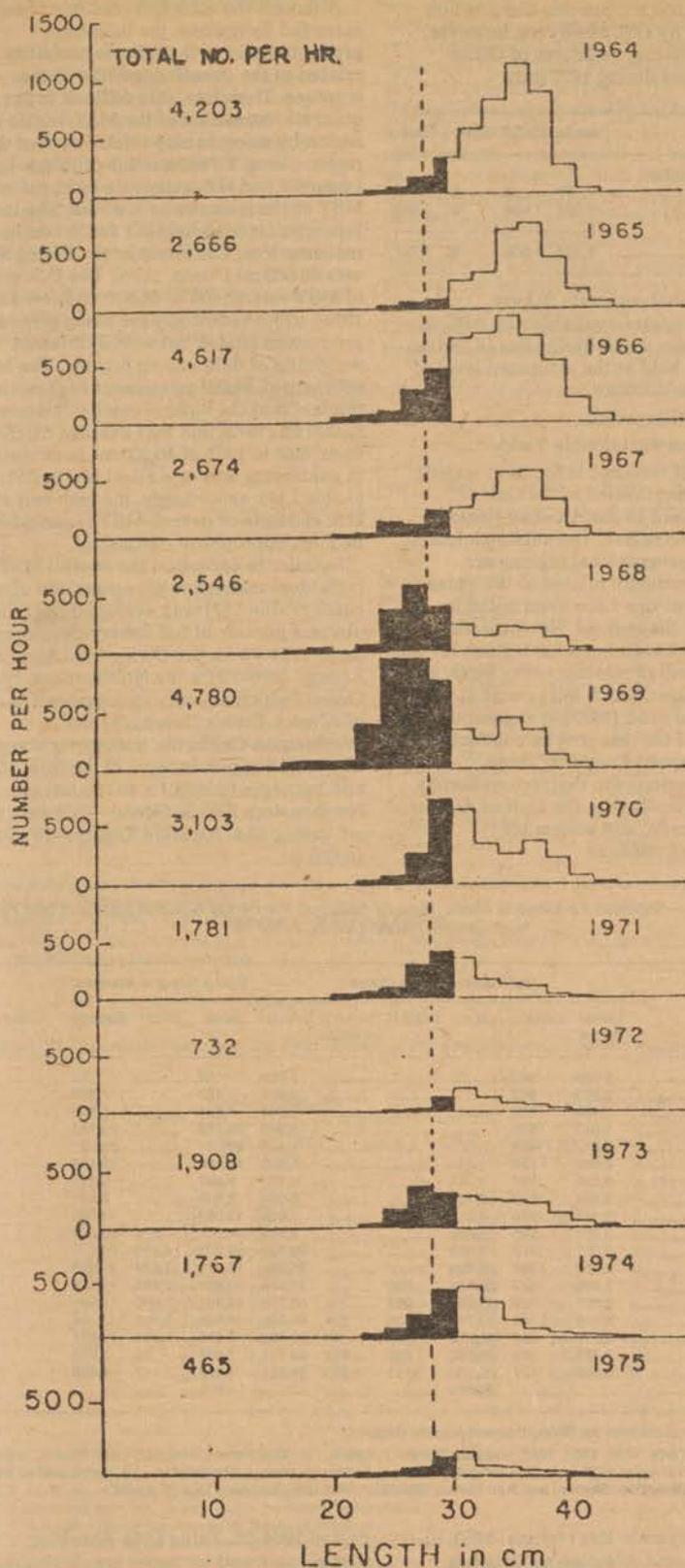


Figure I. 8.--Catch per unit effort by size increment for Pacific ocean perch harvested by stern trawlers of the Japanese mothership-longline North Pacific trawl fishery in the Aleutian Region, 1964-75.

Current length-frequency information also indicates a poor condition of ocean perch stocks in the Aleutian Region. In the early years of the fishery (1964-67), the size composition in the Japanese catches was relatively stable and dominated by fish greater than 28 cm (Figure I.8). After that time, there was a large increase in the proportion of fish smaller than 28 cm, due in part to recruitment into the fishery of the strong year-classes of 1961 and 1962 and in part because of a considerable reduction in abundance of the larger perch after 1967. The abundance of these older fish remained low through 1975. Inasmuch as most annual yields since 1967 have consisted of large numbers of fish less than 28 cm and dwindling numbers of older, more fecund fish, the reproductive potential of Aleutian Region ocean perch stocks must also have been reduced. Additionally, recruitment of ocean perch to the fishery occurs at about 6-8 years of age. Thus, year-classes spawning during the peak years of fishing (1964-1966) would have appeared in catches beginning in 1970. As shown by CPUE values for small fish (less than 28 cm) in 1970-75, recruitment was relatively low. Indeed, the 1975 catch rates, measured in terms of number of fish caught per hour trawled, was the lowest on record (Figure I.8).

In summary, it appears clearly evident that Pacific ocean perch stocks from the eastern Bering Sea and the Aleutian regions are at an extremely low level of abundance with no evidence of strong recruitment in recent years. On the basis of fishery information through 1974, it was estimated in the 1977 PMP for the Trawl Fishery of the Bering Sea that equilibrium yield for Pacific ocean perch was 6,500 mt in the eastern Bering Sea and 15,000 mt in the Aleutians. Based on fishery information available since then, no increase in exploitable biomass has occurred.

No information is available which bears on the EY of the other rockfish species.

### I.6.3 Acceptable Biological Catch

The Pacific ocean perch stocks of the Bering Sea/Aleutian Region are badly depleted—current equilibrium yield is believed to be no more than 20 percent of MSY. Therefore, as was the case in the Gulf of Alaska, the ABC of Pacific ocean perch will be set at half of the current EY in order to balance the need for rebuilding against severe economic dislocation in the foreign trawl fisheries—3,250 mt in the eastern Bering Sea sub-area (Statistical Areas I, II, and III combined) and 7,500 mt in the Aleutian sub-area (Statistical Area IV).

The lack of biological data concerning Other Rockfish requires a more pragmatic consideration of ABC. For this species category, there is virtually no information available bearing on stock abundance or condition. Furthermore, the catch record for this category is incomplete and believed to suffer from past misidentifications or misreportings among the POP and Other Rockfish categories.

The Japanese trawl industry reports that in 1977 the Japanese catch of Other Rockfish in the Bering Sea/Aleutian Region was 11,747 mt and that if the other foreign fisheries in the Region had a similar species composition the total catch of Other Rockfish would have

been about 19,000 mt. Species composition data collected by U.S. observers, however, lead to the following estimates of Other Rockfish catches during 1977 (mt):

	Japan	U.S.S.R.	ROK	Total
Eastern Bering Sea (Stat. areas I, II, III).....	47	0	0	47
Aleutian (stat. area IV).....	6,084	1,596	0	7,680
Total.....	6,131	1,596	0	7,727

Until additional, accurate fishery information becomes available, the ABC of Other Rockfishes in the Bering Sea/Aleutian Region will be held at the estimated level of the 1977 catch—7,727 mt.

### L.7 Sablefish (Blackcod)

#### L.7.1 Maximum Sustainable Yield

The sablefish resource is found in waters off California, northward to the Gulf of Alaska, westward to the Aleutian Region, and into the Bering Sea. The sablefish found in these wide geographical regions are apparently genetically related in the sense that some migrations have been noted to occur between the regions. However, the degree of interchange between regions is noted to be small in relation to the stock size within each region which led Low et al. (1976) and Weststad et al. (1977) to suggest that management of the resource be conducted by discrete geographical regions. These geographical regions are the eastern Bering Sea, the Aleutian Region, the Gulf of Alaska, waters off Canada, and waters off Washington to California.

Although the sablefish resource should be managed by regions, the long-term productivity in each region is probably related to the overall condition of the resource. Therefore, it is difficult to get an accurate estimation of the MSY within each region by using fishery information of that region alone. To reduce this problem, both Japanese and U.S. scientists have estimated MSY of the resource as a whole. The latest Japanese estimate of MSY for the entire resource from California to the Bering Sea was 69,000 mt (Anon. 1978). The U.S. estimate of MSY was 42,600 to 46,500 mt (Low et al. 1976), using essentially the same general production model, but with a different weighting of data among regions. The MSY estimate of 69,000 mt appears high in view of the fact that the highest catch in history was 65,500 mt (1972) and that average catches from 1968 to 1975 of 48,200 mt have resulted in continuing and rapid declines in CPUE (Table I.17); accordingly, the high end of the U.S. estimate of overall MSY is considered to be most appropriate—46,500 mt.

In order to apportion the overall MSY to individual management regions, the all-nation catch (Table I.17) was averaged over the obvious periods of full fishery development in each: 1961-75 for the Bering Sea/Aleutian Region; 1970-75 for the Northeastern Pacific Ocean (which actually encompasses the Gulf of Alaska, British Columbia, and Washington-California management regions). The resulting percentages of the total MSY and tonnages (percent x 46,500 mt) are: Northeastern Pacific Ocean—71% and 33,000 mt; Bering Sea/Aleutian Region—29% and 13,500 mt.

Table I.17.—Sablefish Landings in Metric Tons by Nation in the Bering Sea and Aleutians and the Northeastern Pacific Ocean, 1958-76

Year	Northeastern Pacific Ocean					Bering Sea and Aleutians			Grand total
	United States	Canada	Japan	U.S.S.R.	Republic of Korea	Japan	USSR	Subtotal	
1958.....	2,586	383	.....	.....	.....	2,969	32	32	3,001
1959.....	3,989	382	.....	.....	.....	4,351	393	393	4,744
1960.....	5,136	705	.....	.....	.....	5,841	1,861	1,861	7,702
1961.....	3,040	306	.....	.....	.....	3,346	26,182	26,182	29,528
1962.....	4,017	428	.....	.....	.....	4,445	28,521	28,521	32,966
1963.....	2,932	396	1,681	.....	.....	5,009	18,404	18,404	23,413
1964.....	3,659	637	1,041	.....	.....	5,337	9,237	9,237	14,574
1965.....	3,304	649	2,107	.....	.....	6,060	8,600	8,600	14,660
1966.....	3,142	970	3,514	.....	.....	7,626	13,088	13,088	20,714
1967.....	3,208	591	5,660	.....	.....	9,459	14,840	274	24,523
1968.....	2,027	577	17,592	.....	.....	20,196	16,258	4,256	20,514
1969.....	2,762	391	22,808	.....	.....	25,961	18,813	1,579	20,392
1970.....	2,935	327	28,632	980	.....	32,874	10,904	2,874	13,778
1971.....	2,887	328	29,293	762	.....	33,270	14,981	3,000	17,981
1972.....	5,636	1,104	38,714	834	308	46,596	16,538	2,406	18,944
1973.....	5,710	966	32,519	230	58	39,483	9,270	1,354	10,624
1974.....	6,998	504	26,595	202	2,431	33,715	7,587	91	7,678
1975.....	8,629	927	26,370	113	16,000	38,621	4,922	117	5,039
1976.....	.....	.....	26,802	.....	.....	.....	4,840	.....	.....

<sup>1</sup> Includes some catch from the Bering Sea and Aleutian Regions.

Source: INPFC Docs. 1776, 1831, 1883, and pers. comm. T. Sasaki, Far Seas Fishery Research Lab., Shimizu, Japan. ROK and USSR data for 1974 and 1975 from data submitted to the U.S. through bilateral agreements. U.S. and Canadian data from PFMC Data Series, Groundfish Section, and from Fishery Statistics of the U.S., Technical Digests 49-67.

To further separate this regional MSY to the Bering Sea and Aleutian subareas, a similar calculation was made (using the

period 1964-76, Table I.18). Resulting percentages and tonnages are: Bering Sea—

86% and 11,600 mt; Aleutian—14% and 1,900 mt.

### 1.7.2 Equilibrium Yield

Catch and CPUE trends clearly indicate that sablefish stocks in the eastern Bering Sea/Aleutian Region are considerably reduced in abundance when compared to earlier years of the fishery. CPUE data analyzed by different procedures by U.S. and Japanese scientists both show declining trends in catch rates (Table I.19) but the trends in the U.S. analysis are much more severe.

The main difference in CPUE computation was the selection of appropriate fishing effort. Without detailed fishing operation

data available to them, U.S. scientists attributed all longline fishing effort towards catching sablefish since that is the target species of the fishery. Japanese scientists selected only that portion of the time spent fishing by excluding time spent for travelling, loading, weathering storms, repairs, and other activities not considered to be associated with production fishing. Differences in resultant CPUE's can not yet be rectified but it is important to note that even though the sablefish catch in the Region during 1973-75 was only 43 percent of the average for the preceding five years (7,800 vs 18,300 mt), averages for eight of the nine CPUE indicators shown in Table I.19 were lower (some substantially so) during the

latter period than during the former. Furthermore, all CPUE indicators continued downward during 1976-77. In other words, even though average annual catch has been reduced more than 50 percent since 1972, abundance (as reflected by CPUE) has continued to decline.

Clearly, an average catch of 7,800 mt cannot currently be sustained by the standing stock of sablefish in the Bering Sea/Aleutian Region.

Considering that the declines in CPUE trends appear to have been less severe in 1976 and 1977, catch levels during that period may be close to the current equilibrium yield. The average catch was about 5,000 mt, 3,500 mt in the Bering Sea Area and 1,500 mt in the Aleutian Area.

### 1.7.3 Acceptable Biological Catch

Sablefish stocks in this Region have been overfished and are not now capable of producing MSY. Although the source of recruitment to these stocks is not known, neither eggs nor larvae of sablefish have been detected in the Region. It is possible, therefore, that recruitment comes from spawning in the Gulf of Alaska. If so, rebuilding of abundance will be a function of healthy spawning stocks in the Gulf rather than in the Bering Sea/Aleutian Region. Therefore, ABC is considered equivalent to EY—3,500 mt in the Bering Sea Area, 1,500 mt in the Aleutian Area.

### 1.8 Atka Mackerel

#### 1.8.1 Maximum Sustainable Yield

The fishery for Atka mackerel is relatively new and is conducted primarily by the USSR. The main fishing area is the western Aleutian Islands, with small amounts taken in the eastern Bering Sea. The entire catch history of Soviet catches is as follows:

#### Year and Catch

1970, 949; 1971, 0; 1972, 5,907; 1973, 1,712; 1974, 1,377; 1975, 13,326; 1976, 13,126; 1977, 20,975.

From the fishery data, it is difficult to approximate MSY. The only source of information that would suggest an MSY level greater than the maximum catch to date of 21,000 mt in 1977 is that provided verbally by Soviet scientists: several large concentrations of Atka mackerel were noted in the Aleutian Region, and from hydroacoustic and trawl samples were estimated to total at least 100,000 mt. From this biomass figure, it was inferred that MSY would equal one-third of the standing stock, or 33,000 mt. Because neither the Soviet data nor the analytical procedures used to estimate biomass and sustainable yield have been made available to scientists of other countries, those estimates must be considered provisional.

#### 1.8.2 Equilibrium Yield

Annual catches of this species have increased from less than 1,000 mt to over 21,000 mt since 1970. Catch rate information

Table I.18.—Historical Catches of Sablefish in Metric Tons by Area and Nation, 1958-76

Year	Bering Sea			Aleutian Region		
	Total	Japan <sup>1</sup>	USSR	Total	Japan <sup>1</sup>	USSR
1958	32	32	(?)	(?)	(?)	(?)
1959	393	393	(?)	(?)	(?)	(?)
1960	1,861	1,861	(?)	(?)	(?)	(?)
1961	26,182	26,182	(?)	(?)	(?)	(?)
1962	28,521	28,521	(?)	(?)	(?)	(?)
1963	18,404	18,404	(?)	(?)	(?)	(?)
1964	8,262	8,262	975	975		
1965	8,240	8,240	360	360		
1966	11,981	11,981	1,107	1,107		
1967	13,731	13,457	274	1,383	1,383	
1968	18,853	14,597	4,256	1,661	1,661	
1969	18,588	17,009	1,579	1,804	1,804	
1970	12,501	9,627	2,874	1,277	1,277	
1971	15,240	12,410	2,830	2,741	2,571	170
1972	15,368	13,231	2,137	3,576	3,307	269
1973	7,615	6,395	1,220	3,009	2,875	134
1974	5,158	5,081	77	2,520	2,506	14
1975	3,422	3,384	38	1,617	1,538	79
1976	*3,411	3,267	29	*1,705	1,573	61

<sup>1</sup> Japanese catch is reported by fishing year (November-October); all other catches are reported by calendar year.

\* Included in the Bering Sea catch totals.

<sup>2</sup> Includes catches by ROK, 115 mt in Bering Sea and 71 mt in Aleutian.

Source: INPFC Document 1883 and pers. comm., T. Sasaki, Far Seas Fishery Research Lab., Shimizu, Japan. USSR 1975 data from U.S.-USSR fishery statistic exchange.

Table I.19.—Sablefish Catch per Unit Effort Trends in the Eastern Bering Sea and Aleutian Region

Year	Eastern Bering Sea				Aleutian Region				
	CPUE 1	CPUE 2	CPUE 3	CPUE 5	CPUE 1	CPUE 2	CPUE 3	CPUE 4	CPUE 5
1964	61	93	2.4		139	141	3.1		
1965	54	105	3.0		110	183	4.1		
1966	139	166	4.5		229	233	6.3		
1967	210	216	6.2	151	277	275	7.1		154
1968	143	140	5.1	134	165	161	5.9		259
1969	189	187	6.9	142	184	183	7.1		318
1970	231	241	8.7	50	189	241	9.4		112
1971	120	185	5.8	76	165	202	9.4	4.5	222
1972	50	117	3.3	62	203	206	11.6	11.8	123
1973	47	148	6.0	41	192	204	7.7	4.6	115
1974	141	164	7.4	24	187	208	7.8	4.4	44
1975	68	131	4.9	13	98	168	6.0	1.8	30
1976	71	147	5.6	6	78	114	4.5		7
1977			5.4			108	4.0	1.1	

CPUE 1: U.S. estimate, kg per 10 hachi longline units.

CPUE 2: Japanese estimate, kg per 10 hachi longline units.

CPUE 3: Japanese estimate, mt per vessel-day fishing by longliners.

CPUE 4: U.S. estimate, mt per vessel-day fishing by longliners.

CPUE 5: U.S. estimate, kg per hour trawling by land-based stern trawlers.

Data Sources: CPUE 1, CPUE 4, and CPUE 5 from Low (1977)—U.S. document on sablefish submitted to INPFC; CPUE 2 and CPUE 3 from Anonymous (1978)—Report of U.S.-Japan meeting on status of stocks.

is available only for 1977 and 1978 (from U.S. observers aboard Soviet trawlers); catch per hour, for vessels on which Atka mackerel was the target species, averaged 3.9 and 4.1 mt, respectively. By itself, this information could be interpreted to indicate no substantial change in abundance from 1977 to 1978 when annual catches were in excess of 20,000 mt. Two factors, however, must be evaluated before this indication can be considered conclusive.

First, size and age data taken by U.S. observers aboard Soviet vessels in both 1977 and 1978 show the bulk of the catch to have been 2-3 year-olds, whereas Soviet research off Kamchatka indicates that this species lives to at least 11 years of age. The lack of older fish in this developing fishery is of concern.

Second, observations of Soviet commercial fisheries and U.S. trawl surveys indicate that Atka mackerel occur in rather large concentrations. The sparse catch per hour information available provides some insight into the density of such concentrations but does not necessarily reflect the size or number of concentrations and, therefore, might not necessarily be indicative of overall abundance.

In light of the above, it is neither possible to estimate EY nor to determine whether current EY is equal to or less than MSY.

#### I.8.3 Acceptable Biological Catch

In the PMP for 1977 and 1978, the allowable catch of this species was set at 24,800 mt, 75 percent of the unverified Soviet estimate of MSY of 33,000 mt. The information currently available provides no biological basis for changing the allowable catch in 1979; accordingly ABC is considered equivalent to the 1977-78 total allowable catch of 24,800 mt.

#### I.9 Squid

##### I.9.1 Maximum Sustainable Yield

Virtually nothing is known about the status of the squid resource except that the current catch of about 10,000 mt does not seem large for a resource that occupies a low trophic level in the food chain and is known to be very abundant throughout the world's oceans. Therefore, it is assumed that this resource is in very good condition and that MSY is at least 10,000 mt.

##### I.9.2 Equilibrium Yield

Catches of 10,000 mt are believed to be sustainable.

##### I.9.3 Acceptable Biological Catch

ABC is equivalent to the minimal estimate of MSY—10,000 mt.

#### I.10 Pacific Halibut

##### I.10.1 Maximum Sustainable Yield

Dunlop et al. (1964) estimated that MSY was about 3,000 mt (round weight) in the southeastern Bering Sea (IPHC Areas 4A and 4B).

Historically, this area has been the most productive for the North American setline fishery, and the MSY for the entire eastern Bering Sea (east of 175°W) probably is no more than 5,000 mt. Estimates of MSY are not available for the western Bering Sea as the North American setline catch in this area has been minor (less than 300 mt). Relatively large catches of halibut (over 3,000 mt) in the

western Bering Sea were reported by the Japanese setline fishery in the early 1960s. MSY has not been estimated for the Aleutian area; stocks are small relative to those in the Bering Sea and are considered to be a component of stocks in the Gulf of Alaska.

##### I.10.2 Equilibrium Yield

Halibut stocks have declined sharply in the eastern Bering Sea since the early 1960's. This is indicated by a decline in CPUE in the North American setline fishery (IPHC 1977) and by IPHC surveys of juvenile halibut (Best 1977). Since 1970, stocks of adult halibut appear to have stabilized at a low level and the North American setline catch has averaged about 300 mt. The incidental catch of juvenile halibut in the eastern Bering Sea peaked in 1971 at about 7,000 mt but has declined since then. Recent surveys indicate an increase in the abundance of juveniles, but abundance is still below that in the early 1960's and the increase will not benefit the setline fishery for several years. Therefore, the equilibrium yield available to the North American setline fishery probably is about the same as the present level of catch, and is well below MSY.

The EY in the western Bering Sea and Aleutians is unknown but probably substantially below MSY.

##### I.10.3 Acceptable Biological Catch

ABC and OY for Pacific halibut are not applicable to this Plan.

##### I.11.1 Other Included Species ("Others")

This category includes all species of finfishes taken by trawls and setlines *except* pollock, rockfishes, soles and flounders, sablefish, cod, Atka mackerel, herring, and salmon.

Virtually nothing is known of the population structure, biological attributes, or potential yield of the individual components of this category; therefore, only a pragmatic appraisal of "MSY" is possible.

During the last 5 years of record, the catch of this category has averaged about 4 percent with highs of 5-to-8 percent of the combined catch of the other, specified groundfish species. During that period, no indication of declining abundance has been noted; accordingly, it is assumed that the aggregation of stocks in the "others" category can sustain removals equal to at least 4 percent of the total catch of the specified species as long as that catch remains less than the 1972 peak of 2,234,500 mt.

Accordingly, "MSY" of this category is considered to be  $-0.04 \times 2,234,500 = 89,400$  mt.

##### I.11.2 Equilibrium Yield

"MSY" is believed attainable.

##### I.11.3 Acceptable Biological Catch

ABC is considered equal to 5 percent of the combined ABC of specified species which will be:  $0.05 \times 1,484,977 = 74,248$  metric tons.

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## Annex II

### Derivation of Expected Domestic Annual Harvesting Capacity

#### Annex II.1 Expected Domestic Annual Processing Capacity (DAP)

The western Alaska Peninsula and the Aleutian Islands are two of the more expensive locations for business to be conducted in Alaska. It was not surprising to learn during the survey that most of the plant owners in the area either had no firm plans to commence groundfish operations, or were developing in-house experience and expertise at other locations on the coast where costs are considerably less.

Perhaps even more surprising was the magnitude of the amount of product anticipated by the three processors who indicated that they planned to process groundfish. Their combined <sup>1</sup> estimate of expected domestic annual harvest of Bering Sea/Aleutian groundfish is as follows:

	Metric tons
Pollock	10,000
Pacific cod	7,000
Rockfishes (eastern Bering Sea)	1,100
(Aleutian)	1,100
Yellowfin sole	1,000
Turbots	1,000
Other flounders	1,000
Sablefish (eastern Bering Sea)	500
(Aleutian)	500
Others	1,400
Total	24,600

#### II.2 Estimate of U.S. Harvest of Fish for Non-Processed Markets (DNP)

Surveys of the needs for bait and subsistence fish were made through interviews with fishermen, processors and

<sup>1</sup> Individual company projections are not given here because of the proprietary nature of that data.

villagers. The expected catch is approximately 1,500 metric tons in the following categories:

	Metric tons
Pollock	500
Pacific cod	200
Yellowfin sole	200
Other flatfishes 200	
Others	400
Total	1,500

#### II.3 Derivation of Expected U.S. Harvest Delivered to Foreign Processors (JVP)

Testimony at the June, 1979 Council meeting indicated an interest by both domestic fishermen and foreign at-sea processors for developing a "joint venture" fishery for groundfish in the Bering Sea/Aleutian region during the plan year. A subsequent telephone canvass of those operators expressing interest in buying fish from American fishermen for foreign processors at-sea developed the following estimates:

	Metric tons
Pollock	70,000
Cod	20,000
Yellowfin sole	5,000
Turbots	500
Other flatfishes	1,500
Pacific ocean perch	2,200
Rockfish	950
Sablefish	900
Atka mackerel	1,350
Squid	500
Others	1,700
Total	30K

#### Annex III.—Derivation of Total Allowable Level of Foreign Fishing (TALFF)

(Metric tons)

Reference: Species group	Subarea <sup>1</sup>	Annex I, ABC=OY	Section 13.1 reserve	Annex II, initial DAH	Initial TALFF
Pollock	Bering Sea	1,000,000	50,000	19,550	930,450
Pollock	Aleutian	100,000	( <sup>2</sup> )		100,000
Yellowfin sole		117,000	5,850	2,050	109,100
Turbots		90,000	4,500	1,075	84,425
Other flatfishes <sup>3</sup>		61,000	3,050	1,300	56,650
Pacific cod		58,700	2,935	24,265	31,500
Pacific ocean perch	Bering Sea	3,250	162	1,380	1,708
Pacific ocean perch	Aleutian	7,500	375	1,380	5,745
Other rockfish		7,727	500	1,550	5,677
Sablefish	Bering Sea	3,500	350	700	2,450
Sablefish	Aleutian	1,500	150	700	650
Atka mackerel		24,800	1,240	100	23,460
Squid		10,000	500	50	9,450
Others		74,249	3,712	2,000	68,537
Total		1,559,226	73,324	56,100	1,429,802

<sup>1</sup> BS=Bering Sea (Statistical Areas I, II, III combined). AL=Aleutian Island Area (Statistical Area IV). (Includes territorial waters.)

<sup>2</sup> Excluding Pacific halibut.

<sup>3</sup> This OY calculated for the offshore pollock population in deep water is discussed in Annex I (p. A-13). No reserve is considered necessary at this time since there is little U.S. capability for a pelagic trawl fishery and resource abundance on the continental shelf is expected to keep any U.S. effort on that component identified as "B.Sea."

#### Annex IV-A.—All-Nation Catches in the Bering Sea/Aleutian Region, by Major Species Groups, for the Last 10 Years of Record (1,000 Metric Tons)<sup>1</sup>

Species	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978 <sup>2</sup>
Pollock	702	863	1,257	1,744	1,875	1,759	1,588	1,357	1,238	888.2	921.3
Pacific cod	63.7	53.3	74.6	50.5	47.0	58.6	67.0	55.1	57.8	36.5	37.3
Pacific Ocean perch	76.4	53.3	76.8	31.6	38.9	15.5	36.5	25.2	32.6	10.8	7.4
Sablefish	20.5	20.4	13.8	18.0	19.0	10.6	7.7	5.0	8.2	4.8	1.6
Halibut	7.1	6.3	7.7	8.6	5.9	4.3	2.2	1.6	1.2	0.6	( <sup>3</sup> )
Flounders	149.9	236.2	234.9	323.4	237.7	207.1	196.3	200.4	187.2	121.9	208.3
Atka mackerel	( <sup>4</sup> )	( <sup>4</sup> )	1.0	( <sup>4</sup> )	4.7	1.7	1.4	13.3	20.7	21.0	22.4
Others	31.5	14.4	25.9	41.5	134.7	62.3	79.9	61.9	45.6	57.3	73.9
All species	1,051.1	1,247.1	1,691.7	2,216.6	2,362.9	2,119.1	1,979.0	1,719.5	1,591.3	1,140.9	1,272.2

<sup>1</sup> Values in this table may differ slightly from those used elsewhere in this document because of differences in apportioning between species not clearly listed in foreign statistical reports or differences in treating estimates based on U.S. surveillance when catches were not reported.

<sup>2</sup> Preliminary.

<sup>3</sup> Catch, if any, included under "Others".

<sup>4</sup> Unknown at this time.

The amount established for JVP is therefore:

	Metric tons
Pollock	9,050
Cod	17,065
Yellowfin sole	850
Turbots	75
Other flatfish	100
Pacific ocean perch	1,660
Other rockfish	450
Sablefish	400
Atka mackerel	100
Squid	50
Others	200
<b>Total</b>	<b>30,000</b>

Section 12.0 Catch and Capacity Descriptors, estimates U.S. commercial

fishing fleet capacity at 156,518 metric tons (Section 12.1.2.). Since that survey was done there has been a considerable amount of new construction capable of entering the groundfish fishery, some of it developed specifically for that fishery, that could increase that capacity figure. The DAH (DAP + DNP + JVP), as estimated in this Annex, is 56,100 mt, well below estimated fleet capacity. The performance of joint venture operations during 1979 in the Gulf of Alaska, while below expectations, clearly revealed the potential for rapid expansion. In recognition of this potential and the probable expansion of joint ventures to the Bering Sea in 1980, and consistent with the provisions of P.L. 95-354, the plan provides an initial JVP

amount of 30,000 metric tons of all species combined for the 1980 plan year. January 1-December 31, 1980. Should the performance of joint ventures fail to meet expectations or the demands of DAP exceed expectations, the JVP will be reduced accordingly. The JVP and DAP surpluses not required in the DAH will be made available to the TALFF during the plan year as indicated in Section 12.2.

#### Annex IV

A. All-nation catch in the Bering Sea/Aleutian Region, by major species groups, for the last 10 years of record.

B. Detailed statistics of the foreign fisheries in the Aleutian area, 1962-77.

C. Detailed statistics of the foreign fisheries in the eastern Bering Sea, 1954-77.

Annex IV-B.—Foreign Catches of Groundfish in the Aleutian Island Region (170° W. to 170° E.) by Calendar Year, 1962-76<sup>1</sup>

Species and nation	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976 <sup>1</sup>
<b>Pollock:</b>															
Japan	6	1,359	543	663	1,102	1,359	2,680	512	178	624	571	848	1,318	1,519	551
U.S.S.R.	—	—	—	—	—	—	—	726	9,490	2,535	866	9,628	21,346	12,262	3,673
ROK	0	0	0	0	0	—	—	—	—	—	—	—	—	—	344
<b>Total</b>	<b>6</b>	<b>1,359</b>	<b>543</b>	<b>663</b>	<b>1,102</b>	<b>1,359</b>	<b>2,680</b>	<b>1,238</b>	<b>9,668</b>	<b>3,159</b>	<b>1,437</b>	<b>10,476</b>	<b>22,664</b>	<b>13,781</b>	<b>4,568</b>
<b>Pacific cod:</b>															
Japan	26	601	241	451	154	274	289	220	283	425	435	566	1,334	2,581	3,475
U.S.S.R.	—	—	—	—	—	—	—	—	—	1,653	—	411	45	257	312
ROK	0	0	0	0	0	—	—	—	—	—	—	—	—	—	16
<b>Total</b>	<b>26</b>	<b>601</b>	<b>241</b>	<b>451</b>	<b>154</b>	<b>274</b>	<b>289</b>	<b>220</b>	<b>283</b>	<b>2,078</b>	<b>435</b>	<b>977</b>	<b>1,379</b>	<b>2,838</b>	<b>3,803</b>
<b>Pacific ocean perch and other rockfish:</b>															
Japan	214	7,636	29,377	38,204	28,733	10,285	23,889	15,641	14,173	14,809	6,789	9,793	22,317	9,528	9,808
U.S.S.R.	—	20,000	61,000	71,000	57,700	45,720	26,584	23,172	53,274	7,190	24,595	3,017	824	8,147	6,951
ROK	0	0	0	0	0	—	—	—	—	—	—	—	—	—	33
<b>Total</b>	<b>214</b>	<b>27,636</b>	<b>90,377</b>	<b>109,204</b>	<b>86,433</b>	<b>56,005</b>	<b>50,473</b>	<b>38,813</b>	<b>64,447</b>	<b>21,999</b>	<b>33,384</b>	<b>12,810</b>	<b>23,141</b>	<b>17,675</b>	<b>16,792</b>
<b>Blackcod:</b>															
Japan	—	639	1,496	1,224	1,321	1,608	1,676	1,667	1,246	2,700	3,308	2,690	2,451	1,624	1,424
U.S.S.R.	—	—	—	—	—	—	—	—	—	170	269	162	14	79	81
ROK	0	0	0	0	0	—	—	—	—	—	—	—	—	—	71
<b>Total</b>	<b>—</b>	<b>639</b>	<b>1,496</b>	<b>1,224</b>	<b>1,321</b>	<b>1,608</b>	<b>1,676</b>	<b>1,667</b>	<b>1,246</b>	<b>2,870</b>	<b>3,577</b>	<b>2,852</b>	<b>2,465</b>	<b>1,703</b>	<b>1,556</b>
<b>Atka mackerel:</b>															
Japan	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
U.S.S.R.	—	—	—	—	—	—	—	—	—	—	4,515	1,604	1,377	12,078	20,092
ROK	0	0	0	0	0	—	—	—	—	—	—	—	—	—	
<b>Total</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>4,515</b>	<b>1,604</b>	<b>1,377</b>	<b>12,078</b>	<b>20,092</b>
<b>Yellowfin sole:</b>															
Japan	—	2	61	92	98	18	6	20	9	1	—	—	—	—	15
U.S.S.R.	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
ROK	0	0	0	0	0	—	—	—	—	—	—	—	—	—	—
<b>Total</b>	<b>—</b>	<b>2</b>	<b>61</b>	<b>92</b>	<b>98</b>	<b>18</b>	<b>6</b>	<b>20</b>	<b>9</b>	<b>1</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>15</b>
<b>Rock sole:</b>															
Japan	—	27	152	147	82	25	17	2	2	1	5	2	36	3	21
U.S.S.R.	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
ROK	0	0	0	0	—	—	—	—	—	—	—	—	—	—	—
<b>Total</b>	<b>—</b>	<b>27</b>	<b>152</b>	<b>147</b>	<b>82</b>	<b>25</b>	<b>17</b>	<b>2</b>	<b>2</b>	<b>1</b>	<b>5</b>	<b>2</b>	<b>36</b>	<b>3</b>	<b>21</b>
<b>Flathead sole:</b>															
Japan	—	14	43	128	25	32	186	2	11	16	4	24	41	1	8
U.S.S.R.	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
ROK	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
<b>Total</b>	<b>—</b>	<b>14</b>	<b>43</b>	<b>128</b>	<b>25</b>	<b>32</b>	<b>186</b>	<b>2</b>	<b>11</b>	<b>16</b>	<b>4</b>	<b>24</b>	<b>41</b>	<b>1</b>	<b>8</b>

Annex IV-B.—Foreign Catches of Groundfish in the Aleutian Island Region (170° W. to 170° E.) by Calendar Year, 1962-76<sup>1,2</sup>—Continued

Species and nation	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976 <sup>3</sup>
<b>Alaska plaice:</b>															
Japan.....	—	—	45	41	—	—	—	—	—	—	—	—	—	—	—
U.S.S.R.....	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
ROK.....	0	0	0	0	0	—	—	—	—	—	—	—	—	—	—
Total.....	—	—	45	41	—	—	—	—	—	—	—	—	—	—	—
<b>Halibut:</b>															
Japan.....	1	67	681	1,268	163	215	333	331	350	387	357	245	363	145	15
U.S.S.R.....	—	—	—	—	—	—	—	—	—	—	1	4	4	3	2
ROK.....	0	0	0	0	0	—	—	—	—	—	—	—	—	—	—
Total.....	1	67	681	1,268	163	215	333	331	350	387	358	249	367	148	17
<b>Arrowtooth flounder:</b>															
Japan.....	—	—	—	—	—	—	—	—	274	581	1,323	3,705	3,195	784	59
U.S.S.R.....	—	—	—	—	—	—	—	—	—	—	—	—	—	—	1,285
ROK.....	—	—	—	—	—	—	—	—	—	—	—	—	—	—	8
Catches of Arrowtooth flounder and Greenland Turbot combined until 1970															
Total.....	—	—	—	—	—	—	—	—	274	581	1,323	3,705	3,195	784	1,350
<b>Greenland turbot:</b>															
Japan.....	—	7	504	300	63	394	213	228	285	1,750	12,874	8,666	8,788	2,970	1,113
U.S.S.R.....	—	—	—	—	—	—	—	—	—	—	—	—	—	—	112
ROK.....	0	0	0	0	0	—	—	—	—	—	—	—	—	—	5
Total.....	—	7	504	300	63	394	213	228	285	1,750	12,874	8,666	8,788	2,970	1,230
<b>Other groundfish:</b>															
Japan.....	—	513	66	768	131	563	318	2,361	1,181	2,753	3,028	2,630	7,998	8,110	5,630
U.S.S.R.....	—	—	—	—	—	7,979	8,630	727	9,490	220	19,419	1,614	1,726	178	326
ROK.....	0	0	0	0	0	—	—	—	—	—	—	—	—	—	241
Total.....	—	513	66	768	131	8,542	8,948	3,088	10,671	2,973	22,447	4,244	9,724	8,288	6,197
<b>All groundfish total:</b>															
Japan.....	247	10,865	33,209	43,286	31,872	14,773	29,608	20,984	17,992	24,047	30,694	29,169	47,841	27,265	22,119
U.S.S.R.....	—	20,000	61,000	71,000	57,700	53,699	35,214	24,625	72,254	11,768	49,665	16,440	25,336	33,004	32,814
ROK.....	0	0	0	0	0	—	—	—	—	—	—	—	—	—	716
All nations total.....	247	30,865	94,209	114,286	89,572	68,472	64,821	45,609	90,246	35,815	80,359	45,609	73,177	60,269	55,649

<sup>1</sup> Catch statistics up to 1963 from Forrester et al. 1974 and for 1964-76 from data on file, Northwest and Alaska fisheries center, with the following exceptions: Pacific ocean perch and other rockfish—U.S.S.R. catches for 1963-66 from Chikuni 1975; all flounders except halibut—all national catches, 1963-75 from Wakabayashi and Bakkala 1977.  
<sup>2</sup> 0 indicates no fishing, — indicates fishing, but no catch reported.  
<sup>3</sup> Japanese catches for November and December 1976 not included; 1976 catches of flounders (except halibut) by U.S.S.R. and ROK prorated to species based on species composition in Japanese catch.

Annex IV B.—Foreign Catches of Groundfish in the Aleutian Island Region (170° W. to 170° E.) by Calendar Year, 1976-77.<sup>1,2</sup>—Continued

Species and nation	1976	1977 <sup>3</sup>	Species and nation	1976	1977 <sup>3</sup>
<b>Pacific ocean perch and other rockfish:</b>					
Japan.....	11,204	12,708	Japan.....	14	100
U.S.S.R.....	6,951	786	U.S.S.R.....	110	—
ROK.....	33	87	ROK.....	—	—
ROC.....	0	2	ROC.....	0	—
Total.....	18,188	13,583	Total.....	124	100
<b>Pollock:</b>					
Japan.....	1,015	5,870			
U.S.S.R.....	3,673	1,619			
ROK.....	344	325			
ROC.....	0	15			
Total.....	5,032	7,829			
<b>Pacific cod:</b>					
Japan.....	3,862	3,162			
U.S.S.R.....	312	100			
ROK.....	18	—			
ROC.....	0	—			
Total.....	4,190	3,262			
<b>Blackcod:</b>					
Japan.....	1,569	1,768			
U.S.S.R.....	61	—			
ROK.....	71	86			
ROC.....	0	—			
Total.....	1,701	1,854			
<b>Atka mackerel:</b>					
Japan.....	5	585			
U.S.S.R.....	20,092	20,971			
ROK.....	—	—			
ROC.....	0	—			
Total.....	20,097	21,556			
<b>Yellowfin sole:</b>					
<b>Rock sole:</b>					
Japan.....	23	75			
U.S.S.R.....	71	3			
ROK.....	—	—			
ROC.....	0	—			
Total.....	94	78			
<b>Flathead sole:</b>					
Japan.....	7	37			
U.S.S.R.....	55	1			
ROK.....	—	—			

**Annex IV B.—Foreign Catches of Groundfish in the Aleutian Island Region (170° W. to 170° E.) by Calendar Year, 1976-77.<sup>1,2</sup>—Continued—Continued**

Species and nation			Species and nation		Species and nation		Species and nation	
	1976	1977 <sup>2</sup>	1976	1977 <sup>3</sup>	1976	1977 <sup>3</sup>	1976	1977 <sup>3</sup>
<b>Arrowtooth flounder:</b>			<b>Arrowtooth flounder:</b>		<b>All groundfish total:</b>			
ROC	0	—	Japan	1,375	2,297	Japan	26,452	40,307
Total	62	38	U.S.S.R.	—	9	U.S.S.R.	31,765	28,207
<b>Alaska plaice:</b>			<b>Greenland turbot:</b>					
Japan	—	—	Japan	1,953	2,981	ROC	716	498
U.S.S.R.	—	—	U.S.S.R.	112	57	ROC	0	21
ROC	—	—	ROC	6	—	All nation total	58,933	69,033
ROC	0	—	ROC	0	3			
Total	—	—	Total	2,071	3,041			
<b>Pacific halibut:</b>			<b>Other groundfish:</b>					
Japan	15	1	Japan	5,410	10,723			
U.S.S.R.	2	—	U.S.S.R.	326	4,661			
ROC	—	—	ROC	241	—			
ROC	0	—	ROC	0	—			
Total	17	1	Total	5,977	15,384			

<sup>1</sup>Catch statistics up to 1963 from Forrester et al. 1974 and for 1964-76 from data on file, Northwest and Alaska fisheries center, with the following exceptions: Pacific ocean perch and other rockfish—U.S.S.R. catches for 1963-66 from Chikuni 1975; all flounders except halibut—all national catches, 1963-75 from Wakabayashi and Bakkala 1977.

<sup>2</sup>0 indicates no fishing, — indicates fishing, but no catch reported.

<sup>3</sup>Japanese catches for November and December 1976 not included; 1976 catches of flounders (except halibut) by U.S.S.R. and ROC prorated to species based on species composition in Japanese catch.

**Annex IV-C.—Foreign Catches of Groundfish in the Eastern Bering Sea (East of 180°) by Calendar Year, 1954-76<sup>1,2</sup> (Metric Tons)**

Species and nation	1954	1955	1956	1957	1958	1959	1960	1961	1962	1963	1964	1965
<b>Pollock:</b>												
Japan	—	—	—	—	6,924	32,793	26,097	24,216	58,765	103,353	171,957	229,275
U.S.S.R.	0	0	0	0	—	—	—	—	—	—	—	—
ROC	0	0	0	0	0	0	0	0	0	0	0	0
Total	—	—	—	—	6,924	32,793	26,097	24,216	58,765	103,353	171,957	229,275
<b>Pacific cod:</b>												
Japan	—	—	—	—	171	2,864	5,679	2,448	6,054	3,879	13,408	14,722
U.S.S.R.	0	0	0	0	—	—	—	—	—	—	—	—
ROC	0	0	0	0	0	0	0	0	0	0	0	0
Total	—	—	—	—	171	2,864	5,679	2,448	6,054	3,879	13,408	14,722
<b>Pacific Ocean perch and other rockfish:</b>												
Japan	—	—	—	—	—	—	1,100	13,000	12,900	17,500	13,588	8,723
U.S.S.R.	0	0	0	0	—	—	5,000	34,000	7,000	7,000	7,000	9,000
ROC	0	0	0	0	0	0	0	0	0	0	0	0
Total	—	—	—	—	—	—	6,100	47,000	19,900	24,500	20,588	17,723
<b>Blackcod:</b>												
Japan	—	—	—	—	32	393	1,861	26,183	28,521	18,404	6,165	5,001
U.S.S.R.	0	0	0	0	—	—	—	—	—	—	—	—
ROC	0	0	0	0	0	0	0	0	0	0	0	0
Total	—	—	—	—	32	393	1,861	26,183	28,521	18,404	6,165	5,001
<b>Yellowfin sole:</b>												
Japan	12,562	14,690	24,697	24,145	39,153	123,121	360,103	399,542	281,103	20,504	48,880	26,039
U.S.S.R.	0	0	0	0	5,000	82,200	96,000	154,200	139,600	65,306	62,297	27,771
ROC	0	0	0	0	0	0	0	0	0	0	0	0
Total	12,562	14,690	24,697	24,145	44,153	185,321	456,103	553,742	420,703	85,810	111,177	53,810
<b>Rock sole:</b>												
Japan	—	—	—	—	—	—	—	—	—	1,196	1,432	1,780
U.S.S.R.	0	0	0	0	0	0	0	0	0	3,806	1,806	1,898
ROC	0	0	0	0	0	0	0	0	0	0	0	0
Total	—	—	—	—	—	—	—	—	—	5,002	3,238	3,678
<b>Flathead sole:</b>												
Japan	—	—	—	—	—	—	—	—	—	7,079	11,121	3,287
U.S.S.R.	0	0	0	0	—	—	—	—	—	22,546	14,167	3,426
ROC	0	0	0	0	0	0	0	0	0	0	0	0
Total	—	—	—	—	—	—	—	—	—	29,625	25,288	6,713
<b>Alaska plaice:</b>												
Japan	—	—	—	—	—	—	—	—	—	233	808	474
U.S.S.R.	0	0	0	0	—	—	—	—	—	742	1,030	505
ROC	0	0	0	0	0	0	0	0	0	0	0	0
Total	—	—	—	—	—	—	—	—	—	975	1,838	979
<b>Pacific halibut:</b>												
Japan	—	—	—	—	196	674	6,931	3,480	7,865	7,452	1,271	1,369
U.S.S.R.	0	0	0	0	—	—	—	—	—	—	—	—
ROC	0	0	0	0	0	0	0	0	0	0	0	0
Total	—	—	—	—	196	674	6,931	3,480	7,865	7,452	1,271	1,369

Annex IV-C—Foreign Catches of Groundfish in the Eastern Bering Sea (East of 180°) by Calendar Year, 1954-76<sup>1,2</sup> (Metric Tons)—Continued

Species and nation	1954	1955	1956	1957	1958	1959	1960	1961	1962	1963	1964	1965
Arrowtooth flounder:												
Japan												
U.S.S.R.												
ROK												
Total												
Greenland turbot:												
Japan							36,843	57,348	58,226	31,565	33,729	7,947
U.S.S.R.	0	0	0	0	0	0	0	0	0	0	0	1,800
ROK	0	0	0	0	0	0	0	0	0	0	0	0
Total							36,843	57,348	58,226	31,565	33,729	9,747
Other groundfish:												
Japan					147	380	10,260	554	5,931	1,102	736	2,218
U.S.S.R.	0	0	0	0	0	0	0	0	0	0	0	0
ROK	0	0	0	0	0	0	0	0	0	0	0	0
Total					147	380	10,260	554	5,931	1,102	736	2,218
All groundfish total:												
Japan	12,562	14,690	24,697	24,145	46,623	160,225	448,874	526,771	459,365	212,267	303,095	300,835
U.S.S.R.	0	0	0	0	5,000	62,200	101,000	168,200	146,600	99,400	86,300	44,400
ROK	0	0	0	0	0	0	0	0	0	0	0	0
All nation total	12,562	14,690	24,697	24,145	51,623	222,425	549,874	714,971	605,965	311,667	389,395	345,235
Species and nation												
	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976 <sup>3</sup>	
Pollock:												
Japan	261,694	550,152	701,124	830,525	1,231,347	1,514,030	1,616,532	1,471,189	1,250,654	1,065,078	912,728	
U.S.S.R.	—	—	—	33,571	35,590	233,511	213,895	280,005	309,613	216,567	175,539	
ROK	0	0	1,200	5,000	5,000	10,000	9,200	3,100	26,000	3,438	84,987	
Total	261,694	550,152	702,324	869,096	1,271,937	1,757,541	1,839,627	1,754,294	1,586,267	1,285,083	1,173,254	
Pacific cod:												
Japan	18,200	31,982	57,915	50,487	70,078	40,555	35,877	40,817	45,915	33,322	29,086	
U.S.S.R.	—	—	—	—	—	2,486	7,028	12,589	16,547	18,229	17,756	
ROK	0	0	—	—	—	—	—	—	—	—	716	
Total	18,200	31,982	57,915	50,487	70,078	43,041	42,095	53,386	62,462	51,551	47,558	
Pacific Ocean perch and other rockfish:												
Japan	16,786	20,598	26,214	16,150	10,392	10,369	5,837	3,147	6,811	3,716	3,163	
U.S.S.R.	9,000	—	3,087	—	—	—	150	475	31,877	16,465	12,124	
ROK	0	0	—	—	—	—	—	—	—	—	578	
Total	25,786	20,598	29,301	16,150	10,392	10,369	5,987	3,622	38,688	20,181	15,865	
Blackcod:												
Japan	9,502	10,330	10,143	14,454	8,897	12,304	10,643	4,769	4,189	2,776	2,569	
U.S.S.R.	—	1,237	4,256	1,579	2,874	2,830	2,137	1,192	77	38	29	
ROK	0	0	—	—	—	—	—	—	—	—	115	
Total	9,502	11,567	14,399	16,033	11,771	15,134	12,780	5,961	4,266	2,814	2,713	
Yellowfin sole:												
Japan	45,423	60,429	40,834	81,449	59,851	82,179	34,846	75,724	37,947	59,715	33,328	
U.S.S.R.	56,930	101,799	43,355	85,685	73,228	78,220	13,010	2,516	4,288	6,060	3,343	
ROK	0	0	—	—	—	—	—	—	—	—	635	
Total	102,353	162,228	84,189	167,134	133,079	160,399	47,856	78,240	42,235	65,775	37,306	
Rock sole:												
Japan	4,037	1,890	2,633	4,285	9,616	20,159	43,055	22,840	17,311	9,682	7,828	
U.S.S.R.	5,067	2,872	2,617	4,955	10,507	20,260	17,769	995	2,664	1,463	785	
ROK	0	0	—	—	—	—	—	—	—	—	150	
Total	9,104	4,762	5,250	9,240	20,123	40,419	60,824	23,835	19,975	11,145	8,763	
Flathead sole:												
Japan	4,996	10,621	11,851	9,168	20,088	25,538	9,850	17,190	12,889	4,873	6,911	
U.S.S.R.	6,024	12,816	9,724	9,395	21,064	25,486	5,840	951	2,028	672	692	
ROK	0	0	—	—	—	—	—	—	—	—	132	
Total	11,020	23,437	21,575	18,563	41,152	51,024	15,690	18,141	14,917	5,545	7,735	
Alaska plaice:												
Japan	2,054	1,340	1,223	3,127	1,326	517	171	1,082	2,168	2,407	2,064	
U.S.S.R.	2,579	2,513	1,396	3,815	2,076	475	119	35	220	207	207	
ROK	0	0	—	—	—	—	—	—	—	—	40	
Total	4,633	3,853	2,619	6,942	3,402	992	290	1,117	2,388	2,614	2,311	
Pacific halibut:												
Japan	2,199	3,756	2,775	2,764	1,735	4,861	955	644	81	137	87	
U.S.S.R.	—	—	—	—	—	—	490	296	123	137	58	
ROK	0	0	—	—	—	—	—	—	—	—	—	
Total	2,199	3,756	2,775	2,764	1,735	4,861	1,445	940	204	274	145	

Annex IV-C—Foreign Catches of Groundfish in the Eastern Bering Sea (East of 180°) by Calendar Year, 1954-76<sup>1,2</sup> (Metric Tons)—Continued—Continued

Species and nation	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976 <sup>3</sup>
Arrowtooth flounder:											
Japan .....					9,354	11,603	3,823	4,929	2,823	1,241	1,652
U.S.S.R. ....					3,244	7,189	9,301	4,288	18,650	19,591	16,132
ROK .....					—	—	—	—	—	—	32
Catches of Arrowtooth flounder and Greenland turbot combined until 1970					—	—	—	—	—	—	—
Total .....					12,598	18,792	13,124	9,217	21,473	20,832	17,816
Greenland turbot:											
Japan .....	10,842	21,230	19,980	19,231	14,715	30,193	49,813	43,354	58,834	52,625	17,583
U.S.S.R. ....	2,200	2,639	15,252	16,798	4,976	10,271	14,697	11,926	10,820	12,194	8,867
ROK .....	0	0	—	—	—	—	—	—	—	—	335
Total .....	13,042	23,869	35,232	36,029	19,691	40,464	64,510	55,280	69,654	64,819	26,785
Other groundfish:											
Japan .....	2,239	4,378	2,984	4,182	9,227	29,617	32,370	39,911	47,491	42,531	44,504
U.S.S.R. ....	—	—	19,074	6,277	6,068	3,879	78,523	15,915	12,770	12,314	12,294
ROK .....	0	0	—	—	—	—	—	—	—	—	322
Total .....	2,239	4,378	22,058	10,459	15,295	33,496	110,893	55,826	60,261	54,845	57,120
All groundfish total:											
Japan .....	377,972	716,706	877,676	1,035,822	1,446,626	1,781,925	1,843,772	1,725,596	1,487,113	1,278,103	1,061,503
U.S.S.R. ....	81,800	123,876	98,761	162,075	159,627	384,607	362,959	331,163	409,677	303,937	247,826
ROK .....	0	0	1,200	5,000	5,000	10,000	9,200	3,100	26,000	3,438	88,042
All nation total .....	459,772	840,582	977,637	1,202,897	1,611,253	2,176,532	2,215,931	2,059,859	1,922,790	1,585,478	1,397,371

Annex IV C.—Foreign Catches of Groundfish in the Eastern Bering Sea (East of 180°) by Calendar Year, 1976-77.<sup>1,2</sup>—Continued

Species and nation	1976	<sup>3</sup> 1977	Species and nation	1976	<sup>3</sup> 1977
Pollock:			Yellowfin sole:		
Japan .....	986,696	774,450	Japan .....	52,673	58,139
U.S.S.R. ....	175,539	63,383	U.S.S.R. ....	2,908	284
ROK .....	84,987	39,895	ROK .....	655	—
ROC .....	0	1,334	ROC .....	0	55
Total .....	1,247,222	879,062	Total .....	56,238	58,478
Pacific cod:			Rock sole:		
Japan .....	32,009	33,141	Japan .....	8,598	4,906
U.S.S.R. ....	17,756	178	U.S.S.R. ....	1,328	805
ROK .....	716	—	ROK .....	107	—
ROC .....	0	2	ROC .....	0	5
Total .....	50,481	33,321	Total .....	10,033	5,716
Pacific ocean perch and other rockfish:			Flathead sole:		
Japan .....	3,300	7,761	Japan .....	7,379	7,025
U.S.S.R. ....	12,124	90	U.S.S.R. ....	795	1,069
ROK .....	578	478	ROK .....	90	—
ROC .....	0	—	ROC .....	0	6
Total .....	16,002	8,329	Total .....	8,264	8,100
Blackcod:			Alaska plaice:		
Japan .....	2,815	2,801	Japan .....	3,519	3,118
U.S.S.R. ....	29	—	U.S.S.R. ....	102	516
ROK .....	115	9	ROK .....	44	—
ROC .....	0	53	ROC .....	0	3
Total .....	2,959	2,863	Total .....	3,665	3,637
			Pacific halibut:		
			Japan .....	88	—
			U.S.S.R. ....	58	—
			ROK .....	—	—
			ROC .....	0	2
			Total .....	146	2
			Arrowtooth flounder:		
			Japan .....	1,717	6,759
			U.S.S.R. ....	16,132	669
			ROK .....	2	—
			ROC .....	0	4
			Total .....	17,851	7,431
			Greenland turbot:		
			Japan .....	51,677	31,942
			U.S.S.R. ....	8,867	3,082
			ROK .....	425	—
			ROC .....	0	18
			Total .....	60,969	35,042
			Other groundfish:		
			Japan .....	13,527	26,950
			U.S.S.R. ....	12,294	614
			ROK .....	322	1,445
			ROC .....	0	—
			Total .....	26,143	29,009
			All groundfish total:		
			Japan .....	1,163,998	956,991
			U.S.S.R. ....	247,932	70,690
			ROK .....	88,041	41,827
			ROC .....	0	1,482
			All nation total .....	1,499,971	1,070,990

<sup>1</sup> Catch statistics up to 1963 from Forrester et al., 1974, and for 1964-76 from data on file, Northwest and Alaska Fisheries Center, Seattle, with the following exceptions: Pacific Ocean perch and other rockfish—Japanese catches 1960-63 and U.S.S.R. catches 1960-66 from Chikuni 1975; blackcod—Japanese catches 1958-63 from Sasaki 1976; and all flounders except halibut—all nation catches, 1954-75 from Wakabayashi and Bakkala 1977.

<sup>2</sup> 0 means no fishing, — means fishing, but no reported catch.

<sup>3</sup> Japanese catches for November and December 1976 not included; U.S.S.R. and ROK catches of flounders (except halibut) prorated to species based on species composition of Japanese catches.

**Annex IV C.—Foreign Catches of Groundfish in the Eastern Bering Sea (East of 180°) by Calendar Year, 1976-77.<sup>1</sup>—Continued—Continued**

Species and nation	1976	1977
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<sup>1</sup>Catch statistics up to 1963 from Forrester et al. 1974 and for 1964-76 from data on file, Northwest and Alaska fisheries center, with the following exceptions: Pacific ocean perch and other rockfish—U.S.S.R. catches for 1963-66 from Chikuni 1975; all flounders except halibut—all national catches, 1963-76 from Wakabayashi and Bakkala, 1978.

<sup>2</sup>0 indicates no fishing, — indicates fishing, but no catch reported.

<sup>3</sup>Catches of flounders by U.S.S.R. and ROK are preliminary.

### Annex V

#### Information on Marine Mammal Populations

Information on distribution and migration, abundance and trends, feeding habits, and any problems induced by fisheries on seven marine mammal populations in the Bering Sea/Aleutian Region was provided by the Marine Mammal Division of the Northwest and Alaska Fisheries Center and included in this annex. The information is summarized mainly from the annual report of the Department of Commerce on the Administration of the Marine Mammal Protection Act of 1972 for the period of April 1, 1977 through March 31, 1978 (DOC, 1978) and the Final Environmental Impact Statement on Consideration of a Waiver of the Moratorium and Return of Management of Certain Marine Mammals to the State of Alaska, Volumes I and II (DOC and DOI, 1977).

#### Northern Sea Lion (*Eumetopias jubatus*)

**Distribution and Migration:** The northern (stellar) sea lion is found in continental shelf water from the Sea of Japan and northern Honshu, Japan, northward around the North Pacific Ocean rim to Okhotsk and Bering Sea and southward to the California Channel Islands. Some seasonal movements occur in parts of its range.

**Abundance and Trends:** Mate (1976) estimated a world population of 250,000 to 325,000 animals. Alaska has 202 known rookeries and hauling grounds. The Alaska population has increased since exploitation diminished in the early 1900's and now exceeds 200,000 according to a 1973 ADFG estimate. However, recent studies in the eastern Aleutian Islands indicate a 50% decline in population sizes since the late 1950's (Braham et al. 1977). Factors which may have caused this decline include (1) a westward shift in distribution, (2) commercial fisheries interaction, (3) leptospirosis and/or (4) unidentified population control factors.

**Feeding Habits:** Northern sea lions eat a variety of fish and cephalopods. Based on frequency of occurrence, one study revealed that fish composed 74.2% of the diet, cephalopod—17.2%, and decapod crustaceans—8.6%. Analysis based on percentage of total individuals provided a somewhat different picture. Fishes completely dominated the diet at 97.6% of total individuals. Cephalopods followed at 2.0% and decapod crustaceans at 0.6%. Groundfishes constituted 57.7% of the sea lion diet based on frequency of occurrence and 90.8% based on percentage of total

individuals (Calkins and Pitcher, 1977). Pollock was the dominate groundfish. Details of the diet are summarized as follows:

#### Area.—Cape Spencer to Scotch Cap on Unimak Island Northern Sea Lions—68 Samples

Prey item	No. of occurrences	% occurrences	No. of individuals	% of total individuals
Gadidae.....	57	49.1	1135	89.2
Pollock.....	47	40.5	1072	84.3
Pacific cod.....	8	5.2	33	2.6
Other Gadidae..	4	3.4	30	2.3
Scorpaenidae:				
Rockfishes.....	2	1.7	6	0.5
Pleuronectidae.....	8	6.9	14	1.1
Starry flounder..	1	0.9	1	0.2
Rock sole.....	1	0.9	1	0.1
Yellowfin sole..	1	0.9	2	0.2
Flathead sole...	2	1.7	2	0.2
Other				
Pleuronectidae.....	3	2.5	8	0.4
Total Groundfish.....	67	57.7	1155	90.8

**Problems:** Northern sea lions have damaged gear and destroyed fish in halibut longline, salmon purse seine, gillnet, and troll fisheries. Because groundfish make up such a large part of the sea lion's diet, this species will probably be one of the marine mammals most impacted by the ground fish fisheries and will be the species which should bear close watching as groundfish policies are considered. This is important in light of recent declines in populations in the eastern Aleutian Islands.

#### Northern Fur Seal (*Callorhinus ursinus*)

**Distribution and Migration:** Northern fur seals are found at sea along the continental shelf from the Bering Sea south along both sides on the North Pacific Ocean to latitude 32°N. Most animals are on their breeding grounds from May through November to bear young and to breed.

**Abundance and Trends:** A program of reducing the population of Pribilof Island fur seals was begun in 1956 with the expectation that the rate of survival would improve and result in an increased yield of pelts. By 1968, the population had been reduced below levels which would yield the maximum sustainable yield. Thus female fur seals were excluded from harvest in expectation that there would be an increase in pup production. However, expected increases have not been observed. The population level of the northern fur seal is estimated to be 1,785,000. There are in excess of 700,000 adults in the eastern Bering Sea in summer.

**Feeding Habits:** The northern fur seal is an opportunistic feeder, taking squid and a variety of fishes including herring, anchovy, salmon, capelin, saury, walleyed pollock, and mackerel. Fishes are estimated to constitute about 80% of the fur seal diet. Average size of pollock (the dominant food item) observed in fur seal stomachs is 20 cm. Some figures, from McAlister and Perez (1977) indicated the following consumption of groundfish by northern fur seals.

	In the Aleutians	In the Bering Sea
Walleye pollock.....	9.4%	39.4%
Sablefish.....	4.8%	1.0%
Other Gadidae.....	.....	5.7%
Pleuronectidae.....	.....	1.4%
% Groundfish.....	14.2%	47.5%
% Other fish.....	75.0%	31.8%
Total fish.....	89.2%	79.3%
Total Squid.....	10.8%	20.7%

**Problems:** Fur seals and commercial fisheries may compete for the same species of fish.

#### Bearded Seal (*Erignathus barbatus*)

**Distribution and Migration:** The bearded seal is found in the North Pacific region in the Bering, Okhotsk, and northern Japan Seas. Bearded seals migrate seasonally in association with the advance and retreat of the ice packs. These seals do not normally come ashore.

**Abundance and Trends:** No satisfactory method of accurately censusing bearded seals has been attempted to date. A 1971 Soviet estimate places the level of the bearded seal populations of the East-Siberian, Chukchi, Bering, Okhotsk, and Japan Seas at 45,000. The Alaska Department of Fish and Game (1973) estimated a population of 300,000 animals in the Bering, Chukchi, East-Siberian, and Beaufort Seas. The population appears to be high and stable (DOC, 1978).

**Feeding Habits:** The bearded seal consumes several species of invertebrates, primarily crabs, shrimps, clams, and amphipods, and some demersal fishes. One study indicates that fishes constitute about 10% of the bearded seal's diet and another study, performed in the Beaufort Sea, stated that about 25% of this animal's diet is fishes, in this case primarily polar cod.\*

**Problems:** None at the present. Bearded seals consume commercially important pandalid and crangoid shrimps and lithods crabs; however, they do not compete directly for commercial fish nor do they damage fishing gear.

#### Ringed Seal (*Phoca hispida*)

**Distribution and Migration:** The ringed seal is circumpolar in distribution throughout the ice pack. In the North Pacific Ocean it is found in the Bering, Chukchi, and Okhotsk Seas and in the permanent ice pack of the

\*Lowry, Frost, and Burns, *Trophic Relationships Among Ice Inhabiting Seals*. Environmental Assessment of the Alaska Continental Shelf, PI Annual Report, March 77, Vol. 1, p. 228.

Area: North and east of Pt. Barrow

Bearded seals: 3 samples

Of the three samples, one consisted of only one shrimp. One of the seals was taken in November and 64% of the contents were invertebrates and 36% of the contents were fish, mostly saffron cod, but also polar cod, sea snail and eelpout. The third seal was taken in August and it contained 83% invertebrates, mostly isopods. Of the fish in the stomach, 53% were polar cod, 38% were sculpins, and 5% were sea snails. The authors concluded that bearded seals eat a diverse diet but the bulk of it is bivalve mollusk, crabs, shrimps, and sculpins.

Polar Basin. In winter, most ringed seals occupy areas of land-fast ice, but nonbreeding adults and juveniles may be found wherever ice occurs. Apparently, animals wintering in the Bering and Chukchi Seas moved northward in spring as the ice recedes and southward in autumn as it advances again. In western Alaska, the ringed seal is the dominant nearshore seal during ice-free months.

**Abundance and Trends:** No satisfactory method of accurately censusing ringed seals, throughout their range, has been attempted to date. The Alaska Department of Fish and Game (1973) estimated the ringed seal population in the Bering and Chukchi Seas to be about 250,000. Annual harvest by both Soviets and Americans in this area are between 12,000 and 16,000 animals per year. Overall, the population in the Bering and Chukchi Seas appears to be high and is probably stable.

**Feeding Habits:** In western Alaska, this seal feeds mainly on mysids, amphipods, euphasiids, shrimps, saffron cod, polar cod, and sculpin. A recent stomach analysis of ringed seals in the Beaufort Sea reported that about 83% of the ringed seal's diet was invertebrates and about 17% was fish, almost exclusively polar cod.\*

**Problems:** None at present. Little competition is known to exist between ringed seals and man for fishery resources.

#### Harbor Seal (*Phoca vitulina*)

**Distribution and Migration:** The harbor seal is found in the North Pacific Ocean from the Bering Sea south to Baja California and southern Japan and Korea. The harbor seal is the predominant nearshore seal in ice-free waters north of latitude 35°N.

**Abundance and Trends:** Overall, the world population of harbor seals appears to be high and stable. A 1976 estimate indicated a population of 312,500 to 317,500 in the Pacific (Adv. Comm. Mar. Resour. Res., 1976).

**Feeding Habits:** The diet of the harbor seal, which varies according to season and location of specific populations, includes primarily pelagic, demersal, and anadromous fishes, cephalopods, and crustaceans. About half of this seal's diet is fish.

**Problems:** These seals damage commercial fishing gear and compete with man for such fish as herring, salmon, smelt, and whitefish. These animals are extremely sensitive to disturbance and may leave an area after continual harassment by people, equipment, or aircraft.

\* Lowry, Frost, and Burns. *Trophic Relationships Among Ice Inhabiting Seals*. Environmental Assessment of the Alaska Continental Shelf, PI Annual Report, March 1977, Vol. 1, p. 226.

#### Larga Seal (*Phoca largha*)

**Distribution and Migration:** The larga seal is found in the Bering, Chukchi, Western Beaufort, Okhotsk, northern Sea of Japan, and the Po Hai Seas. These seals are seasonally dependent upon sea ice for the birth and nurture of their pups. During winter and early spring the entire population is concentrated along the southern edge of the seasonal pack ice, usually in central Bering Sea. These seals move northward and toward the coasts as the seasonal retreat and disintegration of sea ice progresses. During ice-free summer and early fall they occur along the entire coast of northern Alaska.

**Abundance and Trends:** No satisfactory method of accurately censusing larga seals has been attempted to date. Indirect methods and relative indices of abundances indicate that the population level of this species is high and probably stable. In 1976, the Bering Sea larga seal population was estimated to contain from 135,000 to 200,000 animals. The Okhotsk Sea population estimate is 135,000 to 200,000 animals (DOC, 1978).

**Feeding Habit:** The diet of these seals, which varies with the season and location, includes primarily pelagic, demersal and anadromous fishes, cephalopods and crustaceans.

**Ecological Problems:** Competition presently exists between these seals and man with respect to commercially important fishes (i.e., herring, smelt, whitefish, and salmon) and with respect to fishing gear. These seals are extremely responsive to disturbance and will leave a hauling area after only minor harassment.

#### Ribbon Seal (*Poca fasciata*)

**Distribution and Migration:** Geographically, the ribbon seal is separable into Okhotsk and Bering and Chukchi Sea populations and interchanges between the two groups are not known to occur. During winter and spring, the entire population is concentrated along the southern edge of the seasonal ice pack. Only a few ribbon seals remain with the ice edge of the seasonal ice pack. Only a few ribbon seals remain with the ice edge as it retreats northward through the Bering strait. In summer and autumn, ribbon seals are believed to be pelagic, mainly in the ice-free Bering Sea.

**Abundance and Trends:** The population of ribbon seals is relatively low, having been markedly reduced by commercial sealers of the Soviet Union during the 1960s. In recent years the species has been afforded increased protection by Soviet sealing regulations and its numbers may be increasing again. U.S. citizens harvest very few ribbon seals. The Alaska Department of Fish and Game (1973) estimated that the

population probably numbers between 90,000 and 100,000 animals. Soviet estimates indicate a population of 133,000 in the Okhotsk in 1969 (Popov, 1976). Soviet sealers took less than 3,000 ribbon seals in 1973 from Bering and Okhotsk Seas. In Alaska, the native harvest is usually less than 250 per year.

**Food Habits:** The diet of the ribbon seal during late winter and early spring (in the ice edge zone) includes mainly pelagic and demersal fishes, cephalopods, and small crustaceans. About 40% of this animal's summer diet is fishes and about 90% of its winter diet is fishes.

**Problems:** Little competition is known to exist between ribbon seals and Man for fishery resources.

#### Annex V: Literature Cited

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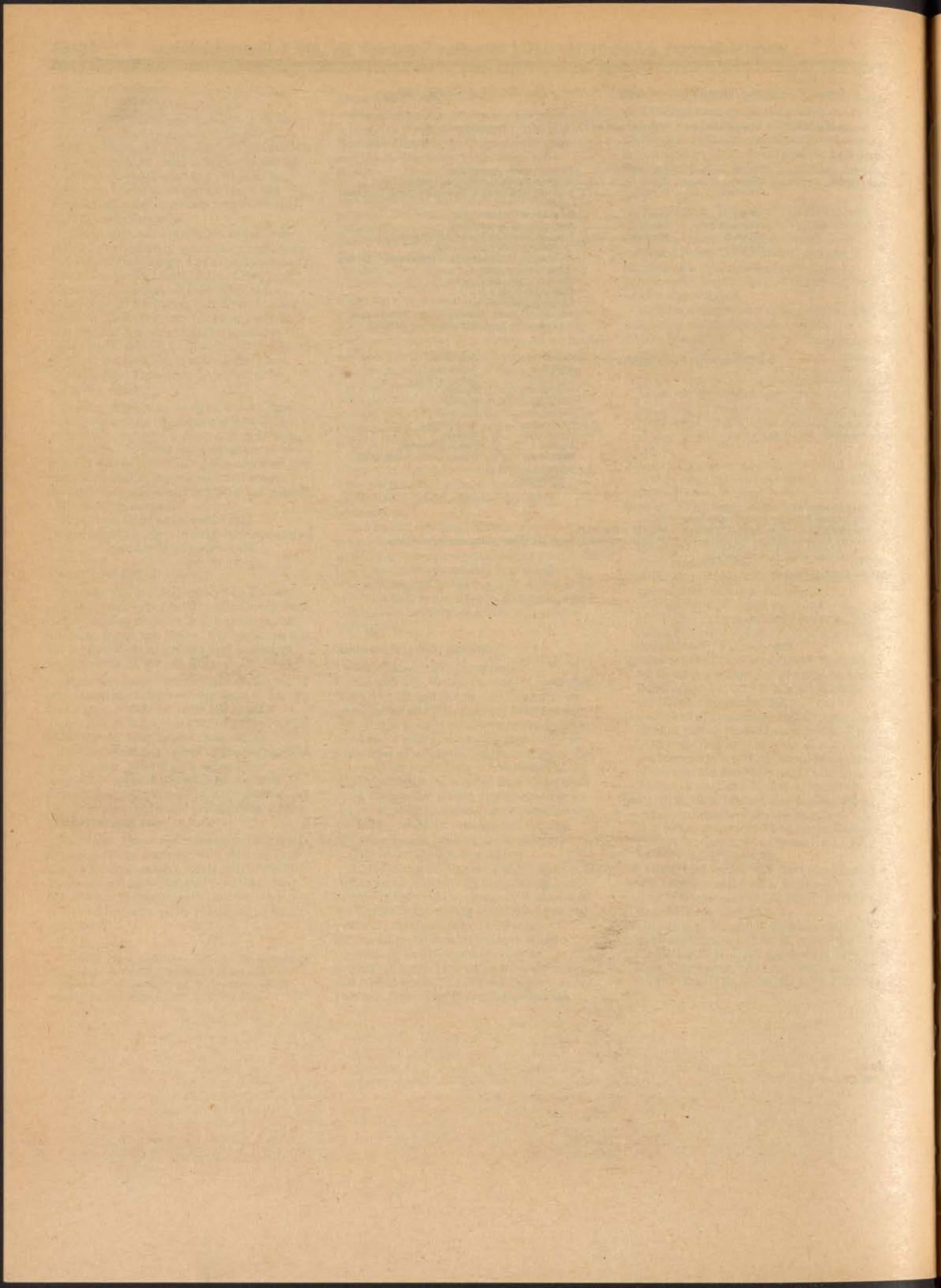
## Annex VI.—Species Categories Which Apply to the Bering Sea/Aleutian Groundfish Fishery

Prohibited species <sup>1</sup>	Target species <sup>2</sup>	"Other" species <sup>3</sup>	Nonspecified species <sup>4</sup>
<b>FINFISHES</b>			
Salmonids .....	Pollock .....	Sculpins .....	Eelpouts (family Zoarcidae).
Pacific Halibut .....	Cod .....	Sharks .....	Poachers (family Agonidae) and alligator fish.
	Flounders .....	Skates .....	Snailfish, Lumpfishes, Lumpsuckers (family Cyclopteridae).
	Herring .....	Eulachon .....	Sandfishes ( <i>Trichodon sp.</i> ).
	Atka mackerel .....	Smelts .....	Rattails (family Macrounidae).
	Sablefish .....	Capelin .....	Ronquils, Searchers (family Bathymasteridae).
	Rockfishes .....		Lancetfish (family Alepisanvidae).
			Pricklebacks, Cockscombs, Warbonnets, Shanny (family Stichaeidae).
			Prowfish ( <i>Zaprora silenus</i> ).
			Hagfish ( <i>Eptatretus sp.</i> ).
			Lampreys ( <i>Lampetra sp.</i> ).
			Biennys, Gunnels (Various small bottom dwelling fishes of the family Stichaeidae and Pholidae).
<b>INVERTEBRATES</b>			
King crab .....	Squids .....	Octopus .....	Anemones .....
Tanner crab .....			Jellyfishes.
Coral .....			Starfishes .....
Shrimp .....			Tunicates.
Clams .....			Egg cases .....
Horsehair crab .....			Sea cucumber.
Lyre crab .....			Sea mouse .....
Dungeness crab .....			Sea slug .....
			Sea potato .....
			Sand dollar .....
			Hermit crab .....
			Mussels .....
			Sea urchins .....
			Sponge—
			unidentified.

<sup>1</sup> Must be returned to the sea, no fee.<sup>2</sup> OY for each item; fee as in fee schedule.<sup>3</sup> Aggregate OY for group equal to 5 percent of total OY of line items.<sup>4</sup> List not exclusive; includes any species not listed under Prohibited, Target, or "Other" categories; no fee charged.

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# Registered Federal Trade

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Monday  
November 19, 1979

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## Part IV

### Federal Trade Commission

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Rule for Using Energy Costs and  
Consumption Information Used in  
Labeling and Advertising for Consumer  
Appliances Under the Energy Policy and  
Conservation Act

## FEDERAL TRADE COMMISSION

## 16 CFR Part 305

## Rule for Using Energy Costs and Consumption Information Used in Labeling and Advertising for Consumer Appliances Under the Energy Policy and Conservation Act

AGENCY: Federal Trade Commission.

ACTION: Final rule

**SUMMARY:** The Federal Trade Commission issues a final rule which requires the disclosure, for seven categories of appliances, of energy efficiency ratings or energy costs, and related information, in labeling and in retail sales catalogs; mandates that the energy costs or energy efficiency ratings be based on standardized test procedures; requires a general disclosure on certain point-of-sale promotional materials of the availability of energy cost or energy efficiency rating information; and requires that any claims concerning energy consumption made in writing or in broadcast advertisements be based on the results of standardized test procedures.

The Energy Policy and Conservation Act, passed in December 1975, required the Federal Trade Commission to consider these labeling requirements. The rule is intended to insure that consumers will have information necessary to compare the energy costs or energy efficiency ratings of competing products before they purchase the appliances covered by the rule.

**EFFECTIVE DATE:** The effective dates for various provisions of the rule are specified in § 305.18 of the rule.

**FOR FURTHER INFORMATION CONTACT:** Andrew I. Wolf, 202-724-1453, Lucerne D. Winfrey, 202-724-1560, or Kent C. Howerton, 202-724-1514, Attorneys, Federal Trade Commission, 414-11th Street, NW., Washington, D.C. 20580.

**SUPPLEMENTARY INFORMATION:**

## Statement of Basis and Purpose

## I. Introduction

A. *Overview of the Rule.* In 1975, the United States Congress enacted the Energy Policy and Conservation Act (EPCA) (1) to encourage innovative national energy conservation measures. Among other things, Congress recognized that home appliances account for a sizable portion of American energy consumption. As a result, Title III of the statute required the Federal Trade Commission to consider labeling rules prescribing disclosure of the estimated annual energy cost or

another "useful measure of energy consumption" for products within thirteen specific categories of residential consumer appliances. To ensure their reliability and comparability, these disclosures must be predicated on standard test procedures prescribed by the United States Department of Energy (DOE). (2).

Following rulemaking proceedings as required by EPCA (3), the Commission has adopted labeling rules for seven appliance categories: [1] Refrigerators and refrigerator-freezers; [2] freezers; [3] dishwashers; [4] water heaters; [5] clothes washers; [6] room air conditioners; and [7] furnaces. Pursuant to the exclusionary criteria set forth in EPCA, (4) the Commission has exempted five other categories of appliances from the labeling requirements: [1] clothes dryers; [2] home heating equipment, other than furnaces; [3] television sets; [4] kitchen ranges and ovens; and [5] humidifiers and dehumidifiers. Labeling requirements for central air conditioners and heat pumps will be considered by the Commission once pending DOE test procedures for those products have been completed.

The primary purpose of the Commission's rule is to encourage consumers to comparison-shop for energy-efficient household appliances. By mandating a uniform disclosure scheme for energy consumption information, the rule will permit consumers to compare the energy efficiency of competing appliances and to weigh this attribute against other product features in making their purchasing decisions. If the labeling program works as expected, the availability of this new information should enhance consumer demand for appliances that save energy. In turn, competition should be generated among manufacturers to meet this demand by producing more energy-efficient appliances.

The rule mandates that specific energy cost or efficiency information for the covered home appliance products be disclosed at the point of sale in the form of a label or a fact sheet. This information includes a highlighted energy cost or efficiency disclosure, a comparison of the labeled product's energy cost or efficiency with that of competing brands, and a chart that permits an individual to estimate how much it will cost to run the appliance each year. The Commission believes that this disclosure scheme fulfills the congressional mandate that consumers be given a meaningful opportunity to consider the energy savings potential of

different appliances in making their purchasing decisions.

In addition to establishing labeling requirements, the rule also incorporates EPCA's provision (5) that all broadcast advertisements and printed materials relating to the consumption or cost of energy consumed for all of the 13 product categories (6) be based on and fairly represent the results of the DOE tests. As in the case of the label disclosures, the purpose of this requirement is to establish a uniform basis for energy consumption claims, thereby helping consumers to evaluate and compare the energy-related attributes of household appliances.

The rule contains numerous other provisions, most of which are designed to ensure the integrity of the labeling scheme. During this proceeding, the Commission's overriding objective has been to fashion a rule that fully implements the requirements of EPCA while minimizing the impact of compliance costs on the appliance industry. The Commission believes that this rule, which has been refined and narrowed from the original proposal, represents a reasonable and sustainable effort toward meeting that objective. The Commission is also confident that the rule will meet its ultimate objective of helping American consumers to reduce the amount of energy they use in their homes.

B. *Statutory Framework.* In addition to providing a distinct statutory basis for an appliance labeling rule, Congress outlined the parameters of the rule to be prescribed by the Commission.

Under EPCA, only those appliance products for which DOE has prescribed final test procedures can be covered by the Commission's rule. (7) Once DOE has prescribed a final test procedure, the Commission can exclude an appliance category only if it determines that labeling with the required information would not be technologically or economically feasible. (8) Additionally, the Commission may exclude certain categories of appliances if it determines that labeling with the required information is not likely to assist consumers in making purchasing decisions. (9) If a product is covered by the rule, manufacturers must perform the DOE tests in order to establish and verify the information that the rule requires be disclosed. (10)

EPCA directed the Commission to require two disclosures on labels of products covered by the labeling rule: [1] The estimated annual energy cost; (11) and [2] a range of estimated annual energy costs for comparable appliance products. (12) The Commission can require disclosure of a measure of

energy consumption other than energy cost only under two circumstances: (1) if the Secretary of DOE determines that a disclosure of estimated annual energy cost is not technologically feasible; (13) or (2) if the Commission determines that labeling with energy cost is not likely to assist consumers in making purchasing decisions, or is not economically feasible. (14)

The Act requires sellers to disclose in any catalog from which a covered product may be purchased any information which the rule requires be disclosed on the label, unless the Commission provides otherwise in the rule. (15) It further authorizes the Commission to require disclosure of the required label information in any printed material displayed or distributed at the point of sale. (16)

EPCA exempted from the final Commission rule: (a) Covered appliance products not distributed in commerce for use in the United States, so long as they bear a stamp or label stating that they are intended for export; (17) (b) covered products manufactured prior to the effective date of the rule; (18) and (c) any catalog or point-of-sale material distributed prior to the effective date of the rule. (19)

EPCA requires that a labeling rule prescribed by the Commission take effect not later than six months after its prescription. (20) The six-month interval is allowed to provide adequate time for parties covered by the rule to come into compliance. Once it takes effect, the Commission's appliance labeling rule supersedes any state regulation that provides for either additional or different disclosures than those required under the Commission's rule. (21)

In addition to its direction that the Commission consider labeling requirements, EPCA requires that once a DOE test procedure for an appliance product becomes final, advertising claims concerning the energy consumption of that product must be based on, and fairly represent the results of, the DOE test. This requirement applies to all products for which DOE has issued final test procedures, not just to those covered by the Commission's labeling rule. (22) In each instance it takes effect 180 days after the DOE test procedure becomes final. (23) The statute makes a violation of this provision a violation of Section 5 of the Federal Trade Commission Act. (24)

*C. Procedural History.* On July 21, 1978, the Commission published a proposed rule for the disclosure of energy cost and consumption information in the labeling and advertising of all 13 appliance categories

specified in EPCA. (25) This notice outlined the procedures to be followed in the rulemaking proceeding and solicited written comments on various issues of concern to the Commission.

The rulemaking proceeding was conducted in accordance with the procedural requirements directed by EPCA. (26) The Act incorporated the requirements of Section 553 of the Administrative Procedure Act (27), except that interested persons were afforded an opportunity to present oral testimony as well as written comments. (28) Consistent with these procedural requirements, the Commission conducted hearings from October 12 through November 3, 1978. One hundred and six witnesses appeared, representing retail, industry, government, and consumer viewpoints. A rebuttal period followed, ending on December 11, 1978. On February 12, 1979, the Commission staff released its report, which contained an analysis of the evidence and recommendations to the Commission for a final rule. (29) From that date until March 25, 1979, the public was extended an opportunity to submit written comments on the staff's report. (30) On April 18, 1979, the staff forwarded to the Commission a summary of the comments received. (31) Thereafter, on May 25, 1979, the staff submitted to the Commission revised recommendations for the final rule, incorporating certain changes suggested in the written comments. (32) Oral presentations before the Commission, focusing primarily on the issue of the use of a highlighted energy cost disclosure versus some other measure of energy consumption on the label, were held on June 26, 1979. (33) On June 28, 1979, the Commission met in open session and adopted in substance its final rule for the labeling of consumer appliances, subject to publication of this Statement of Basis and Purpose. After carefully considering the rulemaking record as a whole, the Commission has voted to prescribe this rule governing the labeling and advertising of consumer appliances.

## II. The Rule

*A. Scope of Product Coverage.* As required by EPCA, the Commission originally proposed that labels be required on all thirteen categories of appliances specified in the Act. (34) These are: (1) Refrigerators and refrigerator-freezers; (2) freezers; (3) dishwashers; (4) clothes dryers; (5) water heaters; (6) room air conditioners; (7) home heating equipment other than furnaces; (8) television sets; (9) kitchen ranges and ovens; (10) clothes washers; (11) humidifiers and dehumidifiers; (12)

central air conditioners; and (13) furnaces.

EPCA Section 324(b)(1) required the Commission to propose a labeling rule for each of the thirteen categories of covered products for which the Department of Energy published a test procedure. Thus, the statute requires the Commission to propose rules, and presumes that the Commission will prescribe rules. Unless the Commission concludes, based on the record evidence, that the statutory criteria for exclusion are satisfied, all thirteen categories of appliances must be labeled. The Commission must prescribe a labeling rule for categories 1-9 unless labeling is not technologically or economically feasible. Categories 10-13 must be labeled unless the Commission determines that labeling is not technologically or economically feasible or, alternatively, that labels are not likely to assist consumers in making purchasing decisions.

The legislative history of the statute does not provide a precise explanation of what the three criteria mean, or how they are to be applied. A variety of questions concerning certain critical factors were examined by the Commission before determining that labeling for five appliance categories would not be justified. These questions included:

1. *Economic feasibility.* (a) How much does the product cost?

(b) How much will testing cost for each unit sold?

(c) How much will labeling cost?

(d) What is the potential saving to a consumer in purchasing a more efficient product: for one year? Over the probable life of the product?

(e) What is the likelihood that the disclosure of energy cost or efficiency data for the product will promote the development of more efficient models?

2. *Likelihood of assisting consumers.*

(a) Are energy costs of the products large or small? If consumers knew these costs were minimal, would they be less likely to buy the same or any product?

(b) Are comparable products quite similar in energy costs? If consumers knew this, might they change purchasing decisions?

(c) If information were available, would consumers be likely to select products requiring a different energy source than they might without the labels?

(d) Are a variety of products generally available for consideration by consumers prior to purchase?

(e) Is the consumer likely to see the label?

As these questions indicate, the Commission believes that Congress

intent was to permit the exclusion of any product category, if the Commission found that the costs of the labeling program would substantially outweigh any potential benefits to consumers. Based on the record evidence, the Commission has determined that these statutory criteria for exclusion are met with respect to television sets, kitchen ranges and ovens, clothes dryers, humidifiers and dehumidifiers, and home heating equipment other than furnaces. In addition, the rule at the present time does not require labeling of category thirteen, central air conditioners, because DOE has not yet adopted a statistical sampling plan that designates the number of units of a given appliance model that must be tested in order to assure the reliability of the test results. (35)

Thus, the final Commission rule applies to only seven categories of appliances. Since EPCA requires coverage of a product category unless the statutory criteria for exclusion are met, it is unnecessary to discuss the appliances that are covered. However, a discussion of the Commission's basis for excluding five appliance categories is in order.

1. *Home heating equipment other than furnaces.*—a. *Electric unvented.* Unvented home heating equipment provides heat by means of resistance heating elements. All electric resistance heating elements are essentially 100 percent efficient in providing heat; that is, no electricity is wasted as it is converted to heat. (36) Since all models of electric unvented heating equipment operate with little variation at maximum efficiency, energy labels for these products would not provide consumers with any information which could be utilized in making energy saving decisions.

In addition, the cost of such labeling would be significant. According to the Association of Home Appliance Manufacturers (AHAM), labeling of electric unvented home heating equipment would cost its seven members who manufacture these appliances about \$589,000 annually. (37) The Association estimated further that this figure would probably be doubled if the entire industry were taken into consideration. (38) Since the National Electrical Manufacturers Association (NEMA) represents another 23 companies, AHAM's estimate may be conservative.

Annual sales of electric unvented home heating equipment total about \$100 million, (39) with a mark-up of approximately three to one. (40) If the cost of testing and labeling, industrywide, is assumed to be \$1

million, the additional cost to consumers would be about \$3 million, or a three percent increase in the price of the products. Because the evidence indicates that labeling would not provide any information which would enable consumers to make more informed purchasing decisions, these additional costs to industry members and consumers cannot be justified.

For these reasons, the Commission has determined that it would not be economically feasible to require that electric unvented heaters be labeled.

b. *Vented home heating equipment.* This group of appliances is comprised of natural gas, oil and propane heaters. The distinguishing characteristic of this group is that outside venting is required to eliminate the by-products of combustion.

An American National Standards Institute (ANSI) standard for gas heaters has been in effect since about 1930. (41) This standard requires that gas heaters perform at a minimum efficiency rate of 75 percent. Products now vary in efficiency from this minimum level only up to about 78 percent. (42) Although it would be possible to increase the efficiency of these products to some degree, (43) industry members stated that the costs involved in doing so would be so great that there would be no market for the more efficient appliances. (44)

It has been estimated that the testing and labeling costs alone to manufacturers of vented home heating equipment could add about \$10 to the production cost for each unit. (45) Using the normal multiplier of three to reflect distribution and handling charges, (46) this would result in an increase of \$30 in price to the consumer. (47) Moreover, estimates indicate that these additional costs will add approximately 22 to 29 percent to retail prices, (48) from which consumers would derive little, if any, benefit in return. (49) Finally, it is appropriate to note that this product is in a declining market position. Sales have dropped considerably in recent years, (50) and demand for the product has diminished to the point where new firms cannot economically justify entering the market. (51) Industry representatives testified that under these conditions, the cost associated with the rule would drive some manufacturers either out of business or into other product lines. (52)

In light of the evidence, the Commission has determined that labeling of vented home heating equipment would not be economically feasible. Accordingly, this product category has been excluded from the rule.

2. *Television sets.* Televisions use very little energy. (53) Current television sets use an average of about 40 to 50 watts for black and white (54) and 130 to 140 watts for color, (55) with small screen size black and white sets using only about 14 watts. (56) In short, the amount of energy used by a television receiver is comparable to that used by a light bulb. (57) As this comparison suggests, the energy cost of using a television set amounts to only a few dollars a year, (58) a tiny fraction of the purchase price for this product. (59)

Under the circumstances, it is not surprising that marketing studies indicate that consumers are most concerned with the performance features and cabinetwork of television sets. (60) A consumer purchasing a \$300 to \$600 color television receiver cannot be expected to consider as significant a possible saving in annual energy cost of only a few dollars per year. This is particularly true because there is relatively little variation among most competing brands. The low energy consumption for this product resulted from the fact that for several years there have been strong economic incentives to develop energy-efficient receivers: lower energy use increases the reliability of the product, resulting in lower warranty and service costs. (61)

For these reasons, energy labels for television sets are unlikely to promote further industry efforts to increase energy efficiency, or to provide benefits to consumers. Accordingly, the Commission has concluded that labeling of television receivers is not economically feasible, and they have been excluded from the rule.

3. *Kitchen ranges and ovens.* This category of appliances is composed of conventional cooking tops, ranges, and ovens, as well as microwave ovens. Unlike conventional cooking appliances, microwave ovens use very little energy, typically less than 100 KWH per year. (62) This amount of energy roughly equals that used by a standard 100 watt lightbulb. In fact, the total average energy cost for microwave ovens probably ranges from only about \$3 to \$5 per year, (63) depending primarily on whether or not the model has a clock. (64)

Conventional cooking appliances are larger users of energy, in absolute terms than microwave ovens, but the difference in energy cost between the least and most efficient models is only about \$8 per year for gas ranges (65) and about \$7 per year for electric ranges. For example, the average annual energy cost varies from \$8 to \$14 for gas ranges, and from \$23 to \$30 for electric ranges. (66)

In contrast to their small range of energy use, kitchen ranges and ovens, including microwaves, typically cost hundreds of dollars to purchase. In view of this and other factors, such as the fact that these appliances all function with about the same degree of reliability, (67) and purchase decisions are usually based on the appearance of the product, (68) a consumer cannot be expected to consider as significant a possible annual energy savings of one or two dollars—or even the maximum of six or seven dollars a year. Indeed, industry members contrasted the lack of benefits from labeling with the costs that would be imposed by a testing and labeling requirement. Several manufacturers complained that their costs would be significantly increased, (69) and one survey of microwave manufacturers showed that the testing and labeling would cost the eight firms surveyed approximately \$500,000. (69(a))

Since the substantial costs of a labeling requirement would not produce corresponding consumer benefits, the Commission has determined that labeling of kitchen ranges and ovens would not be economically feasible. Accordingly, this appliance category has been excluded from the rule.

4. *Clothes dryers.* Another category of appliances having a limited range of annual energy cost is clothes dryers. The average annual cost of energy for electric clothes dryers varies from a low of about \$39 to a high of about \$44. (70) Gas dryers should vary from about \$8 to \$12. (71) This is a maximum difference of \$5 per year for electric and \$4 per year for gas dryers, amounts which the Commission believes consumers would not consider significant when purchasing such expensive appliances.

In addition, a recent AHAM study indicates that the cost of testing and labeling clothes dryers would be high—approximately \$900,000 the first year, and \$700,000 each year thereafter. (72) These costs far outweigh the potential benefits of energy cost information for this product category. As a result, the Commission has concluded that labeling of clothes dryers would not be economically feasible, and these products have been excluded from the rule.

5. *Humidifiers and dehumidifiers—*a. *Humidifiers.* All humidifiers operate at the maximum possible efficiency—above 95 percent. (73) This is because the amount of humidification is dependent upon the amount of heat available to evaporate water, regardless of the heat source, (74) rather than upon technological features of the humidifier itself. As a result, all humidifiers cost about the same to operate. The actual

variance in average energy cost between the highest energy user and the lowest amounts to less than \$1 per year. (75)

Because of its present high efficiency rate, the efficiency of humidifiers cannot be improved upon. (76) The Department of Energy recognized this when it originally established its energy efficiency improvement target for humidifiers: "The energy efficiency improvement target for humidifiers shall be a '0' percent change in the energy efficiency of the total number of humidifiers manufactured by all manufacturers in the calendar year 1980 when compared with the energy efficiency of the total number of humidifiers manufactured by all manufacturers in calendar year 1972." (77)

In short, because all humidifiers cost the same to operate, energy cost disclosures will not encourage consumers to purchase more efficient appliances. Since humidifiers already are highly energy efficient, labeling also will not spark the development of more efficient models. For these reasons, the Commission has determined that it would not be economically feasible to require that humidifiers be labeled and that labels on humidifiers would not be likely to assist consumers in making purchasing decisions. Accordingly, this product category has been excluded from the rule.

b. *Dehumidifiers.* The exemption considerations that apply to humidifiers also apply to dehumidifiers, although their functions are exactly opposite. Annual costs of operation and energy efficiency differences between various brands of dehumidifiers of equal capacity are extremely small compared to the retail price difference. (78)

As is the case with other products recommended for exemption, there is little, if any, relationship between initial purchase price and the comparability of cost and energy efficiency ratings of dehumidifiers. (79) The range of differences in average annual energy costs varies from about \$2.27 per year to a maximum of approximately \$6.25 per year for different capacity dehumidifiers. (80) Regardless of capacity, the difference in energy efficiency varies very little between the least efficient model and the most efficient. (81) The Commission does not believe that the disclosure of these small differences in average annual costs of operation or energy efficiency factors will influence consumers to make purchasing decisions based on them.

In light of this evidence, the Commission has determined that labels

on dehumidifiers would not be economically feasible nor likely to assist consumers in making purchasing decisions. Accordingly, this product category has been excluded from the rule.

B. *Determination of Estimated Annual Operating Cost or Energy Efficiency Rating.* Manufacturers must base required label information on the results of tests performed in accordance with the procedures prescribed by DOE. (82) These test procedures include a sampling plan that designates the number of units of a given appliance model that must be tested in order to assure the reliability of the test results.

The Commission's rule incorporates the sampling plan in each DOE test procedure for each appliance category. Because this plan is such an integral part of the DOE test procedures, it was decided that the Commission and DOE would jointly solicit views on sampling alternatives, and would agree on the sampling criteria to be incorporated into each DOE test procedure. The Commission deemed this approach preferable to having two distinct test requirements, one for determining the accuracy of the information contained on the label, and the other for ascertaining valid test data for future minimum efficiency standards. (83)

Industry and consumer group witnesses repeatedly opposed the adoption of the "two-sided" sampling procedure contained in the proposed rule. (84) They believed that it was unnecessarily burdensome and that it failed to provide for a conservative rating adjustment for the required label information. (85)

The final sampling plan, which is incorporated by reference in § 305.6 of the rule, requires a one-sided confidence level. This approach reduces the number of units in the sample necessary to maintain the specified confidence level. (86) While the approach adopted does not require the rating to be at the mean of the selected sample, a manufacturer will not be able to overrate a product. Smaller manufacturers with limited testing facilities or a large number of basic models will be better able to meet planned production schedules. (87) The adopted statistical parameters also will be considered essential in validating any energy consumption or cost claims made in any written material or in any broadcast or print advertisement for a covered product. (88)

The Commission believes that this sampling plan approach is compatible with the Congressional intent to assure dissemination of accurate energy cost data or, when applicable, energy efficiency information to consumers.

*C. Required Disclosures. 1. Labels and fact sheets.*—a. *General.* EPCA states that any Commission labeling rule must require the disclosure on labels of covered products of both an estimated annual energy cost and the range of estimated annual energy costs for covered products. However, the statute authorizes the Commission to require the disclosure of some measure of energy consumption other than cost if: (1) The Secretary of DOE determines that disclosure of estimated annual operating cost is not technologically feasible; (89) or (2) the Commission determines that disclosure of estimated energy cost is not economically feasible or is not likely to assist consumers in making purchasing decisions. (90) If the Commission makes one of these determinations, it then must require disclosure of a different, useful measure of energy consumption with a corresponding range of that measure for comparable products. (91) Under EPCA, the alternative measure must be capable of being determined under the DOE test procedures. (92)

For refrigerators, refrigerator-freezers, freezers, clothes washers, dishwashers, and water heaters, the final rule requires that the label disclose a highlighted national average estimated energy cost figure based on typical usage patterns and on a national average utility rate for the source of fuel used to operate the appliance. (93) Several rulemaking participants criticized the use of an average dollar cost disclosure on the label. (94) These commenters argued that the estimated annual energy cost, based on an average utility rate and average patterns of usage, will be inherently misleading to consumers and, therefore, will discredit the entire labeling effort. They reasoned that no average dollar figure can delineate for the individual consumer what the energy cost is likely to be for the particular appliance that the consumer purchases. (95) These views were supplemented by oral comments before the entire Commission at an open public meeting on June 26, 1979. (96)

Other rulemaking participants presented alternative arguments for the retention of the highlighted cost figure. They reasoned that the one comparative tool to which any consumer can easily relate is dollars per year—the annual energy cost disclosure, supplemented by the cost grid information chart. (97) This approach requires very little consumer education and can be readily applied to aid consumers in comparing the merits of competing brands, hopefully leading to the purchase of energy-efficient products. (98) Further, the cost

disclosure is precisely the type of information Congress contemplated in requiring that the Commission consider labeling rules. The introduction of an energy efficiency factor for products other than climate control appliances would add a new, and possibly confusing, element for the prospective purchaser. (99) These views were reemphasized in oral comments before the entire Commission at its meeting on June 26, 1979. (100)

The Commission has determined that, for appliances that are not climate-sensitive, any alternative to the cost disclosure predicated on the DOE test procedures would not be likely to assist consumers. The most often cited alternative disclosure, an energy factor, (101) does not lend itself to comparison from one appliance category to another, because it is determined in different ways for different appliance categories. (102) The Commission believes that a cost disclosure, properly qualified by a cost grid information chart that allows the individual consumer to estimate what the labeled appliance will cost to operate, (103) will greatly assist consumers in their appliance purchasing selections. These factors, coupled with the strong statutory presumption in favor of a cost disclosure, convince the Commission that the required disclosure of estimated yearly energy costs should be adopted.

For climate control equipment (room air conditioners and furnaces), the Commission has adopted an energy efficiency rating (EER) disclosure instead of an estimated annual energy cost disclosure. In the case of room air conditioners, energy efficiency ratings have been in use for the last six years. (104) Because these appliances have highly dissimilar usage cycles dependent on disparate climate conditions across the United States, an average energy cost to operate climate control equipment would be very difficult to quantify. (105) The Commission believes that this fact argues against cost as a useful measure of energy consumption for climate control equipment, and requires adoption of an alternative measure that is independent of climatic effects on energy usage. The record shows that an energy efficiency rating meets this objective. (106) Therefore, the Commission has decided that manufacturers of climate control equipment should be required to disclose the energy efficiency ratings of their products as derived from DOE test procedures. (107) An EER range of comparability for similarly-sized competing brands must also be

disclosed, (108) followed by a cost-grid chart that indicates the estimated annual energy cost for the appliance at various utility rates and hours of usage. (109)

All required label information must appear as specified in § 305.11(a)(5) (i) and (ii) of the final rule. Illustrations of the labels appear in Figures 1 through 3. (110)

The label specifications detailed in § 305.11 of the Rule, like the overall graphic presentation of the label design, have undergone significant changes since the rule was proposed. For example, the final rule clarifies that the manufacturer or private labeler may include multiple model numbers on the label if the models have the same capacity and consume the same amount of energy. (111) Additionally, the final rule does not require that the name of the manufacturer or the date of manufacture appear on the label, but makes their inclusion optional. This change minimizes the printing burden on manufacturers who produce covered products for private labelers or where labeled information remains unchanged from year to year. (112) These revisions, which were suggested by rulemaking participants, should help reduce labeling costs for manufacturers. (113)

Additional modifications resulting from graphic reproduction constraints have been made to the requirements for label size, format, headline, adhesive consistency, paper stock, and use of pressure sensitive, hang tag or flap tag labels. (114) The Commission believes that these changes strengthen the graphic presentation of the required information.

b. *Fact sheets for furnaces.* Unlike the other products covered by the rule, (115) most furnaces are sold by manufacturers through distributors to retail dealers or contractors. (116) The latter, in turn, sell the furnaces to consumers and install them. (117) The majority of furnace purchases are made either in the consumer's home or as part of the consumer's purchase of a home. (118) As a result, few consumers have an opportunity to see a display model before the furnace is installed. (119) Even if a display unit is seen, it will represent a family of models and will not necessarily be the model under consideration for purchase. (120) Thus, any label information provided on the display model is likely to contain disclosures that are inapplicable to the unit being purchased.

In addition, many factors, such as the cooling load or heat gain of the dwelling, (121) the sizing and location of the ductwork, (122) the setting of the thermostat, (123) and the lifestyle of the

purchaser's family, (124) will affect the amount of energy consumed by the furnace and the system of which it is a part. Thus, a label disclosing the estimated energy cost or energy efficiency rating for one unit or combination will be irrelevant—indeed, misleading—to consumers who are purchasing a different one. (125)

Because of these factors, many rulemaking participants suggested that furnaces carry a general label, supplemented by specific energy consumption information disclosed in separate energy fact sheets. (126)

The Commission agrees that energy consumption information concerning furnaces can best be provided to consumers by this dual disclosure scheme. Each fact sheet must contain the information listed in § 305.11(b)(3) of the rule, including the energy efficiency rating of each model, the range of energy efficiency ratings for comparable appliance products, and cost-grid information based on varying utility rates and geographical locations. (127) Retailers, including assemblers, who sell furnaces to consumers must have fact sheets for the furnaces they sell and must make the fact sheets available to consumers prior to purchase. The fact sheets may be made available to customers in any manner, as long as customers are likely to notice them. (128) Consumer use of the fact sheets will be supplemented by the general information contained on the labels on any display models the consumer may see.

**2. Point-of-Sale disclosures.** EPCA authorized the Commission to require the disclosure, in any printed matter displayed or distributed at the point of sale, of any information that is required to be disclosed on the product's label. (129) As originally proposed, the rule would have required that all point-of-sale printed matter, except that reflecting only the identification of a covered product or pricing information about the product, include all information required by the rule to be included on the product's label. (130)

Participants in the rulemaking proceeding described the types of printed material which may be displayed or distributed at the point of sale. This material includes product specification sheets, (131) large advertising banners, (132) small stickers, (133) use and care manuals, (134) installation instructions, (135) warranties, (136) and many other general sales aids. (137) Witnesses explained that much of this material is not limited to mere product identification or pricing information, and that, in many cases, the material applies

to more than one model. (138) In view of the many types and extensive use of promotional material displayed or provided for distribution to consumers, numerous witnesses testified that the proposed requirement would impose a significant and unnecessary cost burden. (139) For example, required changes in label disclosures (140) would also necessitate revision of large amounts of point-of-sale materials. Although the frequency of such revisions cannot be accurately predicted, their costs clearly would be substantial, (141) and likely would be passed on to the consumer. (142) If sellers decided to cease using these materials to avoid the cost of revisions, (143) consumers would be deprived of much relevant and useful product information.

As an alternative to the original proposal, substantial support was voiced for a requirement that point-of-sale materials contain a general disclosure advising the consumer to consult energy cost or efficiency information available from the retailer before purchasing an appliance covered by the rule. (144)

The Commission believes that a reference in point-of-sale materials to the importance and availability of energy consumption information will serve two useful purposes. First, it will reinforce the rule's labeling and fact sheet scheme, drawing attention to the availability of energy consumption information. Second, if consumers are told that this information is available and then seek it out, they will be better able to evaluate the validity of any energy-related claims made in point-of-sale materials for a particular product. For these reasons, the Commission has decided to include a point-of-sale reference requirement in the final rule.

To minimize the cost of this requirement, the disclosure that must appear in point-of-purchase materials is a brief one: "Before purchasing this appliance, read important energy cost and efficiency information available from your retailer." (145) In addition, the Commission has decided that this disclosure need not be included in the following types of point-of-sale materials: (146)

- (1) Written warranties;
- (2) Use and care manuals, installation instructions, or other printed materials containing primarily post-purchase information for the purchaser; or
- (3) Printed material containing only the identification of a covered product, pricing information, or non-energy related representations concerning the product.

These exclusions further minimize the cost of the general disclosure

requirement, while ensuring that consumers will be made aware of the existence of the standardized label and fact sheet information.

Finally, the general disclosure will not be required on point-of-sale materials that have been distributed prior to the effective date of the disclosure requirement. (147) This exemption recognizes that previously distributed (148) materials are beyond the control of the manufacturers, (149) who are usually responsible for their preparation. Similarly, it avoids the substantial costs that would be incurred by industry members if promotional materials currently in use had to be replaced. Finally, it is consistent with the effective date limitation imposed by EPCA on a similar requirement for disclosures in catalogs. (150)

**3. Catalogs.** Except as otherwise required by the Commission's rule, EPCA requires that manufacturers, distributors, retailers, and private labelers include in their catalogs all information required to be displayed on the label of a covered product. (151) The Act specifically limits application of the disclosure requirement to catalogs whose distribution has not commenced prior to the effective date of the labeling rule. (152)

As originally proposed, the rule would have required that catalogs advertising a covered product disclose the model's estimated annual energy cost and cost range, its capacity, and its range of comparability. (153) It would have required, on each page listing a covered product, disclosure of the narrative sections of the label headed "Check Energy Cost" and the "Source of Cost Information". (154)

The Commission recognizes the importance of mail and telephone order catalog sales in this period of limited automobile fuel resources, and believes it is important to provide catalog purchasers with the basic energy information found on the label. The final rule requires that the cataloger print on each page of a catalog which advertises a covered product for sale the following information: the capacity of the model; the estimated annual energy cost and cost range for models of refrigerator-freezers, freezers, dishwashers, clothes washers and water heaters; the energy efficiency rating and energy efficiency rating range for models of room air conditioners and furnaces.

With respect to disclosure of the cost-grid information, the final rule adopts an optional disclosure approach that was favored by several rulemaking participants. (155) Under this approach, the cataloger must include on each page of the catalog which lists a covered

product a general disclosure that the consumer should consult a specific page in the catalog for important energy information about the product. (156) The cataloger then has the option of including on the referenced page either the cost-grid chart itself or instructions on how the cost-grid information may be obtained from the cataloger. (157) The Commission believes that this flexible approach will greatly minimize the cost of the disclosure requirement, while ensuring that catalog purchasers will have access to this important cost-grid information.

Post-record comments raised the question whether the rule should specifically exclude from the disclosure requirements sales incentive catalogs that list no prices for the products shown. (158) The commenters indicated that such catalogs typically are used to encourage salespersons to sell more products, (159) and are not used to promote covered products to the general public. The commenters therefore recommended that these catalogs be excluded from the disclosure requirements. (160) The Commission concurs, and has exempted this type of catalog from the final rule. (161)

The rule originally recommended by the staff would have required catalog disclosures to reflect the labeling information at the time of the catalog's publication. (162) Several commenters argued that the complexities of the catalog industry necessitate a more flexible approach, namely, that the information required to be disclosed in catalogs should be determined as of the closing date for printing or the printing deadline date for the catalog. (163) In its revised recommendations to the Commission, the staff adjusted the rule to reflect this comment. The Commission also believes that the concern is justified, and has incorporated the suggested modification into the final rule. (164)

Finally, the rule has dropped the proposed requirement that the cataloger include the narrative sections from the label on each page listing a covered product. This deletion should reduce even further the cataloger's burden under the rule.

With these modifications, the Commission believes that the Congressional mandate that catalogs contain essential energy information has been achieved.

**D. Regulation of Other Energy Consumption Representations.** Section 305.4(d) of the rule restates EPCA's requirement (165) that any representation about the energy consumption of an appliance or the cost of energy consumed by it must be

supported by results from performance of the DOE test procedure on the appliance, and that the claim must fairly disclose those results. Violation of this requirement is an unfair or deceptive act or practice under Section 5 of the Federal Trade Commission Act. (166)

It is important to note that the requirements found in § 305.4(d) of the rule are not limited to products covered by the labeling requirements in the Commission's rule. These requirements were established directly by EPCA, and they apply to any product category for which DOE has prescribed a final test procedure under EPCA. (167) As to a particular appliance product, the requirements are effective 180 days after DOE has prescribed a final test procedure for the category of appliance products. (168) They are not affected by the effective dates of any portions of the Commission's rule. The Commission has included the requirements in the rule only so that appliance industry members may look to one document for all of the EPCA disclosure and representation requirements that will be enforced by the Commission.

**E. Reporting, Recordkeeping, and Substantiation Requirements.** The rule contains specific requirements concerning the duty of manufacturers and private labelers to make reports to the Commission, to maintain records, and to have substantiation for required disclosures or other representations they make.

Manufacturers must submit annual reports to the Commission. (169) By January 21, 1980, each manufacturer of an appliance required to be labeled must submit the first report, containing data derived from performance of the DOE test procedures on the required number of units of each basic model in current production. (170) The report must contain the estimated annual energy cost or energy efficiency rating, the model numbers for each basic model, the total energy consumption used to calculate the estimated annual energy cost or the energy efficiency rating, the number of tests performed on each basic model, and the capacity of each appliance model. (171) This data will be used to determine the ranges of comparability within each appliance category. (172)

Following the first report, manufacturers must submit the reports annually on a staggered schedule, based on the production cycle of the particular appliance. (173) Beginning in 1980 and each year thereafter, the reports for clothes washers must be received by March 1, for water heaters, room air conditioners and furnaces by May 1, for dishwashers by June 1, and for

refrigerators, refrigerator-freezers, and freezers by August 1. (174)

By July 21, 1980, manufacturers must submit to the Commission a report containing starting serial numbers or other numbers identifying the date of manufacture of each covered appliance product. (175) This report is required only one time.

Manufacturers or private labelers must keep underlying test data from which the estimated annual energy cost or energy efficiency rating for each basic model was derived. These records must be maintained for two years after the production of the model has been terminated. (176) Test data or other information requested by the Commission must be submitted within 30 days of the request. (177) Manufacturers and private labelers also must allow access to or copying of such records, if requested. (178) A Commission representative must be allowed to observe any testing required by the rule and to inspect the results of the testing, if requested. (179) Upon request, manufacturers and private labelers must supply no more than two of each model of each covered product to any laboratory designated by the Commission so that it can determine whether the information in catalogs or on the label is accurate. (180) The manufacturer or private labeler must bear the cost of supplying these units to the designated laboratory, (181) but the Commission must pay the charges for the laboratory testing. (182) The Commission will not make a request for units for this independent testing until after a review of the manufacturer's or private labeler's testing records and after giving it an opportunity to revalidate its test data. (183)

**F. Sanctions. 1. Administrative civil penalties.** EPCA set civil penalty sanctions for certain violations of the rule. (184) It also established an administrative mechanism by which the Commission can directly assess civil penalties for these violations (185) rather than having to seek civil penalty assessment by a federal court.

The following rule violations are subject to a maximum administrative civil penalty of \$100 per appliance unit: [1] Knowingly distributing a covered product that is not labeled in accordance with the rule; (186) [2] knowingly removing or rendering illegible a label required by the rule; (187) and [3] failing to disclose any additional energy consumption information required by the rule. (188)

The following rule violations are subject to a maximum administrative civil penalty of \$100 per day: [1] Refusing a Commission request for

access to, or copying of, any records required to be kept by the Commission's rule; (189) [2] refusing to submit to the Commission any reports required by the rule; (190) [3] refusing to permit a Commission representative to observe any required testing or to inspect the results of such testing; (191) [4] refusing a Commission request to supply units of covered products for independent verification testing; (192) and [5] failing to include in any catalog from which covered product may be purchased all energy consumption information required by the rule. (193)

A proposed amendment to the Federal Trade Commission's Rule of Practice to provide procedures for the assessment of civil penalties for violations of the provisions of the Energy Policy and Conservation Act pertaining to labeling and advertising of consumer appliances has been published in the Federal Register with a public comment period currently underway. (194)

2. *Cease and desist orders.* The following statutory and rule violations are unfair or deceptive acts or practices under Section 5 of the Federal Trade Commission Act: (195) [1] Failing to include the required general disclosure in covered point-of-sale materials; (196) and [2] making energy consumption claims in writing or in broadcast advertisements when such claims are not based on performance of the DOE tests or do not fairly reflect the results of those tests. (197) EPCA, Section 336 distinguishes appliance labeling proceedings from other trade regulation rules and states that for the violations listed above, the Commission must pursue traditional cease and desist orders. (198)

G. *Preemptive Effect of the Rule.* In promulgating EPCA, Congress clearly intended to ease any burden on interstate commerce and to eliminate the possibility that manufacturers, distributors, retailers, and private labelers would have to comply with conflicting disclosure requirements. To accomplish this goal, EPCA provides that the Commission's rule supersedes any state regulation that provides for disclosure of information about any measure of energy consumption of a product covered by the Commission's rule other than information disclosed in accordance with the rule. (199)

As reflected in the rule, (200) the Commission interprets the statutory language to mean that the rule preempts any state or local regulation that requires additional disclosures or disclosures that are different from those prescribed by the rule. So that individual manufacturers will be able to prepare to comply with the federal

program without the unnecessary burden of complying with inconsistent state or local regulations, this section of the rule takes effect immediately.

#### Footnotes

1. Pub. L. No. 94-163, 89 Stat. 871 (1975) [hereinafter cited as EPCA].
2. EPCA § 324(b).
3. *Id.* § 324(b)(2).
4. *Id.* § 324(a).
5. *Id.* § 323(c).
6. *Id.*
7. *Id.* § 324.
8. *Id.* §§ 324(a)(1)(B) & (a)(2)(B).
9. *Id.* § 324(a)(2)(B).
10. *Id.* § 324(c).
11. *Id.* § 324(c)(1)(a).
12. *Id.* § 324(c)(1)(b).
13. *Id.* § 324(c)(1)(A)(1).
14. *Id.* § 324(c)(1)(A)(2).
15. *Id.* § 326(a).
16. *Id.* § 324(c)(4).
17. *Id.* § 330.
18. *Id.* § 324(d).
19. *Id.* § 326(a).
20. *Id.* § 324(b)(4).
21. *Id.* § 327.
22. *Id.* § 323(c).
23. *Id.* § 323(c) as amended by the National Energy Conservation Policy Act, Pub. L. No. 95-619, § 421(d)(1), 92 Stat. 3258 (1978).
24. *Id.* § 333(c).
25. 43 FR 31,806 (1978).
26. EPCA § 324(b)(2).
27. 5 U.S.C. § 553 (1970). See also EPCA § 336(a)(1).
28. EPCA § 324(b)(2).
29. *Final Staff Report to the Federal Trade Commission and Recommended Rule on Labeling and Advertising of Consumer Appliances* (February, 1979) [hereinafter cited as Staff Report].
30. These comments may be found in the public record under 209-18-22. For purposes of this Statement the citation system used in the Staff Report as explained in Appendix E is followed here.
31. See memorandum of April 18, 1979 from Staff to the Commission, 209-18-22-59.
32. Mr. Kramer, Director of the Bureau of Consumer Protection, concurred with the staff's findings in a memorandum dated May 25, 1979, 209-18-22-60.
33. See 44 FR 32,013 (1979) (notice of oral presentations).
34. EPCA § 324(b).
35. Section 324(c)(1)(A) of EPCA permits the Commission to issue labeling rules only for those products for which DOE has prescribed final test procedures. When a DOE test procedure incorporating a sampling plan for this category of appliances becomes final, a further rulemaking proceeding will be conducted to consider labeling requirements for central air conditioners.
36. The National Electrical Manufacturers Association (NEMA) offered an example of this, comparing a 5000 BTUH heater and a 7000 BTUH heater (NEMA, 15-42/1-15). NEMA's illustration points out that, in accordance with established laws of physics, both heaters will use exactly the same amount of energy to heat a given space to a desired temperature. The difference between the two heaters is that the 5000 BTUH heater

will operate longer than the 7000 BTUH heater. Both heaters, however, will heat the space to the same temperature, using the same amount of energy, and at the same cost.

37. American Home Appliance Manufacturers (AHAM), 21(a)/331.
38. *Id.*
39. NEMA, 15-42/9-12.
40. Gas Appliance Manufacturers Association (GAMA), 21(a)/1191.
41. *Id.* at 1201.
42. *Id.*
43. *Id.* at 1202.
44. *Id.*
45. *Id.*
46. *Id.*
47. GAMA, 8-21/8.
48. *Id.* Examples of what this would mean in terms of consumer purchase price are as follows: Vented circulators would rise in price from an average of about \$128 to \$158; floor furnaces from \$139 to \$169; and panel-type wall furnaces from \$104 to \$134.
49. *Id.*; Martin Industries, 8-20/3.
50. According to GAMA, the shipment of gas fired units, which account for about 95% of the industry, declined from 615,560 in 1972, to 333,920 in 1977, with shipments of 296,300 projected for 1978. GAMA, 21(a)/1180.
51. *Id.*
52. GAMA, 8-21/7-8.
53. Electronic Industries Association/Consumer Electronics Group (EIA/CEG), 9-1/1.
54. *Id.*
55. *Id.* at 2.
56. *Id.*
57. *Id.*
58. The range of estimated yearly energy cost shown in the proposed sample label for color television receivers is \$7 for the model with the lowest cost and \$13 for the model with the highest cost. 43 FR 31,886 (1978).
59. The average color television set retails for about \$300 to \$600. EIA/CEG 9-1/3.
60. *Id.* at 2.
61. *Id.* at 3; EIA/CEG, 21(a)/588.
62. General Electric, 15-30/11-12; AHAM, 21(a)/815.
63. General Electric, 15-30/11; AHAM, 21(a)/815; Hardwick Stove, 21(a)/806; Tappan Company, 21(a)/856-57.
64. AHAM, 21(a)/815.
65. Hardwick Stove, 10-1/1; Crown Stove, 10-4/1; Peerless Enamel Products, 10-5/1-3.
66. Hardwick Stove, 10-1/1; Crown Stove, 10-4/1; Peerless Enamel Products, 10-5/1-3.
67. Roper, 21(a)/716, 10-11/5; Brown Stove Works, 21(a)/745-46.
68. Hardwick Stove, 21(a)/796.
69. Hardwick Stove, 10-1/2; Brown Stove Works, 21(a)/745-46.
- 69(a). AHAM, 21(a)/815.
70. AHAM, 21(a)/559.
71. *Id.* at 558-59.
72. *Id.* at 559.
73. Hermidifier Co., 12-14/2.
74. *Id.*
75. *Id.*
76. *Id.*
77. 43 FR 15,147 (1978).
78. AHAM, 21(a)/1548.
79. *Id.* at 1549.
80. *Id.*
81. *Id.*
82. Final Rule § 305.5. While EPCA § 324(c)(2)(C) requires the Commission to

include a description of the test procedures used in determining the required labeling information, the Commission believes it is not necessary to incorporate the text of those procedures in the rule. The reference to where the procedures may be found should be sufficient to allow manufacturers to comply with the statutory requirement.

83. See Staff Report at 2. The Commission is aware of the 1980-1981 DOE targets for developing minimum efficiency standards for home appliances, and will assess the continuing need for the labeling program when the standards are issued.

84. Tappan, 10-2/8-10; Air Conditioning and Refrigeration Institute (ARI), 7-1/14; NEMA, 15-42/34-35; AHAM, 21(a)/2037-45, 15-40/8-16; Hydronics, 14-10/25-26; GAMA, 15-38/28-29; General Electric, 15-30/4-5; California Citizen Action Group (CCAG) rebuttal/28-29. *Contra*, Stenger, 21(a)/275; Frigidaire, 21(a)/511, 12-29/5-6; Toward Utility Rate Normalization (TURN), 21(a)/2358, 16-3/52-53.

85. Tappan, 10-2/8-10; ARI, 7-1/14; NEMA, 15-42/34-35; AHAM, 21(a)/2037-45, 15-40/8-16; Hydronics, 14-10/25-26; GAMA, 15-38/28-29; General Electric, 15-30/4-5; CCAG rebuttal/28-29. *Contra*, Stenger, 21(a)/275; Frigidaire, 21(a)/511, 12-29/5-6; TURN, 21(a)/2358, 16-3/52-53.

86. AHAM, 21(a)/2037-45; Carrier, 21(a)/2140-45; Ford Product Corp., 21(a)/356-59; Greenville, 21(a)/912-13; Magic Chef, 21(a)/761-62; Whirlpool, 21(a)/2130-34.

87. Ford Product Corp., 21(a)/356-59.

88. See Final Rule § 305.4(d).

89. EPCA § 324(c)(1)(A)(i). The Secretary has not made such a determination for any category of appliances.

90. *Id.* § 324(c)(1)(A)(ii).

91. *Id.* §§ 324(c)(1)(A) & 324(c)(1)(B).

92. *Id.* § 324(c)(1)(A)(ii).

93. Final Rule, § 305.11(a)(5).

94. See, e.g., AHAM, 21(a)/95, 15-40/i, 4; American Retail Federal (ARF), 15-25/3-4; Montgomery Ward, 15-36/4; Commonwealth Edison, 15-17/1; National Retail Merchants Association (NRMA), 15-28/2-9; Whirlpool, 15-27/12; ARI, 15-32/3.

95. AHAM, 21(a)/95, 15-40/i, 4; ARF, 15-25/3-4; Montgomery Ward, 15-36/4; Commonwealth Edison, 15-17/1; NRMA, 15-28/2-9; Whirlpool, 15-27/12; ARI, 15-32-3.

96. See statements of Mr. Turnbull, Mr. Ringger, and Mr. Takacs, 209-18-21(a).

97. See, e.g., Amana, 21(a)/22; American Home Economics Association (AHEA), 21(a)/85; Roper, 21(a)/724; Brown Stove, 21(a)/753.

98. Amana, 21(a)/22; AHEA, 21(a)/85;

Roper, 21(a)/724; Brown Stove, 21(a)/753.

99. Amana, 21(a)/22; AHEA, 21(a)/85;

Roper, 21(a)/724; Brown Stove, 21(a)/753.

100. See statements of Ms. Siegel, Mr. Kammerer, Dr. Morrison, Mr. Langmead, Mr. Cuccinelli, Mr. Kurtz, and Ms. Grueneich, 209-18-21(a).

101. AHAM, 15-40/4; ARF, 15-25/2-10; ARF and NRMA, 21(a)/95, 175-94, 201-203, 204-09, 211-14, 216-17, 219, 223-24, 231-38, 240-47, 250, 255-59, 263-64; Montgomery Ward, 15-30/2-12; Penney, 15-54/8; Sears, 15-55/2-8.

102. See memorandum of May 25, 1979 from staff to the Commission, 209-18-22-61 at 4.

103. See Final Rule, Appendices A1-D3, F.

104. Beard, 21(a)/1056-58, 1062-66; AHAM, 15-40/141-42; Sears, 15-55/7; General Electric, 21(a)/1045, 1048-49; Carrier, 21(a)/1080; ARI, 21(a)/1107.

105. ARI, 13-4/2-8, 14-11/2-5.

106. See sources cited note 104, *supra*.

107. See Final Rule §§ 305.11(a)(5)(i) (room air conditioners), 305.11(a)(5)(ii) (furnaces).

108. Final Rule §§ 305.11(a)(5)(i) (room air conditioners), 305.11(A)(5)(ii) (furnaces).

109. Final Rule §§ 305.11(a)(5)(i) (room air conditioners), 305.11(a)(5)(ii) (furnaces).

110. All energy labels for each category of covered products must be one size, printed in similar colors and type faces with consistent positioning of headline, copy and charts. Such uniformity in the disclosure format will facilitate immediate consumer recognition and readability. Exact specifications appear in Figures 1, 2, and 3 following Appendix H of the rule and may only be modified where permitted in the rule. Briefly, trim size for all labels is 5½ inches by 7½ inches. Copy is to be set at 27 or 29 picas and copy page must be centered (right to left and top to bottom). Depth is variable, but should follow the label specifications in Figures 1 through 3, the prototype labels illustrating the basic layout. All positioning, spacing, type sizes, and line widths must be similar to and consistent with the prototype label. The basic colors of all labels shall be process yellow or equivalent. The color may be achieved by printing or by the use of colored paper stock. All type, including chart or table rules, shall be print process black. The label may be printed as either a pressure sensitive label or in the form of a hang tag or flap tag. All adhesive labels must be applied so they can be easily uncovered without the use of tools or liquids, other than water. The paper stock, peel consistency, and height and width variables are outlined in § 305.11(a)(4)(i) of the rule. The paper stock, stress durability, and placement for hang tags is discussed in § 305.11(a)(4)(ii).

111. See Final Rule § 305.11(a)(5)(i)(C).

112. AHAM, 15-40/iii; NEMA, 15-42/49-50; GAMA, 21(a)/303; 15-38/48.

113. AHAM, 15-40/iii; NEMA, 15-42/49-50; GAMA, 21(a)/303; 15-38/48.

114. Label size was reduced from a mandatory width of 9¼ inches to a uniform trim size of 5½ inches by 7½ inches. The heading "Energy Guide" was selected to replace the proposed rule's headline: "Before Buying: Compare Energy Costs." This change permits the use of a uniform format for appliance labels whether they bear a cost or efficiency disclosure, and provides an easy, general identification with the labels. The requirement of yellow bands divided by white rules on the label has been eliminated. The minimum adhesion capacity requirement on pressure sensitive labels has been reduced from 60 ounces per inch width to 24 ounces per inch width. Specifications for breaking strength of the string used to attach hang tags have been eliminated and replaced by a general requirement that, if gradual pressure is applied to the hang tag by pulling, it should tear before the material used to attach the hang tag to the product breaks.

115. ARI, 14-11; Hydronics, 14-10; General Electric, 15-31; Amana, 15-37/2; GAMA, 14-9/2; Ducane Heating, 14-3/2; Teledyne Laars, 14-5/7-11.

116. ARI, 14-11; Hydronics, 14-10; General Electric, 15-31; Amana, 15-37/2; GAMA, 14-9/2; Ducane Heating, 14-3/2; Teledyne Laars, 14-5/7-11.

117. ARI, 14-11; Hydronics, 14-10; General Electric, 15-31; Amana, 15-37/2; GAMA, 14-9/2; Ducane Heating, 14-3/2; Teledyne Laars, 14-5/7-11.

118. ARI, 15-32/5; General Electric, 15-31/3.

119. ARI, 15-32/5; General Electric, 15-31/3.

120. ARI, 15-32/6; General Electric, 15-31/3-4.

121. ARI, 14-11/3.

122. *Id.*

123. *Id.*

124. *Id.*

125. ARI 14-11/3; Peerless, 14-6/2; GAMA, 14-9/104.

126. Ducane, 14-3; Teledyne Laars, 14-5/18-19; Peerless, 14-6; GAMA, 14-9/3; Hydronics, 14-10/17-22; ARI, 14-11/4-5.

127. Final Rule § 305.11(b)(1)(i).

128. Final Rule § 305.11(b)(1)(ii).

129. EPCA § 324(c)(4).

130. See Section 305.13 of the Proposed Rule, 43 FR 31,813 (1978).

131. General Electric, 21(a)/494; Tappan, 21(a)/834; GAMA, 21(a)/761.

132. Tappan, 21(a)/835-36.

133. *Id.* at 834.

134. Amana, 21(a)/9; National Home Furnishing Association (NHFA), 21(a)/197; General Electric, 21(a)/486; McGee, 21(a)/761; ARF, 15-25/11-12; Whirlpool, 15-27/29-30; NRMA, 15-28/18.

135. Amana, 21(a)/9; ARF, 15-25/11-12; Whirlpool, 15-27/29-30.

136. Amana, 21(a)/9; NHFA, 21(a)/197; ARF, 15-25/11-12; NRMA, 15-28/18.

137. NHFA, 21(a)/197-200; Montgomery Ward, 21(a)/253; Sears, 21(a)/224-25.

138. Amana, 21(a)/10; NHGA, 21(a)/199; ARF, 15-25/12; Whirlpool, 15-27/30; NRMA, 15-28/19; J. C. Penney, 15-54/3-4.

139. Whirlpool, 15-27/29-31; Tappan, 10-2/25; Thermador/Waste King, 10-9/5-6; 10-11/6-7.

140. An example would be a 15% or more change in the national average energy cost of a covered product or a change in the operating cost or efficiency range information due to product design changes of competing products.

141. ARI, 21(a)/430; NRMA, 15-28/18;

Sears, 15-55/27; Whirlpool, 21(a)/558;

Thermador/Waste King, 21(a)/693.

142. ARI, 21(a)/430; NRMA, 15-28/18;

Sears, 15-55/27; Whirlpool, 21(a)/558;

Thermador/Waste King, 21(a)/693.

143. NRMA, 15-28/18-19; Montgomery Ward, 15-36/17; GAMA, 21(a)/758; Tappan, 21(a)/838; Sears, 21(a)/253; ARF, 15-25/12.

144. GAMA, 21(a)/301, 308, 758, 761, 15-38/12, 24, 56-57; NEMA, 21(a)/944, 15-42/56;

ARI, 21(a)/430, 15-32/11, 14-11/6, 11, 13-4/21.

145. Final Rule § 305.13(a).

146. *Id.* § 305.13(b).

147. *Id.* § 305.13(b)(4).

148. Tappan, 21(a)/838.

149. Whirlpool, 21(a)/393, 535, 15-27/30;

Sears, 15-55/27.

150. EPCA § 326(a).

151. *Id.*

152. *Id.*

153. See Proposed Rule § 305.14, 43 FR 31,813 (1978).
154. *Id.*
155. J. C. Penney, 15-54/9-10; Sears, 15-55/28-32; Montgomery Ward, 15-36/6-11; ARF, 15-25/13-18; NRMA, 15-28/21-24.
156. Final Rule § 305.14(a)(5).
157. *Id.* § 305.14(b).
158. Tappan, 22-2/3; General Electric, 22-16/3.
159. Tappan, 22-2/3; General Electric, 22-16/3.
160. See memorandum of May 25, 1979 from staff to the Commission, 209-18-22-61 at 13.
161. See Final Rule § 305.14, which applies only to catalogs from which covered products may be purchased by cash, charge account, or credit terms.
162. See Proposed Rule, § 305.14, 43 FR 31,813 (1978).
163. See sources cited note 155, *supra*.
164. See Final Rule § 305.14(a)(2) and (4).
165. EPCA § 323(c).
166. 15 U.S.C. § 45 (1976). See also EPCA § 333(c).
167. EPCA § 323(c).
168. *Id.*
169. Final Rule § 305.8.
170. *Id.* § 305.8(a).
171. *Id.*
172. See Final Rule § 305.10.
173. Final Rule § 305.8(b).
174. *Id.*
175. *Id.* § 305.8(a)
176. *Id.* § 305.15(a)
177. *Id.* § 305.15(b).
178. *Id.* §§ 305.15(b) & 305.16.
179. *Id.* § 305.16.
180. *Id.*
181. *Id.*
182. *Id.*
183. *Id.*
184. EPCA § 333(a).
185. *Id.*
186. Final Rule § 305.4(a)(1).
187. *Id.* § 305.4(a)(2).
188. *Id.* § 305.4(a)(3).
189. *Id.* § 305.4(b)(1).
190. *Id.* § 305.4(b)(2).
191. *Id.* § 305.4(b)(3).
192. *Id.* § 305.4(b)(4).
193. *Id.* § 305.4(b)(5).
194. 44 FR 53,088 (1979).
195. 15 U.S.C. § 45 (1976). See also EPCA § 333(c)
196. Final Rule § 305.4(c).
197. *Id.* § 305.4(d).
198. 15 U.S.C. § 45(b) (1976).
199. EPCA § 327.
200. Final Rule § 305.17.

In consideration of the foregoing, the Commission prescribes the following rule, pursuant to Section 324 (42 U.S.C. 6294) of the Energy Policy and Conservation Act (Pub. L. 94-163), as amended by the National Energy Conservation Policy Act (Pub. L. 95-619), and to section 553 of subchapter II, chapter 5, title 5 of the U.S. Code (Administrative Procedure). This amends title 16, chapter 1, of the Code of Federal Regulations by adding to Subchapter C—Regulations Under Specific Acts of Congress, a new Part

305 of that subchapter. The new Part 305 reads as follows:

**PART 305—RULES FOR USING ENERGY COSTS AND CONSUMPTION INFORMATION USED IN LABELING AND ADVERTISING FOR CONSUMER APPLIANCES UNDER THE ENERGY POLICY AND CONSERVATION ACT**

**Scope**

**Sec.**

- 305.1 Scope of the regulations in this part.
- 305.2 Definitions.
- 305.3 Description of covered products to which this part applies.

**General**

- 305.4 Prohibited acts.

**Testing**

- 305.5 Determinations of estimated annual energy cost and energy efficiency rating.
- 305.6 Determinations of capacity.
- 305.8 Submission of data.

**Representative Average Unit Energy Costs**

- 305.9 Representative average unit energy costs.
- 305.10 Ranges of estimated annual energy costs and energy efficiency ratings.

**Required Disclosures**

- 305.11 Labeling for covered products.
- 305.12 Additional information relating to energy consumption.
- 305.13 Promotional material displayed or distributed at point of sale.
- 305.14 Catalogs.

**Additional Requirements**

- 305.15 Test Data records.
- 305.16 Required testing by designated laboratory.

**Effect of This Part**

- 305.17 Effect of other law.
- 305.18 When the rules take effect.
- 305.19 Stayed or invalid parts.

- Appendix A1—Refrigerators.
- Appendix A2—Refrigerator-Freezers.
- Appendix B—Freezers.
- Appendix C—Dishwashers.
- Appendix D1—Water Heaters—Gas.
- Appendix D2—Water Heaters—Electric.
- Appendix D3—Water Heaters—Oil.
- Appendix E—Room Air Conditioners.
- Appendix F—Clothes Washers.
- Appendix G—Furnaces.
- Appendix H—Suggested Data Reporting Format.

**Authority:** Sec. 324 of the Energy Policy and Conservation Act, (Pub. L. 94-163, (42 U.S.C. 6294)); as amended by the National Energy Conservation Policy Act (Pub. L. 95-619).

**PART 305—RULE FOR USING ENERGY COSTS AND CONSUMPTION INFORMATION USED IN LABELING AND ADVERTISING FOR CONSUMER APPLIANCES UNDER THE ENERGY POLICY AND CONSERVATION ACT**

**Scope**

**§ 305.1 Scope of the regulations in this part.**

The rule in this part establishes requirements for consumer appliance products, as hereinafter described, in commerce, as "commerce" is defined in the Energy Policy and Conservation Act, 42 U.S.C. 6291, with respect to:

(a) Labeling the products with information indicating their estimated annual energy costs or energy efficiency ratings, and related information;

(b) Including in printed matter displayed or distributed at the point of sale of such products, or including in any catalog from which the products may be purchased, information concerning their energy consumption.

(c) Including on the labels, separately attaching to the products, or shipping with the products, additional information relating to energy consumption, energy efficiency, or energy cost; and

(d) Making representations, in writing or in broadcast advertising, respecting the energy consumption, energy efficiency, or the cost of energy consumed by consumer appliance products.

**Definitions**

**§ 305.2 Definitions.**

(a) "Act" means the Energy Policy and Conservation Act (Pub. L. 94-163), and amendments thereto.

(b) "Commission" means the Federal Trade Commission.

(c) "Manufacturer" means any person who manufactures, produces, assembles, or imports a consumer appliance product. Assembly operations which are solely decorative are not included.

(d) "Retailer" means a person to whom a consumer appliance product is delivered or sold, if such delivery or sale is for purposes of sale or distribution in commerce to purchasers who buy such product for purposes other than resale. The term "retailer" includes purchasers of appliances who install such appliances in newly constructed or newly rehabilitated housing, or mobile homes, with the intent to sell the covered appliances as part of the sale of such housing or mobile homes.

(e) "Distributor" means a person (other than a manufacturer or retailer) to whom a consumer appliance product is

delivered or sold for purposes of distribution in commerce.

(f) "Private labeler" means an owner of a brand or trademark on the label of a consumer appliance product which bears a private label.

(g) "Range of comparability" means a group of models within a class of covered products, each model of which satisfies approximately the same consumer needs.

(h) "Estimated annual operating cost" or "estimated annual energy cost" means the aggregate retail cost of the energy which is likely to be consumed annually in representative use of a consumer product, determined in accordance with tests prescribed under Section 323 of the Act (42 U.S.C. 6293).

(i) "Energy efficiency rating" means the "annual fuel utilization efficiency" for furnaces, and "energy efficiency ratio" for room air conditioners, determined in accordance with tests prescribed under Section 323 of the Act (42 U.S.C. 6293).

(j) "Range of estimated annual operating costs" or "range of estimated annual energy costs" means the range of estimated annual operating costs of all models within a designated range of comparability.

(k) "Range of energy efficiency ratings" means the range of energy efficiency ratings for all models within a designated range of comparability.

(l) "New covered product," as used in § 305.4, means a covered product the title of which has not passed to a purchaser who buys the product for purposes other than resale or leasing for a period in excess of one year.

(m) "Catalog" means printed material which contains the terms of sale, retail price, and instructions for ordering, from which a retail consumer can order a covered product.

(n) "Consumer appliance product" means any appliance product for which the Secretary of the Department of Energy has prescribed final test procedures pursuant to Section 323 of the Act (42 U.S.C. 6293).

(o) "Covered Product" means any consumer appliance product defined in § 305.3 of the rule which is, or may be, used for personal use or consumption by individuals.

### § 305.3 Description of covered products to which this part applies.

(a) Refrigerators and refrigerator-freezers.

(1) "Electric refrigerator" means a cabinet designed for refrigerated storage of food at temperatures above 32° F and having a source of refrigeration requiring an electrical energy input only. It may include a compartment for the

freezing and storage of food at temperatures below 32° F but does not provide a separate low-temperature compartment designed for the freezing of and long-term storage of food at temperatures below 8° F. It has only one exterior door, but it may have interior doors or compartments.

(2) "Electric refrigerator-freezer" means a cabinet which consists of two or more compartments with at least one of the compartments designed for the refrigerated storage of foods at temperatures above 32° F and with at least one of the compartments designed for the freezing of and the storage of frozen foods at temperatures of 8° F or below and which may be capable of adjustment by the user to a temperature of 0° F or below. The source of refrigeration requires an electrical energy input only.

(b) "Freezer" means a cabinet designed as a unit for the storage of food at temperatures of 0° F or below and which has the ability to freeze food. The source of refrigeration requires an electric energy input only.

(c) "Dishwasher" means a cabinetlike appliance which, with the aid of water and detergent, washes, rinses, and dries (when a drying process is included) dishware, glassware, eating utensils and most cooking utensils by chemical, mechanical, and/or electrical means and discharges to the plumbing drainage system.

(d) "Water heater" means an automatically controlled, thermally insulated vessel designed for heating water and storing heated water. It is designed to produce hot water at a temperature of less than 180° F.

(1) "Electric water heater" means a water heater which utilizes electricity as the energy source for heating the water, which has a manufacturer's specified energy input rating of 12 kilowatts or less at a voltage no greater than 250 volts, and which has a manufacturer's specified storage capacity of not less than 20 gallons nor more than 120 gallons.

(2) "Gas water heater" means a water heater which utilizes gas as the energy source for heating the water, which has a manufacturer's specified energy input rating of 75,000 Btus per hour or less, and which has a manufacturer's specified storage capacity of not less than 20 gallons nor more than 100 gallons.

(3) "Oil water heater" means a water heater which utilizes oil as the energy source for heating the water, which has a manufacturer's specified energy input rating of 103,875 Btus per hour or less, and which has a manufacturer's

specified storage capacity of 50 gallons or less.

(e) "Room air conditioner" means an encased assembly designed as a unit for mounting in a window or through the wall for the purpose of providing delivery of conditioned air to an enclosed space. It includes a prime source of refrigeration and may include a means for ventilating and/or heating.

(f) "Clothes washer" means a consumer product designed to clean clothes, utilizing a water solution of soap and/or detergent and mechanical agitation or other movement.

(1) "Automatic clothes washer" means a class of clothes washer which has a control system capable of scheduling a preselected combination of operations, such as regulation of water fill level, and performance of wash, rinse, drain and spin functions, without the need for the user to intervene subsequent to the initiation of machine operation. Some models may require user intervention to initiate these different segments of the cycle after the machine has begun operation, but they do not require the user to intervene to regulate the water temperature by adjusting the external water faucet valves.

(2) "Semi-automatic clothes washer" means a class of clothes washer that is the same as an automatic clothes washer except that the user must intervene to regulate the water temperature by adjusting the external water faucet valves.

(3) "Other clothes washer" means a class of clothes washer which is not an automatic or semi-automatic clothes washer.

(g) "Furnace" means a device designed to be the principal heating source for the living space of a residence and having a heat input rate of less than 300,000 Btus per hour for boilers and less than 225,000 Btus per hour for furnaces.

(1) "Forced air central furnace" means a gas or oil burning furnace designed to supply heat through a system of ducts with air as the heating medium. The heat generated by combustion of gas or oil is transferred to the air within a casing by conduction through heat exchange surfaces and is circulated through the duct system by means of a fan or blower.

(2) "Gravity central furnace" means a gas-fueled furnace which depends primarily on natural convection for circulation of heated air and which is designed to be used in conjunction with a system of ducts.

(3) "Electric central furnace" means a furnace designed to supply heat through a system of ducts with air as the heating medium, and in which heat is generated by one or more electric resistance

heating elements, and the heated air is circulated by means of a fan or blower.

(4) "Direct vent system" means a system supplied by a manufacturer which provides outdoor air directly to a furnace for combustion and draft relief if the unit is so equipped.

(5) "Electric boiler" means an electrically powered furnace designed to supply low pressure steam or hot water for space heating application. A low pressure steam boiler operates at or below 15 psig steam pressure; a hot water boiler operates at or below 160 psig water pressure and 250° F water temperature.

(6) "Low pressure steam or hot water boiler" means a gas or oil burning furnace designed to supply low pressure steam or hot water for space heating application. A low pressure steam boiler operates at or below 15 psig steam pressure; a hot water boiler operates at or below 160 psig water pressure and 250° F water temperature.

#### General

##### § 305.4 Prohibited acts.

(a) It shall be unlawful and subject to the enforcement penalties of Section 333 of the Act of a maximum civil penalty of \$100 for each unit of any new covered product to which this part applies:

(1) For any manufacturer or private labeler knowingly to distribute in commerce any new covered product unless such covered product is labeled in accordance with Section 305.11 with a label, flap tag, hang tag, or energy fact sheet which conforms to the provisions of the Act and this part.

(2) For any manufacturer, distributor, retailer, or private labeler knowingly to remove or render illegible any label required to be provided with such product by this part.

(3) For any manufacturer or private labeler knowingly to distribute in commerce any new covered product, if there is not included (i) on the label, (ii) separately attached to the product, or (iii) shipped with the product, additional information relating to energy consumption or energy efficiency which conforms to the requirements in this Part.

(b) It shall be unlawful and subject to the enforcement penalties of Section 333 of the Act of a maximum civil penalty of \$100 per day for any manufacturer or private labeler knowingly to:

(1) Refuse a request by the Commission or its designated representative for access to, or copying of, records required to be supplied under this part.

(2) Refuse to make reports or provide upon requests by the Commission or its

designated representative any information required to be supplied under this part.

(3) Refuse upon request by the Commission or its designated representative to permit a representative designated by the Commission to observe any testing required by this part while such testing is being conducted or to inspect the results of such testing. This section shall not limit the Commission from requiring additional testing under this part.

(4) Refuse, when requested by the Commission or its designated representative, to supply at the manufacturer's expense, no more than two of each model of each covered product to any laboratory designated by the Commission for the purpose of ascertaining whether the information in catalogs or set out on the label as required by this part is accurate. This action will be taken only after review of a manufacturer's testing records and an opportunity to revalidate test data has been extended to the manufacturer.

(5) Distribute in commerce any catalog containing a listing for a covered product without the information required by Section 305.14 of this Part. This subsection shall also apply to distributors and retailers.

(c) Pursuant to Section 333(c) of the Act, it shall be an unfair or deceptive act or practice in violation of Section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)) for any manufacturer, distributor, retailer or private labeler in or affecting commerce to display or distribute at point of sale any printed material applicable to a covered product under this rule if such printed material does not contain the information required by § 305.13. This requirement does not apply to any broadcast advertisement or to any advertisement in a newspaper, magazine, or other periodical.

(d) Effective 180 days after a test procedure applicable to a consumer appliance product is prescribed by the Secretary of the Department of Energy, pursuant to Section 323 of the Act (42 U.S.C. 6293), it shall be an unfair or deceptive act or practice in violation of Section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)) for any manufacturer, distributor, retailer, or private labeler to make any representation in or affecting commerce—

(1) In writing (including a representation on a label), or  
(2) In any broadcast advertisement, respecting the energy consumption of the product or cost of energy consumed by the product, unless the product has

been tested in accordance with the test procedure and the representation fairly discloses the results of the testing. This requirement is not limited to consumer appliance products covered by the labeling requirements in this part.

Any manufacturer, distributor, retailer, or private labeler may file a petition with the Commission not later than sixty (60) days before the expiration of the period involved for an extension of the 180-day period. If the Commission finds that the requirements would impose an undue hardship on the petitioner, the Commission may extend the 180 day period with respect to the petitioner up to an additional 180 days.

(e) This part shall not apply to:

(1) Any covered product if it is manufactured, imported, sold, or held for sale for export from the United States, so long as such product is not in fact distributed in commerce for use in the United States, and such covered product or the container thereof bears a stamp or label stating that such covered product is intended for export.

(2) Any covered product if the manufacture of the product was completed prior to May 19, 1980.

(3) Any catalog or point of sale printed matter distributed prior to except that if representations respecting the energy consumption or energy efficiency of any covered product or other consumer appliance product or cost of energy consumed by such product are included, they are subject to the requirements of paragraph (d) of this Section.

(f) As used in paragraphs (a) and (b) of this Section, the term "knowingly" means:

(1) The having of actual knowledge, or  
(2) The presumed having of knowledge deemed to be possessed by a reasonable person who acts in the circumstances, including knowledge obtainable upon the exercise of due care.

#### Testing

##### § 305.5 Determinations of estimated annual energy cost and energy efficiency rating.

Procedures for determining the estimated annual energy costs and energy efficiency ratings of covered products are those found in 10 CFR Part 430, Subpart B, in the following sections:

(a) Refrigerators and refrigerator-freezers—§ 430.22(a).  
(b) Freezers—§ 430.22(b).  
(c) Dishwashers—§ 430.22(c).  
(d) Water heaters—§ 430.22(e).  
(e) Room air conditioners—§ 430.22(f).  
(f) Clothes washers—§ 430.22(j).  
(g) Furnaces—§ 430.22(n).

**§ 305.6 Sampling.**

Any representation with respect to or based upon a measure or measures of energy consumption incorporated into § 305.5 shall be based upon the sampling procedures set forth in § 430.23 of 10 CFR Part 430, Subpart B.

**§ 305.7 Determinations of capacity.**

The capacity of covered products shall be determined as follows:

(a) Refrigerators and refrigerator-freezers—The capacity shall be the net refrigerated volume in cubic feet, rounded to the nearest one-tenth of a cubic foot, determined according to 3.2 of Appendix A1 to 10 CFR Part 430, Subpart B.

(b) Freezers—The capacity shall be the net freezer refrigerated volume in cubic feet, rounded to the nearest one-tenth of a cubic foot, determined according to 3.2 of Appendix B to 10 CFR Part 430, Subpart B.

(c) Dishwashers—The capacity shall be the place-setting capacity, calculated in conformance with AHAM Specification DW-1.

(d) Water heaters—The capacity shall be the first hour rating, determined according to 4.8 of Appendix E to CFR Part 430, Subpart B.

(e) Room air conditioners—The capacity shall be the cooling capacity in Btu's per hour, determined according to 4.1 of Appendix F to 10 CFR Part 430, Subpart B, but rounded to the nearest value ending in hundreds that will satisfy the relationship that the value of EER used in representations equals the rounded value of capacity divided by the value of input power in watts. If a value ending in hundreds will not satisfy this relationship, the capacity may be rounded to the nearest value ending in 50 that will.

(f) Clothes washers—The size shall be the tub capacity, rounded to the nearest gallon, determined according to 3.1 of Appendix J to 10 CFR Part 430, Subpart B, in the terms standard or compact as defined in Appendix J of this rule. The factor used to convert cubic feet to gallons shall be eight (8) gallons per cubic foot.

(g) Furnaces—The capacity shall be the heating capacity in Btu's per hour, rounded to the nearest 1,000 Btu's per hour, determined according to 4.7 or 4.10 of Appendix N to 10 CFR Part 430, Subpart B.

**§ 305.8 Submission of data.**

(a) Each manufacturer of a covered product shall submit to the Commission,

not later than January 21, 1980, a report listing the estimated annual energy cost (for refrigerators, refrigerator-freezers, freezers, dishwashers, water heaters, and clothes washers) or the energy efficiency rating (for room air conditioners and furnaces) for each basic model in current production, determined according to § 305.5 and statistically verified according to § 305.6. The report also must list, for each basic model in current production: the model numbers for each basic model; the total energy consumption, determined in accordance with § 305.5, used to calculate the estimated annual energy cost or the energy efficiency rating; the number of tests performed; and its capacity, determined in accordance with § 305.7. For the those models which use more than one energy source or more than one cycle, each separate amount of energy consumption, or energy cost, measured in accordance with § 305.5, shall be listed in the report. Appendix H illustrates a suggested reporting format. Starting serial numbers or other numbers identifying the date of manufacture of covered products shall be submitted by July 21, 1980.

(b) Thereafter, all data required by § 305.8(a) except serial numbers, shall be submitted to the Commission annually, on or before the following dates:

Products	Deadline for data submission	Effective mandatory labeling date
Refrigerators, Refrigerator-freezers and Freezers.	Aug. 1 .....	Dec. 1.
Dishwashers.....	June 1 .....	Oct. 1.
Water Heaters.....	May 1 .....	Sept. 1.
Room Air Conditioners.	May 1 .....	Sept. 1.
Clothes Washers.....	Mar. 1 .....	July 1.
Furnaces.....	May 1 .....	Sept. 1.

All revisions to such data (both additions to and deletions from the preceding data) shall be submitted to the Commission as part of the next annual report. Serial number reports for new covered products are due sixty days after the annual effective mandatory labeling date for each product.

(c) All information required by paragraph (a) of this section must be submitted for new models prior to any distribution of such model. Models subject to design or retrofit alterations which change the data contained in any annual report shall be reported in the manner required for new models. Models which are discontinued shall be reported in the next annual report.

**Representative Average Unit Energy Costs****§ 305.9 Representative average unit energy costs.**

(a) Table 1, below, contains the representative unit energy costs to be utilized for all requirements of this Part.

Table 1<sup>1</sup>

	Electricity	Oil	Natural gas	Propane gas
Line:				
1 .....	\$0.0497 per kWh.....	\$6.09x10 <sup>-6</sup> per Btu ..	\$3.67x10 <sup>-6</sup> per Btu ..	\$5.99x10 <sup>-6</sup> per Btu
2 .....	4.97¢ per kWh.....	84.1¢ per gal.....	36.7¢ per therm (100 ft <sup>3</sup> ).	54.5¢ per gal

<sup>1</sup> These figures are based on 1979 DOE calculations and are subject to change.

(b) Table 1, above, will be revised on the basis of future information provided by the Secretary of the Department of Energy, but not more often than annually. Manufacturers shall use the revised information when submission of the annual data is made in accordance with § 305.8.

**§ 305.10 Ranges of estimated annual energy costs and energy efficiency ratings.**

(a) The range of estimated annual energy costs or range of energy efficiency ratings for each covered product shall be taken from the appropriate appendix to this rule in

effect at the time the labels are affixed to the products. The Commission shall publish revised ranges annually in the *Federal Register* if appropriate, or a statement that specific prior ranges are still applicable for the new year. Ranges will be changed if the estimated annual energy cost or the energy efficiency rating of the products within the range changes in a way that would alter the upper or lower cost or efficiency rating limits of the range by 15% or more from that previously published. When a range is revised, all information disseminated after 90 days following the publication

of any revision shall conform to the revised range. Products which have been labeled prior to the effective date of a modification under this section need not be relabeled.

(b) When the estimated annual energy cost or energy efficiency rating of a given model of a covered product falls outside the limits of the range found in the current appendix for that product, which could result from the introduction of a new or changed model, the manufacturer shall (1) omit placement of such product on the scale, and (2) add a sentence in the space just below the scale as follows:

The energy cost of this model was not available at the time the range was published; or

The energy efficiency rating of this model was not available at the time the range was published.

#### Required Disclosures

##### § 305.11 Labeling for covered products.

(a) *Labels*—(1) *Layout*. All energy labels for each category of covered products use one size, similar colors and typefaces with consistent positioning of headline, copy and charts to maintain uniformity for immediate consumer recognition and readability. Trim size for all labels is 5½" x 7¾". Copy is to be set x 27 picas or x 29 picas and copy page should be centered (right to left and top to bottom). Depth is variable but should follow closely Figure 1, the prototype label appearing at the end of this part illustrating the basic layout. All positioning, spacing, type sizes and line widths should be similar to and consistent with the prototype label.

(2) *Type size and setting*. The Helvetica series typeface or equivalent shall be used exclusively on the label. Specific type sizes and faces to be used are indicated on the prototype labels (Figures 1, 2 and 3). No hyphenation should be used in setting headline or text copy. Positioning and spacing should follow the prototype closely. Generally, text may be set flush left or right, line for line, or justified with one point leading except where otherwise indicated. Helvetica medium shall be used for all copy with the following exceptions only: (i) Numerals indicating "highest" and "lowest" energy cost or energy efficiency rating; (ii) chart headings and, if applicable, energy cost graph headings; (iii) the line, "How much will this model cost you to run yearly?"

(3) *Colors*. The basic colors of all labels shall be process yellow or equivalent. The color may be achieved by printing or use of colored paper

stock. All type including chart or table rules shall be print process black.

(4) *Paper stock*—(i) *Adhesive labels*. All adhesive labels should be applied so they can be easily removed without use of tools or liquids, other than water. The paper stock for pressure-sensitive or other adhesive labels shall have a basic weight of not less than 58 pounds per 500 sheets (25" x 38") or equivalent, exclusive of the release liner and adhesive. The adhesive shall have a minimum peel adhesion capacity of 24 ounces per inch width. The pressure-sensitive adhesive shall be applied in not less than two strips not less than 0.5 inches wide. The strips shall be within 0.25 inches of the opposite edges of the label. For a "flap-tag" label, the pressure-sensitive adhesive shall be applied in one strip not less than 0.5 inches wide. The strip shall be within 0.25 inches of the top edge of the label.

(ii) *Hang tags*. The paper stock for hang tags shall have a basic weight of not less than 110 pounds per 500 sheets (25½" x 30½" index). When materials are used to attach the hang tags to appliance products, the materials shall be of sufficient strength to insure that if gradual pressure is applied to the hang tag by pulling it away from where it is affixed to the product, the hang tag will tear before the material used to affix the hang tag to the product breaks.

(5) *Contents*—(i) *Labels for refrigerators, refrigerator-freezers, freezers, dishwashers, clothes washers, water heaters and room air conditioners*.

(A) Headlines and texts, as illustrated in Figures 1 and 2, are standard for all labels. At the option of the manufacturer or private labeler, the appropriate year may be inserted in that portion of the label which discloses the national average unit utility rate upon which the cost estimates are based.

(B) Name of manufacturer or private labeler shall, in the case of a corporation, be deemed to be satisfied only by the actual corporate name, which may be preceded or followed by the name of the particular division of the corporation. In the case of an individual, partnership, or association, the name under which the business is conducted shall be used. Inclusion of the name of the manufacturer or private labeler is optional at the discretion of the manufacturer or private labeler.

(C) Model number(s) will be the designation given by the manufacturer or private labeler.

(D) Capacity or size is that determined in accordance with § 305.7.

(E) Estimated annual energy cost for refrigerators, refrigerator-freezers, freezers, dishwashers, clothes washers

and water heaters is that determined in accordance with § 305.5. Energy efficiency rating for room air conditioners is that determined in accordance with § 305.5

(F) Ranges of comparability and of estimated annual energy costs or energy efficiency ratings, as applicable, are found in Section 1 of the appropriate appendices accompanying this part.

(G) Placement of the labeled product on the scale shall be proportionate to the costs of the lowest and highest costs or efficiency ratings forming the scale.

(H) "More Cost Information" text and tables are found in Section 2 of the appropriate appendices accompanying this part. Cost figures are to be determined in accordance with § 305.5 for the unit energy costs found in Section 2 of the appropriate appendices. Revised appendices will be published by the Commission whenever necessary. Use the unit energy cost figures in the latest published appendices to determine the cost figures to be used for a particular covered product.

(I) The following statement shall appear at the bottom of the label:

"Important  
Removal of this label before consumer purchase is a violation of federal law (42 U.S.C. 6302)."

(J) A statement that the energy costs or energy efficiency ratings, as applicable, are based on U.S. Government standard tests is required on all labels, as indicated in Figures 1 and 2.

(K) No marks or information other than that specified in this Part shall appear on or directly adjoining this label except for a part or publication number identification, as desired by the manufacturer. The identification number shall be in the lower right-hand corner of the label, and characters shall be in 6-point type or smaller.

(ii) *Labels for furnaces*. (A) The headline, as illustrated in Figure 3, is standard for all labels.

(B) Name of manufacturer or private labeler shall, in the case of a corporation, be deemed to be satisfied only by the actual corporate name, which may be preceded or followed by the name of the particular division of the corporation. In the case of an individual, partnership, or association, the name under which the business is conducted shall be used. Inclusion of the name of the manufacturer or private labeler is optional at the discretion of the manufacturer or private labeler.

(C) The following statements shall appear on the label, as indicated in Figure 3:

"You can save substantially on home heating and cooling energy costs by following the simple steps outlined below:

1. Weatherproof your house.
2. Assure energy efficient heating and cooling equipment selection and installation.
3. Operate and maintain your system to conserve energy.

Help conserve energy. Compare the energy efficiency rating and cost information for this model with others. Check the figures and spend less on energy. Your contractor has the energy fact sheets. Ask for them."

(D) The following statement shall appear at the bottom of the label:

"Important  
Removal of this label before consumer purchase is a violation of federal law (42 U.S.C. 6302)."

(E) No marks or information other than specified in this part shall appear on or directly adjoining this label except for a part or publication number identification, as desired by the manufacturer. The identification number shall be in the lower right-hand corner of the label, and characters shall be in 6-point type or smaller.

(6) *Placement.* Manufacturers shall affix a label to the exterior surface on covered products in such a position that it can be easily read while standing in front of the product as it is displayed for sale. The label should be generally located on the upper-right-front corner of the product, except that for low-standing products or products with configurations that make application in that location impractical, some other prominent location may be used. The top of the label should not exceed 74 inches from the base of taller products. The label in the form of a "flap-tag" shall be adhered to the top of the appliance and bent (folded at 90°) to hang over the front, if this can be done with assurance that it will be readily visible.

(7) *Use of hang tags.* Information prescribed above for labels may be displayed in the form of a hang tag, which may be used in place of an affixed label. If a hang tag is used, it shall be affixed in such a position that it will be prominent to a consumer examining the product.

(b) *Fact sheets—(1) Distribution.* (i) Manufacturers and private labelers must give distributors and retailers, including assemblers, fact sheets for the furnaces they sell to them. Distributors must give the fact sheets to the retailers, including assemblers, they supply. Each fact sheet must contain the information listed in § 305.11(b)(3).

(ii) Retailers, including assemblers, who sell furnaces to consumers must have fact sheets for the furnaces they sell. They must make the fact sheets

available to their customers. The fact sheets may be made available to customers in any manner, as long as customers are likely to notice them. For example, they can be available in a display, where customers can take copies of them. They can be kept in a binder at a counter or service desk, with a sign telling customers where the fact sheets are. Retailers, including assemblers, who negotiate or make sales at a place other than their regular places of business must show the fact sheets to their customers and let them read the fact sheets before they agree to purchase the product.

(2) *Format.* All information required to be contained in fact sheets must be disclosed clearly and conspicuously.

(3) *Contents.* (i) "Energy Guide" headline is standard for all fact sheets, as for labels.

(ii) Name of manufacturer or private labeler shall, in the case of a corporation, be deemed to be satisfied only by the actual corporate name, which may be preceded or followed by the name of the particular division of the corporation. In the case of an individual, partnership, or association, the name under which the business is conducted shall be used.

(iii) Model number(s) will be the designation given by the manufacturer or private labeler.

(iv) Capacity or size is that determined in accordance with § 305.7.

(v) Energy efficiency rating is that determined in accordance with § 305.5.

(vi) Ranges of comparability and of energy efficiency ratings are found in Section 1 of the appropriate appendices accompanying this part.

(vii) Placement of the labeled product on the scale shall be proportionate to energy efficiency ratings of the lowest and highest efficiency ratings forming the scale.

(viii) Yearly cost information text and tables are found in Section 2 of Appendix G accompanying this part. Cost figures are to be determined in accordance with § 305.5 for the unit energy costs found in Section 2 of Appendix G. A revised appendix will be published by the Commission whenever necessary. Use the unit energy cost figures in the latest published Appendix G to determine the cost figures to be used for furnaces.

(ix) A statement that the energy costs and energy efficiency ratings are based on U.S. Government standard tests is required in all fact sheets.

#### § 305.12 Additional information relating to energy consumption.

Additional information relating to energy consumption which must be

included on labels, separately attached to the product, or shipped with the product will be published as a separate section 3 of the appendices accompanying this part. No additional information will be required without public notice and an opportunity for written comments.

#### § 305.13 Promotional material displayed or distributed at point of sale.

(a) Any manufacturer, distributor, retailer, or private labeler who prepares printed material for display or distribution at point of sale concerning a covered product shall clearly and conspicuously include in such printed material the following required disclosure:

"Before purchasing this appliance, read important energy cost and efficiency information available from your retailer."

(b) This section shall not apply to:

- (1) Written warranties.
- (2) Use and care manuals, installation instructions, or other printed material containing primarily post-purchase information for the purchaser.

(3) Printed material containing only the identification of a covered product, pricing information and/or non-energy related representations concerning that product.

(4) Any printed material distributed prior to the effective date listed in § 305.18(f).

#### § 305.14 Catalogs.

(a) Any manufacturer, distributor, retailer or private labeler who advertises a covered product in a catalog, from which it may be purchased by cash, charge account or credit terms, shall include in such catalog, on each page which lists a covered product, the following information required to be disclosed on the label:

- (1) The capacity of the model.
- (2) The estimated annual energy cost for refrigerators, refrigerator-freezers, freezers, dishwashers, clothes washers and water heaters. The representative average unit costs for electricity, natural gas, oil and propane gas, published in § 305.9, which are current at the closing date for printing or the printing deadline date of the catalog, shall be used to compute the estimated annual energy cost.

(3) The energy efficiency ratings for room air conditioners and furnaces.

(4) The range of estimated annual energy costs or energy efficiency ratings, which shall be those which are current at the closing date for printing or the printing deadline date of the catalog.

(5) The following disclosure, appearing clearly and conspicuously:

"Important energy information is available. Turn to page(s) [insert designated page number(s)]."

(b) On the page(s) designated, as referred to in § 305.14(a)(5), the manufacturer, distributor, retailer or private labeler must disclose either instructions on how cost grid information, described in §§ 305.11(a)(5)(i)(H) and 305.11(b)(3)(viii), may be obtained from the cataloger, or the cost grid information itself, so long as all information thereon is clearly legible. Information contained in a catalog for a covered product shall be changed or modified in accordance with § 305.10.

#### Additional Requirements

##### § 305.15 Test data records.

(a) Test data shall be kept on file by the manufacturer of a covered product for a period of two years after production of that model has been terminated.

(b) Upon notification by the Commission or its designated representative, a manufacturer or private labeler shall provide, within 30 days of the date of such request, the underlying test data from which the estimated annual energy cost or energy efficiency rating for each basic model was derived.

##### § 305.16 Required testing by designated laboratory.

Upon notification by the Commission or its designated representative, a manufacturer of a covered product shall supply, at the manufacturer's expense, no more than two of each model of each product to a laboratory, which will be identified by the Commission or its designated representative in the notice, for the purpose of ascertaining whether the estimated annual energy cost or energy efficiency rating disclosed on the label or fact sheet, or as required by § 305.14, is accurate. Such a procedure will only be followed after the Commission or its staff has examined the underlying test data provided by the manufacturer as required by § 305.15(b) and after the manufacturer has been afforded the opportunity to reverify test results from which the estimated annual energy cost or energy efficiency rating for each basic model was derived. A representative designated by the Commission shall be permitted to observe any reverification procedures required by this Part, and to inspect the results of such reverification. Charges for testing by designated laboratories will be paid by the Commission.

#### Effect of This Part

##### § 305.17 Effect on other law.

This regulation supersedes any State regulation to the extent required by Section 327 of the Act. Pursuant to the Act, all State regulations that require the disclosure for any covered product of information with respect to energy consumption, other than the information required to be disclosed in accordance with this Part, are superseded.

##### § 305.18 When the rules take effect.

(a) The report required by § 305.8(a), listing serial numbers or other numbers identifying the date of manufacture of models in current production, must be received by the Commission no later than July 21, 1980.

(b) The first required annual report of model numbers, test results and other data, referred to in § 305.8(a), must be received by the Commission no later than January 21, 1980.

(c) The requirement that the labels, flap tags, or hang tags specified in this rule must be attached to new covered products takes effect for all new covered products on which manufacture is completed on or after May 19, 1980.

(d) The requirement that energy fact sheets specified in this rule must be provided takes effect for furnaces on which manufacture is completed on or after May 19, 1980.

(e) The requirement that specified information about covered products be disclosed in catalogs takes effect for all catalogs printed and distributed on or after May 19, 1980. This requirement does not apply to catalogs if the catalog issue was distributed before May 19, 1980. Required revisions to the specified information must be made in all new editions and new catalogs printed and distributed after the date of the revision.

(f) The requirement that all printed material displayed or distributed at the point of sale disclose information specified in § 305.13 takes effect on May 19, 1980.

(g) The preemption provision in § 305.17 takes effect on November 19, 1979.

(h) All other requirements of this rule except those in § 305.4(d) take effect on May 19, 1980.

##### § 305.19 Stayed or invalid parts.

If any section or portion of a section of this part is stayed or held invalid, the remainder of the part will not be affected.

By direction of the Commission.  
Carol M. Thomas,  
Secretary.  
BILLING CODE 6750-01-M

Appendix A2 - Refrigerator-Freezers

1. Range Information:

Manufacturer's Rated Total Refrigerated Vol. in cu. ft.	Ranges of Estimated Yearly Energy Costs Electricity	
	Low	High
Less than 10.5		
10.5 to 12.4		
12.5 to 14.4		
14.5 to 16.4		
16.5 to 18.4		
18.5 to 20.4		
20.5 to 22.4		
22.5 to 24.4		
24.5 to 26.4		
26.5 to 28.4		
28.5 and over		

2. Yearly Cost Information:

Estimates on the scale are based on a national average electric rate of 4.97¢ per kilowatt hour.

Yearly Cost
2¢
4¢
6¢
8¢
10¢
12¢

Cost per kilowatt hour

Beside each cost in the table place the cost estimate for the model being labeled using the table costs in place of the national average rate.

3. Additional Information - (Reserved).

Appendix A1 - Refrigerators

1. Range Information:

Manufacturer's Rated Total Refrigerated Vol. in cu. ft	Ranges of Estimated Yearly Energy Costs Electricity	
	Low	High
Less than 2.5		
2.5 to 4.4		
4.5 to 6.4		
6.5 to 8.4		
8.5 to 10.4		
10.5 to 12.4		
12.5 to 14.4		
14.5 to 16.4		
16.5 and over		

2. Yearly Cost Information:

Estimates on the scale are based on a national average electric rate of 4.97¢ per kilowatt hour.

Yearly Cost
2¢
4¢
6¢
8¢
10¢
12¢

Cost per kilowatt hour

Beside each cost in the table place the cost estimate for the model being labeled using the table costs in place of the national average rate.

3. Additional Information - (Reserved).

Appendix B - Freezers

1. Range Information:

Manufacturer's Rated Total Refrigerated Vol. in cu. ft.	Ranges of Estimated Yearly Energy Costs Electricity	
	Low	High
Less than 5.5		
5.5 to 7.4		
7.5 to 9.4		
9.5 to 11.4		
11.5 to 13.4		
13.5 to 15.4		
15.5 to 17.4		
17.5 to 19.4		
19.5 to 21.4		
21.5 to 23.4		
23.5 to 25.4		
25.5 to 27.4		
27.5 to 29.4		
29.5 and over		

2. Yearly Cost Information:

Estimates on the scale are based on a national average electric rate of 4.97¢ per kilowatt hour.

Yearly Cost
2¢
4¢
6¢
8¢
10¢
12¢

Beside each cost in the table place the cost estimate for the model being labeled using the table costs in place of the national average rate.

3. Additional Information - (Reserved).

Appendix C - Dishwashers

1. Range Information:

"Compact" includes countertop dishwasher models with a capacity of less than eight (8) place settings.

"Standard" includes portable or built-in models with a capacity of eight (8) or more place settings.

Place settings shall conform to AHAM Specification DW-1(1) for chinaware, flatware and serving pieces. Load patterns shall conform to the operating normal for the model being tested.

Ranges of Comparability	Ranges of Estimated Yearly Energy Costs			
	Electrically Heated Water		Natural Gas Heated Water	
	Low	High	Low	High
Compact				
Standard				

2. Yearly Cost Information - (Type of Energy):

Estimates on the scale are based on a national average electric rate of 4.97¢ per (energy measure) and 8 loads of dishes per week.

Cost per kilowatt hour	Loads of dishes per week				
	2	4	6	8	10
2¢					
4¢					
6¢					
8¢					
10¢					
12¢					

Appendix D2 - Water Heater - Electric

1. Range Information:

First Hour Rating	Ranges of Estimated Yearly Energy Cost	
	Low	High
Less than 21		
21 to 24		
25 to 29		
30 to 34		
35 to 40		
41 to 47		
48 to 55		
56 to 64		
65 to 74		
75 to 86		
87 to 99		
100 to 114		
115 to 131		
Over 131		

2. Yearly Cost Information - Electricity:

Estimates on the scale are based on a national average electric rate of 4.97¢ per kilowatt hour.

	Yearly Cost
Cost	2¢
Per Kilo-	4¢
watt	6¢
Hour	8¢
	10¢
	12¢

Beside each cost in the table place the cost estimate for the model being labeled using the table costs in place of the national average rate.

3. Additional Information - (Reserved).

Appendix D1 - Water Heater - Gas

1. Range Information:

First Hour Rating	Ranges of Estimated Yearly Energy Cost	
	Low	High
Less than 21		
21 to 24		
25 to 29		
30 to 34		
35 to 40		
41 to 47		
48 to 55		
56 to 64		
65 to 74		
75 to 86		
87 to 99		
100 to 114		
115 to 131		
Over 131		

2. Yearly Cost Information - Gas:

Estimates on the scale are based on a national average natural gas rate of 36.7¢ per therm.

	Yearly Cost
Cost	10¢
Per Therm	20¢
	30¢
	40¢
	50¢
	60¢

Beside each cost in the table place the cost estimate for the model being labeled using the table costs in place of the national average rate.

3. Additional Information (Reserved).

Appendix D3 - Water Heater - Oil

1. Range Information:

First Hour Rating	Ranges of Estimated Yearly Energy Cost	
	Low	High
Less than 65		
65 to 74		
75 to 86		
87 to 99		
100 to 114		
115 to 131		
Over 131		

2. Yearly Cost Information - Oil:

Estimates on the scale are based on a national average oil rate of 84.¢ per gallon

Cost Per Gallon	Yearly Cost
\$ .76	
\$ .79	
\$ .82	
\$ .85	
\$ .88	
\$ .91	
\$ .94	
\$ .97	
\$ 1.00	

Beside each cost in the table, place the cost estimate for the model being labeled using the table costs in place of the national average rate.

3. Additional Information - (Reserved).

Appendix E - Room Air Conditioners

1. Range Information:

Manufacturers Rated Cooling Capacity in BTU's/hr.	Ranges of Energy Efficiency Ratings	
	Low	High
Less than 4,000		
4,800 to 5,299		
5,300 to 5,799		
5,800 to 6,299		
6,300 to 6,799		
6,800 to 7,299		
7,300 to 7,799		
7,800 to 8,299		
8,300 to 8,799		
8,800 to 9,299		
9,300 to 9,799		
9,800 to 10,299		
10,300 to 10,799		
10,800 to 11,299		
11,300 to 11,799		
11,800 to 12,299		
12,300 to 12,799		
12,800 to 13,299		
13,300 to 13,799		
13,800 to 14,299		
14,300 to 14,799		
14,800 to 15,299		
15,300 to 15,799		
15,800 to 16,499		
16,500 to 17,499		
17,500 to 18,499		
18,500 to 19,499		
19,500 to 20,499		
20,500 to 21,499		
21,500 to 22,499		
22,500 to 24,499		
24,500 to 26,499		
26,500 to 28,499		
28,500 to 32,499		
32,500 to 36,000		

Appendix E - Room Air Conditioners (contd.)

2. Yearly Cost Information:

Yearly hours of use	
250	750
1,000	2,000
3,000	

Cost per kilowatt hour  
 2¢  
 4¢  
 6¢  
 8¢  
 10¢  
 12¢

Below the appropriate number of yearly hours of use and beside each cost in the table, place the cost estimate for the model being labeled using the table costs and using the yearly hours of use.

3. Additional Information - (Reserved).

Appendix F - Clothes Washers

1. Range Information:

"Compact" includes all household clothes washers with a tub capacity of less than 16 gallons.

"Standard" includes all household clothes washers with a tub capacity of 16 gallons or more

Ranges of Comparability	Ranges of Estimated Yearly Energy Costs	
	Electrically Heated Water	Natural Gas Heated Water
Compact	Low	High
	High	Low
Standard		

2. Yearly Cost Information - (Type of Energy):

Loads of clothes per week	
2	4
6	8
10	12

Cost per kilowatt hour\*  
 2¢  
 4¢  
 6¢  
 8¢  
 10¢  
 12¢

\*For chart on natural gas, substitute the following cost figures:

Cost per therm - 10¢, 20¢, 30¢, 40¢, 50¢, 60¢.

Below the appropriate number of clothes loads in the table and beside each cost, place the cost estimate for the model being labeled using the table costs and using the designated loads in the table.

3. Additional Information - (Reserved).

Appendix C - Furnaces (cont'd).

The following table shows the heat loss values (in thousand Btu/hr.) to be used in the grid above:

Manufacturer's Rated Heat Output of Model to Be Labeled (Btu per hour)	Design Heat Loss of Model to Be Labeled (1,000 Btu per hour)	Heat Loss Values to Be Used on the Grid (1,000 Btu per hour)
5,000 to 10,000	5	5
11,000 to 16,000	10	5, 10
17,000 to 25,000	15	10, 15
26,000 to 42,000	20	15, 20, 25
43,000 to 59,000	30	25, 30, 35, 40
60,000 to 76,000	40	35, 40, 45, 50
77,000 to 93,000	50	40, 45, 50, 60
94,000 to 110,000	60	50, 60, 70, 80
111,000 to 127,000	70	60, 70, 80, 90
128,000 to 144,000	80	70, 80, 90, 100
145,000 to 161,000	90	80, 90, 100, 110, 120
162,000 to 178,000	100	90, 100, 110, 120, 130
179,000 to 195,000	110	100, 110, 120, 130, 140
196,000 and over	130	120, 130, 140, 150, 160

Beside each cost in the grid on the opposite page, and below the appropriate heat loss value taken from the table above, place the cost estimate for the model being labeled using the table costs in place of the national average cost and using the heat loss values in place of the design heat loss used above with the national average cost.

3. Additional Information - (Reserved).

Appendix C - Furnaces

Fact Sheet Requirement

1. Range Information:

Comparability (Btu per hour)	Ranges of Energy Efficiency Ratings	
	Low	High
5,000 to 10,000		
11,000 to 16,000		
17,000 to 25,000		
26,000 to 42,000		
43,000 to 59,000		
60,000 to 76,000		
77,000 to 93,000		
94,000 to 110,000		
111,000 to 127,000		
128,000 to 144,000		
145,000 to 161,000		
162,000 to 178,000		
179,000 to 195,000		
196,000 and over		

2. Yearly Cost Information:

Btu Heat Loss of Home (See Chart Below)

Cost per kilowatt hour\*  
 2¢  
 4¢  
 6¢  
 8¢  
 10¢  
 12¢

\*For charts on natural gas, oil and propane gas, substitute the following cost figures:

- a. Cost per therm - 10¢, 20¢, 30¢, 40¢, 50¢, 60¢.
- b. Cost per gallon (oil) - 76¢, 79¢, 82¢, 85¢, 88¢, 91¢, 94¢, 97¢, \$1.00.
- c. Cost per gallon (propane) - 35¢, 40¢, 45¢, 50¢, 55¢, 60¢.



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All copy x 27 picas

(Name of Corporation)  
Model(s) RP23, RP38

Water Heater-Oil

# ENERGYGUIDE

Estimates on the scale are based on a national average oil rate of 62¢ per gallon.

Only models with first hour ratings of 75 to 86 gallons are used in the scale.

Model with lowest energy cost

**\$127**

# \$134

THIS MODEL

Model with highest energy cost

**\$159**

Estimated yearly energy cost

Your cost will vary depending on your local energy rate and how you use the product. This energy cost is based on U.S. Government standard tests.

How much will this model cost you to run yearly?

	Yearly cost	
	Estimated yearly \$ cost shown below	
Cost per gallon	52¢	\$137
	56¢	\$145
	60¢	\$153
	64¢	\$161
	68¢	\$169
	72¢	\$177

Ask your salesperson or local utility for the energy rate (cost per gallon) in your area.

**Important** Removal of this label before consumer purchase is a violation of federal law (42 U.S.C. 6302)

(Part No. 361029)

SAMPLE LABEL

Figure 1

All copy Helvetica medium or bold

All Copy x 29 picas

Clothes Washer  
Capacity: Compact

(Name of Corporation)  
Model(s) SL301, SL309

# ENERGYGUIDE

Estimates on the scale are based on a national average electric rate of 4.97¢ per kilowatt hour and a natural gas rate of 36.7¢ per therm.

Only compact size clothes washers are used in the scale.

**Electric Water Heater**

Model with lowest energy cost **\$22**

\$58

Model with highest energy cost **\$67**

THIS MODEL

Estimated yearly energy cost

**Gas Water Heater**

Model with lowest energy cost **\$20**

\$22

Model with highest energy cost **\$24**

THIS MODEL

Estimated yearly energy cost

**Your cost will vary depending on your local energy rate and how you use the product.** This energy cost is based on U.S. Government standard tests.

**How much will this model cost you to run yearly?**

**with an electric water heater**

Loads of clothes per week	2	4	6	8	12	
Estimated yearly \$ cost shown below						
Cost per kilowatt hour	2¢	\$7	\$14	\$21	\$29	\$42
	4¢	\$14	\$29	\$43	\$57	\$85
	6¢	\$21	\$43	\$64	\$86	\$129
	8¢	\$29	\$57	\$86	\$114	\$172
	10¢	\$36	\$71	\$107	\$143	\$214
	12¢	\$43	\$85	\$128	\$172	\$256

**with a gas water heater**

Loads of clothes per week	2	4	6	8	12	
Estimated yearly \$ cost shown below						
Cost per therm (100 cubic feet)	10¢	\$2	\$4	\$6	\$8	\$12
	20¢	\$4	\$8	\$12	\$16	\$24
	30¢	\$6	\$11	\$17	\$22	\$34
	40¢	\$8	\$15	\$23	\$30	\$46
	50¢	\$10	\$19	\$29	\$48	\$58
	60¢	\$12	\$22	\$34	\$44	\$68

Ask your salesperson or local utility for the energy rate (cost per kilowatt hour or therm) in your area, and for estimated costs if you have a propane or oil water heater.

**Important** Removal of this label before consumer purchase is a violation of federal law (42 U.S.C. 6302)

6' Helv  
(Part No. 8399601)

SAMPLE LABEL

Figure 2

All copy Helvetica medium or bold

All Copy x 27 picas

10/12 Helv → (For Furnaces)

# ENERGYGUIDE

12/13 Helv → You can save substantially on home heating and cooling energy costs by following the simple steps outlined below:

---

1. Weatherproof your house

---

2. Assure energy efficient heating and cooling equipment selection and installation

---

3. Operate and maintain your system to conserve energy.

---

10/11 Helv with 18' numerals →

12/13 Helv → Help conserve energy. Compare the energy efficiency rating and cost information for this model with others. Check the figures and spend less on energy.

12 Helv Bold → **Your contractor has the energy fact sheets. Ask for them.**

14/15 Helv → **Important** Removal of this label before consumer purchase is a violation of  
 8/9 Helv → federal law (42 U.S.C. 6302)

SAMPLE LABEL

Figure 3

Refrigerator-Freezer  
Capacity: 23 Cubic Feet

(Name of Corporation)  
Model(s) AH503, AH504, AH507  
Type of Defrost: Full Automatic

# ENERGYGUIDE

Estimates on the scale are based on a national average electric rate of 4.97¢ per kilowatt hour.

Only models with 22.5 to 24.4 cubic feet are compared in the scale.

Model with lowest energy cost  
**\$68**

**\$91**

Model with highest energy cost  
**\$132**

THIS ▼ MODEL ▼

Estimated yearly energy cost

Your cost will vary depending on your local energy rate and how you use the product. This energy cost is based on U.S. Government standard tests

How much will this model cost you to run yearly?

		Yearly cost
Estimated yearly \$ cost shown below		
Cost per kilowatt hour	2¢	\$44
	4¢	\$88
	6¢	\$132
	8¢	\$176
	10¢	\$220
	12¢	\$264

Ask your salesperson or local utility for the energy rate (cost per kilowatt hour) in your area.

**Important** Removal of this label before consumer purchase is a violation of federal law (42 U.S.C. 6302)

SAMPLE LABEL

(Part No. 371026)

Freezer  
Capacity: 26 Cubic Feet

(Name of Corporation)  
Model(s) SH405, SH413  
Type of Defrost: Manual

# ENERGYGUIDE

Estimates on the scale are based on a national average electric rate of 4.97¢ per kilowatt hour.

Only models with 25.5 to 27.4 cubic feet are compared in the scale.

Model with lowest energy cost  
**\$95**

**\$120**

Model with highest energy cost  
**\$140**

THIS ▼ MODEL ▼

Estimated yearly energy cost:

Your cost will vary depending on your local energy rate and how you use the product. This energy cost is based on U.S. Government standard tests

How much will this model cost you to run yearly?

		Yearly cost
		Estimated yearly \$ cost shown below
Cost per kilowatt hour	2¢	\$64
	4¢	\$128
	6¢	\$190
	8¢	\$252
	10¢	\$317
	12¢	\$380

Ask your salesperson or local utility for the energy rate (cost per kilowatt hour) in your area.

**Important** Removal of this label before consumer purchase is a violation of federal law (42 U.S.C. 6302)

SAMPLE LABEL

(Part No. 14332)

Dishwasher  
Capacity: Standard

(Name of Corporation)  
Model(s) MR328, XL12, NA83

# ENERGYGUIDE

Estimates on the scale are based on a national average electric rate of 4.97¢ per kilowatt hour and a natural gas rate of 36.7¢ per therm.

Only standard size dishwashers are used in the scale.

## Electric Water Heater

Model with lowest energy cost  
**\$50**

**\$60**

▼ THIS MODEL

Estimated yearly energy cost

Model with highest energy cost  
**\$84**

## Gas Water Heater

Model with lowest energy cost  
**\$19**

**\$27**

▼ THIS MODEL

Estimated yearly energy cost

Model with highest energy cost  
**\$42**

Your cost will vary depending on your local energy rate and how you use the product. This energy cost is based on U.S. Government standard tests.

## How much will this model cost you to run yearly?

with an electric water heater

Loads of dishes per week	2 4 6 8 12					
	Estimated yearly \$ cost shown below					
Cost per kilowatt hour	2¢	\$8	\$15	\$23	\$31	\$47
	4¢	\$15	\$31	\$46	\$62	\$92
	6¢	\$23	\$46	\$69	\$92	\$139
	8¢	\$31	\$62	\$92	\$123	\$189
	10¢	\$39	\$77	\$116	\$154	\$231
	12¢	\$47	\$92	\$139	\$185	\$278

with a gas water heater

Loads of dishes per week	2 4 6 8 12					
	Estimated yearly \$ cost shown below					
Cost per therm (100 cubic feet)	10¢	\$2	\$5	\$7	\$9	\$14
	20¢	\$5	\$11	\$16	\$22	\$33
	30¢	\$7	\$14	\$21	\$27	\$41
	40¢	\$9	\$19	\$28	\$36	\$55
	50¢	\$12	\$23	\$35	\$45	\$68
	60¢	\$19	\$28	\$42	\$54	\$82

Ask your salesperson or local utility for the energy rate (cost per kilowatt hour or therm) in your area, and for estimated costs if you have a propane or oil water heater.

**Important** Removal of this label before consumer purchase is a violation of federal law (42 U.S.C. 6302)

SAMPLE LABEL

(Part No. 73906)

Clothes Washer  
Capacity: Compact

(Name of Corporation)  
Model(s) SL301, SL309

# ENERGYGUIDE

Estimates on the scale are based on a national average electric rate of 4.97¢ per kilowatt hour and a natural gas rate of 36.7¢ per therm.

Only compact size clothes washers are used in the scale.



### Electric Water Heater

### Gas Water Heater

Model with lowest energy cost  
**\$22**

**\$58**

Model with highest energy cost  
**\$67**

THIS MODEL

Estimated yearly energy cost

Model with lowest energy cost  
**\$20**

**\$22**

Model with highest energy cost  
**\$24**

THIS MODEL

Estimated yearly energy cost

Your cost will vary depending on your local energy rate and how you use the product. This energy cost is based on U.S. Government standard tests.

### How much will this model cost you to run yearly?

with an electric water heater

with a gas water heater

Loads of clothes per week	Estimated yearly \$ cost shown below					
	2	4	6	8	12	
Cost per kilowatt hour	2¢	\$7	\$14	\$21	\$29	\$42
	4¢	\$14	\$29	\$43	\$57	\$85
	6¢	\$21	\$43	\$64	\$86	\$129
	8¢	\$29	\$57	\$86	\$114	\$172
	10¢	\$36	\$71	\$107	\$143	\$214
	12¢	\$43	\$85	\$128	\$172	\$256

Loads of clothes per week	Estimated yearly \$ cost shown below					
	2	4	6	8	12	
Cost per therm (100 cubic feet)	10¢	\$2	\$4	\$6	\$8	\$12
	20¢	\$4	\$8	\$12	\$16	\$24
	30¢	\$6	\$11	\$17	\$22	\$34
	40¢	\$8	\$15	\$23	\$30	\$46
	50¢	\$10	\$19	\$29	\$48	\$58
	60¢	\$12	\$22	\$34	\$44	\$68

Ask your salesperson or local utility for the energy rate (cost per kilowatt hour or therm) in your area, and for estimated costs if you have a propane or oil water heater.

**Important** Removal of this label before consumer purchase is a violation of federal law (42 U.S.C. 6302)

SAMPLE LABEL

(Part No. 8399601)

Room Air Conditioner  
Capacity: 8,000 BTU/hr

(Name of Corporation)  
Model(s) SA 714, SA 718

# ENERGYGUIDE

Models with the most efficient energy rating number use less energy and cost less to operate.

Models with 7800 to 8299 BTU's cool about the same space.

# 7.3

Least efficient model

3.4

Most efficient model

8.5

THIS MODEL

Energy Efficiency Rating (EER)

This energy rating is based on U.S. Government standard tests.

## How much will this model cost you to run yearly?

Yearly hours of use		250	750	1000	2000	3000
		Estimated yearly \$ cost shown below				
Cost per kilowatt hour	2¢	\$7	\$20	\$28	\$56	\$84
	4¢	\$14	\$41	\$56	\$112	\$168
	6¢	\$20	\$61	\$80	\$160	\$240
	8¢	\$27	\$82	\$108	\$216	\$324
	10¢	\$34	\$102	\$136	\$272	\$408
	12¢	\$41	\$122	\$163	\$326	\$489

Ask your salesperson or local utility for the energy rate (cost per kilowatt hour) in your area. Your cost will vary depending on your local energy rate and how you use the product.

**Important** Removal of this label before consumer purchase is a violation of federal law (42 U.S.C. 6302)

SAMPLE LABEL

(Part No. 20648)

Water Heater-Oil

(Name of Corporation)

Model(s) RP23, RP38

**ENERGYGUIDE**

Estimates on the scale are based on a national average oil rate of 62¢ per gallon.

Only models with first hour ratings of 75 to 86 gallons are used in the scale.

Model with lowest energy cost  
**\$127**

**\$134**

Model with highest energy cost  
**\$159**

▼ THIS MODEL ▼

Estimated yearly energy cost

Your cost will vary depending on your local energy rate and how you use the product. This energy cost is based on U.S. Government standard tests.

How much will this model cost you to run yearly?

		Yearly cost
Estimated yearly cost shown below		
Cost per gallon	52¢	\$137
	56¢	\$145
	60¢	\$153
	64¢	\$161
	68¢	\$169
	72¢	\$177

Ask your salesperson or local utility for the energy rate (cost per gallon) in your area.

**Important** Removal of this label before consumer purchase is a violation of federal law (42 U.S.C. 6302)

SAMPLE LABEL

(Part No. 361029)

(For Furnaces)

# ENERGYGUIDE



You can save substantially on home heating and cooling energy costs by following the simple steps outlined below:

- 
1. Weatherproof your house
  2. Assure energy efficient heating and cooling equipment selection and installation
  3. Operate and maintain your system to conserve energy.
- 

Help conserve energy. Compare the energy efficiency rating and cost information for this model with others. Check the figures and spend less on energy.

**Your contractor has the energy fact sheets. Ask for them.**

**Important** Removal of this label before consumer purchase is a violation of federal law (42 U.S.C. 6302)

SAMPLE LABEL

[FR Doc. 79-35566 Filed 11-16-79; 8:45 am]

BILLING CODE 6750-01-C

# **Register** **Department of Transportation** **Coast Guard**

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Monday  
November 19, 1979

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## **Part V**

### **Department of Transportation**

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#### **Coast Guard**

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**Tank Vessels of 10,000 Gross Tons or  
More and Tank Vessels of 20,000 DWT  
or More Carrying Oil in Bulk**

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**Design, Equipment, Operating, and  
Personnel Standards, Improved Steering  
Gear Standards and Inert Gas and Deck  
Foam Systems**

## DEPARTMENT OF TRANSPORTATION

## Coast Guard

## 46 CFR Parts 30, 32 and 34

[CGD 77-057a]

## Inert Gas and Deck Foam Systems

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

**SUMMARY:** This amendment to the tank vessel regulations requires all new foreign and domestic crude oil tankships and product tankships which enter U.S. ports, which are of 20,000 deadweight tons (DWT) and above to be fitted with an inert gas system. New foreign flag tankships of 20,000 DWT and greater are required to be fitted with a fixed deck foam system. Additionally, all existing tankships greater than 20,000 DWT for crude carriers and 40,000 DWT for product carriers will have to be fitted with inert gas systems. Dates for implementation are specified in the rule. This action implements one of the minimum standards of the Port and Tanker Safety Act of 1978, and should result in safer oil tanker operations.

**EFFECTIVE DATE:** This amendment is effective on January 1, 1980.

**ADDRESSES:** Copies of the Final Regulatory Analysis and Environmental Impact Statement relating to this amendment are available for examination at the Marine Safety Council (G-CMC/TP24), Room 2148, Coast Guard Headquarters Building, 2100 Second Street SW., Washington, D.C. 20593.

**FOR FURTHER INFORMATION CONTACT:** Mr. Daniel F. Sheehan, Merchant Marine Technical Division (G-MMT-4/TP13), Room 1300, Coast Guard Headquarters Building, 2100 Second Street, SW., Washington, D.C. 20593 (202-426-2167).

**SUPPLEMENTARY INFORMATION:** On February 12, 1979 the Coast Guard published a proposal in the Federal Register (44 FR 9039) to require inert gas systems (IGS) or deck foam systems on certain tankships. Interested persons were given an opportunity to submit written comments to the Coast Guard concerning the proposal until April 16, 1979. Two public hearings were held, one in Washington, D.C. on March 21, 1979, and the other in San Francisco, California on March 28, 1979. A total of 15 comments were received on the proposed regulations either in writing or orally at the public hearings. A discussion of comments received is contained in the following paragraphs.

**DRAFTING INFORMATION:** The principal persons involved in drafting these rules are: Daniel F. Sheehan, Project Manager, Office of Merchant Marine Safety; and Michael N. Mervin, Project Attorney, Office of Chief Counsel.

**Discussion of Comments**

The proposed regulations were promulgated to implement the tank vessel equipment and construction standards which were developed at the Tanker Safety and Pollution Prevention (TSPP) Conference held under the auspices of the Inter-Governmental Maritime Consultative Organization (IMCO) in London during February 1978. The authority for issuing these regulations is the Port and Tanker Safety Act of 1978 (PTSA). Two comments pointed out that the proposed applicability of Part 32 to foreign tankships was not consistent with the applicability requirements of the PTSA. The proposal did not exclude any foreign tank vessel not destined for, or departing from, a port or place subject to the jurisdiction of the United States, that is in innocent passage through the territorial seas of the United States or in transit through the navigable waters of the United States which form a part of an international strait. The exception for foreign vessels has been incorporated in the Final Rules at § 32.53-1(c)(2).

One comment suggested that the rule making be expanded to require IGS on all oceangoing tank vessels of more than 1600 gross tons. In a similar vein, the same comment suggested that data for tank vessels of less than 20,000 DWT between the years of 1974 and 1978 be evaluated to determine incidence of fire and explosion. The purpose of the evaluation would be to determine whether or not there was justification for requiring IGS or deck foam systems or both on vessels of less than 20,000 DWT.

An examination of the extension of applicability to include a wider range of tank vessels is currently in progress. Statistics for the United States flag fleet will be submitted to the IMCO Subcommittee on Fire Protection for use in their continuing review of fire protection measures for tank vessels. IMCO is currently developing a data base for tank vessel casualties on a worldwide basis. This data base will be used in determining the need for extension of applicability.

Another comment suggested that the rule making be extended to all barges carrying similar cargoes. This is not germane to this rule making; however, an examination was conducted with

respect to the need for IGS on tank vessels other than those affected by this rule making.

Fire and explosion incidents on barges have been reviewed for the period of 1972 through 1977. During that period there were 59 incidents. Of this 59, fifteen occurred in, or adjacent to, the cargo tanks. Eleven of those incidents involved explosions which occurred due to ignition during repair. Hot work was conducted on cargo tanks which had not been gas freed. The other four incidents involved improper use of equipment or procedures. A review of the 1978 data will be made when it is available. However, at this time, fitting of inert gas systems on the tank barge fleet of over 3,000 barges is not warranted.

One comment suggested that the Coast Guard establish adequate standards for the design, fabrication, installation, operation, maintenance, repair, testing, and inspection of inert gas systems on vessels trading in United States ports. The reason cited for this recommendation was the study conducted by the Norwegian Classification Society det Norske Veritas (DNV) which has found that a majority of installations examined by that society had experienced major maintenance problems. This study was previously described in the notice of proposed rule making.

The Coast Guard feels that substantial progress has been achieved with respect to the concerns addressed by the comment. The DNV study was conducted after there had been a large program of fitting IGS on VLCC's. The study served to highlight problems with respect to materials use as well as maintenance requirements.

In the intervening period, two major industry organizations, the International Chamber of Shipping (ICS) and the Oil Companies International Marine Forum (OCIMF) have collaborated on the recently published "Inert Flue Gas Safety Guide". This guide is receiving wide distribution and is being considered by the IMCO Subcommittee on Fire Protection as a supplement to the requirements for inert gas systems contained in SOLAS 74 and its 1978 Protocol. This guide addresses the concerns of the comment; however, it is not mandatory. The Coast Guard has developed an inspection guide for inert gas systems to be used by Marine Inspectors. This guide will be included as a chapter in the Marine Safety Manual. All of these efforts are directly aimed at improving the design, maintainability, and reliability of IGS. The combination of experience with the systems and increased attention to

training, operation, and maintenance of the systems on the part of shipowners is having the desired positive result.

Several comments were concerned with the exemption process contained in § 32.53-3. One wanted to require that each exemption be accomplished through the regulatory process so that adequate public comment could be achieved. This is not a practical suggestion. The regulatory process prescribes a means for an individual to request relief from certain requirements. Section 32.53-3 details the procedures that must be followed and permits an avenue for competent technical judgments to be made based on the merits and arguments for each case. Under 5 U.S.C. 551 an exemption is a "license", not a "rule", and cannot be legally subjected to the rulemaking process and on this basis the comment's suggestion was not adopted; however, in appropriate cases the Coast Guard will provide public notice of applications for exemption under consideration.

Other comments stated that § 32.53-3 did not address the exemptions based on cargo incompatibility which are specified in Section 7, part C of the Port and Tanker Safety Act. The PTSA 1978 permits the Secretary to authorize an alternative protection system if a product carrier, required by this section to be fitted with an inert gas system, carries dedicated products which are incompatible with such a cargo tank protection system. Application for this exemption would have to be made in accordance with § 32.53-3. Regulation 60 of Chapter II-2 of SOLAS 74 contains the basic principles by which an equivalent cargo tank protection system would be evaluated. Use of this regulation (reg. 60, Chapter II-2), the general equivalency clause found in the base regulation (46 CFR Subchapter D), and the exemption process outlined in § 32.53-3 will permit shipowners or operators to address their proposals to the Coast Guard concerning problems created by possible cargo and system incompatibility.

Four comments stated that paragraph § 32/53-1(b)(2) was not justified with respect to changing existing regulations which exempted Grade E cargoes carried at a temperature lower than 5°C below their flash points to a figure of 50° below their flash points. The Coast Guard agrees with these comments. The figure of 50°C was a typographical error and the regulation has been corrected.

One comment requested that the Coast Guard clarify what vessels are product carriers and what commodities are considered to be products. The terms "product" and "product carrier" are explained in the discussion of

Division I comments in the preamble of the regulations for tank vessels of 20,000 DWT or more carrying oil in bulk (Docket No. CGD 77-058b) published elsewhere in this Part of this Federal Register. Since the terms "product" and "product carrier" are defined in the Act (PTSA), it is not necessary to redefine them in these regulations.

One rule making petition was received which proposed that the inert gas system be required aboard tankships or combination carriers of 20,000 DWT or more. This would apply to U.S.-flag tankships carrying Grades A, B, C, and D liquids and those foreign-flag tankships calling at U.S. ports carrying flammable or combustible liquids. This proposal, or an equivalent means of reducing the potential for cargo tank explosion, would also apply to all U.S. barges certificated for Grades A, B, C, and D liquids in coastal trade. The proposal would be effective after December 31, 1981.

This proposal is similar to the proposed rule except for application to small tankships and barges, and the effective date. With regard to the smaller existing tankships, the risk of explosion is less than the larger ships which have high-capacity washing machines. Where the risk is increased by fitting of either high capacity tank washing machines or crude oil washing, IGS is required. With regard to tank barges, comments presented earlier apply. Justification for fitting inert gas systems on barges was discussed previously. The dates for implementation published in the Coast Guard proposal allowed smaller vessels until June 1983 to be fitted with this equipment in order to relieve shipyard congestion, taking into account that the population of smaller vessels is greater than larger vessels. For these reasons, the Coast Guard has not adopted the proposal.

One comment requested clarification of requirements for existing ships affected by the rulemaking that had existing inert gas systems. Foreign-flag vessels in this category would be required, where necessary, to upgrade their systems to comply with the minimum provisions of regulation 60 of Chapter II-2, SOLAS 74. U.S.-flag vessels would be required to bring their installations up to the standards contained in Subpart 32.53. Where design differences exist on an existing system and the owners or operators can demonstrate that an equivalent level of safety can be obtained, alternative arrangements may be accepted in accordance with provisions previously discussed.

In accordance with the foregoing, the amendments to Chapter I of Title 46, Code of Federal Regulations published on February 12, 1979 (44 FR 9039) are adopted, with modifications, as set forth below.

Dated: November 13, 1979.

R. H. Scarborough,  
Vice Admiral, U.S. Coast Guard Acting  
Commandant.

## PART 30—GENERAL PROVISIONS

1. By adding a new § 30.01-5(e)(2) as follows:

### § 30.01-5 Application of regulations—TB/All.

\* \* \* \* \*

(e) \* \* \*

(2) A foreign flag vessel, except a public vessel, which operates on or enters the navigable waters of the United States, or which transfers oil in any port or place subject to the jurisdiction of the United States, must comply with the provisions of Subparts 32.53 and 34.05 of this chapter, as applicable.

\* \* \* \* \*

## PART 32—SPECIAL EQUIPMENT, MACHINERY, AND HULL REQUIREMENTS

2. By revising § 32.53-1 to read as follows:

### § 32.53-1 Application—T/All.

(a) Except as provided in paragraphs (b) and (c) of this section, this subpart applies to:

(1) A U.S. crude oil tanker or product carrier of 100,000 DWT tons (metric) or more or combination carrier of 50,000 DWT tons (metric) or more, that has a keel laying date on or after January 1, 1975.

(2) A new (as defined in 46 U.S.C. 391a(2)) crude oil tanker or product carrier, or foreign flag crude oil tanker or product carrier of 20,000 DWT tons or more entering the navigable waters of the U.S.

(3) A crude oil tanker that is equipped with a cargo tank cleaning system that uses crude oil washing.

(4) An existing product carrier of 20,000 deadweight tons (metric) or more that has tank washing machines with a capacity of more than 60 cubic meters per hour after May 31, 1983.

(5) Any other U.S. or foreign flag—  
(i) Crude oil tanker or product carrier of 70,000 deadweight tons (metric) and over after May 31, 1981;

(ii) Crude oil tanker between 20,000 and 70,000 deadweight tons (metric) after May 31, 1983;

(iii) Product carrier between 40,000 and 70,000 deadweight tons (metric) after May 31, 1983.

(b) This subpart does not apply to vessels designed to carry only—

- (1) Liquefied gas cargo; or
- (2) Grade E cargo that is carried at a temperature lower than 5° C below its flash point.

(c) This part does not apply to the following:

(1) Vessels under subsections (4) and (5) of Sec. 5, Port and Tanker Safety Act of 1978 (Pub. L. 95-474, 92 Stat. 1480, 46 U.S.C. 391a).

(2) Any foreign vessel not destined for, or departing from, a port or place subject to the jurisdiction of the United States, that is in innocent passage through the territorial seas of the United States or is in transit through the navigable waters of the United States which form a part of an international strait.

(3) Adding a new § 32.53-3 as follows:

**§ 32.53-3 Exemptions.**

(a) The Chief, Office of Merchant Marine Safety grants exemptions for crude oil tankers of less than 40,000 deadweight tons not fitted with high capacity tank washing machines, if the vessel's owner can show that compliance would be unreasonable and impracticable due to the vessel's design characteristics.

(b) Requests for exemptions must be submitted in writing to:

Commandant (G-MMT/82), U.S. Coast Guard, Washington, D.C. 20590.

(c) Each request must be supported by documentation showing that—

- (1) The system would be detrimental to the safe operation of the vessel;
- (2) It is physically impracticable to install the system; or
- (3) Adequate maintenance of the system would be impossible.

(d) The vessel's owner may request a conference. The exemption request file will be available for use in the conference and additional arguments or evidence in any form may be presented. The conference will be recorded. The presiding officer summarizes the material presented at the conference and submits written recommendations to the Chief, Office of Merchant Marine Safety.

(e) The Chief, Office of Merchant Marine Safety reviews the exemption request file and decides whether to grant or deny the exemption. The decision shall include an explanation of the basis on which the exemption is granted or denied, and constitutes final agency action.

**PART 34—FIREFIGHTING EQUIPMENT**

4. By adding a new sentence to § 34.05-5(a)(2) as follows:

**§ 34.05-5 Fire-extinguishing systems—T/All.**

- \* \* \* \* \*
- (a) \* \* \*
- (2) \* \* \* New foreign flag tankers of 20,000 DWT and over as defined in subsection (2) of 46 U.S.C. 391a must be fitted with a fixed deck foam system complying with Regulation 61, Chapter II-2 of SOLAS 1974.
- \* \* \* \* \*

5. By adding a new § 34.20-1(c) as follows:

**§ 34.20-1 Application—T/All.**

(c) Foreign flag crude oil tankers and product carriers required to have fixed deck foam systems by this subpart must have systems that are designed and installed in accordance with Regulation 61 of Chapter II-2 of SOLAS 1974. (Senate Document, 57-1180, GPO, Washington, 1976; "Message from the President of the United States transmitting, the International Convention for the Safety of Life at Sea, 1974, Done at LONDON, November 1, 1974").

(46 U.S.C. 391a; 49 CFR 1.46(n)(4))

[FR Doc. 79-35623 Filed 11-16-79; 8:45 am]

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**33 CFR Part 157**

[CGD 77-058b]

**Tank Vessels of 20,000 DWT or More Carrying Oil in Bulk; Design, Equipment, Operating, and Personnel Standards**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Interim Final Rule.

**SUMMARY:** This amendment adds to the rules for certain foreign and domestic tank vessels carrying oil in bulk, standards for segregated ballast tanks, dedicated clean ballast tanks, and crude oil washing systems. The standards are essentially the same as the standards and recommendations contained in the *Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973* which are reflected in the Port and Tanker Safety Act of 1978. These standards will reduce the probability of oil spilling into the navigable waters of the United States and the world's oceans from tank vessel accidents, will reduce the amount of operational discharges of oil to the oceans from

deballasting and tank cleaning, and will contribute to the conservation of oil. Since this rule changes the proposed assignment of responsibility for various operating requirements, additional comments from the public are invited.

**EFFECTIVE DATE:** This amendment is effective on January 1, 1980.

**COMMENT DATE:** Written comments must be received on or before February 1, 1980.

**ADDRESSES:** Written comments from the public on the assignment of responsibility should be submitted to the Commandant (G-CMC-TP/24), Room 2418, U.S. Coast Guard, Trans Point Building, 2100 2nd Street, SW., Washington, D.C. 20593. All comments will be available for examination at this address. Copies of the Final Regulatory Analysis and Environmental Impact Statement relating to this amendment may be obtained from or examined at this address.

**FOR FURTHER INFORMATION CONTACT:** Mr. Joseph J. Angelo, Merchant Marine Technical Division (G-MMT-1/TP-13), Room 1308, U.S. Coast Guard, Trans Point Building, 2100 2nd Street SW., Washington, D.C. 20593, (202-426-4431).

**SUPPLEMENTARY INFORMATION:** On February 12, 1979, the Coast Guard published a proposal in the Federal Register (44 FR 8984) to add regulations governing tank vessels of 20,000 DWT or more carrying oil in bulk and to withdraw a previous proposal (42 FR 24868) for double bottoms and segregated ballast tanks for tank vessels of 20,000 DWT or more. The proposal of February 12 would adopt standards for segregated ballast tanks (SBT), dedicated clean ballast tanks (CBT) and crude oil washing (COW) systems which were consistent with the recommendations of the *Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973* (MARPOL Protocol) developed at the tanker Safety and Pollution Prevention (TSPP) Conference held under the auspices of the Intergovernmental Maritime Consultative Organization (IMCO) in London during February, 1978. The proposal would also implement most of the requirements of Subsection 7 of Section 5 of the Port and Tanker Safety Act of 1978 (Pub. L. 95-474, 92 Stat 1471).

The amendments to Part 157 of Title 33, Code of Federal Regulations were published in three divisions designated as Division I, Division II, and Division III. Division I contained amendments to various sections in Part 157 that required modification because of the standards contained in the MARPOL Protocol and to the applicability in Part

157 so it conforms with Section 5 of the Port and Tanker Safety Act of 1978. Division II contained standards for Dedicated Clean Ballast Tanks which were derived from Resolution 14 to the MARPOL Protocol (Specifications for Oil Tankers with Dedicated Clean Ballast Tanks). Division III Contained standards for Crude Oil Washing Systems which were derived from Resolution 15 to the MARPOL Protocol (Specifications for the Design, Operation and Control of Crude Oil Washing Systems).

Interested persons were given an opportunity to submit written comments to the Coast Guard concerning the proposal until April 16, 1979. Two public hearings were held, one in Washington, D.C. on March 21, 1979, and the second in San Francisco, California on March 28, 1979. A total of sixty-five commenters responded to the proposed regulations either in writing or orally at the public hearings. The significant comments received are discussed in this document after Drafting Information.

In reviewing the proposed regulations, the Coast Guard has reconsidered the assignment of responsibility for compliance with the various requirements between the owner and operator of the tank vessel, the master, and other designated persons. In addition, two commenters were of the opinion that operation of the COW and CBT systems should be the responsibility of the officer in charge of these operations and not the responsibility of the Master of the vessel, as proposed in the regulations. As mandated by the PTSA, any person who violates any regulation issued under the authority of the PTSA is subject to a civil penalty not to exceed \$25,000 and any person who willfully and knowingly violates any regulation issued under the authority of the PTSA is subject to a criminal penalty of up to \$50,000 or imprisonment for not more than five years, or both. The Master of the vessel is normally the appropriate person to be held responsible for ensuring that the vessel is operated in accordance with the applicable regulations. In some instances this responsibility must be shared with the owner and operator. In other instances human error or inattentiveness by the crew may cause violations, despite the best efforts of the most conscientious and capable Master, making assessment of penalties against the Master inappropriate. Accordingly, changes have been made to the proposed regulations in an effort to enable the Coast Guard to assess penalties, in appropriate cases, against the person or

persons who could have prevented the violation.

In some instances the regulations were changed to clearly indicate that the responsibility of the Master is shared by the owner and operator of the vessel. This is felt to be appropriate for the provisions relating to documents required on board a vessel, recording information in the manuals, personnel qualifications, crude oil washing of tanks, restrictions on cargo carried, and alterations to tank vessels. These changes are reflected in § 157.116, § 157.118, § 157.150, § 157.152, § 157.154, § 157.160, § 157.172, § 157.214, § 157.216, and § 157.218.

Ensuring compliance with an operating requirement is, in most cases, appropriately the responsibility of the Master. These areas include meeting manual procedures, crude oil washing during a voyage, use of the inert gas system, control of hydrocarbon vapor emissions, personnel assignments, removal of equipment, and following operating procedures. Accordingly, § 157.35, § 157.155, § 157.156, § 157.158, § 157.162, § 157.164, § 157.166, § 157.168, § 157.170, § 157.225, § 157.226, and § 157.228 have not been changed in this regard.

For those instances where it is not appropriate to hold the Master responsible for a violation of these regulations, § 157.26 has been added to require that no person may cause or authorize the operation of a tank vessel in violation of these regulations. An example of this situation would be when the main deck watch required under § 157.168 is abandoned by the person assigned that watch by the Master. Such action would cause the operation of the tank vessel in violation of § 157.168. Another example would be when the owner or operator of a tank vessel directs compliance with operating procedures that deviate from those contained in this document for the purpose of reducing time at the discharge terminal. Such action would authorize the operation of a tank vessel in violation of certain operating requirements of this document.

The Coast Guard has determined that it would be impractical and contrary to the public interest to delay the publication of these comprehensive regulations for the purpose of allowing an opportunity for comment on the changes to the assignment of responsibility in the sections listed above. Prompt publication of the design and equipment requirements is necessary to provide owners and operators sufficient time to comply with these regulations. In addition, the alternative of publishing the design and

equipment requirements as final rules and the operating requirements as a supplemental notice of proposed rulemaking was also determined to be impractical. Therefore, these regulations have been published as final rules. They have been designated "Interim Final Rules" to indicate that further consideration will be given to the assignment of responsibility in the sections listed above. The Coast Guard is not soliciting comments on the remaining provisions of these regulations, including the substantive requirements of the sections listed above, as part of this rulemaking action. If the Coast Guard considers changes to these provisions to be desirable at a later date, they will be the subject of a separate rulemaking proposal.

Interested persons are invited to comment on the changes made to the assignment of responsibility in the sections listed above by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD 77-058b) and the specific section to which their comments apply, and give reasons for the comments. Persons desiring acknowledgment that their comment has been received should enclose a stamped self-addressed postcard or envelope. All comments received before expiration of the comment period will be evaluated by the Coast Guard and changes may be made to the regulations regarding the assignment of responsibilities where appropriate. No additional public hearing is planned.

#### Drafting Information

The principal persons involved in drafting this rule are: Commander George F. Ireland and Mr. Joseph J. Angelo, Project Managers, Office of Merchant Marine Safety, and Mr. Stanley Colby, Project Attorney, Office of Chief Counsel.

#### Discussion of Comments

##### General Comments

The proposed regulations were promulgated to implement the tank vessel equipment and construction standards developed at the TSPP Conference of February 1978 which are mandated by Subsection 7 of Section 5 of the Port and Tanker Safety Act of 1978 (PTSA).

Several commenters expressed disappointment and concern that the proposal did not address the exemption allowed in the PTSA when shore-based reception facilities are available or the additional requirements for tank vessels between 20,000 and 40,000 DWT at 15

years of age that are mandated by the PTSA. The PTSA allows, with certain constraints, the use of adequate shore-based reception facilities for handling dirty ballast instead of the SBT, CBT, or COW requirements on tank vessels if those facilities are determined to be the preferred method of handling that ballast and are readily available. Proposed regulations addressing this exemption, the eligibility for exemptions, the adequacy of shore-based reception facilities, and the preference of the method of handling dirty ballast are currently being developed by the Coast Guard and will be published in the *Federal Register* in the near future. The PTSA also imposes certain equipment and construction requirements on crude oil tankers and product carriers between 20,000 DWT and 40,000 DWT, by not later than January 1, 1986 or the date on which the vessel reaches 15 years of age, whichever is later. Regulations implementing this provision of the PTSA are being developed by the Coast Guard and will be published in a future issue of the *Federal Register*.

One commenter said the proposed regulations did not address the problem of air pollution from the operation of ship's boilers and recommended that the Coast Guard "review fuel supplies and limit the sulfur content of boiler fuel". Air pollution from ships boilers is outside the scope of these regulations.

One commenter noted that the proposal made no reference to proper oil spill contingency preparations and procedures. Regulations addressing this issue are published in 33 CFR Part 153.

Two commenters requested clarification of the statement in the preamble of the proposal which said the standards adopted by the TSPP Conference are at least equivalent to the "Presidential Initiatives". The "Presidential Initiatives" (the President's message to Congress on March 17, 1977) recommended SBT on all existing tank vessels of 20,000 DWT or more and double bottoms on all new tank vessels of 20,000 DWT or more. The TSPP standards included SBT or a COW system on existing crude oil carriers of 40,000 DWT or more, SBT or CBT on existing product carriers of 40,000 DWT or more, protectively located SBT and a COW system on new crude oil carriers of 20,000 DWT or more, and protectively located SBT on new product carriers of 30,000 DWT or more. Although the minimum DWT limits of these regulations are, in some instances, higher than those recommended in the "Presidential Initiatives", Coast Guard estimates show that the addition of the

COW and CBT alternatives at the higher DWT limits of these regulations results in approximately the same reduction of operational oil pollution as would the SBT requirement for tank vessels of the sizes recommended by the "Presidential Initiatives". Section 5 of the Final Regulatory Analysis and Environmental Impact Statement addresses this comparison in detail. The issue of the effectiveness of protectively located segregated ballast tanks vs. the effectiveness of double bottoms is extremely subjective due to the uncertainties in oil pollution statistics regarding tank vessel accidents. These uncertainties make it impossible to produce a reliable quantitative comparison of these two construction features at this time. Aware of this situation, IMCO recommended a study of the issue in Resolution 17 of the TSPP Conference. The Coast Guard is planning to work through IMCO on a data collection service to aid in removing some of the uncertainties in oil pollution statistics regarding tank vessel accidents.

One commenter asked if "coastwise vessels" would be allowed to discharge dirty ballast to ballast retention facilities. As discussed above, shoreside reception facilities for ballast will be the subject of a future proposal.

A number of commenters suggested that the Coast Guard take into consideration the developments regarding the proposed regulations reached at the Eleventh Session of the IMCO sponsored Marine Environmental Protection Committee (MEPC XI) in June 1979. The Coast Guard delayed publication of these rules to incorporate into them any recommendations of MEPC XI that are within the scope of the notice of proposed rules of February 12, 1979. Any further developments reached at IMCO on issues relating to the regulations in this document are expected to be incorporated through new proposals.

One commenter suggested that the Coast Guard wait until all maritime nations comply with the TSPP requirements before implementing the requirements of the PTSA which go beyond the TSPP standards. The Coast Guard cannot make this choice since the PTSA mandates implementation, regardless of when the TSPP requirements are adopted and complied with by other maritime nations.

One commenter stated that the Economic Impact was inadequately addressed in the preamble of the proposed rules. The Economic Impact included in the preamble of the proposed rules reflected the significant highlights of the economic assessment

conducted by the Coast Guard. A much more detailed economic analysis can be found in the Final Regulatory Analysis and Environmental Impact Statement. The preamble is not the proper place for such detailed information and would be too lengthy if such information were included in it. The Final Regulatory Analysis and Environmental Impact Statement is available as indicated under Addresses.

One commenter is of the opinion that these regulations are only useful for operational pollution and are not useful in preventing casualty type pollution. Protectively located segregated ballast tanks and dedicated clean ballast tanks provide protection against collisions, rammings and groundings. The requirements for SBT to be protectively located on certain new tank vessels and CBT to be wing tanks, unless approved by the Commandant to be center tanks, are specifically aimed at reducing oil pollution from tank vessel accidents. In addition, a note now follows § 157.10a that encourages the location of SBT in wing tanks on existing tank vessels.

Three commenters noted that a statement in the "Presidential Initiatives" ("Where technological improvements and alternatives can be shown to achieve the same degree of protection against pollution, the rules will allow their use."), was not included in the proposal and recommended such a principle be incorporated into the regulations. 33 CFR 157.07 allows the Commandant to approve the use of a design or equipment substitute for a requirement in Part 157, which would include technological improvements or alternatives. This allowance for substitutes that are equivalent is consistent with the policy developed by IMCO and provides the necessary mechanism for the public to submit those equivalents to the Coast Guard for review.

Four commenters recommended that the Coast Guard require stricter standards than are provided in the MARPOL Protocol and the *Protocol of 1978 Relating to the International Convention for the Safety of Life at Sea, 1974* (SOLAS Protocol) (collectively, both Protocols are referred to as the 1978 Protocols) for U.S. tank vessels in domestic trade. A study was conducted during May and June of 1978 by the Coast Guard and other Federal Agencies to determine if tanker safety and pollution prevention measures in addition to those contained in the 1978 Protocols should be applied to U.S. tank vessels in domestic trade. Coast Guard report, No. CG-M-5-78, Report of Study of Tanker Safety and Pollution

Prevention Requirements for U.S. Tankers in Domestic Trade, June 1978, was issued and is available to the public as document AD A057607 from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161. One conclusion reached by the study was that except for U.S. tankers transporting oil from the Outer Continental Shelf (OCS) (to be considered in a future proposal), requirements beyond those of the 1978 Protocols for U.S. tankers in domestic trade would not be cost effective at this time due to the uncertainties that exist in the area of tank vessel oil pollution. The study recommended that a number of actions be taken to remove these uncertainties. Work on these actions has begun. This decision, however, does not foreclose invoking additional requirements at some future time.

Four commenters recommended that the Coast Guard require stricter standards than are provided in the 1978 Protocols for foreign flag tank vessels transferring cargo at U.S. ports. The standards recommended by the commenters are essentially the same as the standards recommended in the "Presidential Initiatives". The Coast Guard did not publish rules that exceed the 1978 Protocols for foreign flag tank vessels transferring cargo at U.S. ports for two reasons. First, oil pollution is a global problem requiring an international solution. Major unilateral action on the part of the United States, while possibly benefiting our waters, might cause a reduction in the quality of the world's oceans. Such unilateral action would result in a tank vessel fleet dedicated in the trade to the United States. Thus, while tanker safety and pollution prevention measures would be improved for those tank vessels, it would not be expected to improve for other tank vessels. For further discussion of this issue and other indirect impacts of unilateral action, see Chapter Six of the Final Regulatory Analysis and Environmental Impact Statement. Second, it is important to balance cost and benefits, especially when inflation is a major problem of the United States at this time. The regulations in this document should reduce oil pollution by about the same amount as the measures recommended by the commenters, at about one-third the cost. Such results must be weighed heavily in view of today's economic situation.

One commenter recommended that all new U.S. tank vessels be built with double hulls, all existing U.S. tank vessels be retrofitted with segregated

ballast tanks, and all U.S. tank vessels be fitted with a COW system. Such requirements go beyond those recommended by the MARPOL Protocol and those required by the PTSA and for reasons discussed above are not being implemented at this time.

One commenter recommended that all U.S. tank vessels in "coastwise" trade be exempt from these regulations. The PTSA mandates the requirements in this document for all U.S. tank vessels above certain DWT sizes, regardless of trade. The requirements of this document are applicable to all seagoing U.S. tank vessels above certain DWT sizes. There are currently no U.S. tank vessels above the DWT sizes of these regulations that trade exclusively on rivers, lakes, bays, sounds, or the Great Lakes, nor does the Coast Guard expect such vessels to be built in the future. In view of this mandate, the commenter's suggestion is rejected.

One commenter suggested that a COW system should not be permitted as a substitute for SBT. As mandated by the PTSA, a COW system is allowed as an alternative to SBT on crude oil carriers. In addition, the Coast Guard has estimated that a COW system would reduce operational oil pollution from tank vessels affected by the regulations in this document by about 38% compared to a 28% reduction in operational oil pollution from the same tank vessels having SBT but not a COW system. Section 5 of the Final Regulatory Analysis and Environmental Impact Statement addresses this comparison in detail.

One commenter recommended that the use of load-on-top procedures should not be allowed as a substitute for SBT or a COW system. Neither the proposed regulations nor the regulations in this document allow the use of load-on-top procedures as a substitute for SBT or a COW system.

Three commenters recommended that the Coast Guard require stringent and comprehensive personnel qualification and manning standards. Personnel and manning requirements are being developed by the Coast Guard and will be the subject of a future proposal.

Six commenters recommended that the Coast Guard require back-up radar and collision avoidance assistance equipment. Final regulations for a second radar were addressed in the *Federal Register* of July 24, 1978 (43 FR 32112) and on May 7, 1979 (44 FR 26740). In the July 24 issue of the *Federal Register*, The Coast Guard also withdrew the proposed requirement for collision avoidance aids. The need for unilateral action will be re-evaluated when IMCO has completed the

recommended task of developing performance standards and carriage requirements for collision avoidance aids. Coast Guard representatives are participating in the development of these standards.

Two commenters recommended that the Coast Guard require standards for shipboard electronic aids and their use and maintenance. Interim final regulations for electronic navigation equipment were published by the Coast Guard in the May 31, 1979 issue of the *Federal Register* (44 FR 31592).

Four commenters recommended that the Coast Guard implement regulations for vessel maneuverability and minimum levels of tug assistance. Such requirements are outside the scope of these regulations, however, the Coast Guard has conducted a study on tank vessel maneuverability entitled, "Presidential Initiative for an Evaluation of Devices and Techniques to Improve Maneuvering and Stopping Ability of Large Tank Vessels, September, 1979", to determine if such requirements are necessary. A copy of this report can be obtained by contacting Commander James Card, G-MMT-4, U.S. Coast Guard, Washington, D.C. 20593, (202) 426-2197.

One commenter recommended that the Coast Guard implement requirements for foreign flag tank vessel inspection and certification to determine compliance with all the provisions of Coast Guard regulations. Such requirements are outside the scope of these regulations, however, the Coast Guard is in the process of developing and implementing such requirements as mandated by the PTSA.

One commenter submitted a Formal Tanker Standards Rulemaking Petition which recommends the following: (1) SBT standards which go beyond those required by the MARPOL Protocol on all tank vessels.

- (2) Double bottom requirements.
- (3) Collision avoidance and dual radar requirements.
- (4) Navigational equipment requirements.
- (5) Inert gas system requirements.
- (6) Vessel maneuverability requirements.
- (7) Vessel inspection requirements.

Responses to each of these recommendations have been discussed in preceding paragraphs of this preamble, in the Final Regulatory Analysis and Environmental Impact Statement, and in the preamble of CGD 77-057a in this issue of the *Federal Register*.

Several commenters recommended that the Coast Guard consider having a workshop or public hearing after all

comments on the proposal have been considered. The Coast Guard does not agree with this recommendation. All the comments submitted to the Coast Guard have been considered before final action was taken on the proposal. Explanations for accepting or rejecting the comments are given in the discussion of this preamble. Coast Guard personnel are always available for discussions regarding these regulations and the comments from the public. Accepting this recommendation would delay issuing these regulations, which would result in the owners having less time to comply with the regulations at the effective dates.

As stated in the preamble of the proposal, the intent of these regulations is to adopt the standards of the MARPOL Protocol.

Several commenters called attention to instances where the proposed rules did not reflect these standards or needed clarification. Accordingly, improvements were incorporated during the Coast Guard's examination of the proposed rules after participation in MEPC XI in which considerable discussion regarding implementation of the MARPOL Protocol took place. Corrections have been made where necessary and are discussed below. Since these changes merely conform the regulations in this document to the announced purpose, implementation of the MARPOL Protocol and the PTSA, no further notice and opportunity for comment on these changes is necessary.

Numerous commenters recommended editorial changes to the proposed regulations. All editorial recommendations were considered by the Coast Guard. Many were adopted in the regulations, where appropriate. In addition, the Coast Guard made numerous other editorial changes to the proposed regulations.

#### Division I

Three commenters pointed out that the proposed applicability of Part 157 to foreign tank vessels was not consistent with the applicability requirements of the PTSA. The proposal did not exclude any foreign tank vessel not destined for or departing from a port or place subject to the jurisdiction of the United States that is in innocent passage through the territorial seas of the United States or in transit through the navigable waters of the United States which form a part of an international strait. This exception for foreign tank vessels has been included in § 157.01.

Six commenters requested clarification regarding the applicability of the SBT, CBT, and COW requirements to tank barges. One

commenter said the regulations did not address tank barges and that regulations for tank barges should be issued. One commenter suggested the Coast Guard undertake a study of tank barge oil pollution. The regulations, as proposed, would require tank barges to comply with the SBT, CBT, and COW standards if they are within the applicable DWT limits contained in the regulations. As proposed § 157.10 applies to certain new tank barges of 20,000 DWT or more that carry crude oil and of 30,000 DWT or more that carry products. As proposed, § 157.10a applies to certain new and existing tank barges of 40,000 DWT or more that carry crude oil or products. Regulations for tank barges less than the DWT limits of these regulations were addressed in the Notice of Proposed Rulemaking and Advance Notice of Proposed Rulemaking for tank barges published on June 14, 1979 in the *Federal Register* (44 FR 34440, 34443). A comprehensive study to determine the causes of oil pollution from tank barges was conducted in support of those proposed regulations for tank barges. The study revealed that approximately 85% of all oil pollution from tank barges results from accidents, supporting the requirement for double hulls on tank barges less than the DWT limits of the regulations in this document. The tank barge study also revealed that there was very little data available to establish conclusions on the cause of oil pollution from tank barges of the DWT sizes addressed by the proposed regulations. Because of the limited number of tank barges of the DWT size addressed by the proposed regulations, it cannot be determined, at this time, if there is a need for additional standards on tank barges of this size. Therefore, the Coast Guard has decided to undertake a study to determine the causes of oil pollution from large tank barges of this size. The results of this study will become the subject of a future proposal. Until that time, the regulations in this document will continue to apply to tank barges. Section 157.08(g) has been added to exclude the inapplicable requirement for propeller immersion on tank barges. If the regulations in this document excluded tank barges from these requirements, that exclusion could drive the tanker industry toward construction of large tank barges rather than tankships for economic reasons, with an adverse impact upon the marine environment. Such action could increase the risk of oil pollution because of the higher susceptibility of large tank barges to accidents due, primarily, to their poor maneuvering capabilities. In addition, since there are very few large tank

barges in existence at this time, this action could place demands on the state of the art in the design and construction of large tank barges with adverse consequences upon the marine environment.

The Coast Guard intends to issue an advance notice of proposed rulemaking in a future issue of the *Federal Register* to establish an acceptable definition of the term "integrated tug barge". Until that final definition is published in the *Federal Register*, the definition of "integrated tug barge" provided in this document serves as an interim definition for 33 CFR Part 157 and provides clarification for the reader.

Four commenters requested clarification of the definition of "product" with regard to the applicability of Part 157. Two commenters suggested that in defining "product" or "oil", Part 157 should pertain only to petroleum oils, excluding petrochemicals as intended by IMCO. One commenter requested clarification on the applicability of the proposed regulations to chemical carriers. The PTSA defines oil as "oil of any kind or in any form, including but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil." A product carrier is defined as "a tanker engaged in the trade of carrying oil, other than crude oil." However, when reviewing the legislative history of the development of the equipment and construction requirements of paragraphs (B), (C), (G), (H), and (I) of subsection 7 of Section 5 of the PTSA, it is clear that with respect to the products carried, the requirements in these paragraphs were intended to be consistent with the standards for a product carrier developed at the TSPP Conference. The equipment and construction standards for a product carrier developed at the TSPP Conference pertain only to tank vessels that carry petroleum based products, not including petrochemicals and liquified gases. In view of this, the definition of "product" has been changed to mean "any liquid hydrocarbon mixture in any form except crude oil, petrochemicals, and liquified gases." With this definition of product, the proposed regulations for tank vessels that carry products is not applicable to those vessels which carry oils other than petroleum based oils, such as vegetable oils, and those vessels that carry petrochemicals or liquified gases. In this regard a chemical carrier that only carries petrochemicals does not have to comply with these regulations; however, if the chemical carrier carries any petroleum based oil other than petrochemicals, that vessel

must comply with the applicable requirements for a product carrier when carrying that petroleum based oil. Regulations affecting tank vessels that carry petrochemicals and oils other than petroleum based oils can be issued under the authority of subsection 6 of Section 5 of the PTSA in addition to the existing regulations applicable to these vessels in 46 CFR Subchapter O. The Coast Guard is in the process of determining which additional standards tank vessels that carry petrochemicals and oils other than petroleum based oils must meet. This determination will be part of a future rulemaking. Regulations affecting tank vessels that carry liquefied gases were issued by the Coast Guard on May 3, 1979 in the Federal Register (44 FR 25986).

Section 157.06 has been added to the proposed regulations to provide a procedure for persons to administratively appeal adverse rulings made by Coast Guard officials regarding these regulations. The procedure is intended to allow for timely resolution of disputes.

Several commenters expressed concern that there appeared to be a conflict between the proposed requirements for a new vessel in § 157.10 and a new vessel in § 157.10a. The commenters are of the opinion that new vessels had to meet the requirements of both § 157.10 and § 157.10a, where applicable. This is not true. Section 157.08(f) was included in the proposed regulations to eliminate any conflict between the requirements of the two sections for a new vessel. Section 157.10 only applies to a new vessel, within certain DWT limitations, that is contracted for after June 1, 1979, has the keel laid after January 1, 1980, is delivered after June 1, 1982 or has undergone a major conversion after specified dates. Section 157.10a applies to an existing vessel, within certain DWT limitations, and a new vessel (as defined in § 157.03(i)), within certain DWT limitations, that is contracted for on or before June 1, 1979, has the keel laid on or before January 1, 1980, and is delivered on or before June 1, 1982 or in the case of a major conversion, has undergone the major conversion on or before specified dates.

One commenter recommended that tank vessels contracted for before June 1, 1979 that for some reason have delivery delayed until after June 1, 1982 be considered a tank vessel under § 157.10a instead of under § 157.10. The PTSA contains no provision that addresses this issue; however, this issue was discussed by IMCO at MEPC XI. It was agreed that if a tank vessel is

contracted before June 1, 1979, but has delivery delayed until after June 1, 1982, the Administration should evaluate the reasons for the delay to determine whether or not the delay occurred through no fault of the shipbuilder and the prospective owner. The Coast Guard will consider possible solutions to this situation on an individual case basis.

In proposed § 157.10(b) and § 157.10a(c), the limitation of applicability of these requirements to tank vessels above the specified DWT that carried "only products" was incorrect. The term "only products" was a drafting error that did not reflect correctly the requirements of the PTSA and the MARPOL Protocol for product carriers. By omitting the word "only", a tank vessel that carries crude oil and product during the same voyage must comply with the applicable requirements for both services during that voyage. This is the intent of the PTSA and the MARPOL Protocol. If the word "only" was not omitted, a tank vessel that carries crude oil and product during the same voyage need only have SBT or a COW system to comply with the proposed regulations. While SBT would be satisfactory for the vessel when carrying crude oil and products during the same voyage, a COW system would not. This drafting error has been corrected to reflect the intent of the PTSA and the MARPOL Protocol.

Two commenters recommended that a tank vessel be allowed to carry petroleum products and crude oil during the same voyage, while only complying with the requirements of either a product carrier or a crude oil carrier. They suggest that the tank vessel be certified for the service in which the vessel does the majority of trading (product or crude oil) and be allowed to trade in the other service without complying with the requirements for that service. As mandated by the PTSA, a product carrier under § 157.10a is required to be equipped with CBT or SBT and a crude oil carrier under § 157.10a is required to be equipped with SBT or a COW system with CBT as an option for a certain time period. As discussed in the preceding paragraph, a tank vessel that carries crude oil and products during the same voyage must comply with the applicable requirements for both services. In view of these provisions of the PTSA, the commenters' recommendation is rejected.

Two commenters recommended that the proposed regulations allow for the change of services between voyages. They suggest that a crude oil carrier be allowed to carry products on one voyage

and crude oil on the next voyage and a product carrier be allowed to do the same. There are certain tank vessels which are currently used in this type of trade depending on the needs of the oil market. This issue was discussed by IMCO at MEPC XI. It was determined that a tank vessel may change services between voyages, provided that when carrying crude oil the tank vessel complies with § 157.10a(a) or (b) and when carrying products the tank vessel complies with § 157.10a(c). If the owner selects the options of CBT when carrying products and a COW system when carrying crude oil, the tank vessel may carry crude oil in all the tanks, including those designated as CBT, as long as the tanks designated as CBT are crude oil washed, water rinsed, and inspected for cleanliness prior to using the tank for CBT. In view of the fact that these regulations do not prohibit the changing of services between voyages, an additional provision to allow such changing is not considered necessary. Each U.S. tank vessel's Certificate of Inspection will be endorsed by the Coast Guard to reflect the vessel's trade. When the owner/operator desires to change the trade for that vessel, the Certificate of Inspection of that vessel will be re-endorsed for the new trade provided the vessel complies with the applicable requirements for the new trade. The same applies to the Certificate of Compliance for foreign tank vessels. This issue will be further discussed by IMCO at MEPC XII.

One commenter recommended that the SBT required on tank vessels under proposed § 157.10A be located within the vessel in accordance with Appendix C, *Procedure for Determining Distribution of Segregated Ballast Tanks to Provide Protection Against Oil Outflow in the Event of Grounding, Rammings, or Collision*. This recommendation is not consistent with the standards reached at the TSPP Conference; however, in view of the fact that the location of SBT in wing tanks could provide an added measure against accidental pollution, a note has been added after § 157.10a stating that SBT in wing tanks will provide added protection against oil outflows resulting from collisions, rammings, and groundings. While the location of SBT is at the discretion of the vessel owner, the note calls attention to the advantages of locating SBT in wing tanks. In addition to complying with the SBT requirements in § 157.10 or § 157.10a, the intact and damage stability requirements in 33 CFR 157.21 and 46 CFR Part 30 must be met when applicable.

Three commenters stated that the wording of proposed § 157.11(d)(4) and (e)(3), which requires an oil piping line that terminates on the weather deck at the extreme breadth of the deck, does not reflect the intent of the MARPOL Protocol for a piping line that is connected outboard of the ship's manifold valves. The Coast Guard concurs with this comment and has changed § 157.11(d)(4) and (e)(3) to correctly reflect the standard of the MARPOL Protocol.

It was agreed by IMCO at MEPC XI that the "special small diameter piping line" that terminates on the weather deck outboard of the manifold valves for discharging strippings ashore should have a cross sectional area of not more than 10 percent of the cross sectional area of the main cargo discharge piping line, except on tank vessels already having such a piping line installed. For those tank vessels the cross sectional area of that piping line should not be more than 25 percent of the cross sectional area of the main cargo discharge piping line. This larger piping line is allowed so that tank vessel owners/operators who took the initiative to have such a piping line installed on their tank vessel before it was mandatory, would not be required to install a smaller diameter piping line. The provision of the MARPOL Protocol regarding the size of this oil piping line stipulated a "special small diameter piping line". It was determined that a clearer definition of this term should be provided. Section 157.11(f) has been added to provide this clarification.

One commenter stated that the proposed regulations revising § 157.11 which were published in the *Federal Register* on June 27, 1977 (42 FR 32670), were not withdrawn, thereby creating a conflict in the paragraph numbering of § 157.11 between the proposal of June 27 and these regulations. Final regulations for the proposal of June 27 will be issued in the near future. When they are issued as final regulations, the paragraph numbering of § 157.11 will be consecutive and will eliminate the conflict noted by the commenter.

One commenter recommended that a requirement should be added for a means to transfer oil from each cargo tank to each SPT or CBT if an accident occurs that results in oil pollution from a cargo tank. This recommendation is not consistent with the standards for SBT in the MARPOL Protocol or existing 33 CFR Part 157 regulations which require SBT to be completely separated from the cargo system. While there may be a few instances where this capability could reduce the extent of oil pollution, it is

completely contrary to the principle of SBT. In view of this, the commenter's suggestion is rejected. CBT will most likely have such a means by virtue of the common piping system.

The Coast Guard has rewritten proposed § 157.24(c) to allow the tank vessel's flag state to certify compliance with the segregated ballast tank distribution requirements of § 157.09(d) or § 157.10(d). This alternate requirement provides the Coast Guard with equally acceptable and reliable evidence to show compliance with the SBT requirements.

Four commenters identified circumstances where it would be necessary to add ballast water to a cargo tank other than during the circumstances allowed in proposed § 157.35, such as when transiting through the Panama Canal, passing beneath certain bridges, or situations involving vessel safety which go beyond the ballasting anticipated by that section. This issue was addressed at MEPC XI. Some Administrations are of the opinion that vessels which must frequently take on additional ballast because of these circumstances should be fitted with additional SBT capability. Other Administrations are of the opinion that cargo tanks may be used for the carriage of any additional ballast provided this oily ballast is discharged to a shore-based reception facility. Those Administrations which are of this second opinion feel there would be difficulty in defining "frequently". It was recommended that Administrations consider this subject further at MEPC XII. Therefore, this item will be the subject of a future rulemaking.

One commenter took exception to the fact that proposed § 157.35 only allowed a tank vessel under § 157.10 to ballast a cargo tank after the tank had been crude oil washed. This requirement was developed at the TSPP Conference and provides an assurance that certain cargo tanks on a tank vessel under § 157.10 are crude oil washed prior to each ballast voyage when crude oil washing for sludge control is not required.

One commenter recommended that effluent from cargo tanks that are ballasted as allowed under proposed § 157.35 be permitted to be discharged to adequate reception facilities. As previously discussed, standards for reception facilities will be addressed in a future proposal.

One commenter stated that it would be reasonable to allow the use of center tanks for SBT or CBT on tank vessels under proposed § 157.10 provided the protective location requirements of Appendix C are met. CBT is not required on tank vessels under § 157.10, but other

than that, the Coast Guard concurs with the commenter's statement and would allow the use of center tanks for SBT provided the protective location requirements of Appendix C are met.

One commenter recommended that Appendix C be deleted in its entirety because it "steers" the ship designer to double bottoms which would only create "bad experiences" when a tank vessel goes aground. As previously discussed, the uncertainties of accidental oil pollution make it impossible to produce a reliable quantitative comparison of double bottoms vs. protectively located SBT in wing tanks. Salvage experts disagree among themselves as to whether double bottoms will help or hinder salvage efforts. The issue is almost entirely subjective. IMCO recognized this problem and recommended a study of the issue in Resolution 17 of the TSPP Conference. The Coast Guard is planning to work through IMCO on a data collection service to aid in removing some of the uncertainties of accidental oil pollution. Until that is accomplished, Appendix C will be used as the procedure for protectively locating SBT.

#### *Division II—Dedicated Clean Ballast Tanks*

One commenter recommended adding requirements that hull stresses be within the acceptable limits in the resulting ballast and loaded conditions of a tank vessel with CBT and that the Master should ensure that the hull stress is at all times within acceptable limits. The proposal pointed out that 46 CFR 31.10-1 requires each tank vessel to meet current American Bureau of Shipping (ABS) standards relating to material and construction of the hull; therefore, adding a requirement concerning hull stresses in these regulations would be redundant. This statement is true with regard to U.S. tank vessels; however, it is not true with all foreign flag tank vessels. Acceptable hull stresses resulting from location of CBT for U.S. tank vessels can be easily verified by the Coast Guard through ABS. This will not always be the case for foreign flag tank vessels which have the CBT system approved by the Coast Guard. In view of this, a requirement has been added in § 157.202 stating that the owner of a foreign flag tank vessel having CBT under § 157.10a(b) or (c)(2) desiring Coast Guard approval of the vessel CBT system must submit documentation from the authority that assigned the Load Line to the vessel that states that the location of CBT is acceptable to that authority. This provision is in the MARPOL Protocol and, as stated in the proposal, the Coast Guard intended to

adopt these standards. In addition, the Master must always ensure that the hull stresses are within acceptable limits at all times; therefore, an operating requirement stating such is not necessary.

Three commenters thought the Coast Guard did not demonstrate a preference for locating CBT in wing tanks rather than center tanks. The proposal stated that CBT must be in wing tanks or center tanks that are accepted by the Commandant. The intent was that if center tanks are selected for CBT, the tanks selected must be acceptable to the Commandant. The selection of wing tanks for CBT does not require specific acceptance by the Commandant. This expresses a preference for locating CBT in wing tanks. Section 157.220(b) has been rewritten to clearly express this intent.

One commenter expressed the opinion that locating all CBT in wing tanks would be difficult and at times impractical. The commenter suggested that use of one or two center tanks be allowed for CBT. The regulations do not prohibit the use of center tanks or double bottom tanks for CBT, but merely calls the designer's attention to considering wing tanks. If for some reason the designer thinks it is best to use a center tank or a double bottom tank for CBT, the Commandant will review the reasons for locating CBT in a center tank or double bottom tank on that vessel and either accept or reject the request. Rejection of the request may be appealed under the procedures contained in new § 157.06.

Three commenters took exception to the requirement in the proposal for CBT to be those cargo tanks which have the least amount of oil conveyed through the pumping and piping system. This has been misconstrued to mean CBT must be in the smallest cargo tanks, hence the least amount of oil conveyed. In addition, the commenters thought that the requirement in the proposal invokes a requirement beyond that intended by IMCO at the TSPP Conference. In view of the fact that § 157.222(a) requires CBT to be connected to the least practicable amount of piping, the requirement for CBT to have the least amount of oil conveyed through the pumping and piping system has been omitted.

Six commenters stated that proposing CBT to be connected only to one pump was totally impractical and exceeds the concept of CBT that was intended by IMCO. The points were raised that many product carriers have only a deepwell pump in each tank to service that tank. Other arrangements usually include connection of the pumps to a common suction manifold. Both of these

points raised would make the operation of a CBT system, while connected to only one pump, totally impractical. These points are valid reasons for eliminating the requirement for CBT to be connected only to one pump but, to maintain consistency with the IMCO wording, § 157.222(a) has been rewritten to require that CBT must be connected to the least practicable number of pumps.

Two commenters recommended that all CBT operating requirements which apply to foreign vessels while operating in the navigable waters of the U.S. should also be applicable when the foreign vessel is outside U.S. waters. They suggested a requirement be added to the regulations stating this, so the integrity of foreign vessel CBT is maintained prior to entering U.S. waters. Under Section 5 of the PTSA, the Coast Guard has no authority for such a requirement.

One commenter suggested that the sample point proposed in the CBT piping system be located in a vertical section of the discharge piping and not just in a vertical section of piping as stated in the proposal. This would be more explicit in defining where the sample point should be located and as a practical matter, would be the usual location. Accordingly, the word "discharge" has been added to § 157.222(e).

One commenter pointed out that the type of sample point required in the proposal is designed for a test rig and would be unsuitable in dimension and shape for location in shipboard discharge piping. The Coast Guard concurs with this statement and has omitted the specification for the type of sample point that must be installed, but has added a note following § 157.222(e) to direct the reader to an example of such a sample point.

One commenter suggested that the regulations take into account any changes IMCO may agree upon regarding the installation of oil monitors. This document has incorporated the agreements reached by IMCO at MEPC XI regarding oil monitors in a CBT system that are within the scope of the notice of the proposed rules of February 12, 1979. Any future agreements reached at IMCO will be considered by the Coast Guard and be the subject of future proposals.

One commenter asked why oil monitors are required on tank vessels if SBT or CBT is required. On tank vessels with SBT or CBT, an oil monitor is required to assure that if a cargo tank is ballasted as allowed under § 157.35, the discharge of that ballast is in accordance with § 157.37. In addition, ballast from a dedicated clean ballast

tank must be discharged in accordance with § 157.43 which requires the discharge of clean ballast to be monitored.

One commenter recommended that all discharges from tank vessels into inland or coastal waters should be limited to 15 ppm or less. The Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1321(b)(3)) prohibit discharging into or upon the navigable waters of the United States oil or hazardous substances "in harmful quantities as determined by the President" who has delegated this authority to the Environmental Protection Agency (EPA). The EPA has defined "harmful quantities" in 40 CFR 110.3.

One commenter asked if an existing tank vessel is permitted to discharge clean ballast or segregated ballast below the waterline. Clean ballast from a cargo tank or a dedicated clean ballast tank must be discharged in accordance with § 157.43(a) which requires that clean ballast be discharged through an oil monitor. At the present time, there is no requirement that clean ballast be discharged above the waterline; however, in the *Federal Register* on June 27, 1977 (42 FR 32684) it was proposed that clean ballast be discharged above the waterline (proposed § 157.37(a)(5)). That proposal is currently being reevaluated for consistency with IMCO standards (which do not require clean ballast to be discharged above the waterline). Segregated ballast must be discharged in accordance with § 157.43(b) which does not prohibit the discharge of segregated ballast below the waterline.

Nine commenters stated that the proposed requirement to prohibit the ballasting of dedicated clean ballast tanks during the loading or unloading of cargo is too restrictive and would exceed the intention of the CBT operating requirements agreed to at the TSPP Conference. Product carriers with deepwell pumps in each tank would allow the ballasting of CBT while loading or unloading cargo without violating the integrity of the CBT system. Further, 157.222(d) requires a double valve separation between CBT and cargo tanks which would maintain the integrity of the CBT system on tank vessels without deepwell pumps. Finally, IMCO had no intention of prohibiting the ballasting of CBT while loading or unloading cargo. In view of this information, the requirement to prohibit the ballasting of CBT during the loading or unloading of cargo has been omitted.

One commenter noted that it was proposed that a letter indicating

compliance with the CBT requirements would be issued to each tank vessel instead of the IMCO required International Pollution Prevention Certificate until the MARPOL Protocol comes into effect. The commenter suggested that a certificate be issued even if the MARPOL Protocol does not come into effect. The PTSA requires the issuance of a Certificate of Inspection to all U.S. tank vessels and the issuance of a Certificate of Compliance to all foreign flag tank vessels that are in compliance with Section 5 of the PTSA and the regulations issued under that Section. The letters issued by the Coast Guard will evidence compliance with only a portion of Section 5 of the PTSA. Those letters will be used by the Master to show that the vessel complies with the applicable portions of Section 5 of the PTSA and the regulations issued thereunder, regardless of whether or not the MARPOL Protocol comes into effect and subsequent IMCO certificates are issued. When the MARPOL Protocol comes into effect and International Oil Pollution Prevention Certificates are issued, that document will be accepted by the Coast Guard as a basis for issuing a Certificate of Compliance to a foreign tank vessel.

Three commenters stated that procedure I4 of the proposed Appendix in Division II requires a visual inspection of all CBT prior to discharge. They point out that such an inspection would be almost impossible for double bottoms. The proposed Appendix which has been included in 33 CFR Part 157 as Appendix D is only an example of a check list. There are no requirements which must be met in the check list. The Appendix is included only as guidance to serve as a model for the preparation of CBT procedures which will probably vary from ship to ship depending on the CBT arrangement and design.

#### *Division III—Crude Oil Washing System*

Two commenters noted that the IMCO terms "arrival ballast" and "departure ballast" and their definitions were not included in the proposal. The commenters recommended that these two terms and their definitions be included in the regulations. The appropriate locations in the proposal for these two terms to be used do not occur frequently enough to warrant the addition of these two terms and their definitions to the regulations. Rather than adding these terms and their definitions to the regulations, the proposal substitutes the definitions for the terms "arrival ballast" and "departure ballast" at the appropriate locations in the regulations.

Two commenters noted that the requirements for the COW piping, fittings, and valves to be of steel or other equivalent metal would prohibit the use of other materials that might be acceptable to the Coast Guard for the COW piping system. In addition, such a requirement is not consistent with the IMCO requirements which allow the use of steel or other equivalent material. The Coast Guard concurs with this comment and has rewritten 157.122(a) to allow steel or an equivalent material accepted by the Commandant.

It was agreed by IMCO during MEPC XI that on combination carriers short lengths of flexible hose piping could be used to connect COW piping to COW machines that are located in a cargo tank hatch cover. The hose must be acceptable to the Administration, have flanged connections, and be protectively stowed when not installed in the COW piping system. The length of the hose shall be no longer than necessary to connect the COW machine to an adjacent point just outside the hatch coaming. Sections 157.122(a) and 157.155(a)(14) have been added to reflect these requirements. This is a discretionary alternative to a requirement which maintains the same degree of safety and protection to the marine environment.

It was agreed by IMCO at MEPC XI to delete any specific reference to materials for the stripping system of a tank vessel with a COW system. Requirements for a stripping system on a tank vessel with a COW system should be no different than those requirements for a tank vessel that does not have a COW system. Regulations currently exist which govern the design of all piping systems including stripping systems. In view of this, material requirements for the stripping system have been omitted from 157.122.

One commenter stated that it is not clear whether or not the fire main system can be connected to the COW system. It was not proposed that the fire main could be connected to the COW system. To clarify this ambiguity and to eliminate any doubt, a procedure to ensure that the fire main is not connected to the COW system has been added as a requirement in the COW manual under 157.155(a)(13). However, this does not prevent the use of the fire main as a source of water for water washing a tank with a washing machine that is placed through an opening in the deck. This use of the fire main is allowed by Coast Guard regulations and is not prevented by the regulations of this document.

Three commenters recommended that the regulations allow for the alternative

use of other overpressure relief devices, rather than requiring only relief valves. They point out that IMCO allows for alternatives acceptable to the Administration to prevent overpressurization of the piping system. Section 157.122(d) has been rewritten to require overpressure relief valves or other means accepted by the Commandant that prevent overpressure of the piping of the COW system.

Six commenters felt that the proposed design and arrangement requirement for the piping of the COW system to have sufficient pressure and flow to allow the number of COW machines needed to pass the Coast Guard inspections to operate simultaneously is totally impractical. They felt that such a requirement would dictate tremendously oversized piping which is absolutely unnecessary. The Coast Guard concurs with this comment and has omitted the requirement from the regulations in this document.

It was agreed by IMCO during MEPC XI that only steam heaters located outside the engine room and used when water washing need be effectively isolated during crude oil washing by double shut-off valves or by blanks. In view of the requirement in Resolution 15 that equipment of the COW system is not allowed in machinery spaces, a steam heater located in the machinery spaces could not be used in COW operations. This is a clarification to Resolution 15 which required steam heaters that are used for water washing to be isolated during crude oil washing. Accordingly, § 157.122(i) has been changed to reflect this clarification.

Ten commenters objected to the proposal that the COW machines be permanently attached to the inside of each cargo tank because it would be extremely impractical to remove the machines for repair and maintenance. The current method of attaching deck mounted machines is to bolt the structure of the machine to the deck from outside the tank. In view of these comments, § 157.124(a) has been rewritten to require COW machines to be permanently mounted in each cargo tank. This wording is more consistent with the wording of IMCO and allows the current method of bolting the structure of the machine to the deck outside the tank.

One commenter recommended deleting the proposed requirement that each COW machine and its piping be supported to withstand vibration and pressure surges because there is a requirement to test the piping system to 1.5 times the working pressure. The pressure test of 1.5 times the working pressure is only a hydrostatic test to be

conducted after the system is assembled. This test will not account for any sudden, temporary pressure surges or vibratory responses which could cause damage to the equipment if it is not sufficiently supported. The pressure test is necessary for testing the system following installation. The performance requirement is necessary so that structural supports for the COW machine and its associated piping will be properly designed. Both requirements are retained.

One commenter suggested omitting the proposed requirement for a shut-off valve on bottom mounted COW machines which have remote monitoring (an indicator on deck which shows the machine's movement). The commenter contends that a bottom mounted machine which has a remote monitor indicating its movement would not need a shut-off valve to be closed when audio inspecting other bottom mounted COW machines in the tank. The requirement in the proposal for each COW machine to have a shut-off valve is not consistent with the standard in Resolution 15. Resolution 15 only requires bottom mounted COW machines that have their operation verified by audio inspection and deck mounted COW machines to have individual shut-off valves. In view of this, the Coast Guard concurs with this comment and has changed § 157.122(n) to correctly reflect this intent.

Four commenters recommended that the regulations allow the use of acceptable materials other than steel for the plate used to seal a tank opening when a deck mounted COW machine is removed. The Coast Guard concurs with this comment, provided the material selected meets the applicable strength and fire protection requirements. Section 157.170 has been changed to allow the use of an equivalent material accepted by the Commandant for the tank opening cover plate.

Seven commenters took exception to the proposed operating requirement that no portable drive unit for the COW machines may be moved more than twice from its original location. The intent of the IMCO requirement for portable drive units was only to establish the minimum number of portable drive units to be carried on board each tank vessel. The proposal carried this requirement a step beyond that which was intended by IMCO and placed a restriction on how many times each portable drive unit may be moved. It was pointed out that such a restriction could adversely affect the operation of the COW system if one or more of the portable drive units break down. In view

of this, the operating requirement has been omitted and the design requirement in § 157.124(d) has been rewritten to establish the minimum number of portable drive units to be carried on board, without restricting the number of times a portable drive unit may be moved.

Eleven commenters strongly objected to elimination of the term "large primary structural member" from the proposed regulation that determines the percent of cargo tank washed by direct impingement from the COW machines. By eliminating this term, which was included in the requirements of Resolution 15, the Coast Guard would require that virtually every surface, excluding the 10% horizontal area and the 15% vertical area exceptions, must be washed by direct impingement. If adopted, this requirement would result in an inordinate number of COW machines in each cargo tank which would produce very little difference in the amount of oil entering the navigable waters of the United States and the world, while increasing the cost of a COW system tremendously. The Coast Guard concurs with these comments and has added to § 157.03 the definition of "large primary structural member". This definition was developed from the guidelines for the assessment of shadow diagrams established by IMCO at MEPC XI. It was also agreed at MEPC XI that swash bulkheads could be treated as tank boundaries and are, therefore, included as vertical areas in § 157.124(e) and (f). In addition, § 157.124(e) has been revised to correctly reflect the intent of the standard in Resolution 15 regarding the percent of cargo tank area washed by direct impingement.

One commenter recommended that the proposed requirements for the percent of horizontal and vertical cargo tank areas that must be washed by direct impingement be calculated on a "per ship basis" for tank vessels under § 157.10a, rather than on a "per tank basis" as proposed. This issue was discussed by IMCO at MEPC XI, to determine if such a requirement would allow the operators or designers of existing tank vessels more flexibility in locating COW machines without adversely affecting the marine environment. It was determined that if a tank vessel under § 157.10a has a tank or tanks with complicated internal structural members, that tank vessel should be allowed to meet these requirements by calculating the percent of the total horizontal and vertical areas of all the cargo tanks washed by direct impingement. This is allowed to reduce the problems associated with locating

and installing COW machines on an existing tank vessel. Although this exception is allowed on a "per ship basis", the cargo tank inspection requirements under § 157.140 must still be met. Tank vessels under § 157.10 must meet the direct impingement requirements on a per tank basis because such tank vessels can be designed to accommodate COW systems. In view of this, § 157.124(f) has been added to these regulations to reflect this determination. This determination will maintain the same degree of protection to the marine environment while being less stringent than the requirement of the proposal.

One commenter noted that the proposed criteria for approval of the COW machine design are "not fully defined", nor is it clear what design data is to be supplied for approval. The COW machine internal and external structure (design, material, and safety aspects) will be evaluated as a component of the overall COW system design when submitted by the tank vessel owner for review and approval in accordance with these regulations and the applicable regulations in Subchapters D and F of Title 46. The Coast Guard will not verify the performance of each COW machine, but rather will accept or reject the performance of the COW system by virtue of the inspections under § 157.140 based on the performance of the whole COW system.

Two commenters pointed out that the proposed regulations required only that the Coast Guard inspect those cargo tanks which are to be used as ballast tanks when leaving a port (departure ballast tanks). This is not consistent with the IMCO standards which require all cargo tanks to be visually inspected and only departure ballast tanks to be inspected for the 0.085 percent of oil floating on top of ballast water. This inconsistency was a drafting error when interpreting the IMCO standards. Section 157.140(a) has been rewritten to correctly reflect the intent of the IMCO standard.

Ten commenters disagreed with the proposed regulation which replaces the visual inspection criterion in Resolution 15 of "essentially free of oil" with the term "does not have oil clingage or deposits of oil, or both". The wording of the proposal was meant to have the same intent as that of the IMCO standard; however, the commenters felt this this wording did not reflect the same intent. In view of this ambiguity, § 157.140(a)(1) has been rewritten to more clearly reflect the intent of the IMCO standard by replacing the term "does not have oil clingage or deposits

of oil, or both" with the term "essentially free of oil clingage or deposits of oil, or both to a degree acceptable to the Coast Guard inspector" for the visual inspection criteria. This is not a substantive change to the regulation.

Three commenters recommended that the proposed inspections under § 157.140 be conducted by qualified Coast Guard personnel and that a course be given by the Coast Guard to properly train the inspectors in COW system operations and results. The Coast Guard concurs with these comments and has initiated a training program for inspectors.

One commenter asked if a classification society would be allowed to conduct the inspections under § 157.140 in lieu of the Coast Guard. The Coast Guard is considering the possibility of accepting inspections under § 157.140 which are conducted by an exclusive surveyor from a classification society. Until a determination has been made on this subject, the Coast Guard intends to conduct all inspection under § 157.140.

One commenter asked how often the Coast Guard inspections under § 157.140 would be conducted on a tank vessel. It is intended that the Coast Guard would make an initial inspection under § 157.140 to accept the performance of the COW system for issuance of a COW system letter of acceptance under § 157.142. However, the inspections under § 157.140 must also be conducted if a master desires to operate the COW system with characteristics less than those recorded under § 157.150 in the COW Manual. Section 157.158(b) addresses this situation. In addition, the Coast Guard will be making spot checks aboard tank vessels crude oil washing in U.S. ports to ensure that COW systems are operated in accordance with the accepted operating characteristics recorded in the COW manual. When making these spot checks, the inspection described in § 157.140(a)(2) may be utilized.

Four commenters objected to the proposed requirements that each deck mounted COW machine have an indicator that shows the rotation and arc of the movement of the machine. They state that the proposal for such an indicator would preclude the use of multi-nozzle COW machines because it would be impossible to ascertain the arc of a constantly rotating multi-nozzle machine. Neither the Coast Guard nor IMCO intended to prevent the use of multi-nozzle machines by requiring this indicator. The Coast Guard concurs with this comment and has added § 157.124(h) to require each deck

mounted multi-nozzle COW machine to have a means that indicates the movement of the machine during COW operations. This correction to an error in Resolution 15 and the proposal maintains the same degree of safety and protection to the marine environment.

Two commenters suggested that the Coast Guard allow audio inspection in lieu of an indicator to determine if deck mounted multi-nozzle COW machines are operating correctly. Audio inspection is permitted for bottom mounted COW machines because indicators for these machines may be impractical from an equipment, maintenance, and reliability viewpoint. Indicators for multi-nozzle deck mounted machines are currently used on tank vessels and are considered reliable. Correct performance of the COW machines is paramount to assuring satisfactory operation of the COW system and an indicator is a reliable method of assuring correct performance of a COW machine. It has been determined that all deck mounted machines should have an indicator that shows the movement of the machine; therefore, audio inspection will not be allowed as a substitute for an indicator to determine the correct operation of a deck mounted multi-nozzle COW machine.

Two commenters were of the opinion that audio inspection of bottom mounted COW machines during COW operations to verify the machines' operation would result in prolonged crude oil washing times and would unnecessarily delay the departure of the tank vessel. They recommended that all bottom mounted machines be inspected and tested on ballast voyages, instead of during COW operations. This issue was a topic of discussion at MEPC XI. It was determined that any one of three methods would be acceptable to verify the operation of a bottom mounted COW machine. The first method is visual inspection of an indicator located external to the tank which shows the movement of the machine during COW operations. The second method is audio inspection of the COW machine during COW operations. This is the method of inspection in the proposal. During this method of inspection, the machine being inspected must be the only one operating in the same tank. The third method is inspection of the machine during a ballast voyage. During this inspection, water is used as the fluid flowing through the machine. Before conducting this inspection, the tank that has the machine to be inspected in it must be gas freed for safe entry of the person making the inspection. If this

method of inspection is utilized, the inspection must take place at least once every six times that machine is used during COW operations, but the interval between inspections must not exceed one year. These alternative methods of inspection have been included in the regulations as alternative procedures that must be included in the *Crude Oil Washing Operations and Equipment Manual* under § 157.155(a) (4), (5), (6), and (7). These discretionary alternatives will maintain the same degree of safety and protection to the marine environment as the proposal.

Two commenters recommended that instead of prohibiting the use of programmable bottom mounted COW machines, the regulations should permit their use if technical development produces an acceptable, reliable machine. The key to assuring the satisfactory operation of a programmable bottom mounted COW machine is an indicator on deck that shows the movement of the machine. Therefore, § 157.124(i) has been rewritten to allow the use of programmable bottom mounted machines provided an indicator is located on deck showing the movement of the machine.

One commenter was of the opinion that the proposed design requirement for the COW pumps to produce sufficient pressure and flow to allow the number of COW machines needed to meet the Coast Guard inspections to operate simultaneously is impractical. It was felt that the requirement would result in pumps extremely overrated for the capacity in which they will be operated. The Coast Guard concurs with the comment and has rewritten § 157.126(b) to require a pump capacity that will allow the simultaneous operation of the COW machines that are designed to operate simultaneously.

Eight commenters were of the opinion that the proposed requirement for the COW system to have two or more pumps supplying oil to the COW machines implied that two or more pumps must be simultaneously pumping oil to the COW machines. The intention of the regulation was only to have two pumps capable of supplying oil to the COW machines. To remove any ambiguity, § 157.126(d) has been rewritten to require two or more pumps capable of supplying oil to the COW machines.

One commenter pointed out that the standard in Resolution 15 which requires that the carriage of more than one grade of cargo shall not prevent crude oil washing of tanks was not correctly reflected in the proposed regulations because the regulations

required that the COW system be designed to allow crude oil washing with more than one grade of crude oil. The commenter states that the same result could be accomplished with an operational procedure. The Coast Guard concurs with this comment and has rewritten § 157.130 to require that the COW system be capable of crude oil washing with more than one grade of crude oil.

Five commenters objected to the proposed requirement that the stripping system be designed to remove crude oil at a rate of 1.25 times the rate at which all COW machines are operating simultaneously. Resolution 15 requires the stripping system to remove crude oil "at a rate of 1.25 times the total throughout of all the tank cleaning machines to be operated simultaneously when washing the bottom of the cargo tanks." Section 157.128(a) has been rewritten to correctly reflect this standard by requiring that the stripping system be designed to remove crude oil from each cargo tank at 1.25 times the rate at which all the COW machines, that are designed to operate simultaneously when washing the bottom of the tank, are operating.

One commenter expressed opposition to any regulation which requires only a closed gauge system for sounding cargo tanks. The proposed regulations did not require only a closed gauge system for sounding cargo tanks.

Nine commenters objected to the proposed requirement for hand dipping as the method for determining the dryness of the cargo tanks. This issue was discussed by IMCO at MEPC XI. It was determined that other means which efficiently ascertain that the bottom of a cargo tank is "dry" should be allowed. The Coast Guard concurs with this determination and has rewritten § 157.128(b) to require each cargo tank to be designed for sounding to determine the dryness of the tank by hand dipping or a means accepted by the Commandant.

Two commenters recommended that the three other locations for hand dipping should be more specifically stipulated in the regulations. The internal structure and design of each tank varies on each tank vessel. For this reason, three other locations cannot be adequately specified in these regulations to assure satisfactory sounding of each cargo tank on every tank vessel. The intent of this requirement is to make sure all the crude oil that can be removed, is removed from the tank by the stripping system. The location of the three other locations for hand dipping should be determined by the designer to accomplish this intent. In view of this,

the three other locations for hand dipping are not more specifically stipulated in these regulations.

One commenter objected to the proposed requirement for hand dipping at the aftermost portion of the tank if the stripping suction is not located at the aftermost portion of the tank. The location for sounding the tank by hand dipping at the aftermost portion of the tank was proposed because that is where the majority of stripping suction are located. In addition, tank vessels normally trim by the stern while unloading, thus oil will accumulate at the aftermost portion of the tank. It would be extremely difficult to determine whether or not all the crude oil has been removed from the tank if there is not a method of measuring the quantity of oil at the stripping suction. If the stripping suction is not located at the aftermost portion of the tank, the Coast Guard recommends that one of the other three locations for hand dipping should be placed at the stripping suction to assure the operator that the tank is "dry" for compliance with § 157.155(a)(8)(ii).

Two commenters recommended that the regulations allow the use of alternative methods, other than pumps or eductors, for stripping oil from the cargo tanks, as allowed by Resolution 15. The Coast Guard concurs with this statement and has rewritten § 157.128(c) to permit the use of a device accepted by the Commandant for stripping oil from each cargo tank.

One commenter recommended that the regulations assure that the appropriate monitoring device is required on the correct type of pump, if a pump is selected for stripping oil, rather than just require one of the monitoring devices to be in the stripping system. The Coast Guard concurs with this comment and has rewritten § 157.128(e)(2) to require that the stripping system have a monitoring device that indicates operation of the pump.

It was agreed by IMCO during MEPC XI that all cargo tanks are to be stripped before the tank vessel leaves its final port of discharge. This was discussed to clarify the requirement that all strippings be passed ashore through the special small diameter piping line connected to the discharge piping outboard of the manifold valves at the end of cargo discharge. Cargo discharge is not complete until the cargo tanks are stripped of oil. Accordingly, the procedure under § 157.155(a)(9) has been clarified to ensure that all cargo tanks are stripped before the tank vessel begins each ballast voyage. This does

not change the substance of the regulations.

One commenter noted that the proposed requirement for a cargo tank to be designed for longitudinal and transverse drainage of crude oil to allow the tank vessel to pass the Coast Guard inspections under § 157.140 may be appropriate for new construction of tank vessels, but might be impractical for existing tank vessels. If an owner feels that an existing vessel cannot pass the Coast Guard inspections because the tank design does not permit sufficient drainage, the owner has the choice of altering the tank to allow sufficient drainage of oil to pass the inspections or selecting the SBT alternative in lieu of the COW system as allowed under proposed § 157.10a(a).

Two commenters recommended the deletion of the proposed requirement to water wash cargo piping that is used for ballasting cargo tanks because paragraph 4.5.1 of Resolution 15 does not require water washing of the cargo piping. The Coast Guard concurs that paragraph 4.5.1 does not require water washing of cargo piping but, paragraph 7.4(vii) of Resolution 15 does require water washing of certain cargo piping. The proposed regulations that concerned the commenters consolidated the two requirements of Resolution 15.

Two commenters pointed out that the requirement in Resolution 15 to water wash cargo piping did not include washing the cargo piping before ballasting departure ballast tanks, while the proposed regulations did invoke such a requirement. The Coast Guard agrees that there is a discrepancy and has omitted the requirement in § 157.155(b)(2) to water wash cargo piping before ballasting departure ballast tanks.

One commenter recommended that the proposed personnel requirements for crude oil washing be consolidated with the Tankerman requirements. This action is currently being considered by the Coast Guard and would be the subject of a future rulemaking. Until that time, the personnel requirements for crude oil washing will remain with the COW system requirements in 33 CFR Part 157.

Two commenters disagreed with the requirement that the person in charge of COW operations must have one year's experience on a tank vessel prior to becoming the person in charge. One year's experience on a tank vessel prior to becoming the person in charge of COW operations is expressly required in Resolution 15. The effective operation of a COW system is extremely dependent on the operator; therefore, the experience requirements for the

person in charge of COW operations are most essential. In fact, two other commenters pointed out that the proposed regulations did not reflect correctly the standard in Resolution 15 which requires the person in charge of COW operations to have one year's experience on tankers with duties that included the discharge of cargo, in addition to completing an approved training program in crude oil washing cargo tanks. The proposal did not require the one year's experience in addition to completing a Coast Guard approved training program. The Coast Guard concurs with this second comment and has rewritten § 157.152(c) to agree with Resolution 15, requiring the person in charge of COW operations to have one year's experience on tankers prior to becoming the person in charge.

One commenter did not agree with the proposed requirement that the person in charge of COW operations must participate in crude oil washing aboard a "special" tank vessel prior to becoming the person in charge. In the commenter's opinion, COW operations are basically the same on all tank vessels and the qualifications should be based only on training and experience. As discussed above, the responsibilities of the person in charge are most essential during COW operations in assuring the effective operation of the system. The proposal for the person in charge to participate in the crude oil washing of cargo tanks on the same or similar tank vessel to which the person will be assigned as the person in charge is considered necessary by the Coast Guard so that person gains the experience of the actual equipment and procedures for that particular tank vessel. In view of this, the regulation remains as proposed.

Four commenters recommended that the Coast Guard accept a COW training program approved by an administration other than the United States. The Coast Guard concurs with the comment and has rewritten § 157.152(c)(2) to include the acceptance of a COW training program approved by the government of the tank vessel's flag state.

One commenter pointed out that the one year's experience for the person in charge of COW operations and the six month's experience for the crew members that have a responsibility in crude oil washing should be in oil discharge operations as required by Resolution 15 and not crude oil discharge operations as required by the regulations. The Coast Guard agrees with this comment and has rewritten

§ 157.152(c) and § 157.154(a) to reflect this minor editorial change.

Three commenters objected to the proposed requirement that every crew member who participates in COW operations must have six month's experience on a tank vessel. The commenters correctly state that this proposed requirement is not consistent with the standards in Resolution 15 which requires "where other nominated persons are intended to have particular responsibilities \* \* \* they shall have at least 6 month's experience". The duties of an ordinary seaman and some of those of an able bodied seaman during COW operations do not justify the need for six month's experience on a tank vessel. The Coast Guard concurs with this comment and has rewritten § 157.154 to require that only the crew members with a designated responsibility during COW operations need to have six months' experience on a tank vessel.

One commenter asked how the master will verify that the personnel participating in COW operations comply with the personnel requirements of these regulations. The Coast Guard does not intend to issue documentation certifying compliance with the personnel requirements of these regulations. The responsibility to be able to verify compliance with § 157.152 and § 157.154 will rest with the tanker industry.

Two commenters pointed out that allowing ballast only in cargo tanks that have been crude oil washed during the most recent discharge of crude oil from those tanks does not permit ballasting of cargo tanks which were crude oil washed en route on a two point discharge. The Coast Guard concurs with this comment and has corrected § 157.160(a) and (b) to allow the ballasting of cargo tanks that have been crude oil washed during or after the most recent discharge of crude oil from those tanks.

One commenter was of the opinion that crude oil washing for sludge control purposes should not be within the "purview" of the Coast Guard. Pollution from sludge removal is one of the forms of oil pollution these regulations are expected to reduce. By implementing regulations which will reduce the amount of sludge build-up in tank vessels, the amount of oil pollution that could result from removal of that sludge is expected to be reduced. The Coast Guard does not concur with this comment; therefore, the regulations for the crude oil washing of cargo tanks for the purpose of sludge control remain as proposed.

Two commenters were of the opinion that the proposed regulations for sludge

control which required crude oil washing of at least 25 percent of the cargo tanks not used for carrying ballast to be crude oil washed before each ballast voyage and which required that each cargo tank is crude oil washed at least once in every four times crude oil is discharged from the tank, were not consistent with Resolution 15. The Coast Guard disagrees. Resolution 15 requires approximately one-quarter of all the remaining tanks (of those not crude oil washed for ballast) to be crude oil washed for sludge control before departure on a ballast voyage. The proposed requirement for each tank to be crude oil washed at least once in every four times crude oil is discharged from the tank was added to make sure that the same 25 percent of the tanks were not crude oil washed every time, but rather all the tanks are crude oil washed on a rotational basis. This requirement assures that every tank will be crude oil washed at least once in every four voyages. The third requirement under § 157.160(a)(2) and (b)(3) that no tank need be crude oil washed more than once during each 120 day period eliminates unnecessary and excessive crude oil washing of the cargo tanks.

Two commenters pointed out that the proposed regulation which requires all cargo tanks that are to be used for ballasting and which have been crude oil washed at sea to be ballasted prior to leaving the discharge port, would force the tank vessel to sail at its deepest ballast draft if all the tanks were crude oil washed at sea. The Coast Guard concurs with this comment and has rewritten § 157.162 to only require those tanks which have been crude oil washed at sea and which will be used as ballast tanks when leaving the port to be ballasted for possible inspection by the Coast Guard. The inspection criterion of § 157.140(a)(2) which is referenced in § 157.162 is intended as an inspection criterion for the inspector and is not required as a routine operation.

Three commenters were of the opinion that the proposed regulations requiring a continuous supply of inert gas to the cargo tanks is unnecessary for safe operation of the COW system as long as the criteria for 8% or less oxygen content and positive pressure are maintained in the tank. The Coast Guard concurs with this comment and has rewritten § 157.164(a)(4) to reflect this intent.

Three commenters recommended deleting the proposed requirement that a crew member monitor the inert gas instrumentation during the COW operations, if the instrumentation has an appropriate alarm. The Coast Guard

concur with this comment and has rewritten § 157.164(a)(5) to require that a crew member monitor the inert gas instrumentation during COW operations, except if the instrumentation has an alarm that sounds in the cargo control room when the oxygen content being monitored exceeds 8% by volume.

Two commenters were of the opinion that one location in each tank for measuring the oxygen content in that tank would be sufficient and that two locations, as required by the proposed regulations and Resolution 15, are redundant and unnecessary. The Coast Guard agrees with IMCO that in view of the increased risk of explosion in a cargo tank that is not properly inerted during crude oil washing of that tank, oxygen content measurements should be taken at two locations in each cargo tank. By taking measurements one meter from the deck and in the center of the hullage space, the operator is better assured that each tank is properly inerted. In view of this, the Coast Guard does not concur with this comment and the regulation remains as proposed.

One commenter felt there was a discrepancy between the oxygen content level of the inert gas required in the proposal and that required in 46 CFR 32.53. The commenter noted that the proposal required an inert gas with 8 percent or less oxygen content, while 46 CFR 32.53 requires 5 percent or less oxygen content. The commenter recommended retaining the 8 percent or less requirement. There is no discrepancy. The 5 percent or less oxygen content required in 46 CFR 32.53 is a design requirement for the inert gas system. The 8 percent or less oxygen content required in the proposal is a less stringent operating requirement that must be complied with during COW operations. In view of this, the 5 percent or less oxygen content is retained as a design requirement for the inert gas system and the 8 percent or less oxygen content is retained as an operating requirement during COW operations.

Seven commenters recommended that the proposed regulations allow use of an alternative to the simultaneous ballasting and discharge of cargo to prevent hydrocarbon vapor emissions from cargo tanks when ballasting. The Coast Guard concurs with this comment and has rewritten § 157.132 to allow the use of an alternative means accepted by the Commandant to prevent hydrocarbon vapor emissions when ballasting cargo tanks on tank vessels having a COW system and that need to ballast cargo tanks when leaving a U.S. port.

Two commenters stated that the proposed requirement for simultaneous

ballasting and discharging of cargo is in conflict with another requirement in the proposal which prohibits ballasting tanks while loading or discharging cargo. The proposed regulation for simultaneous ballasting and discharge of cargo is a requirement for tank vessels having a COW system. The proposed regulation which prohibits the ballasting of tanks while loading or discharging cargo was a requirement for tank vessels having CBT and has been deleted from the proposal as previously discussed under Division II. In view of this, there is no conflict in the proposal regarding this issue.

One commenter stated that it was not clear how the proposed regulation regarding the prevention of hydrocarbon vapor emissions will affect emissions in or near U.S. ports. The effect of the proposed regulations on hydrocarbon vapor emissions in or near U.S. ports is discussed in detail in Chapter 3 of the Final Regulatory Analysis and Environmental Impact Statement.

One commenter asked how the regulations for the prevention of hydrocarbon vapor emissions are to be enforced. The Coast Guard will enforce the equipment requirement under § 157.132 and all safety related requirements regarding this equipment and any other equipment on the tank vessel which affects hydrocarbon vapor emissions. The Coast Guard will also enforce the operating requirement under § 157.166 to ensure that the means to prevent hydrocarbon vapor emissions are properly used. However, this requirement will only be enforced in a U.S. port which is in an area designated by the EPA in 40 CFR Part 81 as an area that exceeds the national primary ambient air quality ozone standard in 40 CFR Part 50. The EPA is the federal agency responsible for issuing air pollution standards; therefore, the Coast Guard is not responsible for determining in which U.S. ports the operating requirement in § 157.166 will be enforced. Almost every major U.S. port is located in an area designated in 40 CFR Part 81 as an area that exceeds the allowable standard for ozone. A note has been added after § 157.166 informing the reader that questions regarding which ports are located in the areas designated in 40 CFR Part 81 can be answered by contacting the Plans Analysis Section of EPA.

One commenter stated that the standard in Resolution 15 for a means to prevent hydrocarbon vapor emissions only applies where local conditions require it and should not be invoked throughout the United States as required in the proposal. The proposal did not

invoke the requirement throughout the United States. As discussed above, the requirement is to be enforced in each U.S. port that is in an area designated in 40 CFR Part 81 as an area that exceeds the national primary ambient air quality ozone standard. EPA is responsible for determining in which U.S. ports the operating requirement under § 157.166 will be enforced.

One commenter recommended holding in abeyance the proposed requirements for the prevention of hydrocarbon vapor emissions until various studies which are underway are completed to determine the effectiveness and safety of vapor control. While it is agreed that studies are being conducted to advance the technology of vapor control, IMCO and the Coast Guard agree that the simultaneous ballasting and discharging of cargo tanks is an accepted state of the art method of preventing hydrocarbon vapor emissions when done correctly. In addition, other commenters are of the opinion that alternative methods are available for vapor control as evidenced by the seven commenters who recommended the regulations allow for the use of alternative methods of preventing hydrocarbon vapor emissions. In view of this information the regulations for the prevention of hydrocarbon vapor emissions will not be held in abeyance.

One commenter pointed out that there was a conflict between the proposed requirement for simultaneous ballasting and discharging of cargo and the proposed regulation of 33 CFR 156.120(j) (42 FR 36282) which requires overboard discharge and suction valves connected to the oil transfer system to be sealed or lashed closed when conducting oil transfer operations. The Coast Guard concurs with this comment and will modify 33 CFR 156.120(i) when it is issued as a final regulation to eliminate the conflict of requirements.

One commenter recommended that all references to the Coast Guard approved *Crude Oil Washing Operations and Equipment Manual* should be modified to read "Coast Guard or flag Administration approved COW manual". As stated in the proposal, the Coast Guard will accept a manual which is approved by the government of the vessel's flag state. All references to a manual approved by the government of the vessel's flag state are made at the appropriate locations in the regulations. A manual approved by the government of the tank vessel's flag state must conform to the manual standards of Resolution 15.

One commenter was of the opinion that the standard in Resolution 15 which

requires COW operations "to accord with all foreseeable circumstances of cargo discharge restraints" is utterly impossible to determine and would be uneconomical to even attempt to accomplish. The Coast Guard concurs with this statement and for that reason did not include such a regulation in the proposal or in this document.

One commenter pointed out that design characteristics will vary with different crude oils and advised that the Coast Guard inspectors be made aware of the tolerances on the characteristics that are recorded in the COW manual. The characteristics recorded in the COW manual when passing the Coast Guard inspections are the minimum characteristics to be used during COW operations thereafter. These are the characteristics the inspector will verify when making spot checks of the COW system. The operator must make sure that the COW system is not operated unless the characteristics recorded in the COW manual under § 157.150 when passing the Coast Guard inspections are met.

One commenter recommended a close appraisal of the proposed regulations with regard to the requirements in the COW manual and COW operating requirements "so all that is necessary is included without overkill and possible confusion". The Coast Guard has reviewed all of these regulations and is of the opinion that they are a complete set of requirements which reflect all the requirements of the IMCO standards without overkill or confusion.

One commenter asked if the Coast Guard will publish a list of crude oils that are not suitable for COW operations. Another commenter was of the opinion that it may be impossible to produce a list of crude oils which cannot be used in COW operations. The Coast Guard does not have a list of crude oils that are not suitable for COW operations. Development of a meaningful list is dependent upon the experience gained by the tank vessel operators. That experience is being developed and reported to IMCO. When information regarding crude oils not suitable for COW operations becomes available, the tanker industry will be informed.

One commenter pointed out that some ports in the United States have berths which restrict tank vessels from operating COW systems while moored at the dock. The commenter suggested that a provision be added to the regulations to address this situation. The number of terminals which allow COW operation will increase as the practice of crude oil washing becomes more commonplace. To preclude the

possibility of violating certain operating requirements of these regulations, owners, operators, and masters should remain aware of those terminals which may continue to prohibit COW operations. In view of the fact that certain COW operating procedures must be followed while discharging crude oil, an additional provision is not necessary to address this situation.

One commenter asked if an owner decides to install a COW system on board a tank vessel that has SBT in compliance with § 157.10a(a)(1), must the COW system be in compliance with proposed Subpart D. If a COW system is installed on a tank vessel under § 157.10a that has SBT in compliance with § 157.10a(a)(1), that COW system does not have to be in compliance with proposed Subpart D. However, the COW system will be treated as a cargo piping system and must meet all the applicable design, installation, and safety requirements for a cargo piping system. In addition, an inert gas system that meets 46 CFR 32.53 is required on all tank vessels with a COW system.

#### Environmental Impact Summary

The purpose of these regulations is to reduce operational and accidental oil pollution and to improve the safety of tank vessels. The Coast Guard estimates that these new standards will result in a reduction of approximately 49,000 metric tons/year in operational oil outflows from present levels. There is estimated to be a reduction of 46,600 metric tons/year in crude oil outflows and a reduction of 2,400 metric tons/year in product outflows. While it is impossible to estimate the reduction in the average 8,000 metric tons/year that result from collisions, ramblings, and groundings of tank vessels in our coastal water, it is felt that a significant reduction will occur with the implementation of these regulations.

The environmental impact of this amendment is discussed in further detail in the Final Regulatory Analysis and Environmental Impact Statement prepared as a part of this rulemaking.

#### Economic Impact Summary

The Coast Guard estimates that this amendment will affect between 589 and 655 existing foreign crude oil carriers and between 138 and 156 foreign product carriers, depending on the options chosen by the shipowners. Approximately 90 existing U.S. crude oil carriers and product carriers would be affected.

Depending on the options chosen by the shipowners, the projected initial capital cost for SBT, COW and/or CBT,

on all existing U.S. tank vessels and foreign tank vessels which call at U.S. ports is estimated to be between \$400 and \$770 million. The total outlay which will be passed on to the consumer as a result of higher freight rates is estimated to be between \$930 million and \$2.5 billion at an expected annual cost between \$90 and \$175 million each subsequent year until 1985. The cost of these measures on a per ship basis is between \$0 and \$2 million for a product carrier and between \$0.5 and \$8 million for a crude oil carrier, depending on the option chosen and the size of the tank vessel. Some of these cost figures have increased from those figures published in the proposal. These increases are a result of including operating costs for additional tankers to compensate for the lost cargo capacity when the SBT and CBT options are chosen by the shipowner and the higher costs of ship construction in the United States.

Because of the current worldwide tanker surplus and the expected increase in domestic pipeline transportation of oil, very few new tankers are expected to be constructed between now and 1985. Tanker construction beyond 1985 is unknown at this time. For these reasons, the cost for new tank vessel construction has not been included in the above cost figures.

The economic impact of this amendment is discussed in further detail in the Final Regulatory and Environmental Impact Statement prepared as a part of this rulemaking.

This rule has been reviewed under the Department of Transportation's "Policies and Procedures for Simplification, Analysis, and Review of Regulations" (43 FR 9582, March 8, 1978). A final evaluation of the rule has been prepared and has been included in the public docket.

In consideration of the foregoing, the proposed rules published in the February 12, 1979 issue of the Federal Register (44 FR 8984) are hereby adopted with the changes described above and set forth below.

Subchapter O of Chapter I of Title 33, Code of Federal Regulations is amended as follows:

#### PART 157—RULES FOR THE PROTECTION OF THE MARINE ENVIRONMENT RELATING TO TANK VESSELS CARRYING OIL IN BULK

1. By revising § 157.01 to read as follows:

##### § 157.01 Applicability.

(a) This part applies to each tank vessel of 150 gross tons or more, unless

otherwise indicated, that carries crude oil or products in bulk and that is—

(1) Documented under the laws of the United States (U.S. vessel); or

(2) A foreign vessel that—

(i) Transfers cargo at a port or place subject to the jurisdiction of the United States; or

(ii) Otherwise enters or operates in the navigable waters of the United States.

(b) This part does not apply to the following:

(1) Vessels under Subsections (4) and (5) of Sec. 5, Port and Tanker Safety Act of 1978 (Pub. L. 95-474, 92 Stat. 1480, 46 U.S.C. 391a).

(2) Any foreign vessel not destined for, or departing from, a port or place subject to the jurisdiction of the United States that is in innocent passage through the territorial seas of the United States or in transit through navigable waters of the United States which form a part of an international strait.

2. By amending § 157.03 by revising paragraphs (k), (n), and (v) and by adding paragraphs (bb), (cc), (dd), (ee), (ff), (gg), and (hh) to read as follows:

#### § 157.03 Definitions.

(k) "Major conversion" means a conversion of an existing vessel that—

(1) Substantially alters the dimensions or carrying capacity of the vessel, except the installation of only segregated ballast tanks, dedicated clean ballast tanks, or a crude oil washing system to meet this part;

(2) Changes the type of vessel; or

(3) Substantially prolongs the vessel's service life.

(n) "Oil" includes oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil.

(v) "Tank vessel" means a vessel that is constructed or converted to carry liquid bulk oil cargoes in tanks and includes tankers, tankships, tank barges, integrated tug barges, and combination carriers when carrying oil cargoes in bulk.

(bb) "Crude oil" means any liquid hydrocarbon mixture occurring naturally in the earth, whether or not treated to render it suitable for transportation, and includes crude oil from which certain distillate fractions may have been removed, and crude oil to which certain distillate fractions may have been added.

(cc) "Product" means any liquid hydrocarbon mixture in any form, except crude oil, petrochemicals, and liquified gases.

(dd) "Dedicated clean ballast tank" means a cargo tank that is allocated solely for the carriage of clean ballast.

(ee) "Integrated tug barge" means a tug and a tank barge with a mechanical system that allows the connection of the propulsion unit (the tug) to the stern of the cargo carrying unit (the tank barge) so that the two vessels function as a single self-propelled vessel.

(ff) "Ballast voyage" means the voyage that a tank vessel engages in after it leaves the port of final cargo discharge.

(gg) "Large primary structural member" includes any of the following:

(1) Web frames.

(2) Girders.

(3) Webs.

(4) Main brackets.

(5) Transverses.

(6) Stringers.

(7) Struts in transverse web frames when there are 3 or more struts and the depth of each is more than  $\frac{1}{15}$  of the total depth of the tank.

(hh) "MARPOL Protocol" means the *Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973*, done at London on February 17, 1978.

3. By adding a new § 157.06 to read as follows:

#### § 157.06 Appeals.

(a) Any person directly affected by an action taken under this part may request reconsideration by the Coast Guard official who is responsible for that action.

(b) Any person not satisfied with a ruling made under the procedure contained in paragraph (a) of this section may appeal that ruling in writing, except as allowed under paragraph (e) of this section, to the Coast Guard District Commander of the district in which the action was taken.

The appeal may contain supporting documentation and evidence that the appellant wishes to have considered. If requested, the District Commander may stay the effect of the action being appealed while the ruling is being reviewed. The District Commander issues a ruling after reviewing the appeal-submitted under this paragraph.

(c) Any person not satisfied with a ruling made under the procedure contained in paragraph (b) of this section may appeal that ruling in writing, except as allowed under paragraph (e) of this section, to the Chief, Office of Merchant Marine Safety, U.S. Coast Guard, Washington, D.C.

20593. The appeal may contain supporting documentation and evidence that the appellant wishes to have considered. If requested, the Chief, Office of Merchant Marine Safety may stay the effect of the action being appealed while the ruling is being reviewed. The Chief, Office of Merchant Marine Safety issues a ruling after reviewing the appeal submitted under this paragraph.

(d) Any decision made by the Chief, Office of Merchant Marine Safety under the procedure contained in paragraph (c) of this section is final agency action.

(e) If the delay in presenting a written appeal would have a significant adverse impact on the appellant, the appeal under paragraph (b) or (c) of this section may initially be presented orally. If an initial presentation of the appeal is made orally, the appellant must submit the appeal in writing within five days of the oral presentation to the Coast Guard official to whom the oral presentation was made. The written appeal must contain, at a minimum, the basis for the appeal and a summary of the material presented orally.

4. By revising the title of Subpart B to read as follows:

#### Subpart B—Design, Equipment, and Installation

5. By adding § 157.08 (f) and (g) to read as follows:

#### § 157.08 Applicability of Subpart B.

(f) Sections 157.09 and 157.10a do not apply to a new vessel that—

(1) Is constructed under a building contract awarded after June 1, 1979;

(2) In the absence of a building contract, has the keel laid or is at a similar stage of construction after January 1, 1980;

(3) Is delivered after June 1, 1982; or

(4) Has undergone a major conversion for which—

(i) The contract is awarded after June 1, 1979;

(ii) In the absence of a contract, conversion is begun after January 1, 1980; or

(iii) Conversion is completed after June 1, 1982.

(g) Sections 157.09(b)(3), 157.10(c)(3), and 157.10a(d)(3) do not apply to tank barges.

6. By adding new § 157.10 and § 157.10a to read as follows:

#### § 157.10 Protective location of segregated ballast tanks and crude oil washing systems for certain new vessels.

(a) This section applies to a new vessel that—

(1) Is constructed under a building contract awarded after June 1, 1979;

(2) In the absence of a building contract, has the keel laid or is at a similar stage of construction after January 1, 1980;

(3) Is delivered after June 1, 1982; or

(4) Has undergone a major conversion for which—

(i) The contract is awarded after June 1, 1979;

(ii) In the absence of a contract, conversion is begun after January 1, 1980; or

(iii) Conversion is completed after June 1, 1982.

(b) Each tank vessel under this section of 20,000 DWT or more that carries crude oil and of 30,000 DWT or more that carries products must have segregated ballast tanks that have a total capacity to allow the vessel to meet the draft and trim requirements in paragraph (c) of this section without recourse to the use of cargo tanks for water ballast.

(c) In any ballast condition during any part of a voyage, including that of lightweight with only segregated ballast, each tank vessel under paragraph (b) of this section must have the capability of meeting each of the following:

(1) The molded draft amidship (dm) in meters, without taking into account vessel deformation, must not be less than dm in the following mathematical relationship:

$$dm = 2.0 + 0.02L$$

(2) The drafts at the forward and after perpendiculars must correspond to those determined by the draft amidship under paragraph (c)(1) of this section, in association with a trim by the stern of no more than 0.015L.

(3) The minimum draft at the after perpendicular is that which is necessary to obtain full immersion of the propeller.

(d) Segregated ballast tanks under paragraph (b) of this section, voids, and other spaces that do not carry cargo which are within the cargo tank length must be distributed as determined under the procedure contained in Appendix C of this part.

(e) Each tank vessel under this section of 20,000 DWT or more that carries crude oil must have a crude oil washing system that meets the design, equipment, and installation requirements in Subpart D of this part.

(f) Each tank vessel under this section may be designed to carry ballast water in cargo tanks as allowed under § 157.35.

**§ 157.10a Segregated ballast tanks, crude oil washing systems, and dedicated clean ballast tanks for certain new and existing vessels.**

(a) Not later than June 1, 1981, except as allowed in paragraph (b) of this section, an existing vessel of 40,000 DWT or more that carries crude oil and a new vessel of 40,000 DWT or more but less than 70,000 DWT that carries crude oil must have—

(1) Segregated ballast tanks with a total capacity to meet the draft and trim requirements in paragraph (d) of this section; or

(2) A crude oil washing system that meets the design, equipment, and installation requirements of Subpart D of this part.

(b) Each tank vessel under paragraph (a) of this section does not have to meet the requirements of paragraph (a) of this section until June 1, 1983, for an existing vessel of 70,000 DWT or more, or until June 1, 1985, for a new or existing vessel of 40,000 DWT or more but less than 70,000 DWT, if the vessel—

(1) Has dedicated clean ballast tanks with the total capacity to meet the draft and trim requirements under paragraph (d) of this section; and

(2) Meets the design and equipment requirements under Subpart E of this part.

(c) Not later than June 1, 1981, an existing vessel of 40,000 DWT or more that carries products and a new vessel of 40,000 DWT or more but less than 70,000 DWT that carries products must have—

(1) Segregated ballast tanks with a total capacity to meet the draft and trim requirements in paragraph (d) of this section; or

(2) Dedicated clean ballast tanks that have a total capacity to meet the draft and trim requirements in paragraph (d) of this section and that meet the design and equipment requirements under Subpart E of this part.

(d) In any ballast condition during any part of a voyage, including that of lightweight with either segregated ballast in segregated ballast tanks or clean ballast in dedicated clean ballast tanks, each tank vessel under paragraph (a)(1), (b), or (c) of this section must have the capability of meeting each of the following without recourse to the use of cargo tanks for water ballast:

(1) The molded draft amidship (dm) in meters, without taking into account vessel deformation, must not be less than dm in the following mathematical relationship:

$$dm = 2.0 + 0.02L$$

(2) The drafts at the forward and after perpendiculars must correspond to those

determined by the draft amidship under paragraph (d)(1) of this section, in association with a trim by the stern of no more than 0.015L.

(3) The minimum draft at the after perpendicular is that which is necessary to obtain full immersion of the propeller.

(e) Each tank vessel that meets paragraph (a)(1), (b), or (c) of this section may be designed to carry ballast water in cargo tanks as allowed under § 157.35.

*Note.*—Segregated ballast tanks located in wing tanks provide protection against oil outflow in the event of a collision, ramming, or grounding.

7. By adding § 157.11 (d), (e), and (f) to read as follows:

**§ 157.11 Pumping, piping, and discharge arrangements.**

\* \* \* \* \*

(d) Each tank vessel under § 157.09 and § 157.10a must have—

(1) Equipment that drains each cargo pump and oil piping line of oil residue;

(2) Oil piping lines for the draining of oil residue from cargo pumps and other oil piping lines to a cargo tank or a slop tank; and

(3) An oil piping line that meets paragraph (f) of this section and is connected to the cargo discharge piping on the outboard side of the manifold valves for the draining of oil residue from cargo pumps and other oil piping lines to a receptacle on the shore.

(e) Each tank vessel under § 157.10 must have—

(1) Oil piping lines that are designed and installed to minimize oil retention in those lines;

(2) Equipment that drains each cargo pump and oil piping line of oil residue;

(3) Oil piping lines for the draining of oil residue from cargo pumps and other oil piping lines to a cargo tank or slop tank; and

(4) An oil piping line that meets paragraph (f) of this section and is connected to the cargo discharge piping on the outboard side of the manifold valves for the draining of oil residue from cargo pumps and other oil piping lines to a receptacle on the shore.

(f) Each oil piping line under paragraph (d)(3) or (e)(4) of this section must have a cross-sectional area of 10 percent or less of the cross-sectional area of the main cargo discharge piping line, except if the oil piping line under paragraph (d)(3) of this section is installed before January 1, 1980, that piping line may have a cross-sectional area of 25 percent or less of the cross-sectional area of the main cargo discharge piping line.

8. By revising § 157.15(b)(1) to read as follows:

**§ 157.15 Slop tanks in tank vessels.**

(b) \* \* \*

(1) Segregated ballast tanks that meet the requirements in § 157.09, § 157.10, or § 157.10a; or

9. By revising § 157.24(c) to read as follows:

**§ 157.24 Submission of calculations, plans, and specifications.**

(c) Calculations to substantiate compliance with the segregated ballast capacity and distribution requirements in § 157.09, § 157.10, or § 157.10a or a letter from the government of the vessel's flag state certifying that the vessel complies with the segregated ballast capacity and distribution requirements in—

(1) Section 157.09, § 157.10, or § 157.10a; or

(2) Regulation 13-and 13E of the MARPOL Protocol.

10. By adding a new § 157.26 to read as follows:

**§ 157.26 Operation of a tank vessel in violation of regulations.**

No person may cause or authorize the operation of a tank vessel in violation of the regulations in this part.

11. By revising § 157.35 to read as follows:

**§ 157.35 Ballast added to cargo tanks.**

The master of a tank vessel that meets § 157.09, § 157.10, § 157.10a(a)(1), § 157.10a(b), or § 157.10a(c) shall ensure that ballast water is carried in a cargo tank only if—

(a) The vessel encounters abnormally severe weather conditions;

(b) More ballast water than can be carried in segregated ballast tanks or dedicated clean ballast tanks is necessary for the safety of the vessel;

(c) The ballast water is processed and discharged in compliance with § 157.37; and

(d) On a new vessel under § 157.10 that carries crude oil, the ballast water is only carried in a cargo tank that is crude oil washed in accordance with Subpart D of this part during or after the most recent discharge of crude oil from that tank.

12. By amending Part 157 by adding Subparts D and E and appendices C and D to read as follows:

**Subpart D—Crude Oil Washing (COW) System on Tank Vessels****General****Sec.**

- 157.100 Plans for U.S. tank vessels: Submission.  
 157.102 Plans for foreign tank vessels: Submission.  
 157.104 Scale models.  
 157.106 Letter of acceptance.  
 157.108 *Crude Oil Washing Operations and Equipment Manual* for U.S. tank vessels: Submission.  
 157.110 *Crude Oil Washing Operations and Equipment Manual* for foreign tank vessels: Submission.  
 157.112 *Approved Crude Oil Washing Operations and Equipment Manual*.  
 157.114 *Crude Oil Washing Operations and Equipment Manual*: Not approved.  
 157.116 Required documents: U.S. tank vessels.  
 157.118 Required documents: Foreign tank vessels.  
 157.120 Waiver of required documents.

**Design, Equipment, and Installation**

- 157.122 Piping, valves, and fittings.  
 157.124 COW tank washing machines.  
 157.126 Pumps.  
 157.128 Stripping system.  
 157.130 Crude oil washing with more than one grade of crude oil.  
 157.132 Cargo tanks: Hydrocarbon vapor emissions.  
 157.134 Cargo tank drainage.  
 157.136 Two-way voice communications.  
 157.138 *Crude Oil Washing Operations and Equipment Manual*.

**Inspections**

- 157.140 Tank vessel inspections.  
 157.142 Letter of acceptance: Inspections.  
 157.144 Tank vessels of the same class: Inspections.  
 157.146 Similar tank design: Inspections on U.S. tank vessels.  
 157.147 Similar tank design: Inspections on foreign tank vessels.  
 157.148 COW system: Evidence for inspections.  
 157.150 *Crude Oil Washing Operations and Equipment Manual*: Recording information after inspections.

**Personnel**

- 157.152 Person in charge of COW operations.  
 157.154 Assistant personnel.

**COW Operations**

- 157.155 COW operations: General.  
 157.156 COW operations: Meeting manual requirements.  
 157.158 COW operations: Changed characteristics.  
 157.160 Tanks: Ballasting and crude oil washing.  
 157.162 Crude oil washing during a voyage.  
 157.164 Use of inert gas system.  
 157.166 Hydrocarbon vapor emissions.  
 157.168 Crew member: Main deck watch.  
 157.170 COW equipment: Removal.  
 157.172 Limitations on grades of crude oil carried.

**Subpart E—Dedicated Clean Ballast Tanks on Tank Vessels.****General****Sec.**

- 157.200 Plans for U.S. tank vessels: Submission.  
 157.202 Plans and documents for foreign tank vessels: Submission.  
 157.204 Letter of acceptance.  
 157.206 *Dedicated Clean Ballast Tanks Operations Manual* for U.S. tank vessels: Submission.  
 157.208 *Dedicated Clean Ballast Tanks Operations Manual* for foreign tank vessels: Submission.  
 157.210 *Approved Dedicated Clean Ballast Tanks Operations Manual*.  
 157.212 *Dedicated Clean Ballast Tanks Operations Manual*: Not approved.  
 157.214 Required documents: U.S. tank vessels.  
 157.216 Required documents: Foreign tank vessels.  
 157.218 Dedicated clean ballast tanks: Alterations.

**Design and Equipment**

- 157.220 Dedicated clean ballast tanks: Standards.  
 157.222 Pump and piping arrangements.  
 157.224 *Dedicated Clean Ballast Tanks Operations Manual*.

**Dedicated Clean Ballast Tanks Operations**

- 157.225 Dedicated clean ballast tanks operations: General.  
 157.226 *Dedicated Clean Ballast Tanks Operations Manual*: Procedures to be followed.  
 157.228 Isolating valves: Closed during a voyage.

**Appendix C—Procedure for Determining Distribution of Segregated Ballast Tanks To Provide Protection Against Oil Outflow in the Event of Grounding, Ramming, or Collision**

**Appendix D—Example of a Procedure for Dedicated Clean Ballast Tanks Operations**

**Subpart D—Crude Oil Washing (COW) System on Tank Vessels**

**Authority:** Sec. 5, Port and Tanker Safety Act of 1978, 92 Stat. 1480 (46 U.S.C. 391a); 49 CFR 1.46(n)(4).

**General****§ 157.100 Plans for U. S. tank vessels: Submission.**

(a) Before each U. S. tank vessel under § 157.10(e) or having a COW system under § 157.10a(a)(2) is inspected under § 157.140, the owner or operator of that vessel must submit to the Coast Guard plans that include—

- (1) A drawing or diagram of the COW pumping and piping system that meets 46 CFR 56.01-10(d);
- (2) The design of each COW machine;
- (3) The arrangement, location, and installation of the COW machines; and
- (4) Except as allowed in § 157.104, the projected direct impingement pattern of

crude oil from the nozzles of the COW machines on the surfaces of each tank, showing the surface areas not reached by direct impingement.

(b) Plans under paragraph (a) of this section must be submitted to the Officer in Charge, Marine Inspection, of the zone in which the COW system is installed or to one of the following Coast Guard field technical offices:

(1) Commander, 3rd Coast Guard District (mmt), Governors Island, New York, N. Y. 10004, if the COW system is installed in the area under the 1st or 3rd Coast Guard Districts.

(2) Commander, 5th Coast Guard District (mmt), 431 Crawford Street, Portsmouth, Virginia 23705, if the COW system is installed in the area under the 5th or 7th Coast Guard Districts.

(3) Commander, 8th Coast Guard District (mmt), 500 Camp Street, Hale Boggs Federal Building, New Orleans, Louisiana 70130, if the COW system is installed in the area under the 2nd or 8th Coast Guard Districts.

(4) Commander, 9th Coast Guard District (mmt), 601 Rockwell Ave., Cleveland, Ohio 44114, if the COW system is installed in the area under the 9th Coast Guard District.

(5) Commander, 12th Coast Guard District (mmt), 630 Sansome Street, San Francisco, California 94126, if the COW system is installed in the area under the 11th, 12th, 13th, 14th, or 17th Coast Guard Districts.

**§ 157.102 Plans for foreign tank vessels: Submission.**

If the owner or operator of a foreign tank vessel under § 157.10(e) or having a COW system under § 157.10a(a)(2) desires the letter from the Coast Guard under § 157.106 accepting the plans submitted under this paragraph, the owner or operator must submit to the Commandant (G-MMT), U. S. Coast Guard, Washington, D. C. 20593, plans that include—

(a) A drawing or diagram of the COW pumping and piping system that meets 46 CFR 56.01-10(d);

(b) The design of each COW machine;

(c) The arrangement, location, and installation of the COW machines; and

(d) Except as allowed in § 157.104, the projected direct impingement pattern of crude oil from the nozzles of the COW machines on the surfaces of each tank, showing the surface areas not reached by direct impingement.

**§ 157.104 Scale models.**

If the pattern under § 157.100(a)(4) or § 157.102(d) cannot be shown on a plan, a scale model of each tank must be built for Coast Guard inspection to simulate, by a pinpoint of light, the projected

direct impingement pattern on the surfaces of the tank.

**§ 157.106 Letter of acceptance.**

The Coast Guard informs the submitter by letter that the plans submitted under § 157.100 or § 157.102 are accepted if—

(a) The plans submitted show that the COW system meets this subpart; or

(b) The plans submitted and the scale model under § 157.104 show that the COW system meets this subpart.

**§ 157.108 Crude Oil Washing Operations and Equipment Manual for U.S. tank vessels: Submission.**

Before each U.S. tank vessel under § 157.10(e) or having a COW system under § 157.10(a)(2) is inspected under § 157.140, the owner or operator of that vessel must submit two copies of a *Crude Oil Washing Operations and Equipment Manual* that meets § 157.138 to the Officer in Charge, Marine Inspection, of the zone in which the COW system is installed or to the appropriate Coast Guard field technical office listed in § 157.100(b).

**§ 157.110 Crude Oil Washing Operations and Equipment Manual for foreign tank vessels: Submission.**

If the owner or operator of a foreign tank vessel under § 157.10(e) or having a COW system under § 157.10a(a)(2) desires a Coast Guard approved *Crude Oil Washing Operations and Equipment Manual* under § 157.112, the owner or operator must submit two copies of a manual that meets § 157.138 to the Commandant (G-MMT), U.S. Coast Guard, Washington, D.C. 20593.

**§ 157.112 Approved Crude Oil Washing Operations and Equipment Manual.**

If the manuals submitted under § 157.108 or § 157.110 meet § 157.138, the Coast Guard approves the manuals and forwards one of the approved manuals to the submitter.

**§ 157.114 Crude Oil Washing Operations and Equipment Manual: Not approved.**

If the manuals submitted under § 157.108 or § 157.110 are not approved, the Coast Guard forwards a letter to the submitter with the reasons why the manuals were not approved.

**§ 157.116 Required documents: U.S. tank vessels.**

On and after June 1, 1981, the owner, operator, and master of a U.S. tank vessel under § 157.10(e) or having a COW system under § 157.10a(a)(2) shall ensure that the vessel does not engage in a voyage unless the vessel has on board—

(a) The letter under § 157.106 accepting the COW system plans;

(b) The letter of acceptance under § 157.142 after passing the inspections under § 157.140;

(c) The Coast Guard approved *Crude Oil Washing Operations and Equipment Manual* under § 157.112; and

(d) Any amending letters issued under § 157.158 approving changed characteristics.

**§ 157.118 Required documents: Foreign tank vessels.**

On and after June 1, 1981, the owner, operator, and master of a foreign tank vessel under § 157.10(e) or having a COW system under § 157.10a(a)(2) shall ensure that the vessel does not enter the navigable waters of the United States or transfer cargo at a port or place subject to the jurisdiction of the United States unless the vessel has on board—

(a) A *Crude Oil Washing Operations and Equipment Manual* that—

(1) Is approved under § 157.112; or

(2) Meets the manual standards in Resolution 15 of the MARPOL Protocol and is approved by the government of the vessel's flag state; and

(b) Evidence of acceptance of the tank vessel's COW system consisting of—

(1) A document from the government of the vessel's flag state that certifies the vessel's compliance with Resolution 15 of the MARPOL Protocol; or

(2) The following letters issued by the Coast Guard:

(i) The letter under § 157.106 accepting the COW system plans.

(ii) The letter of acceptance under § 157.142 after passing the inspections under § 157.140.

(iii) Any amending letters issued under § 157.158 approving changed characteristics.

**§ 157.120 Waiver of required documents.**

The Coast Guard waives the requirement for the letter under § 157.116(b), if a U.S. tank vessel engages in a voyage, or under § 157.118(b)(2)(ii), if a foreign tank vessel enters the navigable waters of the United States or transfers cargo at a port or place subject to the jurisdiction of the United States, for the purpose of being inspected under § 157.140.

**Design, Equipment, and Installation**

**§ 157.122 Piping, valves, and fittings.**

(a) Except as allowed in paragraph (c) of this section, the piping, valves, and fittings of each COW system must—

(1) Meet 46 CFR Part 56; and

(2) Be of steel or an equivalent material accepted by the Commandant.

(b) The piping of each COW system must be permanently installed.

(c) The piping of each COW system must be separate from other piping

systems on the vessel, except that the vessel's cargo piping may be a part of the COW piping if the cargo piping meets this section.

(d) The piping of each COW system must have overpressure relief valves or other means accepted by the Commandant to prevent overpressure in the piping of the COW system, unless the maximum allowable working pressure of that system is greater than the shut-off head of each pump that meets § 157.126(b).

(e) Each overpressure relief valve must discharge into the suction side of a pump that meets § 157.126(b).

(f) The piping and equipment of a COW system may not be in machinery spaces.

(g) Each hydrant valve for water washing in the piping of a COW system must—

(1) Have adequate strength to meet 46 CFR Part 56 for the working pressure for which the system is designed; and

(2) Be capable of being blanked off.

(h) Each sensing instrument must have an isolating valve at its connection to the piping of the COW system, unless the opening to that connection is 0.055 inches (1.4 millimeters) or smaller.

(i) If the washing system for cargo tanks has a steam heater used when water washing, it must be located outside the engine room and must be capable of being isolated from the piping of the COW system by—

(1) At least two shut-off valves in the inlet piping and at least two shut-off valves in the outlet piping; or

(2) Blank flanges identifiable as being closed (e.g., spectacle flanges).

(j) If the COW system has a common piping system for oil washing and water washing, that piping system must be designed to drain the crude oil into a slop tank or a cargo tank.

(k) The piping of a COW system must be securely attached to the tank vessel's structure with pipe anchors.

(l) When COW machines are used as pipe anchors, there must be other means available for anchoring the piping if these machines are removed.

(m) There must be a means to allow movement of the COW system piping as a result of thermal expansion and flexing of the tank vessel.

(n) The supply piping attached to each deck mounted COW machine and each COW machine that is audio inspected under § 157.155(a)(4)(ii) must have a shut-off valve.

(o) On combination carriers, piping of the COW system installed between each COW machine located in a cargo tank hatch cover and an adjacent location just outside the hatch coaming, may be

flexible hose with flanged connections that is acceptable by the Commandant.

#### § 157.124 COW tank washing machines.

(a) COW machines must be permanently mounted in each cargo tank.

(b) The COW machines in each tank must have sufficient nozzles with the proper diameter, working pressure, movement, and timing to allow the tank vessel to pass the inspections under § 157.140.

(c) Each COW machine and its supply piping must be supported to withstand vibration and pressure surges.

(d) There must be one portable drive unit available on board the vessel for every three COW machines on the vessel that use portable drive units.

(e) Except as allowed in paragraph (f) of this section, each cargo tank must have COW machines located to wash all horizontal and vertical areas of the tank by direct impingement, jet deflection, or splashing to allow the tank vessel to pass the inspections under § 157.140. The following areas in each tank must not be shielded from direct impingement by large primary structural members or any other structural member determined to be equivalent to a large primary structural member by the Commandant when reviewing the plans submitted under § 157.100 or § 157.102:

(1) 90 percent or more of the total horizontal area of the—

(i) Tank bottom;

(ii) Upper surfaces of large primary structural members; and

(iii) Upper surfaces of any other structural member determined to be equivalent to a large primary structural member by the Commandant.

(2) 85 percent or more of the total vertical area of the tank sides and swash bulkheads.

(f) Each cargo tank on a tank vessel having a COW system under § 157.10a(a)(2) with complicated internal structural members does not have to meet paragraph (e) of this section if the following areas of all the cargo tanks of that vessel are washed by direct impingement and the tank vessel can pass the inspections under § 157.140:

(1) 90 percent or more of the total horizontal area of all the—

(i) Tank bottoms;

(ii) Upper surfaces of large primary structural members; and

(iii) Upper surfaces of any other structural member determined to be equivalent to a large primary structural member by the Commandant.

(2) 85 percent or more of the total vertical area of all the tank sides and swash bulkheads.

(g) Each single nozzle COW machine that is mounted to the deck must have a means located outside of the cargo tank that indicates the arc and rotation of the movement of the COW machine during COW operations.

(h) Each multi-nozzle COW machine that is mounted to the deck must have a means located outside of the cargo tank that indicates the movement of the COW machine during COW operations.

(i) Each COW machine mounted to or close to the bottom of a tank without a means located outside of the cargo tank that indicates movement of the machine must not be programmable.

Notes.—1. In the calculations to meet § 157.124 (e) or (f), areas that are shielded from direct impingement by structural members other than large primary structural members or swash bulkheads can be calculated as areas being washed by direct impingement.

2. One or more types of COW machines could be used to meet § 157.124 (e) or (f).

#### § 157.126 Pumps.

(a) Crude oil must be supplied to the COW machines by COW system pumps or cargo pumps.

(b) The pumps under paragraph (a) of this section must be designed and arranged with sufficient capacity to meet the following:

(1) A sufficient pressure and flow is supplied to allow the simultaneous operation of those COW machines designed to operate simultaneously.

(2) If an eductor is used for tank stripping, enough driving fluid is provided by the pumps to allow the eductor to meet § 157.128(a).

(c) There must be means on the tank vessel to maintain the pressure under paragraph (b) of this section when shore terminal back pressure is less than the pressure under paragraph (b) of this section.

(d) The COW system must have two or more pumps that are capable of supplying oil to the COW machines.

(e) The COW system must be designed to meet the requirements of this subpart with any one pump not operating.

#### § 157.128 Stripping system.

(a) Each tank vessel under § 157.10(e) or having a COW system under § 157.10a(a)(2) must have a stripping system that is designed to remove crude oil from—

(1) Each cargo tank at 1.25 times the rate at which all the COW machines that are designed to simultaneously wash the bottom of the tank, are operating; and

(2) The bottom of each tank to allow the tank vessel to pass the inspection under § 157.140(a)(2).

(b) Each cargo tank must be designed to allow the level of crude oil in the tank to be determined by—

(1) Hand dipping at the aftermost portion of the tank and three other locations; or

(2) Any other means accepted by the Commandant.

(c) Each stripping system must have at least one of the following devices for stripping oil from each cargo tank:

(1) A positive displacement pump.

(2) A self-priming centrifugal pump.

(3) An eductor

(4) Any other device accepted by the Commandant.

(d) There must be a means in the stripping system piping between the device under paragraph (c) of this section and each cargo tank to isolate each tank from the device.

(e) If the stripping system has a positive displacement pump or a self-priming centrifugal pump, the stripping system must have the following:

(1) In the stripping system piping—

(i) A pressure gauge at the inlet connection to the pump; and

(ii) A pressure gauge at the discharge connection to the pump.

(2) At least one of the following monitoring devices to indicate operation of the pump.

(i) Flow indicator.

(ii) Stroke counter.

(iii) Revolution counter.

(f) If the stripping system has an eductor, the stripping system must have—

(1) A pressure gauge at each driving fluid intake and at each discharge; and

(2) A pressure/vacuum gauge at each suction intake.

(g) The equipment required under paragraphs (e) and (f) of this section must have indicating devices in the cargo control room or another location that is accepted by the Commandant.

#### § 157.130 Crude oil washing with more than one grade of crude oil.

If a tank vessel under § 157.10(e) or having a COW system under § 157.10a(a)(2) carries more than one grade of crude oil, the COW system must be capable of crude oil washing the cargo tanks with the grades of crude oil that the vessel carries.

#### § 157.132 Cargo tanks: hydrocarbon vapor emissions.

Each tank vessel having a COW system under § 157.10a(a)(2) without sufficient segregated ballast tanks or dedicated clean ballast tanks to allow the vessel to depart from any port in the United States without ballasting cargo tanks must have—

(a) A means to discharge hydrocarbon vapors from each cargo tank that is

ballasted to a cargo tank that is discharging crude oil; or

(b) Any other means accepted by the Commandant that prevents hydrocarbon vapor emissions when the cargo tanks are ballasted in port.

#### § 157.134 Cargo tank drainage.

Each cargo tank must be designed for longitudinal and transverse drainage of crude oil to allow the tank vessel to pass the inspections under § 157.140.

#### § 157.136 Two-way voice communications.

Each tank vessel under § 157.10(e) or having a COW system under § 157.10a(a)(2) must have a means that enables two-way voice communications between the main deck watch required under § 157.168 and each cargo discharge control station.

#### § 157.138 Crude Oil Washing Operations and Equipment Manual.

(a) Each *Crude Oil Washing Operations and Equipment Manual* must include the following information:

(1) The text of the Annex of Resolution 15 of the MARPOL Protocol.

(2) A line drawing of the tank vessel's COW system showing the locations of pumps, piping, and COW machines.

(3) A description of the COW system.

(4) The procedure for the inspection of the COW system during COW operations.

(5) Design characteristic information of the COW system that includes the following:

(i) Pressure and flow of the crude oil pumped to the COW machines.

(ii) Revolutions, number of cycles, and length of cycles of each COW machine.

(iii) Pressure and flow of the stripping suction device.

(iv) Number and location of COW machines operating simultaneously in each cargo tank.

(6) The design oxygen content of the gas or mixture of gases that is supplied by the inert gas system to each cargo tank.

(7) The results of the inspections recorded when passing the inspections under § 157.140.

(8) Characteristics of the COW system recorded during the COW operations when passing the inspections under § 157.140 that includes the following:

(i) Pressure and flow of the crude oil pumped to the COW machines.

(ii) Revolutions, number of cycles, and length of cycles of each COW machine.

(iii) Pressure and flow of the stripping device.

(iv) Number and location of COW machines operating simultaneously in each cargo tank.

(9) The oxygen content of the gas or mixture of gases that is supplied by the inert gas system to each cargo tank recorded during COW operations when passing the inspections under § 157.140.

(10) The volume of water used for water rinsing recorded during COW operations when passing the inspections under § 157.140.

(11) The trim conditions of the tank vessel recorded during COW operations when passing the inspections under § 157.140.

(12) The procedure for stripping cargo tanks of crude oil.

(13) The procedure for draining and stripping the pumps and piping of the COW system, cargo system, and stripping system after each crude oil cargo discharge.

(14) The procedure for crude oil washing cargo tanks that includes the following:

(i) The tanks to be crude oil washed to meet § 157.160.

(ii) The order in which those tanks are washed.

(iii) The single-stage or multi-stage method of washing each tank.

(iv) The number of COW machines that operate simultaneously in each tank.

(v) The duration of the crude oil wash and water rinse.

(vi) The volume of water to be used for water rinse in each tank.

(15) The procedures and equipment needed to prevent leakage of crude oil from the COW system.

(16) The procedures and equipment needed if leakage of crude oil from the COW system occurs.

(17) The procedures for testing and inspecting the COW system for leakage of crude oil before operating the system.

(18) The procedures and equipment needed to prevent leakage of crude oil from the steam heater under § 157.122(i) to the engine room.

(19) The number of crew members needed to conduct the following:

(i) The discharge of cargo.

(ii) The crude oil washing of cargo tanks.

(iii) The simultaneous operations in paragraphs (a)(19) (i) and (ii) of this section.

(20) A description of the duties of each crew member under paragraph (a)(19) of this section.

(21) The procedures for ballasting and deballasting cargo tanks.

(22) The step by step procedure for the inspection of the COW system by vessel personnel before COW operations begin that includes the procedure for inspecting and calibrating each instrument. (Operational Checklist)

(23) The intervals for on board inspection and maintenance of the COW equipment. Informational references to technical manuals supplied by the manufacturers may be included in this part of the manual.

(24) A list of crude oils that are not to be used in COW operations.

(25) The procedure to meet § 157.155(a)(4).

(b) In addition to meeting paragraph (a) of this section, each manual under paragraph (a) of this section on a tank vessel having a COW system under § 157.10a(a)(2) must include the following:

(1) The procedure to meet § 157.166.

(2) The procedures to meet § 157.155(B).

#### Inspections

##### § 157.140 Tank vessel inspections.

(a) Before issuing a letter under § 157.142, the Coast Guard makes an initial inspection of each U.S. tank vessel under § 157.10(e) or having a COW system under § 157.10a(a)(2) and each foreign tank vessel whose owner or operator submitted the plans under § 157.102 to determine whether or not the cargo tanks that carry crude oil when entering a port meet the following:

(1) After each tank is crude oil washed but not water rinsed, except the bottom of the tank may be flushed with water and stripped, each tank is essentially free of oil clingage or deposits of oil, or both to a degree acceptable to the Coast Guard inspector.

(2) After the tanks that are to be used as ballast tanks when leaving the port are crude oil washed and stripped but not water rinsed or bottom flushed, they are filled with water and the total volume of crude oil floating on top of the water in these tanks is 0.085 percent or less of the total volume of these tanks.

(b) Except on a tank vessel under § 157.10(e), if the initial inspection under paragraph (a) of this section has been passed and the vessel arrives at the first cargo loading port after completing a ballast voyage, the Coast Guard monitors the discharge of effluent from those tanks that have been crude oil washed, water rinsed, stripped, and filled with ballast water to determine whether or not the oil content of the effluent is 15 ppm or less.

##### § 157.142 Letter of acceptance: inspections.

If the inspections under § 157.140 are passed, the Coast Guard issues to the tank vessel a letter that states that the vessel complies with this subpart.

##### § 157.144 Tank vessels of the same class: inspections.

(a) If more than one tank vessel is constructed from the same plans, the owner or operator may submit a written request to the Commandant (G-MMT), U.S. Coast Guard, Washington, D.C. 20593, for only one of those tank vessels to be inspected under § 157.140.

(b) Only one tank vessel of the class is inspected under § 157.140, if the Commandant accepts the request submitted under paragraph (a) of this section.

##### § 157.146 Similar tank design: inspections U.S. tank vessels.

(a) If a U.S. tank vessel has tanks similar in dimensions and internal structure, the owner or operator may submit a written request to the Officer in Charge, Marine Inspection, of the zone in which the COW system is inspected, for only one of those tanks to be inspected under § 157.140(a)(1).

(b) Only one tank of a group of tanks similar in dimensions and internal structure is inspected under § 157.140(a)(1), if the Officer in Charge, Marine Inspection, accepts the request submitted under paragraph (a) of this section.

##### § 157.147 Similar tank design: inspections on foreign tank vessels.

(a) If a foreign tank vessel has tanks similar in dimensions and internal structure, the owner or operator may submit a written request to the Commandant (G-MMT), U.S. Coast Guard, Washington, D.C. 20593, for only one of those tanks to be inspected under § 157.140(a)(1).

(b) Only one tank of a group of tanks similar in dimensions and internal structure is inspected under § 157.140(a)(1), if the Commandant accepts the request submitted under paragraph (a) of this section.

##### § 157.148 COW system: Evidence for inspections.

(a) Before the inspections under § 157.140 are conducted by the Coast Guard, the owner or operator of a foreign tank vessel that is to be inspected must submit to the Coast Guard inspector evidence that the COW system has been installed in accordance with the plans accepted under § 157.106.

(b) Before the inspections under § 157.140 are conducted by the Coast Guard, the owner or operator of a tank vessel that is to be inspected must submit to the Coast Guard inspector evidence that the COW piping system has passed a test of 1½ times the design working pressure.

##### § 157.150 Crude Oil Washing Operations and Equipment Manual: Recording information after inspections.

After passing the inspections under § 157.140, the owner, operator, and master shall ensure that the following are recorded in the *Crude Oil Washing Operations and Equipment Manual* approved under § 157.112:

(a) The results of the inspections under § 157.140.

(b) The following characteristics used to pass the inspections under § 157.140:

(1) Pressure and flow of the crude oil pumped to the COW machines.

(2) Revolutions, number of cycles, and length of cycles of each COW machine.

(3) Pressure and flow of the stripping suction device.

(4) Number and location of COW machines operating simultaneously in each cargo tank.

(5) Volume of water used for water rinsing.

(6) Trim conditions of the tank vessel.

#### Personnel

##### § 157.152 Person in charge of COW operations.

The owner, operator, and master of a tank vessel under § 157.10(e) or having a COW system under § 157.10a(a)(2) shall ensure that the person designated as the person in charge of COW operations—

(a) Knows the contents in the *Crude Oil Washing Operations and Equipment Manual* approved by the Coast Guard under § 157.112 or by the government of the vessel's flag state;

(b) On at least two occasions, has participated in crude oil washing of cargo tanks, one of those occasions occurring on—

(1) The tank vessel on which the person assumes duties as the person in charge of COW operations; or

(2) A tank vessel that is similar in tank design and which has COW equipment similar to that used on the tank vessel on which the person assumes duties as the person in charge of COW operations; and

(c) Has one year or more of tank vessel duty that includes oil cargo discharge operations and—

(1) Crude oil washing of cargo tanks; or

(2) Has completed a training program in crude oil washing operations that is approved by the Coast Guard or the government of the vessel's flag state.

Note.—Standards of a Coast Guard approved training program are to be developed.

##### § 157.154 Assistant personnel.

The owner, operator, and master of a tank vessel under § 157.10(e) or having a COW system under § 157.10a(a)(2) shall

ensure that each member of the crew that has a designated responsibility during COW operations—

- (a) Has six months or more of tank vessel duty that includes oil cargo discharge operations;
- (b) Has been instructed in the COW operation of the tank vessel; and
- (c) Is familiar with the contents of the *Crude Oil Washing Operations and Equipment Manual* approved by the Coast Guard under § 157.112 or by the government of the vessel's flag state.

#### COW Operations

##### § 157.155 COW operations: General.

(a) The master of a tank vessel under § 157.10(e) or having a COW system under § 157.10a(a)(2) shall ensure that—

- (1) Before crude oil washing a cargo tank, the level in each tank with crude oil that is used as a source for crude oil washing is lowered at least one meter;
- (2) A tank used as a slop tank is not used as a source for crude oil washing until—
  - (i) Its contents are discharged ashore or to another tank; and
  - (ii) The tank contains only crude oil;
- (3) During COW operations—
  - (i) The valves under § 157.122(i)(1) are shut; or
  - (ii) The blanks under § 157.122(i)(2) are installed;
- (4) The rotation of each COW machine mounted to or close to the bottom of each cargo tank is verified by—

- (i) A visual inspection of a means located outside of the cargo tank that indicates movement of the machine during COW operations;
- (ii) An audio inspection during COW operations; or
- (iii) An inspection on a ballast voyage, with water as the fluid flowing through the machine;

(5) During the audio inspection under paragraph (a)(4)(ii) of this section, the COW machine being inspected is the only one operating in that tank;

(6) Before the inspection under paragraph (a)(4)(iii) of this section, the tank that has the COW machine being inspected in it, is gas freed;

(7) Each COW machine that is inspected under paragraph (a)(4)(iii) of this section is inspected at least once after every sixth COW operation of that machine, but no less than once every 12 months;

(8) After each stripping operation is completed, each tank—

- (i) Is sounded by a means under § 157.128(b); and
  - (ii) Contains no oil except a minimal quantity near the stripping suction;
- (9) Before the tank vessel begins each ballast voyage, each cargo tank and

each cargo main, stripping, and COW piping is stripped of crude oil and the strippings are conveyed ashore through the piping under § 157.11(d)(3) or § 157.11(e)(4);

(10) Before water washing the cargo tanks, the piping of the COW system is drained of crude oil;

(11) When the cargo tanks are not being water washed, the hydrant valves under § 157.122(g) are blanked off;

(12) If COW machines that are used as anchors for the piping of the COW system are removed, the means available under § 157.122(1) for anchoring the piping are installed;

(13) The fire main is not connected to the COW system; and

(14) On combination carriers, if flexible hoses under § 157.122(o) are used, those hoses are protectively stowed when not installed in the COW piping system.

(b) In addition to meeting paragraph (a) of this section, the master of a tank vessel having a COW system under § 157.10a(a)(2) shall ensure that—

(1) Before ballasting cargo tanks upon leaving a port, each cargo pump, manifold, and piping that is used for ballasting the cargo tanks is drained of all crude oil; and

(2) Before ballasting or deballasting cargo tanks, except when ballasting cargo tanks to leave a port, the cargo piping that is used for ballasting or deballasting the cargo tanks is water washed.

##### § 157.156 COW operations: Meeting manual requirements.

Except as allowed in § 157.158, the master of a foreign tank vessel under § 157.10(e) or having a COW system under § 157.10a(a)(2) that has a *Crude Oil Washing Operations and Equipment Manual* approved under § 157.112 and is operating in the navigable waters of the United States or transferring cargo on a port or place subject to the jurisdiction of the United States and the master of a U.S. tank vessel under § 157.10(e) or having a COW system under § 157.10a(a)(2) shall ensure that during each COW operation—

(a) The procedures listed in the *Crude Oil Washing Operations and Equipment Manual* are followed; and

(b) The characteristics recorded in the *Crude Oil Washing Operations and Equipment Manual* under § 157.150(b) are met.

##### § 157.158 COW operations: Changed characteristics.

The COW system may be operated with characteristics that do not meet those recorded under § 157.150(b) only if—

(a) The tank vessel passes the inspections under § 157.140 using the changed characteristics;

(b) The changed characteristics used to pass the inspections under § 157.140 are recorded in the *Crude Oil Washing Operations and Equipment Manual* approved under § 157.112; and

(c) The Coast Guard issues to the tank vessel an amending letter stating that the tank vessel complies with this subpart with these characteristics.

##### § 157.160 Tanks: Ballasting and crude oil washing.

(a) The owner, operator, and master of a tank vessel under § 157.10(e) shall ensure that—

(1) Ballast water is carried only in a cargo tank as allowed under § 157.35;

(2) For sludge control, at least 25 percent of the cargo tanks are crude oil washed before each ballast voyage and that each cargo tank is crude oil washed at least once every fourth time crude oil is discharged from the tank, but no tank need be crude oil washed more than once during each 120 day period;

(3) Ballast water in a cargo tank that is crude oil washed but not water rinsed during or after the most recent discharge of crude oil from that tank is discharged in accordance with § 157.37(a); and

(4) Cargo tanks are not crude oil washed during a ballast voyage.

(b) The owner, operator, and master of a tank vessel having a COW system under § 157.10a(a)(2) shall ensure that—

(1) Ballast water is carried only in a cargo tank that is crude oil washed during or after the most recent discharge of crude oil from that tank;

(2) Before each ballast voyage a sufficient number of cargo tanks have been crude oil washed during or after the most recent discharge of crude oil from those tanks to allow ballast water to be carried in cargo tanks—

(i) With a total capacity to meet the draft and trim requirements in § 157.10a(d); and

(ii) For the vessel's trading pattern and expected weather conditions;

(3) For sludge control, at least 25 percent of the cargo tanks not used for carrying ballast water under paragraph (b)(2)(i) of this section are crude oil washed before each ballast voyage, and that each cargo tank is crude oil washed at least once every fourth time crude oil is discharged from the tank, but no tank need be crude oil washed more than once during each 120 day period;

(4) Cargo tanks are not crude oil washed during a ballast voyage; and

(5) Ballast water in a cargo tank that is crude oil washed but not water rinsed during or after the most recent discharge

of crude oil from that tank is discharged in accordance with § 157.37(a).

**§ 157.162 Crude oil washing during a voyage.**

The master of a tank vessel under § 157.10(e) or having a COW system under § 157.10a(2) shall ensure that each cargo tank that is crude oil washed during a voyage other than a ballast voyage—

(a) Remains empty so that the tank may be inspected upon arrival at the next discharge port; and

(b) If it is to be used as a ballast tank when leaving the discharge port, is ballasted before the vessel departs from that discharge port so that the tank may be inspected under § 157.140(a)(2).

**§ 157.164 Use of inert gas system.**

(a) The master of a tank vessel under § 157.10(e) or having a COW system under § 157.10a(2) shall ensure the following:

(1) Before each cargo tank is crude oil washed, the oxygen content in the tank is measured at each of the following locations in the tank:

(i) One meter from the deck.

(ii) In the center of the ullage space.

(2) Before each cargo tank with partial bulkheads is crude oil washed, each area of that tank formed by each partial bulkhead is measured in accordance with paragraph (a) of this section.

(3) Before each cargo tank is crude oil washed, the oxygen content in that tank is 8 percent or less by volume at the locations under paragraph (a)(1) of this section.

(4) During COW operations, the following are maintained in each cargo tank being crude oil washed:

(i) A gas or a mixture of gases with an oxygen content of 8 percent or less by volume.

(ii) A positive atmospheric pressure.

(5) During COW operations, a crew member monitors the instrumentation under 46 CFR 32.53-60(a)(1), except if that instrumentation has an alarm that sounds in the cargo control room when the oxygen content exceeds 8 percent by volume.

(b) Crude oil washing of the cargo tanks must be terminated when paragraph (a)(4) of this section is not met and crude oil washing of that tank may not be resumed until the requirements of paragraph (a)(4) of this section are met.

**§ 157.166 Hydrocarbon vapor emissions.**

If a tank vessel having a COW system under § 157.10a(2) transfers cargo at a port in the United States that is in an area designated in 40 CFR Part 81 as an area that does not meet the national

primary ambient air quality ozone standard under 40 CFR Part 50, issued under the Clean Air Act, as amended (42 U.S.C. 1857), the master of that vessel shall ensure that when cargo tanks are ballasted in that port the hydrocarbon vapors in those tanks are contained by a means under § 157.132.

**Note.**—Questions relating to whether or not a particular port is located in an area designated in 40 CFR Part 81 as an area that does not meet the national primary ambient air quality ozone standard under 40 CFR Part 50 can be answered by contacting the Plans Analysis Section of the Environmental Protection Agency at (919) 541-5365.

**§ 157.168 Crew member: Main deck watch.**

During COW operations, the master shall ensure that at least one member of the crew with a designated responsibility for monitoring COW operations is on the main deck at all times.

**§ 157.170 COW equipment: Removal.**

(a) Whenever a deck mounted COW machine is removed from the tank, the master shall ensure that—

(1) The supply piping to that machine is blanked off; and

(2) The tank opening is sealed by a secured plate made of steel or an equivalent material accepted by the Commandant.

(b) If the equipment for the COW system is removed from a cargo tank for the carriage of cargoes other than crude oil and then reinstalled, the master shall ensure that, before COW operations are conducted, the system has no crude oil leakage.

**§ 157.172 Limitations on grades of crude oil carried.**

If a tank vessel having a COW system under § 157.10a(2) does not have segregated ballast tanks or dedicated clean ballast tanks that meet § 157.10a(d), the owner, operator, and master shall ensure that the vessel carries only the grades of crude oil that can be used for crude oil washing.

**Subpart E—Dedicated Clean Ballast Tanks on Tank Vessels**

**Authority.**—Sec. 5, Port and Tanker Safety Act of 1978, 92 Stat. 1480 (46 U.S.C. 391a); 49 CFR 1.46(n)(4).

**General**

**§ 157.200 Plans for U.S. tank vessels: Submission.**

(a) Before June 1, 1981 the owner or operator of each U.S. tank vessel under § 157.10a(b) or having dedicated clean ballast tanks under § 157.10a(c)(2) must submit to the Coast Guard plans that include—

(1) The dedicated clean ballast tank arrangement; and

(2) A drawing or diagram of the pumping and piping system for the dedicated clean ballast tanks.

(b) Plans under paragraph (a) of this section must be submitted to the Officer in Charge, Marine Inspection, of the zone in which the dedicated clean ballast tank system is installed or one of the following Coast Guard field technical offices:

(1) Commander, 3rd Coast Guard District (mmt), Governors Island, New York, N.Y. 10004, if the dedicated clean ballast tank system is installed in the area under the 1st or 3rd Coast Guard Districts.

(2) Commander, 5th Coast Guard District (mmt), 431 Crawford Street, Portsmouth, Virginia 23705, if the dedicated clean ballast tank system is installed in the area under the 5th or 7th Coast Guard Districts.

(3) Commander, 8th Coast Guard District (mmt), 500 Camp Street, Hale Boggs Federal Building, New Orleans, Louisiana 70130, if the dedicated clean ballast tank system is installed in the area under the 2nd or 8th Coast Guard Districts.

(4) Commander, 9th Coast Guard District (mmt), 601 Rockwell Ave., Cleveland, Ohio 44114, if the dedicated clean ballast tank system is installed in the area under the 9th Coast Guard District.

(5) Commander, 12th Coast Guard District (mmt), 630 Sansome Street, San Francisco, California 94126, if the dedicated clean ballast tank system is installed in the area under the 11th, 12th, 13th, 14th, or 17th Coast Guard Districts.

**§ 157.202 Plans and documents for foreign tank vessels: Submission.**

If the owner or operator of a foreign tank vessel under § 157.10a(b) or having dedicated clean ballast tanks under § 157.10a(c)(2) desires the letter from the Coast Guard under § 157.204 accepting the plans submitted under this paragraph, the owner or operator must submit to the Commandant (G-MMT), U.S. Coast Guard, Washington, D.C. 20593—

(a) Plans that include—

(1) The dedicated clean ballast tank arrangement; and

(2) A drawing or diagram of the pumping and piping system for the dedicated clean ballast tanks; and

(b) Documentation from the authority that assigned the load line to the tank vessel that states that the location of the dedicated clean ballast tanks is acceptable to that authority.

**§ 157.204 Letter of acceptance.**

The Coast Guard informs the submitter by letter that the plans submitted under § 157.200 or the plans and documents submitted under § 157.202 are accepted, if the plans submitted under § 157.200 or the plans and documents submitted under § 157.202 show that the dedicated clean ballast tank system meets this subpart.

**§ 157.206 Dedicated Clean Ballast Tanks Operations Manual for U.S. tank vessels: Submission.**

Before June 1, 1981, the owner or operator of a U.S. tank vessel under § 157.10a(b) or having dedicated clean ballast tanks under § 157.10a(c)(2) must submit two copies of a *Dedicated Clean Ballast Tanks Operations Manual* that meets § 157.224 to the Officer in Charge, Marine Inspection, of the zone in which the dedicated clean ballast tank system is installed or to the appropriate Coast Guard field technical office listed in § 157.200(b).

**§ 157.208 Dedicated Clean Ballast Tanks Operations Manual for foreign tank vessels: Submission.**

If the owner or operator of a foreign tank vessel under § 157.10a(b) or having dedicated clean ballast tanks under § 157.10a(c)(2) desires a Coast Guard approved *Dedicated Clean Ballast Tanks Operations Manual* under § 157.210, the owner or operator must submit two copies of a manual that meets § 157.224 to the Commandant (G-MMT), U.S. Coast Guard, Washington, D.C. 20593.

**§ 157.210 Approved Dedicated Clean Ballast Tanks Operations Manual.**

If the manuals submitted under § 157.206 or § 157.208 meet § 157.224, the Coast Guard approves the manuals and forwards one of the approved manuals to the submitter.

**§ 157.212 Dedicated Clean Ballast Tanks Operations Manual: Not approved.**

If the *Dedicated Clean Ballast Tanks Operations Manual* submitted under § 157.206 or § 157.208 is not approved, the Coast Guard forwards a letter to the submitter with the reasons why the manual was not approved.

**§ 157.214 Required documents: U.S. tank vessels.**

On and after June 1, 1981, the owner, operator, and master of a U.S. tank vessel under § 157.10a(b) or having dedicated clean ballast tanks under § 157.10a(c)(2) shall ensure that the vessel does not engage in a voyage unless the vessel has on board—

(a) The letter under § 157.204 accepting the dedicated clean ballast tank system plans;

(b) The Coast Guard approved *Dedicated Clean Ballast Tanks Operations Manual* under § 157.210; and

(c) Any amending letters issued under § 157.218 approving alterations.

**§ 157.216 Required documents: Foreign tank vessels.**

On and after June 1, 1981, the owner, operator, and master of a foreign tank vessel under § 157.10a(b) or having dedicated clean ballast tanks under § 157.10a(c)(2) shall ensure that the vessel does not enter the navigable waters of the United States or transfer cargo at a port or place subject to the jurisdiction of the United States unless the vessel has on board—

(a) A *Dedicated Clean Ballast Tanks Operations Manual* that—

(1) Is approved under § 157.210; or  
(2) That meets the manual standards in Resolution 14 of the MARPOL Protocol and is approved by the government of the vessel's flag state; and

(b) Evidence of acceptance of the tank vessel's dedicated clean ballast tank system consisting of—

(1) A document from the government of the vessel's flag state that certifies the vessel's compliance with Resolution 14 of the MARPOL Protocol; or

(2) The letter under § 157.204 accepting the dedicated clean ballast tank system plans and any amending letters issued under § 157.218 approving alterations.

**§ 157.218 Dedicated clean ballast tanks: Alterations.**

The dedicated clean ballast tanks or equipment on a tank vessel that has a letter issued under § 157.204 may not be altered so that they no longer meet the plans accepted under that section unless—

(a) The owner or operator of that vessel submits plans that show the alterations to the Coast Guard official to which the plans were submitted under § 157.200 or § 157.202;

(b) The owner or operator of that vessel submits changes to the manual under § 157.224 that show and describe the alterations to the Coast Guard official to which the manuals were submitted under § 157.206 or § 157.208; and

(c) The Coast Guard issues to the tank vessel an amending letter stating that the vessel, as altered, complies with this subpart.

**Design and Equipment****§ 157.220 Dedicated clean ballast tanks: Standards.**

(a) Cargo tanks that are designated as dedicated clean ballast tanks must allow the tank vessel to meet the draft and trim requirements under § 157.10a(d) when filled with ballast water.

(b) Each tank under paragraph (a) of this section must be—

- (1) A wing tank; or
- (2) Any other tank that is accepted by the Commandant.

**§ 157.222 Pump and piping arrangements.**

(a) Dedicated clean ballast tanks must be connected to the least practicable—

- (1) Number of pumps; and
- (2) Amount of piping.

(b) Each piping system that is arranged to convey clean ballast and cargo must be designed to be flushed to the slop tank with water.

(c) The piping system of each dedicated clean ballast tank must be arranged so that oily water does not enter any dedicated clean ballast tank when the piping system is flushed.

(d) The piping system of each dedicated clean ballast tank must have at least two valves that isolate that tank from each cargo tank.

(e) The piping system of the dedicated clean ballast tanks must have a sample point that is located in a vertical section of discharge piping.

Note.—An example of a sample point is shown in 46 CFR Figure 162.050-17(e).

**§ 157.224 Dedicated Clean Ballast Tanks Operations Manual.**

Each *Dedicated Clean Ballast Tanks Operations Manual* must include the following information:

(a) The text of the Annex of Resolution 14 of the MARPOL Protocol.

(b) A description of the dedicated clean ballast tanks system.

(c) A procedure for dedicated clean ballast tanks operations.

Note.—Appendix D is an example of such a procedure.

**Dedicated Clean Ballast Tanks Operations****§ 157.225 Dedicated clean ballast tanks operations: General.**

The master of a tank vessel under § 157.10a(b) or having dedicated clean ballast tanks under § 157.10a(c)(2) shall ensure that—

(a) Before clean ballast in any dedicated clean ballast tank is discharged or transferred, the pump and piping system for conveying the clean ballast are flushed with water;

(b) Before any dedicated clean ballast tank is ballasted, the pump and piping system for conveying the ballast are flushed with water;

(c) Before the pump and piping system of the dedicated clean ballast tanks are used for cargo transfer—

(1) If water in the dedicated clean ballast tanks is used for flushing the pump and piping system, the volume of water for flushing is equal to at least 10 times the volume of the piping to be flushed;

(2) The piping system is drained of fluid; and

(3) The valves under § 157.222(d) are closed;

(d) Flushing water is pumped from a sea chest or a dedicated clean ballast tank through the pump and piping system of the dedicated clean ballast tanks and then to a slop tank;

(e) Clean ballast from each dedicated clean ballast tank is discharged in accordance with § 157.43;

(f) When the pump and piping system are being flushed—

(1) The oil content of the flushing water in the piping system is monitored; and

(2) The pump and piping system are flushed until the oil content of the flushing water in the piping stabilizes; and

(g) If any pump or piping system that is flushed to meet paragraph (f) of this section is used to convey cargo during an emergency, that pump or piping system is flushed again to meet paragraph (f) of this section before being used to convey clean ballast.

**§ 157.226 Dedicated Clean Ballast Tanks Operations Manual: Procedures to be followed.**

The master of a foreign tank vessel under § 157.10a(b) or having dedicated clean ballast tanks under § 157.10a(c)(2) that has a *Dedicated Clean Ballast Tanks Operations Manual* approved under § 157.210 and is operating in the navigable waters of the United States or transferring cargo at a port or place subject to the jurisdiction of the United States and the master of a U.S. tank vessel under § 157.10a(b) of having dedicated clean ballast tanks under § 157.10a(c)(2) shall ensure that the procedures listed in the *Dedicated Clean Ballast Tanks Operations Manual* are followed.

**§ 157.228 Isolating valves: Closed during a voyage.**

(a) The master of each U.S. tank vessel under § 157.10a(b) or having dedicated clean ballast tanks under § 157.10a(c)(2) shall ensure that the

valves under § 157.222(d) remain closed during a voyage.

(b) The master of each foreign tank vessel under § 157.10a(b) or having dedicated clean ballast tanks under § 157.10a(c)(2) shall ensure that the valves under § 157.222(d) remain closed when the vessel is on a voyage in the navigable waters of the United States.

**Appendix C—Procedure for Determining Distribution of Segregated Ballast Tanks To Provide Protection Against Oil Outflow in the Event of Grounding, Ramming, or Collision**

1. *Source.* The procedure for determining the distribution of segregated ballast tanks contained in this appendix conforms to Regulation 13E of the MARPOL Protocol.

2. *Procedure.* Protective location of segregated ballast tanks, voids, and other spaces that do not carry cargo which are within the cargo tank length is determined from the following:

$$\Sigma PA_c + \Sigma PA_s = J[L_1(B + 2D)]$$

Where—

$PA_c$  = the side shell area in square meters based on projected molded dimensions for each segregated ballast tank, void, or other space that does not carry cargo and which complies with paragraph 2(b) of this appendix;

$PA_s$  = the bottom shell area in square meters based on projected molded dimensions for each segregated ballast tank, void, or other space that does not carry cargo and which complies with paragraph 2(b) of this appendix;

$L_1$  = the length in meters between the forward and after extremities of the cargo tanks;

$B$  = the maximum breadth of the ship in meters measured amidship to the molded line of the frame; and

$D$  = the molded depth in meters measured vertically from the top of the keel plate to the top of the freeboard deck beam at the side amidships. In tank vessels having rounded gunwales, the molded depth is measured from the top of the keel plate to the point of intersection of the molded lines of the deck and side shell plating, the lines being extended as though the gunwale were of angular design.

(a) *Method of determining a value for J.*

(1) For tank vessels for 20,000 DWT,

$$J = 0.45.$$

(2) For tank vessels of 200,000 DWT or more—

(i)  $J = 0.30$ ; or

(ii)  $J =$  the greater of 0.20, or

$$0.30 - \left[ a - \frac{(O_c + O_s)}{4O_A} \right],$$

where:

$a = 0.25$  for tank vessels of 200,000 DWT.

$a = 0.40$  for tank vessels of 300,000 DWT.

$a = 0.50$  for tank vessels of 420,000 DWT.

For values of DWT between 200,000 and 300,000 DWT, 300,000 and 420,000 DWT, and greater than 420,000 DWT, the value of "a" is determined by linear interpolation.

$O_c$  = as calculated in Appendix A of this part.

$O_s$  = as calculated in Appendix A of this part.

$O_A$  = the allowable oil outflow meeting § 157.19(b)(1) of this part.

(3) For values of DWT between 20,000 and 200,000 DWT, the value of "J" is determined by linear interpolation between 0.45 and 0.30 respectively.

(b)  $PA_c$  and  $PA_s$ : *Criteria for determining the segregated ballast tanks, voids, and other spaces that do not carry cargo.*

The following criteria are to be met for a segregated ballast tank, void, or space that does not carry cargo, to be used in determining  $PA_c$  and  $PA_s$ :

(1) The minimum width of each wing tank or space, either of which extends for the full depth of the vessel's side or from the main deck to the top of the double bottoms is 2 meters or more. The width is measured inboard from the vessel's side shell plating at right angles to the vessel's center line. If a wing tank or space has a width anywhere within it that is less than 2 meters, that wing tank or space is not used when calculating  $PA_c$ .

(2) The minimum vertical depth of each double bottom tank or space is  $B/15$  or 2 meters, whichever is smaller. If a double bottom tank or space has a depth less than  $B/15$  or 2 meters, whichever is smaller, anywhere within it, the double bottom or space is not to be used when calculating  $PA_s$ .

(3) The minimum width of a wing tank or space is not measured in the way of—

(i) the turn of the bilge area; or

(ii) a rounded gunwale area.

(4) The minimum depth of a double bottom tank or space is not measured in the way of the turn of the bilge area.

**Appendix D—Example of a Procedure for Dedicated Clean Ballast Tanks Operations**

1. *Source.* The example procedure for dedicated clean ballast tanks operation contained in this appendix conforms to the Annex of Resolution 14 of the MARPOL Protocol.

2. *Example Procedure.* Dedicated clean ballast tanks operational procedure:

(a) Before arrival at the loading port:

(1) Transfer all remaining slop to a cargo tank.

(2) Ensure that the pumping and piping designated for clean ballast operation have been properly cleaned to accommodate simultaneous discharge of clean ballast while loading.

(3) Ensure that all valves to the slop tank and the cargo tanks are closed.

(4) Perform visual inspection of all dedicated clean ballast tanks and their contents, if any, for signs of contamination.

(5) Discharge a sufficient amount of clean ballast water to ensure that remaining ballast water and cargo to be loaded will not exceed the permissible deadweight or draft. Leave a sufficient amount of water for flushing the piping, and as a minimum, a quantity equal to 10 times the volume of the affected piping.

(6) Ensure that all valves to the dedicated clean ballast tanks are closed.

(7) If no further ballast discharge is anticipated, drain the clean ballast piping.

## (b) In the loading port:

(1) Perform normal loading operations of cargo tanks.

(2) Ensure sufficient slop tank capacity is available for subsequent reception of cargo pump and piping flushings.

(3) When applicable, discharge remaining clean ballast before entire piping system is used for loading. Leave the required minimum quantity of flushing water in ballast tanks.

(4) Ensure that all valves to the dedicated clean ballast tanks are closed.

(5) Ensure that all valves to the cargo tank are closed upon completion of loading.

## (c) After departure from the loading port:

(1) Flush appropriate pumping and piping with sufficient water from dedicated clean ballast tanks into a slop tank.

(2) Ensure that valves to the slop tank are closed before pumping the remaining clean water overboard and monitoring oil content of the water.

(3) Ensure that all valves in the dedicated clean ballast tanks are closed.

## (d) Before arrival at the unloading port:

(1) Ensure that all valves to the slop tank and cargo tanks are closed.

(2) Recheck that the pumping and piping designated for clean ballast operation have been properly cleaned.

(3) Ballast through clean cargo pumps and piping, considering the port's draft requirements.

(4) Ensure that all valves in the dedicated clean ballast tanks are closed.

## (e) In the unloading port:

(1) Allocate pumping and piping intended for clean ballast operation.

(2) Perform normal unloading operations.

(3) As soon as draft conditions permit, complete ballasting to departure conditions.

(4) Ensure that all valves to the dedicated clean ballast tanks are closed.

(5) Complete unloading.

## (f) After departure from the unloading port:

(1) Flush pumps and piping servicing the dedicated clean ballast tanks into the slop tank.

(2) Top up dedicated clean ballast tanks.

(3) Process the slop tank content in accordance with load on top (LOT) procedures.

(92 Stat. 1480 (Sec. 5, Port and Tanker Safety Act of 1978, 46 U.S.C. 391a); 49 CFR 1.46(n)(4))

Dated: November 13, 1979.

R. H. Scarborough,

Vice Admiral, U.S. Coast Guard, Acting Commandant.

[FR Doc. 79-35824 Filed 11-16-79; 8:45 am]

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## 33 CFR Part 164

[CGD 77-063]

### Tank Vessels of 10,000 Gross Tons or More; Improved Steering Gear Requirements

AGENCY: Coast Guard, DOT.

ACTION: Final rules.

SUMMARY: These regulations adopt improved steering gear requirements for

tank vessels of 10,000 gross tons or more. The requirements are essentially the same as the steering gear requirements adopted by the 1978 International Conference on Tanker Safety and Pollution Prevention. The ultimate benefits and impact of the regulations will be a reduction in the probability of collision and grounding of tankers caused by steering failure and a resulting reduction in the risk of property damage, personal injury and death, and pollution of the oceans and U.S. waters. The regulations apply both to U.S. tank vessels and to foreign tank vessels that call at U.S. ports.

**EFFECTIVE DATE:** These regulations become effective on January 1, 1980.

**FOR FURTHER INFORMATION CONTACT:** Gordon Sims, c/o Commandant (G-MMT), U.S. Coast Guard, Washington, D.C. 20593 (202-426-2206).

**SUPPLEMENTARY INFORMATION:** On February 12, 1979, the Coast Guard published a notice of proposed rule making in the *Federal Register* for these regulations (44 FR 9035-9038). Interested persons were invited to submit comments on the proposals and thirteen comments were received. Comments were also received at public hearings held in Washington, D.C., and San Francisco, California.

The comment period on the proposed regulations closed on April 16, 1979, and publication of final rules was planned on June 1, 1979. However, a determination was made thereafter to delay publication, and notice of the delay was published in the *Federal Register* of June 7, 1979 (44 FR 32713-32715).

These regulations incorporate the steering gear requirements developed by the 1978 International Conference on Tanker Safety and Pollution Prevention (TSPP). The TSPP Conference was held under the auspices of the Intergovernmental Maritime Consultative Organization (IMCO) and the United States was a participant. These regulations, also adopt the minimum steering gear requirements set out in section 5 of the Port and Tanker Safety Act of 1978 (PTSA). The steering gear requirements in PTSA are essentially the same as corresponding TSPP requirements.

The notice of proposed rule making contains a detailed explanation and discussion of the regulations and their background. Reference to this discussion is helpful in understanding the regulations and their applicability. Because of reprinting costs, however, the material is not reproduced here.

### Drafting Information

The principal persons involved in drafting these regulations are: Gordon Sims, Office of Merchant Marine Safety, and William R. Register, Office of the Chief Counsel.

### Regulatory Analysis

A Regulatory Analysis has been prepared for these regulations in accordance with the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11040-11045). The analysis was conducted in conjunction with the other TSPP regulatory projects published in this issue of the *Federal Register*.

The analysis discusses the economic impact of the regulations as follows:

The cost of the improved steering requirements is a one-time cost that, for the most part, is independent of vessel size. The cost of the second steering gear control system and required alarm on existing vessels is estimated to be approximately \$30,000 per vessel. It is estimated that approximately 40 percent of the foreign vessels entering U.S. ports and 30 percent of U.S. flag vessels will require another steering gear control system. Further, it is estimated that 90 percent of the foreign flag vessels and 70 percent of the U.S. flag vessels will need the additional alarm and/or circuit arrangement modifications \* \* \*.

Most of the economic impact will be on existing tank vessels since, as explained in the analysis, few new tank vessels are expected to be built within the next five years. The number of existing tank vessels that will have to comply with the steering gear regulations is approximately 1,650. The total capital cost for existing vessels is expected to be approximately \$20,000,000.

The ultimate benefit and impact of the regulations will be a reduction in the probability of collision and grounding of tankers caused by steering failure and a resulting reduction in risk of property damage, personal injury and death, and pollution of the oceans and U.S. waters.

### Discussion of Comments

#### a. General Comments

Four commenters recommended that the regulations be made applicable to all U.S. and foreign vessels that call at U.S. ports, including freighters and passenger vessels as well as tankers. One commenter also recommended that the regulations be made applicable to smaller vessels and that further efforts be undertaken to adopt additional standards for tank vessels including more rigorous standards on steering failure detection and steering recovery. Although these recommendations are important, they are beyond the

objectives of this rule making. As discussed above, the objective of these regulations is to implement the TSPP requirements and steering gear requirements mandated by the PTSA. However, the Coast Guard is considering in a separate docket (CGD 79-038) additional steering gear standards for all commercial vessels, including vessels of smaller tonnages, that call at U.S. ports. Also, as explained in more detail below, ongoing efforts for further improvement of international steering gear standards, including improved standards on steering failure detection and steering recovery, continue in meetings held under the auspices of IMCO.

Four commenters stated that the regulations do not require a sufficient degree of duplication in steering gear components, and two commenters recommended adding a requirement to have duplicate differential units. A requirement for further duplication of steering gear components is currently under consideration by IMCO. Specifically, consideration is being given to requiring a duplicate arrangement of steering gear power units, piping, valves, and rams that can provide for rapid recovery of rudder control following a failure of the steering gear components being used. Also the Coast Guard has recently proposed a requirement at IMCO for duplicate differential units on new tank vessels and a requirement that vessels be designed to recover rudder control within 45 seconds after failure of any steering gear component. The Coast Guard does not intend to propose a requirement for duplicate differential units on existing tankers, principally because retrofitting vessels to provide for a second unit would be extremely difficult and could possibly result in control systems that are less reliable than existing systems.

One commenter asked whether compliance with these regulations could have prevented the steering gear failure of the type that occurred in the AMOCO CADIZ casualty off the coast of France in March 1978. The steering gear failure in the casualty involved the loss of hydraulic fluid from hydraulic power components. Compliance with these regulations would not have prevented the steering failure on the AMOCO CADIZ. However, the circumstances surrounding the failure are currently under consideration at IMCO. The United States and several other countries have proposed requirements for most new vessels to have the design capability to recover rudder control within 45 seconds after failure of any

steering gear component in service, including a hydraulic power component.

Two commenters recommended adding a requirement for all tank vessels, both foreign and domestic, to have a steering failure alarm system that would be activated whenever a steering command and rudder position did not correspond with one another. One of the commenters also recommended adding a requirement for vessels to have alarms that can detect any major system failure. The Coast Guard has recently proposed a requirement at IMCO for all new commercial vessels to have a steering failure alarm system, and proposed regulations requiring new U.S. vessels to have the alarm are being prepared in a separate rule making proceeding. These proposals are limited to new vessels since rudder recovery time on most existing vessels is substantially longer than the few seconds that a steering failure alarm can save in detecting a steering failure. The recommendation to require alarms that can detect major system failure has not been adopted. The steering failure alarm can provide essentially the same detection capability as the other alarms.

One commenter stated that an entirely separate after emergency steering system should be required in addition to the two remote steering gear control systems required by these regulations. This comment has not been adopted. As explained in paragraph 3, IMCO is currently considering additional requirements for most new vessels to have the design capability to recover rudder control within 45 seconds after failure of a steering gear component in service. This design capability should accomplish the same purpose as a separate emergency steering system.

One commenter stated that the Coast Guard should require manning of the steering gear room on all tankers that call at U.S. ports. This requirement was considered as an alternative in the Regulatory Analysis. The alternative was rejected on the basis of the following explanation provided in the analysis:

The manning of the steering gear room when a vessel is in a maneuvering situation has both advantages and disadvantages as compared to the requirement for a duplicate steering gear control system. A trained crewman might quickly remedy some situations, allowing only a momentary loss of steering; however, in the event of a failure of the control system, a duplicate system would be better in most instances. It is felt that redundancy of design is better than having to rely on people. There was no support at the TSPP Conference for a requirement to man the steering gear room in maneuvering situations as an alternative to requiring a

duplicate control system. The primary reasons for this lack of support was the enforcement aspect. There is no method of enforcing such a requirement nor, at present, is there a procedure which would require the proper training of persons assigned to the steering station.

*b. Comments on Specific Sections.*

§ 164.39(c). One commenter recommended adding a requirement that the steering gear control system required by § 164.39(c) be of different types. His reasoning was that systems of the same type, if they fail in service, will do so at about the same time assuming that they have been utilized for equal amounts of time in service. This comment has not been adopted. System malfunction in service, whether from wear and tear or system defect, can be expected to occur at random intervals.

§ 164.39(d)(2)(ii). Two commenters stated that the phrase "in the steering gear compartment" in § 164.39(d)(2)(ii) should be deleted. One commenter emphasized that, without the revision, the regulation would require relocating the power unit motor starters in some foreign installations to the steering gear room. The change proposed by the commenter is presently being considered by IMCO, and revision of § 164.39(d)(2)(ii) will be considered upon completion of IMCO deliberations. It is expected that IMCO deliberations will be completed by January 1980 or, in any event, well in advance of the June 1, 1981 compliance date for § 164.39(d)(2)(ii).

§ 164.39(f)(2). One commenter recommended that § 164.39(f)(2) be revised to emphasize that fuses may be used in a remote steering gear control system as the required means to disconnect the control system from its power supply. This revision would conflict with U.S. regulations and, accordingly, has not been adopted. The regulations for certification of U.S. vessels in, Title 46, Code of Federal Regulations, require that a disconnecting means be provided at the supply side of and adjacent to fuses. See 46 CFR 111.50-10(c).

§ 164.39(f)(4). One commenter suggested that a large steering wheel be required to allow a visual check on whether rudder orders are being correctly carried out. This comment has not been adopted. The rudder angle indicator required by § 164.39(f)(4) can be used to provide visual verification of compliance with rudder orders.

§ 164.39(k). One commenter recommended that § 164.39(k) be deleted since it was not included in the requirements adopted by the TSPP Conference. Section 164.39(k) requires that the power supply of at least one

steering gear power unit on a new vessel, and its associated remote steering gear control system, be the vessel's main source of electrical power. It is recognized that the TSPP provisions do not include a similar requirement. However, as explained in the notice of proposed rule making, the current practice in tank vessel design and construction is to supply steering gear power units from the main source of electrical power and, as a result, the only principle effect of § 164.39(k) will be to continue this practice. The purpose of § 164.39(k), is to ensure that on a new tank vessel the alternative source of power required by § 164.39(l) will not be the sole source of electrical power to the steering gear installation.

§ 164.39(f)(4)(ii). One commenter recommended that § 164.39(f)(4)(i) be revised to emphasize that placement of the rudder angle indicator must be where it will be visible to both the watch officer and to the helmsman. This recommendation has not been adopted. Section 164.39(f)(4)(i) requires only that the indicator be located on the navigating bridge. A requirement for specific location on the bridge is unnecessary since as a matter of common practice rudder angle indicators are placed in readily visible locations.

§ 164.39(i). One commenter suggested that § 164.39(i) be deleted unless the terms "sound construction" and "reliable performance" in that section can be cross-referenced to a recognized standard. There are no internationally recognized standards pertaining to the construction and reliability of mechanical connections. However, the requirement will nevertheless be useful in providing cautionary guidance to vessel designers.

§ 164.39(j)(2). One commenter questioned whether the phrase "loss of power" in § 164.39(j)(2) refers to a loss of electrical power to the steering gear. The rule refers to loss of electric or hydraulic power to a power unit, but not to any other portion of the steering system.

## Regulations

In consideration of the foregoing, the amendments to Part 164 of Title 33, Code of Federal Regulations, proposed on February 12, 1979 (44 FR 9035) are adopted without change as set forth below.

Issued in Washington, D.C., on November 13, 1979.

R. H. Scarborough,

Vice Admiral, U.S. Coast Guard, Acting Commandant.

### PART 164—TANK VESSELS OF 10,000 GROSS TONS OR MORE

1. The authority citation for Part 164 is revised to read as follows:

Authority: Sec. 2, Port and Tanker Safety Act of 1978 (Pub. L. 95-474); 49 CFR 1.46(n)(4), except as otherwise noted.

2. § 164.01 is revised to read as follows:

#### § 164.01 Applicability.

(a) This part (except § 164.39) applies to each self-propelled vessel of 1600 or more gross tons (except foreign vessels described in § 164.02) when it is operating in the navigable waters of the United States (except the Panama Canal or St. Lawrence Seaway).

3. A new § 164.02 is added to read as follows:

#### § 164.02 Applicability exception for foreign vessels.

(a) This part (including § 164.39) does not apply to foreign vessels that—

- (1) Are not destined for, or departing from, a port or place subject to the jurisdiction of the United States; and
- (2) Are in—
  - (i) Innocent passage through the territorial sea of the United States; or
  - (ii) Transit through navigable waters of the United States which form a part of an international strait.

4. A new § 164.39 is added to read as follows:

#### § 164.39 Steering gear: Tank vessels.

(a) This section applies to each tank vessel of 10,000 gross tons or more, except a public vessel, that—

- (1) Is documented under the laws of the United States (U.S. vessel); or
- (2) Is a foreign vessel that—
  - (i) Transfers oil at a port or place subject to the jurisdiction of the United States; or
  - (ii) Otherwise enters or operates in the navigable waters of the United States, except vessels described in § 164.02.

(b) *Definitions.* (1) "Tank vessel" means a vessel constructed or adapted primarily to carry oil or hazardous materials in bulk in cargo spaces.

(2) "New tank vessel" means a tank vessel—

- (i) For which the building contract is placed after June 1, 1979; or
- (ii) In the absence of a building contract, the keel of which is laid, or which is at a similar stage of construction after January 1, 1980; or

(iii) The delivery of which is after June 1, 1982; or

(iv) Which has undergone a major conversion, which is contracted for after June 1, 1979, or construction work of which is begun after January 1, 1980, or completed after June 1, 1982.

(3) "Major conversion" means, for the purpose of this paragraph, a conversion of an existing tank vessel which substantially alters the dimensions or carrying capacity of the vessel, or changes the type of vessel, or substantially prolongs its life, or which otherwise so alters the vessel that it is essentially a new tank vessel. A major conversion does not include, however, any alteration or modification made to meet the requirements of this section.

(4) "Public vessel", "oil", "hazardous materials", "foreign vessel", and "existing", as used in this section, have the same meanings provided for these terms in Section 5 of the Port and Tanker Safety Act of 1978 (46 U.S.C. 391a).

(5) "Main steering gear" means the steering gear power units (if any) and their ancillary equipment, and the machinery that can apply enough torque to the rudder stock, tiller, or quadrant to effect movement of the rudder and steer the vessel under normal operating conditions.

(6) "Steering gear power unit" means—

(i) In the case of electric steering gear, an electric motor and its associated electrical equipment such as the motor controller and disconnect switch;

(ii) In the case of electro-hydraulic steering gear, an electric motor and its associated electrical equipment and connected pump; and

(iii) In the case of other hydraulic steering gear, a driving engine and connected pump.

(7) "Remote steering gear control system" means a system by which orders for rudder movements are transmitted from the navigating bridge to the steering gear power unit controls.

(8) "Maximum service speed" means the greatest speed that a vessel is designed to maintain at its deepest seagoing draft.

(c) Each tank vessel must have two remote steering gear control systems, except that separate steering wheels or steering levers are not required.

(d) Each remote steering gear control system required by paragraph (c) of this section must—

(1) Be arranged so that if the system in operation fails, the other system can be brought into immediate operation from a position on the navigating bridge;

(2) If electric, be supplied with power by a circuit that is—

(i) Used for no other purpose; and  
 (ii) Is connected in the steering gear compartment to the circuit that supplies power to the steering gear power unit controlled by the steering gear control system; and

(3) Have an audible and visual alarm that activates on the navigating bridge upon loss of power to the system.

(e) The visual alarm required by paragraph (d) of this section must be placed in a location on the navigating bridge where it can be readily seen.

(f) Each tank vessel must have—

(1) A means in the steering gear compartment for controlling the main steering gear;

(2) A means in the steering gear compartment to disconnect each remote steering gear control system from its power supply;

(3) A means to communicate between the navigating bridge and the steering gear compartment;

(4) A rudder angle indicator system that is—

(i) Located on the navigating bridge, and

(ii) Independent of each remote steering gear control system; and

(5) A means for indicating in the steering gear compartment the angular position of the rudder.

(g) Each new foreign tank vessel must have a main steering gear that—

(1) Has two or more identical steering gear power units;

(2) To the extent practicable, is arranged so that a failure in its piping or a steering gear power unit will not impair operation of the remaining part of the steering gear; and

(3) Can, while the vessel is operating at maximum service speed in its deepest seagoing draft with one or more power units—

(i) Put the rudder over from 35 degrees on one side of the vessel to 35 degrees on the other side; and

(ii) Put the rudder over from 35 degrees on either side of the vessel to 30 degrees on the other side is not more than 28 seconds.

(h) Each new U.S. tank vessel must have a main steering gear that—

(1) Meets the requirements for a main steering gear in paragraphs (g)(1) and (g)(2) of this section; and

(2) Can, while the vessel is operating at maximum service speed in its deepest seagoing draft with only one power unit, move the rudder in the manner described in paragraphs (g)(3)(i) and (g)(3)(ii) of this section.

(i) Mechanical couplings, including mechanical connections with a remote steering gear control system, on a new tank vessel must be of sound

construction and designed for reliable performance.

(j) Each steering gear power unit on a new tank vessel must—

(1) Be designed so that—

(i) When operating at the time of power failure, it will start automatically after power is restored unless it is manually shut off during the power failure; and

(ii) It can be brought into operation from a position on the navigating bridge;

(2) Have an alarm that activates on the navigating bridge upon loss of power to the power unit.

(k) The power supply of at least one steering gear power unit on a new tank vessel, and one remote steering gear control system, must be the vessel's main source of electrical power.

(1) Each new tank vessel must have an alternative power supply that can automatically supply power to a steering gear power unit, its associated remote steering gear control system, and the rudder angle indicator system within 45 seconds after loss of the vessel's main source of electrical power.

(m) The alternative power supply required by paragraph (1) of this section must be—

(1) The emergency source of electrical power on the vessel; or

(2) An independent source of power that—

(i) Is located in the steering gear compartment;

(ii) Is not used for any purpose other than as an alternative power supply; and

(iii) Has sufficient capacity for at least one half hour of continuous operation.

(n) A steering gear power unit on a new tank vessel, when supplied by the alternative power supply, must be capable of putting the rudder over from 15 degrees on one side of the vessel to 15 degrees on the other side within 60 seconds when the vessel is operating in its deepest seagoing draft at  $\frac{1}{2}$  maximum service speed or 7 knots, whichever is greater.

(o) Each tank vessel must have operating instructions and a block diagram that clearly and simply explain the change-over procedures for the remote steering gear control systems and steering gear power units on the vessel. The instructions and block diagram must be permanently displayed both on the navigating bridge and in the steering gear compartment on the vessel.

(p) No tank vessel may enter or be operated in confined or congested waters described in § 164.18 unless—

(1) When under way in those waters, at least two of the steering gear power units on the vessel are in operation if

simultaneous operation of the units is practicable; and

(2) Within one hour before entering those waters the steering wheel or lever on the navigating bridge is operated to determine whether the steering equipment is operating properly under manual control.

(q) The master of a U.S. tank vessel shall conduct an emergency steering drill at least once every 3 months and have the results of the drill logged in the vessel's log book. The drill must include at a minimum the following:

(1) Operation of the main steering gear from within the steering gear compartment.

(2) Operation of the means of communications required by paragraph (f)(3) of this section.

(3) Operation of the alternative power supply if the vessel is so equipped.

(r) No tank vessel may enter or be operated in U.S. navigable waters unless the emergency steering drill described in paragraph (q) of this section has been—

(1) Conducted within three months prior to entry; and

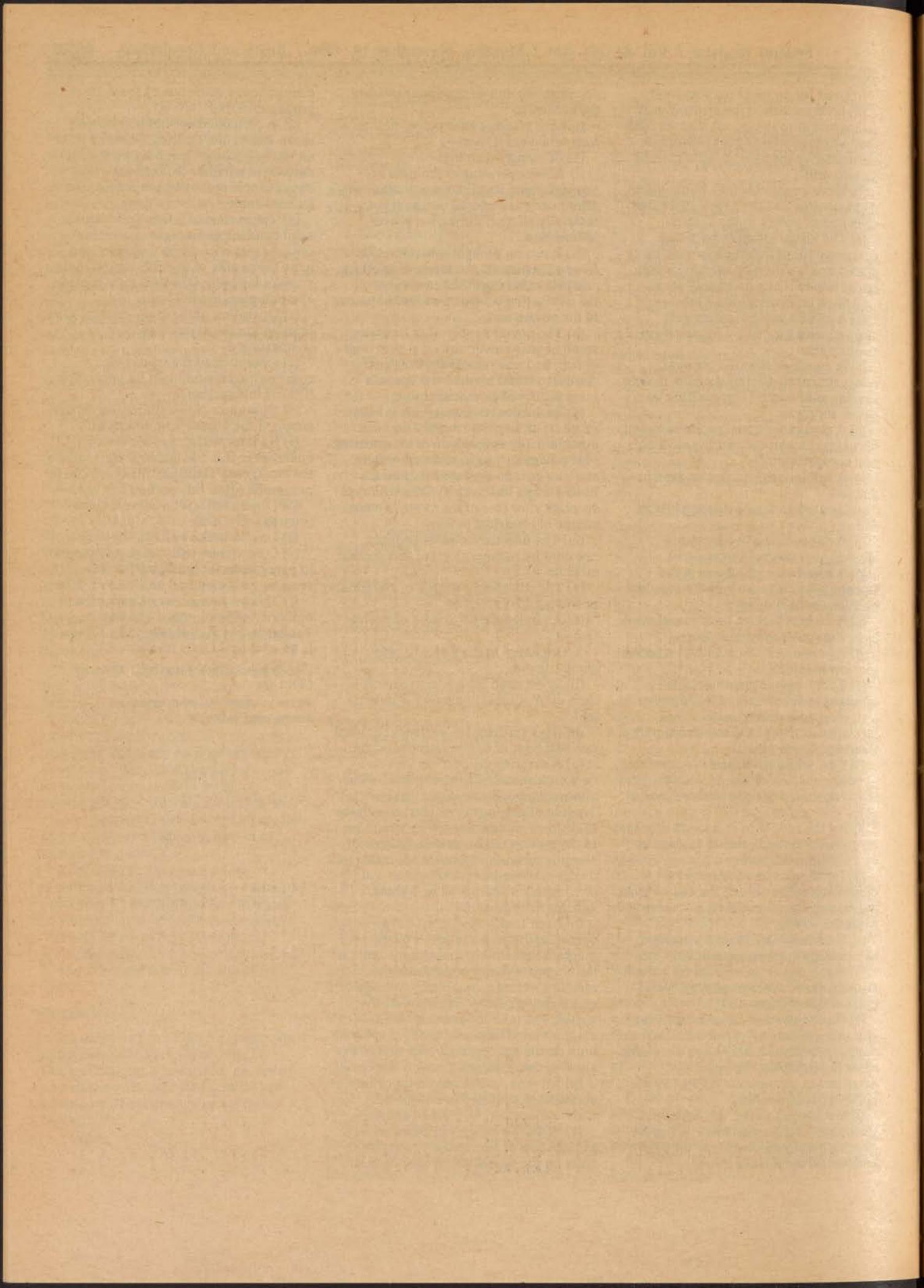
(2) Logged in the vessel's log book.

(s) Compliance with the requirements in paragraphs (c) through (f) of this section is not required until June 1, 1981.

(t) This section is issued under the authority of Section 5 of The Port and Tanker Safety Act of 1978 (Sec. 5, Pub. L. 95-474) (46 U.S.C. 391a)).

(Sec. 5, Pub. L. 95-474 (46 U.S.C. 391a); 49 CFR 1.46)

[FR Doc. 79-35625 Filed 11-16-79; 8:45 am]  
 BILLING CODE 4910-14-M



# Federal Register

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Monday  
November 19, 1979

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## Part VI

### Council on Wage and Price Stability

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Noninflationary Pay and Price Behavior;  
Adoption of Addendum to Form PM-1  
and Optional Alternative Form PM-1-A  
and Request for Submission of Form;  
Questions and Answers on Anti-  
Inflationary Pay Standard

**COUNCIL ON WAGE AND PRICE STABILITY****6 CFR Part 705****Questions and Answers on the Anti-Inflationary Pay Standard**

**AGENCY:** Council on Wage and Price Stability.

**ACTION:** Questions and Answers on the Anti-Inflationary Pay Standard.

**SUMMARY:** On October 2, 1979, the Council published Anti-Inflationary Pay and Price Standards and Procedural Rules for the Anti-Inflation Program and on October 12, 1979, and October 19, 1979, the Council published Questions and Answers. The Council continues to receive many questions concerning the pay standard. In response to these questions, the Council is publishing the following Questions and Answers. The Council will publish Questions and Answers on a regular basis as questions of general application arise under the Pay and Price Standards, the Procedural Rules, or the published Questions and Answers.

**EFFECTIVE DATE:** November 13, 1979.

**ADDRESS:** Written comments and/or questions should be addressed to the Office of General Counsel, Council on Wage and Price Stability, 600 17th Street, NW., Washington, D.C., 20506.

**FOR FURTHER INFORMATION CONTACT:** Daniel Duff, Assistant General Counsel (202) 456-6210.

Dated: November 13, 1979.

**R. Robert Russell,**

*Director, Council on Wage and Price Stability.*

**Questions and Answers****II. The Pay Standard**

- Q.** The Council permits a 1-percent self administered catch-up for employee units in compliance with the pay standard but not covered by COLA provisions during the first program year. Are employee units covered by limited COLA provisions eligible for the non-COLA catch-up?
- A.** If the combination of fixed pay increases and COLAs (of any type) amounted to less than 8 percent in the first program year, the employee unit is eligible for a self-administered catch-up equal to the difference between 1 percent and the amount of chargeable first-year fixed pay increases and COLAs in excess of 7 percent.
- Q.** Is a company that made a good-faith effort to comply with the pay standard in the first program year, but exceeded the standard due to unforeseen events beyond its control, eligible for the self-administered 1-percent catch-up?

- A.** If the chargeable increase was less than 8 percent and there was no COLA, such a company would be eligible for the difference between 1 percent and the amount in excess of 7 percent.
- Q.** If a company used the fixed-population method in the first program year and plans to continue using this method in the second program year, how is the fixed population determined?
- A.** The fixed population in the second program year consists of the workers who were employed both at the beginning and at the end of the second program year.
- Q.** Which employees should be excluded under the low-wage exemption during the interim period?
- A.** Until the Council acts on the recommendations of the Pay Advisory Committee on the subject of the low-wage exemption, companies should exclude from all pay calculations those employees who were excluded under the low-wage exemption in the first program year and workers hired during the second program year (or during the interim period) at a straight-time wage rate of no more than \$4.00 per hour.
- Q.** Council exception decisions for nonunion employee units cite October 1, 1978, through September 30, 1979, as the program year. Does this mean that the exception expires September 30, 1979, for these compliance units?
- A.** No. The exception extends through the company's program year for which the exception was sought, or, in the case of formal annual pay plans, through the end of the company's pay-plan year for which the exception was sought.

[FR Doc. 79-35496 Filed 11-14-79; 12:01 pm]

**BILLING CODE 3175-01-M**

**6 CFR Parts 705, 706 and 707****Noninflationary Pay and Price Behavior; Adoption of Addendum to Form PM-1 and Optional Alternative Form PM-1-A, and Request for Submission of Form**

**AGENCY:** Council on Wage and Price Stability.

**ACTION:** Adoption of reporting forms.

**SUMMARY:** The Council is revising a quarterly reporting form, designated as Form PM-1, by adding an Addendum, and is adopting an optional alternative form called Form PM-1-A.

**EFFECTIVE DATE:** November 19, 1979.

**FOR FURTHER INFORMATION CONTACT:** Anne Marie Hummel, Office of Price Monitoring, Council on Wage and Price Stability, 600 17th Street, NW., Washington, D.C. 20506, (202/456-7107).

**SUPPLEMENTARY INFORMATION:** On May 2, 1979, the Council adopted Form PM-1 to collect quarterly data concerning price behavior during the first program

year. (44 FR 25800) This form was approved by the Office of Management and Budget (OMB) in accordance with the Federal Reports Act under No. 116-R0357. Form PM-1 was used for two quarters to collect data on the extent to which companies have complied with the voluntary price standards.

However, for the final quarter of the first program year, the Council sought OMB approval to modify Form PM-1. OMB approved the use of Form PM-1 with an Addendum and the optional alternative Form PM-1-A under the same clearance number.

The Council will shortly send Form PM-1 with Addendum and Form PM-1-A to companies. The Council requests that companies submit either PM-1 with an Addendum or PM-1-A, but not both. Generally, this request applies to a company that had, or is part of a parent company that had, consolidated net sales or revenues of \$250 million or more in its last complete fiscal year prior to October 2, 1978, and any other company designated by the Council. (See § 706.27, 44 FR 23777, April 20, 1979.) Financial institutions covered by Section 705C-9, insurance companies covered by section 705C-5 and 705C-6, and electric and gas utilities covered by section 705C-8 are not requested to submit this information.

The addendum to Form PM-1 includes important corrections to the directions of Form PM-1. Some companies will find that demonstration of their compliance requires data not requested on Form PM-1, and these additional data are specified in the Addendum.

Form PM-1-A is available as an alternative to the Form PM-1 with an Addendum. The structure of this form is very similar to the form the Council will use during the second program year and its design is based on comments from the business community and others. We believe it is a simpler and more effective instrument than its predecessor. The choice of either Form PM-1 with the Addendum or Form PM-1-A was intended to minimize reporting burden of companies.

In order to simplify the choice between the two forms, the Council wishes to identify a number of salient differences between them. The original Form PM-1 with the Addendum is distinguished from the new Form PM-1-A because:

- Use of PM-1 requires careful attention to an errata list regarding the directions for the original form, while the directions for PM-1-A are correct as they appear on the form;
- The format of PM-1 is more complicated than PM-1-A;

- The addendum to Form PM-1 specifies additional data which are requested directly on PM-1-A.

The burden of supplying information to the Council and the Council's monitoring task will be substantially reduced if the following points are kept in mind:

- The information filed on either form should reflect data for the fourth quarter of the first program year;
- Even if a company assesses compliance on a profit-margin basis, it should still file Schedules A-D, as applicable, as well as Schedule E;
- If a company has furnished the Council with any of the data requested by either form, it need not furnish them again, although it should identify for the Council the document (including page references) containing such data and the date on which they were submitted. (Section 706.20)

Information furnished to the Council pursuant to this request will be treated as confidential in accordance with section 4(f) of the Council on Wage and Price Stability Act, 12 USC 1904, note, and 6 CFR Part 702, 44 FR 59166 (October 12, 1979).

A completed Form PM-1 plus Addendum or Form PM-1-A, together with supporting schedules, should be sent to the Council no later than December 1, 1979, addressed to:

Anne Marie Hummel, Office of Price Monitoring, Council on Wage and Price Stability, 600 17th Street, N.W., Washington, D.C. 20506.

The Addendum to Form PM-1 and Form PM-1A are hereby adopted as Council forms, and are printed below. Form PM-1 was previously printed in the Federal Register at 44 FR 25800.

Issued in Washington, D.C., November 13, 1979.

R. Robert Russell,  
*Director.*

BILLING CODE 3175-01-M

FORM PM-1

ADDENDUM

OMB No. 116-RO357

1. GENERAL

This addendum clarifies and corrects Form PM-1 and the instructions to the form for the fourth quarter of the first program year. It also asks for two additional items from some companies.

If your firm has been specifically requested to complete the form by the Council or if it has annual sales of more than \$250 million, it should complete and submit Form PM-1 as corrected. (6 CFR 706.27) Only firms claiming insufficient product coverage or whose compliance is based on a conditioned profit-margin exception should submit the appropriate additional items in IV.

A company complying with the profit margin limitation exception because of uncontrollable price increases in the goods and services it buys should file price or gross-margin data in addition to profit data. These companies should, therefore, submit the appropriate Schedules A-D, in addition to Schedule E.

II. CORRECTIONS TO FORM PM-1

1. Schedule A, item 2(d) should read:

(1)  Yes (2)  No (If "No" explain)

2. Schedule B, item 5i(2) should read:

Gross margin trend on sales  $(\sqrt{\text{item 5i(1)(c)} - 1}) \times 100$

3. Schedule B, item 5i(3) should read:

(item 4i(8))  $\times \sqrt{5i(1)(c)}$

4. Schedule D, item 4b(4) should read:

Plus: Physical volume increase \_\_\_\_\_ %  $\times$  (item 4b(3))

5. Schedule E, item 1b(3) should read:

Insufficient product coverage. (Section 705A-5(b))

6. Schedule E, item 3i(2) should read:

(Base Year Revenues \$ \_\_\_\_\_ )

III. CORRECTIONS TO THE INSTRUCTIONS TO FORM PM-1

1. Page S/D-2, item 4b(2) thru (4), first line should read:

Multiply the amount of line 4b(1)

2. Page S/E-3, item 3i, first sentence should read:

Check the box which describes the method the company chose to calculate its base-year profit.

3. Page S/E-3, item 3i, ninth line should read:

determined in item 2ii above.

IV. ADDITIONAL ITEMS1. Schedule A: Product Lines Excluded from Price Calculations by Sections 705A-3 (For companies claiming insufficient product coverages, only.)

A. should be filled out only by those companies claiming insufficient product coverage under Section 705A-5(a). If a Company's adjusted net revenues during the four quarters prior to the program year are less than 25 percent of a company's net revenues, the company need not comply with the price standard or the profit-margin limitation. These companies should show the base-year revenues and the total of all exclusions of 705A-3(a) to 705A-3(e).

	Amount (Thousands of dollars)		
	Bil.	Mil.	Thou.
<b>A. Exclusions of 705A-3(a) to 705A-3(e)</b>			
(1) Total company net revenues for base year			
(2) Subtotal of exclusions 705A-3(a) to 705A-3(e) for base year			

B. should be filled out only by those companies claiming insufficient product coverage under 705A-5(b). If products excluded under 705A-3(f) to 705A-3(i) account for one-third or more of the company's adjusted net revenues for the program year, the company should comply with the profit margin limitation for the company as a whole and should satisfy the price deceleration standard for nonexcluded products.

	Amount (Thousands of dollars)		
	Bil.	Mil.	Thou.
<b>B. Exclusions of 705A-3(f) to 705A-3(i)</b>			
(1) Total company adjusted net revenues for program year			
(2) Subtotal of exclusions 705A-3(f) to 705A-3(i) for program-year			

2. Schedule E: Profit Margin Data for Companies With Conditioned Profit Margin Exceptions

Companies granted or authorized by the Council to self-administer conditioned profit margin exceptions should submit the following data (not on a cumulative basis).

A. Base-quarter Data - Enter net sales or revenues and profits for the company's base quarter. The base quarter is the last complete calendar or fiscal quarter prior to October 2, 1978. The percentage physical volume increase, item 3, is the change in physical volume from the base quarter to the corresponding quarter of 1979.

		Bil.	Mil.	Thou.
1.	Net sales or revenue in base quarter			
2.	Profits in base quarter			
3.	Percentage physical volume increase (Percentage to two decimal places)			%

B. Fourth Quarter Program Year Data - Enter the total net sales or revenues, and profits for the fourth quarter of the program year. Calculate the quarterly profit margin. Note: Do NOT cumulate quarterly data.

	Net sales (Thousands of dollars) (1)			Profit (Thousands of dollars) (2)			Profit margin (Percentage to two decimal places) (3)
	Bil.	Mil.	Thou.	Bil.	Mil.	Thou.	
	Fourth quarter						

PM-1A (Instructions)

Form Approved  
O.M.B. No. 116-R0357Optional Alternative  
to Form PM-1EXECUTIVE OFFICE OF THE PRESIDENT  
COUNCIL ON WAGE AND PRICE STABILITY

## INSTRUCTIONS FOR PREPARATION OF REPORT ON PRICES, SALES, AND PROFITS

### Part I - INTRODUCTION AND GENERAL INSTRUCTIONS

#### A. Purpose of Form PM-1A

Form PM-1A, Report on Prices, Sales, and Profits, is designed to help the Council on Wage and Price Stability (CWPS) monitor compliance with the price standards. The form has been revised to reflect comments and suggestions of companies and to obtain information on profits and prices in the last quarter of the base year. The data collected by Form PM-1A will be used to determine the extent to which firms have complied with the price deceleration standard, the modified price standards, or the profit-margin limitation.

#### B. Authority for Form PM-1A and Publication of Standards

The Council on Wage and Price Stability Act, 12 U.S.C., Section 1904, note, authorizes the Council to collect data on prices, sales, and profits, such as those requested on Form PM-1A. While the submission of data is voluntary, the Council views the access to timely and uniformly defined data as essential to the effective monitoring of compliance with the standards.

The standards are available in one publication, Pay and Price Standards: A Compendium, Executive Office of the President, Council on Wage and Price Stability, 600 17th Street, NW, Washington, D.C. 20506. This publication collects the material below from the Federal Register:

#### Part 705 - Pay and Price Standards

43 FR 60772-60777	12/28/78
44 FR 5336-5337	1/25/79
44 FR 9582-9585	2/13/79
44 FR 17910-17916	3/23/79
44 FR 23776-23777	4/20/79

#### Part 706 Procedural Rules

44 FR 1346-1351	1/04/79
44 FR 9585-9587	2/13/79
44 FR 17916-17917	3/23/79
44 FR 23777-23779	4/20/79

#### Form PM-1 (superseded)

44 FR 25800-25809	5/02/79
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#### Questions and Answers

43 FR 60777-60783	12/28/78
44 FR 5362-5366	1/25/79
44 FR 9583 and 9585	2/13/79
44 FR 32338-32342	6/05/79

#### Implementation Guide

44 FR 5339-5361 1/25/79

#### C. Confidentiality of Information

All information furnished to the Council on Form PM-1A will be treated as confidential in accordance with Section 4(f) of the Council on Wage and Price Stability Act, 12 U.S.C. 1904, note, and 6 CFR Part 702, 44 FR 59166, (October 12, 1979).

#### D. Suggestions for Improvement

The Council welcomes suggestions for improving this form. In general, it wishes to both obtain the data needed to meet its responsibility for monitoring compliance with the price standards and place the minimum reporting burden possible on the reporting companies.

#### E. Who Should File

Any company specifically requested by the Council to do so should file Form PM-1A, and any other company that had, or is part of a parent company that had, consolidated net sales or revenues of \$250 million or more in its last complete fiscal year prior to October 2, 1978 (including both foreign and domestic operations) should also file. Regardless of size, companies in the following industries should not file Form PM-1A:

1. Financial institutions, Section 705C-9,
2. Insurance companies, Sections 705C-5 and 705C-6, and
3. Electric and gas utilities, Section 705C-8.

If a company has not filed an organizational plan for compliance with the standards, it should submit one along with its PM-1A filing. Separate PM-1A forms should be filed for each company as specified in the parent company organization plan.

When a parent company chooses to disaggregate a consolidated entity for compliance purposes, each separately identified entity must meet the requirements for the term "company" as defined in Subpart 705D of the Voluntary Standards for Noninflationary Pay and Price Behavior and in Section 706.21 of the Special Procedural Rules.

**F. What to File**

Each reporting company should submit the first section of Form PM-1A, Company Report, and the appropriate schedules. This will usually include one or more of Schedules A, B, C, and D. All companies should complete Schedule E, items 1 through 3.

The schedules for Form PM-1A are:

- Schedule A - Report of Price Data
- Schedule B - Report of Wholesale and Retail Trade Percentage Gross Margin
- Schedule C - Report of Food Manufacturers and Processors - Gross Margin
- Schedule D - Report of Petroleum Refiners - Gross Margin
- Schedule E - Report of Profit-Margin Data

Most reporting companies will submit only one of these schedules plus items 1 through 3 on Schedule E. However, if a reporting company is applying more than one

of the standards to its operations, it should submit all appropriate schedules. Those companies that use the profit-margin limitation should file a complete Schedule E and also should submit the relevant Schedules A, B, C, or D if the data can be calculated. Further, any company using the profit-margin limitation because of insufficient product coverage (Section 705A-5(b)) should identify all excluded revenues on Schedule A, item 16, and should submit price deceleration data for nonexcluded items on Schedule A. Companies do not need to resubmit information already filed with the Council but should indicate which documents contain the information (see 706.20).

**G. Where to File**

Form PM-1A and attachments should be sent to:

Office of Price Monitoring  
Council on Wage and Price Stability  
Winder Building  
600 17th Street, NW  
Washington, D.C. 20506

**Part II - SPECIFIC INSTRUCTIONS****COMPANY REPORT --  
REPORT ON PRICES, SALES,  
AND PROFITS**

Instructions for this report are shown with items on the report form.

**SCHEDULE A --  
REPORT OF PRICE DATA**

**Item 1. Name of Reporting Company -** Self explanatory.

**Item 2. Base-Period Ending Date -** The base-period is measured from the last complete calendar or fiscal quarter of 1975 to the corresponding quarter of 1977.

**Item 3. Was the Suggested CWPS Formula Used? -** The CWPS formula for determining the base-period rate of price change is outlined in Section 705D and illustrated in the Implementation Guide. If another method was used to determine the rate of price change, it should be explained in an attachment to Schedule A. Subsidized companies should follow the formula outlined in the Compendium, pages 5-6 to 5-8.

**Item 4. Were Sampling Techniques Used? -** Self explanatory.

**Item 5. Were Average Realized Prices Used? -** The base-period rates of price change should be calculated using the average realized prices of the first and last quarters of the base period. Prices may be measured at the end of quarters if these end-of-quarter prices are representative of average prices throughout the quarter. List prices may be used if they move closely with transaction prices. If average realized prices were not used, indicate the method employed in an attachment to Schedule A.

**Item 6. Total Covered Net Sales or Revenues in the Base Period that were Used in Price Calculations -** Enter total covered net revenues or sales after the exclusions of Section 705A-3 for the last complete calendar or fiscal quarter of 1975.

**Item 7. Sales-weighted Index of Price Change -** The calculations for the sales-weighted average rate of price change for the two-year base period are illustrated in the Implementation Guide.

The sales-weighted average rate of price change is calculated as the weighted average changes of a company's realized product prices from the last complete calendar or fiscal quarter immediately preceding the base period to the last quarter of the base period with each product line weighted by the share of its sales to total covered sales.

For an illustrative example, see the Implementation Guide, Compendium, page 5-4.

For subsidized companies, see the Implementation Guide, Compendium, page 5-6.

**Item 8. Base-Period Rate of Price Change** This is the square root of item 7, minus 1, times 100. If item 7 were 1.1683, the base-period rate of change would be  $(\sqrt{1.1683} - 1.0) \times 100 = 8.09\%$ .

**Item 9. Price Deceleration Percentage** - For the first program year, the price deceleration standard percentage is 0.5%.

**Item 10. Subtotal** - Subtract item 9 from item 8.

**Item 11. Pay Deceleration Passthrough** - Pay deceleration calculations are illustrated in the Implementation Guide, Section B3, Compendium, page 5-4. Briefly, where compliance with the pay standard holds labor-cost increases in the program year (including costs, such as government-mandated labor costs, that are excluded from the application of the pay standard) to more than one-half percentage point below the base-period rate of increase, firms are expected to pass through these lower labor-cost increases to the consumer in the form of lower price increases.

**Item 12. Allowable Program-Year Rate of Price Change** - Subtract item 11 from item 10. This will normally be the allowable program-year rate of price change. However, the maximum allowable rate is 9.5% and any company with a program-year rate of 1.5% or less will be considered to be in compliance regardless of its base-period rate of change.

**Item 13. Allowable Rate of Price Change through the Reporting Quarter** - If the fourth quarter of the program year is being reported, this item is the same as item 12.

Section 705A-4, however, specifies that no more than 50% of the allowable program-year rate of price change may be taken in the first six months of the program year and no more than 75% in the first nine months.

Multiply item 12 by the appropriate fraction for the quarter and enter the result here.

**Item 14. Actual Rate of Price Change through the Reporting Quarter** - The rate of price change should be calculated as the rate of change from the base quarter to the reporting quarter. It may be calculated using this formula:

$$\text{Rate of price change} = \left[ \left( \sum_i S_i \frac{P_i(rQ)}{P_i(bQ)} \right) - 1 \right] \times 100$$

Where:

$P_i(rQ)$  = The price change of the  $i$ th product line in the reporting quarter,

$P_i(bQ)$  = the price of the  $i$ th product line in the base quarter,

$S_i$  = the  $i$ th product's share in covered sales or revenues in the base quarter, and

$\sum_i$  = the summation sign, where the subscript  $i$  includes all product lines not excluded under 705A-5.

**Item 15. Supporting Documentation for Schedule A** - Record the page numbers of any supporting documentation for Schedule A.

**Item 16. Sales Excluded from Price Calculations by Section 705A-3.**

#### IMPORTANT - PLEASE READ

**Item 16 A** should be filled out by only those companies claiming insufficient product coverage under Section 705A-5(a). If a company's adjusted net revenues during the four quarters prior to the program year are less than 25 percent of a company's net revenues, the company need not comply with the price standard or the profit-margin limitation. These companies should show the base-year revenues and the total of all exclusions of 705A-3(a) to 705-3(e) in item 16 A.

**Item 16 B** should be filled out by only those companies claiming insufficient product coverage under 705A-5(b). If products excluded under 705A-3(f) to 705A-3(i) account for one-third or more of the company's adjusted net revenues for the program year the company should comply with the profit-margin limitation for the company as a whole and should satisfy the price deceleration standard for non-excluded product.

#### Item 17. Product-Line Information

##### Number of Product Lines Reported

Enter the number of product lines reported by the company in determining the base-period rate of price change.

##### Individual Product-Line Data

For each product line, the company should provide the following information:

Column (a) - brief description of the product line

Column (b) - four-digit SIC number, optional

Column (c) - net sales or revenues in the last complete calendar or fiscal quarter of 1975 or sales used for weighting purposes in arriving at the total company annual rate of price change during the base period.

Column (d) - base-period index of price change (two-year rate)

Column (e) - base-period rate of price change. This is the square root of column (d), minus 1, times 100. See item 8 above.

Column (f) - base-quarter net sales or revenues for this product line (the base quarter is either (1) the company's last complete fiscal quarter prior to October 2, 1978, or (2) the calendar quarter July 1, 1978, through September 30, 1978)

Column (g) - program-year-to-date rate of price change through the reporting quarter

**SCHEDULE B -- WHOLESALE  
AND RETAIL TRADE  
PERCENTAGE GROSS MARGIN**

**Item 1. Name of Reporting Company** -- Self explanatory.

**Item 2. Method Selected for Compliance in Program Year** -- Indicate the method used for complying with the percentage-gross-margin standard in the program year. The company may choose to use the base-year percentage gross margin or the gross-margin trend method. See the Implementation Guide, *Compendium*, pages 5-10 to 5-12, and Section 705C-2 for details on calculations.

**Item 3. Inventory Method** -- Indicate the inventory method chosen by the company for compliance with the standards.

IRS has determined that companies may use FIFO for reporting to CWPS while using LIFO for reporting to others.

**Items 4 to 11. Base-Year Percentage Gross-Margin Method** -- For items 4 through 11, enter the appropriate data for the company's base year (last four quarters completed prior to October 2, 1978).

Calculate the allowable percentage gross margin by dividing item 10 by item 4.

Companies that choose to use the base-year percentage gross margin will use item 11 as their allowable program-year percentage gross margin.

**Items 12 to 16. Gross-Margin Trend Method** -- Companies that choose to use the gross-margin trend should complete this section.

Item 15, the annualized trend, is the square root of the gross-margin trend, minus 1.

**Items 17 to 20. Program-Year Compliance Test by Quarters** -- Each company should show quarterly data, not cumulative data, for each completed quarter of the program year. When reporting allowable percentage gross margin by quarters, a company may show seasonal variations. If it is using the gross-margin trend method, it can show a rising trend over the year if the sum of the quarters meets the goal for the year.

**Item 21. Supporting Documentation for Schedule B** -- Record the page numbers of any supporting documentation for Schedule B.

**SCHEDULE C --  
REPORT OF FOOD MANUFACTURERS  
AND PROCESSORS -- GROSS MARGIN**

**Item 1. Name of Reporting Company** -- Self explanatory.

**Item 2. Method Selected for Compliance in the Program Year** -- Indicate whether the company has chosen to use the gross margin for the base quarter or the alternative gross margin.

**BASE-QUARTER GROSS MARGIN**

**Item 3. Adjusted Net Sales** -- Enter net sales (adjusted for discounts, returns, coupons, etc.) for the base-quarter (ending prior to October 2, 1978).

**Item 4. Food Ingredients Used in Manufacturing** -- These are the cost of food ingredients in all the food products sold in the quarter and are defined as any agricultural or fishery commodities that undergo further refining, processing, or manufacturing prior to being sold for ultimate consumption.

**Item 5. Base-Quarter Gross Margin** -- This is the difference between items 3 and 4.

**Items 6 to 8. Alternative Gross Margin** -- This section should be filled out by those companies choosing to use the alternative gross-margin method.

**QUARTERLY ALLOWABLE GROSS-MARGIN DATA:  
COMPLIANCE TEST**

**Items 9 to 36.** For each quarter, enter the applicable base-quarter gross margin or the alternative gross margin. Take the allowable margin growth for the quarter. If the company is claiming a physical volume increase, please show both the percentage increase and the dollar amount associated with this percentage increase. The dollar amount is the percentage increase times the subtotal of the allowable margin growth for the quarter and the base-quarter gross margin or alternative gross margin.

**Item 37. Supporting Documentation for Schedule C** -- Record the page numbers of any supporting documentation for Schedule C.

**SCHEDULE D -- REPORT OF PETROLEUM  
REFINERS -- GROSS MARGIN**

**Item 1. Name of Reporting Company** -- Self explanatory.

**Item 2. Were the Required Adjustments Made for Changes in Input Mix?** -- If the adjustments were not made, explain in an attachment. See Section 705C-7.

**Item 3. Were Adjustments Made for Changes in Product Sales Mix?** If "yes," explain in an attachment to this schedule.

#### BASE-QUARTER GROSS MARGIN

**Item 4. Adjusted Net Sales** - Adjusted net sales are for the base quarter, which is the last complete calendar or fiscal quarter before October 2, 1978.

**Item 5. Cost of Petroleum Products Used in Refinery Operations** Enter the cost of all petroleum products further processed in all products sold during the base quarter. These products, see 705C-7, are any petroleum, petroleum products, natural gas, natural gas liquids, and natural gas liquid products used in refinery operations.

**Item 6. Gross Margin in the Base Quarter** This is the difference between items 4 and 5.

**ALLOWABLE GROSS MARGIN BY QUARTERS** - Each company should show quarterly not cumulative data. The test for compliance, however, remains an annual test.

**Items 7 to 34.** For each quarter, enter the gross margin of the base quarter and the allowable gross margin growth for that quarter as shown on the form. If the company is claiming a physical volume increase, enter both the percentage increase and the dollar value (which can be obtained by multiplying the percentage volume increase by the subtotal of the base-quarter gross margin and the allowable margin growth for the quarter).

**Item 35. Supporting Documentation for Schedule D** - Record the page numbers of any supporting documentation for Schedule D.

### SCHEDULE E - REPORT OF PROFIT-MARGIN DATA

**Note:** Items 1 through 3 should be completed for every reporting company. All companies complying with the profit-margin limitation should fill out the complete schedule. Non-profit institutions may use this schedule but should substitute "operating surplus" for "profits" wherever the word "profits" appears. (See Compendium, O6, page 4-8.)

**Item 1. Name of Reporting Company** - Self explanatory.

**Item 2. Profit Margin** - Enter the ending dates of each of the last three fiscal years completed prior to October 2, 1978, and the net sales or revenues and profits for each year and calculate the profit margins.

**Profit** is defined as the sum of item 14 and items 11 through 13 minus items 7 through 10 in 17 CFR Section 210.5-03. Briefly, profit is income or loss before income tax expense minus dividend income, interest, or profit on securities and miscellaneous other income, plus interest expense and amortization of debt discount and expense, losses on securities, and miscellaneous income deductions.

**Net sales or revenues** are defined as (1) net sales of tangible products (gross sales less discounts, returns, and allowances), (2) operating revenues such as royalties,

rents, and the sale of services and intangible products (e.g., engineering, research and development, and other professional services). This definition is consistent with 17 CFR Section 210.5-03, items 1A, 1B, and 1C.

**Item 3. Best Two of Last Three Years' Sales-Weighted Average Profit-Margin Test** - Choose two of the last three years that will give the largest profit margin and enter the total sales, profits, and profit margin for these two years.

**Item 4. Basis for Use of Profit-Margin Limitation** - If a company is complying with the profit margin, the rest of Schedule E should be completed.

Indicate the reason why the company is using the profit margin limitation.

#### TEST ONE: Profit-Margin Limitation

**Item 5. Profit-Margin Limitation Percentage - Best Two of Last Three Years** - Copy from item 3, column (c).

**Item 6. Quarterly Data for Program Year** - Enter the total net sales or revenues, and profits for the fourth completed quarter of the program year. Calculate the quarterly profit margins. **Note:** Do NOT add quarterly data.

**Item 7. Program-Year Profit Margin** - Enter the data for the full year.

#### TEST TWO: Base-Year Dollar Profit Plus Allowable Growth

This test is for an annual basis only.

**Items 8 to 11.** Enter the total base-year profits, which can be either (1) profit earned during the four complete fiscal or calendar quarters prior to the program year, or (2) the average profit margin determined in item 3c above multiplied by sales or revenues in the last four complete fiscal quarters prior to the program year. If method (2) is chosen, show both actual and adjusted base-year profits.

Then multiply item 9, total base-year profit, by 0.065 to arrive at allowable program-year growth in dollars (item 10).

If the company is claiming a physical volume increase, it should show the percentage increase claimed in item 12 and the dollar value attributable to this in item 13 (line 12 times line 11).

The sum of lines 11 and 13 will be the allowable program-year profit.

**Items 15 to 17. (To be completed only by companies with conditioned or authorized self-administered profit-margin exceptions). Base-Quarter Data** - Only companies with conditioned exceptions need to fill out this section. Enter net sales or revenues and profits for the company's base quarter. The base quarter is the last complete calendar or fiscal quarter prior to October 2, 1978. The percentage physical volume increase, item 17, is the change in physical volume from the base quarter to the corresponding quarter of 1979.

**Item 18. Supporting Documentation for Schedule E** - Record the page numbers of any supporting documentation for Schedule E.

Form Approved: O.M.B. No. 116-R0357

PM-1A EXECUTIVE OFFICE OF THE PRESIDENT COUNCIL ON WAGE AND PRICE STABILITY REPORT ON PRICES, SALES, AND PROFITS		NOTICE - All information furnished to the Council on Form PM-1A will be treated as confidential in accordance with Section 4(f) of the Council on Wage and Price Stability Act, 12 U.S.C. 1904, note, and 6 CFR Part 702, 44 FR 59166 (October 12, 1979).				COMPANY REPORT
REPORT FOR QUARTER ENDING: _____, 1979		OFFICE USE ONLY	P1			
		Company number				
		Primary SIC				
1. Reporting status (Mark (X) one)						
P2 1 Consolidated parent						
2 Disaggregated company						
3 Unconsolidated company						
2. Is this an original filing for this quarter or a resubmission?						
1 Original filing						
2 Resubmission						
3. How many quarters of the program year are being reported on this form? (Mark (X) one)						
P3 1 One quarter or three months						
2 Two quarters or six months						
3 Three quarters or nine months						
4 Four quarters or twelve months						
4. Date of this report						
P4 Year Month Day						
5a. Name and address of parent company - A parent company is one that is not directly or indirectly controlled by another company. Enter the name of the parent company and the address of its executive office. Please type or print.						
P5 Name of parent company						
Address (Number and street)						
City or town			State	ZIP code		
5b. Ending date of most recent fiscal year completed prior to October 2, 1978						
P6 Year Month Day						
5c. Revenues or sales in most recent complete fiscal year - Enter the total consolidated net sales or revenues of the parent company for the fiscal year indicated in item 5b above. (Report in thousands of dollars.)						
P7 Bil. Mil. Thou.						
5d. Principal line of business - Describe the parent company's principal line of business and enter the appropriate four-digit SIC number.						
P8 SIC number						

CONTINUE ON REVERSE SIDE

6a. Name and address of reporting company covered by this filing - Fill in this item and items 6b, c, and d only if the reporting company is not a parent company (reported in item 5a). Company is defined in Section 705D. Enter the name and address of the reporting company.			
P9	Name		
	Address (Number and Street)		
	City	State	ZIP code
6b. Ending date of most recent fiscal year completed prior to October 2, 1978			
	Year	Month	Day
P10	<input type="text"/>	<input type="text"/>	<input type="text"/>
6c. Revenues or sales of most recent fiscal year completed prior to October 2, 1978 - Enter the total consolidated net sales or revenues of the reporting company for the fiscal year indicated in item 6b. (Report in thousands of dollars.)			
P11	Bill.	Mil.	Thou.
6d. Principal line of business - Describe the reporting company's principal line of business and enter the appropriate four-digit SIC number.			
	SIC number		
P12	<input type="text"/>	<input type="text"/>	<input type="text"/>
7. Schedule attachments - Indicate the number of schedules of each type being filed and see part I, item F, "What to File," in the instruction booklet.			
P13	<input type="text"/>	SCHEDULE A - Report of Price Data	
P14	<input type="text"/>	SCHEDULE B - Report of Wholesale and Retail Trade	
P15	<input type="text"/>	SCHEDULE C - Report of Food Manufacturers and Processors	
P16	<input type="text"/>	SCHEDULE D - Report of Petroleum Refiners	
P17	<input type="text"/>	SCHEDULE E - Report of Profit Margin Data	
CERTIFICATION	Name of Chief Executive Officer or authorized designee		Title
	Company name		Telephone (Area code, No., Ext.)
	To the best of my knowledge and belief, the data submitted herewith are factually correct, complete, and prepared in accordance with the applicable instructions. It is requested that the information submitted herewith be considered as confidential within the meaning of Section 4(f) of the Council on Wage and Price Stability Act, 12 U.S.C. 1904, Note, and 6 CFR Part 702, 44 FR 59166 (October 12, 1979).		
	Signature		Date
RETURN TO	Return this form including relevant schedules and other attachments:  Office of Price Monitoring Council on Wage and Price Stability Winder Building 600 17th Street N.W. Washington, D.C. 20506		
PLEASE NOTE	Print "Form PM-1A" in the lower left corner of the return envelope.		

Form Approved: O.M.B. No. 116-R0357

**FORM PM-1A**  
 EXECUTIVE OFFICE OF THE PRESIDENT  
 COUNCIL ON WAGE AND PRICE STABILITY  
**REPORT OF PRICE DATA**

**NOTICE** - All information furnished to the Council on Form PM-1A will be treated as confidential in accordance with Section 4(f) of the Council on Wage and Price Stability Act, 12 U.S.C. 1904, note, and 6 CFR Part 702, 44 FR 59166 (October 12, 1979).

**SCHEDULE  
A**

REPORT FOR QUARTER ENDING: \_\_\_\_\_, 1979

**OFFICE USE ONLY**  
 Company number 

--	--	--	--	--

1. Name of reporting company

2. Base-period ending date  
 Year Month Day  
 A1 

--	--	--	--	--	--

3. Was the suggested CWPS formula used?  
 A2 1 Yes  
 2 No - Explain methodology in an attachment

4. Were sampling techniques used?  
 A3 1 Yes  
 2 No

5. Were average realized prices used?  
 A4 1 Yes  
 2 No - Explain methodology in an attachment

6. Total covered net sales or revenues in the base period that were used in price calculations (Thousands of dollars)  
 A5 

Bil.	Mil.	Thou.
------	------	-------

7. Sales-weighted index of price change for two-year base period  
 A6

8. Base-period annual rate of price change (Square root of line 7, minus 1, times 100)  
 A7 Percent (Two decimal places)

9. Less: Price deceleration percentage  
 0.50 %

10. Subtotal (Line 8 less line 9)  
 A8

11. Less: Pay deceleration passthrough  
 A9

12. Allowable program-year rate of price change  
 A10

13. Allowable rate of price change through the reporting quarter (See instructions for details on calculations)  
 A11

14. Actual rate of price change through the reporting quarter  
 A12

15. Supporting documentation for Schedule A  
 Pages A \_\_\_\_\_ to A \_\_\_\_\_

16. Sales excluded from price calculations by section 705A-3 (For companies claiming insufficient product coverage only.)	Amount (Thousands of dollars)		
	Bil.	Mil.	Thou.
<b>A. Exclusions of 705A-3(a) to 705A-3(e)</b>	A13		
(1) Total company net revenues for base year			
(a) Agricultural, fishing, forestry, and mineral products			
(b) Recyclable scrap materials			
(c) Commodities whose price changes are closely tied to those of organized open exchanges			
(d) Exports			
(e) Deliveries during program year at predetermined prices			
(2) Subtotal of exclusions 705A-3(a) to 705A-3(e)	A14		
<b>B. Exclusions of 705A-3(f) to 705A-3(i)</b>	A15		
(1) Total company adjusted net revenues for program year			
(f) Products exchanged in non-arms-length transactions			
(g) New or discontinued products			
(h) Custom or one-time products			
(i) Interest received			
(2) Subtotal of exclusions 705A-3(f) to 705A-3(i)	A16		

CONTINUE ON REVERSE SIDE →

17. PRODUCT LINE INFORMATION

Number of product lines reported

A17

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)		(13)	(14)
											Bil.	Thou.		
(1)	A180	A190	A200	A210	A220	A230								
(2)	A181	A191	A201	A211	A221	A231								
(3)	A182	A192	A202	A212	A222	A232								
(4)	A183	A193	A203	A213	A223	A233								
(5)	A184	A194	A204	A214	A224	A234								
(6)	A185	A195	A205	A215	A225	A235								
(7)	A186	A196	A206	A216	A226	A236								
(8)	A187	A197	A207	A217	A227	A237								
(9)	A188	A198	A208	A218	A228	A238								
(10)	A189	A199	A209	A219	A229	A239								

Form Approved: O.M.B. No. 116-R0357

<p><b>FORM PM-1A</b> (10-29-79)</p> <p>EXECUTIVE OFFICE OF THE PRESIDENT COUNCIL ON WAGE AND PRICE STABILITY</p> <p style="text-align: center;"><b>REPORT OF WHOLESALE AND RETAIL TRADE PERCENTAGE GROSS MARGIN</b></p>	<p><b>NOTICE</b> - All information furnished to the Council on Form PM-1A will be treated as confidential in accordance with Section 4(f) of the Council on Wage and Price Stability Act, 12 U.S.C. 1904, note, and 6 CFR Part 702, 44 FR 59166 (October 12, 1979).</p>																																																			
<p>REPORT FOR QUARTER ENDING _____, 1979</p>	<p><b>OFFICE USE ONLY</b></p> <p>Company number <span style="border: 1px solid black; display: inline-block; width: 20px; height: 15px;"></span> <span style="border: 1px solid black; display: inline-block; width: 20px; height: 15px;"></span> <span style="border: 1px solid black; display: inline-block; width: 20px; height: 15px;"></span> <span style="border: 1px solid black; display: inline-block; width: 20px; height: 15px;"></span></p>																																																			
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<p><b>1. Name of reporting company</b></p>																																																				
<p><b>2. Method selected for compliance in program year (Mark (X) one)</b></p> <p>B1 <input type="checkbox"/> Base-year percentage gross margin    2 <input type="checkbox"/> Gross-margin trend</p>																																																				
<p><b>3. Inventory method (Mark (X) one)</b></p> <p>B2 <input type="checkbox"/> LIFO    2 <input type="checkbox"/> FIFO    3 <input type="checkbox"/> Other - Provide documentation in an attachment</p>																																																				
<p><b>BASE-YEAR PERCENTAGE GROSS-MARGIN METHOD</b></p> <table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th rowspan="2"></th> <th colspan="3">Sales (Thousands of dollars)</th> </tr> <tr> <th>Bil.</th> <th>Mil.</th> <th>Thou.</th> </tr> </thead> <tbody> <tr><td>4. Adjusted net sales</td><td>B3</td><td></td><td></td></tr> <tr><td>5. Beginning inventory</td><td>B4</td><td></td><td></td></tr> <tr><td>6. Plus: Cost of goods purchased</td><td>B5</td><td></td><td></td></tr> <tr><td>7. Subtotal (Line 5 plus line 6)</td><td>B6</td><td></td><td></td></tr> <tr><td>8. Less: Ending inventory</td><td>B7</td><td></td><td></td></tr> <tr><td>9. Cost of goods sold (Line 7 less line 8)</td><td>B8</td><td></td><td></td></tr> <tr><td>10. Gross margin on sales (Net sales less cost of goods sold, line 4 less line 9)</td><td>B9</td><td></td><td></td></tr> <tr> <td>11. Base-year percentage gross margin on sales (Line 10 divided by line 4)</td> <td>B10</td> <td colspan="2" style="text-align: center;">Percent (Two decimal places)</td> </tr> </tbody> </table>		Sales (Thousands of dollars)			Bil.	Mil.	Thou.	4. Adjusted net sales	B3			5. Beginning inventory	B4			6. Plus: Cost of goods purchased	B5			7. Subtotal (Line 5 plus line 6)	B6			8. Less: Ending inventory	B7			9. Cost of goods sold (Line 7 less line 8)	B8			10. Gross margin on sales (Net sales less cost of goods sold, line 4 less line 9)	B9			11. Base-year percentage gross margin on sales (Line 10 divided by line 4)	B10	Percent (Two decimal places)		<p><b>GROSS-MARGIN TREND METHOD</b></p> <table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th>Percent (Two decimal places)</th> </tr> </thead> <tbody> <tr><td>12. Base-year percentage gross margin (Same as line 11)</td><td>B11</td></tr> <tr><td>13. Percentage gross margin for year ended two years prior to base year</td><td>B12</td></tr> <tr><td>14. Two-year gross-margin trend (Ratio of line 12 to line 13)</td><td>B13</td></tr> <tr><td>15. Annualized trend (Square root of line 14, minus 1) (See instruction booklet)</td><td>B14</td></tr> <tr><td>16. Allowable percentage gross margin (Line 12 times (1.0 plus line 15))</td><td>B15</td></tr> </tbody> </table>		Percent (Two decimal places)	12. Base-year percentage gross margin (Same as line 11)	B11	13. Percentage gross margin for year ended two years prior to base year	B12	14. Two-year gross-margin trend (Ratio of line 12 to line 13)	B13	15. Annualized trend (Square root of line 14, minus 1) (See instruction booklet)	B14	16. Allowable percentage gross margin (Line 12 times (1.0 plus line 15))	B15
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20. Fourth quarter of program year	B25			B26	B27																																															
<p><b>21. Supporting documentation for schedule B</b></p> <p>Pages B _____ to B _____</p>																																																				

FORM PM-1A EXECUTIVE OFFICE OF THE PRESIDENT COUNCIL ON WAGE AND PRICE STABILITY		NOTICE - All information furnished to the Council on Form PM-1A will be treated as confidential in accordance with Section 4(f) of the Council on Wage and Price Stability Act, 12 U.S.C. 1904, note, and 6 CFR Part 702, 44 FR 59166 (October 12, 1979).		SCHEDULE C
REPORT OF FOOD MANUFACTURERS AND PROCESSORS - GROSS MARGIN		OFFICE USE ONLY	Company number	
REPORT FOR QUARTER ENDING _____, 1979				
1. Name of reporting company				
2. Method selected for compliance in the program year (Mark (X) one)				
C1 <input type="checkbox"/> Base-quarter gross margin      C2 <input type="checkbox"/> Alternative gross margin				
<b>BASE-QUARTER GROSS MARGIN</b>			Amount (Thousands of dollars)	
			Bil.	Mil.
3. Adjusted net sales			C2	
4. Less: Food ingredients used in manufacturing			C3	
5. Base-quarter gross margin (Line 3 less line 4)			C4	
<b>ALTERNATIVE GROSS MARGIN</b>			C5	
6. Base-quarter sales (Same as line 3)				
7. Average percentage gross margin in the base year (Percentage to two decimal places)		C6	%	
8. Alternative gross margin (Line 6 times item 7/100)			C7	
<b>FIRST QUARTER ALLOWABLE GROSS MARGIN</b>			C8	
9. Base-quarter gross margin or alternative gross margin				
10. Plus: Allowable margin growth for the first quarter (Line 9 times 0.0325)			C9	
11. Subtotal (Line 9 plus line 10)			C10	
12. Percentage physical volume increase (Percentage to two decimal places)		C11	%	
13. Dollar value of physical volume increase (Line 11 times line 12)			C12	
14. Total: Allowable first quarter gross margin (Line 11 plus line 13)			C13	
15. Actual first quarter gross margin			C14	
<b>SECOND QUARTER ALLOWABLE GROSS MARGIN</b>			C15	
16. Base-quarter gross margin or alternative gross margin				
17. Plus: Allowable margin growth for the second quarter (Line 16 times 0.0325)			C16	
18. Subtotal (Line 16 plus line 17)			C17	
19. Percentage physical volume increase (Percentage to two decimal places)		C18	%	
20. Dollar value of physical volume increase (Line 18 times line 19)			C19	
21. Total: Allowable second quarter gross margin (Line 18 plus line 20)			C20	
22. Actual second quarter gross margin			C21	

CONTINUE ON REVERSE SIDE

THIRD QUARTER ALLOWABLE GROSS MARGIN		Amount (Thousands of dollars)		
		Bill.	Mil.	Thou.
		C23		
23. Base quarter gross margin or alternative gross margin				
24. Plus: Allowable margin growth for the third quarter (Line 23 times 0.0488)		C24		
25. Subtotal (Line 23 plus line 24)		C25		
26. Percentage physical volume increase (Percentage to two decimal places)		C26		
			%	
27. Dollar value of physical volume increase (Line 25 times line 26)		C27		
28. Total: Allowable third quarter gross margin (Line 25 plus line 27)		C28		
29. Actual third quarter gross margin		C29		
FOURTH QUARTER ALLOWABLE GROSS MARGIN		C30		
30. Base quarter gross margin or alternative gross margin				
31. Plus: Allowable gross margin for the fourth quarter (Line 30 times 0.065)		C31		
32. Subtotal (Line 30 plus line 31)		C32		
33. Percentage physical volume increase (Percentage to two decimal places)		C33		
			%	
34. Dollar physical volume increase (Line 32 times line 33)		C34		
35. Total: Allowable fourth quarter gross margin (Line 32 plus line 34)		C35		
36. Actual fourth quarter gross margin		C36		
37. Supporting documentation for schedule C				
Pages C _____ to C _____				

Form Approved: O.M.B. No. 116-R0357

<p>FORM PM-1A  <small>EXECUTIVE OFFICE OF THE PRESIDENT                  COUNCIL ON WAGE AND PRICE STABILITY</small></p> <p style="text-align: center;"><b>REPORT OF PETROLEUM REFINERS                  GROSS MARGINS</b></p>	<p><b>NOTICE</b> - All information furnished to the Council on Form PM-1A will be treated as confidential in accordance with Section 4(f) of the Council on Wage and Price Stability Act, 12 U.S.C. 1904, note, and 6 CFR Part 702, 44 FR 59166 (October 12, 1979).</p>	<p><b>SCHEDULE                  D</b></p>
<p>REPORT FOR QUARTER ENDING: _____, 1979</p>	<p><b>OFFICE                  USE                  ONLY</b></p>	<p>Company number: <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/></p>
<p>1. Name of reporting company</p>		
<p>2. Were the required adjustments made for changes in input mix? (Mark (X) one)</p> <p>D1 1 Yes                  2 No - Explain in an attachment</p>		
<p>3. Were adjustments made for changes in product sales mix? (Mark (X) one)</p> <p>D2 1 Yes - Explain in an attachment                  2 No</p>		
<p><b>BASE-QUARTER GROSS MARGIN</b></p>	<p>Amount                  (Thousands of dollars)</p>	
	<p>Bil.    Mil.    Thou.</p>	
4. Adjusted net sales	D3	
5. Less: Cost of petroleum products used in refinery operations (See instructions)	D4	
6. Gross margin in the base quarter	D5	
<p><b>ALLOWABLE GROSS MARGIN BY QUARTERS                  FIRST QUARTER</b></p>	D6	
7. Gross margin in the base quarter	D7	
8. Plus: Allowable quarter growth (Line 7 times 0.065)	D8	
9. Subtotal (Line 7 plus line 8)	D9	
10. Percentage physical volume growth (Percentage to two decimal places)	D10	%
11. Dollar physical volume growth (Line 9 times line 10)	D11	
12. Total: Allowable first quarter gross margin (Line 9 plus line 11)	D12	
13. Actual first quarter gross margin		
<p><b>CONTINUE ON REVERSE SIDE</b></p>		

SECOND QUARTER		Amount (Thousands of dollars)		
		Bl.	Mtl.	Thou.
14. Gross margin in the base quarter		D13		
15. Plus: Allowable quarter growth (Line 14 times 0.065)		D14		
16. Subtotal (Line 14 plus line 15)		D15		
17. Percentage physical volume growth (Percentage to two decimal places)	D16	%		
18. Dollar value of physical volume growth (Line 16 times line 17)		D17		
19. Total: Allowable second quarter gross margin (Line 18 plus line 16)		D18		
20. Actual second quarter gross margin		D19		
<b>THIRD QUARTER</b>		D20		
21. Gross margin in the base quarter		D21		
22. Plus: Allowable quarter growth (Line 21 times 0.065)		D22		
23. Subtotal (Line 22 plus line 21)		D22		
24. Percentage physical volume growth (Percentage to two decimal places)	D23	%		
25. Dollar value of physical volume growth (Line 23 times line 24)		D24		
26. Total: Allowable third quarter gross margin (Line 25 plus line 23)		D25		
27. Actual third quarter gross margin		D26		
<b>FOURTH QUARTER</b>		D27		
28. Gross margin in the base quarter		D28		
29. Plus: Allowable quarter growth (Line 28 times 0.065)		D29		
30. Subtotal (Line 28 plus line 29)		D29		
31. Percentage physical volume growth (Percentage to two decimal places)	D30	%		
32. Dollar value of physical volume growth (Line 30 times line 31)		D31		
33. Total: Allowable fourth quarter gross margin (Line 30 plus line 32)		D32		
34. Actual fourth quarter gross margin		D33		
35. Supporting documentation for schedule D				
Pages D _____ to D _____				

<p>FORM PM-1A 11-29-79</p> <p style="text-align: center;">EXECUTIVE OFFICE OF THE PRESIDENT COUNCIL ON WAGE AND PRICE STABILITY</p> <p style="text-align: center;"><b>REPORT OF PROFIT-MARGIN DATA</b></p>	<p><b>NOTICE</b> - All information furnished to the Council on Form PM-1A will be treated as confidential in accordance with Section 4(f) of the Council on Wage and Price Stability Act, 12 U.S.C. 1904, note, and 6 CFR Part 702, 44 FR 59166 (October 12, 1979).</p>	<p>SCHEDULE E</p>					
<p>REPORT FOR QUARTER ENDING: _____, 1979</p>	<p><b>OFFICE USE ONLY</b></p>	<p>Company number</p> <table border="1" style="display: inline-table; border-collapse: collapse;"> <tr> <td style="width: 20px; height: 20px;"></td> </tr> </table>					

1. Name of reporting company

*Items 2 through 3 should be completed by all reporting companies*

2. Profit margin	Net sales (Thousands of dollars)			Profit (Thousands of dollars)			Profit margin (Percentage to two decimal places)						
	(a)			(b)				(c)					
Enter the profit margin for the last three fiscal years completed prior to October 2, 1978.	Bil.	Mil.	Thou.	Bil.	Mil.	Thou.	%						
a. Most recent fiscal year completed prior to October 2, 1978	<table style="width:100%; border-collapse: collapse;"> <tr> <td style="width: 20px; text-align: center;">Month</td> <td style="width: 20px; text-align: center;">Day</td> <td style="width: 20px; text-align: center;">Year</td> </tr> <tr> <td style="border: 1px solid black; width: 20px;"></td> <td style="border: 1px solid black; width: 20px;"></td> <td style="border: 1px solid black; width: 20px;"></td> </tr> </table>			Month	Day	Year				E1	E2	E3	%
Month	Day	Year											
b. Second most recent fiscal year completed prior to October 2, 1978	<table style="width:100%; border-collapse: collapse;"> <tr> <td style="width: 20px; text-align: center;">Month</td> <td style="width: 20px; text-align: center;">Day</td> <td style="width: 20px; text-align: center;">Year</td> </tr> <tr> <td style="border: 1px solid black; width: 20px;"></td> <td style="border: 1px solid black; width: 20px;"></td> <td style="border: 1px solid black; width: 20px;"></td> </tr> </table>			Month	Day	Year				E4	E5	E6	%
Month	Day	Year											
c. Third most recent fiscal year completed prior to October 2, 1978	<table style="width:100%; border-collapse: collapse;"> <tr> <td style="width: 20px; text-align: center;">Month</td> <td style="width: 20px; text-align: center;">Day</td> <td style="width: 20px; text-align: center;">Year</td> </tr> <tr> <td style="border: 1px solid black; width: 20px;"></td> <td style="border: 1px solid black; width: 20px;"></td> <td style="border: 1px solid black; width: 20px;"></td> </tr> </table>			Month	Day	Year				E7	E8	E9	%
Month	Day	Year											
3. Best two of last three years' sales-weighted average profit-margin test - total	E10	E11	E12	%									

*The rest of Schedule E should be filled out only by those companies that are complying with the profit margin limitation*

4. Basis for use of profit margin limitation (Mark (X) one)

E13  1. Exception to price deceleration standard granted by CWPS

2. Self-administered exception to the price standard by a company that has or is part of a company that has less than \$250 million in total net sales or revenues

3. Self-administered exception to the price standard by a company that has or is part of a company that has more than \$250 million in total net sales or revenues

4. Insufficient product coverage (Section 705A-5 (b))

**NOTE:** Companies marking box 4 should complete item 16 on schedule A and provide on schedule A or other appropriate schedules price data on non-excluded products.

5. Other basis - Explain in an attachment

TEST ONE: PROFIT-MARGIN LIMITATION	Net sales (Thousands of dollars)			Profit (Thousands of dollars)			Profit margin (Percentage to two decimal places)
	(a)			(b)			
5. Profit-margin limitation percentage - Best two of last three years (from line 3)	Bil.	Mil.	Thou.	Bil.	Mil.	Thou.	%
6. Quarterly data for program year							E14
a. First quarter							E15
b. Second quarter							E16
c. Third quarter							E17
d. Fourth quarter							E18
7. Program year profit margin							E19

CONTINUE ON REVERSE SIDE

<b>TEST TWO: BASE-YEAR DOLLAR PROFIT PLUS ALLOWABLE GROWTH (Annual Basis Only)</b>		Amount (Thousands of dollars)		
		Bil.	Mil.	Thou.
<b>8. Method of calculating base-year profit (Mark (X) one)</b>		<b>E27</b>		
<input checked="" type="checkbox"/> 1 Actual - Enter amount . . . . .				
<input type="checkbox"/> 2 Adjusted - If "adjusted" is chosen, enter both actual and adjusted amounts . . . . .		<b>E28</b>		
<b>9. Total base-year profit</b>		<b>E29</b>		
<b>10. Plus: Allowable program-year growth (Line 9 times 0.065)</b>		<b>E30</b>		
<b>11. Subtotal (Line 9 plus line 10)</b>		<b>E31</b>		
<b>12. Percentage physical volume increase (Percentage to two decimal places)</b>	<b>E32</b>			%
<b>13. Dollar value of physical volume increase (Line 11 times line 12)</b>		<b>E33</b>		
<b>14. Total allowable program-year profit (Line 11 plus line 13)</b>		<b>E34</b>		
<b>BASE-QUARTER DATA (To be completed by companies granted or authorized to self-administer conditioned profit-margin exception).</b>		<b>E35</b>		
<b>15. Net sales or revenue in base quarter</b>		<b>E36</b>		
<b>16. Profits in base quarter</b>		<b>E37</b>		
<b>17. Percentage physical volume increase (Percentage to two decimal places)</b>	<b>E38</b>			%
<b>18. Supporting documentation for schedule E</b> Pages E _____ to E _____				

Date	Description
1870	...
1871	...
1872	...
1873	...
1874	...
1875	...
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1878	...
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1880	...
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1882	...
1883	...
1884	...
1885	...

# Federal Register

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Monday  
November 19, 1979

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## Part VII

### Environmental Protection Agency

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Preliminary Notice of Determination  
Concluding the Rebuttable Presumption  
Against Registration of Pesticide  
Products Containing Dimethoate;  
Availability of Position Document

## ENVIRONMENTAL PROTECTION AGENCY

[OPP-30000/16C; FRL 1362-1]

### Preliminary Notice of Determination Concluding the Rebuttable Presumption Against Registration of Pesticide Products Containing Dimethoate; Availability of Position Document

#### I. Introduction

On September 12, 1977, the Environmental Protection Agency issued a notice of rebuttable presumption against registration and continued registration ("RPAR") of pesticide products containing dimethoate (42 FR 45086), an organophosphate insecticide and acaricide, thereby initiating the Agency's public review of the risks and benefits of dimethoate. The rebuttable presumption was issued on the basis of (1) oncogenicity, (2) mutagenicity, and (3) reproductive and fetotoxic effects. The Agency also requested registrants and other interested parties to submit data on delayed neurotoxicity and synergism of dimethoate by other pesticides.

This notice constitutes the Agency's Notice of Determination (Notice) pursuant to 40 CFR 162.11(a)(5). This determination is preliminary at this point pending external review through submission to, and review by, the United States Department of Agriculture and the Scientific Advisory Panel, pursuant to Sections 6(b) and 25(d) of the Federal Fungicide, Insecticide, and Rodenticide Act (FIFRA) as amended. The action does not become final until the Agency has reviewed the comments of these reviewers and issued a final notice.

In broad summary, the Agency has determined that dimethoate continues to exceed the risk criteria outlined in 40 CFR 162.11 for oncogenicity, mutagenicity, and reproductive and fetotoxic effects. The risks that dimethoate poses to certain exposed groups are of sufficient concern to require the Agency to consider whether these risks can be reduced. The Agency has considered benefits information including that submitted by registrants, interested persons, and the United States Department of Agriculture and has analyzed the economic, social, and environmental benefits of the uses of dimethoate. The Agency has weighed risks and benefits together, in order to determine whether the risks of each dimethoate use are warranted by the benefits of the use. In weighing risks and benefits, the Agency considered what

risk reductions could be achieved and how risk reduction measures would affect the benefits of the use.

The Agency has determined that the risks of certain uses of dimethoate are greater than the social, economic, and environmental benefits of these uses, unless risk reductions are accomplished by modifications in the terms and conditions of registration. Accordingly, the Agency is proposing to initiate action to cancel or deny registration for all uses of dimethoate products (except as hereafter limited) unless the terms and conditions of registration are modified: (1) To forbid the use of dimethoate products as a dust formulation; (2) to require protective clothing and equipment for applicators; (3) to prohibit the application of dimethoate products on citrus, pome fruits and pecans by air blast equipment; (4) for those uses where air blast is permitted, to require that the labeling contain a warning to female applicators to avoid exposure to dimethoate during pregnancy; and (5) to require the use of automatic flagging in connection with aerial application. The Agency has further determined that these modifications in the terms or conditions of registration accomplish significant risk reductions, and that these risk reductions can be achieved without significant impacts on the benefits of the uses. In addition, the Agency has decided to require registrants and applicants to conduct additional oncogenicity, mutagenicity, delayed neurotoxicity, and applicator exposure studies.

The remainder of this Notice and the accompanying Position Document set forth in detail the Agency's analysis of comments submitted during the rebuttal phase of the dimethoate RPAR, and the Agency's reasons and factual bases for the regulatory actions it is initiating. The Notice is organized into four sections. Section I is this introduction. Section II, titled "Legal Background", sets forth a general discussion of the regulatory framework within which this action is taken. Section III sets forth the Agency's determination concluding the dimethoate RPAR and initiating the regulatory actions which flow from these determinations. Section III and the accompanying Position Document set forth the basis for these determinations. Section IV, titled "Procedural Matters", provides a brief discussion of the procedures which will be followed in implementing the regulatory actions which the Agency is initiating in this Notice.

#### II. Legal Background

In order to obtain a registration for a pesticide under FIFRA, a manufacturer must demonstrate that the pesticide satisfies the statutory standard for registration. That standard requires (among other things) that the pesticide perform its intended function without causing "unreasonable adverse effects on the environment" (Section 3(c)(5)). The term "unreasonable adverse effects on the environment" is defined as "any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide" (FIFRA, Section 2(bb)). In effect, this standard requires a finding that the benefits of each use of the pesticide exceed the risks of use, when the pesticide is used in accordance with commonly recognized practices. The burden of proving that a pesticide satisfies the registration standard is on the proponents of registration and continues as long as the registration remains in effect. Under Section 6 of FIFRA, the Administrator is required to cancel the registration of a pesticide or modify the terms and conditions of registration whenever he determines that the pesticide no longer satisfies the statutory standard for registration.<sup>1</sup>

The Agency created the RPAR process to facilitate the identification of pesticide uses which may not satisfy the statutory standard for registration and to provide a public, informal procedure for the gathering and evaluation of information about the risks and benefits of these uses.

The regulations governing the RPAR process are set forth at 40 CFR 162.11. This section provides that a rebuttable presumption shall arise if a pesticide meets or exceeds any of the risk criteria set out in the regulations. The Agency generally announces that an RPAR has arisen by publishing a notice in the **Federal Register**. After an RPAR is issued, registrants and other interested persons are invited to review the data

<sup>1</sup> Another part of the statutory standard for registration is that the pesticide must satisfy the labeling requirements of FIFRA. These requirements are set out in the statutory definition of "misbranded" (FIFRA Section 2(q)). Among other things, this section provides that a pesticide is misbranded if "the labeling \* \* \* does not contain directions for use which are necessary for effecting the purpose for which the product is intended and if complied with, together with any \* \* \* (restrictions) imposed under Section 3(d) \* \* \* are adequate to protect health and the environment."

The Agency can require changes to the directions for use of a pesticide in most circumstances either by finding that the pesticide is misbranded if the labeling is not changed or by finding that the pesticide would cause unreasonable adverse effects on the environment, unless labeling changes are made which accomplish risk reductions.

upon which the presumption is based and to submit data and information to rebut the presumption. Respondents may rebut the presumption of risk by showing that the Agency's initial determination of risk was in error, or by showing that use of the pesticide is not likely to result in any significant exposure to humans or to the animal or plant of concern with regard to the adverse effect in question.<sup>2</sup> Further, in addition to submitting evidence to rebut the risk presumption, respondents may submit evidence as to whether the economic, social, and environmental benefits of the use of the pesticide subject to the presumption outweigh the risks of use.

The regulations require the Agency to conclude an RPAR by issuing a Notice of Determination in which the Agency states and explains its position on the question of whether the risk presumptions have been rebutted. If the Agency determines that the presumption is not rebutted, it will then consider information relating to the social, economic, and environmental costs and benefits which registrants and other interested persons submitted to the Agency, and any other benefits information known to the Agency.

After weighing the risks and the benefits of a pesticide use, the Administrator may conclude the RPAR process by issuing a notice of intent to cancel or deny registration, pursuant to FIFRA Section 6(b)(1) and Section 3(c)(6) or by issuing a notice of intent to hold a hearing pursuant to Section 6(b)(2) of FIFRA to determine whether the registrations should be cancelled or applications for registration denied.

<sup>2</sup> 40 CFR 162.11(a)(4) provides that registrants and applicants may rebut a presumption against registration by substantiating the burden of proving: (i) In the case of a pesticide which meets or exceeds the criteria for risk set forth in paragraphs (a)(3)(i) or (iii) that when considered with the formulation, packaging, method of use, and proposed restrictions on and directions for use, and widespread and commonly recognized practices of use, the anticipated exposure to an applicator or user and to local, regional, or national populations of non-target organisms is not likely to result in any significant acute adverse effects; or (ii) In the case of a pesticide which meets or exceeds the criteria for risk set forth in paragraph (a)(3)(ii) that when considered with proposed restrictions on use and widespread and commonly recognized practices of use, the pesticide will not concentrate, persist or accrue to levels in man or the environment likely to result in any significant chronic adverse effects; or (iii) That the determination by the Agency that the pesticide meets or exceeds any of these criteria for risk was in error.

A primary purpose of the RPAR process is to screen for appropriate action those pesticide uses which pose risks which are of sufficient concern to require the Agency to consider whether offsetting benefits justify the risks. Accordingly, the Agency's approach to rebuttal determinations concentrates on whether the risk concerns which are central to each RPAR proceeding have in fact been answered.

In determining whether the use of a pesticide poses risks which are greater than benefits, the Agency considers modifications to the terms and conditions of registration which can reduce risks, and the impacts of such modifications on the benefits of the use. Among the risk reduction measures short of cancellation which are available to the Agency are changes in the directions for use on the pesticide's labeling and classification of the pesticide for "restricted use" pursuant to FIFRA Section 3(d).

FIFRA requires the Agency to submit notices issued pursuant to Section 6 to the Secretary of Agriculture for comment and to provide the Secretary of Agriculture with an analysis of the impact of the proposed action on the agricultural economy (Section 6(b)). The Agency is required to submit these documents to the Secretary at least 60 days before making the notice effective by sending it to registrants or making it public. If the Secretary of Agriculture comments in writing within 30 days after receiving the notice, the Agency is required to publish the Secretary's comments and the Administrator's response with the notice. FIFRA also requires the Administrator to submit Section 6 notices to a Scientific Advisory Panel for comment on the impact of the proposed action on health and the environment, at the same time and under the same procedures as those described above for review by the Secretary of Agriculture (Section 25(d)).

Although not required to do so under the statute, the Agency has decided that it is consistent with the general theme of the RPAR process and the Agency's overall policy of open decision making to afford registrants and other interested persons an opportunity to comment on the bases for the proposed action during the time that the proposed action is under review by the Secretary of Agriculture and the Scientific Advisory Panel. Accordingly, appropriate steps will be taken to make copies of the Position Document available to registrants and other interested persons at the time the decision documents are transmitted for formal external review, through publication of a notice of availability in the *Federal Register*, or by other means. Registrants and other interested persons will be allowed the same period of time to comment—30 days—that the statute provides for receipt of comments from the Secretary of Agriculture and the Scientific Advisory Panel.

After completing these external review procedures and making any changes in the proposed action which

are deemed appropriate as a result of the comments received, the Agency will proceed to implement the desired regulatory action by preparing appropriate documents and releasing them in the manner prescribed by the statute and by the Agency's rules.

### III. Determination and Initiation of Regulatory Action

The Agency has considered information on the risks associated with the uses of dimethoate, including information submitted by registrants and other interested persons in rebuttal to the dimethoate RPAR. The Agency has also considered information on the social, economic, and environmental benefits of the uses of dimethoate subject to the RPAR, including benefits information submitted by registrants and other interested persons in conjunction with their rebuttal submissions, and information submitted by the United States Department of Agriculture.

The Agency's assessment of the risks and benefits of the uses of dimethoate subject to this RPAR, its conclusions and determinations whether any uses of dimethoate pose unreasonable adverse effects on the environment, and its determinations whether modifications in terms of conditions of registration reduce risks sufficiently to eliminate any unreasonable adverse effects are set forth in detail in the Position Document. This Position Document is hereby adopted by the Agency as its statement of reasons for the determinations and actions announced in this Notice and as its analysis of the impacts of the proposed regulatory actions on the agricultural economy. For the reasons summarized below and developed in detail in the Position Document, the Determinations of the Agency with respect to dimethoate are as follows:

#### A. Determinations on Risk

The dimethoate RPAR was based on information indicating that dimethoate posed the following risks to humans: (1) Oncogenicity; (2) mutagenicity; and (3) reproductive and fetotoxic effects. As developed fully in the Position Document (PD 2/3), the Agency has determined that the information submitted to rebut the risk criteria for oncogenicity was insufficient to overcome the presumption against dimethoate for this effect. However, the Agency has concluded, based on a re-analysis of the studies involved and the rebuttal comments, that the weight of evidence for dimethoate's carcinogenicity is only suggestive, and that the evidence warrants further studies.

The Agency has also determined that the rebuttal submissions were insufficient to remove the Agency's concern that dimethoate poses the risks of reproductive and fetotoxic effects to humans. In addition, new teratogenic data unavailable when the RPAR was issued has been submitted (Khera, unpublished) and indicates the potential of dimethoate to produce teratogenic effects.

Finally, the Agency has concluded that the rebuttals and additional information submitted do not invalidate the presumption of mutagenicity risk, although the risk appears to be low.

The Agency has received comments concerning delayed neurotoxicity and the synergism of dimethoate by other pesticides, and has concluded that there is insufficient evidence to indicate that dimethoate meets or exceeds the risk criteria enumerated in 40 CFR 162.11 for these effects, but that additional information concerning dimethoate's ability to induce delayed neurotoxicity must be generated.

The principal risks of oncogenicity, mutagenicity, and reproductive and fetotoxic effects are posed to applicators, who may be exposed to dimethoate before or during application both dermally and via inhalation. The greatest risk to applicators is incurred by (1) the use of dust formulations in the ground spraying of grapes, and (2) airblast spraying on citrus, pecans, and pome fruits. These risks are of sufficient magnitude to require the Agency to determine whether the uses of dimethoate offer offsetting social, economic, or environmental benefits.

#### B. Determinations on Benefits

The uses of dimethoate which are subject to this RPAR include the following classes of use sites: (1) Grains, (2) field crops, (3) fruits and nuts, (4) vegetables, and (5) other use sites (including livestock premises, forest seed orchards and nurseries, and ornamentals.)

1. *Grains.* Dimethoate is used on 7.8 percent of the sorghum acreage; less than one percent of the U.S. wheat and corn acres are treated with dimethoate. Several effective alternatives are available for all of the grain use sites. Cancellation of dimethoate use on grain would result in a total annual loss of an estimated \$8.03 million per year for corn producers and an increase of \$608,000 in income for sorghum producers. A qualitative evaluation indicated that the impact of cancellation on wheat producers would be minor.

2. *Field Crops.* Dimethoate is used on less than one percent of U.S. acreage of soybeans, tobacco, and alfalfa; on 14.6

percent of U.S. cotton acreage; and on 26.0 percent of California and Arizona safflower acreage. For most of the field crops, several alternative controls are available, with the exception of spider mite control on soybeans, which represents a minor and sporadic problem. Cancellation of dimethoate use on field crops would result in an increase in costs of production of approximately \$1.73 million annually for cotton and would have a negligible effect on production costs for other field crops.

3. *Fruits and Nuts.* The percent of total U.S. acreage treated with dimethoate was 2.6 percent for apples, <1.0 percent for pears, 12.0 percent for citrus, and 17.0 percent for pecans; 50.5 percent of the California grape acreage was treated with dimethoate. Several effective alternatives are available for apples, pears, and pecans; the alternatives for grapes and citrus are less effective. The cancellation of dimethoate would result in an estimated decrease in farm income of \$90,000 for apples, \$745,800 for pecans, \$551,000 for citrus, \$9.99 million for grapes, and a negligible loss on pears. The effect of cancellation on production for apples, pears, pecans, and grapes would be negligible or slight. Significant adverse effects on the quantity and quality of citrus production are expected. Total insecticide use of grapes would increase. Minor price increases may occur for pecan products, and significant consumer impacts are possible for citrus and grape products.

4. *Vegetables.* Dimethoate use on vegetable crops ranges from 7.1 percent of total U.S. acres treated for lettuce to 66.2 percent for fresh tomatoes. Effective alternatives are generally available except for use on broccoli, fresh snap beans, and fresh tomatoes. The cancellation of dimethoate use on vegetables would result in an estimated reduction in annual farm income of \$1.27 million for broccoli, \$1.8 million for dry snap beans, \$3.6 million for fresh snap beans, and \$130,800 for processing snap beans. For fresh tomatoes, the total farm income loss was estimated at \$3.9 million. An increase in farm income of \$371,000 was projected for processing tomatoes due to less expensive alternative controls. The available data were insufficient to allow an estimation of the overall farm income changes for lettuce and other vegetable crops.

5. *Other Use Sites.* Dimethoate is used for adult fly and maggot control in livestock facilities (50,600 pounds AI in 1978); several effective alternatives are available at near comparable cost. Dimethoate use for forest seed orchards and nurseries is believed to be limited to

150 acres in the South; several effective alternatives are available. For ornamental use, 90 percent of the dimethoate pesticide products are applied commercially and 10 percent by homeowners, with use approaching 50,000 pounds AI/year. A few site/pest combinations may have pest control problems if dimethoate is unavailable due to a lack of cost-effective alternatives.

#### C. Determinations of Unreasonable Adverse Effects

For the reasons set forth in detail in the accompanying Position Document, the Agency has made the following unreasonable adverse effect determinations about the uses of dimethoate.

The Agency has determined that the risks arising from the use of dimethoate are greater than the social, economic, and environmental benefits of these uses, unless risk reductions are accomplished by modifications in the terms and conditions of registration as described in the following section.

The Agency has further determined that these modifications in the terms and conditions of registration accomplish significant risk reductions and that these risk reductions can be achieved without significant impacts on the benefits of the uses. Accordingly, the Agency has determined that, unless these changes in the terms or conditions of registration are accomplished, the uses of dimethoate will generally cause unreasonable adverse effects on the environment, when used in accordance with widespread and commonly recognized practices, and that the labeling of dimethoate pesticide products will not comply with the provisions of FIFRA.

#### D. Other Determinations

The Agency has determined that registrants and applicants for registration of dimethoate products must submit to the Agency data described in Section III. E. in the areas of oncogenicity, mutagenicity, delayed neurotoxicity, and applicator exposure. This data is required pursuant to FIFRA Sections 3(c)(2)(B) and 3(c)(7). The Agency will use this test data to refine its evaluation of the hazards posed by dimethoate and to refine its assessment of whether the proposed label modifications will be adequate.

#### E. Initiation of Regulatory Actions

Based upon the determinations summarized above and set out in detail in the Position Document, the Agency is initiating the following regulatory actions:

1. Cancellation and denial of registration of dimethoate products for use in a dust formulation.

2. Cancellation and denial of registrations of dimethoate products for all uses, unless the registrants or applicants for registration modify the labeling of dimethoate products to include the following:

- Required Clothing and Equipment for Application
- Impermeable gloves.
  - Rubber or synthetic rubber boots or boot covers.
  - Long-sleeved shirt and long pants made of closely woven fabric.
  - Wide-brimmed hat.
  - Respirators must be worn by mixer/loaders and pilots.
  - Pilots whose planes are equipped with positive ventilation equipment are not required to wear respirators.

3. Cancellation and denial of registration of dimethoate products for use by aerial application, unless the registrants or applicants for registration modify the labeling of dimethoate products to include the following statement:

Automatic flagging is required for all aerial application use.

4. Cancellation and denial of registration of dimethoate products for use on citrus, pome fruits, and pecans, unless the registrants or applicants for registration modify the terms and conditions of registration to prohibit application by air blast equipment.<sup>3</sup> The labeling of dimethoate products for use on citrus, pome fruits, and pecans must be modified to include the following:

**WARNING (16 pt. red lettering)**

Do not use this product with air blast equipment.

5. Cancellation and denial of registration of dimethoate products for uses other than on citrus, pome fruits, and pecans, unless the registrants or applicants for registration modify the terms and conditions of registration as follows:

**WARNING TO FEMALE WORKERS USING AIR BLAST EQUIPMENT (16 pt. red lettering)**

The United States Environmental Protection Agency has determined that dimethoate, an active chemical ingredient in this product, causes birth defects in laboratory animals. Exposure to this product during pregnancy should be avoided.

In addition to these actions, the Agency will take steps to require

<sup>3</sup>The term air blast is intended to include air blast, air carrier, or other application equipment employing high pressure/low volume application methods.

registrants and applicants to submit the following studies to the Agency:

1. A dimethoate oncogenicity study using the same strains of mice and rats used by Gibel. The protocol for this study must be submitted within 3 months of the Agency's final determination concerning dimethoate. This study must be completed within three years of the Agency's final determination concerning dimethoate (PD 4).

2. Mutagenicity tests, including gene mutation studies, a dominant lethal study in mice, and studies designed to detect spindle effects. The protocol for these studies must be submitted within 3 months of the Agency's final determination concerning dimethoate. These tests must be completed and submitted within eighteen months of the Agency's final determination concerning dimethoate.

3. Delayed neurotoxicity tests, in accordance with the final registration guidelines. The protocol for these tests must be submitted within 3 months of the Agency's final determination concerning dimethoate. These tests must be completed within eighteen months of the final registration guidelines.

4. Exposure studies to determine worker dermal and inhalation exposure during the application of dimethoate with air blast equipment. Exposure data must be gathered for each crop where air blast equipment is used or on crops deemed representative of such applicator exposure situations. Registrants and applicants must submit proposed test protocols for gathering applicator exposure data within three months of the Agency's final determination and must complete all such tests and submit all exposure data within eighteen months of the Agency's final determination for dimethoate.

#### V. Procedural Matters

This Notice of Determination notifies the United States Department of Agriculture, the Scientific Advisory Panel, pesticide registrants and users, and other interested parties of the Agency's preliminary determinations relating to the risks and benefits of the uses of dimethoate and provides these entities and individuals with the opportunity to comment on these determinations.

As discussed in Section II of this Notice, the Agency's decision to initiate the regulatory action described in Section III must be referred for review by the Secretary of Agriculture and the Scientific Advisory Panel. The EPA position document setting forth in detail the reasons and factual bases for the regulatory actions which the Agency

proposes and this Notice of Determination are being transmitted immediately to the Secretary of Agriculture and the Scientific Advisory Panel for comments. The Agency also will offer registrants and other interested persons an opportunity to comment on the bases for the Agency's action by making copies of the Position Document available upon request. Interested persons may receive copies of the documents by communicating their requests to William Waugh, Project Manager, Special Pesticide Review Division, Office of Pesticide Programs, EPA (TS-791), Room 728C, Crystal Mall II, 1921 Jefferson Davis Highway, Arlington, Virginia 22202, (703) 557-8244. Registrants and other interested persons have the same period of 30 days to submit comments that the statute provides for comments from the Secretary of Agriculture and the Scientific Advisory Panel.

All comments on the proposed actions should be sent to the Document Control Office, Chemical Information Division, EPA (TS-793), Room E-447, 401 M Street SW., Washington, D.C. 20460. In order to facilitate the work of the Agency and of others inspecting the comments, registrants and other interested persons should submit three copies of their comments. The comments should bear the identifying notation 30000/16 and should be submitted on or before December 19, 1979.

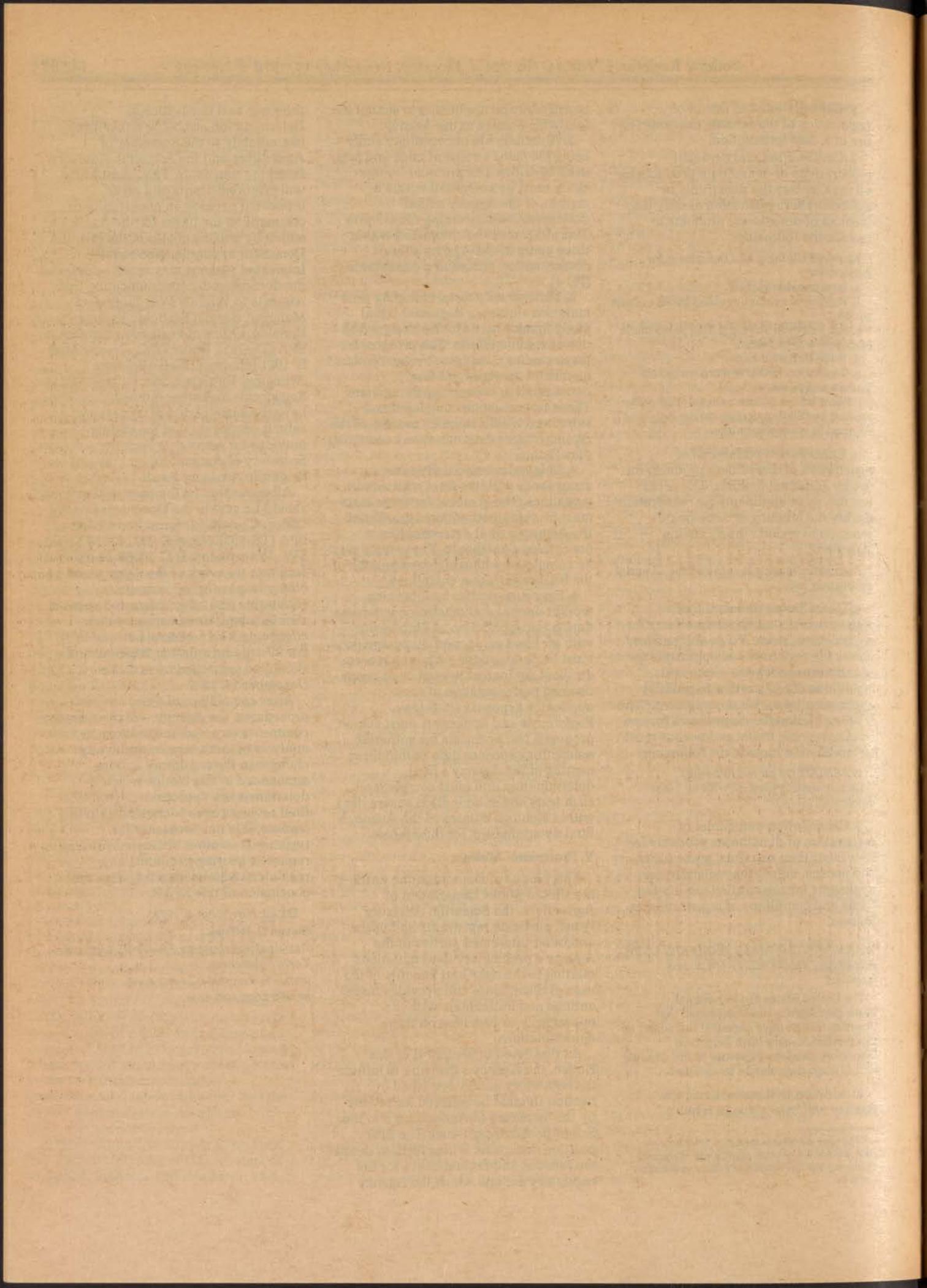
After completion of these review procedures, the Agency will consider the comments received and publish an analysis of them, together with any changes in the regulatory actions announced in this Notice which it determines are appropriate. Until this final review phase is concluded in this manner, it is not necessary for registrants or other interested persons to request a hearing to contest any regulatory actions resulting from the conclusion of this RPAR.

Dated: November 8, 1979.

Steven D. Jellinek,  
Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 79-35691 Filed 11-16-79; 8:45 am]

BILLING CODE 6560-01-M



# Reader Aids

Federal Register

Vol. 44, No. 224

Monday, November 19, 1979

## INFORMATION AND ASSISTANCE

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  - 5282
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- 523-5239 TTY for the Deaf
- 523-5230 U.S. Government Manual
- 523-3408 Automation
- 523-4534 Special Projects
- 523-3517 Privacy Act Compilation

## FEDERAL REGISTER PAGES AND DATES, NOVEMBER

62879-63076.....	1
63077-63508.....	2
63509-64058.....	5
64059-64396.....	6
64397-64780.....	7
64781-65024.....	8
65025-65378.....	9
65379-65580.....	13
65581-65729.....	14
65729-65958.....	15
65959-66174.....	16
66175-66562.....	19

## CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

<b>1 CFR</b>	
485.....	64063
<b>3 CFR</b>	
<b>Executive Orders:</b>	
12170.....	65729
<b>Administrative Orders:</b>	
<b>Presidential Determinations:</b>	
No. 80-1 of	
October 15, 1979.....	63077
No. 80-2 of	
October 23, 1979.....	64059
No. 80-3 of	
October 23, 1979.....	64061
No. 80-4 of	
October 24, 1979.....	66175
<b>Proclamations:</b>	
3279 (Amended by	
Proc. 4702).....	65581
4698.....	63509
4699.....	63511
4700.....	63513
4701.....	64781
4702.....	65581

<b>5 CFR</b>	
177.....	65025
213.....	63079, 64064-64067,
65025-65031, 65959-65961	
293.....	65031
297.....	65031
315.....	63080
351.....	65046
733.....	63080
1201.....	65048
1206.....	65048
1312.....	64783
<b>Proposed Rules:</b>	
531.....	65077

<b>6 CFR</b>	
705.....	64276, 66534
706.....	64284, 66534
707.....	66534

<b>7 CFR</b>	
2.....	66177
272.....	64386
273.....	64067
401.....	64786
427.....	62879
429.....	62879
431.....	64786, 66178
722.....	65962
724.....	63081
905.....	65962
907.....	64838, 65963
910.....	63081, 65049, 65963
959.....	63082, 65379
971.....	65964, 66178
989.....	64397

1464.....	65965-65967
1701.....	64069
1942.....	62880
1962.....	64794
1980.....	64797
2024.....	65968
3100.....	66179
<b>Proposed Rules:</b>	
Subtitle A.....	65862
Ch. I.....	65862
Ch. II.....	65862
Ch. III.....	65862
Ch. IV.....	65862
Ch. V.....	65862
Ch. VI.....	65862
Ch. VII.....	65862
Ch. IX.....	65862
Ch. X.....	65862
Ch. XI.....	65862
Ch. XII.....	65862
Ch. XIV.....	65862
Ch. XV.....	65862
Ch. XVI.....	65862
Ch. XVII.....	65862
Ch. XVIII.....	65862
Ch. XXI.....	65862
Ch. XXIV.....	65862
Ch. XXV.....	65862
Ch. XXVI.....	65862
Ch. XXVII.....	65862
Ch. XXVIII.....	65862
Ch. XXIX.....	65862
210.....	63107
235.....	63107
271.....	63496, 65077
272.....	63496, 65318
273.....	63496, 65989
274.....	65318
276.....	65318
277.....	65318
278.....	63496
318.....	65080
910.....	64839
959.....	65592
982.....	63547
989.....	62901
1001.....	65989
1002.....	65989
1004.....	65989
1006.....	65989
1007.....	65989
1011.....	65989
1012.....	65989
1013.....	65989
1030.....	65989
1032.....	65989
1033.....	65989
1036.....	65989
1040.....	65989
1044.....	65989
1046.....	65989
1049.....	65594, 65989

1050.....	65989	221.....	63109	145.....	66324	510.....	65975
1062.....	65989	470.....	64839	223.....	64429	520.....	63096, 65975, 65976
1064.....	65989			225.....	64429	522.....	63097, 65975
1065.....	65989	<b>11 CFR</b>		296.....	65599	540.....	65976
1068.....	65989	107.....	63036			558.....	65976
1071.....	65989	114.....	63036	<b>15 CFR</b>		1002.....	65352
1073.....	65989	9008.....	63036	<b>Proposed Rules:</b>		1040.....	65352
1075.....	65989	9032.....	63756	503.....	65940		
1076.....	65989	9033.....	63756			<b>Proposed Rules:</b>	
1079.....	65989	9034.....	63756			145.....	65080
1094.....	65989	9035.....	63756			331.....	65992
1096.....	65989	<b>Proposed Rules:</b>				338.....	65992
1097.....	65989	100.....	64773			340.....	65992
1098.....	65989	110.....	64773			353.....	63270
1099.....	65989	114.....	64773			864.....	64095
1102.....	65989	9033.....	63753	<b>Proposed Rules:</b>		868.....	63292-63426, 65081
1104.....	65989			13.....	63114, 63550, 64432, 64434	880.....	65992
1106.....	65989	<b>12 CFR</b>					
1108.....	65989	4.....	65379			<b>22 CFR</b>	
1120.....	65989	5.....	65380			506.....	63098
1124.....	65989	27.....	63084			<b>Proposed Rules:</b>	
1125.....	65989	28.....	65381			51.....	65600
1126.....	65989	225.....	64398, 65051, 65731				
1131.....	65989	262.....	64398	<b>17 CFR</b>			
1132.....	65989	264b.....	64399	1.....	65970	<b>23 CFR</b>	
1133.....	64087, 65989	265.....	64398	140.....	65735	658.....	63680
1134.....	65989	720.....	65731	145.....	65970	770.....	66193
1135.....	65989	<b>Proposed Rules:</b>		147.....	65970	<b>Proposed Rules:</b>	
1136.....	65989	211.....	62902, 62903	200.....	64069, 65736	659.....	63682
1137.....	65989	561.....	64840	210.....	62888, 65738	771.....	66213
1138.....	65989	563.....	65599	249.....	65739		
1139.....	65989			230.....	64070		
1464.....	63107	<b>13 CFR</b>		<b>Proposed Rules:</b>			
1924.....	65991	101.....	64401	210.....	65774	<b>24 CFR</b>	
3100.....	65768			250.....	62912	201.....	64072
		<b>14 CFR</b>		259.....	62912	203.....	64073
<b>8 CFR</b>		13.....	63720			205.....	64073, 64403
214.....	65726, 65727	39.....	62881, 62882, 63519-63521, 64797, 65387, 65732, 65733, 66188, 66189	<b>18 CFR</b>		207.....	64073, 65580
<b>9 CFR</b>		71.....	62883, 62884, 65388-65391, 65734, 66190	2.....	65055	213.....	64073
1.....	63488	75.....	62884	35.....	65740	220.....	64073
2.....	63488	91.....	62884	141.....	65741	221.....	64073
3.....	63488	95.....	65391	154.....	65740	232.....	64073
78.....	65969	97.....	62885, 66190	157.....	65055	234.....	64073
92.....	63082	311.....	65583	260.....	65741	235.....	64073
113.....	63083	322.....	65398	272.....	66192	236.....	64073
160.....	63488	325.....	65399	292.....	65744	241.....	64073
161.....	63488	385.....	64401	271.....	62889	242.....	64073
<b>Proposed Rules:</b>		398.....	65583, 65584	281.....	65585	244.....	64073
Ch. I.....	65862	399.....	65052	292.....	63114	250.....	64073
Ch. II.....	65862	<b>Proposed Rules:</b>		<b>Proposed Rules:</b>		257.....	65950
Ch. III.....	65862	Ch. I.....	65104	46.....	66205	805.....	64204
Ch. VI.....	65862	23.....	62906	277.....	66208	841.....	64405
318.....	65403	25.....	62906			868.....	64196
381.....	65403	39.....	62907, 63547	<b>19 CFR</b>		880.....	65060
<b>10 CFR</b>		43.....	66324	<b>Proposed Rules:</b>		882.....	65061, 65360
0.....	62880	61.....	65550	4.....	64434	888.....	65924
2.....	65049	65.....	66324	144.....	64434	3280.....	66194
20.....	63515	71.....	62908, 63548, 63549, 64840-64842, 65403, 65768-65770, 66204, 66205	151.....	64434	<b>Proposed Rules:</b>	
21.....	63515	73.....	65403, 65770	159.....	64434	115.....	65775
71.....	63083	91.....	66324	<b>20 CFR</b>		203.....	65776
73.....	63515, 65969	97.....	62909	416.....	64402	204.....	65776
211.....	63515, 66183	107.....	63048, 64843	675.....	64290, 64326	208.....	65081
212.....	65722, 66186	108.....	63048, 64843	684.....	64290	402.....	65992
436.....	64776, 65700	121.....	63048, 64843, 65550, 66324	688.....	64326	571.....	65776
450.....	63519, 64797	123.....	66324	<b>Proposed Rules:</b>		883.....	65776
455.....	63519, 64797	125.....	66324	Ch. I.....	65556	886.....	64095
456.....	64602	129.....	63048, 64843	Ch. IV.....	65556		
1023.....	64270	135.....	62906, 63048, 64843, 66324	Ch. V.....	65556	<b>25 CFR</b>	
<b>Proposed Rules:</b>				Ch. VI.....	65556	31g.....	65008
Ch. II.....	63108, 64094, 65274			Ch. VII.....	65556	256.....	65747
Ch. III.....	63108, 64094, 65274			208.....	62912	700.....	65750
Ch. X.....	63108, 64094, 65274			260.....	62912, 63096		
51.....	65598			614.....	65406	<b>26 CFR</b>	
						1.....	64405, 65061
						5.....	63522
						<b>Proposed Rules:</b>	
						1.....	65777
						31.....	65777, 65995

**29 CFR****Proposed Rules:**

Subtitle A.....	65556
Ch. II.....	65566
Ch. IV.....	65566
Ch. V.....	65566
Ch. XVII.....	65566
Ch. XXV.....	65566
1440.....	65407
1601.....	65082
1904.....	65082
1910.....	64095

**30 CFR**

788.....	66195
----------	-------

**Proposed Rules:**

Ch. I.....	65566
Ch. VII.....	65601
870.....	63737, 65407
871.....	63737, 65407
872.....	63737, 65407
873.....	63737, 65407
874.....	63737, 65407
875.....	63737, 65407
876.....	63737, 65407
877.....	63737, 65407
878.....	63737, 65407
879.....	63737, 65407
880.....	63737, 65407
881.....	63737, 65407
882.....	63737, 65407
883.....	63737, 65407
884.....	63737, 65407
885.....	63737, 65407
886.....	63737, 65407
887.....	63737, 65407
888.....	63737, 65407

**31 CFR**

535.....	65956, 65988
----------	--------------

**32 CFR**

625.....	63099
881.....	64075
2600.....	64077

**Proposed Rules:**

169.....	65601
169a.....	65601
169b.....	65601
1900.....	65780

**33 CFR**

117.....	65750, 66195
124.....	63672
126.....	63672
157.....	66502
160.....	62891
161.....	63672
164.....	63672, 66528
183.....	63523
206.....	65977

**Proposed Rules:**

82.....	64843
204.....	66213

**36 CFR**

Ch. VI.....	64406
51.....	62893
60.....	64405
219.....	65587
222.....	64406
1202.....	64407, 65066

**Proposed Rules:**

Ch. II.....	65862
-------------	-------

**37 CFR****Proposed Rules:**

202.....	62913
----------	-------

**38 CFR****Proposed Rules**

8.....	65995
21.....	65083, 65996
36.....	65997

**39 CFR**

10.....	65986
775.....	63524
952.....	65399

**40 CFR**

6.....	64174
51.....	65066, 65069
52.....	63102, 65066
53.....	65066
58.....	65066, 65069
60.....	65066
61.....	65399
65.....	63102
80.....	62897
81.....	63102, 64078, 65751, 65986
87.....	64266
116.....	65400
117.....	65401
162.....	63749
227.....	65751
256.....	66196
409.....	64078
418.....	64080
424.....	64082
434.....	64082

**Proposed Rules:**

Ch. I.....	63552, 65601, 65612
51.....	65084
52.....	63114, 64439, 65084, 65408, 65613, 65614, 65781, 65790, 65791, 66214
60.....	62914
65.....	65410, 65411, 65615
81.....	65791
85.....	62915
180.....	66216, 66217
230.....	63552
713.....	64844
257.....	65615

**41 CFR**

14-1.....	63529
14-7.....	63529
15-7.....	65587
105-54.....	65071
105-62.....	64805

**Proposed Rules:**

Ch. 4.....	65862
3-1.....	63115
3-7.....	63115
101-39.....	65411

**42 CFR**

50.....	65072
---------	-------

**43 CFR**

3100.....	64085
-----------	-------

**Proposed Rules:**

34.....	64095
---------	-------

**Public Land Orders:**

4520 [Revoked by PLO 5685].....	66196
---------------------------------	-------

5685.....	66196
-----------	-------

**44 CFR**

55.....	64082
64.....	63529, 64808, 65752
65.....	63530
67.....	63531-63534, 64421, 65074
205.....	64809

**Proposed Rules:**

67.....	63117-63120, 63553-63557, 64096, 64444, 64451, 64460, 64466, 64472, 65093-65104
205.....	63058

**45 CFR****Proposed Rules:**

Ch. X.....	65412
405.....	63120
1152.....	63120
1210.....	65999
1211.....	66003
1501.....	64097
1067.....	64815
1069.....	64836

**46 CFR**

30.....	66500
32.....	66500
34.....	66500
401.....	64836
402.....	64836
502.....	62898

**Proposed Rules:**

1.....	64844
61.....	62915, 66218
254.....	65616
512.....	65417
514.....	65417

**47 CFR**

21.....	63105
22.....	63105
25.....	65753
31.....	65761
73.....	64408, 65763
74.....	65763
83.....	64409
87.....	64409

**Proposed Rules:**

31.....	64440
33.....	64440
42.....	64440
43.....	64440
64.....	63558
73.....	62917, 64441
90.....	64442
97.....	64442

**49 CFR**

7.....	65765
178.....	66197
571.....	65766
601.....	65765
1033.....	62899, 63105, 64410, 65075, 65400, 65767
1034.....	65075
1047.....	65588
1064.....	65987
1201.....	65401
1240.....	65401
1241.....	65401

**Proposed Rules:**

Ch. X.....	64845, 65420
------------	--------------

172.....	65020, 66219
192.....	65792
173.....	65020
213.....	64844
662.....	66213
666.....	62918
1001.....	64846
1011.....	64846
1056.....	63121
1100.....	64846
1131.....	64846
1131a.....	64846
1301.....	63121, 64851

**50 CFR**

17.....	64246, 64247, 64250, 64730, 64736, 64738, 64741, 64744, 65002
32.....	63106
33.....	62899
285.....	62900
611.....	64410, 64421, 65590
672.....	64410, 64421

**Proposed Rules:**

Ch. VI.....	63558, 65616
17.....	63474
32.....	63496
410.....	64097
611.....	66356
652.....	65372
661.....	64443
675.....	66356

## AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

\*NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.

## REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

## Rules Going Into Effect Today

## AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service—

- 60262 10-19-79 / Standard requirement for bursal disease vaccine

## ENERGY DEPARTMENT

- 60664 10-19-79 / Solar in Federal buildings; demonstration program rules

## FEDERAL COMMUNICATIONS COMMISSION

- 59530 10-16-79 / Redefining and clarifying the rules governing restricted radiation devices and low power communication devices

## HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—

- 48964 8-21-79 / General specifications and general restrictions for provisional color additives for use in foods, drugs, and cosmetics; temporary tolerances

## INTERSTATE COMMERCE COMMISSION

- 60296 10-19-79 / Policy statement on motor carrier regulation

## List of Public Laws

Last Listing November 16, 1979

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

- S. 1281 / Pub. L. 96-111 To revitalize the pleasure cruise industry by clarifying and waiving certain restrictions in the Merchant Marine Act, 1936, and the Merchant Marine Act, 1920, to permit the entry of the steamship vessel United States, steamship vessel Oceanic Independence, steamship vessel Santa Rosa, and the steamship vessels Mariposa and Monterey into the trade. (Nov. 15, 1979; 93 Stat. 845) Price \$.75.

## THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

- FOR:** Any person who uses the Federal Register and Code of Federal Regulations.
- WHO:** The Office of the Federal Register.
- WHAT:** Free public briefings (approximately 2½ hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
  2. The relationship between Federal Register and the Code of Federal Regulations.
  3. The important elements of typical Federal Register documents.
  4. An introduction to the finding aids of the FR/CFR system.
- WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

## WASHINGTON, D.C.

- WHEN:** Dec. 14; Jan. 11 and 25; at 9 a.m. (identical sessions)
- WHERE:** Office of the Federal Register, Room 9409, 1100 L Street N.W., Washington, D.C.
- RESERVATIONS:** Call Mike Smith, Workshop Coordinator, 202-523-5235 or Gwendolyn Henderson, Assistant Coordinator, 202-523-5234.

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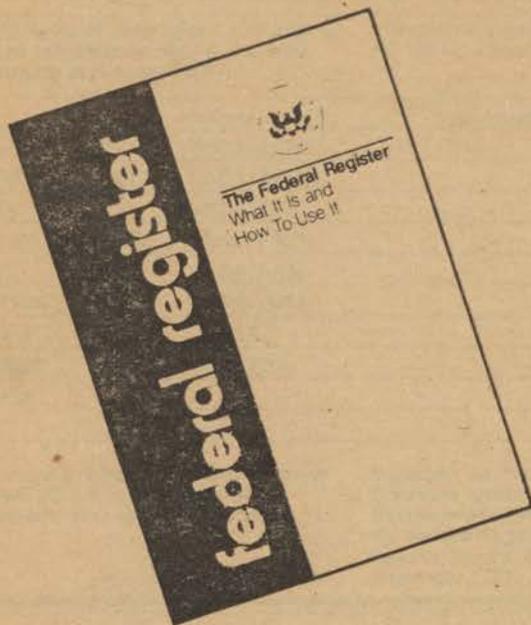
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