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Thursday
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Highlights

Seminar on Principles of Regulations—Writing
For details on seminar in Washington, D.C., see announcement in the **Reader Aids** section at the end of this issue.

54264 **Energy** DOE proposes loan guarantee rules for alcohol fuels, biomass energy and municipal waste energy projects; comments by 9-12-80; hearings 9-5, 9-8, and 9-9-80 (Part VI of this issue)

54090 **Gasoline** EPA denies petition to repeal lead phasedown regulations

54194 **Grant Programs—Juvenile Delinquency Prevention** Justice/LEAA proposes policy and criteria for compliance with deinstitutionalization requirement under Formula Grants Program; comments by 10-14-80 (Part II of this issue)

54120 **Grant Programs—Minority Business** Commerce/MBDA solicits minority applicants for funds to establish and operate businesses; apply by 9-16-80

54198 **Housing** HUD/FHC amends previous participation review and clearance procedures for applications of project sponsors, owners, prime contractors, turnkey developers, management agents, packagers and consultants; effective 1-1-81 (Part III of this issue)

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There are no restrictions on the republication of material appearing in the **Federal Register**.

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

Highlights

54210 **Housing** HUD/FHC publishes general prototype housing costs for one- to four-family dwelling units, effective 8–14–80 (Part V of this issue)

54204 **Housing** HUD/FHC establishes policy on transfer of HUD-insured and owned multifamily housing projects from nonprofit to profit-motivated ownership; effective 9–15–80 (Part IV of this issue)

54087 **Low Income Public Housing and Indian Housing** HUD transmits proposed rule to Congress on maximum limit on total development costs

54115 **Loan Programs—Business and Industry** USDA/FmHA announces 11½ percent insured loan interest rate

54028 **Business and Industry** Commerce establishes Cooperative Generic Technology Program procedures; effective 8–14–80

54173 **Revenue Sharing** Treasury/RSO announces 9–30–80 final date for adjustment demands for Entitlement Period Ten (10–1–78 through 9–30–79)

54036 **Nondiscrimination** Justice/OJARS amends provisions prohibiting discrimination by recipients of its financial assistance programs

54135 **Water Pollution Control** EPA announces availability of Wastewater Treatment Manual (Treatability Manual); comments by 4–1–81

54037 **Maritime Carriers** DOT/CG requires certain oil and hazardous materials carrying vessels to install electronic relative motion analyzers; effective 7–1–82; comments by 9–29–80

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BANKING
Electronic fund transfers, preemption of State law; Federal Reserve System; Proposed Rules

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

FEDERAL RESERVE SYSTEM

12 CFR Part 201

[Docket No. R-0307]

Extensions of Credit by Federal Reserve Banks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Monetary Control Act of 1980 (Title I of Pub. L. 96-221) provides that a depository institution that maintains transaction accounts or nonpersonal time deposits is entitled to the same discount and borrowing privileges as banks that are members of the Federal Reserve System. In order to implement this provision, the Board has revised its rules relating to the provision of Federal Reserve credit presently contained in Regulation A—Extensions of Credit by Federal Reserve Banks (12 CFR Part 201).

EFFECTIVE DATE: September 1, 1980.

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Assistant General Counsel (202/452-3625), Paul S. Pilecki, Attorney (202/452-3281), or John Spitzer, Senior Economist (202/452-2587), Board of Governors of the Federal Reserve System, Washington, D.C.

SUPPLEMENTARY INFORMATION: The Monetary Control Act of 1980 (Title I of Pub. L. 96-221) provides that any depository institution that holds transaction accounts or nonpersonal time deposits subject to Federal Reserve requirements shall be entitled to the same discount and borrowing privileges as member banks. On June 10, 1980, the board solicited public comments on a proposed revision of its rules regarding access to Federal Reserve credit currently provided for in Regulation A—Extensions of Credit by Federal Reserve Banks (12 CFR Part 201) (45 FR 40130). After consideration of the comments received, the Board has determined to adopt the regulation substantially in the form proposed on June 10, 1980. Certain technical amendments have been made to clarify the regulation further.

The regulation provides that Federal Reserve credit may be offered under two basic programs—adjustment and extended. Nonmember depository institutions that are now eligible to borrow from the Federal Reserve, like member banks, generally, are expected to rely on other reasonable available sources of funds before turning to the discount window for assistance. Consequently, institutions that have access to credit programs provided by Federal Home Loan Banks, credit union centrals, the Central Liquidity Facility of the National Credit Union Administration or other specialized industry lenders are expected to seek assistance from these sources prior to requesting credit from the Federal Reserve. A number of comments were received concerning this requirement. While some supported the concept, others indicated that they did not believe it appropriate to require a depository institution to seek funds from other available sources prior to turning to the Federal Reserve for assistance. The Board believes that continuation of this requirement, which applies to member banks, is appropriate. The credit facilities of the Federal Reserve are not intended to supplant other reasonable available sources of funds, and use of Federal Reserve credit facilities is regarded as appropriate only when these other alternatives have been fully used. In instances where depository institutions require funds on short notice to cover immediate cash or reserve needs and are unable to gain timely access to their special industry lenders, the Federal Reserve is prepared to advance funds through its discount window. On these occasions the Federal Reserve will consult and coordinate with the special industry lender as soon as possible. Any such advances made will be viewed as strictly temporary and will be expected to be repaid when access to usual sources of funds is secured, usually the next business day.

The primary form of Federal Reserve lending will continue to be short-term *adjustment* credit. Such credit is available on a short-term basis to assist borrowers in meeting temporary requirements for funds, or to cushion more persistent fund outflows pending an orderly adjustment of the borrower's assets and liabilities. Borrowing is not permitted to take advantage of a favorable spread between the discount rate and other market rates, to add to investment portfolios, or to finance a program of loan expansion.

Interest on Federal Reserve adjustment credit will generally be at the basic discount rate. However, the Federal Reserve retains the option to impose a surcharge in addition to the baic rate. While the discount rate surcharge introduced for a brief period earlier this year applied only to large institutions, any surcharge that may be imposed may apply to all institutions that are eligible to borrow depending upon the length and frequency of the borrowing.

In addition to the short-term adjustment credit program, under the regulation adopted by the Board *extended* credit will be available under certain limited conditions. Regular arrangements for providing seasonal credit to smaller institutions that lack ready access to national money markets or to special industry lenders such as the Federal Home Loan Banks, credit union centrals, or the Central Liquidity Facility will remain in effect. In determining a depository institution's eligibility for seasonal credit, Federal Reserve Bank discount officers will give weight not only to its historical record of seasonally adjusted loan and deposit performance, but will also take into account evidence with regard to changing patterns of recent and prospective needs for funds and liquidity conditions at the institution. The special program for seasonal credit adopted as a temporary measure on April 17, 1980, will be terminated on September 1, 1980, when the new regulation becomes effective.

Extended credit will also be available to meet the needs of a depository institution experiencing difficulties arising from exceptional circumstances or practices involving only that institution, where the provision of such temporary assistance is in the public interest and the needed funds are not available from other sources. In addition, when conditions warrant, extended credit will be available to accommodate the needs of institutions, including those with longer term asset

portfolios, that may be experiencing difficulties adjusting to changing money market conditions. These advances may be extended over a longer period than contemplated in the use of adjustment credit, particularly at times of deposit disintermediation. In cases where there may be serious liquidity strains affecting a broad range of depository institutions, Federal Reserve Banks will be prepared to address the problems of particular institutions being affected by the general situation. Before extending credit, however, the Reserve Bank will be expected to consult with other official agencies responsible for supervising the institution affected to determine, among other things, why funds are not available from other sources. Loan agreements will be drawn to establish the conditions under which credit is being advanced and to assure that the borrower adopts an appropriate plan to restore adequate liquidity and to repay the loan in a reasonable period of time.

Advances made under the seasonal credit program will be at the basic discount rate, but, as with adjustment credit, the Federal Reserve reserves the option to impose a surcharge in addition to the basic rate. Depending on market conditions, a special rate above the basic discount rate may be applied to other extended credit.

Section 201.5(d) of Regulation A currently provides that obligations of customers tendered for discount or as collateral for an advance generally may not exceed the limitations of section 5200 of the Revised Statutes (12 U.S.C. 84) applicable to the lending limitations for one obligor. While this restriction is required by law (12 U.S.C. 345) to apply to discounted paper, there is no statutory requirement that it apply to collateral for advances, which is the principal way in which Federal Reserve credit is extended. Accordingly, the Board will no longer require that collateral tendered as security for advances comply with the lending limitations of 12 U.S.C. 84. However, Reserve Banks may, for prudential purposes, impose limitations on the maximum amount of obligations of one customer that may be tendered as collateral for advances.

Pursuant to authority under sections 10(a), 10(b), 13, 13a, and 19 of the Federal Reserve Act (12 U.S.C. §§ 347a, 347b, 343–347, 347c, 347d, 348–352, 374, 374a, and 461), as amended by the Monetary Control Act of 1980 (Title I, Pub. L. 96–221; 94 Stat. 132), effective September 1, 1980, the Board amends Regulation A (12 CFR Part 201) to read as follows:

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS

Sec.
201.1 Authority, scope and purpose.
201.2 Definitions.
201.3 Availability and terms.
201.4 Advances and discounts.
201.5 General requirements.
201.6 Federal Intermediate Credit Banks.

Authority: Sections 10(a), 10(b), 13, 13a, and 19 of the Federal Reserve Act, 12 U.S.C. 347a, 347b, 343 *et seq.*, 347c, 348 *et seq.*, 374, 374a, and 461, Section 7(b) of the International Banking Act of 1978, 12 U.S.C. 347d.

§ 201.1 Authority, scope and purpose.

(a) *Authority and Scope.* This Part is issued under the authority of sections 10(a), 10(b), 13, 13a, and 19 of the Federal Reserve Act (12 U.S.C. §§ 347a, 347b, 343 *et seq.*, 347c, 348 *et seq.*, 374, 374a and 461), other provisions of the Federal Reserve Act, and section 7(b) of the International Banking Act of 1978 (12 U.S.C. § 347d) and relates to extensions of credit by Reserve Banks to depository institutions and others. Except as may be otherwise provided, this Part shall be applicable to United States branches and agencies of foreign banks subject to reserve requirements under Regulations D (12 CFR Part 204) in the same manner and to the same extent as member banks.

(b) *Purpose.* This Part establishes rules under which Federal Reserve Banks may extend credit to depository institutions and others. Extending credit to depository institutions to accommodate commerce, industry, and agriculture is a principal function of Reserve Banks. While open market operations are the primary means of affecting the overall supply of reserves, the lending function of the Reserve Banks is an effective method of supplying reserves to meet the particular credit needs of individual depository institutions. The lending functions of the Federal Reserve System are conducted with due regard to the basic objectives of monetary policy and the maintenance of a sound and orderly financial system. These basic objectives are promoted by influencing the overall volume and cost of credit through actions that affect the volume and cost of reserves to depository institutions. Borrowing by individual depository institutions, at a rate of interest that is adjusted from time to time in accordance with prevailing economic and money market conditions, has a direct impact on the reserve positions of the borrowing institutions and thus on their ability to meet the credit needs of their customers. However, the effects of such borrowing do not remain localized but have an important bearing on overall monetary and credit conditions.

§ 201.2 Definitions.

For purpose of this Part, the following definitions shall apply:

(a)(1) *"Depository institution"* means an institution that maintains reservable transaction accounts or nonpersonal time deposits and is:

(A) An insured bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)) or a bank that is eligible to apply to become an insured bank under section 5 of such Act (12 U.S.C. 1815);

(B) A savings bank or mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(f), (g));

(C) An insured credit union as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752(7)) or a credit union that is eligible to apply to become an insured credit union under section 201 of such Act (12 U.S.C. 1781);

(D) A member as defined in section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422(4)); or

(E) An insured institution as defined in section 401 of the National Housing Act (12 U.S.C. 1724(a)) or an institution that is eligible to apply to become an insured institution under section 403 of such Act (12 U.S.C. 1726).

(2) A financial institution that is not required to maintain reserves under Part 204 of this Title (Regulation D) because it is organized solely to do business with other financial institutions, is owned primarily by the financial institutions with which it does business, and does not do business with the general public is not a depository institution.

(b) *"Transaction account and nonpersonal time deposits"* have the meanings specified in Part 204 of this Title (Regulation D).

§ 201.3 Availability and terms.

(a) *Short-term adjustment credit.* Federal Reserve credit is available on a short-term basis to a depository institution under such rules as may be prescribed to assist the institution, to the extent appropriate, in meeting temporary requirements for funds, or to cushion more persistent outflows of funds pending an orderly adjustment of the institution's assets and liabilities. Such credit generally is available only after reasonable alternative sources of funds, including credit from special industry lenders, such as Federal Home Loan Banks, the National Credit Union Administration's Central Liquidity Facility, and corporate central credit unions have been fully used. Under certain circumstances, a surcharge may

be imposed above the basic rate of interest normally charged by Reserve Banks.

(b) *Extended credit*—(1) *Seasonal credit.* Federal Reserve credit is available for periods longer than those permitted under adjustment credit to assist smaller depository institutions in meeting regular needs for funds arising from a combination of expected patterns of movement in their deposits and loans. Seasonal credit is available only if similar assistance is not available from other special industry lenders. Seasonal credit will ordinarily be limited to the amount by which the depository institution's seasonal needs exceed certain percentages, established by the Board of Governors, of the institution's average total deposits in the preceding calendar year. Such credit will be available if the Reserve Bank is satisfied that the institution's qualifying need for funds is seasonal and will persist for at least four weeks. Need for credit at depository institutions will also be given consideration when institutions are experiencing unusual seasonal demands for credit in a period of liquidity strain. To the extent practicable, a depository institution should arrange in advance for seasonal credit for the full period during which such credit is expected to be required. Under certain circumstances, a surcharge may be imposed above the basic rate of interest normally charged by Reserve Banks.

(2) *Other extended credit.* Federal Reserve credit is available to depository institutions under extended credit arrangements where similar assistance is not reasonably available from other sources, including special industry lenders. Such credit may be provided where there are exceptional circumstances or practices involving only a particular depository institution. Exceptional circumstances would include situations where an individual depository institution is experiencing financial strains arising from particular circumstances or practices affecting that institution—including sustained deposit drains, impaired access to money market funds, or sudden deterioration in loan repayment performance. Extended credit may also be provided to accommodate the needs of depository institutions, including those with longer term asset portfolios, that may be experiencing difficulties adjusting to changing money market conditions over a longer period, particularly at times of deposit disintermediation. A special rate or rates above the basic discount rate established by the Reserve Banks, subject to review and determination by the Board of Governors, may be applied to other extended credit.

(c) *Emergency credit for others.* In unusual and exigent circumstances, a Reserve Bank may, after consultation with the Board, advance credit to individuals, partnerships, and corporations that are not depository institutions if, in the judgment of the Reserve Bank, credit is not available from other sources and failure to obtain such credit would adversely affect the economy. The rate applicable to such credit will be above the highest rate for advances in effect for depository institutions. Where the collateral used to secure such credit consists of assets other than obligations of, or fully guaranteed as to principal and interest by, the United States or an agency thereof, an affirmative vote of five or more Board members is required before credit may be extended.

§ 201.4 Advances and discounts.

(a) Reserve Banks may lend to depository institutions either through advances secured by acceptable collateral or through the discount of certain types of paper. Credit extended by the Federal Reserve generally takes the form of an advance.

(b) Reserve Banks may make advances to any depository institution if secured to the satisfaction of the Reserve Bank. Satisfactory collateral generally includes United States government and Federal agency securities, and, if of acceptable quality, mortgage notes covering 1–4 family residences, State and local government securities, and business, consumer and other customer notes.

(c) If a Reserve Bank concludes that a depository institution will be better accommodated by the discount of paper than by an advance, it may discount any paper endorsed by the depository institution that meets the requirements specified in the Federal Reserve Act.

§ 201.5 General requirements.

(a) *Credit for capital purposes.* Federal Reserve credit is not a substitute for capital.

(b) *Compliance with law and regulation.* All credit extended under this Part shall comply with applicable requirements of law and of this Part. Each Reserve Bank (1) shall keep itself informed of the general character and amount of the loans and investments of depository institutions with a view of ascertaining whether undue use is being made of credit for the speculative carrying of or trading in securities, real estate, or commodities, or for any other purpose inconsistent with the maintenance of sound credit conditions, and (2) shall consider such information in determining whether to extend credit.

(c) *Information.* A Reserve Bank shall require such information as it believes appropriate or desirable to insure that paper tendered as collateral for advances or for discount is acceptable and that the credit provided is used in a manner consistent with this Part.

(d) *Indirect credit for others.* Except with the permission of the Board of Governors, no depository institution shall act as the medium or agent of another depository institution in receiving Federal Reserve credit.

§ 201.6 Federal Intermediate Credit Banks.

A Reserve Bank may discount for any Federal Intermediate Credit bank (1) agricultural paper, or (2) notes payable to and bearing the endorsement of the Federal Intermediate Credit Bank that cover loans or advances made under subsections (a) and (b) of section 2.3 of the Farm Credit Act of 1971 (12 U.S.C. 2074) and that are secured by paper eligible for discount by Reserve Banks. Any paper so discounted shall have a period remaining to maturity at the time of discount of not more than nine months.

By order of the Board of Governors, August 11, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-24579 Filed 8-13-80; 8:45 am]

BILLING CODE 6210-01-M

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12 CFR Part 265

[Docket No. R-0321]

Delegation of Authority to Determine Preemption and to Grant Exemptions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: As permitted by section 11(k) of the Federal Reserve Act, this rule delegates to the Director of the Division of Consumer and Community Affairs the authority to determine whether provisions of the Electronic Fund Transfer Act and Regulation E preempt provisions of state laws that are inconsistent with federal law and are not more protective of the consumer. In addition, the rule delegates to the Director the authority to grant, but not to deny or revoke, exemptions to states if their statutes contain provisions substantially similar to the federal statute and there is adequate provision for enforcement. Because of the complex and time-consuming nature of these decisions, the Board finds that this delegation of authority is appropriate.

EFFECTIVE DATE: August 8, 1980.

FOR FURTHER INFORMATION CONTACT: Susan Werthan, Staff Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3867).

SUPPLEMENTARY INFORMATION: (1) The Board has delegated authority to the Director of the Division of Consumer and Community Affairs to determine whether provisions of the Electronic Fund Transfer Act preempt state laws relating to electronic fund transfers. The Director has authority to decide, under section 919 of the Electronic Fund Transfer Act and Regulation E (12 CFR 205.12), whether state law provisions are inconsistent with and preempted by federal law. If inconsistent state law provisions are more protective of the consumer, they shall not be preempted.

The Board has also delegated the authority to grant, but not to deny or revoke, exemptions to states. If the Director determines, under section 920 of the Electronic Fund Transfer Act and § 205.12 of Regulation E, that provisions of a state law are substantially similar to the federal statute and there is adequate provision for enforcement, any class of electronic fund transfers in that state may be exempted from the federal requirements.

The Board finds that delegation of its authority to make preemption and exemption decisions is necessary because of the highly technical and time-consuming nature of these decisions. The complexity of each statute is compounded by the difficulty of comparing provisions of different statutes. In addition, the existence of more than 20 state electronic fund transfer statutes indicates that there will be many requests for preemption and exemption determinations.

(2) The Board finds that the notice, public procedure, and deferral of effective date provisions of 5 U.S.C. 553(b) are unnecessary in connection with this proceeding because it relates to agency procedures. For the same reasons, the expanded rule-making procedures set forth in the Board's policy statement of January 15, 1979 (44 FR 3957), will not be followed in connection with this proceeding.

(3) Pursuant to the provisions of section 11(k) of the Federal Reserve Act (12 U.S.C. 248(k)), the Board hereby amends 12 CFR 265.2 by revising paragraph (h) and by adding two paragraphs, effective immediately, to read as follows:

§ 265.2 Specific functions delegated to Board employees and to Federal Reserve Banks.

* * * * *

(h) The Director of the Division of Consumer and Community Affairs (or, in the Director's absence, the Acting Director) is authorized:

* * * * *

(4)(i) Pursuant to Section 919 of the Electronic Fund Transfer Act (15 U.S.C. 1693, et seq.) and the Board's Regulation E, 12 CFR 205.12, to determine whether the act and regulation preempt state laws that are inconsistent with the act and regulation,

(ii) Pursuant to Section 920 of the Electronic Fund Transfer Act and Regulation E, to grant, but not deny or revoke, exemptions to states from the requirements of the act or regulation, where state law imposes substantially similar requirements and there is adequate provision for enforcement.

Dated: August 8, 1980.

By order of the Board of Governors,

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-24552 Filed 8-13-80; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Airworthiness Docket No. 80-ASW-18; Amdt. 39-3875]

Airworthiness Directives: Bell Models 206A, 206B, 206A-1, 206B-1, and 206L Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires repetitive inspections on all models, replacement as necessary, and a reduction in service life on the Model 206L, for tail rotor blades, P/N 206-010-750-005 and -007, installed on Bell Models 206A, 206B, 206A-1, 206B-1, and 206L helicopters. The AD is needed to prevent inflight failure of the tail rotor blades, P/N 206-010-750-005 and -007, with resulting loss of helicopter control.

DATES: Effective September 10, 1980. Compliance required as prescribed in the AD.

ADDRESSES: Copies of the applicable service information may be obtained from the Regional Counsel, Attention: Docket No. 80-ASW-18, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. Bell Service Information may be obtained from Product Support Department, Bell Helicopter Textron, P.O. Box 482, Fort Worth, Texas 76101.

FOR FURTHER INFORMATION CONTACT: Tom Dragset, Airframe Section, Engineering and Manufacturing Branch, ASW-212, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas, telephone number (817) 624-4911, extension 517.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive (AD) requiring repetitive inspections on all models, replacement as necessary, and a reduction in service life on the Model 206L, for tail rotor blades, P/N 206-010-750-005 and -007, installed on Bell Models 206A, 206B, 206A-1, 206B-1, and 206L helicopters was published in 45 FR 38402 June 9, 1980.

The proposal was prompted by six reported cases of blade skin chordwise cracks at tail rotor blade Station 9.1 on the Bell Model 206B and 206L helicopters. Four of these occurred on the 206B and two on the 206L. All cracks were discovered during the daily inspection. Reported blades had 530 to 1,105 hours' time in service. Operations Safety Notice 206-79-5/206L-79-2 dated December 4, 1979, was issued on this subject and alerted operators on the importance of the daily inspection.

There has been one inflight failure of the subject blade on a military helicopter. The blade had 880 hours' time in service, and the failure was the result of an undetected crack.

Interested persons have been afforded the opportunity to participate in the making of the amendment. One response was received from the National Transportation Safety Board in support of the proposal. Accordingly, the proposal is adopted without change.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Bell: Applies to Models 206A, 206B, 206A-1, 206B-1, and 206L helicopters equipped with tail rotor blades, P/N 206-010-750-005 and -007, certificated in all categories (Airworthiness Docket No. 80-ASW-18).

Compliance required as indicated.

To prevent possible failure of tail rotor blades, P/N 206-010-750-005 and -007, due to fatigue cracks, accomplish the following:

a. Before the first flight of each day after the effective date of this AD, visually check for chordwise cracks in the tail rotor blade skin surfaces in the area between Blade Station 7.1 and 11.1 using a three-power or higher magnifying glass. (Blade Station 0 is the center of the tail rotor yoke.)

b. Replace tail rotor blades having cracks before further flight.

c. Blades with 450 or more hours' time in service (as calculated in paragraph (e) below) on the effective date of this AD must be removed from service within the next 50 hours' time in service.

d. Blades with less than 450 hours' time in service (as calculated in paragraph (e) below) on the effective date of this AD must be removed from service prior to or on attaining 500 hours' time in service.

e. For purposes of this AD, hours' time in service is calculated by the following formula:

Time on 206A/B÷2.4 Series+Time on 206L=Calculated Time in Service

f. The check required by paragraph (a) of this AD may be performed by the pilot, providing the pilot's logbook has been endorsed by a properly rated mechanic stating that the pilot has been trained to conduct the daily check in accordance with this AD.

Note.—For the requirements regarding the listing of compliance with this AD in the aircraft maintenance record, see FAR 91.173.

(Bell Helicopter Textron Operations Safety Notice No. 206-79-5/206L-79-2, dated December 4, 1979; Alert Service Bulletin Nos. 206-80-6 dated February 22, 1980, and 206L-80-8, Rev. A, dated June 3, 1980; and Technical Bulletin Nos. 206-78-3 dated July 18, 1978, and 206L-79-38 dated September 28, 1979, pertain to this subject.)

This amendment becomes effective September 10, 1980.

(Secs. 313(a), 601 and 603, 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)); 14 CFR 11.89)

Issued in Fort Worth, Texas, on July 31, 1980.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 80-24429 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-NE-34; Amdt. 39-3877]

Airworthiness Directives; Sikorsky S-61 Series Helicopters Certified in All Categories

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), which establishes new replacement times for the main rotor horizontal hinge pins of Sikorsky S-61 series helicopters. These times are required to prevent fatigue failures of these horizontal hinge pins.

EFFECTIVE DATE: This amendment becomes effective on August 15, 1980.

FOR FURTHER INFORMATION CONTACT: William E. Garlock, Airframe Section, ANE-212, Engineering and Manufacturing Branch, Flight Standards Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone: (617) 273-7336.

SUPPLEMENTARY INFORMATION: As a result of a review of engineering analysis and the utilization of recent methodology, new replacement times have been developed, for Sikorsky S-61 main rotor hub horizontal hinge pins. The FAA has, therefore, determined that S-61 series horizontal hinge pins must be replaced prior to these new times.

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

Sikorsky Aircraft: Applies to S-61 series helicopters certificated in all categories, including military counterparts. Compliance required as indicated. To prevent fatigue failures of the horizontal hinge pins: Replace the Rotary Wing Hub Horizontal Hinge Pin P/N S6110-23020 and S6110-23320 prior to 4000 and 5300 hours time in service, respectively, or within 25 hours time in service after the effective date of this AD, whichever occurs later. This AD is effective August 15, 1980.

(Secs. 313(a), 601, and 603, 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)); 14 CFR 11.89)

Note.—The FAA has determined that this document involves a final regulation which is not considered to be significant under Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the expected impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Burlington, Massachusetts, on July 31, 1980.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 80-24430 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-SO-39; Amdt. No. 39-3873]

Airworthiness Directives; Aerosonic Corp. Fuel Flow Transducers, Part Numbers 33184-1 and 32622-6

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires that Aerosonic Corporation Fuel Flow Transducers, Part Numbers 33184-1 and 32622-6, to be inspected and as applicable, removed and replaced on all affected airplanes. The AD is prompted by a report in which an Aerosonic Fuel Flow Transducer failed and resulted in an in-flight engine fire.

DATES: Effective August 14, 1980. Compliance as prescribed in body of AD.

ADDRESSES: The applicable service bulletins may be obtained from Aerosonic Corporation, P.O. Box 4627, Clearwater, Florida 33518, telephone (813) 461-3000.

A copy of the applicable service bulletins are also contained in the Rules Docket, Room 275, Engineering and Manufacturing Branch, FAA, Southern Region, 3400 Norman Berry Drive, East Point, Georgia.

FOR FURTHER INFORMATION CONTACT: John J. Lyness, Manufacturing Inspection Section, Engineering and Manufacturing Branch, FAA, Southern Region, P.O. Box 20636, Atlanta, Georgia 30320, telephone (404) 763-7280.

SUPPLEMENTARY INFORMATION: There has been a report in which an Aerosonic Fuel Flow Transducer epoxy plug was found displaced causing fuel leakage which resulted in an in-flight fire. Since this condition is likely to exist or develop on other products of the same type design, an Airworthiness Directive is being issued which requires an inspection and as applicable, the removal and replacement of Aerosonic Fuel Flow Transducers, Part Numbers 33184-1 and 32622-6, except those identified with "FLO-SCAN" on the bottom.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and

public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive (AD):

Aerosonic Corp. Applies to all Aerosonic Fuel Flow Transducers, Part Numbers 33184-1 and 32622-6, installed on, but not limited to, Cessna Models 335, 340A, 402B, 404, 414A, and 421C; Mooney Aircraft Corporation Models M20J and M20K; and Piper Aircraft Aerostar Models 600, 601, and 601P airplanes certificated in all categories.

Compliance is required as indicated unless already accomplished.

To prevent possible fuel leakage, accomplish the following within the next 25 hours time in service after the effective date of this AD:

(a) Inspect for installation of Aerosonic Fuel Flow Transducers Part Numbers 33184-1 or 32622-6 (name plate has part number identification). If the Transducer(s) is identified with the word "FLO-SCAN" on the bottom, or is identified with an Aerosonic part number other than 33184-1 or 32622-6, or any other manufacturer's part number the unit(s) is acceptable.

(b) Remove Aerosonic Fuel Flow Transducers, Part Numbers 33184-1 and 32622-6 (except "FLO-SCAN") identified in paragraph (a) and reinstall Aerosonic replacement units identified with "FLO-SCAN," Serial Numbers 5000 and up.

(c) Accomplish the following in accordance with Aerosonic Service Bulletin No. 1 dated June 30, 1980, or Service Bulletin No. 2 dated June 26, 1980, as applicable:

(1) Torque fittings to 25-30 ft. lbs.

(2) Perform a system leak check.

(d) Make an appropriate entry in the aircraft maintenance record.

An equivalent method of compliance may be approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southern Region.

This amendment becomes effective August 14, 1980.

(Secs. 313(a), 601, and 603, 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)); 14 CFR 11.89)

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). A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT."

Issued in East Point, Georgia, on July 30, 1980.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 80-24432 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-GL-13-AD; Amdt. 39-3879]

Airworthiness Directives; Dowty Rotol (c)R.289/3 Propellers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the **Federal Register** and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective by airmail letter dated July 18, 1980 on Dowty Rotol (c)R.289/3-110-F/1 and (c)R.289/3-110-F/11 propellers installed on the WSK-Pezetel Model PZL-35 engine used on Gulfstream American (formerly Grumman) Model G-164A, B, C airplanes modified by Supplemental Type Certificate (STC) SA2731SW, and Ayres (formerly Rockwell) Model S2R-R3S, and model S2R airplanes modified by STC SA3897WE. The AD is needed to prevent possible propeller blade tip failures and requires installation of a placard in the cockpit to alert the pilot of a restricted operating range.

DATES: Effective August 20, 1980. Compliance required within 10 operating hours after the effective date of the AD, unless already accomplished.

ADDRESSES: None. No service document is required for compliance with this AD.

FOR FURTHER INFORMATION CONTACT: Bob Alpiser, Flight Standards Division, Engineering and Manufacturing Branch, AGL-214, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone 312-694-4500, extension 308.

SUPPLEMENTARY INFORMATION: There have been two reports of propeller blade tip failures which were attributed to engine induced vibration at high power and low r.p.m. Since this condition is likely to exist on other engine/propeller combinations of the same design, an Airworthiness Directive is being issued which requires installation of a placard in the cockpit to alert the pilot of a restricted operating range.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective immediately.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new Airworthiness Directive:

Dowty Rotol: Applies to Dowty Rotol (c)R.289/3-110-F/1 and (c)R.289/3-110-F/11 propellers installed on the WSK-Pezetel Model PZL-3S engine used on Gulfstream American (formerly Grumman) Model G-164A, B, C airplanes modified by STC SA2731SW, and Ayres (formerly Rockwell) Model S2R-R3S, and model S2R airplanes modified by STC SA3897WE.

Compliance is required as indicated unless previously accomplished. To preclude the possibility of blade tip failures, accomplish the following:

Within the next 10 hours time in service after the effective date of this AD, install in the cockpit as near the engine tachometer as possible and in clear view of the pilot a placard which reads, "AVOID MP ABOVE 26 IN. HG. BELOW 1950 RPM." The placard may be fabricated locally, using 3/32 inch high red lettering on a white background.

Upon request of the operator, an equivalent means of compliance with the requirement of this AD may be approved by the Chief, Engineering and manufacturing Branch, FAA, Great Lakes Region.

This amendment becomes effective August 20, 1980 as to all persons except those to whom it was made immedately effectively by the airmail letter dated July 18, 1980, which contained this amendment.

(Secs. 313(a), 601, and 603, 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)); 14 CFR 11.89)

Note.—Due to the emergency nature of this AD, it is impracticable to follow the regulatory procedures prescribed by Executive Order 12044 as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in Des Plaines, Illinois, on July 29, 1980.

Kenneth C. Patterson,

Acting Director, Great Lakes Region.

[FR Doc. 80-24431 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Airworthiness Docket No. 80-ASW-25; Amdt. 39-3876]

Bell Models 204B, 205A-1, 212, 214B, and 214B-1 Helicopters; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that provides for a reduction in retirement time from 2,400 hours to 1,200 hours or 2 years total time in service for the main rotor blade tension-torsion straps used on Bell Models 204B, 205A-1, 212, and 214B series helicopters. The AD is needed to preclude possible failure of a tension-torsion strap and loss of a main rotor blade.

DATES: Effective September 15, 1980. Compliance required as indicated in the AD.

ADDRESSES: A copy of the service bulletins may be obtained from the Regional Counsel, Attention: Docket No. 80-ASW-25, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. Bell service information may be obtained from Product Support Department, P.O. Box 482, Fort Worth, Texas 76101.

FOR FURTHER INFORMATION CONTACT: James H. Major, Airframe Section, Engineering and Manufacturing Branch, ASW-212, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas, telephone number (817) 624-4911, extension 516.

SUPPLEMENTARY INFORMATION: A proposal was issued to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring replacement of certain main rotor blade tension-torsion straps on or before attaining 1,200 hours' total time in service, or require replacement on or before attaining 24 months' elapsed time from initial release to service, whichever comes first, for the Bell Models 204B, 205A-1, 212, 214B, and 214B-1 helicopters and the UH-1 series military helicopters. The proposal to establish a retirement time based on calendar time or time in service, whichever would occur first, was published in 45 FR 38403 on June 9, 1980.

The proposal was prompted by an offshore accident of a Bell Model 212 helicopter in which a main rotor blade tension-torsion strap, P/N 204-012-122-1, reportedly failed in flight after 2,140 hours' time in service with resulting loss of the main rotor blade. The investigation into the cause of the strap failure is still continuing. However, preliminary information indicates fatigue failures of individual wires have occurred.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received. Only the National Transportation Safety Board (NTSB) responded to the notice. The NTSB believes this action is needed to provide reasonable safety for similarly equipped aircraft until the cause of the strap failure has been established and permanent corrective action has been implemented.

Accordingly, the proposal is adopted with only a minor editorial change.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Bell. Applies to Models 204B, 205A-1, 212, 214B, and 214B-1 helicopters and military UH-1 series helicopters certificated in all categories.

Compliance required as indicated for helicopters equipped with main rotor straps, P/N 204-012-122-1, -5, or 214-010-179-1.

To preclude possible separation of a main rotor blade tension-torsion strap and loss of a main rotor blade, accomplish the following:

a. Within the next 100 hours' time in service after the effective date of this airworthiness directive (AD), remove and replace main rotor straps having:

(1) 1,100 or more hours of total time in service on the effective date of this AD, or

(2) 24 or more months elapsed calendar time in service as of the effective date of this AD, whichever comes first.

b. Remove and replace main rotor straps having less than 1,100 hours' total time in service or having less than 24 months elapsed time in service on the effective date of this AD:

(1) Prior to attaining 1,200 hours' total time in service, or

(2) Prior to exceeding 24 months elapsed time in service, whichever comes first.

c. The helicopter may be flown in accordance with FAR's 21.197 and 21.199 to a base where this AD may be accomplished.

(Bell Helicopter Textron Alert Service Bulletin No. 212-80-17 pertains to this subject.)

This amendment becomes effective September 15, 1980.

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

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

Issued in Fort Worth, Texas, on July 31, 1980.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 80-24587 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 18605/79-APC-1]

Establishment of Group II Terminal Control Area Honolulu, Hawaii

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes a Group II Terminal Control Area (TCA) at Honolulu, Hawaii. The adoption of a TCA at Honolulu was initially proposed as part of a comprehensive FAA program announced by the Administrator on December 27, 1978, for enhanced safety of flight operations in the National Airspace System. This action will increase the capability of the Air Traffic Control (ATC) system to separate all aircraft in the terminal airspace around Honolulu International Airport while providing sufficient flexibility to permit aircraft operating under visual flight rules (VFR) to operate within or outside the TCA. The TCA adopted by this amendment is the product of discussion with a broad representation of the aviation community. In conjunction with this action, the FAA will work cooperatively with local user groups to ensure that the TCA is effective for all users by identifying any adjustments or modifications that appear necessary. Through joint FAA and user cooperation, any problems that arise can then be identified and corrective action taken when necessary.

EFFECTIVE DATE: November 27, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. B. Keith Potts, Airspace and Air Traffic Rules Division (AAT-200), Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: (202) 426-3731.

SUPPLEMENTARY INFORMATION:

Background

On December 27, 1978, the Administrator of the Federal Aviation Administration announced his Plan for Enhanced Safety of Flight Operations in the National Airspace System. As part of that comprehensive program, the FAA proposed to establish a Group II TCA at Honolulu, Hawaii, with operations in the proposed TCA subject to the operating and equipment rules for Group II TCAs specified in § 91.90(b) of Part 91 of the Federal Aviation Regulations. These include, among other rules, the requirements to have ATC authorization to operate in the TCA, and to have an operable VOR/TACAN receiver, two-way radio, and a transponder to operate

in the TCA. An altitude encoder would not be required.

User Group Participation

The TCA configuration adopted here has been developed through substantial public participation. Initially, meetings were held with local groups and individuals representing both the VFR and IFR aviation communities to receive and discuss their needs and and views concerning a preliminary TCA configuration. After those initial meetings, a tentative TCA configuration was prepared for further public discussion at a subsequent local informal airspace meeting. To announce that meeting, the FAA made a bulk mailing to groups and persons believed to have an interest in the proposal. As a result of those efforts, further adjustments to the TCA configuration were made and were reflected in the FAA's modified configuration proposed formally for adoption. An additional opportunity for public participation was provided by a notice of proposed rulemaking (Airspace Docket No. 18605/79-APC-1) published in the **Federal Register** on December 17, 1979 (44 FR 73114). Twenty-six comments and a petition signed by more than 300 pilots were received during the comment period in response to the notice. Due consideration has been given to these comments as well as the comments received at the various meetings.

Changes to Accommodate VFR Traffic

Since the original development of a preliminary TCA configuration for discussion with airspace users, numerous changes in the configuration have been made to accommodate VFR activity. Those changes have primarily been in the vicinity of NAS Barbers Point, the area north of the Honolulu International Airport, the description of the northern outer boundaries of the TCA east of the Honolulu International Airport and the TCA floor altitudes over and south of Waikiki. Some adjustments to IFR approach procedures have also been made since the proposed TCA action was started over one year ago. Those changes allow the maximum use possible for VFR operations beneath the TCA floor by aircraft not equipped to operate in the TCA. No VFR corridor is provided because the maximum exclusion of airspace has been provided along the southern shores of the island. The vast majority of airspace designated as TCA is offshore over the ocean, airspace which is not generally used by VFR aircraft.

The Need for Increased Positive Control in Terminal Airspace

The departure and arrival phases of flight result in a high concentration of aircraft in a relatively limited volume of airspace surrounding an airport. Aircraft density is a function of the number of aircraft using that airport and its proximity to one or more adjacent airports that share or abut that airspace. As air traffic activity at an airport increases, the need for increasingly precise control of aircraft and protection of airspace from unknown aircraft becomes essential for continued safe operations. The FAA has developed a spectrum of air traffic procedures which, when coupled with precision navigational aids, airport surveillance radar facilities, automated radar data processing capability, and a highly skilled work force, forms a comprehensive system to provide safe and efficient flight operations at all controlled airports. The scope of services range from simple, recommended airport traffic flows at lowest density airports, to TCAs at the busiest airports.

This action extends and enhances the application of these proven control techniques and subsystems to airports in the Honolulu area and assures greater protection of VFR and IFR air traffic in the airspace surrounding this area.

An analysis of the overall need for extending the ability of ATC to separate VFR aircraft and IFR aircraft in terminal airspace is contained in the Administrator's plan for enhanced safety. A copy of the plan and other documents referred to in this amendment have been filed in the Rules Docket.

The "Highest Degree" of Air Transportation Safety

Near midair collision statistics indicate that, for all classes of users of terminal airspace, the use of ATC separation services, in addition to the duty of pilots to see and avoid each other, results in a higher level of air traffic safety. For the millions of air carrier passengers who enter and leave the major air terminals each year, Congress has directed that the highest feasible degree of safety be achieved. A continued "mix" of ATC controlled aircraft and uncontrolled VFR aircraft can interfere unnecessarily with that safety objective. That position applies generally, however, it is particularly pertinent to the Honolulu terminal area. While a continuous record of potential midair collisions does not exist at Honolulu, the number of large, passenger carrying aircraft using that terminal gives sufficient need to ensure that those large, passenger carrying aircraft are operating in airspace restricted from any mix with uncontrolled, VFR aircraft.

The congressional mandate is clear with respect to the high level of safety intended for passengers in air transportation. Section 601 of the Federal Aviation Act of 1958 requires that the FAA give full consideration to the duty resting on air carriers to perform their services with the "highest possible degree of safety in the public interest . . ." The congressional concern for air transportation, as a distinct class to be protected, was restated in the Airline Deregulation Act of 1978 (Pub. L. 95-504, October 24, 1978) which amended Section 102 of the Federal Aviation Act of 1958 to emphasize the "dedication of Congress to the furtherance of the highest degree of safety in air transportation and air commerce, and the maintenance of the safety vigilance that has evolved within air transportation and air commerce and has come to be expected by the traveling and shipping public" (49 U.S.C. 1302(a)). The Airline Deregulation Act of 1978 also directed the Secretary of Transportation to complete a thorough review of the safety regulations applicable to air carriers in order to ensure that "all classes of air carriers are providing the highest level of safe, reliable air transportation to all the communities served by those air carriers." The Administrator of the FAA is directed to respond to the Secretary's review by promulgating regulations that may be needed to "maintain the highest standard of safe, reliable air transportation in the United States." The orderly and extensive expansion of positive controlled airspace, including the amendments adopted by this action, ensures that the local and systemwide capability of the FAA to ensure separation and protection for air carrier passengers remains commensurate with the growth of a vigorous, safe, and efficient air transportation system under the new act. By this action, the FAA is also increasing the degree of safety available to the general aviation community, many of whom are fully qualified to operate within the parameters of a TCA.

Building on Existing Programs

The FAA's experience since the establishment of mandatory participation in TCAs and voluntary participation in Terminal Radar Service Areas (TRSAs) indicates that, in terminal airspace, ATC control of VFR aircraft reduces the potential for hazardous traffic conflicts. For the year

1968 (which preceded the establishment of TCAs), the "Near Midair Collision Report of 1968," July 1969, concluded that, for the airports now served by TCAs, there were 271 incidents reported as "hazardous" to flight. For the fiscal years 1975, 1976, and 1977, there were a total of 64 reported near midair collisions (NMACs) in the 21 then existing TCAs. For comparison purposes, that translates into an average of approximately 21 reported incidents per year, under TCA requirements, in contrast with 271 incidents for the year 1968. Those figures are not conclusive indicators of the absolute numbers of incidents, but are viewed as meaningful evidence of the critical relationship between the absence of control of all aircraft and the likelihood of hazardous traffic conflicts in congested terminal airspace.

As a result of public comments, in response to Notice No. 78–19 (44 FR 1322, January 4, 1979), questioning the adequacy of FAA's near midair collision information, a comprehensive review of that information has been undertaken. The results of that review are discussed under the "Discussion of Comments—Safety."

The Honolulu TCA adopted by this amendment is a logical extension of programs that first gained momentum in 1962. In addition to the earlier nonregulatory programs, the 1970 National Terminal Radar Program initiated the regulatory development of TCAs, also in response to the 1968 Near Midair Collision Report. The TCA concept was added to the Federal Aviation Regulations in Amendments 71–6 and 91–78, which were published in the **Federal Register** (35 FR 7782) on May 21, 1970, to be effective on June 25 of that year. Those amendments followed extensive public comment in response to Notice No. 69–41, issued on September 30, 1969, (34 FR 15252); 22 public meetings; and a supplemental notice of proposed rulemaking (Notice No. 69–41B), issued on March 11, 1970 (35 FR 4519). That regulatory history led to the issuance of § 71.12 of Part 71 of the Federal Aviation Regulations (FARs), under which TCAs are issued, and § 91.90 of Part 91 of the FARs, which describes the equipment and operating rules for participating in a TCA. While the safety enhancement plan identified 44 new potential locations for Group II TCAs, the regulatory basis for, and description of, the TCA concept was established under those 1970 amendments to Parts 71 and 91. It should be noted that the 44 additional locations were only proposals. Each site is being evaluated on its own merits. In fact, to date the FAA's analysis has led to dropping eleven proposed TCAs from the original list. The evaluation is continuing with the very real possibility that other sites may be dropped even before issuance of a notice of proposed rulemaking.

The establishment of a Group II TCA at Honolulu is an important and timely step forward and represents a meaningful contribution to the local and systemwide increase in safety because it responds specifically to the conditions that exist in the Honolulu terminal area. The design will safely accommodate the present traffic flow of all user groups in the TCA and the overall traffic flows of adjacent areas that interface with Honolulu while minimizing the impact on operation of aircraft not operating in the TCA. The TCA design is based on existing traffic flows, airport locations, and navigation aid locations. It is part of an evolutionary growth process and is workable immediately. Other plans offered in response to the notice of proposed rulemaking, while having some attractive features or advantages for some airspace users, would have unattractive aspects and disadvantages for other airspace users. Some adjustments to the design proposed in the notice, however, have been made as a result of comments received. Those are discussed in detail under "Discussion of Comments—Alternative Proposals."

Discussion of Comments

In response to the TCA proposal, the FAA received 26 written comments from individuals, pilots and owners of aircraft, aircraft operators, State and Federal government agencies, and aviation trade and industry associations. A petition signed by more than 300 pilots was also received. In addition, prior to the notice, the FAA had the benefit of meetings with various user groups. The FAA appreciates the thoughtful and meaningful contributions and the interest expressed by all of those who took time to participate in the several steps of this rulemaking proceeding. Most of the comments received came from pilots and owners of general aviation airplanes who stated their objections to the TCA concept and to its application in Honolulu.

In responding to the issues involved in the FAA's proposal, some commenters expressed complete support of the proposal and some made suggestions for achieving flight safety in the Honolulu terminal area that were either alternative or supplementary to those proposed in the notice. Other commenters were critical of the air traffic control services that are and would be provided to small, VFR aircraft using the Honolulu International Airport. Specifically, some commenters were critical of runway separation standards; radar separation standards; unsupervised holding awaiting approval to enter the area; and the vectoring of aircraft at low altitudes over the ocean (especially at night and in poor weather conditions). Some felt vectoring is unnecessary, unsafe, causes delays with a resulting waste of fuel, and contributes to the mix of low and high performance aircraft rather than relief from that mix. Some commenters stated that a TCA was not needed or justified and that there is no evidence that a TCA would enhance or increase safety or provide local benefit; that the existing voluntary acceptance of Stage III services in the Honolulu TRSA was adequate, especially in light of the high participation rate and lack of satellite reliever airports in the area; that it would be better to urge increased voluntary acceptance of Stage III in the TRSA; and that more rules are not necessary but that what is necessary is a better understanding and application of the existing ones. A few commenters recommended that altitude encoders should be required for all aircraft using the Honolulu International Airport, or at least by those that use the radar procedures presently offered. Other commenters felt that transponders would add little benefit and no added safety. Many commenters stated that what Honolulu really needs to reduce the mix of large and small aircraft is a general aviation reliever airport, not a TCA; and that FAA should assist the State of Hawaii to provide such a site that would not increase the airspace congestion around the Honolulu terminal area. Some stated that no TCA was needed now but acknowleged there could be such a need in the future, when reliever airports have been provided, if a safety problem developed. The Navy expressed their objection based upon its effect on their use of the airspace at and around Naval Air Station (NAS) Barbers Point.

As in most proceedings of this kind, the public beneficiary of a safety regulation does not have an organizational basis to participate and they do not traditionally present their views in significant numbers to counterbalance the advocacy of the more institutionalized commenters. This does not, however, reduce the viability of the public benefits that may be achieved if an otherwise beneficial proposal is adopted.

A. Safety

The primary concern in any proposed TCA action is providing the highest degree of safety while preserving the most efficient use of the available terminal airspace. The TCA designates areas where large, turbine-powered aircraft are required to operate. That airspace is also available for use by properly equipped general aviation and military aircraft operating under an ATC clearance. Providing air traffic control services to all aircraft reduces the probability of near midair collisions in that airspace.

While the mix of controlled and uncontrolled aircraft in the Honolulu area is less than that surrounding many major mainland U.S. locations, the air carrier aircraft density is greater than all the other Group II TCA locations except Denver, and the collision potential between air carrier and uncontrolled, VFR aircraft still exists. A factor decreasing the mix of aircraft in the Honolulu area is the fact that much of the terminal airspace used by the large, turbine-powered aircraft is over the open ocean south of the Island of Oahu where uncontrolled VFR flight is less likely to occur. Thus, the airspace designated by this amendment, in the south shoreline areas and areas east and southeast of the island that would actually affect most commenters objecting to the action, is the minimum necessary to meet the TCA objectives. The area of NAS Barbers Point is an example. Most uncontrolled, VFR activity presently is along the shoreline area east of the Honolulu International Airport and to and from the island's central valley area. The VFR traffic pattern activity at NAS Barbers Point operates also in relative proximity to Honolulu's instrument approach flight paths to Runways 4 and 8, and has for some years required close coordination between the control towers of the two airports.

Since the TRSA was established in September 1975, there have been two near midair collisions reported by air carrier flights (using the ILS procedure to Runway 8L at Honolulu) with uncontrolled VFR flights originating from NAS Barbers Point. For some time there has been concern expressed by Barbers Point officials about the proximity of ILS Runway 8L arrivals to aircraft operating in the NAS Barbers Point traffic pattern. The FAA also is concerned with the potential conflicts between operations at the two airports. The proposal contained in the notice attempted to minimize the impact on NAS Barbers Point activity, and yet also attain the objectives of the TCA by containing the flight paths of the large, turbine-powered, passenger carrying aircraft. An analysis of the Navy's comments are discussed in greater detail under "NAS Barbers Point area."

Several commenters recommended that the FAA withdraw the proposal for a TCA at Honolulu, and, based on factors of safety and efficiency, should change the present procedures to allow VFR aircraft to operate completely in the see-and-be-seen environment as they did prior to radar services being provided. The FAA declines to adopt either of those recommendations. First, the mix of various types of aircraft using the airspace in and around Honolulu International Airport makes it highly desirable to add the assurance that the flight paths of IFR, air carrier aircraft using this airport are contained within airspace free of uncontrolled, VFR aircraft to provide the highest level of safety to persons traveling on those air carrier aircraft. Second, to further ensure that an adequate level of safety be provided for all aircraft using the Honolulu International Airport, the radar service, when available, is considered essential for the safe, orderly, and expeditious movement of air traffic. A detailed explanation of the necessary traffic flow is contained under "VFR Arrival/Departure Procedures."

Comments were received stating the opinion that the 1968 Near Midair Collision (NMAC) study was not valid because (1) it did not consider areas outside the Continental United States (CONUS), (2) contained no statistics for Hawaii, and (3) that it was out of date especially because fewer aircraft were transponder equipped in that period. The 1968 NMAC study solicited reports without any reference to geographical areas. In fact, 28 of the 2230 reports received were from the Pacific Region. Because of radar target enhancement, if more of the aircraft involved had been transponder equipped, fewer NMACs might have occurred in radar environments.

One commenter felt that the cause or contributing causes of several major accidents can be attributed to reliance upon air traffic controller use of radar. No details or indentification of those accidents were provided nor was it apparent to which accidents the commenter referred in order to provide a basis for analysis or response. The commenter did refer to an accident between Koko Head and Honolulu of a night, sight-seeing flight in which ATC allegedly contributed as a cause because it vectored the pilot over the ocean where he flew into cloudy weather, became disoriented, and crashed. While no specific identification of that flight was provided, the description seems to correspond to an accident of a Cessna 310 that occurred on the night of April 13, 1977. However, that accident and the subsequent National Transportation Safety Board (NTSB) report on the probable causes of the accident do not correspond to the causes suggested by the commenter.

Commenters also referred to the near midair collision draft report originated by the National Aeronautics and Space Administration (NASA) as support for the proposition that TCAs do not enhance safety. Those commenters generally stated that the NASA report was based on more recent information than the 1968 Near Midair Collision Report and indicated that more near midair collisions occur within the confines of a TCA than in other terminal airspace areas.

The FAA has reviewed that draft report and the underlying data on which it is based. The data used to originate the NASA Draft Report was produced under the Aviation Safety Reporting System (ASRS). The ASRS is a voluntary reporting system and the commentaries received are not investigated to verify information they contain. Consequently, incomplete, inaccurate, and multiple reports have been filed on some of the same incidents and counted as separate incidents. In its findings, NASA reminds the reader of the limitations of the program. The FAA obtained copies from NASA of all data base incidents (July 1, 1976 to November 30, 1978). These 2,965 nationwide reports were analyzed using the near midair collision criteria as defined by both the FAA and NASA. Of those, 1,303 clearly did not meet the criteria and 301 were duplicate reports.

The remaining 1,361 near midair collision reports were analyzed in light of the conclusions offered in the NASA Draft Report. The NASA Draft Report presented a comparison of terminal airspace at all locations covered by reports (low density to high density) and concluded that most hazardous incidents occur in high density areas. The relative number of hazardous incidents in high density areas is, of course, a primary reason why the FAA embarked upon the program to establish TCAs and TRSAs in those high density areas. Contrary to the impression of many commenters, the NASA Draft Report did not address the effectiveness of TCAs after they were established compared to the number of incidents reported before they were created. As noted previously, the FAA's data shows

that after establishing a TCA there have been fewer hazardous incidents in that airspace than there were before it was established.

B. Complexity

Commenters contended that the TCA as proposed was too complicated for even the most experienced pilot to comprehend and apply in flight. The FAA also wants a simple and uncomplicated an airspace designation as possible, while designating no more airspace than is necessary to meet the objectives of the TCA program. The complexity of the TCA's configuration has been reduced as much as possible while accomplishing the objectives of the TCA. For example, in the notice some of the northern boundaries had been revised to use geographical references rather than abstract lines to describe TCA boundaries so that a pilot may more easily recognize the aircraft's position relative to the TCA. However, an additional area has been established over NAS Barbers Point, at the Navy's request, to reduce the adverse impact on their VFR airport operations. The description of Area J has been revised slightly so that its boundary, as intended in the notice, abuts that of Area A. During a charting review, it was discovered that there was a minor discrepancy between the boundaries of Areas J and A. The change to the description corrects that discrepancy. If, from subsequent evaluation, it is found that the TCA configuration is too complex or does not attain the safety objectives sought, the FAA will revise the configuration to solve those problems.

C. Stage III Concept and Services

Many general aviation commenters expressed concern about FAA's procedures for radar control of VFR aircraft. Specific criticism was made of runway separation standards, radar separation standards, and radar procedures used for vectoring and spacing arrivals.

1. Runway separation standards—The suggestion was made that VFR aircraft using Honolulu should be allowed to operate as though it were an uncontrolled airport, like the nearby Ford Island and Dillingham Airports, where it is not unusual for two to four aircraft to be using the runway simultaneously.

At uncontrolled airports, such as those cited, the responsibility for separation between aircraft and collision avoidance rests with the pilots. When an air traffic control tower is in operation at an airport, the controllers ensure separation on the runways by using procedures established and applied nationally by the FAA. Application of those procedures is appropriate, as is airport traffic control service at a tower controlled airport like the Honolulu International Airport.

2. Radar separation standards—The VFR radar separation standards applied in Stage III service between two small aircraft is at least 1½ miles. Between a small and large aircraft, or behind a heavy jet, that standard increases to as much as 6 miles between the aircraft, depending on the particular aircraft involved and their relative positions. Once visual sighting by a pilot of the other aircraft is verified, pilots may be allowed to assume responsibility for their own visual separation. Those standards are not excessive and have been in use for many years throughout the country. However, the safety aspects of the see-and-be-seen concept have occasionally been criticized, but a recent review with user organizations shows this concept is still viable.

3. Stage III terminal radar services at Honolulu—In September 1975, the FAA implemented Stage III radar service for IFR and participating VFR aircraft operating in the Honolulu TRSA. That was part of a national program to reduce the potential for collisions involving passenger carrying aircraft by ensuring the separation of those aircraft from other participating aircraft while operating in the terminal area. Establishing a TCA is an extension of that protection by requiring ATC control of all aircraft within the airspace containing the flight paths of large, turbine-powered aircraft. The uncontrolled operation of see-and-be-seen flight by aircraft in the terminal area is no longer adequate at Honolulu to ensure an acceptable level of safety in air transportation.

4. Pilot complacency—Pilots' failure to see and avoid other aircraft can be a problem in any terminal environment, particularly if the pilot places undue reliance on radar separation services. However, in a TCA environment, regardless of weather, aircraft are controlled and provided separation. In VFR weather conditions, ATC will provide separation unless the other aircraft is sighted by the pilot. In that situation the pilot may be allowed to maintain visual separation. Although ATC separation enhances safety, pilots continue to have the responsibility to see and avoid other aircraft.

5. Overcontrol—Some commenters felt that establishing a TCA would give controllers the power to coerce pilots into unsafe situations, and that the controllers would abuse their authority with arbitrary vectors and overcontrol, and that ATC control of aircraft is not necessary.

Pilots are required to request an amended clearance or instruction if a controller issues one that would put them into an unsafe situation. Nothing in this program removes the final authority of the pilots for the safe conduct of their aircraft. Controllers should not step beyond their authority or coerce any pilot into an unnecessary or unsafe situation. If a pilot thinks a controller has acted improperly, the incident should be reported in detail to the ATC supervisor as soon as a pilot is able to do so.

D. VFR Arrival/Departure Procedures.

1. Routes—The routes established for VFR aircraft using the Honolulu International Airport are separated from the IFR routes. In addition, the individual arrival and departure paths of each aircraft are also separated from other paths. For example, during trade wind conditions when Runways 4 and 8 are in use, small, single-engine aircraft making VFR departures proceed eastbound via the H-1 freeway; small, twin-engine aircraft making VFR departures proceed eastbound just off the island shoreline; and IFR departures proceed eastbound south of those routes. VFR arrival routes from the east are south of the twin-engine departure route and beneath the IFR departures. The IFR arrival route is south of both of those. An optional routing for single-engine arrivals, when weather permits, is at an altitude above and in the opposite direction to the single-engine departures. To the north of the airport, VFR departures follow the Moanalua Freeway out of the area; arrivals proceed inbound south of the freeway. Similar routings are used during Kona wind conditions (Runways 22 and 26). To allow traffic flows without those procedures would cause unsafe head-on and cross-traffic situations.

2. Overwater vectors—VFR arrivals from the east to Runway 4R are normally routed along or south of the Molokai VOR 265° radial until turning onto final approach and are instructed to be at 1,000 feet no later than abeam Diamond Head. That route and altitude is necessary to ensure separation from jet departures off Runway 8 and from VFR departures along the shoreline. When weather conditions permit, single-engine arrivals do have an optional overland routing available in the opposite direction to and above the single-engine departures. If weather does not permit that routing, the only alternative that exists is offshore routing unless eastbound VFR departures are not being used. Flight in single-engine

aircraft over water at relatively low altitudes is not unique to those arrivals. Flight to any other island from Oahu puts aircraft beyond engine-out gliding distance to land. It is common for pilots to operate at low altitudes between islands over water, beneath rather than above, a cloud layer.

3. VFR Holding—Many commenters complained that holding VFR aircraft without an ATC clearance at entry points occurs because of ATC application of excessive radar separation procedures. Any holding of arriving aircraft is to establish an organized and safe flow of air traffic at it approaches the airport for landing. It is not safe or efficient to allow uncontrolled VFR aircraft to approach the airport for landing on various runways without ensuring adequate spacing. It is safer for arrivals to circle in an uncongested area away from the airport traffic pattern than to have to many aircraft simultaneously in the traffic pattern thereby extending the traffic pattern and impeding the safe and orderly flow of air traffic. Congestion is caused by excessive demand for use of the airport or airspace at any given time and not by the use of radar procedures. When the demand exceeds the capacity, aircraft may be held short of a runway before takeoff, held over a geographical point when in flight, or they may be issued alternate routing or other instructions to accommodate other traffic.

E. Efficiency.

There were many comments that the TCA would encompass an excessive amount of airspace in light of the limited airspace available in the Oahu area and the lack of alternate areas. They also objected because the TCA would limit the freedom of movement in the airspace and infringe on flight practice and training areas. Many commenters expressed concern that a TCA would waste fuel because of added vectors and holding. Commenters also stated that the proposal did not fairly apportion costs, inconveniences, and benefits among the various airspace users, and would further restrict a massive amount of airspace to the detriment of general aviation and for the convenience of the airlines. Other commenters felt a TCA would require more controllers and would result in an increased controller grade level.

1. Airspace—It is true that airspace around Oahu is at a premium. To design a safe and efficient controlled environment in a terminal area, it is necessary to tailor the airspace configuration to the specific needs of that area. The various types of aircraft that operate within the area and the basic requirements of all airports and user groups within the terminal area must be considered, along with the constraints imposed by terrain, weather conditions, and optimum traffic flows. The Honolulu TCA was designed with those considerations in mind. For example, the airspace in the Ford Island area and much of the airspace north of Honolulu's Runway 8L ILS approach course are not designated within the TCA because large, turbine-powered aircraft do not operate in those areas but other aircraft do. The tailoring of the TCA along the Runway 8L ILS approach course in the vicinity of NAS Barbers Point minimizes as much as possible any adverse impact on the Navy operations. The minimum amount of airspace necessary is designated north of Honolulu Airport to meet the TCA program objectives. The restriction of the free, uncontrolled movement of aircraft in the TCA is a result of ensuring that uncontrolled VFR aircraft do not operate in the same terminal airspace as that used by the controlled aircraft. No general aviation VFR practice and training areas are known to exist in the areas designated as TCA airspace, although IFR general aviation practice and training are conducted in the area and are not precluded in a TCA. Since those IFR areas are used by large turbojets, it is necessary to mandate control of all aircraft in those areas. Any uncontrolled VFR training being conducted in those areas would be inconsistent with the objectives of the TCA program. The TCA airspace is not designated for any one user group's convenience, but to ensure that use of that airspace is safe and efficient. Use of TCA airspace must be with ATC authorization, therefore ensuring that ATC services are provided to all aircraft operating within that airspace. The result is intended to be a higher level of safety provided to air transportation.

2. Fuel—While there may be some increase in fuel use because of the TCA, it is not considered significant in light of the anticipated benefits to the traveling public. Any added delays resulting from the TCA are anticipated only at peak traffic periods when extended vectors or holding for arrival spacing becomes necessary. Some delays could be expected during those periods even if a TCA were not established. Currently, the most prevalent time a general aviation aircraft experiences that type of delay is when the local, air tour flights are returning to Honolulu in the early evening.

3. Costs—When considering the distribution of costs to the user, much has been said about it being the general aviation operators who are the most likely to incur the greatest cost impact. To operate within the confines of the TCA, aircraft must be equipped with a transponder. From available data, it is estimated that 51 percent of the aircraft based in the area are already equipped with a transponder. The operators of the remaining aircraft will have to elect to incur the cost of a transponder in order to achieve the enhanced level of safety and receive ATC services or to operate outside the TCA airspace. Nevertheless, the FAA has made a concerted effort to design the TCA to accommodate those who wish to avoid the TCA airspace and to minimize the potential risks of operating on the periphery of the TCA. However, the options are clearly posed for the election of each operator to pursue whichever is appropriate to that operator's situation.

The additional operating costs incurred by the transponder equipped operators who operate within the TCA airspace, as explained in the Airspace User Cost Impact Study, will be minimal. The FAA estimates that those costs are anticipated to be approximately a one-minute average ATC procedural delay during peak traffic periods. That delay is attributable, in part, to ATC procedures, and includes the time required to radar identify any VFR traffic and integrate that traffic into established IFR traffic flows.

The cost of avoiding the TCA for nonparticipating aircraft is expected to be minimal, because the TCA has been configured to lie mostly over water, away from frequently used VFR routes.

4. Weight of Transponder and Required Avionics—Commenters stated that the additional weight of the avionics required to operate in the TCA is prohibitive to small civil aircraft. A typical transponder weighs approximately 3 pounds. A typical VOR and two-way communications radio weighs approximately 6 pounds. Many aircraft will not incur additional weight because they already have some or all of the required avionics. When the avionics weight is considered in relation to the overall weight of an aircraft, it is minimal. The FAA has determined that the small additional weight to meet the equipment requirements to operate in the Honolulu TCA is insignificant compared to the benefits to be achieved by the designation of the TCA.

5. Controller Staffing and Pay Grades—Little or no increase in ATC staffing is anticipated, nor is any pay grade level change expected as a result of this TCA. Honolulu Tower has been providing Stage III terminal radar

services in a TRSA since September 1975. Those services are nearly identical to TCA services; the main difference being that pilot participation in the TRSA is voluntary. Any workload change as a result of the TCA is expected to be insignificant and is not anticipated to cause any immediate need to adjust controller staffing levels. Staffing is constantly under review considering all activities of the facility. Controller grade levels are adjusted according to pre-established aircraft activity levels. If no significant change of activity results from the TCA, no pay grade level changes are expected.

F. TRSA vs. TCA.

1. Some commenters felt the existing TRSA and its voluntary participation by pilots provides an adequate level of service. They cited the high level of participation and contend that because of that a TCA would not provide any additional benefits. Since voluntary participation is so high in the TRSA, the impact of a TCA on VFR operations should not be significant. Additional airspace is designated within the TCA that is not in the TRSA which may require VFR pilots to request arrival instructions earlier in some areas, but pilots presently participating in the TRSA should expect little, if any, difference in the ATC handling they now receive. The additional airspace, and required ATC clearance to enter the airpsace, provides more assurance that the passenger carrying aircraft operating in the terminal area are operating in airspace free of uncontrolled aircraft. Considering the higher level of activity, the mix of aircraft types that operate in the terminal area, and the high numbers of passengers carried by the large, turbojet-powered aircraft, that assurance is essential to ensure the highest degree of safety in air transportation.

2. Some commenters felt that it is necessary only to require transponders rather than establish a TCA. Others felt that transponders were too expensive and would add little benefit or added safety. Requiring transponders provides the benefit of radar target enhancement, but without a TCA, would still allow the mix of uncontrolled and controlled flights. It is the elimination of that controlled/uncontrolled aircraft "mix" that the FAA seeks to accomplish. The cost of purchasing transponders by those not so presently equipped is not a significant cost when balanced against the benefits achieved. Further discussion is contained in the user cost assessment made for this rulemaking and contained in the docket. The FAA disagrees that transponders add little benefit and no added safety. Benefit and safety are the reasons that transponder requirements were originally included in the rules to operate in TCAs. A transponder provides for immediate radar identification of an aircraft, radar target enhancement, and a more efficient method to maintain radar identification of the aircraft.

G. Public Consultation.

A commenter stated that the FAA should have surveyed individual pilots in Hawaii for their opinions on the proposed TCA. Individual pilots and other interested parties have been accorded several opportunities to express their views. The Honolulu TCA proposal was the result of FAA staff analysis and input received from various meetings with user respresentatives that resulted in a tentative TCA configuration. An informal airspace meeting was held on March 7, 1979. The results of that meeting and comments received were factors contributing to the proposal to establish a TCA and its configuration. Those were submitted and published as a notice of proposed rulemaking (NPRM). This rulemaking action is a result of those proceedings. The notice of the informal airspace meeting was made to over 100 users and user organizations. The NPRM was mailed to those same addresses, persons who attended the informal airspace meeting, and others who contacted the FAA and requested copies. The NPRM was published in the **Federal Register** on December 17, 1979, soliciting comments to be received not later than March 17, 1980. Twenty-six letters and a petition signed by more than 300 persons were received. The public has had adequate opportunity to participate in this proceeding.

H. Aircraft Mix and Reliever Airports.

Many comments addressed the mix of types of aircraft operations that occur at the Honolulu International Airport and the lack of an adequate system of general aviation reliever airports in the area. A TCA action would likely still have been proposed even if most general aviation aircraft were relocated at one or more reliever airports. TCA airspace free of uncontrolled VFR aircraft is designed to contain the flight paths of the large, turbine-powered aircraft in terminal airspace. The FAA supports establishing reliever airports and is actively encouraging the State of Hawaii to provide such facilities. However, providing reliever airports does not eliminate the uncontrolled aircraft problem. A TCA at Honolulu will. Some commenters recognized that increased use of Runway 8L, for IFR aircraft rather than 4R, during the higher traffic periods of the day would be a positive step in reducing hazardous incidents and the aircraft mix problem. While segregating the large aircraft on Runway 8L/R and small aircraft on Runway 4L/R would help reduce the mix of types of aircraft using the airport, a prime objective of establishing the TCA is to ensure that the passenger carrying aircraft operating IFR in the terminal airspace receive the added radar separation services from VFR aircraft that is provided. Runway segregation of VFR/IFR aircraft does not present an adequate alternative.

I. ATC Component and Aircraft Equipment Failures.

Some commenters asked what the effects would be if the Honolulu Tower experiences a radar, or computer failure, or aircraft experiences a transponder failure.

1. Computer failure—It is assumed that concern refers to the ARTS III computer. No significant effect would be felt by pilots or controllers. Controllers would not have alphanumerics information available. They would still retain nondiscrete use of the beacon interrogator but would be required to revert to nonautomated coordination, a function normally provided by the ARTS III. Computer outages do occur at various times, both scheduled and unscheduled. Pilots are seldom aware of them, except possibly during a transition to nondiscrete beacon use.

2. Radar failure—The Stage III separation and sequencing for VFR aircraft is dependent upon the terminal radar while a TCA is not. When a radar outage occurs, the rules for entry into and operation within the TCA still apply. ATC will apply available alternate procedures to segregate VFR traffic as much as possible from the IFR traffic flow. Some delays could be expected, but there would be no decrease in the level of safety provided. The same effects would result under the existing TRSA procedures when radar outages occur.

3. Transponder failures—Pilots should familiarize themselves with § 91.24(c)(1) transponder requirements in the case of equipment failure. ATC may authorize an immediate deviation from the requirement for a transponder to allow an aircraft with an inoperative transponder to continue to the airport of ultimate destination, including intermediate stops, or to proceed to a place where suitable repairs can be made, or both. Provisions for other deviations are also prescribed in § 91.24(c)(2) and (c)(3). One commenter

stated the FAA should not issue "waivers" to the transponder requirements. Exceptions to those requirements are not issued by waiver, but by obtaining a deviation authorization from the appropriate ATC facility, in this case the Honolulu Tower. Regardless of what it is called, ATC must remain responsive to legitimate deviation requests for specific flights or aircraft which can be handled without undue risk to operations in the TCA.

J. NAS Barbers Point Area.

The U.S. Navy objected to the proposed TCA primarily because of its adverse impact on their mission capability and aviation safety concerns at and around Naval Air Station Barbers Point. They contend it is extremely complicated and would create a more complex operational situation, and would add little, if any, significant improvement to the existing Stage III terminal radar service in the TRSA. While the FAA understands the Navy's position, each airport is considered separately and collectively through a system approach to aviation safety. Airports that are located in such proximity to one another as Honolulu and NAS Barbers Point cannot have large or high performance aircraft operations without some interaction. The FAA has worked with the Navy to design a TCA configuration with as little adverse effect on NAS Barbers Point activity as possible. The airspace configuration of the TCA contains the minimum airspace necessary to contain within the TCA the IFR flight paths and altitudes over and adjacent to NAS Barbers Point. The Navy stated that the proposed Area G would result in Honolulu arrivals crossing NAS Barbers Point as much as 600 feet lower than at present. That conclusion is erroneous. Nothing in the ILS procedure has been changed over NAS Barbers Point and operations should continue as in the past. Changes were made to the west and south, however, but those were to increase the glide slope interception altitude and the intermediate approach segments to 3,000 feet. Those changes were made to enable the floor of Area D to be at 3,000 feet to minimize the impact on NAS Barbers Point operations.

The Navy objected to any TCA airspace encroaching on the NAS Barbers Point airport traffic area, and recommended changes for the narrow areas established to contain the ILS Runway 8L flight path and altitudes. (Those recommendations are reviewed in greater detail under "Alternative Proposals.") Airport traffic areas are established in part to require communications with ATC when operating within 5 miles of, and below 3,000 feet above, an airport with an operating control tower. It is not airspace delegated to a tower to conduct whatever activities they see fit and prohibit other aircraft access to that airspace. Since there is no ATC separation responsibility created by the existence of an airport traffic area, there is no encroachment of airport traffic area airspace by the establishment of a TCA. However, where the TCA airspace is within the NAS Barbers Point airport traffic area, Barbers Point Tower no longer has overall communications responsibility for that airspace. That does not preclude the responsibility for the two ATC facilities involved to execute a Letter of Agreement to ensure the safe, orderly, and expeditious coordination and movement of aircraft activity under their respective jurisdictions. An agreement to achieve that purpose is currently in effect, but it may need to be updated to reflect the establishment of the TCA.

The Navy stated that the TCA action will increase noise because of increased activity to Runway 8L through the Barbers Point airport traffic area. The added activity of jet arrivals to Runway 8L at Honolulu during busy traffic periods is not connected to the TCA action. The TCA will require jet arrivals conducting a visual turn to Runway 8L in the vicinity of Barbers Point to remain at or above 3,000 feet until within the TCA areas confining the Runway 8L approach course. Previously, with coordination with Barbers Point Tower, those aircraft could descend to a minimum of 2,200 feet at or west of the Honolulu VOR in accordance with noise abatement procedures. As previously stated, an altitude below 3,000 feet, south of Barbers Point, was not designated in order to minimize the impact on Barbers Point VFR activity.

The Navy also stated they believed a reduction in safety would occur due to increased numbers of aircraft attempting to avoid the TCA beneath its floor west of Area A. The FAA has found no basis to expect areas over the ocean, south of the ILS Runway 8L localizer, to be used as a detour route around Area A. North of the localizer, over the land, some increased activity may be expected, however, it is not expected to cause any reduction in safety. Aircraft properly equipped and with the appropriate authorization can operate in the TCA. ATC authorization will be based on traffic conditions, pilot intentions, and other factors related to ensuring a safe, orderly, and efficient movement of air traffic in the terminal area.

K. Alternative Proposals.

1. Proposed Area F—The commenters stated that Area F is too low and will unduly restrict en route and other VFR flight. That area contains the departure profiles of the Kules, Blush, and Molokai standard instrument departures (SIDs) as well as the initial approach segments from BAMBO Intersection to the LDA/DME Runway 26L final approach course. A higher floor altitude would require climb rates exceeding those used (300 feet per mile) for the departures and would restrict the Runway 26 arrivals such that a higher rate of descent or an extended vector pattern would be required from BAMBO. Past experience with VFR overflights, especially the afternoon air tours en route to Kauai, indicates that 4,500 feet, or lower, is an optimum altitude. Properly equipped aircraft should encounter little difficulty receiving authorization to transit through that area, especially when Runways 4 and 8 are in use. VFR altitudes of 4,500 feet and lower along V-15 between Molokai and Koko Head are outside the TCA except at the Koko Head VORTAC.

2. Proposed Area K—Commenters stated that this area would unduly restrict VFR pilots, is an arbitrary impediment to VFR traffic, is unnecessary control by ATC, and is not necessary to contain the flight paths of large, turbine-powered aircraft in light of the regulatory requirements associated with operating within airport traffic areas. There were also several comments suggesting that geographical references rather than the proposed northern boundaries of the TCA would be more appropriate for VFR navigation. The FAA agrees with some of those points and Area K has been revised by adjusting its northern boundary from the control zone to along the State Highway H-1 and by reducing the ceiling altitude from 3,000 feet to 2,000 feet. That will exclude unnecessary airspace and establish only that airspace as TCA that is necessary to contain large, turbine-powered aircraft approaching to land on Runways 22L/R and 26R. Further, it ensures aircraft transiting northeast of the airport, that is, those operating to and from Ford Island or helicopter landing areas within the Honolulu airport traffic area, are provided ATC separation services. It will also allow aircraft bypassing Honolulu to remain outside the TCA en route between Koko Head and the central vallley area. Pilots are reminded, however, this exclusion does not remove the requirements of § 91.85(b) and § 91.87(b) concerning authorization from, and communication with, the control tower to transit through

the airport traffic area. Separation services will be provided only at and below 2,000 feet MSL.

3. Improved TCA entry and exit procedures—Commenters suggested developing improved entry and exit procedures in the State Highway H-1 and H-2 Interchange area, providing landmark reporting points and additional arrival frequencies, especially to the east. Those recommendations are being reviewed by the Honolulu Tower staff. Those actions are beyond the scope of designating TCA airspace, and should be considered even if a TCA were not established since they involve the Stage III radar procedures. The need for another radar position has already been identified, is in the planning stage, and will be installed when funding and equipment availability permit.

4. Revision of proposed northern boundaries—Recommendations were made that all the northern boundaries should be established geographically rather than as proposed. The north boundaries of proposed Area K and a portion of proposed Area J have been revised as suggested. The portion of Area J using VOR radials and the other northern boundaries of the TCA have not been changed because no suitable alternative geographical references exist without establishing more TCA airspace than is necessary. This rationale also applies to not using roads or visual landmarks for defining Areas A, D, G, and H.

5. Corridors—Several commenters recommended that all jet aircraft operate within corridors over the ocean using Runaway 8 thereby leaving light, single-engine aircraft over land and twin-engine aircraft along the shoreline to use Runway 4. Between 7 a.m.-7 p.m. during tradewind conditions, the normal flow is as recommended, except when delays exist for jet arrivals to Runway 8L or when other traffic using Runway 4 is light. Although the TCA does not have an overall appearance of corridors, it does contain the various arrival and departure routes of the large, turbine-powered aircraft. There are six departure and five arrival paths contained along and within V-12 to the northeast of Koko Head VORTAC clockwise to V-15 northwest of Honolulu VORTAC. Those paths connect to the landing and takeoff area of each runway at Honolulu since they are all used by large aircraft. Some additional airspace within Area J was included in the proposed TCA, even though it is not necessary to contain large, turbine-powered aircraft. That was the result of a suggestion at the informal airspace meeting held on March 7, 1979, to which there was no objection. (Area J contains within the TCA aircraft descending to 1,000 feet abeam Diamond Head for separation from jet departures off Runway 8.) No VFR corridor through the TCA exists because flight beneath Area F, above Area K, and north of Areas A, C, D, and J provides the equivalent bypass that would be provided by a VFR corridor.

6. Concerning the applicability of operating rules over the high seas—A question was asked why the 250 knot below 10,000 feet rule (§ 91.70(a)) can't be enforced when the TCA operating and equipment rules (§ 91.90) apply in these same areas. The applicability of those rules is specified in § 91.1(b)(1), which specifies that the rules concerning operations within and underlying a TCA are applicable over the high seas. No such applicability is specified for § 91.70(a) nor does such a requirement exist in Annex 2 to the Convention on International Civil Aviation concerning flight over the high seas.

7. Containing IFR procedures—

a. It was pointed out that on the "PEBLE ONE" (IFR) arrival, an aircraft could be at 2,000 feet between PEBLE and MAKAI intersections and that 15 miles of that route would be below the floor of Area E. The altitude on that route is the minimum en route altitude. Large, turbine-powered aircraft will be assigned altitudes by ATC in that area to ensure they remain at or above the floor of TCA.

b. Another comment stated that an "ELRON" departure, using the 300 feet per mile rate of climb, would exit the TCA between 8,000 and 9,000 feet. That would be true for Runway 4 and 8 departures; however, the 3,000 feet restriction crossing the Honolulu VORTAC 190° radial is usually removed prior to that point allow a climb to exit the TCA above 9,000 feet. Even if that were not possible, the limited VFR activity at those altitudes in that area is not sufficient reason to amend the IFR departure procedure or extend the TCA. However, that situation will be monitored by ATC to determine whether VFR activity dictates adjustment in the procedures or whether a later change in the TCA should be considered.

c. A commenter said that there is no justification for the TCA ceiling of 9,000 feet since practically no uncontrolled, VFR aircraft would be operating above 7,000 feet in the vicinity of the Honolulu International Airport. A recommendation was therefore submitted that the ceiling altitude be amended to 7,000 feet. The altitude of 9,000 feet is the same as has been used for State III separation services since they were implemented in the TRSA in 1975. That altitude was selected to contain the overflights that were known to transit Oahu daily, usually at and below 8,500 feet. Therefore, the ceiling altitude of 9,000 feet was selected to ensure that those aircraft would not operate without ATC authorization while within the same airspace used by the large, turbine-powered aircraft operating from Honolulu International Airport.

d. A commenter stated that Areas B and C and a large portion of Areas E and F are not required because large, turbine-powered aircraft should not be in those areas below 7,000 feet. The commenter further stated that IFR approach and departure procedures could be easily accommodated in slightly enlarged Areas D and J, a reduced Area A, and the Areas G and H as proposed. That commenter then recommended an alternative configuration comprised of six areas, each having a ceiling of 7,000 feet, except over the Honolulu International Airport where the recommended ceiling was at 4,000 feet. The base altitudes would range from the surface up to 4,000 feet.

It was also recommended that if a TCA was adopted it should not be applicable between midnight and 6 a.m. because very few large, turbine-powered scheduled air carriers operate between those hours.

The statement concerning areas where large, turbine-powered aircraft operate below 7,000 feet is incorrect. Areas B and C each contain IFR nonradar approach segments of the primary instrument approaches to Honolulu International Airport and the "ELRON" and "CORAL" standard instrument departures (SIDs). Areas E and F contain other SID procedures to "KULES," "BLUSH," "MOLOKAI," "LANAI," and "ELRON." Areas C and F also contain the vector paths of aircraft transiting from "BAMBO" to the LDA/DME Runway 26L final approach course. The base altitudes established are all predicated on the altitudes established in those procedures or anticipated by use of a 300 feet per mile climb/descent gradient.

The alternate configuration and hours proposed are not adopted for the following reasons:

(1) Aircraft conducting an ILS Runway 4R approach would be operating beneath the floor of a 3,000 feet area while on the final approach course until reaching the airport traffic area.

(2) Aircraft conducting instrument approaches to Runway 8L would be operating beneath the floor of a 1,600

feet area between the Honolulu VORTAC and the airport traffic area.

(3) Aircraft conducting an LDA/DME Runway 26L approach would be operating beneath the floor of a 1,500 feet area between "DELMO" and the airport traffic area.

(4) Runway 8 departures flying the "CATTY" SID or military VORTAC departure could be expected to exit the area over the airport at 4,000 feet.

(5) All other large, turbine-powered aircraft departing Runways 8, 22, and 26 would not be continuously contained within the TCA in the terminal area. For example, the departure ends of all runways used by turbine-powered aircraft for departure are less than 4 miles from the boundary proposed for the core surface area. Using a 300 feet per mile climb rate, departures would either exit the TCA beneath the 1,500 feet floor proposed to the southeast, into an area not designated to the south, or beneath a 3,000 feet floor proposed to the southwest.

(6) Section 91.90(b)(1)(ii) requires that unless otherwise authorized by ATC, each person operating a large, turbine-powered aircraft to or from a primary airport shall operate at or above the designated floors while within the lateral limits of the TCA. Therefore, the situations cited in (1), (2), (3), and (5) would be conflict with that rule in that through improper design of the TCA pilots could not be in compliance with § 91.90(b)(1)(ii) unless ATC gave authorization to operate beneath the floor of the TCA. Such authorization would not be in keeping with the purposes of establishing a TCA and, therefore, is not an acceptable alternative.

(7) No purpose can be found for excluding airspace beyond the airport traffic area due south of the Honolulu International Airport as recommended in the alternative proposal. Three known VFR activities could occur in that area, each of which give reason to designate sufficient airspace to contain the IFR procedures to and from Honolulu International Airport. Those are VFR flights operation to and from the Warning Areas of Oahu, airway navigation training flights, and low altitude air work with surface vessels. Sufficient airspace beneath the TCA will be available for the latter activity, and the operations of the two former activities should be contained within the TCA since those operations may be operating in airspace containing the flight paths of the Honolulu large, turbine-powered aircraft.

(8) Concerning the hours of designation of the TCA, it is true that activity in the early morning hours is reduced. The same is true for all categories of operations. The designation of a TCA between midnight and 6 a.m. is not considered adverse to any operation. During a randomly selected week of activity at Honolulu, an average of 42 air carrier, 7 air taxi, 1 general aviation, and 4 military operations per day took place during those hours. Aircraft activity through the terminal area from other airports is considered extremely light, and aircraft should have no difficulty obtaining any authorizations required. Since the availability of service exists with no anticipated adverse impact on any operation, the FAA sees no advantage in designating the TCA for less than the full day period.

8. Barbers Point area—The U.S. Navy recommended that if the TCA were established, an additional area should be established along the Honolulu ILS Runway 8L approach course, and amendments should be made to Areas G and H to reduce the operational impact on the missions of NAS Barbers Point. Those recommended changes are reflected in the TCA as adopted. Pilots of aircraft operating beneath those areas (G, H and I) are reminded that aircraft flying the glide slope of the ILS Runway 8L procedure will be very near the base of those areas and that no-separation buffer is provided between aircraft operating within and outside of the TCA.

Economic Impacts

The FAA has thoroughly assessed the costs of establishing the Honolulu TCA. A comprehensive economic assessment, covering the entire program as described in the Plan for Enhanced Safety was made available to attendees at informal airspace meetings held in Honolulu on March 7, 1979, and was placed in the Regional and Washington dockets for public comment. The assessment includes systemwide assumptions concerning the impact of all 44 originally proposed TCAs, including the Honolulu, Hawaii, TCA proposal. Since eleven of the original sites are no longer under current consideration, the cost impact systemwide is even less but the underlying assumptions are still applicable to the remaining candidate sites. In addition, to determine whether these general assumptions are valid for the particular TCA airspace description proposed for Honolulu, Hawaii, a Regional detailed draft addition to the broad national study was prepared by the FAA's Pacific-Asia Regional Office. The Regional economic assessment was appended to the national assessment and was also in the Regional and Washington dockets.

Environmental Impacts

In a manner similar to that described above for the national and local economic assessments, an environmental assessment was prepared, which addresses the overall national environmental effect of the 44 original candidate sites for TCAs. The assessment addresses the aircraft noise, aircraft emissions, and fuel consumption impacts of the program as a whole, and concludes that those impacts would not significantly affect the quality of the human environment. That national assessment is in the Regional and Washington dockets. In addition, as with the economic study, the program-wide assessment has been supplemented with an environmental assessment prepared by the Pacific-Asia Regional Office, responding to the site-specific impacts of the Honolulu, Hawaii, TCA proposal. The local assessment was likewise in both dockets for public comment and has been updated to reflect the proposed action of adopting this amendment.

Airspace Outside the United States

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States, is governed by Article 12 of, and Annex 11 to, the Convention on International Civil Aviation, which pertain to the establishment of air navigational facilities and services necessary to promote the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to ensure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided, and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standard and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provision of Executive Order 10854.

Adoption of the Amendment

Accordingly, § 71.401(b) of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 669) on January 2, 1980, is hereby amended, effective November 27, 1980, by adding a new Group II Terminal Control Area to read as follows:

Subpart K—Terminal Control Areas

§ 71.401 Designation.

* * * * *

(b) Group II, Terminal Control Areas:

* * * * *

Honolulu, Hawaii, Terminal Control Area
Primary Airport
Honolulu International Airport (Lat. 21°19'20"N., Long. 157°55'27"W.)

Boundaries

Area A. That airspace extending upward from the surface to and including 9,000 feet MSL within an area bounded by a line beginning at the Honolulu ILS Runway 4R DME (Lat. 21°20'01"N., Long. 157°54'23"W.), to Lat. 21°18'39"N., Long 157°51'15"W.; thence direct to a point on bearing 145°, and 4.5 miles from the ILS Runway 4R DME; thence along the 145° bearing to, and then clockwise along, the 7.5-mile radius arc of the ILS Runway 4R DME to, and along, the Honolulu VORTAC (Lat. 21°19'41"N., Long. 158°01'56"W.) 179°/359° radial to, and then east along, a line 0.5 miles north of, and parallel to, the ILS Runway 8L localizer course to a point 1.5 miles west of the ILS Runway 4R DME, thence direct to the point of beginning.

Area B. That airspace extending upward from 1,500 feet MSL to and including 9,000 feet MSL between 7.5 miles and 15 miles of the ILS Runway 4R DME and bounded on the east by the Honolulu VORTAC 134° radial and on the west by a line 1.5 miles northwest of, and parallel to, the ILS Runway 4R localizer course, excluding that airspace within Area A.

Area C. That airspace extending upward from 2,000 feet MSL to and including 9,000 feet MSL between 15 miles and 22 miles of the ILS Runway 4R DME and bounded on the northeast by the Koko Head VORTAC (Lat. 21°16'06"N., Long. 157°42'21"W.) 111° radial and on the west by a line 1.5 miles northwest of, and parallel to, the ILS Runway 4R localizer course.

Area D. That airspace extending upward from 3,000 feet MSL to and including 9,000 feet MSL within 22 miles of the ILS Runway 4R DME, south of a line 0.5 miles north of, and parallel to, the Honolulu VORTAC 293° radial, north of a line 1.5 miles northwest of, and parallel to, the ILS Runway 4R localizer course, and west of the Honolulu VORTAC 179°/359° radial, excluding that airspace within Areas G, H, and I.

Area E. That airspace extending upward from 4,000 feet MSL to and including 9,000 feet MSL within 32 miles of the ILS Runway 4R DME extending from the Honolulu VORTAC 119° radial clockwise to Lat. 20°49'00"N., Long. 157°46'35"W., to Lat. 20°52'00"N., Long. 157°50'00"W., to Lat. 20°48'20"N., Long. 157°50'00"W., thence clockwise along the 32-mile radius arc of the ILS Runway 4R DME to Lat. 20°51'30"N., Long. 158°10'00"W., to Lat. 21°00'00"N., Long. 158°10'00"W., to Lat. 21°00'00"N., Long. 158°18'00"W., to Lat. 20°59'02"N., Long. 158°19'58"W., thence clockwise along the 32-mile radius arc of the ILS Runway 4R DME to a line 0.5 miles north of, and parallel to, the Honolulu VORTAC 293° radial, excluding that airspace within Areas A, B, C, D, G, H, I, and J.

Area F. That airspace extending upward from 5,000 feet MSL to and including 9,000 feet MSL bounded by a line 0.5 miles northeast of, and parallel to, the Koko Head VORTAC 050° radial beginning at the Koko Head 291° radial and extending to Lat. 21°25'15"N., thence southeast along a 152° heading to, and then along, the 32-mile radius arc of the ILS Runway 4R DME to, and then along, the Honolulu VORTAC 119° radial to a point 22 miles from the ILS Runway 4R DME, thence direct to the point of beginning, excluding that airspace within Areas C and J.

Area G. That airspace extending upward from 1,600 feet MSL to and including 9,000 feet MSL within an area bounded on the north and south by lines 0.5 miles parallel to, and on each side of, the ILS Runway 8L localizer course, on the east by the Honolulu VORTAC 179°/359° radial and, on the west by the 1.1-mile radius arc of the Honolulu VORTAC.

Area H. That airspace extending upward from 1,900 feet MSL to and including 9,000 feet MSL within an area bounded on the north and south by lines 0.5 miles parallel to, and on each side of, the ILS Runway 8L localizer course, on the east by the 1.1-mile radius arc of the Honolulu VORTAC, and on the west by the 1.9-mile radius arc of the Honolulu VORTAC.

Area I. That airspace extending upward from 2,200 feet MSL to and including 9,000 feet MSL within an area bounded on the north and south by lines 0.5 miles parallel to, and on each side of the ILS Runway 8L localizer course, on the east by the 1.9-mile radius arc of the Honolulu VORTAC, and on the west by the 9-mile radius arc of the Honolulu VORTAC.

Area J. That airspace extending upward from 1,000 feet MSL to and including 9,000 feet MSL within 15 miles of the ILS Runway 4R DME, bounded on the north by a line extending west along the Koko Head VORTAC 111°/281° radial until intersecting, and then proceeding along, the H-1 Freeway to Lat. 21°18'39"N., Long. 157°51'15"W.; bounded on the west by Area A, and on the south by the Honolulu VORTAC 134° radial.

Area K. That airspace extending upward from the surface to and including 2,000 feet MSL within an area south of the H-1 Freeway, between Lat. 21°22'32"N., Long. 157°55'40"W., Lat. 21°21'29"N., Long. 157°54'00"W., and Lat. 21°18'39"N., Long 157°51'15"W., east of Long. 157°55'40"W., and north of Area A.

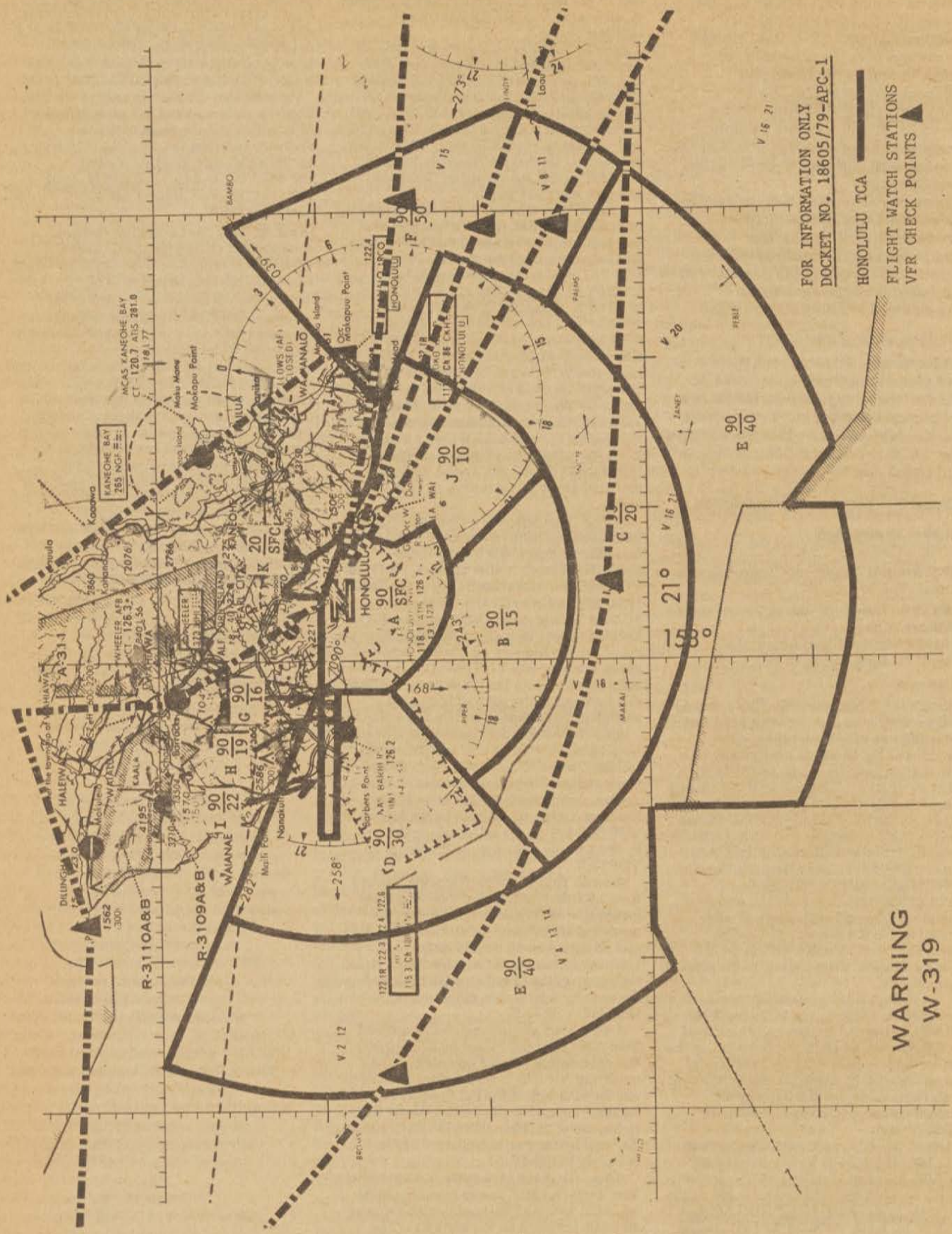
(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510); Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

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). However, establishment of this terminal control area in concert with the proposed establishment or alteration of many other terminal control areas has been determined to be significant. Therefore, this action is included in the final evaluation prepared in conjunction with that comprehensive action. Copies of the evaluation are in the Washington and Regional dockets, and may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT: . . ."

Issued in Washington, D.C. on August 5, 1980.

Langhorne Bond,
Administrator.

BILLING CODE 4910-13-M



[FR Doc. 80-24378 Filed 8-13-80; 8:45 am]

14 CFR Part 71

[Airspace Docket No. 79-EA-65]

Alteration of Transition Area; Martinsville, Va.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters the Martinsville, Va., Transition Area over Blue Ridge Airport, Martinsville, Va. This alteration will provide protection to aircraft executing an amended VOR-B and a new VOR/DME Runway 30 instrument approach which has been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

EFFECTIVE DATE: 0901 GMT September 4, 1980.

FOR FURTHER INFORMATION CONTACT: Douglas Ambrose, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, telephone (212) 995-3391.

SUPPLEMENTARY INFORMATION: On page 3920 of the **Federal Register** for January 21, 1980, the FAA published an NPRM to alter the Martinsville, Va., Transition Area. The rule will amend Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Martinsville, Va., Transition Area. The airport is at present overlaid by a 700-foot area to which is now added a portion of airspace approximately three miles long and nine miles wide to the southeast side of the area and a portion approximately one mile wide by six miles long to the westerly side of the southern extension. Interested parties were given time in which to submit comments. No objections were received.

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) is amended, effective 0901 GMT September 4, 1980, as published.

(Section 307(a), and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(c)); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this document involves a proposed 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). 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 operation, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Jamaica, New York, on July 17, 1980.

Lonnie D. Parrish,

Acting Director, Eastern Region.

§ 71.181 [Amended]

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to amend the description of the Martinsville, Va., 700-foot floor transition area as follows:

In the text delete all after, "extended from the 6.5-mile radius area to 14 miles northeast of the end of the runway"; and substitute therefor, "within 4.5 miles each side of the Martinsville, Va. VOR 178° radial extending from the 6.5-mile radius area to 12 miles south of the airport; within 4.5 miles each side of the Martinsville, Va. VOR 115° radial extending from the 6.5-mile radius area to 11 miles southeast of the airport."

[FR Doc. 80-24376 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-EA-57]

Alteration of Transition Area; Wrightstown, N.J.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters the Wrightstown, N.J., Transition Area over Monmouth County Airport, Belmar-Farmingdale, N.J. This alteration provides protection to aircraft executing the proposed Runway 14 simplified directional facility (SDF) instrument approach which is being developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

EFFECTIVE DATE: 0901 GMT September 4, 1980.

FOR FURTHER INFORMATION CONTACT: Douglas Ambrose, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

SUPPLEMENTARY INFORMATION: On page 3922 of the **Federal Register** for January 21, 1980, the F.A.A. published an NPRM to alter the Wrightstown, N.J., Transition Area. The rule is an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Wrightstown, N.J., Transition Area. The airport is at present overlaid by a 700-foot area to which will be added a portion of airspace approximately six miles deep and eight miles wide to the northwest. Interested parties were given time in which to submit comments. No objections were received.

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) is amended, effective 0901 GMT September 4, 1980, as published.

(Section 307(a), and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(c)); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69)

Note.—The FAA has determined that this document involves a proposed 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). 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 operation, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Jamaica, New York, on July 17, 1980.

Lonnie D. Parrish,

Acting Director, Eastern Region.

§ 71.181 [Amended]

Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to amend the description of the Wrightstown, N.J., 700-foot floor transition area by amending the description to read:

Wrightstown, N.J.

Following, "within a 5-mile radius of Monmouth County Airport (40°11'05" N., 74°07'20" W.); within 2 miles each side of the Colts Neck VORTAC 167° radial extending from the Monmouth County Airport 5-mile radius area to the VOR;" add the following: "within 4 miles each side of the Belmar (BLM), N.J., localizer (40°10'57" N., 74°07'14" W.) 315° bearing extending from the Monmouth County Airport 5-mile radius area to 7-miles northwest of the approach end of Runway 14."

[FR Doc. 80-24377 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 80-NW-4]

Alteration of Transition Area; Redmond, Oreg.; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: The final rule altering the Redmond, Oregon, transition area to be effective September 4, 1980, omitted an airspace exclusion to the transition area being altered. This correction will reflect the additional airspace exclusion.

EFFECTIVE DATE: September 4, 1980.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, Airspace Specialist, (ANW-534), Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Washington 98108; telephone (206) 767-2610.

SUPPLEMENTARY INFORMATION: Correction to the final rule excludes that airspace within the Lakeview, Oregon, control area from the transition area being altered at Redmond, Oregon.

Since this action is editorial in nature, notice and public procedure hereon are not necessary.

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 (45 FR 445) is amended, effective 0901 G.m.t., September 4, 1980, as follows:

Redmond, Oreg.

After "* * * of and parallel to the 189° radial," on line eleven add: "* * *; that airspace extending upward from 1700 feet above the surface within a line beginning at Redmond, Oregon, VORTAC, extending north on V25 to The Dalles VORTAC, east on V112 to Pendleton VORTAC, southeast on V4 to Baker VORTAC, southwest on V357 to Lakeview VORTAC, west on V122 to Klamath Falls, VORTAC, northwest on V452 to Eugene VORTAC, east on V121N to Redmond VORTAC, excluding that airspace within Federal Airways, the Juniper MOA, the Lakeview Control Area, and the Baker, Eugene, Klamath Falls, Pendleton, The Dalles, and Burns (Wildhorse), Oregon transition areas."

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and (14 CFR 11.65))

Note.—The FAA has determined that this document involves a regulation which is not considered to be significant under the procedure and criteria prescribed by Executive Order 12044 and as implemented by Department of Tranportation 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 Seattle, Wash., August 1, 1980.

E. O'Connor,

Acting Director, Northwest Region.

[FR Doc. 80-24589 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 73

[Airspace Docket No. 80-ARM-14]

Amendment to Restricted Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action changes the title of the using agency of R-6404A and R-6404B Hill AFB, Utah; R-6405 Windover, Utah; and R-6406 Windover, Utah, to reflect internal military reorganization. There are no changes to the area's utilization or dimensions.

EFFECTIVE DATE: October 30, 1980.

FOR FURTHER INFORMATION CONTACT: George O. Hussey, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

The Rule

This amendment to Part 73 of the Federal Aviation Regulations (14 CFR Part 73) changes the using agency of R-6404A and R-6404B Hill AFB, Utah; R-6405 Windover, Utah: and R-6406 Windover, Utah, from "Commander, Hill AFB, Utah" to "Commander, 6501st Range Squadron, Hill AFB, Utah." Because this action is administrative in nature and not affected by public comment, I find that notice of proposed rulemaking and public procedure is unnecessary.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 73.64 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (45 FR 722) is amended, effective 0901 GMT, October 30, 1980, as follows:

In § 73.64:

Under R-6404A Hill AFB, Utah, using agency; "Commander, Hill AFB, Utah" is deleted and "Commander, 6501st Range Squadron, Hill AFB, Utah" is substituted therefor.

Under R-6404B Hill AFB, Utah, using agency; "Commander, Hill AFB, Utah" is deleted and "Commander, 6501st Range Squadron, Hill AFB, Utah" is substituted therefor.

Under R-6405 Windover, Utah, using agency; "Commander, Hill AFB, Utah" is deleted and "Commander, 6501st Range Squadron, Hill AFB, Utah" is substituted therefor.

Under R-6406 Windover, Utah, using agency; "Commander, Hill AFB, Utah" is deleted and "Commander, 6501st Range Squadron, Hill AFB, Utah" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.69.)

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 August 7, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-24581 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

Office of the Secretary

15 CFR Part 17a

Cooperative Generic Technology Program Procedures

AGENCY: Office of the Secretary, Department of Commerce.

ACTION: Final rule.

SUMMARY: This notice announces the intention of the Department of Commerce to develop and carry out a Cooperative Generic Technology Program in cooperation with U.S. industry and commerce. This new program will provide an opportunity for government, industry, technical institutes, and universities to cooperate in the development of needed generic

technologies—those that underlie a broad range of industries—in instances where it is inapporopriate for the private sector, acting alone, to do so. The cooperation will include the activities of problem analysis, discovering new knowledge, and providing institutional mechanisms that will promote the development, improvement, and/or transfer of generic technology in selected areas of major importance.

DATE: The regulations become effective August 14, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Frederick Haynes, Department of Commerce, Room 3520, 14th and Constitution Avenue, N.W. Washington, D.C. 20230. (202) 377-5905.

SUPPLEMENTARY INFORMATION: These regulations finalize the Proposed Procedures of the Cooperative Generic Technology Program, which were published for comment, in the **Federal Register** on June 18, 1980.

Maintaining vitality in the Nation's economy and improving our quality of life requires an increased commitment to the development of new technology and improved application of existing technology by domestic industry. In recent years, analysts and decision makers in Government and industry have noted opportunities for stimulating the development of generic technologies—those that underlie a broad range of industries. These generic technologies, broadly used in industry, are often beyond the capability of any one firm to develop for a variety of reasons (cost, lack of management expertise, limited return on investment within a single industry, among others). To encourage a commitment to technological growth and innovation in these generic fields, the Department of Commerce seeks to promote cooperative centers for generic technology research, development and transfer to the private sector. Sharing costs, risks and ideas and building cumulative expertise through a cooperative program such as the one described here will encourage technical progress in these generic technologies.

To this end, the President's Industrial Innovation Initiatives announced on October 31, 1979 called for establishment of non-profit centers—at universities or other private sector sites—to develop and transfer generic technologies. Each center will be targeted on a technology that is involved in the processes of several industrial sectors, and has the potential for significant technological upgrading. The Centers would not supplant efforts in the private sector that are designed for specific product development. Each center will be jointly financed by industry and government, with the government's share dropping to 20 percent or less of the center's cost in the fifth year. In future years, the size of the program will depend on the proposals received, and the experience gained from this initial effort.

Program Goals

The goals of this program are to stimulate technological and industrial innovation in the United States. By stimulating innovation, this program will help to satisfy important national goals such as:

Generating advances in productivity necessary for a growing and noninflationary economy;

Developing new jobs by fostering the creation of new high technology companies;

Protecting environmental quality and human health and safety while enhancing productivity and competitiveness; and

Meeting foreign competitive challenges.

The institutional mechanism chosen to satisfy these program goals is the Cooperative Generic Technology (COGENT) Center. Center will be established for each technology area selected by the program. These centers will be independent non-profit institutions or separate operating units of such institutions that are managed and controlled by private industry sponsors, and funded through government and private sector cost sharing.

Procedural Description

The establishment of centers for generic technologies will follow a three step process. First, the Secretary shall create and maintain an inventory of candidate generic technologies, based upon outside suggestions and internal analysis.

Second, the Secretary will select technologies and invite proposals and requests for funding.

Third, the proposals received will be reviewed, and funds will be released to implement those proposals that best fit the program goals and budgetary limitations.

Description of a Generic Technology Center

A COGENT center will be responsible for the conduct of major R&D projects in the specified generic technology and for promoting technology transfer and utilization. To carry out this responsibility, each Center must perform the following major functions:

A. In-House Generic R&D

Each center will conduct R&D to develop the knowledge needed for new technologies which are unlikely to be created without a cooperative effort. The R&D agenda established by members or their governing boards must be relevant to the specified generic technology, and the potential results should significantly outweigh costs. This R&D must be performed in-house in order to take advantage of cummulative research and problem solving expertise. Therefore the center should plan to develop its facilities, equipment and personnel to the point where it has the capacity to perform in-house as much of the required R&D as possible. The center will not develop a technology beyond the point at which a member firm, acting on its own, may assume the development and resulting commercialization.

B. Technical Services

A major facet of this program is that each center is cooperatively funded by government and industry. However, it is recognized that industry support is likely only if members obtain concrete benefits which are available only to them, and which provide an adequate and near-term return on contributions of the members. Such returns are unlikely from long-term generic R&D. Therefore, each center is expected to design and operate a program of technical services that will provide knowledge of, and ability to utilize available technologies. The specific nature and mix of these services will undoubtedly vary from field to field. However, candidate services include:

1. *Consulting and Technology Service:* A center may have the capability to provide consulting and technical services to interested members, and to non-member firms on an appropriate fee basis. Center staff should include specialists that can provide services such as technical audits, quality control calibrations, technology evaluation, etc. However, the services chosen should complement the capabilities of private consultants rather than compete with them. Therefore, the center must create and distribute a directory of outside experts who can serve as consultants in the specified generic technology.

2. *Information System Service:* The center may establish and maintain a specialized library and data bank that gathers worldwide information on all new developments relevant to the generic technology and disseminates it to its membership. The center could produce periodic status reports on the technology and respond to queries for

technical information from both center members, and from nonmembers on an appropriate fee basis.

3. *Training:* The center should ensure the availability of programs and facilities for the training of both management and labor in the evaluation and use of the technology in industry. Such services, if provided in-house, must complement programs available from universities and other private sources.

4. *Technology Evaluation:* On a continuing basis, a center will assess new developments in technology on a generic, rather than producer by producer, basis. In this way the center will keep members informed as to progress being made in the development of the technology and the appropriate utilization of new developments.

C. Strategic Planning

The center must have the capability of doing strategic planning in the area of technology development and technology transfer. Strategic planning will involve the periodic assessment of the technology, technology forecasting, identification of critical R&D projects that are required for the advancement of the technology, and of future technology transfer requirements.

Jordan J. Baruch,

Assistant Secretary.

Issued: August 8, 1980.

Title 15 of the Code of Federal Regulations is hereby amended by adding Part 17a, as follows:

PART 17a—COOPERATIVE GENERIC TECHNOLOGY PROGRAM PROCEDURES

Sec.

17a.1 Purpose.
17a.2 Definitions.
17a.3 Program overview.
17a.4 Inventory of candidate technologies.
17a.5 Workshops on generic technologies.
17a.6 Selection of technologies for inclusion in the program.
17a.7 Annual notice of availability of funds.
17a.8 Content of proposals.
17a.9 Waiver procedure.
17a.10 Criteria for selection of center proposals.
17a.11 Proprietary data.
17a.12 Coordination/cooperation with other Federal agencies.
17a.13 Amendments of procedures and criteria.

Authority: 15 U.S.C. 1512; sec. 2, 31 stat. 1449, as amended; sec. 1, 64 stat. 371 (15 U.S.C. 272); Reorg. Plan No. 3 of 1946, Part VI; Reorg. Plan No. 5 of 1950.

§ 17a.1 Purpose.

The purpose of this part is to establish procedures under which the Department of Commerce will administer the Cooperative Generic Technology Program.

§ 17a.2 Definitions.

(a) The term "Secretary" means the Secretary of Commerce or his designee.

(b) The term "Program" means the Cooperative Generic Technology Program.

(c) The term "Generic Technology" means technology that is not product-specific, or that has not been refined to a point where a single firm could reasonably be expected to complete its development.

(d) The term "center" means the Cooperative Generic Technology Centers.

(e) The term "person" means individuals, associations, companies, corporations, firms, government agencies at the Federal, State, and local level, organizations, professional societies, and institutions.

(f) The term "sponsor group" means a group of persons (including users, producers, and/or suppliers of the technology) organized to support centers in a specific technology area.

§ 17a.3 Program overview.

The establishment of generic technology centers will follow a three part process. First, the Secretary will create and maintain an inventory of candidate generic technologies. Second, the Secretary will select technologies from the inventory for inclusion in the Program, and will seek proposals for funding. Third, the proposals received will be reviewed, and funds will be released to implement those proposals which best fit program goals and budget limitations.

§ 17a.4 Inventory of candidate technologies.

The Secretary shall create and maintain an inventory of generic technologies which may be suitable candidates for inclusion in the Program. The inventory will be based upon internal analysis and outside suggestions.

§ 17a.5 Workshops on generic technologies.

The Secretary may hold workshops with representatives from the private sector in order to better understand the nature, need, and value of work in a field of generic technology inventoried in § 17a.4 of this section. Notice of such workshops shall be published in the **Federal Register** and *Commerce Business Daily,* a reasonable time before such a meeting is to be held. Such notice shall state that the workshop is open to the public, and shall give time and location of the workshop.

§ 17a.6 Selection of technologies for inclusion in the program.

(a) The Secretary may select generic technologies for inclusion in the Program from the inventory of technologies prescribed in § 17a.4, or such other sources as he deems appropriate.

(b) Upon making a determination that a specific technology shall be included in the Program, the Secretary may issue in the **Federal Register** an invitation for proposals to fund Centers in the specific technology. The notice shall contain a deadline for submission of the proposal.

(c) The notice shall require that the contents of each proposal shall be as prescribed in § 17a.8 of these regulations.

(d) The Secretary may hold workshops and otherwise encourage the preparation and submission of proposals requested under § 17a.6(b).

(e) The Secretary may select one or more proposals for funding which best meets the requirements set out in § 17a.10.

§ 17a.7 Annual notice of availability of funds

The Secretary shall publish annually, in the **Federal Register** and the *Commerce Business Daily,* a notice containing information about:

(a) Those technologies which the Secretary has designated for inclusion in the Program.

(b) The amount of funds available to the Program; funds for the various technology centers will be available from this total amount.

(c) Contact person, address and phone number.

(d) A listing of other publications in which the funding announcement will appear.

§ 17a.8 Content of proposals.

Each proposal for the establishment of a Center shall contain the following:

(a) A completed *cover sheet* applying for Federal Assistance, SF–424, as described in OMB Circular A–110, Attachment M.

(b) *Corporate Charter and By-laws,* showing that the organization has been established, or will be established, as a nonprofit corporation, and listing the sponsoring individuals.

(1) Each Center's by-laws shall state that the governing board of the Center will be elected in a manner which will ensure fair representation of the interests of all members. No Federal employees will be eligible to serve on a governing board in any capacity.

(2) The Center's by-laws shall also provide that:

(i) Membership in a Center shall be open to all interested domestic persons.

(ii) Dues will be assessed by a formula which considers such factors as:

(A) Overall size of each member;

(B) Volume of activity relevant to the Center's technology;

(C) The member's directness of interest.

(D) A prorated share of the cost of research previously conducted by the Center.

(iii) Membership in a Center may not be conditioned upon adherence to agreements which unreasonably restrain trade. Prohibited agreements shall include:

(A) Restrictions upon members' operational use of technical information or patents developed by the Center;

(B) Restrictions upon independent research conducted by individual members; and

(C) Restrictions upon the use, by individual members, of technology developed outside the Center.

(iv) A Center will not serve as a means for sharing confidential business data among members. Should research or development require the use of such data, it shall be collected either by employees of the Center, or by some independent entity. In no event will such information be shared with the sources' competitors in a form which would allow identification of individual firms.

(v) The Center shall make technical information, resulting from the Center's research activities available to all members at a reasonable cost without discrimination. Terms and conditions of dissemination to nonmembers of the Center shall be at the discretion of the Board; however, the Board shall be governed by the consideration that no significant anticompetitive result ensue from such decisions.

(c) *The Site and Organizational Affiliation* of the proposed Center.

(d) *A Center Organization Plan,* which will describe the Center's activities in these major areas:

(1) In-house R&D;

(2) Technical Services, including:

(i) Consulting and technical services;

(ii) Information system services;

(iii) Training;

(iv) Technology evaluation;

(3) Strategic planning.

(4) The Organizational Plan will include the following for each Center function listed above:

(i) Budget;

(ii) Equipment requirements;

(iii) Personnel requirements;

(iv) Facility requirements;

(v) Major milestones;

(vi) Expected outputs.

(e) *Overall Center Budget and Funding Plan,* covering the first five years of Center operation. This plan should identify the funding sources and indicate how these funds will be spent. Institutional support for the Center operations will be funded by membership dues, sales of technical services, and government supplements that will decline over a number of years.

§ 17a.9 Waiver procedure.

(a) The Secretary may waive the requirement of § 17a.8(b) that a center be established as an independent nonprofit organization under the following circumstances:

(1) If the organization is an independent entity within an existing nonprofit organization, and

(2) If the management and direction of the Center is controlled by the sponsoring firms.

(b) Organizations qualified under this section must meet all the requirements of § 17a.8(b) paragraphs (1) and (2).

§ 17a.10 Criteria for selection of center proposals.

(a) The Secretary may select one or more proposals for funding, which best meet the following criteria:

(1) The breadth and extent of the base of sponsors committed to collaborate in the work of a center, including the likelihood of operation of the center independent of government support after a reasonable period of time.

(2) The degree of center operation's enhancement of industry structure and competition.

(3) The comprehensiveness of coverage of the requirements in § 17a.8.

(4) Availability of funds, and program priorities.

§ 17a.11 Proprietary data.

All persons who request the Secretary to select a technology for inclusion in the Program, and all persons submitting proposals to establish a specific Center, are cautioned that data submitted to the Department may be vulnerable to dissemination under the Freedom of Information Act. The Department would, however, withhold any information it deemed proprietary, on the basis of the provision of 5 U.S.C. 552(b)(4). The Department will consult with the submitter of any data requested under the Freedom of Information Act, prior to the release of such information.

§ 17a.12 Coordination/cooperation with other Federal agencies.

While the Secretary is considering a request prior to making either a preliminary or final determination to establish a specific Center, it may become apparent that the request covers such subjects that are of primary interest of another Federal agency(ies). In such a case, the Secretary will coordinate the request with the other agency or agencies.

§ 17a.13 Amendment of procedures and criteria.

(a) The Secretary may amend these Procedures and Criteria by publishing in the **Federal Register** a notice of proposed amendment. A thirty (30) day period will be allowed from the date of publication for written comment by the public on the proposed amendment. Any amendment adopted shall be published in the **Federal Register.**

(b) If the Secretary finds for good cause that an amendment must be made in a shorter time period than required by this section, he may publish an interim amendment in the **Federal Register,** and at the same time, request comments as provided in paragraph (a) of § 17a.13.

[FR Doc. 80-24642 Filed 8-13-80; 8:45 am]
BILLING CODE 3510-18-M

International Trade Administration

15 CFR Part 373

Revision of Computer-Consignee Destinations

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: This revision amends Supplements 2 and 3 to Part 373, which define destinations to which various levels of computers may be exported under the Distribution License Procedure. In the original submission of these lists (43 FR 29448), Luxembourg erroneously appeared in both lists. Italy appeared in Supplement No. 2, while San Marino and Vatican City appeared in Supplement No. 3. This revision amends these supplements by:

(a) Deleting Luxembourg from Supplement No. 3;

(b) Deleting San Marino and Vatican City from Supplement No. 3; and

(c) Inserting a footnote to Italy to indicate that San Marino and Vatican City are considered as parts of Italy for purposes of establishing computer-consignee eligibility.

EFFECTIVE DATE: August 14, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Archie Andrews, Director, Exporters' Service Staff, Office of Export Administration, telephone: (202) 377-5247 or 377-4811.

SUPPLEMENTARY INFORMATION: Section 13(a) of the Export Administration Act of 1979 ("the Act") exempts regulations promulgated thereunder from the public participation in rulemaking procedures

of the Administrative Procedure Act. Section 13(b) of the Act, which expressed the intent of Congress that where practicable "regulations imposing controls on exports" be published in proposed form, is not applicable because these regulations do not impose controls on exports. It has been determined that these regulations are not "significant" within the meaning of Department of Commerce Administrative Order 218-7 (44 FR 2082, January 9, 1979) and Industry and Trade Administration Administrative Instruction 1-6 (44 FR 2093, January 9, 1979) which implement Executive Order 12044 (43 FR 12661, March 23, 1978), "Improving Government Regulations." Therefore these regulations are issued in final form.

Supplement Nos. 2 and 3 to Part 373 [Amended]

Accordingly, Supplements Nos. 2 and 3 to Part 373 are amended as follows:

1. A footnote to Italy is inserted in Supplement No. 2 to read as follows:

*Includes San Marino and Vatican City.

2. Luxembourg, San Marino and Vatican City are deleted from Supplement No. 3.

(Secs. 13, and 15, Pub. L. 96-72, 93 Stat. 503, to be codified at 50 U.S.C. App. 2401, *et seq.*; Executive Order 12214, 45 FR 29783 (May 6, 1980); Department Organization Order 10-3, 45 FR 6141 (January 25, 1980); and Department Organization Order 41-1, 45 FR 11862 (February 22, 1980))

Dated: August 7, 1980.

Eric L. Hirschhorn,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 80-24544 Filed 8-13-80; 8:45 am]

BILLING CODE 3510-25-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Ch. 1

Interpretative Statement Regarding the Scope of the Term "Supervision" in the Associated Person Registration Requirement

AGENCY: Commodity Futures Trading Commission.

ACTION: Interpretative statement.

SUMMARY: The Commission is publishing this interpretative statement regarding the scope of the registration requirement under Section 4k of the Commodity Exchange Act as it applies to those individuals who supervise persons who solicit or accept customers' orders. The purpose of this notice is to assist affected individuals in determining that they comply fully with their obligations under the Act.

FOR FURTHER INFORMATION CONTACT: Robert P. Shiner, Assistant Director, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street N.W., Washington, D.C. 20581. Telephone: (202) 254-9703.

SUPPLEMENTARY INFORMATION: Section 4k(1) of the Commodity Exchange Act, 7 U.S.C. 6k(1) (1976), states in pertinent part:

> It shall be unlawful for any person to be associated with any futures commission merchant or with any agent of a futures commission merchant as a partner, officer, or employee (or any person occupying a similar status or performing similar functions), in any capacity which involves (i) the solicitation or acceptance of customers' orders (other than in a clerical capacity) or (ii) the *supervision of any person or persons so engaged,* unless such person shall have registered, under this Act, with the Commission. . . . (Emphasis added.)

The Commission has received inquiries concerning the scope of the associated person registration requirement as it applies to those individuals who supervise other associated persons on behalf of a futures commission merchant or its agent. The Commission believes that the registration requirement under Section 4k includes all those individuals in the line of supervisory authority over the associated persons who solicit and accept customers' orders.*

Section 4k was enacted as part of the Commodity Futures Trading Commission Act of 1974. The House Report on that Act provides some indication of Congressional intent with respect to the breadth of the registration requirement. That report states that Section 4k would "extend the requirements for registration to any person associated with a futures commission merchant or with any agent of a futures commission merchant in any capacity which involves . . . the supervision of persons" engaged in the solicitation or acceptance of customers' orders. H.R. REP. No. 93-975, 93d Cong., 2d Sess. 65 (1974).

Because of the organizational diversity of futures commission merchants and of their agents, it is not possible to provide specific guidance as to what positions at a given firm would require registration. It should be emphasized, however, that all persons, regardless of position title, who supervise associated persons must register. Since this requirement, as mentioned above, applies to all individuals in the line of supervisory authority, it includes positions up through that of the firm's chief operating officer. Thus, for example, depending upon the organization of each firm, the supervisors required to register might be the branch office manager and designated supervisor, district manager, vice-president in charge of commodity sales, vice-president in charge of the commodity department, the executive vice-president to whom these persons report, and the president of the firm.

In publishing this notice regarding those supervisors required to be registered under Section 4k, the Commission wishes to emphasize that it intends to enforce that Section in accordance with this Interpretation. Accordingly, any person failing to comply with this Interpretation will be subject to appropriate Commission action.

Issued in Washington, D.C., on August 11, 1980.

Jane K. Stuckey,

Secretary of the Commission, Commodity Futures Trading Commission.

[FR Doc. 80-24656 Filed 8-13-80; 8:45 am]

BILLING CODE 6351-01-M

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* In connection with the initial organization of the Commission, staff reports were prepared concerning the proper implementation of the Act, and one such report (Report for the Commodity Futures Trading Commission, *Questions Respecting the Registration of Associated Persons,* Project No. 204 (1975)) specifically discussed the interpretation of Section 4k as it relates to supervisory personnel.

The Report stated that three approaches could be taken. First, the Commission could view the term "supervision" narrowly, as applying only to the immediate supervisor of the employee who is engaged in the solicitation or acceptance of customers' orders. Second, the Commission could construe the term to include not only the immediate supervisors and those in the supervisory "chain-of-command" but also to include anyone who has policy-making responsbility with respect to these activities or who supervises persons with such responsibility. The third approach would be to include not only the immediate supervisors, but also all those persons in the supervisory "chain-of-command" of a futures commission merchant or its agent. It is this third approach which the Report recommended and which the Commission has followed and concerning which it is now giving the public general notice.

While this Interpretation deals with the question of who must register under Section 4k(1)(ii) of the Act, Commission rule 166.3, 17 CFR 166.3 (1979), concerns the scope of the supervisory obligations of registrants other than non-supervisory associated persons and, of course, would apply to those who must register under Section 4k(1)(ii) in accordance with this Interpretation.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 290

[Docket No. RM79-6; Order No. 48-B]

Collection of Cost of Service Information Under Section 133 of the Public Utilities Policies Act of 1978

August 7, 1980.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final Rule.

SUMMARY: The Federal Energy Regulatory Commission hereby amends its regulations regarding the collection of cost of service information under section 133 of the Public Utilities Regulatory Policy Act of 1978 to provide utilities required to submit data under that section with instructions for submitting the required information.

EFFECTIVE DATE: August 7, 1980.

FOR FURTHER INFORMATION CONTACT: Daniel G. Lewis, Assistant to the Director, Office of Electric Power Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 376-9227.

SUPPLEMENTARY INFORMATION:

Background

On September 28, 1979, the Federal Energy Regulatory Commission (Commission) issued Order No. 48, containing final regulations implementing section 133 of the Public Utility Regulatory Policies Act of 1978 (PURPA).[1] On January 4, 1980, the Commission issued Order No. 48-A, granting in part and denying in part petitions for reconsideration of certain provisions of Order No. 48.[2]

Section 290.102(b) of Order No. 48 provides that the information required to be submitted by utilities "shall be submitted on suitable standard forms prescribed by the Commission or in any form otherwise determined by the Commission." The present order amends § 290.102 to provide respondent utilities with instructions for submitting the required information by November 1, 1980. The order further states the Commission's intention to consider refinement and extension of these instructions following its review of the first submissions under these regulations.

In seeking to fulfill the purpose of section 133, Order No. 48 places new and extensive reporting requirements on those electric utilities covered by Title I of PURPA. Whether these reporting requirements should include new standard forms, thereby assuring uniformity among the submissions, has not yet been determined. Uniform submissions would facilitate use of the information by some interested parties[3] and any compliance review that is necessary. However, there are arguments against the prescription of standard forms, including the fact that many of the required data have already been developed by respondent utilities for their own purposes and would have to be transcribed to such standard forms as we might prescribe. Because the time in which utilities must submit their first reports is only about three months away, it is urgent to provide respondents with basic instructions now so as to enable them to meet the first reporting date. This can be done with instructions that permit latitude in format. Even if we determine now that standard forms are desirable, their preparation and adoption would take more time and would jeopardize effective compliance, which would not serve the overall purposes of the law. We think it better to give respondent utilities the opportunity to take advantage of the existing report formats and media, where these are applicable and thus seek the means to minimize new reporting costs to the extent possible.

However, it is important that the data be available to users in convenient form. The required information is expected to be used, at least initially, on a case by case basis, involving one utility or a very small number of utilities. The Congressional purpose was to provide for the availability of information that would be used primarily by persons interested in retail electric rate proceedings in the various states. As a consequence, the filed information must be ready for use in locations that are readily accessible to such interested persons. For this reason, the filings must be self-contained. The potential users must not have the burden from which the Congressional act would relieve them of having to depend on data in a variety of reports that the utilities would file with Federal or State agencies, some of which might not only be inaccessible, but even unknown to some interested persons.

Summary

Reports filed under Order No. 48 must be legible and complete. They must be capable of being understood by a person who is familiar with the data requirements of Order No. 48 and generally familiar with utility accounting and operating terminology and practices.

It is our conclusion that a minimal and adequate reporting format consistent with the objectives set forth above is a set of data presentations, of the respondent utilities' design and choosing, having clear and unambiguous correspondence to the paragraphs and subparagraphs of the regulations that specify data requirements. The presentations must be clearly labeled as to the paragraph of the regulations treated, and must be arranged in the order in which the items are to appear.

As an appendix to this order, but not a part of it, the Commission has included a Staff Advisory Statement describing specific formats that may be used, at each respondent utility's option, for reporting certain information specified in the regulations. Commission Staff is hereby directed to review the submitted information and by February 1, 1981, advise the Commission as to the need for refinement and extension of the reporting instructions, including the need for standard forms. To the extent that standard forms are included in Staff recommendations, such forms may or may not be similar to those included in the Staff Advisory Statement attached hereto. The comments of utilities and other interested parties will be sought on any standard forms proposed in Staff recommendations.

Effective Date

The revision to § 290.102(b) is intended to inform persons required to file data under 18 CFR Part 290 by November 1, 1980, of the way in which such data to be submitted is to be organized. There is an immediate need for regulations to give direction to those who are preparing data submissions for the approaching deadline. In addition, the regulation is a procedural one relating to the format and organization of data submittals already required by Part 290. For these reasons, good cause exists to adopt this revision effective immediately.

(Public Utility Regulatory Policies Act, (16 U.S.C. 2601-2645), Department of Energy Organization Act, (42 U.S.C. 7101-7352), Exec. Order No. 12009, 3 CFR Part 142 (1978))

In consideration of the foregoing, the Commission revises Part 290 of Chapter I, Title 18, *Code of Federal Regulations*, as set forth below.

[1] 44 FR 48,687 (1979).

[2] 45 FR 2,023 (1980).

[3] In particular, this would appear pertinent to the intervention activities of the Secretary of Energy, as well as to those users or other interested persons who express a national concern with retail electric ratemaking procedures, such as some industrial groups and some consumer or conservationist groups.

By the Commission.

Kenneth F. Plumb,

Secretary.

Part 290, Subchapter K, Chapter I of the Code of Federal Regulations, § 290.102 is revised in paragraph (b) to read as follows:

§ 290.102 Compliance.

* * * * *

(b)(1) *Form of the information.* The information prescribed in Subparts B, C, D, and E of this part shall be submitted as a set of presentations corresponding to the named paragraphs which are listed in outline in paragraph (b)(2) of this section. The presentations are to be of each respondent utility's design and choosing: *Provided,* That each presentation is clearly identified with the name of the utility, the date of submission, and the paragraph or subparagraph of this part to which the information corresponds. The presentations must be arranged in order corresponding to the order given in paragraph (b)(2) of this section following, and must be preceded by a title sheet as prescribed in paragraph (b)(3) of this section following. The presentations must be clear and legible, and suitable headings and identification must be provided for numerical data. The presentations may be tabular or descriptive according to the nature of the information prescribed.

(2) *List of required items for information.* Those paragraphs and subparagraphs of Order No. 48 that identify specific information requirements are as follows:

Subpart B—Accounting Cost Information

Section 290.201 Rate Base Information

(a) Plant accounts
(b) Depreciation reserve
(c) Depreciation expense
(d) Construction work in progress
(e) Prepayments
(f) Accumulated deferred income tax
(g) Materials and supplies
(h) Electric plant held for future use
(i) Nuclear fuel materials
(j) Common utility plant and expenses

Section 290.202 Operating Expense Information

(a) Operating and maintenance expense accounts
(b) Payroll
(c) Taxes

Section 290.203 Income and Revenue Related Tax Information

(a) Tax rates
(b) Differences in income items and deductions
(c) Itemized deductions
(d) Adjustments to taxes

Section 290.204 Rate of Return Information

(a) Capitalization
(b) Costs of capital

Section 290.205 Costing Periods

Subpart C—Marginal Cost Information

Section 290.302 Generation Cost Information

(a) Production planning information for existing generating plants
(b) Production planning information for planned additions to generating capacity
(c) Factors affecting existing generating units
(d) Planning method used
(e) Other sources of information
(f) Ten year resource projection
(g) Net annual cost of the generating unit or units that will be installed to meet increases in peak demand

Section 290.303 Energy Cost Information

(a) Typical hourly marginal energy costs
(b) Other information on marginal energy costs
(c) Pool hourly marginal energy costs
(d) Procedures and models used
(e) Hydroelectric units
(f) Effect of purchased power costs
(g) Marginal energy costs by costing period and by year
(h) Calculated marginal energy costs by costing period
(i) Effect of energy loss

Section 290.304 Transmission Cost Information

(a) Plant information
(b) Operating and maintenance expense

Section 290.305 Distribution and Customer Cost Information

(a) Plant information
(b) Operating and maintenance expense

Section 290.306 Other Cost Information

(a) Customer expenses
(b) Sales expenses
(c) Administrative and general expenses
(d) Certain taxes
(e) Electric plant in service
(f) General plant
(g) Materials and supplies
(h) Prepayments

Section 290.307 Annual Carrying Charge Rates

(a) Estimates
(b) Worksheets

Section 290.308 Costing Periods

Subpart D—Load Data

Section 290.402 Load Data for the Total of all Customers (System and Pool Load Data,

(c) Historic peak loads
(d) Load data for the reporting period
(e) Projected load data

Section 290.403 Load Data for Certain Customer Groups

Section 290.406 Other Information

(a) Information on customer groups
(b) Loss factors
(c) Shifts on and off daylight saving time

Subpart E—Calculated Costs

Section 290.501 Accounting Cost Calculations

(a) Calculated accounting costs of providing service
(b) Description of method used
(c) Cost study

Section 290.502 Marginal Cost Calculations

(a) Calculated marginal costs of providing service
(b) Description of method used
(c) Cost study

(3) *Title Sheet.* Respondent utility's information presentations must be preceded by a title sheet as illustrated below:

Title Sheet

Electric Utility Information

Submitted by: (name of utility)_____

in compliance with

Federal Energy Regulatory Commission Order No. 48

Cost of Service Information

Reporting Period:_____
Calendar year:_____
Or other:_____

Attestation: I have prepared or supervised the preparation of the information presented herewith, and I certify that it is as complete and accurate as the records of the respondent will permit, to the best of my knowledge and belief

Signature:_____
Name:_____
Title:_____
Address:_____

Technical questions on the content of this report should be addressed to:

Name:_____
Title:_____
Address:_____
Date submitted:_____

(4) *Use of Uniform System of Accounts.* With regard to specific items of cost information, if an account number from the FERC [1] Uniform System of Accounts is specified in Subparts B and C of this part, public utilities under the Federal Power Act shall file in accordance with the specified accounts. Any utility covered by section 133 of the Public Utility Regulatory Policies Act (PURPA) but not required to keep its books by the FERC Uniform System of Accounts may provide this information in accordance with the system of accounts presently employed, so long as all required individual items of information are fully defined and expressed in the same degree of detail as that required in the FERC Uniform System of Accounts.

[FR Doc. 80-24600 Filed 8-13-80; 8:45 am]

BILLING CODE 6450-85-M

[1] FERC accounts refer to FPC accounts so numbered.

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 355

Dextrines and Soluble or Chemically Treated Starches Derived From Potato Starch From the European Community; Revocation of Countervailing Duty Order

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Revocation of countervailing duty order.

SUMMARY: This notice is to advise the public that, as a result of a negative injury determination by the International Trade Commission, the Department of Commerce is revoking the countervailing duty order on dextrines and soluble or chemically treated starches derived from potato starch from the European Community. The table in Part 355, Annex III of the Commerce Regulations is amended to reflect this revocation.

EFFECTIVE DATE: January 1, 1980.

FOR FURTHER INFORMATION CONTACT: Stephen Nyschot, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Room 1126, Washington, D.C. 20230 (202-377-2209).

SUPPLEMENTARY INFORMATION: A notice of "Final Countervailing Duty Determination," T.D. 80-2, was published in the **Federal Register** of December 19, 1979 (44 FR 75135). The notice stated that the Treasury Department had determined that exports of dextrine and soluble or chemically treated starches derived from potato starch from the European Community were provided bounties or grants, within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. 1303). Accordingly, imports into the United States of this merchandise were subject to countervailing duties.

On January 1, 1980, Title I of the Trade Agreements Act of 1979 (93 Stat. 150) (the TAA) went into effect. On January 2, 1980, the authority for administering the countervailing duty law was transferred from the Treasury Department to the Department of Commerce (the Department). Since the member states of the European Community were "countries under the Agreement" as of January 1, 1980, the Department referred this case to the International Trade Commission (ITC) for a material injury determination in accordance with section 104(a)(1) of the TAA. Effective January 1, liquidation was suspended and estimated countervailing duties were collected (see 45 FR 12860, February 27, 1980). The ITC published a negative material injury decision in the **Federal Register** of May 7, 1980 (45 FR 30182).

As a result, the Department hereby revokes T.D. 80-2 with respect to all merchandise entered, or withdrawn from warehouse, for consumption on or after January 1, 1980.

The Department will instruct Customs officers to proceed with liquidation of all such entries of the subject merchandise without regard to countervailing duties and to refund any estimated countervailing duties collected with respect to such entries. Entries, or withdrawals from warehouse, for consumption made from December 19, 1979, through December 31, 1979, are subject to countervailing duties as set forth in T.D. 80-2.

It should be noted that the ITC's negative injury decision also applies to dextrines and soluble or chemically treated starches derived from corn starch from European Community, which product was the subject of a separate affirmative "Final Countervailing Duty Determination" by the Department on March 21, 1980 (45 FR 18414).

Consistent with section 705(c)(2) of the Tariff Act of 1930 the Department terminated the corn starch investigation at the time the ITC published notice of its negative injury determination.

The table in section 355, Annex III, Commerce Regulations (19 CFR Part 355, Annex III, 45 FR 4949), is amended under the country heading "European Communities" by deleting from the column headed "Commodity," the words "Dextrines and soluble or chemically treated starches derived from potato starch"; from the column headed "Treasury Decision," the number "80-2"; and from the column headed "Action," the words "Bounty declared-rate."

This revocation and notice publication are in accordance with section 104(a)(3)(B) of the TAA (93 Stat. 191, 19 U.S.C. 1671 note).

John D. Greenwald,

Deputy Assistant Secretary for Import Administration.

August 11, 1980.

[FR Doc. 80-24596 Filed 8-13-80; 8:45 am]

BILLING CODE 3510-25-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 193

[FRL 1569-6; FAP 9H5222/R63]

Cyano(3-Phenoxyphenyl)Methyl-4-Chloro-Alpha-(1-Methylethyl)Benzeneacetate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the pesticide cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(1-methylethyl)benzeneacetate in or on dried apple pomace at 0.2 part per million (ppm). The regulation was requested by Shell Chemical Co. This rule establishes a maximum permissible level for residues of cyano in dried apple pomace.

EFFECTIVE DATE: Effective on August 14, 1980.

FOR FURTHER INFORMATION CONTACT: Franklin D. R. Gee, Product Manager (PM) 17, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, 202/426-9417.

SUPPLEMENTARY INFORMATION: Notice was published in the **Federal Register** of July 20, 1979 (44 FR 42773) that Shell Chemical Co. had filed a food additive petition (FAP 9H5222) with EPA. This petition proposed that 40 CFR Part 193 be amended to establish tolerances for residues of the insecticide cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(1-methylethyl)benzeneacetate in or on the food commodity dried apple pomace at 0.2 ppm. No comments were received in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance included a rat acute oral toxicity study with a median lethal dose (LD_{50}) of 1-3 grams (gm)/kilogram (kg) of body weight (bw) in water and 450 milligrams (mg)/kg of bw in dimethylsulfoxide (DMSO); a 90-day dog feeding study with a no-observable-effect level (NOEL) of 500 ppm; and an 18-month mouse feeding study with a NOEL of 100 ppm with no oncogenic effects at the highest level fed (3,000 ppm); a 24-month rat feeding study with a NOEL of 250 ppm (the highest level fed) with no oncogenic effects; a three-

generation rat reproduction study with a NOEL of 250 ppm (the highest level fed); teratology studies in mice and rabbits (both negative at the highest dose of 50 mg/kg of bw/day); and the following mutagenicity studies: Mouse dominant lethal (negative at 100 mg/kg of bw, which was the highest level fed), mouse host-mediated bioassay (negative at 50 mg/kg of bw, which was the highest level fed); AMES test in vitro (negative), and a bone marrow cytogenic study in the Chinese hamster (negative at 25 mg/kg of bw). The following studies assessing neurological effects were performed: A hen study negative at 1g/mg/kg of bw for 5 days, repeated again at 21 days; a rat acute study with an NOEL of 200 mg/kg of bw; a 15 month rat feeding study resulted in a systemic NOEL of 500 ppm and a NOEL of 1500 ppm with respect to nerve damage.

The pesticide is considered useful for the purpose for which the tolerance is sought. Establishment of the tolerance will protect the public health. Therefore, the regulation amending 21 CFR Part 193 by adding § 193.86 is set forth below.

Any person adversely affected by this regulation may, on or before September 15, 1980, file written objections with the Hearing Clerk, EPA, Room M-3708 (A-110), 401 M Street, SW, Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested the objections must be supported by grounds legally sufficient to justify the relief sought.

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" procedures. This regulation has been reviewed and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective date: August 14, 1980.

(Sec. 408(d)(2), 68 Stat. 514, (21 U.S.C. 346a(e))

Dated: August 8, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Therefore, Subpart A of 21 CFR Part 193 is amended by adding § 193.86 to read as follows:

§ 193.86 Cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(1-methylethyl)benzeneacetate.

A tolerance is established for residues of the insecticide cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(1-methylethyl)benzeneacetate in or on the following food additive commodity:

Commodity	Parts per million
Dried apple pomace	0.2

[FR Doc. 80-24593 Filed 8-13-80; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF JUSTICE

Office of Justice Assistance, Research, and Statistics

28 CFR Part 42

Nondiscrimination in Federally Assisted Programs

AGENCY: Office of Justice Assistance, Research, and Statistics (OJARS), Law Enforcement Assistance Administration (LEAA), National Institute of Justice (NIJ), Bureau of Justice Statistics (BJS), Justice.

ACTION: Final rules.

SUMMARY: OJARS is adopting, as final, two amendments to its Nondiscrimination Regulations originally proposed for comment on May 20, 1980. 45 FR 33652. New 28 CFR 42.203(b)(8) specifically prohibits recipients of financial assistance under the Justice System Improvement Act (JSIA) or Juvenile Justice (JJ) Act from depriving any person of his or her constitutional rights on the basis of race, color, religion, national origin, or sex. New 28 CFR 42.204(b) prohibits certain awards of assistance under the JSIA or the JJ Act until the applicant's Equal Employment Opportunity Program (EEOP) has been approved by OJARS.

OJARS is also making technical and typographical corrections to its previously published final rules.

EFFECTIVE DATE: August 14, 1980.

FOR FURTHER INFORMATION CONTACT: David I. Tevelin, Attorney-Advisor, OJARS, Office of General Counsel, (202) 724-6235.

SUPPLEMENTARY INFORMATION: OJARS received only four comments on the proposed amendments, two on the constitutional rights issue and two on the EEOP issue.

On the constitutional rights issue, one commenter asked why a deprivation of rights on the basis of handicap was not prohibited. The OJARS Nondiscrimination Regulations implement section 815(c) of the Justice System Improvement Act of 1979, which proscribes discrimination on only the grounds of race, color, religion, national origin, or sex. Accordingly, these regulations are not the appropriate vehicle to enjoin conduct discriminating against the handicapped. Discrimination against the handicapped in IEAA-, NIJ-, and BJS-financed programs is addressed in the Department of Justice's regulations, "Nondiscrimination Based on Handicap in Federally Assisted Programs," 45 FR 37620 (June 3, 1980).

The other commenter on this issue commended the amendment for its application of the constitutional rights accorded juveniles in *In Re Gault* to JSIA agencies' recipients. To the extent that a recipient denies juveniles the rights accorded by that case on the basis of race, color, religion, national origin, or sex, such conduct is prohibited by section 42.203(b)(8).

With respect to the EEOP review issue, one commenter suggested that OJARS conduct a pre-award review of all grants for $250,000 or more, rather than $500,000 or more. Prior to proposing this amendment, OJARS reviewed all announced grant programs, and the size of the grants likely to be awarded under them in FY 1980, and concluded that it could conduct a thorough and timely review of only the (approximately) 35 awards that would exceed $500,000. Our conclusion has not changed in this regard.

The other commenter suggested doing pre-award reviews of non-governmental applicants' EEOP's as well. OJARS' present EEOP regulations do not, however, require non-governmental applicants to prepare EEOP's. This issue is being examined during the agency's present efforts to revise the EEOP regulations, and will be highlighted for comment when those revisions are proposed in the **Federal Register** in the near future.

Accordingly, 28 CFR Part 42 is amended in the following paragraphs. Paragraph (b)(8) is added to § 42.203; paragraph (a) is published for clarity:

§ 42.203 Discrimination prohibited.

(a) No person in any State shall on the ground of race, color, religion, national origin, or sex be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or denied employment in connection with any program or activity funded in whole or in part with funds made available under the JSIA or the Juvenile Justice Act.

(b) A recipient may not, directly or through contractual or other

arrangements, on the grounds set forth in paragraph (a) of this section:

* * * * *

(8) Subject any individual to physical abuse or summary punishment, or deny any individual the rights guaranteed by the Constitution to all persons;

* * * * *

Section 42.204 is amended to add paragraph (b) as follows:

* * * * *

§ 42.204. Applicant's Obligations.

* * * * *

(b) Every unit of State or local government and every agency of such unit that applies for a grant of $500,000 or more under the JSIA or the Juvenile Justice Act, must submit a copy of its current Equal Employment Opportunity Program (if required to develop one under 28 CFR 42.301, et. seq.) to OJARS at the same time it submits its grant application. No application for $500,000 or more will be approved until OJARS has approved the applicant's EEOP.

* * * * *

In addition, the following technical and typographical corrections are being made, as final, in the OJARS Nondiscrimination Regulations otherwise adopted as final on April 30, 1980. 45 FR 28704.

1. The last sentence of paragraph 9 in the "Supplementary Information" portion of the preamble to the regulations, 45 FR 28705, is deleted as incorrect and inconsistent with the commentary on section 42.205(c)(1). OJARS does not have "jurisdiction" to investigate a complaint, if the agency complained against is not receiving OJARS, LEAA, NIJ, or BJS assistance at the time the complaint is received.

§ 42.202 [Amended]

2. In 28 CFR 42.202(r), "criminal justice control" is corrected to read "criminal justice council."

§ 42.205 [Amended]

3. 28 CFR 42.205(c)(4) is corrected to read: "If, within 30 days, the Office's recommendations for compliance are not met, or voluntary compliance is not secured, the matter will be forwarded to the Director of OJARS for a determination of compliance or non-compliance. The determination shall be made no later than 14 days after the conclusion of the 30-day period. If the Director makes a determination of non-compliance with section 815(c)(1) of the JSIA, the Office shall institute administrative proceedings pursuant to § 42.208 et seq."

§ 42.206 [Amended]

4. In 28 CFR 42.206(a) (1) and (2), "IEAA" is corrected to read "LEAA."

Robert F. Diegelman,

Assistant Adminstrator, Office of Planning and Management.

[FR Doc. 80-24597 Filed 8-13-80; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 164

[CGD 79-148]

Electronic Relative Motion Analyzer

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule requires self-propelled vessels of 10,000 gross tons or more that are U.S. vessels or call at a U.S. port, and that carry oil or liquid hazardous materials in bulk as cargo or in residue, to have an electronic relative motion analyzer (ERMA) installed by July 1, 1982. This requirement is mandated by Section 5 of the Port and Tanker Safety Act of 1978 (Pub. L. 95-474). It is intended to help minimize the occurrence of collisions involving those vessels which may have the potential of creating environmental harm. Because of the confusion concerning applicability that was made evident by comments on the notice of proposed rulemaking, additional comments on applicability, as clarified by this final rule, are invited.

DATES: 1. This amendment is effective on July 1, 1982. 2. Comments must be received by September 29, 1980.

ADDRESSES: Comments on the applicability and definitions should be submitted to the Commandant (G-CMC/24) (CGD 79-148), U.S. Coast Guard, Washington, DC, 20593. All comments and copies of the final evaluation are available for examination at the Marine Safety Council (G-CMC/24), Room 2418, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593.

FOR FURTHER INFORMATION CONTACT: Mr. Fred Schwer, Project Manager, Office of Marine Environment and Systems (G-WWM-2/11), Room 1608, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593, (202) 426-4958.

SUPPLEMENTARY INFORMATION: In response to the President's message to Congress of March 17, 1977, a notice of proposed rulemaking on this subject was published on May 16, 1977 (42 FR 24871). Public hearings were held in San Diego, California, on June 16, 1977, and in Washington, DC, on June 21, 1977. The proposal was withdrawn on July 24, 1978 (43 FR 32112) in order to allow the U.S. to encourage and participate in a parallel international action conducted by the Intergovernmental Maritime Consultative Organization (IMCO).

The U.S. Congress, in October 1978, enacted the Port and Tanker Safety Act (the Act) (Pub. L. 95-474). Section 5(7)(J) of the Act requires certain vessels of 10,000 gross tons or more to be equipped with, among other things, an "electronic relative motion analyzer" by July 1, 1982. In response both to the Presidential directive and to the Act, a second notice of proposed rulemaking was published by the Coast Guard on February 21, 1980 (45 FR 11790).

DRAFTING INFORMATION: The principal persons involved in drafting this document are Mr. Fred Schwer, Office of Marine Environment and Systems, Project Manager, and Lieutenant Commander Jack Orchard, Office of Chief Counsel, Project Attorney.

DISCUSSION: Fourteen letters of comment on the docket were received. Six of the letters, plus numerous telephone calls to the Project Manager, made it evident that the applicability of the proposed rule was unclear. The rule is intended to implement Section 5(7)(J)(ii) of the Port and Tanker Safety Act of 1978 and derives its applicability from the Act. In summary, this rule applies to any self-propelled vessel of 10,000 gross tons or more that is a U.S. vessel or calls at a U.S. port, and carries:

1. Oil in bulk as cargo or in cargo residue; or

2. Liquid hazardous material in bulk as cargo or in cargo residue. Some definitions have been added to this final rule to clarify the scope of its applicability.

Note particularly that the term "self-propelled vessel" includes those combinations of a pushing vessel and a vessel being pushed ahead which are rigidly connected in a composite unit and are required by Rule 24(b) of the "International Regulations for Preventing Collisions at Sea," 1972 ('72 COLREGS) (App. A to 33 CFR Part 87), to exhibit the lights prescribed in Rule 23 for "Power Driven Vessels Underway". This language also is consistent with IMCO's proposed amendment to Regulation 12 of Chapter V of the "International Convention on Safety of Life at Sea, 1974" (SOLAS '74), which will require these composite units to carry navigation equipment prescribed for ships of comparable aggregate tonnage.

Several callers have asked whether non-revenue cargo is included in the term "cargo". "Cargo" means either revenue or non-revenue cargo. The rule does not apply to ships that carry only "bunker" fuel for their own use, regardless of quantity.

"Bulk" means material in any quantity that is shipped, stored, or handled without benefit of label, mark, or count. In this application it means liquid material that is pumped on or off the vessel, into or from integral or fixed independent tanks. It does not apply to marine portable tanks or containers that are handled as "package" products.

One commenter suggested that the applicability of the regulations should be extended to include public vessels. Section 5(4)(A) of the Act specifically excepts public vessels. This rule, as noted above, is intended to implement the Act. Therefore, it is beyond the authority of the Coast Guard, acting under the Act, to broaden its applicability.

Four commenters took issue with the United State' unilateral action, which they consider to be inconsistent with recent actions taken by IMCO. The U.S. Government, through the U.S. Congress, has determined that immediate action is necessary to protect the waters of the nation from environmental damage by vessels which have the greatest potential for creating harm. With the exception of the legislatively mandated implementation date of July 1, 1982, and the requirement for audible and visual contact alarms, both of which are required by the Act, the Standards contained in this regulation are compatible with the IMCO standard. Furthermore, the proposed amendment to SOLAS' 74 will require all vessels of 10,000 gross tons or more to have the devices. Implementation of that requirement would start on January 1, 1984. The Coast Guard will conduct further rulemaking before that date as may be required by our treaty obligations.

Four letters of comment called attention to the possibly dangerous effect of "operational warnings". They contended that audible and visual alarms to warn of newly acquired targets will condition the watchstander to observe the radar only "when the bell rings." This certainly is a possibility and could be a danger, but it is one that can be offset by proper training in the use of radar and ERMA. However, the risk of negative conditioning is problematical. In reality, some watchstanders do not pay sufficient attention to the radar now and casualties caused by inattentive watchstanding do occur.

One commenter cited the possibility that a mariner could set the alarm feature at a zero range setting, thereby effectively disabling the mechanism. This is quite true, but it is a useful capability. In channels and crowded waterways, an alarm-disabling feature is necessary to avoid continuous alerting of the watchstander. Again, training in the proper use of the device will eliminate most misuse.

Four letters of comment asserted that extensive ERMA training is necessary before the units come into widespread use. The commenters consider the device to be dangerous in the hands of an untrained or undertrained operator and likely to cause collisions rather than to avert them. The Coast Guard agrees that, like any tool, an ERMA can be misused. However, it is not agreed that extensive training is necessary. It has been demonstrated many times that 30 to 60 minutes of familiarization is adequate to permit a reasonably intelligent person with a knowledge of radar plotting to effectively use the devices. Thereafter, practice increases proficiency. The key to proper use is the realization that ERMA is a time and labor saving tool, not a decision making machine. It provides the operator with timely information in an easy to understand format, from which an informed navigating decision may be made.

Three commenters urged that the ERMA be capable of accepting electronic inputs from either of the two radars required on vessels of 10,000 gross tons or more. The Coast Guard agrees that an interswitching capability can be useful. However, interswitching requires compatible radar systems. Recent advances in radar technology have led to new directions in radar design, at least one of which is electronically incompatible with existing radars. A required interswitching capability at this time could choke-off development of these very promising concepts.

Four commenters recommended various technical changes to the standard. Some of those unquestionably have merit. However, the standard cited in this rulemaking is essentially that which has been agreed to internationally. Unilaterally amending the international standard to achieve incremental improvements of questionable value to safety is not considered a reasonable course of action.

Two commenters recommended that the U.S. Coast Guard monitor the performance of the devices as they go into widespread service and report to IMCO and to the U.S. Congress on the adequacy of the standards. The Coast Guard is required to report annually to the Congress on its progress in implementing the Act. Should a revision of the standard become necessary, the mechanism exists for the report of this fact to Congress. Regarding IMCO, international standards are under continuous review by the Organization. As more shipboard experience with the devices is gained, necessary changes to the standard will become evident and will be incorporated as the need dictates.

One commenter suggested that U.S. "grandfather" devices which are already installed on many ships. The Act does not allow the Coast Guard to accept a lesser standard than that of the Maritime Administration. Internationally, administrations may accept a standard less than IMCO's until 1991, but vessels calling at U.S. ports will have to comply with one of the standards described in this rulemaking.

One commenter suggested that failure of the ERMA be added as a required report under 33 CFR Part 164.53. The Coast Guard disagrees. Reports under that section are intended to cover only those items of navigational equipment that may be essential for the safe passage of a ship from the sea into port. The ERMA may be helpful, but it is not essential.

The wording of paragraph 164.38(c)(1), as it appeared in the NPRM, has been changed to eliminate references to 1984 and 1985. These dates were in reference to the proposed SOLAS '74 carriage requirements for the devices. However, the wording caused some confusion about the implementation date of this rule, which is July 1, 1982, as stated above. The SOLAS '74 references are not a factor in this rulemaking.

Although the "Port and Tanker Safety Act of 1978" refers to an "electronic relative motion analyzer" (ERMA), the term used by IMCO is "automatic radar plotting aid" (ARPA). As was mentioned in the preamble to the NPRM, this rulemaking adopts the IMCO term to avoid confusion and to promote standardized terminology for these devices.

This rule will become effective on July 1, 1982. If, as a result of comments, the Coast Guard decides that further clarification of its applicability is desirable, due notice will be given in the **Federal Register** within 120 days of publication of this rule.

This final rule has been reviewed under the Department of Transportation's "Regulatory Policies and Procedures" (FR 11034, February 26, 1980) and is determined to be

nonsignificant. A final evaluation has been prepared and is included in the public docket.

In view of the foregoing Part 164 of Chapter I of Title 33, Code of Federal Regulations is amended as follows:

1. By revising § 164.01 to read as follows:

164.01 Applicability.

(a) This part (except for §§ 164.38 and 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 St. Lawrence Seaway.

2. By revising § 164.02(a) to read as follows:

§ 164.02 Applicability exception for foreign vessels.

(a) This part (including §§ 164.38 and 164.39) does not apply to vessels that—

* * * * *

3. By adding § 164.38 and appendices A and B to that section to read as follows:

§ 164.38 Automatic radar plotting aids (ARPA).

(a) Definitions: As used in this section—

"Bulk" means material in any quantity that is shipped, stored, or handled without benefit of package, label, mark or count and carried in integral or fixed independent tanks.

"Hazardous material" means any liquid material or substance which is flammable or combustible, is designated a hazardous substance under section 311(b) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1321), or is designated as a hazardous material under Section 104 of the Hazardous Material Transportation Act (49 U.S.C. 1803).

"Oil" means oil of any kind or in any form.

"Self-propelled vessel" includes those combinations of pushing vessel and vessel being pushed ahead which are rigidly connected in a composite unit and are required by Rule 24(b) of the International Rules for Preventing Collisions at Sea, 1972 (App. A to 33 CFR Part 87) to exhibit the lights prescribed in Rule 23 for a "Power Driven Vessel Underway".

(b) Except as allowed by paragraph (c) of this section each self-propelled vessel, except a public vessel, of 10,000 gross tons or more carrying oil or any hazardous material in bulk as cargo or in residue that is a U.S. vessel or operates on or enters the navigable waters of the United States, or which transfers oil or hazardous materials in any port or place subject to the jurisdication of the United States, must, not later than July 1, 1982, be fitted with an Automatic Radar Plotting Aid which:

(1) Complies with the standard for such devices adopted by the Intergovernmental Maritime Consultative Organization in its "Operational Standards for Automatic Radar Plotting Aids" (See Appendix A);

(2) Provides both visual and audible warnings, described in paragraphs 3.5.1 and 3.5.2 of Appendix A; and

(3) Has a permanently affixed label containing—

(i) The name and address of the manufacturer; and

(ii) The following statement:

"This device was designed and manufactured to comply with the Intergovernmental Maritime Consultative Organization's 'Operational standards for automatic Radar Plotting Devices' ".

(c)(1) In lieu of the device required by paragraph (b) of this section, an Automatic Radar Plotting Aid which does not fully conform to the standard adopted by the Intergovernmental Maritime Consultative Organization but is certified by the manufacturer to comply with the U.S. Maritime Administration's "Collision Avoidance System Specification" (See Appendix B), may be retained until January 1, 1991.

(2) The devices allowed under this paragraph must have a permanently affixed label containing—

(i) The name and address of the manufacturer; and

(ii) The following statement:

"This device was designed and manufactured to comply with the U.S. Maritime Administration's 'Collision Avoidance System Specification'."

(92 Stat. 1471, (46 U.S.C. 391(a), as amended); 49 CFR 1.46(n)(4))

August 7, 1980.

W. E. Caldwell,

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

Appendix A—Performance Standards For Automatic Radar Plotting Aids (ARPA)

1 Introduction

1.1 The Automatic Radar Plotting Aids (ARPA) required by Regulation 12, Chapter V of the 1974 SOLAS Convention, as amended,* should, in order to improve the standard of collision avoidance at sea:

.1 Reduce the work-load of observers by enabling them to automatically obtain information so that they can perform as well with multiple targets as they can by manually plotting a single target; and

.2 Provide continuous, accurate and rapid situation evaluation.

1.2 In addition to the General Requirements for Electronic Navigational Aids (Resolution A.281(VIII)), the ARPA should comply with the following minimum performance standards.

2 Definitions

2.1 Definitions of terms in these performance standards are given in Annex 1.

3 Performance Standards

3.1 *Detection*

3.1.1 Where a separate facility is provided for detection of targets, other than by the radar observer, it should have a performance not inferior to that which could be obtained by the use of the radar display.

3.2 *Acquisiton*

3.2.1 Target acquisition may be manual or automatic. However, there should always be a facility to provide for manual acquisition and cancellation. ARPA with automatic acquisition should have a facility to suppress acquisition in certain areas. On any range scale where acquisition is suppressed over a certain area, the area of acquisition should be indicated on the display.

3.2.2 Automatic or manual acquisition should have a performance not inferior to that which could be obtained by the user of the radar display.

3.3 *Tracking*

3.3.1 The ARPA should be able to automatically track, process, simultaneously display and continously update the information on at least:

.1 20 targets, if automatic acquisition is provided, whether automatically or manually acquired; or

.2 10 targets, if only manual acquisition is provided.

3.3.2 If automatic acquisition is provided, description of the criteria of selection of targets for tracking should be provided to the user. If the ARPA does not track all targets visible on the display, targets which are being tracked should be clearly indicated on the display. The reliability of tracking should not be less than that obtainable using manual recording of successive target positions obtained from the radar display.

3.3.3 Provided the target is not subject to target swop, the ARPA should continue to track an acquired target which is clearly distinguishable on the display for 5 out of 10 consecutive scans.

3.3.4 The possibility of tracking errors, including target swop, should be

*This amendment has not yet been ratified.

minimized by ARPA design. A qualitative description of the effects of error sources on the automatic tracking and corresponding errors should be provided to the user, including the effects of low signal to noise and low signal to clutter ratios caused by sea returns, rain, snow, low clouds and non-synchronous emission.

3.3.5 The ARPA should be able to display on request at least four equally time-spaced past positions of any targets being tracked over a period of at least eight minutes.

3.4 *Display*

3.4.1 The Display may be a separate or integral part of the ship's radar. However, the ARPA display should include all the data required to be provided by a radar display in accordance with the performance standards for navigational radar equipment adopted by the Organization.

3.4.2 The design should be such that any malfunction of ARPA parts producing data additional to information to be produced by the radar as required by Resolution A.222(VII) should not affect the integrity of the basic radar presentation.

3.4.3 The size of the display on which ARPA information is presented should have effective display diameter of at least 340 mm.

3.4.4 The ARPA facilities should be available on at least the following range scales:

.1 12 or 16 miles;
.2 3 or 4 miles.

3.4.5 There should be a positive indication of the range scale in use.

3.4.6 The ARPA should be capable of operating with a relative motion display with "north-up" and either "head-up" or "course-up" azimuth stabilization. In addition, the ARPA may also provide for a true motion display. If true motion is provided, the operator should be able to select for his display either true or relative motion. There should be a positive indication of the display mode and orientation in use.

3.4.7 The course and speed information generated by the ARPA for acquired targets should be displayed in a vector or graphic form which clearly indicates the target's predicted motion. In this regard:

.1 ARPA presenting predicted information in vector form only should have the option of both true and relative vectors;
.2 An ARPA which is capable of presenting target course and speed information in graphic form, should also, on request, provide the target's true and/or relative vector;
.3 Vectors displayed should be either time adjustable or have a fixed time-scale;
.4 A positive indication of the time-scale of the vector in use should be given.

3.4.8 The ARPA information should not obscure radar information in such a manner as to degrade the process of detecting targets. The display of ARPA data should be under the control of the radar observer. It should be possible to cancel the display of unwanted ARPA data.

3.4.9 Means should be provided to adjust independently the brilliance of the ARPA data and radar data, including complete elimination of the ARPA data.

3.4.10 The method of presentation should ensure that the ARPA data is clearly visible in general to more than one observer in the conditions of light normally experienced on the bridge of a ship by day and by night. Screening may be provided to shade the display from sunlight but not to the extent that it will impair the observer's ability to maintain a proper lookout. Facilities to adjust the brightness should be provided.

3.4.11 Provisions should be made to obtain quickly the range and bearing of any object which appears on the ARPA display.

3.4.12 When a target appears on the radar display and, in the case of automatic acquisition, enters within the acquisition area chosen by the observer or, in the case of manual acquisition, has been acquired by the observer, the ARPA should present in a period of not more than one minute an indication of the target's motion trend and display within three minutes the target's predicted motion in accordance with paragraphs 3.4.7, 3.6, 3.8.2 and 3.8.3.

3.4.13 After changing range scales on which the ARPA facilities are available or resetting the display, full plotting information should be displayed within a period of time not exceeding four scans.

3.5 *Operational Warnings*

3.5.1 The ARPA should have the capability to warn the observer with a visual and/or audible signal of any distinguishable target which closes to a range or transits a zone chosen by the observer. The target causing the warning should be clearly indicated on the display.

3.5.2 The ARPA should have the capability to warn the observer with a visual and/or audible signal of any tracked target which is predicted to close to within a minimum range and time chosen by the observer. The target causing the warning should be clearly indicated on the display.

3.5.3 The ARPA should clearly indicate if a tracked target is lost, other than out of range, and the target's last tracked position should be clearly indicated on the display.

3.5.4 It should be possible to activate or de-activate the operational warnings.

3.6 *Data Requirements*

3.6.1 At the request of the observer the following information should be immediately available from the ARPA in alphanumeric form in regard to any tracked target:

.3 Predicted target range at the closest point of approach (CPA);
.4 Predicted time to CPA (TCPA);
.5 Calculated true course of target;
.6 Calculated true speed of target.

3.7 *Trial Manoeuvre*

3.7.1 The ARPA should be capable of simulating the effect on all tracked targets of an own ship manoeuvre without interrupting the updating of target information. The simulation should be initiated by the depression either of a spring-loaded switch, or of a function key, with a positive identification on the display.

3.8 *Accuracy*

3.8.1 The ARPA should provide accuracies not less than those given in paragraphs 3.8.2 and 3.8.3 for the four scenarios defined in Annex 2. With the sensor errors specified in Annex 3, the values given relate to the best possible manual plotting performance under environmental conditions of plus and minus ten degrees of roll.

3.8.2 An ARPA should present within one minute of steady state tracking the relative motion trend of a target with the following accuracy values (95 percent probability values):

3.8.3 An ARPA should present within three minutes of steady state tracking the motion of a target with the following accuracy values (95 percent probability values):

3.8.4 When a tracked target, or own ship, has completed a manoeuvre, the system should present in a period of not more than one minute an indication of the target's motion trend, and display within three minutes the target's predicted motion in accordance with paragraphs 3.4.7, 3.6, 3.8.2 and 3.8.3

3.8.5 The ARPA should be designed in such a manner that under the most favorable conditions of own ship motion the error contribution from the ARPA should remain insignificant compared to the errors associated with the input sensors, for scenarios of Annex 2.

3.9 *Connexions with other equipment*

3.9.1 The ARPA should not degrade the performance of any equipment providing sensor inputs. The connexion

of the ARPA to any other equipment should not degrade the performance of that equipment.

3.10 *Performance test and warnings*

3.10.1 The ARPA should provide suitable warnings of ARPA malfunction to enable the observer to monitor the proper operation of the system. Additionally test programmes should be available so that the overall performance of ARPA can be assessed periodically against a known solution.

3.11 *Equipment used with ARPA*

3.11.1 Log and speed indicators providing inputs to ARPA equipment should be capable of providing the ship's speed through the water.

Annex 1 to Appendix A—Definitions of Terms To Be Used Only in Connexion With ARPA Performance Standards

Relative course—The direction of motion of a target related to own ship as deduced from a number of measurements of its range and bearing on the radar. Expressed as an angular distance from North.

Relative speed—The speed of a target related to own ship, as deduced from a number of measurements of its range and bearing on the radar.

True course—The apparent heading of a target obtained by the vectorial combination of the target's relative motion and ship's own motion*. Expressed as an angular distance from North.

True speed—The speed of a target obtained by the vectorial combination of its relative motion and own ship's motion*.

Bearing—The direction of one terrestrial point from another. Expressed as an angular distance from North.

Relative motion display—The position of own ship on such a display remains fixed.

True motion display—The position of own ship on such display moves in accordance with its own motion.

Azimuth stabilization—Own ship's compass information is fed to the display so that echoes of targets on the display will not be caused to smear by changes of own ship's heading.

/North-up—The line connecting the center with the top of this display is North.

/Head-up—The line connecting the center with the top of the display is own ship heading.

/Course-up—An intended course can be set to the line connecting the center with the top of the display.

*For the purpose of these definitions there is no need to distinguish between sea or ground stabilization.

Heading—The direction in which the bow of a vessel is pointing. Expressed as an angular distance from North.

Target's predicted motion—The indication on the display of a liner extrapolation into the future of a target's motion, based on measurements of the target's range and bearing on the radar in the recent past.

Target's motion trend—An early indication of the target's predicted motion.

Radar Plotting—The whole process of target detection, tracking, calculation of parameters and display of information.

Detection—The recognition of the presence of a target.

Acquisition—The selection of those targets requiring a tracking procedure and the initiation of their tracking.

Tracking—The process of observing the sequential changes in the position of a target, to establish its motion.

Display—The plan position presentation of ARPA data with radar data.

Manual—An activity which a radar observer performs, possibly with assistance from a machine.

Automatic—An activity which is peformed wholly by a machine.

ANNEX 2 Appendix A—Operational Senarios

For each of the following scenarios predictions are made at the target position defined after previously tracking for the appropriate time of one or three minutes:

Scenario 1

Own ship course—000°
Own ship speed—10 kt
Target range—8 n.m.
Bearing of target—000°
Relative course of target—180°
Relative speed of target—20 kt

Scenario 2

Own ship course—000°
Own ship speed—10 kt
Target range—1 n.m.
Bearing of target—000°
Relative course of target—090°
Relative speed of target—10 kt

Scenario 3

Own ship course—000°
Own ship speed—5 kt
Target range—8 n.m.
Bearing of target—045°
Relative course of target—225°
Relative speed of target—20 kt

Scenario 4

Own ship course—000°
Own ship speed—25 kt
Target range—8 n.m.
Bearing of target—045°
Relative course of target—225°
Relative speed of target—20 kt

ANNEX 3 to Appendix A—Sensor Errors

The accuracy figures quoted in paragraph 3.8 are based upon the following sensor errors and are appropriate to equipment complying with the Organization's performance standards for shipborne navigational equipment.*

Note: o means "standard deviation"

Radar

Target Glint (Scintillation) (for 200 m length target)

Along length of target o = 30 m. (normal distribution)

Across beam of target o = 1 m. (normal distribution)

Roll-Pitch Bearing. The bearing error will peak in each of the four quadrants around own ship for targets on relative bearings of 045°, 135°, 225° and 315° and will be zero at relative bearings of 0°, 90°, 180° and 270°. This error has a sinusoidal variation at twice the roll frequency. For a 10° roll the mean error is 0.22° with a 0.22° peak sine wave superimposed.

Beam shape—assumed normal distribution giving bearing error with o = 0.05.

Pulse shape—assumed normal distribution giving range error with o = 20 metres.

Antenna backlash—assumed rectangular distribution giving bearing error ± 0.5 maximum.

Quantization

Bearing—rectangular distribution ± 0.01° maximum.

Range—rectangular distribution ± 0.01 n.m. maximum.

Bearing encoder assumed to be running from a remote synchro giving bearing errors with a normal distribution o = 0.03°

Gyro compass

Calibration error 0.5°.

Normal distribution about this with o = 0.12°.

*In calculations leading to the accuracy figures quoted in paragraph 3.8, these sensor error sources and magnitudes were used. They were arrived at during discussions with national government agencies and equipment manufacturers and are appropriate to equipments complying with the Organization's draft performance standards for radar equipment (preliminary) (NAV XXII/WP.14), gyro compasses (NAV XXI/9, Annex X) and logs (preliminary) (NAV XXII/WP.15).

Independent studies carried out by national government agencies and equipment manufacturers have resulted in similar accuracies, where comparisons were made.

Log

Calibration error 0.5 kt.

Normal distribution about this, 3 o = 0.2 kt.

* * *

Appendix B—U.S. Maritime Administration Collision Avoidance System Specification

A collision system designed as a supplement to both surface search navigational radars via interswitching shall be installed. The system shall provide unattended monitoring of all radar echoes and automatic audio and visual alarm signals that will alert the watch officer of a possible threat. The display shall be contained within a console capable of being installed adjacent to the radar displays in the wheelhouse and may form a part of the bridge console.

Provision for signal input from the ship's radars, gyro compass, and speed log, without modification to these equipments shall be made. The collision avoidance system, whether operating normally or having failed, must not introduce any spurious signals or otherwise degrade the performance of the radars, the gyro compass or the speed log.

Computer generated display data for each acquired target shall be in the form of a line or vector indicating true or relative target course, speed and both present and extrapolated future positions. Data shall be automatically displayed on a cathode ray tube or other suitable display contrivance sufficiently bright and unobstructed to permit viewing by more than one person at a time.

In addition to displaying the collision potential of the most threatening fixed and moving targets, the system shall be capable of simultaneously showing land masses.

The system display shall include a heading indication and bearing ring. The system shall also have the capability of allowing the operator to select "head-up" and to cancel the vector or line presentation of any of the targets. The presentation shall be non-smearing when changing modes or display scales in order to permit rapid evaluation of the displayed data.

Target acquisition, for display data purposes, may be manual, automatic or both, as specified by Owner.

For any manual acquisition system the alarms shall be initiated by a preset minimum range; and likewise for any automatic acquisition system the alarms shall be initiated by a preset minimum acceptable passing distance (CPA—Closest Point of Approach) and a preset advance warning time (TCPA—Time to Closest Point of Approach). Means shall be provided to silence the audio alarm for a given threat but the alarm shall resound upon a subsequent threat. The visual alarm shall continue to operate until all threats have been eliminated. If the collision avoidance system fails to perform as indicated above, after the system is set for unattended monitoring, the system shall produce both audio and visual warning alarms.

The system shall be capable of simulating a trial maneuver.

In addition to the target display, an alpha-numeric readout shall be provided which can present range, bearing, course, speed, CPA and TCPA for any selected target, either on the target display or by other display means.

The collision avoidance system shall be energized from the interior communications panel board in the wheelhouse.

The collision avoidance function may be incorporated in an integrated conning system, provided that failure of any other integrated system component will not degrade the collision avoidance function.

[FR Doc. 80-24611 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-14-M

Coast Guard

33 CFR Part 175

[CGD 80-021A]

Equipment Requirements for Boat Operators: Acceptance of Hand Red Flares as Visual Distress Signals; Correction

AGENCY: Coast Guard, DOT.

ACTION: Final rule correction.

SUMMARY: In FR Doc. 80-20078 appearing on page 45269 in the **Federal Register** of July 3, 1980, the citation to the Code of Federal Regulations in footnote 3 of Table 175.130, should be corrected to read 46 CFR 160.028.

FOR FURTHER INFORMATION CONTACT: LCDR Harry Schmecht, Office of Boating, Public and Consumer Affairs (G-BEL-3/42), U.S. Coast Guard Headquarters, Washington, D.C. 20593, (202) 426-4176.

Dated: August 7, 1980.

H. W. Parker,

Rear Admiral, U.S. Coast Guard, Chief, Office of Boating, Public and Consumer Affairs.

[FR Doc. 80-24638 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1569-7]

Approval of Revision of the West Virginia State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The purpose of this notice is to approve, with certain conditions, a revision of the West Virginia State Implementation Plan (SIP) for the attainment and maintenance of National Ambient Air Quality Standards (NAAQS). The revision consists of plans for attaining NAAQS for total suspended particulates (TSP) in the Steubenville-Weirton-Wheeling Interstate Air Quality Control Region (AQCR) and in those portions of Union and Winfield Magisterial Districts in Marion County west of Interstate Route 79, for attaining NAAQS for sulfur dioxide (SO_2) in the New Manchester-Grant Magisterial District, and for attaining NAAQS for ozone (O_3) in the Kanawha Valley Intrastate AQCR. West Virginia submitted the revision to meet the requirements of Part D (Plan requirements for Nonattainment Areas) of the Clean Air Act (the Act), as amended in 1977.

EPA has placed conditions on its approval of West Virginia's SIP revision to assure that West Virginia will correct certain deficiencies in the revision. EPA's conditions include deadlines by which West Virginia must make the necessary corrections. EPA has published a proposed rulemaking notice elswehere in today's **Federal Register** which solicits public comment on the appropriateness of the deadlines.

EFFECTIVE DATE: This action is effective as of August 14, 1980.

ADDRESSES: Copies of the revision and accompanying support materials are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Air Programs Branch, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, PA. 19106, ATTN: Patricia Sheridan

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460

West Virginia Air Pollution Control Commission, 1558 Washington Street, East, Charleston, West Virginia, ATTN: Mr. Carl Beard

FOR FURTHER INFORMATION CONTACT: Raymond D. Chalmers, Air Programs Branch, U.S. Environmental Protection Agency, Region III, Curtis Building, 10th Floor, Sixth and Walnut Streets, Philadelphia, PA. 19106, Telephone Number: 215-597-8309

SUPPLEMENTARY INFORMATION:

I. Introduction

A. General

The Clean Air Act (the Act) amendments of 1977 required States to revise their State Implementation Plans (SIPs) for all areas where primary health related National Ambient Air Quality Standards (NAAQS) or secondary welfare related NAAQS had not been attained.

On June 18, 1979, the Honorable John D. Rockefeller IV, Governor of the State of West Virginia, submitted to EPA a proposed SIP revision for West Virginia's nonattainment areas. EPA published a notice of receipt of the proposed SIP revision at 44 FR 43298 (1979). This notice described the proposed revision and the requirements of the Act, discussed deficiencies of the proposed revision with respect to the Act's requirements, and solicited public comment.

West Virginia's SIP revision addresses all of the present nonattainment areas in the State. It should be noted that the revision takes into account several areas that EPA is redesignating in a notice published elsewhere in today's **Federal Register.**

EPA designated West Virginia's nonattainment areas in the **Federal Register** on March 3, 1978, 43 FR 8962, and on September 12, 1978, 43 FR 40502. EPA designated the Steubenville-Weirton-Wheeling Interstate Air Quality Control Region (AQCR), the portions of Union and Winfield Magisterial Districts in Marion County that are west of Interstate Route 79, and the area including Kanawha County and Valley Magisterial District in Fayette County as primary and secondary nonattainment for total suspended particulates (TSP). EPA designated the Parkersburg-Tygart Magisterial District in Wood County as secondary nonattainment for TSP. In addition, EPA designated the New Manchester-Grant Magisterial District in Hancock County and the Wellsburg Magisterial District in Brooke County as primary nonattainment for sulfur dioxide (SO_2). Finally EPA designated the Kanawha Valley Intrastate AQCR as primary nonattainment for ozone (O_3).

EPA is redesignating two of these areas today. EPA is redesignating Kanawha County and the adjacent Valley Magisterial District in Fayette County from primary and secondary nonattainment for TSP to secondary nonattainment for TSP. EPA is also redesignating the Wellsburg Magisterial District in Brooke County from primary nonattainment for SO_2 to attainment for SO_2.

B. Requirements for Nonattainment Area SIP Revisions

All SIP revisions must meet the requirements of section 110 and Part D of the Act and of EPA's implementing regulations, which are codified at 40 CFR Part 51. Each plan must be based on adequate State legal authority, must have been subject to public review and comment at one or more hearings, must contain an adequate control strategy for the attainment of air quality standards, must contain all regulations or other legal requirements needed to implement the control strategy, and must assure the attainment of air quality standards by the deadlines established in the Act.

The specific requirements for an approvable SIP are discussed in the General Preamble published on April 4, 1979, 44 FR 20372 and in the following supplements:

July 2, 1979, 44 FR 38583
August 28, 1979, 44 FR 50371
September 17, 1979, 44 FR 53761
November 23, 1979, 44 FR 67182

The following list summarizes the basic requirements for nonattainment area plans:

1. Evidence that the SIP revision was adopted by the State after reasonable notice and public hearing.
2. A provision for expeditious attainment of the standards.
3. A determination of the level of control needed to attain the standards.
4. An accurate emissions inventory.
5. Provisions for reasonable further progress (RFP) as defined in Section 171 of the Clean Air Act.
6. An identification of emissions growth.
7. A permit program for major new or modified sources that is consistent with Section 173 of the Clean Air Act.
8. Use of Reasonably Available Control Technology (RACT) control measures as expeditiously as practicable.
9. Inspection and Maintenance (I/M), if necessary, as expeditiously as practicable.
10. Necessary transportation control measures.
11. Enforceable regulations.
12. An identification of and commitment to the resources necessary to carry out the plan.
13. Commitments to comply with schedules.
14. Evidence of public, local government, and State legislative involvement and consultation.

C. Discussion of Conditional Approval

A discussion of the conditional approval of certain elements in West Virginia's plan and its practical effect appears in a Supplement to the General Preamble, 44 FR 38583, July 2, 1979 and in 44 FR 67182, November 23, 1979. The conditional approval requires the State to submit additional materials by the deadlines identified in this notice and proposed elsewhere in today's **Federal Register.** There will be no extensions of conditional approval deadlines when they are made final.

EPA will follow the procedures described below when determining if the State has satisfied the conditions:

1. If the State submits the required additional documentation according to schedule, EPA will publish a notice in the **Federal Register** announcing receipt of the material. The notice of receipt will also announce that the conditional approval is continued pending EPA's final action on the submittal.

2. EPA will evaluate the State's submittal to determine if the condition is fully met. After review is complete, a **Federal Register** notice will be published proposing or taking final action either to find the condition has been met and approve the plan, or to find the condition has not been met, withdraw the conditional approval and disapprove the plan. If the plan is disapproved the section 110(a)(2)(I) restrictions on growth will be in effect.

3. If the State fails to submit in a timely manner the required materials needed to meet a condition, EPA will publish a **Federal Register** notice shortly after the expiration of the time limit for submittal. The notice will announce that the conditional approval is withdrawn, the SIP is disapproved and Section 110(a)(2)(I) restrictions on growth are in effect.

If a State has failed to submit the required data to meet any condition contained in this notice, EPA will at that time consider whether the funding restrictions contained in Sections 176(a) and 316 are also appropriate (*see* 44 FR 33473, June 11, 1979).

Although public comment is solicited on the deadlines, and the deadlines may be changed in light of comment, the State remains bound by its commitment to meet the proposed deadlines. Only a EPA approved change in the deadlines can release a State from this obligation.

D. Discussion of Compliance Requirements

Congress established new attainment dates under Section 172(a) to provide additional time for previously regulated sources to comply with new, more stringent requirements and to permit previously uncontrolled sources to comply with newly applicable emission limitations. These new deadlines were not intended to give sources that failed to comply with pre-1977 plan requirements by the earlier deadlines more time to comply with those requirements. As stated by Congressman Paul Rogers in discussing the 1977 Amendments:

"The added time for attainment of the national ambient air quality standards was provided, if necessary, because of the need to tighten emission limits or bring previously uncontrolled sources under control. Delays or relaxation of emission limits were not generally authorized or intended under part D."

(123 Cong. Rec. H11958, daily ed. November 1, 1977).

To implement Congress' intention that sources remain subject to pre-existing plan requirements, sources cannot be granted variances extending compliance dates beyond attainment dates established prior to the 1977 Amendments. EPA cannot approve such compliance date extensions even though a Section 172 plan revision with a later attainment date has been approved. However, a compliance date extension beyond a preexisting attainment date may be granted if it will not contribute to a violation of an ambient standard or a PSD increment. This subject is discussed further in the General Preamble for Proposed Rulemaking, 44 Fed. Reg. 20373–74 (April 4, 1979).

In addition, sources subject to pre-existing plan requirements may be relieved of complying with such requirements if a Section 172 plan imposes new, more stringent control requirements that are incompatible with controls required to meet the pre-existing regulations. Decisions on the incompatibility of requirements will be on a case-by-case basis.

The 1978 edition of 40 CFR Part 52 lists in the subpart for West Virginia the applicable deadlines for attaining ambient standards (attainment dates) required by Section 110(a)(2)(A) of the Act. For each nonattainment area where a revised plan provides for attainment by the deadlines required by section 172(a) of the Act, the new deadlines are substituted on West Virginia's attainment data chart in 40 C.F.R. Part 52. The earlier attainment dates under Section 110(a)(2)(A) are referenced in a footnote to the chart. Sources subject to plan requirements and deadlines established under Section 110(a)(2)(A), prior to the 1977 Amendments, remain obligated to comply with those requirements. These sources must also comply with the new Section 172 plan requirements.

E. Definitions

In the following sections of this notice there are several references to the term "rollback." To avoid confusion or misunderstanding, this term is defined here. Rollback is a proportional model used to calculate the degree of improvement in ambient air quality needed to attain a national ambient air quality standard.

II. Background

This section describes West Virginia's submittals for attaining NAAQS for O_3, SO_2, and TSP.

A. General

The elements of West Virginia's submittal listed below apply to each of West Virginia's attainment plans. These elements are required by Section 172(b) of the Clean Air Act.

1. *Pre-Construction Review and Emission Offsets*—West Virginia did not submit a regulation requiring preconstruction review and emission offsets.

2. *Analysis of Effects*—West Virginia did not submit an analysis of the health, welfare, economic, energy, and social effects of its SIP revision.

3. *Public Participation*—West Virginia certified that the SIP revision meets all notice and hearing requirements and other requirements for public participation.

4. *Involvement and Consultation*—West Virginia demonstrated that local government officials and the public were involved in the preparation of the SIP revision.

5. *Financial and Manpower Commitments*—West Virginia certified that it will expend the financial and manpower resources needed to implement its plan.

B. Ozone

West Virginia submitted an attainment plan and regulations for the Kanawha Valley Intrastate AQCR. This is the State's only nonattainment area for ozone. The area encompasses Putnam County, Kanawha County, and Kanawha and Falls Magisterial Districts in Fayette County.

EPA has determined that the Kanawha Valley Intrastate AQCR is a rural ozone nonattainment area. Although EPA does not require a specific demonstration of attainment for such areas, West Virginia had included such a demonstration in its June 18, 1979 submittal. Subsequently, West Virginia decided to revise its SIP revision for ozone. On November 21, 1979, West Virginia submitted a revised ozone plan to EPA that did not include a demonstration of attainment. This was the only significant change in the SIP revision. This November 21 submittal is now West Virginia's official SIP revision for ozone.

EPA's major requirement for rural ozone nonattainment areas is that States adopt regulations requiring certain categories of Volatile Organic Compound (VOC) sources to use reasonably available control technology (RACT). *See* the Administrator's Memorandum on Criteria for Proposing Approval of Revision to Plans for Nonattainment Areas 43 Fed. Reg. 2673, May 19, 1978.

The only categories of VOC sources in West Virginia that must be controlled are petroleum refineries, bulk gasoline terminals, and stored petroleum liquids. West Virginia's SIP revision includes regulations requiring RACT for these source categories.

EPA will be designating additional categories of VOC sources for which RACT will be required. West Virginia commits in its SIP revision to adopt all necessary VOC regulations for such categories.

EPA also requires States to submit VOC emission inventories for rural ozone nonattainment areas. West Virginia's submittal includes an inventory of major categories of VOC sources.

C. Sulfur Dioxide

West Virginia submitted an attainment plan for the New Manchester-Grant Magisterial District in Hancock County. This is the only nonattainment area for SO_2 in West Virginia.

The Wellsburg Magisterial District in Brooke County was also a nonattainment area for SO_2 at the time West Virginia submitted its SIP revision. West Virginia did not address this area in its SIP revision because it had requested the redesignation of the area to "attainment." EPA is approving this request in a notice published elsewhere in today's **Federal Register.**

West Virginia's SIP submittal for New Manchester indicates that the Ohio Edison Company's W. H. Sammis Power Plant is the cause of the violations of SO_2 standards in New Manchester. The SIP submittal shows that New Manchester will attain SO_2 air quality standards when the Sammis plant

complies with the Ohio SIP's limitation on SO_2 emissions.

D. Total Suspended Particulates

West Virginia's SIP submittal addressed the State's four TSP nonattainment areas. These are the Steubenville-Weirton-Wheeling Interstate AQCR, the Parkersburg-Tygart Magisterial District, the area including Kanawha County and the Valley Magisterial District in Fayette County, and the area including the portions of Union and Winfield Magisterial Districts west of Interstate Route 79 in Marion County.

Governor Rockefeller stated, when he submitted the SIP revision, that the West Virginia Legislative Rulemaking Review Committee had not yet approved the TSP regulations included in the revision. EPA proposed the revision, on July 24, 1979, with the anticipation that the West Virginia Legislative Rulemaking Committee would approve the regulations submitted with the revision.

West Virginia's submittal for the Steubenville-Weirton-Wheeling Interstate AQCR provides for attaining primary TSP standards by December 31, 1982. The State requested an extension, until July 1, 1980, of the deadline for submitting a plan to attain secondary TSP standards. The State's submittal indicates that attainment of primary standards will be assured by the enforcement of existing regulations for controlling TSP emissions. The State used a rollback model to demonstrate the adequacy of the emission reductions required by these regulations.

West Virginia's submittals for the Parkersburg-Tygart Magisterial District and the area including Kanawha County and the Valley Magisterial District in Fayette County provide for attaining secondary TSP standards by December 31, 1985. West Virginia's strategy for attaining TSP standards is to control fugitive dust emissions. West Virginia submitted a proposed regulation, Regulation XVII, to limit fugitive dust emissions.

West Virginia's submittal for the area including the portions of Union and Winfield Magisterial Districts west of Interstate Route 79 in Marion County provides for the attainment of both primary and secondary TSP standards by December 31, 1980. The submittal states that the emission reductions needed to attain standards will result from the shutdown of a coke plant owned by the Sharon Steel Corporation.

West Virginia's submittals for all four areas include TSP emission inventories. These inventories show the source categories from which TSP emission reductions are expected.

West Virginia's submittals include graphs that show expected TSP emission reductions in each nonattainment area. These graphs show that West Virginia commits to reasonable further progress towards attainment.

West Virginia's submittals also provide for expected growth in TSP emissions. The submittals indicate that additional TSP emissions from major TSP sources will be accommodated by an offset regulation. West Virginia's submittals also include allowances for increases in the emissions of area sources.

III. EPA Evaluation

EPA's evaluations of West Virginia's submittals for attaining NAAQS for O_3, SO_2, and TSP are given in this section. EPA's evaluations indicate whether West Virginia's submittals are approved, conditionally approved, or disapproved.

A. General

The elements of West Virginia's submittal listed below apply to each of West Virginia's attainment plans. These elements are required by Sections 110 and 172(b) of the Clean Air Act.

1. *Adoption by the State*—The regulations included in West Virginia's SIP revision had not been approved by the West Virginia Legislative Rulemaking Review Committee at the time EPA proposed West Virginia's SIP revision. According to Chapter 29A–3 of the Code of West Virginia, the Legislative Rulemaking Review Committee must approve all new air pollution control regulations before they become State law. The Committee can approve regulations either by direct vote, or by failing to act on them within six months of receiving them.

On September 24, 1979, the Legislative Rulemaking Review Committee acted on West Virginia's proposed regulations. The Committee approved new Regulations III, XXI, XXIII, and XXIV, and revisions to Regulation VIII, but did not approve new Regulations XVII and XVIII or Revisions to Regulation VI and VII.

On December 19, 1979, the Governor of West Virginia submitted Regulations III, VIII, XXI, XXIII, and XXIV to EPA. The Governor asked EPA to include these regulations in the West Virginia SIP.

On March 27, 1980, the Director of the West Virginia Air Pollution Control Commission notified EPA that Regulations XVII and XVIII and the revisions of Regulations VI and VII were approved because the Legislative Rulemaking Review Committee had failed to act on them within the required six months time period.

The Governor of West Virginia has not submitted Regulations XVII and XVIII or revised Regulations VI and VII to EPA for incorporation in the West Virginia SIP. Accordingly, EPA has based its decisions on the SIP on the plans submitted by the Governor on June 18, 1979, and on the regulations submitted by him on September 24, 1979.

2. *Pre-Construction Review and Emission Offsets*—West Virginia's SIP revision does not include a regulation requiring pre-construction review and emission offsets. Section 172(b)(6) of the Clean Air Act requires such a regulation.

West Virginia has agreed to adopt a regulation requiring pre-construction review and emission offsets and to submit this regulation to EPA for incorporation into the West Virginia SIP. Until this regulation is incorporated into the SIP, West Virginia has agreed to keep in effect a temporary regulation requiring pre-construction review and emission offsets. Although this temporary regulation meets the requirements of Section 173 of the Clean Air Act, it will not be included in the West Virginia SIP. Therefore, the regulation will not be enforceable by EPA, but only by West Virginia. To assure that Federal Requirements are met, West Virginia will submit all permits issued under the provisions of this temporary regulation to EPA for approval as SIP revisions.

EPA approves the West Virginia SIP revision on the condition that West Virginia meets the following requirements. First, the State of West Virginia must submit an adequate regulation requiring pre-construction review and emission offsets to EPA; second, West Virginia must keep a temporary regulation requiring pre-construction review and emission offsets in effect until EPA approves a permanent regulation, and third, West Virginia must submit all permits issued under the provisions of its temporary pre-construction review and offset regulation to EPA as SIP revisions.

Elsewhere in today's **Federal Register**, EPA is soliciting public comment on the acceptability of a deadline for submittal of the pre-construction review and emission offsets regulation.

3. *Analysis of Effects*—West Virginia has not submitted an analysis of the health, welfare, economic, energy, and social effects of its SIP revision as required by Section 172(b)(9) of the Clean Air Act. However, EPA has reviewed a draft of the analysis West

Virginia intends to submit, and has concluded from this review that the West Virginia SIP should not cause any major adverse effects. Therefore, EPA approves this portion of West Virginia's SIP revision on the condition that West Virginia submits an adequate analysis of its SIP's effects to EPA. In accordance with the requirements of Section 172(b)(9) of the Clean Air Act, EPA also requires West Virginia to submit a summary of the public comments on the analysis. Elsewhere in today's **Federal Register**, EPA is soliciting public comment on the acceptability of a September 30, 1980, deadline for submitting this analysis.

4. *Adequate Regulations*—The regulations adopted by West Virginia impose requirements on stationary sources of air pollution in West Virginia. However, in order to provide flexibility, the regulations authorize West Virginia to modify certain requirements of the regulations. The requirements of the regulations with respect to an individual source may be modified if the source can show that such modifications are necessary and will not prevent the regulation's objectives from being attained.

The approval of alternate control plans, programs or designs under this authority may result in applicable State requirements which differ from requirements of the State Implementation Plan approved by EPA. Both West Virginia and EPA desire to avoid potential conflicts between State and Federal requirements for the abatement of air pollution. Therefore, West Virginia has adopted an administrative rule establishing a procedure under which West Virginia's Air Pollution Control Commission will enter any approved alternate control plan as a Consent Order, and will notify EPA of its action and ask the Governor to submit the action as a plan revision so that the Agency may review the Order for approval and incorporation in the State Implementation Plan. This evaluation is very important because the requirements of an approved State Implementation Plan remain applicable to a source notwithstanding changes to the State's regulations, until such time as EPA approves the incorporation of those changes in the Plan.

West Virginia has also adopted an administrative rule establishing the requirement that EPA review and approve any changes in the test methods used to verify compliance with West Virginia's regulations. EPA's approval of such changes will be required before EPA will accept the new test methods as means for determining if the SIP's requirements are being met.

EPA considers these two procedural rules to be essential. They are needed to assure that the requirements of West Virginia's regulations do not differ from requirements of the West Virginia SIP approved by EPA.

5. *Public Participation*—All notice and hearing requirements and other requirements for public participation have been met.

6. *Involvement and Consultation*—West Virginia has involved local government officials and the public in the preparation of the SIP revision.

7. *Financial and Manpower Commitments*—West Virginia has committed to expend the financial and manpower resources necessary to implement its plan.

B. Ozone

West Virginia's submittal for O_3 addresses the Kanawha Valley Intrastate AQCR. The Kanawha Valley Intrastate AQCR is West Virginia's only O_3 nonattainment area.

1. *Control Strategy*—EPA has determined that the Kanawha Valley Intrastate AQCR is a rural nonattainment area for O_3. This determination was made since the AQCR does not contain any "urbanized area" with a population of over 200,000.

EPA does not require a specific demonstration of attainment of the O_3 standard or an accompanying demonstration of reasonable further progress for rural O_3 nonattainment areas. Also, EPA does not require mobile source control measures such as automobile inspection and maintenance programs or transportation control measures. *See* the Administrator's memorandum on Criteria for Approval of 1979 SIP revisions, 43 Fed. Reg. 21673, May 19, 1978.

EPA has only one major control strategy requirement for rural ozone nonattainment areas. States must adopt regulations requiring RACT for VOC source categories which are covered by EPA's control technique guideline documents and which contain VOC sources that have the potential to emit 100 or more tons of VOCs per year.

The only categories of such VOC sources in West Virginia are petroleum refineries, bulk gasoline terminals, and stored petroleum liquids. West Virginia has adopted regulations for these source categories. West Virginia has certified that in the Kanawha Valley there are no other major sources within the categories addressed by the CTG documents.

As noted in the General Preamble for Proposed Rulemaking on Approval of Plan Revisions for Nonattainment Areas, 44 FR 20376 (April 4, 1979), the minimum acceptable level of stationary source control for ozone SIPs, such as West Virginia's, includes RACT requirements for VOC sources covered by CTGs the EPA issued by January 1978 and schedules to adopt and submit by each future January additional RACT requirements for sources covered by GTGs to EPA issued by the previous January. West Virginia has agreed to adopt VOC regulations for additional VOC source categories if CTG documents published in the future make such regulations necessary.

West Virginia's VOC control strategy meets EPA's requirements. Therefore, West Virginia's control strategy for O_3 is acceptable.

2. *Emission Inventory*—West Virginia submitted an inventory listing the VOC emissions of various categories of VOC sources. EPA indicated in its July 24, 1979, proposal of West Virginia's SIP revision that the State's VOC inventory was required to be more detailed. Accordingly, EPA asked West Virginia to submit an inventory listing the emissions of individual VOC sources. On October 10, 1979, West Virginia submitted such an inventory; EPA has found it to be adequate.

3. *RACT As Expeditiously as Practicable*—In the notice of proposed rulemaking, EPA identified three RACT deficiencies in West Virginia's VOC regulations. All three items have been addressed by West Virginia in a September 24, 1979 letter.

EPA now agrees with West Virginia that a 90 percent collection efficiency requirement is not needed in Section 4.01(b) of Regulation XXI, which applies to stored petroleum liquids. This regulation is actually an equipment specification and no EPA test method currently exists to measure a collection efficiency from this type of source. This regulation is approved.

In the letter of September 24, 1979, West Virginia certified that the words "during the transfer of gasoline" have been deleted from Section 3.21 of Regulation XXIII, which covers VOC emissions from bulk gasoline terminals. Therefore, this deficiency has been rectified and the regulation is approved.

EPA commented that Section 4.04 of Regulations XXI, XXIII and XXIV, a section which provides for alternative control measures, should allow alternative control measures to be approved only when equivalent emission reductions can be achieved or when more stringent controls are technologically or economically infeasible. To assure that Section 4.04 does not allow improper control

measures, West Virginia agreed to adopt a procedural rule requiring all alternative control methods to be submitted to EPA as SIP revisions. West Virginia adopted this rule on November 20, 1979.

4. *Enforceability*—In the notice of proposed rulemaking, EPA recommended that the VOC regulations be made future-effective to avoid possible imposition of penalities under Section 120 of the Clean Air Act. West Virginia has chosen to retain the immediately-effective approach. However, West Virginia did change the effective date from July 6, 1979 to October 27, 1979. Because future-effective regulations are not required by the Clean Air Act, EPA approves West Virginia's regulatory approach.

There are currently no EPA test methods which apply to Regulations XXI and XXIV. These regulations are enforced through equipment and operating specifications. Regulation XXIII, however, does require a test method and West Virginia has agreed to adopt an acceptable test method. EPA is approving Regulation XXIII on the condition that West Virginia submit this test method as a SIP revision. In a notice which appears elsewhere in today's **Federal Register**, EPA is soliciting public comment on the acceptability of a September 30, 1980 deadline for that submittal.

EPA now agrees that a definition of "fuel gas system" is not needed in Section 4.02(a)(2) of Regulation XXIII. The definition of this term is considered general knowledge within the industry concerned. Therefore, EPA approves this regulation.

Also, EPA has decided to accept the wording of the definition of "condensate" in Section 3.05 of Regulation XXIII. West Virginia correctly pointed out that the basic meaning is not altered by EPA's suggested wording. EPA approves this definition.

EPA noted in the notice of proposed rulemaking that the definition of "Volatile Organic Compound" in Regulations XXI and XXIV did not state that methane is not considered a VOC. This was correctly included in Regulation XXIII. Defining VOC as including methane has no effect on the enforcement of Regulations XXI and XXIV since they are equipment and operating specification regulations. Therefore, even though West Virginia's definition of VOC for these regulations is incorrect, Regulations XXI and XXIV are enforceable and are acceptable. EPA approves these regulations.

EPA also stated in the notice of proposed rulemaking that the Agency's preliminary review revealed instances where the language of the regulations needed clarification. Upon further review EPA has decided that no changes are necessary.

C. Sulfur Dioxide

West Virginia submitted an attainment plan for the New Manchester-Grant Magisterial District in Hancock County. This is the only nonattainment area for SO_2 in West Virginia.

The Wellsburg Magisterial District in Brooke County was also a nonattainment area for SO_2 at the time West Virginia submitted its SIP revision. West Virginia did not address this area in its SIP revision because it had requested the redesignation of the area to "attainment." EPA is approving this request in a notice published elsewhere in today's **Federal Register**.

1. *Control Strategy and Demonstration of Attainment*—West Virginia indicates in its control strategy that the New Manchester area will attain standards for SO_2 after the Sammis power plant complies with the SO_2 emission limitations of the Ohio SIP. Therefore, West Virginia did not submit new or revised SO_2 regulations for the area.

West Virginia's demonstration states that "modeling results show that the annual mean level of SO_2 in New Manchester should decrease by 20 $\mu g/m^3$ when the Sammis plant comes into compliance with Ohio's sulfur emission standards. When this reduction is applied to the calendar year 1977 arithmetic mean, an annual mean of 81 $\mu g/m^3$ results." West Virginia's demonstration concludes that "this, in conjunction with the apparent improvement in SO_2 air quality, demonstrates attainment of the primary annual standard of 80 $\mu g/m^3$." West Virginia's demonstration also shows that the 24-hour primary standard for SO_2 has been met in the New Manchester area. Finally, the demonstration states that there should be no violations of the secondary SO_2 standard after the Sammis plant comes into compliance.

Sammis, which is owned by the Ohio Edison Company, is not now in compliance with the Ohio SIP's emission limitations for SO_2. However, on February 11, 1980, EPA published a notice, 45 Fed. Reg. 9101, announcing an interim enforcement policy for SO_2 sources in Ohio. EPA's interim policy, as explained in that notice, is to refrain from initiating SO_2 enforcement actions in Ohio against SO_2 sources which can meet Ohio's current SO_2 emission limitations applied on a 30 day rolling weighted average and which also meet certain other requirements of the policy.

Ohio Edison has attempted to meet these requirements. The Company has had several units at Sammis burn lower sulfur coal. However, EPA has not yet received sufficient information from Ohio Edison to determine if Sammis meets the requirements of EPA's interim enforcement policy.

West Virginia's SO_2 monitor in New Manchester has registered attainment since 1977. However, several violations have been registered through the end of 1979 at an SO_2 monitoring network established by Ohio Edison. No violations have been recorded at Ohio Edison's monitors through the first quarter of 1980.

In view of the data from West Virginia's monitor and the most recent monitoring data from the Ohio Edison network, EPA agrees with West Virginia that no new or revised SO_2 regulations are needed for the New Manchester area at this time.

D. Total Suspended Particulates

There are now four areas in West Virginia which EPA finds to be nonattainment areas for TSP. These are the Steubenville-Weirton-Wheeling Interstate AQCR, the Parkersburg-Tygart Magisterial District, Kanawha County and the adjacent Valley Magisterial District in Fayette County, and the portions of Union and Winfield Magisterial Districts in Marion County west of Interstate Route 79.

West Virginia submitted plans for all these areas. EPA's decisions to approve, conditionally approve, or disapprove these plans are related below. West Virginia submitted only one new regulation for controlling TSP emissions. This regulation, Regulation III, "To Prevent and Control Air Pollution From the Operation of Hot Mix Asphalt Plants," is acceptable. West Virginia also submitted a revised version of Regulation VIII, "Ambient Air Quality Standards for Sulfur Oxides and Particulate Matter." The revised version of Regulation VIII is acceptable.

1. *Control Strategies and Demonstrations of Attainment.*—(a) *Steubenville-Weirton-Wheeling Interstate AQCR*—West Virginia's submittal for the Steubenville-Weirton-Wheeling AQCR states that attainment of primary TSP standards will occur by December 31, 1982. The State's submittal indicates that attainment will be assured by the enforcement of existing regulations for controlling TSP emissions.

West Virginia's demonstration of attainment for the Steubenville-Weirton-Wheeling Interstate AQCR is based on

rollback. Rollback can be an acceptable technique for demonstrating that TSP standards will be attained; however, rollback does have limitations. In some cases rollback may fail to require sufficient emission reductions. This can occur when actural source-receptor relationships are not the same as those assumed by the rollback model. Actual source-receptor relationships in the Steubenville-Weirton-Wheeling Interstate AQCR will be identified in the future when a consultant under contract to EPA completes a currently ongoing TSP study. This study is expected to be completed in the fall of 1980.

West Virginia's demonstration of attainment for the Steubenville-Weirton-Wheeling Interstate AQCR is based on an acceptable model. Therefore, EPA finds the demonstration acceptable. However, EPA believes that the study of source-receptor relationships in the Steubenville-Weirton-Wheeling Interstate AQCR may show that additional TSP controls are needed to bring the AQCR into attainment. If the study shows that additional controls are necessary, EPA will require West Virginia to submit a new plan for the AQCR. EPA has the authority to require such a plan under Section 110(a)(2)(H) of the Clean Air Act.

West Virginia's plan for the Steubenville-Weirton-Wheeling Interstate AQCR does not demonstrate that less than RACT will bring the AQCR into attainment. Therefore, RACT is required for the AQCR. *See* the *General Preamble for Proposed Rulemaking on Approval of State Implementation Plan Revisions for Nonattainment Areas*, 44 FR 20372, April 4, 1979. For this reason, EPA requires West Virginia to revise Regulation VII as indicated below in the section on RACT for TSP.

West Virginia has requested that EPA allow it until July 1, 1980, to submit a plan for attaining secondary TSP standards. EPA is proposing this request in a notice published elsewhere in today's **Federal Register**.

(b) *Parkersburg-Tygart Magisterial District*—West Virginia's submittal for the Parkersburg-Tygart Magisterial District provides for the attainment of secondary TSP standards by December 31, 1985. The strategy for attaining standards is to control fugitive dust emissions. West Virginia's failure to submit Regulation XVII to EPA for inclusion in the West Virginia SIP makes it impossible for EPA to enforce this strategy. Therefore, EPA considers that West Virginia no longer has an attainment plan for the Parkersburg-Tygart Magisterial District. West Virginia, after being notified of this fact, requested that EPA allow it until July 1, 1980, to submit an alternative plan. EPA is proposing this request in a notice published elsewhere in today's **Federal Register**.

(c) *Kanawha County and the Valley Magisterial District in Fayette County*—Kanawha County and the Valley Magisterial District in Fayette County have until today been designated as primary nonattainment areas for TSP. On April 6, 1979, West Virginia requested the redesignation of these areas to only secondary nonattainment for TSP. West Virginia assumed in developing its plan for these areas that EPA would approve their redesignation. EPA proposed their redesignation on August 20, 1979, 44 FR 48723, and is approving their redesignation in a notice published elsewhere in today's **Federal Register**.

West Virginia's submittal for Kanawha County and the Valley Magisterial District in Fayette County provides for the attainment of secondary TSP standards by December 31, 1985. The strategy for attaining standards is to control fugitive dust emissions. West Virginia's failure to submit Regulation XVII to EPA for inclusion in the West Virginia SIP makes it impossible for EPA to enforce this strategy. Therefore, EPA considers that West Virginia no longer has an attainment plan for Kanawha County and the Valley Magisterial District in Fayette County. West Virginia, after being notified of this fact, requested that EPA allow it until July 1, 1980, to submit an alternative plan. EPA is proposing this request in a notice published elsewhere in today's **Federal Register**.

(d) *Winfield and Union Magisterial Districts (Marion County)*—West Virginia's submittal for Winfield and Union Magisterial Districts in Marion County provides for the attainment of both primary and secondary TSP standards. The plan shows that these areas will attain TSP standards because of the shutdown of a large coke plant. The plan demonstrates by air quality modeling that the shutdown of this plant will bring about the attainment of primary and secondary TSP standards by December 31, 1980. Therefore, EPA approves the plan.

2. *Emission Inventory*—West Virginia submitted an inventory listing the TSP emissions of various categories of TSP sources. EPA indicated in its July 24, 1979, proposal of West Virginia's SIP revision that the State's TSP inventory was required to be more detailed. Accordingly, EPA asked West Virginia to submit an inventory listing the emissions of individual TSP sources. On October 10, 1979, West Virginia submitted such an inventory.

EPA has determined, since the publication of its proposal of West Virginia's SIP revision, that it is consistent with Agency policy to approve categorical TSP inventories whenever a SIP contains such an inventory and EPA is aware that supporting source-by-source documentation exists elsewhere. Therefore, West Virginia's categorical TSP inventory is acceptable.

Nevertheless, EPA has reviewed West Virginia's inventory of emissions of individual sources. EPA has found several discrepancies in this inventory. West Virginia has indicated in discussions with EPA that it believes most of these discrepancies can be resolved by the submission of additional information. EPA will continue to work with West Virginia to assure that the State's source-by-source inventory is adequate.

(3) *Margin for Growth*—EPA noted in its proposal of the West Virginia SIP revision for TSP that the revision did not contain an adequate provision for the growth of major TSP sources. As noted elsewhere in this notice, EPA is approving West Virginia's SIP on the condition that West Virginia adopts an offset regulation and meets other requirements.

West Virginia's attainment demonstration includes a provision for the growth of TSP emissions from area sources. As stated in the notice of proposed rulemaking, EPA asked for additional documentation of these growth estimates. On October 10, 1979, West Virginia submitted the additional information.

West Virginia has agreed to adopt an offset regulation and has provided for additional TSP emissions from new area sources. Therefore, EPA approves this section of West Virginia's SIP revision.

4. *Reasonably Available Control Technology (RACT)*—EPA's proposal of the West Virginia SIP revision indicated Regulations VI and VII were deficient in that they did not require RACT. On September 24, 1979, West Virginia stated in a letter to EPA that it believed Regulation VI did require RACT since it contained a 20% opacity standard. EPA has reviewed the State's contention and agrees that Regulation VI does require RACT. The issue of the Regulation VII was resolved in discussions between EPA's and West Virginia's representatives. Regulation VII must contain more specific requirements to assure that RACT is required for certain sources. West Virginia has agreed to make the necessary revisions. (The rulemaking docket on this Notice

contains examples of standards which EPA has found to be RACT for iron and steel-making facilities, with supporting data, as well as acceptable test methods and definitions to ensure sufficient clarity for enforcement purposes.)

EPA approves this portion of West Virginia's SIP on the condition that West Virginia revises Regulation VII and submits this revised Regulation to EPA. Elsewhere in today's **Federal Register**, EPA is proposing a February 1, 1981, deadline for submittal of the revised regulation.

5. *Enforceability*—EPA's proposal of the West Virginia SIP revision noted several deficiencies in Regulation XVII. Regulation XVII is not part of West Virginia's SIP revision. Accordingly, any deficiencies in it are no longer an issue.

EPA's proposal also noted several deficiencies with Regulation VIII, which establishes West Virginia's air quality standards for SO_2 and TSP. EPA noted that section 3.01 of Regulation VIII was deficient in that it only required attainment of NAAWS at sampling sites.

Upon closer examination, EPA has determined that the standards of Regulation VIII can be enforced in all areas of West Virginia. Therefore, EPA now believes Section 3.01 of Regulation VIII to be acceptable.

EPA also noted that the sampling methods specified in Regulation VIII were inadequate. West Virginia has notified EPA that it will be revising its air monitoring requirements to comply with 40 CFR Part 58, and that 40 CFR Part 58 must be complied with for all monitoring for SIP purposes performed in the State. The State's response satisfies the concern EPA raised earlier about the sampling methods specified in Regulation VIII. Furthermore, compliance with 40 CFR Part 58 is not required to meet the requirements of Part D of the Clean Air Act.

IV. Comments and Responses

This section describes the pertinent comments EPA has received on West Virginia's SIP revision and gives EPA's responses to those comments.

A. General

EPA received comments on the general aspects of the West Virginia SIP revision from the Commonwealth of Pennsylvania and from the West Virginia Chamber of Commerce. These comments and EPA's responses are given below:

1. *Pennsylvania's Comments*—The notice indicates that a "major issue" with the West Virginia SIP revision is the lack of a preconstruction review program that meets the requirements of Section 173 of the Clean Air Act and the Environmental Protection Agency's January 16, 1979 Emission Offset Interpretative Ruling. The notice elsewhere states, "EPA proposed to conditionally approve the plan where there are *minor* deficiencies and the State provides assurances that it will submit corrections on a specified schedule" (emphasis added). The notice solicits comments on what items should be conditionally approved. Because the plan has a major deficiency—the lack of an acceptable preconstruction review program—I recommend against conditional approval unless West Virginia demonstrates that it will handle new construction in nonattainment areas under their existing procedures in a manner that is consistent with Section 173 of the Act and that will be equitable with other States.

Response: West Virginia has agreed to adopt a permanent regulation requiring preconstruction review that will meet the requirements of Section 173 of the Clean Air Act and of EPA's final Emission Offset Interpretative Ruling. West Virginia will keep a temporary regulation requiring preconstruction review and emission offsets in effect until it adopts a permanent regulation. EPA considers the present lack of a permanent regulation a minor deficiency.

2. *Chamber of Commerce's Comments*—a. The July 24, 1979 notice of proposed rulemaking includes a number of references to changes which EPA will require in regulations which are included as a part of the State's proposed SIP with respect to both ozone and total suspended particulates. In both cases these changes deal with redefining RACT and with enforceability.

Our review of these suggested changes indicates that many of them are of a substantive nature which have not been the subject of any public hearing or comment before the State agency. We therefore suggest that it would be inappropriate for these changes to be made in the SIP without first going through further hearings at the State level to assure compliance with the letter and spirit of the public notice and hearing requirements of the Clean Air Act and of State law.

Response: West Virginia adopted or revised only five of the nine regulations that EPA critiqued in the July 24, 1979 notice of proposed rulemaking. West Virginia did not make any significant changes in these regulations.

West Virginia has agreed to adopt a regulation requiring preconstruction review and emission offsets. The State will observe all public notice and hearing requirements before adopting this regulation. Until it can adopt this regulation, West Virginia will keep in effect a temporary regulation requiring pre-construction review and emission offsets. West Virginia has adhered to all requirements of West Virginia law in adopting this temporary regulation.

West Virginia has agreed to submit to EPA an adequate analysis of the health, welfare, economic, energy, and social effects of its SIP revision. West Virginia will follow all public notice and hearing requirements before submitting this analysis to EPA.

West Virginia has agreed to revise Regulation VII. West Virginia will follow all public notice and hearing requirements when revising this Regulation.

West Virginia has agreed to adopt an adquate test method for Regulation XXIII. This test procedure will be adopted in accordance with the requirements of West Virginia law.

In conclusion, all changes required in West Virginia's SIP revisions will be made in accordance with Federal public notice and hearing requirements.

b. The 1977 Amendments to the Clean Air Act established the requirement now contained in Section 172(b)(9) that a nonattainment plan must provide for "(A) an identification and analysis of air quality, health, welfare, economic, energy, and social effects of the plan provisions required by this subsection and of the alternatives considered by the States, and (B) a summary of the public comments on such analysis."

No such analysis has been made with respect to West Virginia's proposed SIP and certainly no opportunity has been provided for public comment on any such analysis. It is plain on the face of the legislative history of the Clean Air Act that Congress intended that the SIP should evidence public cognizance of the economic, energy and social effects of the plan. 2 U.S. Code, Cong. & Admin. News 1536 (95th Cong., First Sess. 1977).

Response: EPA has approved the West Virginia SIP on the condition that West Virginia submits an analysis of the SIP's effects to EPA. EPA also requires West Virginia to submit a summary of the public comments on the analysis at that time. The public will be given additional opportunity to comment on the analysis after EPA proposes it in the **Federal Register.**

B. Ozone.

EPA received comments on West Virginia's SIP revision for O_3 both from a private citizen and from the State of New Jersey. These comments and EPA's responses are given below:

1. *Citizen's Comments*—a. The Kanawha Valley Intrastate AQCR is

designated a rural nonattainment area for ozone. This designation is reasonable in determining that adoption of transportation measures is unnecessary, but not in determining that RACT is unnecessary. Transportation is an area source and justifiably must be looked at on a broad scale. However, the population density around VOC sources in the Kanawha Valley is similar to population densities in urban nonattainment areas for ozone.

Response: For rural nonattainment areas, States must adopt regulations requiring RACT for major sources for which EPA has published a CTG, and must commit to adopt additional regulations requiring RACT for major sources covered by future CTGs, 43 FR 21673, May 19, 1978. West Virginia has satisfied this requirement.

It must be pointed out that attainment of ambient air quality standards is the goal of the SIP. Major sources are selected for control in rural areas because they have the potential to contribute to the ambient air quality problem. Mechanisms such as New Source Performance Standards (NSPS), National Emission Standards for Hazardous Air Pollutants (NESHAPs), and State and local regulations are intended to control localized air pollution problems.

b. The Administrator should require the application of RACT in the Kanawha Valley to demonstrate RFP and attainment. In applying RACT, West Virginia should be required to provide for attainment as expeditiously as practicable. West Virginia has submitted a control strategy demonstration. This action is commendable and shows a desire to resolve the problems caused by the chemical plants in the Kanawha Valley.

Response: Since the Kanawha Valley AQCR is a rural nonattainment area, West Virginia is not required to submit a RFP presentation or a control strategy demonstration. This is in accordance with EPA policy stated in Administrator's Memorandum on Criteria for Proposing Approval of Revision to Plans for Nonattainment Areas 43 FR 21673, May 19, 1979. West Virginia's new regulations apply to petroleum refineries, bulk gasoline terminals, and stored petroleum liquids. The SIP did not contain and is not required to contain regulations for controlling emissions from chemical plants.

c. Some of the emission reductions which West Virginia uses to demonstrate achievement of the NAAQS are questionable.

Response: Same as response to comment b.

d. EPA outlines several corrections to West Virginia's SIP for ozone in the "RACT as Expeditiously as Practicable" and "Enforceability" sections in its notice of proposed rulemaking in the **Federal Register.** These corrections should be made on an appropriate schedule if a conditional approval of the ozone SIP is granted.

Response: The State must either correct or agree to correct all deficiencies of the SIP before approval or conditional approval can be given. EPA is proposing dates by which West Virginia must fulfill certain conditions in a notice published elsewhere in today's **Federal Register.** The public is being invited to comment on the acceptability of these dates.

2. *State of New Jersey's Comments.*—The State of New Jersey submitted comments on the proposed Part D ozone SIP revisions for several States. New Jersey contends that SIPs which do not include uniform Statewide controls for existing and new sources which meet the requirements of Part D will not attain the ozone standard. New Jersey urges the Administrator to disapprove ozone SIPs which do not include such Statewide measures. In addition, New Jersey argues as it did in objecting to the Administrator's ozone nonattainment area designations that entire States should be designated nonattainment, thereby requiring Part D SIP revisions Statewide.

Response: West Virginia's O_3 plan meets the requirement for rural O_3 nonattainment areas. Therefore, the Administrator has no basis for disapproving the O_3 plan. The Administrator considered all of New Jersey's objections to the designations and responded in the document entitled "Technical Support Document for Agency Policy Concerning Designation of Attainment, Unclassifiable, and Nonattatinment Areas for Ozone," dated January 1979. Availability of the document was announced in the February 1, 1979 **Federal Register,** 44 FR 6395. This document and the Administrator's response to New Jersey's comments are incorporated herein by reference.

C. *Sulfur Dioxide*

A citizen concerned about air pollution in West Virginia submitted comments on the SO_2 section of the West Virginia SIP revision. These comments and EPA's responses are given below:

1. *Citizen's Comments*—a. The proposed rule states that if a 20 ug/m^3 annual average reduction is realized once the Sammis Generating Station achieves compliance (required by October 19, 1979) then no further reductions in emissions by other facilities would be required to attain ambient SO_2 standards. West Virginia's SIP should be conditionally approved with a schedule specifying continuous review of the attainment status of the New Manchester-Grant Magisterial District. If attainment of ambient standards is not achieved by a reasonable date, then West Virginia should schedule further revisions as necessary.

Response: West Virginia's SIP revision indicates that New Manchester will attain SO_2 standards after the Sammis plant complies with the SO_2 emission limitations of the Ohio SIP. At this time EPA does not know when Sammis will finally comply with Ohio's limitations on SO_2 emissions. In these circumstances, EPA believes that December 31, 1982 is a reasonable date to expect New Manchester to attain air quality standards. If Sammis complies with Ohio's SO_2 emissions limitations before December 31, 1982, and New Manchester still fails to attain SO_2 standards, West Virginia will have to develop further SIP revisions to ensure that SO_2 air quality standards are attained.

b. In revising the SO_2 SIP, West Virginia assumed that the Wellsburg Magisterial District in Brooke County would be redesignated as a primary and secondary attainment area. EPA did not comment on this assumption. The SO_2 SIP should not be finalized unless the validity of this assumption is affirmed by EPA.

Response: EPA is redesignating the Wellsburg Magisterial District from primary and secondary nonattainment to attainment in a notice published elsewhere in today's **Federal Register.**

D. *Total Suspended Particulates*

The West Virginia Chamber of Commerce submitted comments on the TSP section of West Virginia's SIP submittal. These comments follow:

1. *Chamber of Commerce's Comments*—a. Regulation XVHI is deficient in several respects and should not be approved.

Response: West Virginia has not submitted Regulation XVII to EPA. Therefore, Regulation XVII is not part of the SIP revision.

b. As noted at the outset of your July 24, 1979 **Federal Register,** notice, the new provisions to the Clean Air Act, enacted in August, 1977, call upon all states to revise their SIP's with respect to those areas in which national ambient air quality standards are not being attained. The Commission and EPA have identified such areas in West

Virginia to include the following regions with respect to total suspended particulates:

1. Kanawha County and portions of Fayette County.
2. Portions of Marion County, and
3. Hancock, Brooke, Ohio and Marshall Counties.

Even though nonattainment areas in West Virginia have been limited to these three, the Commission proposes to amend the SIP by including a new Regulation XVII, and revisions to certain existing regulations, which impose new or more stringent emission controls on sources located in the attainment areas of Putnam County, West Virginia. This unwarranted expansion of the scope of these regulations is in spite of the fact that there is no evidence to support the proposition that any sources in Putnam County contribute to the violations of ambient standards in any of the State's designated nonattainment areas."

Reponse: The Clean Air Act requires States to adopt all emission controls necessary to assure attainment of air quality standards. Each State has the responsibility of determining exactly which controls are necessary. EPA understands that the West Virginia Air Pollution Control Commission has determined that the regulation of sources in Putnam County is necessary to assure the attainment of air quality standards. Therefore, EPA accepts West Virginia's plans to regulate sources in Putnam County.

E. *National Comments*

EPA has receive several comments applying to the SIP revisions of all States. These comments and EPA's responses can be found in EPA's notice of final rulemaking for Delaware's Part D SIP revision, and in EPA's Rationale Document for this final ruelmaking. EPA's notice of final rulemaking for Delaware's Part D SIP revision can be found at 45 FR 14551 (1980).

EPA Actions

EPA's decisions to approve, conditionally approve, or disapprove West Virginia's SIP revisions for the attainment of TSP, O_3, and SO_2 standards are given in this section. Elsewhere in today's **Federal Register** EPA is proposing deadlines for meeting all conditions given in this section.

A. General

EPA approves West Virginia's SIP revisions for attaining primary TSP standards in the Steubenville-Weirton Wheeling Interstate AQCR and in those portions of Union and Winfield Magisterial Districts in Marion west of Interstate Route 79, for attaining the O_3 standard in the Kanawha Valley Interstate AQCR, and for attaining SO_2 standards in the New Manchester-Grant Magisterial District in Hancock County, on the condition that:

1. West Virginia adopts a permanent regulation requiring preconstruction review and emission offsets. This regulation must meet the requirements of Section 173 of the 1977 Clean Air Act Amendments.
2. West Virginia keeps a temporary regulation requiring preconstruction review and emission offsets in effect until EPA approves a permanent regulation.
3. West Virginia submits all permits issued under the provisions of its temporary preconstruction review and offset regulation to EPA for approval as SIP revisions.
4. West Virginia submits to EPA an adequate analysis of the health, welfare, economic, energy, and social effects of its SIP revision, and an adequate summary of the public comments on this analysis.

B. Ozone

EPA approves West Virginia's SIP revision for attaining the O_3 standard in the Kanawha Valley Intrastate AQCR on the condition that West Virigina adopts an adequate test method for Regulation XXIII and submits this test method to EPA as a SIP revision.

C. Sulfur Dioxide

EPA approves West Virginia's SIP revision for attaining SO_2 standards in the New Manchester-Grant Magisterial District in Hancock County.

D. Total Suspended Particulates

EPA approves West Virginia's SIP revisions for attaining TSP standards in the Steubenville-Weirton-Wheeling Interstate AQCR on the condition that West Virginia revises Regulation VII and submits this revised regulation to EPA for incorporation into West Virginia's SIP.

EPA approves West Virginia's plan for attaining primary and secondary TSP standards in those portions of Union and Winfield Magisterial Districts west of Interstate Route 79.

EPA finds that good cause exists for making this action immediately effective. EPA has a responsibility to take final action on these revisions as soon as possible in order to lift growth restrictions in those areas for which the State of West Virginia has submitted adequate plans in accordance with Part D requirements.

Note.—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." I have reviewed this regulation and have determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. 7401–642)

Dated: August 6, 1980.

Douglas M. Costle,

Administrator.

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

Subpart XX—West Virginia

1. Section 52.2520, paragraph (c) is amended by adding paragraphs (10) through (12) as follows:

§ 52.2520 Identification of plan.

* * * * *

(c) * * *

(10) Revised plans for attaining primary air quality standards for TSP and SO_2 submitted to EPA by the Governor of West Virginia on June 18, 1979. These plans are contained in a document entitled, "Revisions to the State Implementation Plan to Achieve and Maintain Air Quality Standards for Particulates, Sulfur Oxides, and Ozone."

(11) Revised plan for attaining the ozone standard submitted to EPA by the Governor of West Virginia on November 21, 1979.

(12) Revised Regulations III and VIII, and new Regulations XXI, XXIII, and XXIV, submitted to EPA by the Governor of West Virginia on December 19, 1979.

2. Section 52.2522, paragraph (b) relating to the Harrison power plant added at 45 FR 39255, June 10, 1980 is redesignated as (c) and a new paragraph (d) is added as follows:

§ 52.2522 Approval status.

* * * * *

(d) In addition, continued satisfaction of the requirements of Part D for the ozone portion of the SIP depends on the adoption and submittal of RACT requirements by July 1, 1980 for the sources covered by CTGs issued between January 1978 and January 1979 and the adoption and submittal by each subsequent January of additional RACT requirements for sources covered by CTGs issued by the previous January.

3. Section 52.2529 is added as follows:

§ 52.2529 Review of new sources and modifications.

EPA's approval of West Virginia's plans for attaining primary total suspended particulate standards in the Steubenville-Weirton-Wheeling Interstate AQCR and in those portions

of Union and Winfield Magisterial Districts in Marion County west of Interstate Route 79, for attaining the ozone standard in the Kanawha Valley Intrastate AQCR, and for attaining sulfur dioxide standards in the New Manchester-Grant Magisterial District in Hancock County, is given on the condition that:

(a) West Virginia adopts a permanent regulation requiring preconstruction review and emission offsets. This regulation must meet the requirements of Section 173 of the 1977 Clean Air Act Amendments.

(b) West Virginia keeps a temporary regulation requiring preconstruction review and emission offsets in effect until EPA approves a permanent regulation.

(c) West Virginia submits all permits issued under provisions of its temporary preconstruction review and offset regulation to EPA for approval as SIP revisions.

4. Sections 52.2530 is added as follows:

§ 52.2530 General requirements.

EPA's approval of West Virginia's plans for attaining primary total suspended particulate standards in the Steubenville-Weirton-Wheeling Interstate AQCR and in those portions of Union and Winfield Magisterial Districts in Marion County west of Interstate Route 79, for attaining the ozone standard in the Kanawha Valley Intrastate AQRC, and for attaining sulfur dioxide standards in the New Manchester-Grant Magisterial District in Hancock County, is given on the condition that West Virginia submits to EPA an adequate analysis of the health, welfare, economic, energy, and social effects of its SIP revision, and an adequate summary of the public comments on this analysis.

5. Section 52.2531 is added as follows:

§ 52.2531 Control strategy: (hydrocarbons).

(a) EPA's approval of West Virginia's plan for attaining the ozone standard in the Kanawha Valley Intrastate AQCR is given on the condition that West Virginia adopts an adequate test method for Regulation XXIII submits this test method to EPA as a SIP revision.

6. Section 52.2532 is added as follows:

§ 2532 Control strategy; particulate matter.

EPA's approval of West Virginia's plan for attaining total suspended particulate standards in the Steubenville-Weirton-Wheeling Interstate AQCR is given on the condition that West Virginia revises Regulation VII and submits this revised regulation to EPA for incorporation into the West Virginia SIP.

(b) West Virginia's does not have approved plans for attaining secondary TSP standards in the Steubenville-Weirton-Wheeling AQCR, Kanawha County and the adjacent Valley Magisterial District in Fayette County, and the Parkersburg Tygart Magisterial District in Wood County.

§ 52.2523 [Amended]

7. Section 52.2523 is amended by revising the chart of attainment dates to read as follows:

* * * * *

Air quality control region	Pollutant						
	Particulate matter		Sulfur oxides		Nitrogen dioxide	Carbon monoxide	Ozone
	Primary	Secondary	Primary	Secondary			
Steubenville-Weirton-Wheeling Interstate:							
a. New Manchester-Grant Magisterial District in Hancock County.	[1]a	[2]e	[1]g	[3]g	[4]h	[4]h	[4]h
b. Wellsburg Magisterial District in Brooke County.	[1]a	[2]e	[1]b	[3]c	[4]h	[4]h	[4]h
c. Remainder of AQCR	[1]a	[2]i	[1]b	[3]c	[4]h	[4]h	[4]h
Parkersburg-Marietta Interstate:							
a. Parkersburg-Tygart Magisterial District in Wood County.	[1]b	[2]i	[1]b	[2]c	[4]h	[4]h	[4]h
b. Remainder of AQCR	[1]b	[2]c	[1]b	[2]c	[4]h	[4]h	[4]h
Huntington-Ashland Portsmouth-Ironton Interstate	[1]b	[2]c	[4]b	[4]c	[4]h	[4]h	[4]h
Kanawha Valley Intrastate:							
a. Kanawha County	[1]b	[2]e	[4]b	[4]c	[4]h	[4]h	[4]i
b. Remainder of AQCR	[1]b	[2]c	[4]b	[4]c	[4]h	[4]h	[4]h
Southern West Virginia Intrastate:							
a. Valley Magisterial District in Fayette County.	[4]b	[4]e	[4]b	[4]c	[4]h	[4]h	[4]h
b. Remainder of AQCR	[4]b	[4]c	[4]b	[4]c	[4]h	[4]h	[4]h
North Central West Virgina Intrastate:							
a. In Marion County, all portions of Union and Winfield Magisterial Districts west of Intrastate Highway I-79.	[1]d	[2]e	[4]b	[4]c	[4]h	[4]h	[4]h
b. Remainder of AQCR	[1]b	[2]c	[4]b	[4]c	[4]h	[4]h	[4]h
Cumberland-Keyser Intrastate	[1]b	[2]c	[1]b	[3]c	[4]h	[4]h	[4]h
Central West Virginia	[4]b	[4]c	[4]b	[4]c	[4]h	[4]h	[4]h
Allegheny Intrastate	[4]b	[4]c	[4]b	[4]c	[4]h	[4]h	[4]h
Eastern Panhandle Intrastate	[4]b	[4]c	[4]b	[4]c	[4]h	[4]h	[4]h

a. December 31, 1982.
b. Air quality levels presently below primary standards or area is unclassifiable.
c. Air quality levels presently below secondary standards or area is unclassifiable.
d. December 31, 1980.
e. Plan for attaining secondary standards not yet submitted.
f. Plan for attaining primary standards not yet submitted.
g. Attainment expected as soon as the Sammis Power Plant meets the SO_2 limitations in the Ohio State Implementation Plan.
h. Air quality levels presently better than National Standards or area is unclassifiable.
i. This is a rural nonattainment area.

[1] Attainment date in 1972 plan was June 1975.
[2] Attainment date in 1972 plan was June 1977.
[3] Attainment date in 1972 plan was June 1978.
[4] Listed as attainment area in 1972 plan.

NOTE.—Sources subject to plan requirements and attainment dates established under Section 110(a)(2)(A) prior to the 1977 Clean Air Act Amendments remain obligated to comply with those requirements by the earlier deadlines. The earlier attainment dates are set out at 40 CFR Part 52.2523 (1978).

[FR Doc. 80-24554 Filed 8-13-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 81

[FRL 1569-8]

Approval of Section 107 Designations for West Virginia; Designations of Areas for Air Quality Planning Purposes

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The State of West Virginia has revised its list of air quality attainment designations for one area within the State with respect to particulate matter (TSP) and one area with respect to sulfur dioxide (SO_2). For TSP, the State has changed the designation for Kanawha County and the adjacent Valley Magisterial District in Fayette County from nonattainment of primary standards to nonattainment of secondary standards. For SO_2, the

State has changed the designation for the Wellsburg Magisterial District from nonattainment of primary standards to attainment.

On April 6, 1979, West Virginia submitted these revisions to the Environmental Protection Agency (EPA), along with supporting information, for promulgation under Section 107(d) of the Clean Air Act.

This notice announces EPA's approval of these changes submitted by West Virginia. All other Section 107 designations for the State of West Virginia not discussed in this notice remain intact, 44 FR 40521, (September 12, 1978).

EFFECTIVE DATE: August 14, 1980.

ADDRESSES: Copies of the associated support material are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106, ATTN: Mr. Harold Frankford

West Virginia Air Pollution Control Commission, 1558 Washington Street, East, Charleston, West Virginia 25311, ATTN: Mr. Carl Beard

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460

FOR FURTHER INFORMATION CONTACT: Mr. Harold A. Frankford (3AH12), U.S. Environmental Protection Agency, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106, Phone: 215/597-8392

SUPPLEMENTARY INFORMATION:

Background

Section 107(d)(1) of the Clean Air Act requires the States to submit to the Administrator a list identifying all air quality control areas, or portions thereof, that have not attained the National Ambient Air Quality Standards (NAAQS). The Act further requires that the Administrator promulgate this list, with such modifications as he deems necessary, as required by Section 107(d)(2) of the Act. On March 3, 1978, 43 FR 8962, the Administrator promulgated nonattainment designations for West Virginia for total suspended particulates (TSP), sulfur dioxide (SO_2) and ozone (O_3). These designations were effective immediately and public comment was solicited. On September 12, 1978, in response to the comments received, the Administrator revised and amended certain of the original designations, 43 FR 40502.

The Act also provides that a State, from time to time, may review and revise its designations list and submit these revisions to the Administrator for promulgation (Section 107(d)(5) of the Act). The criteria and policy guidelines governing these revisions and the Administrator's review of them are the same that were used in the original designations and which are summarized in the **Federal Register** of March 3, 1978, 43 FR 8962; September 11, 1978, 43 FR 40412; and September 12, 1978, 43 FR 40502. West Virginia has revised its original designation list and on April 6, 1979, submitted these revisions to EPA.

On August 20, 1979, 44 FR 48723, the Environmental Protection Agency acknowledged receipt of these revised designations and solicited public comments on the acceptability of these changes.

Change to SO_2 Designation

The State of West Virginia has revised the SO_2 designation for the Wellsburg Magisterial District (Brooke County) from nonattainment of primary SO_2 standards to attainment. The State submitted air quality data showing no violations of SO_2 air quality standards during eight consecutive quarters (April, 1977 to March, 1979) of monitoring. Therefore, EPA redesignates this area to "better than national standards" in accordance with West Virginia's revision.

Change to TSP Designation

The State of West Virginia has revised the TSP designation for Kanawha County and the adjacent Valley Magisterial District in Fayette County from nonattainment of primary TSP standards to nonattainment of secondary TSP standards. The State submitted air quality data showing that no violations of the annual and 24-hour primary TSP standards have occurred during eight consecutive quarters (April, 1977 to March, 1979). However, the air quality data still show violations of the secondary (24-hour) TSP standard. Therefore, EPA approves the redesignation of this area to "does not meet secondary standards" in accordance with West Virginia's revision.

EPA Actions

Although this action is being taken as a final rule, EPA will consider comments at any time and make appropriate changes in attainment designations.

This SO_2 redesignation to attainment is being made immediately effective in order to lift the statutory restriction on construction of new or modified sources applying in nonattainment areas for which state implementation plan revisions have not been submitted by the State and approved by EPA. The TSP redesignation to nonattainment of secondary standards is being made immediately effective to relieve the state of the requirement to submit a plan revision for the attainment of the primary TSP standard. Elsewhere in today's **Federal Register**, EPA is proposing to extend until July 1, 1980 the deadline for the State's submittal of a plan revision for attainment of the secondary TSP standards.

All comments should be addressed to: Mr. Howard R. Heim, Jr., Chief (3AH12), Air Programs Branch, U.S. Enviornmental Protection Agency, Region III, Curtis Building, 6th & Walnut Streets, 10th Floor, Philadelphia, PA. 19106, Attn: 107WV-1.

Note.—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." I have reviewed this regulation and have determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Sec. 107(d), 171(2), 301(a) of the Clean Air Act, as amended (42 U.S.C. 7407(d), 7501(2), 7601(a))

Dated August 6, 1980.

Douglas M. Costle,

Administrator.

[FR Doc. 80-24553 Filed 8-13-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 180

[FRL 1569-5; PP 9F2210/R268]

Cyano(3-Phenoxyphenyl)Methyl-4-Chloro-Alpha-(1-Methylethyl) Benzeneacetate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the insecticide cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(1-methylethyl) benzeneacetate in or on apples and pears at 0.02 part per million (ppm). The regulation was requested by Shell Chemical Co. This rule establishes maximum permissible levels for residues of the subject insecticide in or on apples and pears.

EFFECTIVE DATE: Effective on August 14, 1980.

FOR FURTHER INFORMATION CONTACT: Franklin D. R. Gee, Product Manager (PM) 17, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M

Street SW, Washington, D.C. 20460, 202/426-9417.

SUPPLEMENTARY INFORMATION: Notice was published in the **Federal Register** of July 20, 1979 (44 FR 42773) that Shell Chemical Company, 1025 Connecticut Avenue, NW, Suite 200, Washington, D.C. 20036, had filed a pesticide petition (PP 9F2210) with EPA. This petition proposed that 40 CFR 180.379 be amended by establishing tolerances for residues of the insecticide cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(1-methylethyl)benzeneacetate in or on the raw agricultural commodities apples and pears at 0.02 ppm. No comments were received in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerances included a rat acute oral toxicity study with a median lethal dose (LD_{50}) of 1-3 grams (gm)/kilogram (kg) of body weight (bw) in water and 450 milligrams (mg)/kg of bw in dimethylsulfoxide (DMSO); a 90-day dog feeding study with a no-observable-effect level (NOEL) of 500 ppm; and an 18-month mouse feeding study with a NOEL of 100 ppm with no oncogenic effects at the highest level fed (3,000 ppm); a 24-month rat feeding study with a NOEL of 250 ppm (the highest level fed) with no oncogenic effects, a three-generation rat reproduction study with a NOEL of 250 ppm (the highest level fed); teratology studies in mice and rabbits (both negative at the highest dose of 50 mg/kg of bw/day); and the following mutagenicity studies: Mouse dominant lethal (negative at 100 mg/kg of bw, which was the highest level fed), mouse host-mediated bioassay (negative at 50 mg/kg of bw, which was the highest level fed); AMES test in vitro (negative), and a bone marrow cytogenic study in the Chinese hamster (negative at 25 mg/kg of bw). The following studies assessing neurological effects were performed: A hen study negative at lg/mg/kg of bw for 5 days, repeated again at 21 days; a rat acute study with a NOEL of 200 mg/kg of bw; a 15 month rat feeding study resulted in a systemic NOEL of 500 ppm and a NOEL of 1500 ppm with respect to nerve damage.

Data considered desirable but currently lacking are: (1) Further research on granulomas observed in an 18-month inch mouse study; and (2) a six-month non-rodent (preferably dog) oral feeding study. Action being taken to obtain the lacking information or other additionally needed information:

a. Petitioner has submitted a protocol to further study the granulomas in the mouse strain used.

b. The petitioner has agreed to submit the six-month non-rodent (preferably dog) oral feeding study within one (1) year from the date of notification by the Agency to conduct this study.

There are, at this writing, no pending regulatory actions against the registration of this pesticide.

There are established tolerances for residues in eggs, milk, meat, and poultry, which are adequate to cover secondary residues resulting from the proposed uses as delineated in 40 CFR 180.6(a)(2).

The pesticide is considered useful for the purpose for which the tolerance is sought, and it is concluded that the tolerances of 0.02 ppm established by amending 40 CFR 180.379 will protect the public health. It is concluded, therefore, that the tolerances be established as set forth below.

Any person adversely affected by this regulation may, on or before September 15, 1980, file written objections with the Hearing Clerk, EPA, Room M-3708 (A-110), 401 M Street, SW., Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested the objections must be supported by grounds legally sufficient to justify the relief sought.

Note.—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" procedures. This regulation has been reviewed and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective date: August 14, 1980.

(Sec. 408(d)(2), 68 Stat. 514 (21 U.S.C. 346a(e)))

Dated: August 8, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

Therefore, Subpart C of 40 CFR Part 180 is amended by adding apples and pears at 0.02 ppm to § 180.379 to read as follows:

§ 180.379 Cyano(3-phenoxyphenyl)methyl-4-chloro-alpha-(1-methylethyl)benzeneacetate.

* * * * *

Commodity	Parts per million
Apples	0.02
* * * * *	
Pears	0.02
* * * * *	

[FR Doc. 80-24594 Filed 8-13-80; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

Delegation of Authority to the Federal Aviation Administrator; Aviation Safety and Noise Abatement Act of 1979

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: This rule delegates to the Administrator of the Federal Aviation Administration the authority to exercise the powers and duties of the Secretary of Transportation under the Aviation Safety and Noise Abatement Act of 1979 (94 Stat. 50; February 8, 1980). This action is needed to expressly provide the delegation of that authority and ensures that its exercise is consistent with similar and related functions and responsibilities of the Administrator under section 611 of the Federal Aviation Act of 1958, as amended.

DATES: Effective date—August 6, 1980. Comments must be received by October 14, 1980.

ADDRESSES: Comments should be sent to: Docket Clerk (Docket No. 400 Seventh Street SW., Room 10200, Washington, DC 20590. Comments are available for public examination at that address Monday through Friday from 9:00 a.m. to 5:30 p.m. Persons wishing to have receipt of their comments acknowledged must send a stamped, self-addressed post card with their comments. The docket clerk will return those post cards when the comments are docketed.

FOR FURTHER INFORMATION CONTACT: Jack Lusk, Office of Regulation and Enforcement, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590; telephone (202) 426-4723.

SUPPLEMENTARY INFORMATION:

Request for Comments

Although this action is in the form of a final rule, which involves the internal management and procedures of the Department and, thus, was not preceded by notice and public procedure,

comments are invited on the rule. When the comment period ends, the Department will use the comments and any other available information to review the regulation. After the review, if the Department finds that changes are appropriate, it will adopt amendments to the regulation.

Need and Effect of the Amendment

On February 18, 1980, the President signed into law the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193; 94 Stat. 50). The Act authorizes and directs the Secretary of Transportation to take various regulatory and nonregulatory actions concerning aviation noise control and abatement and safety in aviation. Under the Department of Transportation Act of 1966 (49 U.S.C. 1651, et seq.) and the regulations of the Secretary (49 CFR Part 1), the related functions and responsibilities are vested in the Federal Aviation Administrator. Similarly, section 611 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1431), authorizes and directs the Administrator to adopt and amend regulations for the control and abatement of aircraft noise and sonic boom. This action ensures that the purposes of the Aviation Safety and Noise Abatement Act of 1979 are fully realized in a manner compatible with related FAA regulations and programs. Since the Act concerns, in part, international aviation policy, questions and actions involving those matters would continue to be coordinated with the appropriate elements within the Office of the Secretary. This delegation is consistent with the provisions of sections 3(e)(3), 6(c), and 9(e) of the Department of Transportation Act (49 U.S.C. 1652(e)(3), 1655(c) and 1657(e)).

Regulatory Impact

The Department of Transportation, pursuant to its Regulatory Policies and Procedures Implementing Executive Order 12044, has determined that this is not a significant regulation. Further, since it involves regulations affecting only the internal process and delegation of authority within the Department, the anticipated impact of the amendment is so minimal that it does not warrant a full regulatory evaluation analyzing its economic impact.

Since this amendment to the regulations of the Secretary involves a matter relating to the management, organization, and delegation of agency powers and duties, I find, in accordance with 5 U.S.C. 553, that notice and public procedure thereon is unnecessary and good cause exists for making it effective in less than 30 days after publication in the **Federal Register.**

Adoption of the Amendment

Accordingly, § 1.47 of Part 1 of Title 49 of the Code of Federal Regulations (49 CFR 1.47) is amended, effective August 6, 1980, by adding a new paragraph (m) to read as follows:

§ 1.47 Delegations to Federal Aviation Administrator.

* * * * *

(m) Carry out the powers and duties vested in the Secretary by the Aviation Safety and Noise Abatement Act of 1979 (94 Stat. 50; 49 U.S.C. 2101 et seq.)

(Secs. 3(e), 6(c), and 9(e), Department of Transportation Act (49 U.S.C. 1652(e), 1655(c), and 1657(e)))

Issued in Washington, DC, on August 6, 1980.

Neil Goldschmidt,

Secretary of Transportation.

[FR Doc. 80-24244 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

NATIONAL TRANSPORTATION SAFETY BOARD

49 CFR Part 840

Notification of Railroad Accidents; Amendment

AGENCY: National Transportation Safety Board.

ACTION: Final rule.

SUMMARY: This amendment establishes a 6-hour time limit for notification of railroad accidents, specifies that an estimate of the repair or current replacement cost to railroad and nonrailroad property shall be used in determining the damages resulting from such accidents, and requires notification of all passenger train accidents. The purpose of these changes is to eliminate unnecessary delay in determining whether notification is required, and to require prompt reporting of the designated railroad accidents to the Safety Board.

EFFECTIVE DATE: August 14, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Elmer Garner, Chief, Railroad Accident Division, 800 Independence Avenue, SW., Washington, D.C. 20594, (202) 472–6091.

SUPPLEMENTARY INFORMATION: On March 6, 1980, the National Transportation Safety Board published at 45 FR 14609 a proposed amendment to § 840.3 and invited interested persons to submit written comments by April 29, 1980. Comments were received from the Association of American Railroads (AAR), six individual railroads, the American Public Transit Association, one operator of a rail rapid transit system, and a member of Congress. The AAR comment incorporated the views of 16 railroads, three of which also provided separate comments. All of those commenting on behalf of the railroads and rail rapid transit systems opposed the Board's initial proposal to establish a 2-hour time limit for notification. Some advocated an 8-hour time limit while others favored either no change in the present requirement of notification "at the earliest practical moment" or a maximum allowance of 12 hours. Under the present requirement railroads and rapid transit systems have delayed notifying the Board of accidents from 8 hours to as much as several days. There is no practical necessity for most of the delays, which have resulted from waiting for a more precise estimate of damages, or channeling the reporting process through a central office, or the failure of a railroad employee to comply with the reporting requirements. Railroads and rapid transit companies should know the value of prompt investigations in the development of facts necessary to determine the probable cause of railroad accidents. Congress expects the Safety Board to make such investigations and, to do so, prompt notification is imperative. However, in considering the comments, the Board recognizes that the 2-hour time limit may at times be impractical due to remoteness of the accident site, adverse climatic conditions, inaccessibility, lack of communications, and other like causes. In order to give the railroads a greater degree of flexibility in those unusual situations, the Board has decided to modify this proposal to require notification of reportable accidents at the earliest practical time but not later than 6 hours after their occurrence. We expect the railroads to emphasize "earliest practical time" as the reporting deadline and to utilize the grace period solely in those cases when delay cannot be avoided.

The second proposal to use estimates of the repair or current replacement costs in determining whether an accident results in damages of $150,000 or more to railroad and nonrailroad property was also opposed by the railroads. In particular, the objection was made that such estimates will be drastically affected by the rate of inflation. This has been considered and in lowering the minimum damage figure for a reportable accident from $500,000 to $150,000 as of October 1, 1978, the Board stated: "If the cost of railroad

equipment and other factors should increase to the extent that the numbers of accidents reported exceeds the handling capability of its staff, the Board will then raise the damage threshold figure to the appropriate level" (49 FR 44535–44536, September 28, 1978). Several of the comments suggested that the Board adopt the industry standard for calculating the depreciated or settlement value of railroad equipment to correct for inflation. Another suggestion was to further define the term "nonrailroad property" as property adjacent to the railroad right-of-way. However, it should be understood that the reporting threshold represents only an estimate of the present value of damaged property. In addition, damage to nonrailroad property must include all such damage to other than railroad property occurring as a result of an accident. If it is demonstrated that an upward revision of the reporting threshold is needed due to the rate of inflation, the Board will take appropriate action but sees no reason to do so at this time.

The rail rapid transit systems opposed elimination of the $10,000 damage figure as the reporting threshold for accidents involving passenger trains. In their view, the change will require the reporting of trivial or insignificant accidents such as hard couplings, motor flashovers, the transfer of passengers from a disabled train, and slow speed impacts during yard operations. These are examples of an overly strict interpretation of the term "accident" defined in the rules. The definition is limited to "any collision, derailment, or explosion involving railroad trains, locomotives, and cars; or any other loss-causing event involving the operation of such railroad equipment that results in a fatality or the emergency evacuation of persons" (49 CFR 840.2(b)). If this definition is adhered to, the reporting of "trivial" accidents such as those mentioned would not be required. For clarification, it should also be noted that a passenger train is considered to be a train in revenue service.

Accordingly, Part 840 of Title 49, Chapter VIII of the Code of Federal Regulations, is amended as follows:

1. By revising the introductory text of § 840.3(a) and paragraphs (a) (2) and (3) to read as follows:

§ 840.3 Notification of railroad accidents.

(a) A railroad shall notify the Board in the manner prescribed by paragraph (c) of this section at the earliest practical time but not later than six hours after the occurrence of an accident which results in—

* * * * *

(2) Damages, based on a preliminary gross estimate, of $150,000 or more of the repair or current replacement cost to railroad and nonrailroad property; or

(3) Involvement of a passenger train.

* * * * *

(49 U.S.C. 1903(a)(1)(C), (a)(6))

Signed at Washington, D.C., on August 6, 1980.

Patricia A. Goldman,

Acting Chairman.

[FR Doc. 80-24547 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-58-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 18

Transfer for Scientific Research Purposes of Marine Mammal Parts Taken Under the Alaska Native Exemption Provision of the Marine Mammal Protection Act of 1972

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The current regulation governing the transfer of marime mammals and marine mammal parts taken by Alaska Natives for subsistence or handicraft purposes does not allow transfer to non-Natives for the purpose of scientific research. This amendment allows transfers for scientific research purposes to be made to a duly authorized representative of the Alaska Area Director of the U.S. Fish and Wildlife Service. Researchers now have a regulatory mechanism to obtain specimens which would otherwise be unavailable for scientific use.

EFFECTIVE DATE: August 14, 1980.

ADDRESSES: Please address correspondence to the Director, U.S. Fish and Wildlife Service, Federal Wildlife Permit Office, Washington, D.C. 20240. Information on this amendment is available for review during business hours of 7:45 a.m. to 4:15 p.m., Monday through Friday in Room 605, 1000 N. Glebe Road, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Mr. Richard M. Parsons, Chief, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1937).

SUPPLEMENTARY INFORMATION:

Background

Subject to certain exceptions, the Marine Mammal Protection Act of 1972, hereinafter referred to as the Act, imposes a moratorium on the taking of marine mammals (16 U.S.C. 1371). One of the exceptions to the moratorium is that the provisions do

* * * not apply with respect to the taking of any marine mammal by any Indian, Aleut, or Eskimo who dwells on the coast of the North Pacific Ocean or the Arctic Ocean if such taking (1) is for subsistence by Alaskan natives who reside in Alaska, or (2) is done for purposes of creating and selling authentic native articles of handicrafts and clothing:

Provided, That only authentic native articles of handicrafts and clothing may be sold in interstate commerce: *And provided further,* That any edible portion of marine mammals may be sold in native villages and towns in Alaska or for native consumption. For the purposes of this subsection, the term "authentic native articles of handicrafts and clothing" means items composed wholly or in some significant respect of natural materials, and which are produced, decorated, or fashioned in the exercise of traditional native handicrafts without the use of pantographs, multiple carvers, or other mass copying devices. Traditional native handicrafts include, but are not limited to weaving, carving, stitching, sewing, lacing, beading, drawing, and painting, and (3) in each case, is not accomplished in a wasteful manner.

The exemption and regulations implementing it contain a number of restrictions on the transfer of marine mammals and marine mammal parts taken under the exemption (16 U.S.C. 1371(b); 50 CFR 18.23(b)). These restrictions contain no exception for sale, donation or transfer of such specimens for scientific research purposes. Thus, valuable scientific specimens are currently being lost.

The Secretary of the Interior is authorized under section 112(a) of the Act (16 U.S.C. 1382(a)) to prescribe such regulations as are necessary and appropriate to carry out the purposes of the Act for those species for which he has responsibility. In enacting the Act, Congress found that "there is inadequate knowledge of the ecology and population dynamics of such marine mammals and of the factors which bear upon their ability to reproduce themselves successfully" (16 U.S.C. 1361(3)).

The proper management of marine mammals requires information on age structure of the population, nutrition, disease, reproduction and other factors. Much of this information is available by analysis of samples from dead animals. The Act's purpose of preventing unnecessary taking of marine mammals would be well-served if scientists were allowed access to specimens from animals which are already dead, animals which would not have to be killed for research purposes.

Effect of the Amendment

This amendment allows the transfer of marine mammal parts, taken for

subsistence and handicraft purposes by Alaska Natives under Native exceptions of the Act, to the Alaska Area Director for purposes of scientific research. It allows scientists access to data from specimens which would otherwise be unavailable to them.

Transfer for scientific research purposes is allowed only to a duly authorized representative of the Alaska Area Director of the U.S. Fish and Wildlife Service. This allows for transfer of specimens to qualified scientists with a need for such specimens. The Alaska Area Director would review scientists' qualifications and provide written approval for legitimate scientific research. Transfer for personal use is not authorized by this amendment.

The Administrative Procedure Act and the Department's regulations governing rulemaking generally require a notice of proposed rulemaking and an opportunity for public comment on rules adopted by the Service (5 U.S.C. 553(b)). However, an exception to this requirement is provided if it is found for good cause that notice and an opportunity for comment are impracticable or contrary to the public interest (5 U.S.C. 553(b)(B)). Because valuable biological specimens from marine mammals taken by Alaska Natives for subsistence and handicraft purposes are being lost, the Service for good cause finds that notice and public procedure on this rule is impracticable and contrary to the public interest. This rule is effective on August 14, 1980, as provided in 5 U.S.C. 553(d)(1) and 43 CFR 14.5(b)(5), because it relieves a restriction.

This rule is issued under the authority of section 112 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1382) and was prepared by Bob Batky, Staff Biologist, Federal Wildlife Permit Office.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14. The Service has also determined that this final rule will not have a significant impact on the quality of the human environment and therefore does not require an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) and 40 CFR 1508.13.

Accordingly, Part 18 of Title 50, Code of Federal Regulations, is hereby amended as follows:

§ 18.23 [Amended]

1. Paragraph (b)(1) of § 18.23 is amended by deleting the word "No" and inserting in lieu thereof the words, "Except for a transfer to a duly authorized representative of the Alaska Area Director of the U.S. Fish and Wildlife Service for scientific research purposes, no * * *"

2. Paragraph (b)(2) of § 18.23 is amended by deleting the word "No" and inserting in lieu thereof the words, "Except for a transfer to a duly authorized representative of the Alaska Area Director of the U.S. Fish and Wildlife Service for scientific research purposes, no * * *"

Dated: August 1, 1980.

Robert S. Cook,

Acting Director, Fish and Wildlife Service.

[FR Doc. 80-24595 Filed 8-13-80; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 32

Opening of the Great Dismal Swamp National Wildlife Refuge, Virginia, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Great Dismal Swamp National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATE: November 1, 8, 15, 22, 29 and December 10, 11, 12, 1980.

FOR FURTHER INFORMATION CONTACT: Ralph M. Keel, Jr., Great Dismal Swamp National Wildlife Refuge, Box 349, Suffolk, Virginia 23434, Telephone No. 804-539-7479.

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established: and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which Great Dismal Swamp National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer is permitted only on designated areas shown on maps available at refuge headquarters, and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158. Hunting shall be in accordance with all state regulations subject to the following special conditions:

(1) Species to be taken: Whitetail deer.

(2) Bag Limits: One per day, either sex.

(3) Season: November 1, 8, 15, 22, 29 and December 10, 11, 12).

(4) Hunting equipment: Shotguns only, no smaller bore than 20 gauge, loaded with buckshot and/or rifled slugs.

(5) Possession of other weapons or ammunition prohibited.

(6) Dogs are prohibited.

(7) Hunting hours—same as state hunting hours. All hunters must be clear of hunting areas by two hours after the close of local hunting hours.

(8) Possession of loaded firearms in or on a vehicle or shooting from a vehicle is prohibited.

(9) Possession of loaded firearms in or on a refuge road or shooting from or on a road is prohibited.

(10) Camping and fires on refuge are prohibited.

(11) All hunters under 18 years of age must be accompanied by an adult.

(12) All wounded deer will be reported to refuge personnel immediately, so that data on wounded deer can be gathered. All deer taken on the area must be brought to the check station to be checked out. Jawbones may be removed by refuge personnel.

(13) Shooting at wildlife other than deer is prohibited.

(14) All hunters are required to wear a minimum of 400 total square inches of a safety fluorescense color material on the head, chest, and back.

(15) Before any hunter is issued a permit, he/she must meet the following Hunter Qualification Standards:

(a) Hunters-Applicants must have a written certification from a range officer (civilian or military), police officer, or refuge personnel that they have performed the following qualifications test or tests:

(1) Shotgun with rifle slugs: Place three consecutive shots in a 12-inch bullseye from 30 yards or better from

an offhand position. This is a lifetime qualification subject to verification.

(2) Shotguns with buckshot: Place five shot pellets in a 20-inch bullseye target from a range of 30 yards.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR, Part 14.

August 7, 1980.

Wm. C. Ashe,

Acting Regional Director, Fish and Wildlife Service.

FR Doc. 80-24541 Filed 8-13-80; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 32

Opening of the Bombay Hook National Wildlife Refuge, Delaware, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Bombay Hook National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 1, 1980 through February 28, 1981.

FOR FURTHER INFORMATION CONTACT: Don Perkuchin, Bombay Hook National Wildlife Refuge, R.D. #1, Box 147, Smyrna, Delaware 19977, Telephone No. 302-653-9345.

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which Bombay Hook National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of ducks, geese, and coots is permitted on areas designated by signs as open to hunting including the South Waterfowl Hunting Area, the West Waterfowl Hunting Area, the Young Waterfowlers Area, and the South Upland Hunting Area.

Hunting shall be in accordance with all State and Federal regulations covering the hunting of ducks, geese, and coots subject to the following special conditions:

1. Hunting is permitted on the West Waterfowl Hunting Area from one-half hour before sunrise to 12 noon local standard time, Tuesdays, Thursdays, and Saturdays (except November 8) during the goose season.

2. Hunting in the South and West Waterfowl Areas and Young Waterfowlers Area shall be only from existing numbered blinds. The possession of an uncased gun or shooting while outside of a blind is prohibited on these areas except when in active pursuit of crippled waterfowl. In such cases the hunter may fire at only the crippled bird.

3. Hunting is permitted in the South Waterfowl Hunting Area only on Monday, Wednesday, Friday, and Saturday, during the State duck season.

4. The necessary permit to enter the South Waterfowl Hunting Area will be issued each hunting day by a ticket-lottery system at one and one-half hours before legal shooting time at the checking station at Port Mahon. Hunters arriving after the lottery will be issued permits on a first-come, first-served basis. Permits will be surrendered at the checking station within one-half hour after sunset. The necessary permit to enter the West Waterfowl Hunting Area may be obtained by applying to the refuge manager for advance reservation. The permits for advance reservations will be cancelled if the holder is not present one hour prior to the start of legal shooting time on the date of his reservation. These forfeited permits and permits not reserved by advance reservation will be awarded to other hunters by lottery on the morning of the hunt. All hunters will check out through the headquarters checking station prior to leaving the refuge.

5. Each hunting permittee using the West Waterfowl Hunting Area will pay a recreation fee of $10.00 prior to entrance into the hunting area. A recreation fee of $2.00 per hunter will be charged on the South Waterfowl Hunting Area prior to entrance into the hunting area. Non-ambulatory individuals using the Young Waterfowl Hunting Area will pay a recreation fee of $5.00 per blind prior to entrance into the hunting area.

6. Not more than four persons may occupy a blind at any one time on the West Waterfowl Hunting Area nor more than three on the South Waterfowl Hunting Area.

7. The Young Waterfowlers Area will be open from one-half hour before sunrise to 12:00 noon local standard time on Saturdays and holidays to young hunters who present evidence of having completed the prescribed training program. Two youths, accompanied by an instructor who may not possess ammunition or possess or discharge a firearm, may use one blind. Two blinds within the Young Waterfowlers Area will also be utilized on Tuesdays by non-ambulatory individuals. These individuals will be selected in cooperation with the Delaware Division of Vocational Rehabilitation. Two hunters accompanied by an assistant who may not possess ammunition or possess or discharge a firearm, may use each blind.

8. Waterfowl hunters on all four areas are required to use steel shotshells and may not have in their possession lead shotshells. No hunter may have in their possession or use in one day more than 12 shells on the West Waterfowl Hunting Area or 15 shells on the Young Waterfowlers Hunting Area.

9. Hunters, when requested by Federal or State enforcement officers, must display for inspection all game, hunting equipment, and ammunition.

Public hunting of rails and gallinules, mourning doves, woodcock, crows, and common snipe on the 169 acre South Upland Hunting Area is permitted during the regular state seasons.

Hunting shall be in accordance with all Federal and State regulations covering the hunting of rails and gallinules, mourning doves, woodcock and common snipe.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Public hunting of upland game on the 169 acre South Upland Hunting Area is permitted during the regular state season in accordance with all Federal

and State regulations covering upland game hunting.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer is permitted only on designated areas. Hunting shall be in accordance with all state regulations subject to the following special conditions:

1. Season: (a) Archery—Hunting by bow and arrow on the regular Deer Hunting Area is permitted on the first four Saturdays of the season from September 6 through October 4. Hunting by bow and arrow on the South Upland Hunting Area is permitted during the entire season.

(b) Shotgun—Hunting with shotguns on the regular Deer Hunting Area is permitted only on November 7, 8, 10 and 12, 1980. Hunting with shotguns on the South Upland Hunting Area is permitted during the entire state season. Hunting with shotguns by non-ambulatory individuals on the Special Deer Hunting Area is permitted on November 10 and 14, 1980.

(c) Primitive Firearms—Hunting with primitive firearms on the Regular Deer Hunting Area is permitted on October 10 and 11, 1980. Hunting with primitive firearms on the South Upland Hunting Area is permitted during the entire state season.

2. Hunter Qualification Requirements: All deer hunters are required to show proof of completion of hunter qualification test and possess a valid hunter qualification card. Qualification tests are required every three years to maintain a valid card. Tests must be completed and passed with the weapon which the individual uses during the hunt. Qualification requirements for each weapon are as follows:

(a) Archery—The hunter must place three out of five arrows in the 9x14 inch chest area of standard size deer target at 25 yards.

(b) Shotgun—The hunter must place three consecutive slugs in a 12-inch circle at 30 yards from the standing position.

(c) Primitive Firearms—The hunter must place three consecutive rounds in a 12-inch circle at 50 yards, firing from the offhand position.

3. Permit Requirements: All deer hunters, regardless of type of weapon, are required to obtain a daily permit prior to hunting on the Regular Deer Hunting Area. Daily permits are not required on the South Upland Area. Procedures for obtaining daily permits are as follows:

(a) Archery—Permits are issued at the Dutch Neck Gate Refuge Entrance on a first-come, first-served basis one hour before shooting time on the days of the hunt. The maximum number of hunters admitted to the Regular Deer Hunting Area at any one time will be 80.

(b) Shotgun—Permits are obtained by applying to the refuge manager in writing for an advance reservation. Successful applicants are selected by public lottery. Individuals who have been selected for advance reservation must appear at refuge headquarters prior to one hour before legal shooting time on the day of the hunt to be issued a permit. Failure to appear will result in forfeiture of the reservation. Forfeited permits and permits not reserved by advance reservations will be awarded to standby hunters by lottery one hour before the start of legal shooting time. The maximum number of hunters admitted to the Regular Deer Hunting Area at any one time will be 50.

Shotgun hunters utilizing the Special Deer Hunting Area will be restricted to non-ambulatory individuals as selected in cooperation with the Delaware Division of Vocational Rehabilitation. The maximum number of hunters admitted to the Special Deer Hunting Area at one time will be ten.

(c) Primitive weapon—Permits are issued at the Dutch Neck Gate Refuge Entrance on a first-come, first-served basis one hour before shooting time on the days of the hunt. The maximum number of hunters admitted to the Deer Hunting Area at any one time will be 50.

4. Only blinds, platforms or scaffolds that are erected and removed each day of the hunt may be used. Written permission from the refuge manager is required for the construction or use of any such artificial structure.

5. Target practice or the test firing of any weapon is not permitted.

All the refuge hunting areas are shown on maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Administrative needs require that the Bombay Hook Refuge hunting seasons be held concurrent with the Delaware State hunting season dates. It is therefore found impracticable to issue regulations that would be effective 30 days after publication in accordance with Department of the Interior general policy.

Wm. C. Ashe,

Deputy Regional Director, Fish and Wildlife Service.

August 7, 1980.

[FR Doc. 80-24542 Filed 8-13-80; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 32

Opening of the Prime Hook National Wildlife Refuge, Delaware, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to hunting of Prime Hook National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 1, 1980 through February 28, 1981.

FOR FURTHER INFORMATION CONTACT: George O'Shea, Assistant Refuge Manager, Prime Hook National Wildlife Refuge, R.D. #1, Box 195, Milton, Delaware 19968, Telephone No. 302-684-8419, under the administration of Bombay Hook National Wildlife Refuge.

SUPPLEMENTARY INFORMATION: The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to administer such areas for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (1) that any recreational use permitted will not interfere with the primary purpose for which the area was established; and (2) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which Prime Hook National Wildlife Refuge was established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of ducks, geese, and coots, is permitted on the 1,180 acre Waterfowl Hunting Area.

Hunting shall be in accordance with all Federal and State regulations covering the hunting of migratory game birds subject to the following special conditions:

1. Permits will be issued by a ticket-lottery system at two hours before legal shooting time. Hunters arriving after the lottery will be issued permits on a first-come, first-served basis until 3:00 p.m. Permits will be surrendered at the checking station within one hour after sunset. When leaving a blind unoccupied for any reason the permit must be turned in and a new permit must be completed at the check station before hunting again.

2. Hunting shall be only from blinds at locations designated by refuge personnel. The possession of an uncased gun or shooting while outside of a blind is prohibited except when in active pursuit of crippled waterfowl. In such cases the hunter may fire at only the crippled waterfowl. Three hunters per blind permitted.

3. The area is open each Monday, Wednesday, Friday, and Saturday, throughout the duck hunting season.

4. Access to the waterfowl hunting area will be at designated boat access points.

5. Steel shotshells are required for all waterfowl hunters. No waterfowl hunters shall have in their possession lead shotshells.

6. Hunters, when requested by Federal or State enforcement officers, must display for inspection all game, hunting equipment and ammunition.

Public hunting of rails, gallinules, mourning doves, common snipe, woodcock, and crows is permitted only on the 2,185 acre North Hunting Area. Hunting shall be in accordance with all Federal and State regulations covering the hunting of rails, gallinules, mourning doves, woodcock, common snipe and crows.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Public hunting of upland game is permitted only on the 2,185 acre North Hunting Area. Hunting shall be in accordance with all State and Federal regulations covering the hunting of upland game subject to the following conditions:

1. Hunting hours will be from one-half hour before sunrise to one-half hour after sunset.

2. Field possession of waterfowl or coots is prohibited on the North Hunting Area.

3. Practice and target shooting is prohibited.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer is permitted only on the 2,185 acre North Hunting Area. Hunting shall be in accordance with all State regulations covering the hunting of deer subject to the following conditions:

Archery Hunt

1. Archery hunters must show proof of completion of an archery qualification test. This test will consist of placing three out of five arrows in the 9 × 14 inch chest area of a standard size deer target at twenty-five yards. Hunters qualified in 1977 must requalify. The qualification is valid for three years only.

2. Seasonal permits are required for the North Hunting Area and will be issued at the Prime Hook Refuge office Mondays through Fridays between 7:30 a.m. and 4:00 p.m. Permits may also be requested by mail. Those permits must be returned to the refuge office by the end of the deer hunting seasons.

3. Only blinds, platforms or scaffolds that are erected and removed each day for the hunt may be used. Written permission from the refuge manager is required for the construction or use of any such artificial structures.

Firearms Hunt

1. Primitive firearm and shotgun hunters must possess a valid firearms qualification card. The test for muzzleloaders will consist of placing three consecutive rounds in a 12-inch bullseye at 50 yards firing from the standing position. The test for shotgun hunters will consist of placing three consecutive slugs in a 12-inch target at a distance of 30 yards from the standing position.

2. Permits are required for all deer hunting. These permits are available free of charge and will be issued by mail to successful applicants selected by a pre-season drawing.

3. The number of shotgun hunters admitted to the open area will be restricted to 25 preselected hunters per day.

4. Permits must be returned to the refuge office within five days of the closure of the deer hunting season.

5. Only blinds, platforms or scaffolds that are erected and removed each day of the hunt may be used. Written permission from the refuge manager is required for the construction or use of any such artificial structure.

The Waterfowl Hunting Area and the North Hunting Area are shown on maps available at refuge headquarters and from the Regional Director, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Administrative needs require that Prime Hook Refuge hunting seasons be held concurrent with the Delaware State hunting seasons. It is therefore found impracticable to issue regulations that would be effective 30 days after publication in accordance with Department of the Interior general policy.

Wm. C. Ashe,

Deputy Regional Director, Fish and Wildlife Service.

August 7, 1980.

[FR Doc. 80-24543 Filed 8-13-80; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 32

Hunting; National Wildlife Refuges in Iowa, Kansas, Missouri and portions of Nebraska

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to sport hunting of certain National Wildlife Refuges is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunities to the public. These special regulations describe the condition under which sport hunting will be permitted on portions of certain National Wildlife Refuges in Iowa, Kansas, Missouri and portions of Nebraska.

DATES: Period covered—September 1, 1980 to January 31, 1981. See State regulations for waterfowl seasons.

FOR FURTHER INFORMATION CONTACT: The Area Manager or appropriate refuge manager at the address or telephone numbered listed below:

Tom A. Saunders, Area Manager, U.S. Fish and Wildlife Service, 2701 Rockcreek Parkway, Suite 106, North Kansas City, Missouri 64116, Telephone: 816/374-6166

George Gage, Refuge Manager, DeSota National Wildlife Refuge, RR #1, Box 114, Missouri Valley, Iowa 51555, Telephone: 712/642-4121

Michael J. Long, Refuge Manager, Flint Hills National Wildlife Refuge, P.O. Box 128, Hartford, Kansas 66854, Telephone: 316/392-5553

Keith Hansen, Refuge Manager, Kirwin National Wildlife Refuge, Kirwin, Kansas 67644, Telephone: 913/543-6673

Gerry Clawson, Refuge Manager, Mingo National Wildlife Refuge, RR #1, Box 8, Puxico, Missouri 63960, Telephone: 314/222-3589

Charles Darling, Refuge Manager, Quivira National Wildlife Refuge, P.O. Box "G", Stafford, Kansas 67578, Telephone: 316/486-2393

Al Manke, Refuge Manager, Swan Lake National Wildlife Refuge, P.O. Box 68, Sumner, Missouri 64681, Telephone: 816/856-3323

SUPPLEMENTARY INFORMATION: Donald G. Young is the primary author of these special regulations.

General Conditions

1. Hunting is permitted on National Wildlife Refuges indicated below in accordance with 50 CFR Part 32, all applicable State regulations:

The Refuge Recreation Act of 1962 (16 U.S.C. 460k) authorizes the Secretary of the Interior to adminster such areas for public recreation as an appropriate incidential or secondary use only to the extent that it is practicable and not inconsistent with the primary objectives for which the area was established. In addition, the Refuge Recreation Act requires (a) that any recreational use permitted will not interfere with the primary purpose of which the area was established; and (b) that funds are available for the development, operation, and maintenance of the permitted forms of recreation.

The recreational use authorized by these regulations will not interfere with the primary purposes for which these National Wildlife Refuges were established. This determination is based upon consideration of, among other things, the Service's Final Environmental Statement on the Operation of the National Wildlife Refuge System published in November 1976. Funds are available for the administration of the recreational activities permitted by these regulations.

2. A list of special conditions applying to the individual refuge hunts and a map of the hunt area(s) are available at refuge headquarters. Portions of refuges which are closed to hunting are designated by signs and/or delineated on maps.

3. Access points on certain refuges are limited to designated roads or other specified areas. Vehicles use on all refuge areas is restricted to designated roads and lanes.

4. Only steel shot ammunition may be used during refuge migratory waterfowl hunts. Possession of lead or other toxic shot in any guage is prohibited during such hunts.

§ 32.12 Special regulations; migratory game bird hunting for individual wildlife refuge areas.

Missouri

Mingo National Wildlife Refuge

Waterfowl hunting is permitted only on areas designated by signs as being open to hunting, subject to the following conditions:

1. Dogs may be used to retrieve downed waterfowl within the hunting area.

2. Hunting in or entering any cultivated field, pasture or dike area is prohibited.

3. Waterfowl hunting is restricted to steel shot only. Possession of lead shot in the hunting area is prohibited during the waterfowl hunting season.

4. The use of outboard or electric motors is prohibited.

Swan Lake National Wildlife Refuge

Public hunting for geese only is permitted only on designated areas comprising 2,500 acres within Swan Lake National Wildlife Refuge, Missouri. Hunting shall be in accordance with all applicable State and Federal regulations subject to the following conditions:

1. Each hunter must obtain a State permit prior to hunting, hunt only from an impartially assigned blind, and fire no than ten (10) shells.

2. Daily bag as determined by applicable State and Federal laws.

3. Use or possession of shells loaded with any material other than steel shot is prohibited.

4. Authorized officials may retrieve legally shot geese falling inside the refuge boundary for the hunters who shot them.

Kansas

Quivira National Wildlife Refuge

Public hunting of ducks, geese, coots, mourning doves, snipe, rails and woodcock is permitted only on the areas designated by signs as being open to hunting subject to the following conditions:

1. Blinds—only temporary blinds constructed above ground of natural vegetation are permitted.

2. Dogs—not to exceed two per hunter may be used only for retrieving.

3. Waterfowl hunting is restricted to steel shot only.

Flint Hills National Wildlife Refuge

Public hunting of mourning doves, rails, woodcock, Wilson's snipe, ducks, geese, coots, and mergansers is permitted, but only on the area designated by signs as open to hunting.

Refuge hunting shall be subject to the following special conditions:

1. Vehicle access shall be restricted to designated parking areas and to existing roads as shown on refuge leaflets.

2. Blind construction by the public is permitted but limited to temporary above ground construction. Constructed blinds become the property of the Government. Blind construction does not constitute a reservation of hunting space. Daily occupancy of blinds erected on refuge hunting units will be determined on a first-come-first-serve basis.

3. The transportation or possession of firearms is not permitted on the Neosho River from the northern refuge boundary to and including the point where the river empties into John Redmond Reservoir, and extending to the southern refuge boundary, as marked by buoys.

4. Waterfowl hunting is restricted to steel shot only.

Kirwin National Wildlife Refuge

Public hunting of mourning doves, ducks, geese, and coots is permitted only on the areas designated by signs as being open to hunting.

Refuge hunting shall be subject to the following special conditions:

1. Blinds—Temporary blinds constructed above ground from natural vegetation are permitted. Digging of holes or pits to serve as blinds is prohibited.

2. Waterfowl hunting is restricted to steel shot only.

Iowa

Desoto National Wildlife Refuge

1. Migratory game bird hunting is permitted only on an area comprising 174 acres located adjacent to U.S. Highway 30 on the north side of the refuge.

2. Hunting season will be November 1, 1980 and continue through the closing date of the snow goose season to be set by the Iowa Conservation Commission, both dates are inclusive.

3. Shooting hours will be consistent with State regulations regarding opening

hours and shall continue until 12 noon daily.

4. Only waterfowl species (ducks, geese and coots) may be taken.

5. All hunting will be by refuge permit only. Advance reservations for a specific date will be accepted by mail, or in person at refuge headquarters between the hours of 8:00 a.m.–5:00 p.m., Monday through Friday from September 1 through September 28, 1980. A drawing to determine successful applicants will be held on Monday, September 29, 1980. Should openings remain following the drawing, reservations will be accepted on a first-come, first-serve basis on and after October 6, 1980. Reservations will not be accepted by telephone. Individuals will be allowed only one reservation at any one time. When this reservation is used, the individual may apply for an unfilled date. Applicants for reservation must be at least 16 years of age or older. A $3.00 fee must accompany each request for a reservation and this must be in the form of a check or money order made payable to "U.S. Fish and Wildlife Service." Each reservation holder will be entitled to bring two additional hunters in order to utilize the 3-person blinds. Each person will be charged a $2.00 blind-use fee when registering to hunt.

6. Reservations are non-transferable and fees will not be refunded. No provisions shall be made for "standby" hunters.

7. All hunters must hunt from refuge-constructed 3-person blinds only.

8. Blinds will be assigned on a drawing basis each day of the hunt.

9. All hunting will be from assigned blinds only with the exception that wounded birds may be pursued and shot within the shooting zone line (within 40 yards of blind, as posted). Wounded birds may be pursued beyond this point up to the retrieval zone line within 100 yards of blind, as posted), but guns must remain within the shooting zone.

10. Hunters will be required to check in and out at the refuge check station on each hunting day.

11. Permit holders must park in assigned parking lots within the hunting area. Non-refuge hunters may not use the refuge parking areas as access to private lands.

12. Hunters are allowed the use of decoys (personal or rented at check station) and retrieving dogs (one per hunter). Goose decoys, up to 3 dozen may be rented at the refuge check station at a charge of $1.00 per dozen. Hunters will be responsible for rented decoys and will be charged for any decoys lost or damaged.

13. Only shotguns capable of holding three shells or less will be permitted.

14. Only steel shot loads will be allowed in the hunting area.

15. A maximum of 25 shells per hunter will be allowed per day.

16. Camping is not allowed in the refuge.

17. All litter, including empty shotgun shells is to be picked up before leaving the blind site.

Nebraska

DeSoto National Wildlife Refuge

1. Migratory game bird hunting is permitted only on an area comprising 326 acres located west of the Missouri River in Washington County, Nebraska.

2. Hunting season will be November 1, 1980 and continue through December 9, 1980, both dates inclusive.

3. Hunting will be permitted only on Sunday, Tuesday, Thursday and Saturday during the open season.

4. Shooting hours will be consistent with State regulations regarding opening hours and shall continue until 12 noon daily.

5. Only waterfowl species (ducks, geese and coots) may be taken.

6. All hunting will be by refuge permit only. Advance reservations for a specific date will be accepted, by mail or in person, at refuge headquarters between the hours of 8:00 a.m.–5:00 p.m., Monday through Friday from September 1 through September 26, 1980. A drawing to determine successful applicants will be held on Monday, September 29, 1980. Should openings remain following the drawing, reservations will be accepted on a first-come, first-serve basis on and after October 6, 1980. Reservations will not be accepted by telephone. Individuals will be allowed only one reservation at any one time. When this reservation is used, the individual may apply for an unfilled date. Applicants for reservations must be at least 16 years of age or older. A $3.00 fee must accompany each request for a reservation and this must be in the form of a check or money order made payable to "U.S. Fish and Wildlife Service." Each reservation holder will be entitled to bring two additional hunters in order to utilize the 3-person blinds. Each person will be charged a $2.00 blind-use fee when registering to hunt.

7. Reservations are non-transferable and fees will not be refunded. No provision shall be made for "standby" hunters.

8. All hunters must hunt from refuge-constructed 3-person blinds only.

9. Blinds will be assigned on a drawing basis each day of the hunt.

10. All hunting will be from assigned blinds only with the exception that wounded birds may be pursued and shot within the shooting zone (within 40 yards of blind as posted). Wounded birds may be pursued beyond this point up to the retrieval zone line (within 100 yards of blind as posted), but guns must remain within the shooting zone.

11. Hunters will be required to check in and out at the refuge check station on each hunting day.

12. Permit holders must park in assigned parking lots within the hunting area. Non-refuge hunters may not use the refuge parking areas as access to private lands.

13. Hunters are allowed the use of decoys (personal or rented at check station) and retrieving dogs (one per hunter). Goose decoys up to 3 dozen may be rented at the refuge check station at a charge of $1.00 per dozen. Hunters will be responsible for rented decoys and will be charged for any decoys lost or damaged.

14. Only shotguns capable of holding three shells or less will be permitted.

15. Only steel shot loads will be allowed in the hunting area.

16. A maximum of 25 shells per hunter will be allowed per day.

17. Camping is not allowed on the refuge.

18. All litter, including empty shotgun shells, is to be picked up before leaving the blind site.

§ 32.22 Special regulation; upland game; for individual wildlife refuge areas.

Kansas

Quivira National Wildlife Refuge

Hunting of ring-necked pheasants, bobwhite quail, squirrel and rabbits is permitted but only on the area designated by signs as open to hunting subject to the following conditions:

1. The use of rifles is prohibited for taking squirrel and rabbits.

2. The hunting of any species after sunset is prohibited.

3. The hunting of all upland game will close at the end of the ring-necked pheasant and/or bobwhite quail seasons.

4. Dogs—not more than two per hunter.

Flint Hills National Wildlife Refuge

The public hunting of small game animals, upland game birds, fur bearing animals and non-game animals is permitted, but only on the area designated by signs as open hunting subject to the following special conditions:

1. The use of rifles or pistols are prohibited on the refuge.

2. Vehicles access shall be restricted to designated parking areas and existing roads, as shown on refuge leaflets.

3. Dogs may be used only for hunting and retrieving small game animals and game birds. Dogs may not be used for hunting fur bearing animals and non-game animals, either by sight or trailing by scent.

Kirwin National Wildlife Refuge

The public hunting of pheasant, quail, rabbits and squirrels is permitted but only on the area designated by signs as open to hunting. The hunting of all small game will close at the end of the ring-necked pheasant and/or bobwhite quail seasons.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Missouri

Mingo National Wildlife Refuge

Hunting of deer and turkey is permitted on areas designated by signs or maps as being open to hunting subject to the following conditions:

1. Hunting with bows and arrows only is permitted.
2. Hunters must register when entering the refuge and record kill when leaving.
3. Hunting from permanent tree stands (one that is connected to the tree by nails, screws, etc.) is prohibited.
4. All tree stands must be identified with the name and address of the hunter using it.
5. Hunters are not permitted to enter those areas shown as being closed on the refuge hunting map.
6. Hunters are permitted on the refuge from one hour before sunrise until one hour after sunset.

Kansas

Kirwin National Wildlife Refuge

Public hunting of deer with bow and arrow is permitted but only on areas designated by signs as open to hunting. Portable blinds and ladders are permitted. All portable blinds must be removed by the close of the season. No permanent tree blinds or stands may be built.

Flint Hills National Wildlife Refuge

Public hunting of deer, with bow and arrow is permitted but only on the area designated by signs as open to hunting subject to the following special conditions:

1. The area is open to big game hunting for white-tailed deer only.
2. Any use of rifles or pistols are prohibited on the refuge.

Iowa

DeSoto National Wildlife Refuge

1. Archery hunting of deer on the Iowa side is permitted only on an area comprising 600 acres located on the southeast portion of the refuge.
2. Hunting will be permitted October 11, 1980 through December 5, 1980, all dates inclusive.
3. Portable blinds and ladders are permitted. No permanent tree blinds or stands may be built, or may any nails, wire, or other foreign material be used in any manner. All portable blinds must be removed by the close of the season. No firearms are permitted on the areas.
4. Vehicles shall be confined only to designated parking lots. Overnight camping is not allowed on the area.
5. Only those persons possessing a valid state permit will be allowed to enter the area.

Nebraska

DeSoto National Wildlife Refuge

1. Archery hunting of deer on the Nebraska side is permitted only on an area comprising 1,000 acres located on the west side of the Missouri River.
2. Hunting will be permitted September 20, 1980 through October 31, 1980 and December 10, 1980 through December 31, 1980, all dates inclusive.
3. Portable blinds and ladders are permitted. No permanent tree blinds or stands may be built, or may any nails, wire, or other foreign material be used in any manner. All portable blinds must be removed by the close of the season. No firearms are permitted on the areas.
4. Vehicles shall be confined only to designated parking lots. Overnight camping is not allowed on the area.
5. Only those persons possessing a valid State permit will be allowed to enter the area.

Special Regulations

1. Muzzleloader hunting of deer is permitted on an area comprising approximately 3,350 acres located in the central portion of the refuge.
2. Hunting season will be December 13, 1980 through December 17, 1980, both dates are inclusive.
3. A total of 100 special permits will be issued for the hunt by the Nebraska Game and Parks Commission. Only those persons possessing a valid State permit will be allowed to enter the area. Muzzleloader rifles are the only weapons allowed and deer of either sex are the only legal wildlife species that may be taken during the hunt. Discharging firearms from or across all roads open to vehicle traffic including adjacent rights-of-way is prohibited. Camping and pets are not permitted on the refuge.
4. Entry to the open area will be permitted one hour before shooting hours. Shooting hours will be one-half hour before sunrise to one-half hour before sunset. All permit holders and vehicles must be out of the designated hunting area no later than one hour after sunset.
5. Vehicles shall be confined to designated roads, parking areas, and field access approaches. Parking is not permitted on asphalt roads.
6. Parking is permitted along graveled roads.
7. Portable blinds and ladders are permitted. No permanent blinds or stands may be built, or may any nails, wire, or other foreign materials be used.

Note.—The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

The provisions of these special regulations which generally govern hunting on wildlife areas and which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Dated: August 8, 1980.

Donald G. Young,

Assistant Area Manager, Refuges and Wildlife.

[FR Doc. 80-24602 Filed 8-13-80; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 659]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period August 15–August 21, 1980. Such action is needed to provide for orderly marketing of fresh Valencia oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: August 15, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202-447-5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and

designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that the action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1979–80 which was designated significant under the procedures of Executive Order 12044. The marketing policy was recommended by the committee following discussion at a public meeting on January 22, 1980. A final impact analysis on the marketing policy is available from Malvin E. McGaha, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

The committee met again publicly on August 12, 1980 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges deemed advisable to be handled during the specific week. The committee reports the demand for Valencia oranges has improved.

It is further found that there is insufficient time between the date when information became available upon which this regulation is based and when the action must be taken to warrant a 60-day comment period as recommended in E.O. 12044, and that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Section 908.959 is added as follows:

§ 908.959 Valencia Orange Regulation 659.

Order. (a) The quantities of Valencia oranges grown in Arizona and California which may be handled during the period August 15, 1980 through August 21, 1980, are established as follows:

(1) District 1: 353,000 cartons;
(2) District 2: 397,000 cartons;
(3) District 3: Open Movement.

(b) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" mean the same as defined in the marketing order.

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

Dated: August 13, 1980.

Charles R. Brader

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-24887 Filed 8-13-80; 1:30 pm]

BILLING CODE 3410-02-M

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7 CFR Part 993

Dried Prunes Produced in California; Salable and Reserve Percentages

AGENCY: Agricultural Marketing Service.

ACTION: Final rule.

SUMMARY: This regulation establishes salable and reserve percentages applicable to prunes acquired by handlers during the 1980–81 crop year. This action is necessary to provide for orderly marketing under the marketing agreement and order in the interest of producers and consumers.

EFFECTIVE DATE: For the 1980–81 crop year beginning August 1, 1980.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, USDA, Washington, D.C. 20250, (202) 447–5053.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant". This regulation is issued under marketing order No. 993, which regulates the handling of dried prunes produced in California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Prune Administrative Committee, and other information. The Committee is the agency established under the order. It is hereby found that establishing the salable percentage at 100 percent and the reserve percentage at 0 percent, as hereinafter set forth, for the 1980–81 crop year will tend to effectuate the declared policy of the act.

The establishment of the salable and reserve percentages imposes no restrictions on marketing during the 1980–81 crop year.

The marketing policy for the 1980–81 crop year adopted by the Prune Administrative Committee at its meeting of June 24, 1980, was based on the production estimate released by the California Crop and Livestock Reporting Service on June 1, 1980, and other estimates developed by the Prune Administrative Committee, including demand, and carryover requirements. Total 1980 production of California dried prunes was estimated at 160,000 tons natural condition weight. The Committee gave further consideration to its marketing policy at a meeting held July 29, 1980. The recommended salable and reserve percentages are based upon the following estimates:

	Natural condition tons
Supply	
1. Estimated production	160,000
2. Carryover July 31, 1980	38,162
3. Total supply available	198,162
Demand	
4. Estimated domestic trade demand	100,000
5. Estimated export trade demand	55,000
6. Desirable carryout July 31, 1981	30,000
7. Total estimated trade requirements	185,000
Reserve	
8. Apparent reserve	13,162

This action was recommended at a public meeting at which all present could state their views. There is insufficient time between the date when information became available upon which this regulation is based and when the action must be taken to warrant a 60-day comment period as recommended in E.O. 12044. It is further found that it is impractical and contrary to the public interest to give preliminary notice, engage in public rulemaking, and that good cause exists for not postponing the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), in that: (1) Handlers will begin receiving prunes soon and therefore must know what regulation will be effective for the 1980–81 crop year, (2) no useful purpose would be served by delaying the effective date of this action, (3) the Committee held an open meeting on June 24, and July 29, 1980, after giving notice thereof and interested persons were given the opportunity to submit

information and views at that meeting; and (4) this regulation impose no restrictions on the handling of prunes.

Therefore, a new § 993.216 is added to Subpart—Salable and Reserve Percentages—which reads as follows:

§ 993.216 Salable and reserve percentages for prunes for the 1980–81 crop year.

The salable and reserve percentages for the 1980–81 crop year shall be 100 percent and 0 percent, respectively.

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

Dated: August 11, 1980.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 80-24616 Filed 8-13-80; 8:45 am]

BILLING CODE 3410-02-M

Proposed Rules

Federal Register
Vol. 45, No. 159
Thursday, August 14, 1980

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1001

[Docket No. AO-14-A58]

Milk in the New England Marketing Area; Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Public hearing on proposed rulemaking.

SUMMARY: The hearing is being held to consider changs in the order that have been proposed by milk plant operators and producer groups. The key proposals would adjust the prices for milk throughout the production area. Proponents contend that the requested order changes are needed to more nearly reflect the costs of transporting milk from farms and supply plants to city bottling plants.

DATE: Hearing will convene September 9, 1980.

ADDRESS: Hearing will be held at the Holiday Inn, 30 Worcester Road (Rt. 9), Framingham, Massachusetts 01701 (telephone 617-875-6151).

FOR FURTHER INFORMATION CONTACT: Clayton H. Plumb, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-6273.

SUPPLEMENTARY INFORMATION: Notice is hereby given of a public hearing to be held at the Holiday Inn, 30 Worcester Road, Framingham, Massachusetts, beginning at 9:30 a.m., on September 9, 1980, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the New England marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

The proposed amendments, set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Green Mountain Cooperative Federation, Inc.

Proposal No. 1

Revise paragraph (b) of § 1001.4 to read as follows:

§ 1001.4 Plant.

* * * * *

(b) Bulk reload points (separate premises used for the purpose of transferring bulk milk from one tank truck to another tank truck or to stationary storage tanks, while en route from dairy farmers' farms to a plant, and from which premises milk is not transferred by pipeline for the processing or packaging of milk and milk products.) The cooling of milk, collection or testing of samples, and washing and sanitizing of tank trucks at the premises shall not disqualify it as a bulk reload point under this paragraph.

Proposal No. 2

Revise § 1001.41 to read as follows:

§ 1001.41 Classification of inventories.

Inventories of fluid milk products at the end of each month shall be classified as Class I milk pending final disposition of the fluid milk product, if the handler requests such classification or does not claim a Class II classification of any fluid milk products received.

Proposal No. 3

Revise paragraph (a) of § 1001.47 to read as follows:

§ 1001.47 Additional assignments to Class I and Class II milk.

(a) At pool distributing plants that have received bulk fluid milk products from other pool plants, assign to Class II milk, a quantity of receipts from producers and cooperative associations in their capacity as handlers under Section 1001.9(d) equal to 10 percent of skim milk and 25 percent of butterfat in the plant's Class I route disposition or the remaining Class II milk at the plant, whichever is less.

* * * * *

Proposal No. 4

Revise paragraph (g) of § 1001.52 to read as follows:

§ 1001.52 Plant location adjustments.

* * * * *

(g) The location adjustments for each plant shall be the amounts shown in the following table for the zone in which the plant is located:

Location Adjustments for Determination of Zone Price

Distance to basing point (miles)	Plant location zone	Class I and blended price adjustments (cents per hundredweight)
1 to 10	1	+68.0
11 to 20	2	+66.2
21 to 30	3	+64.4
31 to 40	4	+62.6
41 to 50	5	+60.8
51 to 60	6	+59.0
61 to 70	7	+57.2
71 to 80	8	+55.4
81 to 90	9	+49.6
91 to 100	10	+47.3
101 to 110	11	+45.0
111 to 120	12	+42.7
121 to 130	13	+40.4
131 to 140	14	+38.1
141 to 150	15	+13.8
151 to 160	16	+11.5
161 to 170	17	+9.2
171 to 180	18	+6.9
181 to 190	19	+4.6
191 to 200	20	+2.3
201 to 210	21	+0.0
211 to 220	22	−2.3
221 to 230	23	−4.6
231 to 240	24	−6.9
241 and over	25	−9.2

Proposal No. 5

Add five new paragraphs to § 1001.52 to read as follows:

§ 1001.52 Plant location adjustments.

* * * * *

(h) For each 5.0 cents per gallon increase or decrease in the price of diesel fuel, measured as stated in paragraphs (i) and (j), the zone price differentials as stated in paragraph (g) of this section shall automatically be changed as follows:

For Zones 1 through 8. Each price zone differential as stated in paragraph (g) will be increased or decreased by 1 cent.

For Zones 9 through 20. Each price zone differential as stated in paragraph (g) of this section will be increased or decreased by .05 cents (one twentieth of one cent) per 100 pounds for each zone distant from the 21st zone.

For Zone 21. No change.

For Zones 22 through 25. Each price zone differential as stated in paragraph (g) of this section will be increased or decreased by .05 cents per 100 pounds for each zone distant from the 21st zone.

(i) For the purpose of paragraph (h) of this section, the price of diesel fuel shall be as reported monthly by the Bureau of Labor Statistics (BLS) of the U.S. Department of Labor for "diesel to commercial consumers, New England." If BLS should convert this report exclusively to an index basis, the index shall be converted to a per gallon equivalent on a basis consistent with the price in ( ) having been ( ) cents per gallon. (It is proposed that the base price be the announced price for the month of the hearing.)

(j) Whenever the price of diesel fuel to commercial users in New England, as specified in paragraph (i) of this section, shall have changed by 5.0 cents per gallon or more from ( ) cents per gallon, the zone price differentials shall automatically be appropriately adjusted as stated in paragraph (h) of this section. If the total increases or decreases in the price of diesel fuel exceed 5.0 cents per gallon, the excess shall become a part of the basis for subsequent automatic adjustments, except that, in the case of the initial automatic adjustments in zone price diferentials, all cumulative fuel price increases or decreases from the ( ) base of ( ) cents per gallon, shall be compensated in the automatic adjustment to the extent that the fuel price increases or decreases can be measured in full multiples of 5.0 cents per gallon. If there are subsequent changes in the price of diesel fuel—after the initial automatic zone differential adjustment—which cause a further aggregate increase or decrease 5 cents or more per gallon, beyond the increase or decrease last compensated by an automatic adjustment, an additional automatic adjustment shall be made in the zone price differential schedule. Similar additional adjustments shall be made whenever the uncompensated amount of change in the price of diesel fuel equals or exceeds 5 cents per gallon.

(k) The effective date of these automatic revisions in zone price differentials will be the first day of the month after the release, in the Boston office of BLS, of the diesel fuel price or index of price on which the adjustment depends, except that the initial "catch-up" adjustment shall become effective on the first day of the first month this amendment becomes a part of Milk Order No. 1.

(l) The computations related to paragraphs (h) through (k) of this section shall be performed in the office of the Market Administrator, using the latest available data, which may in some instances be identified as "preliminary", or otherwise less than final. In the event of revisons of data, or refinement of computational methods, appropriate adjustments will be made in the zone price differentials on the first day of the first month following the revision or the refinement. There will be no retroactive adjustments in zone price differentials.

Proposed by Association of New England Milk Dealers, Inc.

Proposal No. 6

Revise paragraph (b) of § 1001.4 to read as follows:

§ 1001.4 Plant.

* * * * *

(b) Bulk reload points (premises used for the purpose of transferring bulk milk from one tank truck to another tank truck while en route from dairy farmers' farms to the plant of final destination). The cooling of milk, collection or testing of samples, washing and sanitizing of tank trucks, use of the same premises and facilities for receiving and shipping of milk and milk products and the maintenance and use of stationary storage tanks used exclusively for reloading bulk milk shall not disqualify it as a bulk reload point under this paragraph. Any premises which would otherwise be a bulk reload point under this paragraph shall not be considered a bulk reload point in any of the months of July through December in which all of the milk moved from farmers' farms to the premises is received by a handler who qualifies his supply plants as pool plants under § 1001.5b(c) and who requests that the facility not be considered a bulk reload point in that month.

* * * * *

Proposal No. 7

Revise paragraph (b) of § 1001.5b to read as follows:

§ 1001.5b Supply plant.

* * * * *

(b) It is a plant from which in any month of August and December at least 5 percent, and in any month of September through November at least 15 percent, of its total receipts of milk from dairy farmers' farms is shipped as fluid milk products, including as diverted milk, to pool distributing plants.

* * * * *

Proposal No. 8

Revise § 1001.41 to read as follows:

§ 1001.41 Classification of inventories.

Inventories of fluid milk products at the end of each month shall be classified as Class I milk pending final disposition of the fluid milk products, if the handler requests such classification or does not claim a Class II classification of any fluid milk products received.

Proposal No. 9

Revise paragraph (a) of § 1001.47 to read as follows:

§ 1001.47 Additional assignments to Class I and Class II milk.

(a) For handlers operating one pool distributing plant that has received bulk fluid milk products from other pool plants, assign to Class II milk, a quantity of receipts from producers and cooperative associations in their capacity as handlers under § 1001.9(d) equal to 15 percent of skim milk and 50 percent of butterfat in the plant's Class I route disposition or the remaining Class II at the plant, whichever is less. For handlers operting more than one pool distributing plant, assign to Class II milk a quantity of receipts from producers and cooperative associations in their capacity as handlers under § 1001.9(d) at each distributing plant equal to 15 percent of skim milk and 50 percent of butterfat in the pool distributing plant's Class I route disposition. If any of the handler's pool distrbuting plants receive from other pool plants a quantity less than 15 percent of skim milk and 50 percent of butterfat of its Class I route disposition, then the remainder shall be eligible for use at the handler's other pool distributing plants.

* * * * *

Proposal No. 10

Revise paragraph (a) of § 1001.50 to read as follows:

§ 1001.50 Class prices.

* * * * *

(a) *Class I price.* The Class I price at the plants located in Zone 21 shall be the basic formula price for the second preceding month plus $2.30.

* * * * *

Proposal No. 11

Revise paragraph (g) of § 1001.52 to read as follows:

§ 1001.52 Plant location adjustments.

* * * * *

(g) The location adjustments for each plant shall be the amounts shown in the following table for the zone in which the plant is located:

Location Adjustments for Determination of Zone Price

Distance to basing point (miles)	Plant location zone	Class I and blended price adjustments (cents per hundredweight)
1 to 10	1	+66.0
11 to 20	2	+66.2
21 to 30	3	+64.4
31 to 40	4	+62.6
41 to 50	5	+60.8
51 to 60	6	+59.0
61 to 70	7	+57.2
71 to 80	8	+55.4
81 to 90	9	+49.6
91 to 100	10	+47.3
101 to 110	11	+45.0
111 to 120	12	+42.7
121 to 130	13	+40.4
131 to 140	14	+38.1
141 to 150	15	+13.8
151 to 160	16	+11.5
161 to 170	17	+9.2
171 to 180	18	+6.9
181 to 190	19	+4.6
191 to 200	20	+2.3
201 to 210	21	+0
211 to 220	22	−2.3
221 to 230	23	−4.6
231 to 240	24	−6.9
241 and over	[1] 25	[2] −9.2

[1] Includes 25 and over.

[2] Class I and blended price location adjustments applicable to plants located in subsequent zones shall be obtained by extending the table for each additional 10 miles at the rate of 2.3 cents plus the automatic fuel adjustment as determined under paragraph (h) of this section, in no event shall the Class I or blended price at any zone be less than the Class II price for the month.

Proposal No. 12

Add five new paragraphs to § 1001.52 to read as follows:

§ 1001.52 Plant location adjustments.

* * * * *

(h) For each 5.0 cents per gallon increase or decrease in the price of diesel fuel, measured as stated in paragraphs (i) and (j) of this section, the zone price differentials as stated in paragraph (g) of this section shall automatically be changed as follows:

For Zones 1 through 8. Each price zone differential stated in paragraph (g) will be increased or decreased by 1 cent.

For Zones 9 through 20. Each price zone differential stated in paragraph (g) will be increased or decreased by .05 cents (one twentieth of one cent) per 100 pounds for each zone distant from the 21st zone.

For Zone 21. No change.

For Zones 22 through 25 and over. Each price zone differential as stated in paragraph (g) of this section will be increased or decreased by .05 cents per 100 pounds for each zone distant from the 21st zone.

(i) For the purpose of paragraph (h) of this section, the price of diesel fuel shall be as reported monthly by the Bureau of Labor Statistics (BLS) of the U.S. Department of Labor for "Diesel to commercial consumers, New England". If BLS should convert this report exclusively to an index basis, the index shall be converted to a per gallon equivalent on a basis consistent with the price in ( ) having been ( ) cents per gallon. (It is proposed that the base price be the announced price for the month of the hearing.)

(j) Whenever the price of diesel fuel to commercial users in New England, as specified in paragraph (i) of this section, shall have changed by 5.0 cents per gallon or more than ( ) cents per gallon, the zone price differentials shall automatically be appropriately adjusted as stated in paragraph (h). If the total increases or decreases in the price of diesel fuel exceed 5.0 cents per gallon, the excess shall become a part of the basis for subsequent automatic adjustments, except that, in the case of the initial automatic adjustments in zone price differentials, all cumulative fuel price increases or decreases from the ( ) base of ( ) cents per gallon, shall be compensated in the automatic adjustment to the extent that the fuel price increases or decreases can be measured in full multiples of 5.0 cents per gallon. If there are subsequent changes in the price of diesel fuel—after the initial automatic zone differential adjustment—which cause a further aggregate increase or decrease 5 cents or more per gallon, beyond the increase or decrease last compensated by an automatic adjustment, an additional automatic adjustment shall be made in the zone price differential schedule. Similar additional adjustments shall be made whenever the uncompensated amount of change in the price of diesel fuel equals or exceeds 5 cents per gallon.

(k) The effective date of these automatic revisions in zone price differentials will be the first day of the month after the release, in the boston office of BLS, of the diesel fuel price or index of price on which the adjustment depends, except that the initial "catch-up" adjustment shall become effective on the first day of the first month this amendment becomes a part of Milk Order No. 1.

(l) The computations related to paragraphs (h) through (k) of this section shall be performed in the office of the Market Administrator, using the latest available data, which may in some instances be identified as "preliminary", or otherwise less than final. In the event of revisions of data, or refinement of computational methods, appropriate adjustments will be made in the zone price differentials on the first day of the first month following the revision or the refinement. There will be not retroactive adjustments in zone price differentials.

Proposal No. 13

This is an alternative proposal if Proposals 11 and 12 are not adopted:

Add a new § 1001.52a and revise § 1001.61(b) as follows:

§ 1001.52a Transportation and receiving cost credit.

Each handler that operates a pool supply plant shall be entitled to a transportation and receiving cost credit for the shipments of fluid milk products to pool distributing plants, to the extent of the quantity of such shipments that are assigned to Class I milk. The rates of the credit shall be as follows:

(a) The transportation credit differential shall be determined from the following table by taking the difference in the amount specified for the zone in which the pool supply plant is located, less the amount specified for the zone in which the pool distributing plant is located:

Transportation Credit Differential

Plant zone location	Transportation credit differential [1]
Zone:	
1	.00
2	.50
3	1.00
4	1.50
5	2.00
6	2.50
7	3.00
8	3.50
9	4.00
10	4.50
11	5.00
12	5.50
13	6.00
14	6.50
15	7.00
16	7.50
17	8.00
18	8.50
19	9.00
20	9.50
21	10.00
22	10.50
23	11.00
24	11.50
25	12.00

[1] Cents per hundredweight.

(b) Receiving cost credit shall be at the rate of 8 cents per hundredweight for all zones.

(c) For each 5 cents per gallon increase or decrease in the price of diesel fuel, subsequent to November 1979, as measured by the bureau of Labor Statistics (BLS), of the U.S. Department of Labor for "Diesel to commercial consumers, New England",

the transportation differential in (a) shall be increased or decreased .05¢ per hundredweight for each zone distant from Zone 1 to Zone 25. Zone 1 will remain at zero. This computation shall be performed by the Market Administrator's office.

(d) In no event shall the combined rate under the preceding paragraphs of this section, plus the rate of the location adjustment under § 1001.52 cause the effective Class I price at any zone to be lower than the blended price for that zone.

§ 1001.61 Computation of basic blended price.

* * * * *

(b) Deduct the amount of the plus adjustments and add the amount of the minus adjustments that are applicable under §§ 1001.52 and 1001.53 and deduct the transportation credit applicable under § 1001.52a.

Proposed by National Farmers Organization

Proposal No. 14

Revise paragraph (c) of § 1001.15 to read as follows:

§ 1001.15 Diverted milk.

* * * * *

(c) milk reported as diverted milk that fails to meet the requirements set forth in this section, shall be considered as having been moved directly from the dairy farmers' farms to the plant of physical receipt, and if that plant is a nonpool plant the milk shall be excluded from producer milk. If the handler fails to designate the dairy farmers whose milk is to be so excluded, the entire quantity of milk that the handler caused to be moved from dairy farmers' farms directly to nonpool plants during the month shall be excluded from producer milk.

Proposed by Moser Farms Dairy, Inc.

Proposal No. 15

Revise § 1001.33(d) to read as follows:

§ 1001.33 Notices to producers.

* * * * *

(d) If butterfat tests of the producer's milk are determined in accordance with any approved method by any state or commonwealth, the handler shall give the producer within 7 days after the end of each sampling period a written notice of the producer's average butterfat test for the period.

Proposal No. 16

Add a new § 1001.40(b)(9) to read as follows:

§ 1001.40 Classes of utilization.

* * * * *

(9) Any shrinkerage of butterfat in excess of 2 percent of milk handled shall be classified as Class II shrinkage of up to 3 percent of milk handled if the butterfat testing is of 4 or less fresh samples during any month.

Proposal No. 17

Add a new provision to read as follows:

Notwithstanding the provisions of any section in accounting and assignments of milk (skim milk and butterfat) the handler shall not be charged with any excess in butterfat that can be offset by an amount of skim milk shrinkage up to 1 percent of butterfat in milk handled during any month, provided that this shall only apply one time in each 3-month period comprised of 4 quarters in a year.

Proposed by Association of Rhode Island Milk Dealers, Inc.

Proposal No. 18

Revise § 1001.52 to provide additional location adjustments to the Class I and blended prices at plants located in Rhode Island, the Massachusetts counties of Barnstable, Bristol, or Plymouth. As an alternative proposal, provide that handlers located in Rhode Island, the Massachusetts counties of Barnstable, Bristol, or Plymouth shall pay a set differential above the Zone 1 blended price to producers for milk received directly from such producer's farms. (The additional location adjustments or "direct delivery differential" shall be an amount that reflects the additional cost per hundredweight to move milk from northern New England to plants in Rhode Island or southeastern Massachusetts compared to plants in the vicinity of Boston.)

Proposed by Massachusetts Milk Control Commission

Proposal No. 19

In § 1001.52(g) fix location adjustments beyond Zone 24 at the Zone 24 level.

Proposal No. 20

Revise the order to provide that the Zone 1 plant location price shall apply to all Class I packaged fluid milk product disposition.

Proposed by Dairy Division, Agricultural Marketing Service

Proposal No. 21

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, 230 Congress Street, Room 403, Boston, MA 02110, or from the Hearing Clerk, Room 1077-S, U.S. Department of Agriculture, Washington, DC 20250, or may be there inspected.

From the time that a hearing notice is issued until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units: Office of the Secretary of Agriculture; Office of the Administrator, Agricultural Marketing Service; Office of the General Counsel; Dairy Division, Agricultural Marketing Service (Washington office only); and Office of the Market Administrator, New England Marketing Area.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, D.C., on August 11, 1980.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 80-24615 Filed 8-13-80; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 212

[Docket No. ERA-R-80-20]

Equal Application Rule; Cancellation of Public Hearing

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of cancellation of public hearing.

SUMMARY: On July 8, 1980, the Economic Regulatory Administration of the Department of Energy issued a Notice of Change in Hearings Schedule (45 FR 46811, July 11, 1980) concerning proposed alternative amendments to the Mandatory Petroleum Pricing Regulations modifying or eliminating the equal application rule with respect to sales of gasoline. The Notice announced a public hearing in San Francisco, California, to be held at the Golden Gate Way Holiday Inn, 1500 Van Ness Avenue, on August 15, 1980. The San

Francisco public hearing is hereby cancelled because of lack of sufficient interest.

The Washington, D.C. hearing on this matter remains scheduled for August 19–20, 1980.

FOR FURTHER INFORMATION CONTACT:

Lorrain Hall (Public Hearings Division), Economic Regulatory Administration, Room B–210, 2000 M Street, NW., Washington, D.C., (202) 653–3974

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B–210, 2000 M Street, NW., Washington, D.C. 20461, (202) 634–2170

Chuck Boehl (Regulations and Emergency Planning), Economic Regulatory Administration, Room 7108, 2000 M Street, NW., Washington, D.C., 20461, (202) 653–3220

William Mayo Lee or William Funk (Office of General Counsel), Department of Energy, Room 6A–127, 1000 Independence Avenue, SW., Washington, D.C., 20585, (202) 252–6736 or 252–6754

Issued in Washington, D.C., August 11, 1980.

F. Scott Bush,

Assistant Administrator, Regulations and Emergency Planning, Economic Regulatory Administration.

[FR Doc. 80–24663 Filed 8–13–80; 8:45 am]

BILLING CODE 6450–01–M

FEDERAL RESERVE SYSTEM

12 CFR Part 205

[Reg. E; EFT–2]

Electronic Fund Transfers; Proposed Official Staff Interpretation

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed official staff interpretation.

SUMMARY: In accordance with 12 CFR 205.13(b)(2)(ii), the Board staff is publishing for comment official staff interpretation EFT–1 of Regulation E, Electronic Fund Transfers, regarding the preemption of certain provisions of the Michigan statute governing electronic fund transfers. Based upon a section-by-section comparison, inconsistent state law provisions are preempted by the federal act, unless they are more protective of the consumer, as provided by § 205.12 of Regulation E.

DATES: Comments must be received on or before September 15, 1980.

ADDRESS: Comments (which should include a reference to EFT–1) may be mailed to Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or delivered to Room B–2223, 20th and Constitution Avenue, NW., Washington, D.C., between 8:45 a.m. and 5:15 p.m. Comments may be inspected in Room B–1122 between 8:45 a.m. and 5:15 p.m.

FOR FURTHER INFORMATION CONTACT: Susan M. Werthan, Staff Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–3867).

SUPPLEMENTARY INFORMATION: (1) The text of official staff interpretation EFT–1 is published with identifying details deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public, subject to certain limitations stated in 12 CFR Part 261.6.

(2) Interested persons are invited to submit relevant comment. The letter is being issued as a proposal, rather than in final form, with comment particularly being solicited on the section-by-section analysis used to determine which provisions of the state statute are inconsistent and preempted by federal law.

(3) After comments are considered, this official staff interpretation may be amended, may be withdrawn or may remain unchanged. Final action regarding this official staff interpretation will appear in the Federal Register.

(4) Authority: 15 U.S.C. 1693m(d).

§ 205.12(a) and (b)—Premption of certain provisions of the Michigan statute governing electronic fund transfers.

This is in response to your letter of . . ., in which you request that the Board determine to what extent the Michigan statute governing electronic fund transfers is preempted by the federal Electronic Fund Transfer Act. Your request was made pursuant to § 205.12 of Regulation E.

By amending 12 CFR § 265.2(h), the Board has delegated to the Director of the Division of Consumer and Community Affairs its authority to make preemption determinations. The Director has exercised the Board's authority under § 919 of the act to decide which provisions of the state statute are preempted and is communicating that decision through this official staff interpretation. As § 919 provides, if it is determined that a state law requirement is inconsistent, financial institutions will incur no liability for a good faith failure to comply with that state law.

In applying § 919 of the act and § 205.12 of the regulation a section-by-section analysis of the Michigan statute with reference to Regulation E was made. Attention was also given to the comparison of groups of related sections. The statutory language supports this analysis since it refers to inconsistencies in "provisions" of federal and state statutes. This approach also addresses both purposes in § 902(b) of the act by contributing to the protection of individual consumer rights and the establishment of a basic framework of rights for participants in EFT systems. Finally, this approach avoids the formation of very complex hybrid rules resulting from preemption of individual requirements in each section.

The following general analysis was used in making the section-by-section comparison. If state law is the same as federal law, no preemption occurs. If state law is different from federal law, but financial institutions can comply with both, state law is not prempted and institutions must comply with both laws. If state law is different from federal law, and institutions may violate state law when complying with federal law, the laws are inconsistent within the meaning of § 205.12(a) and (b). In this case, if state law is more protective of the consumer, state law is not preempted. Otherwise, federal law preempts state law and institutions need comply only with federal law.

You ask that several specific sections of the Michigan statute be preempted. After comparing the inconsistencies in each requirement of each section, the section was viewed as a whole in order to make the final preemption decision on a section-by-section basis. The final preemption determination are as follows:

1. Section 13 of the Michigan statute regarding issuance of unsolicited access devices is inconsistent with § 205.5 of Regulation E, but is more protective of the consumer. Therefore, it is not preempted by the federal law. The main provisions of state law contributing to this decision are the requirement that an unsolicited access device be accepted in writing by the consumer and that additional information be given to the consumer after acceptance.

2. Section 5(4) of the state statute, which defines unauthorized use of an access device, is not inconsistent with § 205.2(1) of Regulation E and is not preempted.

3. Section 14 of the state statute, which governs the consumer's liability for unauthorized use of an account, is inconsistent with § 205.6 of Regulation E and is preempted. The state provision is not more protective of the consumer since the negligence standard of liability could result in the consumer's increased exposure to liability.

4. Section 15 of the state statute governing error resolution procedure is inconsistent with and preempted by § 205.11 of Regulation E. Since the state statute permits a possible 70 days for errors to be resolved, but Regulation E permits only 45 days, Michigan law is not more protective of the consumer. This conclusion is supported by the fact that § 205.12(b)(3) of the regulation specifically lists longer time periods for error resolution as one of the standards for preemption.

5. Sections 17 and 18 of the state statute, which cover receipts and periodic statements, are inconsistent with § 205.9 of Regulation E and are preempted. Section 205.12(b)(4) provides that one of the standards for preemption is any state law provision for

receipts of periodic statements that are different in content from those required under federal law. Differences exist between the Michigan statute and the EFT Act. Also, the state statute is not more protective of the consumer since it provides for the consumer's paying the cost of getting a receipt if a machine cannot furnish one at the time of a transfer.

6. Section 19 of the state statute regarding initial disclosures is inconsistent with § 205.7 of Regulation E, but is not preempted. Since the state provision requires initial discloures to be given when an access card is issued, rather than at any time before the first electronic fund transfer is made, as Regulation E provides, the state law is more protective of the consumer. Therefore, the Michigan provision stands.

Although the Michigan statute's initial disclosure section stands, certain items in the disclosure statement will have no conform to the federal requirements where substantive sections of federal law have preempted state law. Therefore, the liability disclosure and the error resolution disclosure must conform to the federal requirements.

The staff notes that the scope of the Michigan statute is narrower than that of the federal EFT Act since it covers only terminal-based transfers. As a result, the federal provisions continue to govern EFTs outside the scope of the state statute, such as preauthorized transfers.

This is an official staff interpretation of Regulation E, issued pursuant to § 205.13(b)(2) of Regulation E. It is limited to the facts and issues discussed above.

Sincerely,

Janet Hart,

Director.

Dated: August 8, 1980.

Board of Governors of the Federal Reserve System

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-24551 Filed 8-13-80; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Airworthiness Docket No. 80-ASW-29]

Bell Model 47 Series Helicopter; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD) that would require installation of safety washers and longer bolts on each tail rotor blade pitch control link on Bell Model 47 Series helicopters equipped with the 47-641-170 series tail rotor hub and blades. The proposed AD is needed to prevent possible fatigue failure of the tail rotor pitch control link. Failure of the control link would result in loss of tail rotor blade control and helicopter directional control.

DATES: Comments must be received on or before September 15, 1980. Proposed effective date of the adopted rule will be November 1, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Regional Counsel, Attention: Docket No. 80-ASW-29, Southwest Region, Federal Aviation Administration, PO Box 1689, Fort Worth, Texas 76101.

FOR FURTHER INFORMATION CONTACT: James H. Major, Airframe Section, Engineering and Manufacturing Branch, ASW-212, Federal Aviation Administration, PO Box 1689, Forth Worth, Texas 76101, telephone (817) 624-4911, extension 516.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Director before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Office of Regional Counsel, Federal Aviation Administration, Southwest Region, 4400 Blue Mound Road, Fort Worth, Texas, for examination by interested persons.

There have been three reports of tail rotor pitch link fatigue failures on Bell Model 47G-2A-1, 47G-4, and 47G-5A helicopters that reportedly resulted in loss of tail rotor blade pitch control and subsequent loss of helicopter directional control. Excessive wear of the rod end bearing could allow the rod end housing to slide down on the tail rotor pitch horn boss, restrict the flapping action of the blade as a result of interference and impose excessive bending loads on the pitch link. The noted reports concern Model 47 series helicopters equipped with the improved tail rotor blades of 47-641-170 series tail rotor hub and blade assembly. Since this condition is likely to develop on other Model 47 series helicopter equipped with this tail rotor hub and blade assembly, the proposed AD would require removal of two bolts, installation of two new longer bolts, and two special washers on the blade pitch horn, and replacement of excessively worn rod end bearings within 100 hours' time inservice after November 1, 1980. The special washer will prevent the rod end bearing housing from sliding down on the tail rotor pitch horn boss after the bearing has become excessively worn and thereby prevent interference and excessive bending loads on the pitch link.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

Bell: Applies to all Model 47 series helicopters and military Model H-13, OH-13, and TH-13T series helicopters, including modified versions, certificated in all categories, that are equipped with the 47-641-170 series tail rotor hub and blade assemblies.

Compliance required within 100 hours' time inservice after November 1, 1980.

To prevent loss of directional control as a result of possible tail rotor pitch link failure, accomplish the following, unless already accomplished in accordance with Bell Helicopter Textron Alert Service Bulletin No. 47-80-5, Rev. A, dated April 29, 1980.

(a) Remove the tail rotor pitch link from each blade pitch horn.

(b) Inspect the pitch link bearings for axial and radial play. Remove bearings having .015 inch or more of play or looseness, and install serviceable bearings.

(c) Install bolts P/N NAS1304-30D or 20-057-4-30D (used with pitch horn, P/N 47-641-189-1, -3, or -5), or P/N NAS1304-32D, or 20-057-4-32D (used with pitch horn, P/N 47-641-187-7) as appropriate, with washer, P/N 47-641-187-1 or -3 under the bolt head or nut, and washer P/N 47-641-189-3 between the link bearing and pitch horn with bevel towards the bearing. Torque nuts 80 to 100 inch-pounds and install cotter pins.

(d) Determine that no binding or interference occurs in the blade controls when the tail rotor controls are full left and right, and the tail rotor hub is flapped to each stop. Track the tail rotor blades in accordance with the appropriate Model 47 maintenance manual if a rod end bearing or a link is replace in accordance with paragraph (b) of this AD.

(e) Equivalent means of compliance with this AD may be approved by the Chief, Engineering and Manufacturing Branch, FAA, Southwest Region.

(Bell Helicopter Textron Operations Safety Notice OSN 47-79-1 dated October 19, 1979, also pertains to this subject.)

(Secs. 313(a), 601, 603, 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)); 14 CFR 11.85)

Note.—The FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of

Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Fort Worth, Tex., on August 1, 1980.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 80-24588 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 80-NW-39-AD]

Airworthiness Directives: Boeing Model 747 Series Airplanes Equipped With B. F. Goodrich Slides

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making (NPRM).

SUMMARY: This proposed rule making would require replacement of escape slide bayonet/spring mechanical restraints on Boeing Model 747 series airplanes equipped with B. F. Goodrich Slides with shear pin mechanical restraints. Replacement is necessary due to corrosion of the bayonet/spring type restraint, possibly causing failure of the escape slide.

DATES: Comments must be received on or before October 1, 1980.

ADDRESSES: Send comments on the proposed rule in duplicate to: Federal Aviation Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket, Docket No. 80-NW-39-AD, 9010 East Marginal Way South, Seattle, Washington, 98108.

FOR FURTHER INFORMATION CONTACT: Mr. Roger S. Young, Airframe Section, ANW-212, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2516.

SUPPLEMENTARY INFORMATION: One escape slide failed during a deployment due to corrosion on the bayonet/spring type mechanical restraint. These restraints control the unfolding of the escape slide when inflated. Six of twenty-six operators surveyed reported finding restraints with varying amounts of corrosion. Since this condition is likely to exist or develop on other B. F. Goodrich slides this proposal requires replacement of the bayonet/spring restraints.

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments recieved. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMS

Any person may obtain a copy of this Notice of Proposed Rule Making (NPRM) by submitting a request to the Federal Avaition Administration, Northwest Region, Office of the Regional Counsel, Attention: Airworthiness Directive Rules Docket No. 80-NW-39-AD, 9010 East Marginal Way South Seattle, Washington 98108.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following Airworthiness Directive:

Boeing: Applies to all Model 747 airplanes equipped with B. F. Goodrich slides.

Within one (1) year after the effective date of this AD, unless already accomplished, install shear pin mechanical restraints to affected escape slides in accordance with B. F. Goodrich Service Bulletins 25-054 dated March 4, 1980, 25-055 dated March 5, 1980, or 25-056 dated March 6, 1980, or later FAA approved revisions, or an equivalent installation approved by the Chief, Engineeing and Manufacturing Branch, FAA Northwest Region.

All persons affected by this proposal who have not already received these documents from the manufacturer, may obtain copies upon request to 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.

(Secs. 313(a), 601, and 603, 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)); and 14 CFR 11.85)

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

Issued in Seattle, Washington, on August 4, 1980.

E. O'Connor,

Acting 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. 80-24427 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-AWE-12]

Designation of VOR Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate new VOR Federal Airways V-332, from Friant, Calif., to Red Bluff, Calif., and V-338 from Linden, Calif., to Lake Tahoe, Calif. This alteration would provide a bypass route in the Sacramento area, and permit additional flexibility for arrival/departures in the Sacramento terminal area.

DATES: Comments must be received on or before September 15, 1980.

ADDRESSES:

Send comments on the proposal in triplicate to: Director, FAA Western Region, Attention: Chief, Air Traffic Division, Docket No. 80-AWE-12, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-204), Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket

number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All communications received on or before September 15, 1980, will be considered before action is taken on the proposed amendment. 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 Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would designate two new VOR Federal Airways in the vicinity of Sacramento, Calif.; V-332, from Friant, Calif., direct to Hangtown, Calif., direct to Red Bluff, Calif., and V-338, from Linden, Calif., direct to Hangtown, direct to Lake Tahoe, Calif. These new airways would permit the traffic flow flexibility necessary to expedite arrival/departure traffic in the Sacramento, Calif., area. Also, VOR/DME approach procedures for the Placerville, Calif., airport at Hangtown would be established. The Hangtown VOR/DME (HNW) is located at Lat. 38°43'31"N., Long. 120°44'52"W., and will be commissioned in September 1980. Subpart C of Part 71 was republished in the **Federal Register** on January 2, 1980 (45 FR 307).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 307) as follows:

Under § 71.123

"V-332 From Friant, Calif., via Hangtown, Calif., to Red Bluff, Calif." is added

"V-338 From Linden, Calif., via Hangtown, Calif.; to Lake Tahoe, Calif." is added.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—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 Washington, D.C., on August 8, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-24585 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-ANW-6]

Establishment of Newport, Oreg., Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish a control zone at Newport, Oreg., to provide controlled airspace to protect aircraft executing the instrument approaches to Newport Municipal Airport.

DATES: Comments must be received on or before September 15, 1980.

ADDRESSES:

Send comments on the proposal in triplicate to: Director, FAA Northwest Region, Attention: Chief, Air Traffic Division, Docket No. 80-ANW-6, FAA Building, Boeing Field, Seattle, Wash. 98108.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-204), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: 1L. Jack Overman, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3715.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Northwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, FAA Building, Boeing Field, Seattle, Washington 98108. All communications received on or before September 15, 1980, will be considered before action is taken on the proposed amendment. 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 Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C., 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would establish a part-time control zone at Newport, Oreg. This airspace is to protect aircraft executing instrument approach and departure procedures established for Newport Municipal Airport. The proposed action would designate an area within a 5-mile radius of the Newport Municipal Airport (Lat. 44°34'48"N., Long. 124°03'25"W.) and within 4 miles each side of the Newport VORTAC 357°T(336°M) radial extending from the 5-mile radius to 9 miles northwest of the VORTAC. The effective time would be from 0900 to 1700 local time. Section 71.171 of Part 71 was republished in the **Federal Register** on January 2, 1980 (45 FR 356).

ICAO Considerations

As part of this proposal relates to the navigable airspace outside the United

States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of, and Annex 11 to, the Convention on International Civil Aviation, which pertains to the establishment of air navigational facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 356) by adding a control zone at Newport, Oreg., to read as follows:

Newport, Oreg.

Within a 5-mile radius of the Newport Municipal Airport, (Lat. 44°34'48" N., Long. 124°03'25" W.); within 4 miles each side of the Newport VORTAC 357° radial extending from the 5-mile radius to 9 miles northwest of the VORTAC. This control zone is effective from 0900 to 1700 hours, local time daily.

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510; Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—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 Washington, D.C., on August 8, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-24586 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-ASO-38]

Proposed Alteration of Federal Airways, Orlando, Fla.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter Victor Airways V-3, V-152, V-159, V-267 and V-441 in the vicinity of Orlando, Fla. Alteration of these routes will provide a "bypass" airways system for the congested Orlando terminal area. This will reduce controller/pilot workload and reduce radio frequency congestion.

DATES: Comments must be received on or before September 15, 1980.

ADDRESSES:

Send comments on the proposal in triplicate to: Director, FAA Southern Region, Attention: Chief, Air Traffic Division, Docket No. 80-ASO-38, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Charles R. Horne, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before September 15, 1980, will be considered before action is taken on the proposed amendment. 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 Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would alter Victor Airways V-3, V-152, V-159, V-267 and V-441 in the vicinity of Orlando, Fla. Alteration of these routes will provide a "bypass" airway system for the congested Orlando terminal area, reduce controller/pilot workload, and reduce radio frequency congestion. The primary use of the "bypass" airway system will be for routing low altitude en route aircraft around the Herndon and Orlando International Airports, and areas of nonlimited radar coverage during peak traffic periods. Section 71.123 of Part 71 was republished in the

Federal Register on January 2, 1980 (45 FR 307).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 307) as follows:

Under V-3, after "Ormond Beach, Fla.;" add "including a W alternate from Vero Beach to Ormond, via INT Vero Beach 341°T(339°M) and Melbourne, Fla, 321°T(319°M) radials, INT Melbourne 321°T(319°M) and Ormond Beach 211°T(213°M) radials;"

Under V-152, all after "St. Petersburg, Fla." is deleted and "via INT St Petersburg 060°T(061°M) and Ormond Beach, Fla., 211°T(212°M) radials; Ormond Beach, including a S alternate via Lakeland, Fla., Orlando, Fla.; INT Orlando 048°T(049°M) and Ormond Beach 160°T(161°M) radials;" is substituted therefor.

Under V-159, after "Ocala, Fla.," add "including a S alternate from INT Vero Beach 317°T(319°M) and Melbourne, Fla., 297°T(299°M) radials, to Ocala via INT Melbourne 297°T(299°M) and Ocala 145°T(146°M) radials;"

Under V-267, after "Jacksonville, Fla.," delete "including an E alternate from Orlando to INT Ormond Beach, Fla., 308° and Jacksonville 174° radials via Ormond Beach;"

Under V-441, delete "Ocala 171° radials." and substitute "Ocala 182°T(182°M)." therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—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 Washington, D.C., on August 7, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-24584 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-AGL-29]

Extension of VOR Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the description of VOR Federal Airway V-58 by extending the airway 77 miles west to EARED Intersection, thence via Clarion, Pa., 228°M radial to GRACE, Pa., Intersection. This action provides a shorter route for aircraft arriving at the Greater Pittsburgh, Pa., Metro area.

DATE: Comments must be received on or before September 15, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Great Lakes Region, Attention: Chief, Air Traffic Division, Docket No. 80-AGL-29, Federal Aviation Administration, 2300 East Devon, Des Plaines, Ill. 60018. The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-204), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591. An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon, Des Plaines, Ill. 60018. All communications recieved on or before September 15, 1980 will be considered before action is taken on the proposed amendment. 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 Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would alter VOR Federal Airway V-58 by extending it westward 77 miles to EARED Intersection, thence to GRACE Intersection. Designation of this extension would provide a more direct route to the Greater Pittsburgh Airport terminal area. In addition, the more direct and shorter route will result in significant fuel savings. Subpart C of Part 71 was republished in the Federal Register on January 2, 1980, (45 FR 307).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 307) as follows:

Under V-58 "From Philipsburgh, Pa.;" is deleted and "From INT Franklin, Pa., 175°T(181°M) and Clarion, Pa., 222°T(228°M) radials, via INT Clarion 222°T(228°M) and Philipsburg, Pa., 272°T(279°M) radials; Philipsburg;" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportaiton Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—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 in appropriate.

Issued in Washington, D.C., on August 8, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-24582 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 80-EA-18]

Proposed Alteration of Transition Area; Chambersburg, Pa.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to alter the Chambersburg, Pa., Transition Area over Chambersburg Municipal Airport, Chambersburg, Pa. This alternation will provide protection to aircraft executing a new non-directional beacon (NDB) approach which has been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

DATES: Comments must be received on or before September 29, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace & Procedures Branch, AEA-530, Eastern Region Federal Aviation Administration, Federal Building, Jamaica, New York 11430. The docket may be examined at the following location: FAA, Office of Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT: Douglas Ambrose, Airspace & Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone 212-995-3391.

Comments Invited

Interested parties may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430. All communications received on or before September 29, 1980, will be considered before action is taken on the proposed amendment.

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.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430, or by calling (212) 995-3391.

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

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 Chambersburg, Pa., Transition Area. The airport is at present overlaid by a 700-foot area which will be expanded by the addition of an extension to the northeast, 3.5 miles in width and approximately 6 miles in length.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend § 71.181 of the Federal Aviation Regulations so as to amend the Description of the Chambersburg, Pennsylvania, 700-foot floor transition area as follows:

Chambersburg, Pa.

In the text delete, "29 miles east of the VORTAC." and substitute therefor, 29 miles east of the VORTAC; within 3.5 miles each side of the NEAL NDB (39°59'05"N., 77°37'58"W.) 036° bearing extending from the NDB to 12 miles NE of the NDB.

(Sec. 307(a) of the Federal Aviation Act of 1958, [72 Stat. 749; 49 U.S.C. 1348(a)] and of Sec. 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)]; and 14 CFR 11.65)

Note.—The Federal Aviation Administration has determined that this document involves a proposed 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). 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 operation, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Jamaica, New York, on July 16, 1980.

Lonnie D. Parrish,

Acting Director, Eastern Region.

[FR Doc. 80-24421 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-EA-39]

Proposed Alteration of Transition Area; Skaneateles, N.Y.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a Skaneateles, N.Y., Transition Area over Lake Pines Aviation Airport, Skaneateles, N.Y. This alteration will provide protection to aircraft executing a new VOR-A instrument approach which has been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

DATE: Comments must be received on or before September 29, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430. The docket may be examined at the following location: FAA, Office of Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT: Douglas Ambrose, Airspace & Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

Comments Invited

Interested parties may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430. All communications received on or before September 29, 1980, will be considered before action is taken on the proposed amendment. 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.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430, or by calling (212) 995-3391.

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

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a Skaneateles, N.Y., Transition Area. The airport will be overlaid by a 700-foot area with a radius of 5 miles around the airport and an extension to the northeast approximately 5 miles wide and 2 miles in length.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by designating a Skaneateless, New York 700-foot floor transition area as follows:

Skaneateles, N.Y.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center 42°54'50"N., 76°26'20"W., of Lake Pines Aviation Airport, Skaneateles, New York within 2.5 miles each side of the Syracuse VORTAC 215° radial extending from the 5-mile radius area to 14.5 miles southwest of the Syracuse VORTAC.

(Sec. 307(a) of the Federal Aviation Act of 1958 [72 Stat. 749; 49 U.S.C. 1348(a)] and of Sec. 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)]; and 14 CFR 11.65)

Note.—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 operation, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Jamaica, New York on July 16, 1980.

Lonnie D. Parrish,

Acting Director, Eastern Region.

[FR Doc. 80-24423 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-EA-19]

Proposed Designation of Transition Area; Woodbine, N.J.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate a Woodbine, N.J., Transition Area over Woodbine Municipal Airport, Woodbine, N.J. This designation will provide protection to aircraft executing a VOR-A runway instrument approach which has been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

DATES: Comments must be received on or before September 29, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430. The docket may be examined at the following location: FAA, Office of Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT: Douglas Ambrose, Airspace & Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, telephone (212) 995-3391.

Comments Invited

Interested parties may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430. All communications received on or before September 29, 1980, will be considered before action is taken on the proposed amendment. 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.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430, or by calling (212) 995-3391.

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

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a Woodbine, N.J., Transition Area. The airport will be overlaid by a 700-foot area approximately 6.5 miles in radius around the airport with an extension approximately 1 mile long and 1.5 miles wide extending to the south.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by designating a Woodbine, New Jersey, 700-foot floor transition area as follows:

Woodbine, N.J.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center (39°13'06" N/74°47'37" W) of the Woodbine Municipal Airport, Woodbine, New Jersey, and within 1.5 miles each side of the Sea Isle, New Jersey, VORTAC 002 radial extending from the 6.5-mile radius area to a point 1 mile north of the VORTAC.

(Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The Federal Aviation Administration 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 operation, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Jamaica, New York, on July 17, 1980.

Lonnie D. Parrish,

Acting Director, Eastern Region.

[FR Doc. 80-24422 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-EA-17]

Proposed Alteration of Transition Area Annville, Pa.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to designate an Annville, Pa., Transition Area over Millard Airport, Annville, Pa. This designation will provide protection to aircraft executing a new VOR-DME-A instrument approach which has been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

DATES: Comments must be received on or before September 29, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430. The docket may be examined at the following location: FAA, Office of Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT: Douglas Ambrose, Airspace & Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

Comments Invited

Interested parties may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director. Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430. All communications received on or before September 29, 1980, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submittee 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 rulemaking (NPRM) by submitting a request to the Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430, or by calling (212) 995-3391.

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

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate an Annville, Pa., Transition Area. The airport will be overlaid by a 700-foot area with a radius of 5 miles around the airport and an extension 8 miles wide and 4 miles in length extending from the radius to the south of the airport.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by designation an Annville, Pennsylvania, 700-foot floor transition area as follows:

Annville, Pa.

That airspace extending upward from 700 feet above the surface within 5.0-mile radius of the center (40°19'00" N/76°32'15"W) of the Millard Airport, Annville, Pennsylvania and within 4.0 miles either side of the Ravine, Pennsylvania, VORTAC 169° radial extending southward from the 5.0-mile radius area to a point 26 miles from the VORTAC.

(Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

Note.—The Federal Aviation Administration has determined that this document involves a proposed 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). 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 operation, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Jamaica, New York on July 17, 1980.

Lonnie D. Parrish,

Acting Director, Eastern Region.

[FR Doc. 80-24420 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

Airspace Docket No. 80-EA-54

Proposed Alteration of Transition Area Greenville, Pa.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to designate a Greenville, PA., Transition Area over Greenville Municipal Airport, Greenville, PA. This designation will provide protection to aircraft executing a new VOR Runway 4 instrument approach which has been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

DATES: Comments must be received on or before September 29, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430. The docket may be examined at the following location: FAA, Office of Regional Counsel, AEA-7 Federal Building, J.F.K. International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT: Douglas Ambrose, Airspace & Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

Comments Invited

Interested parties may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal

Building, J.F.K. International Airport, Jamaica, New York 11430. All communications received on or before September 29, 1980, will be considered before action is taken on the proposed amendment.

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.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430, or by calling (212) 995-3391.

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

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a Greenville, Pa., Transition Area. The airport, will be overlaid by a 700-foot area with a radius of 6 miles around the airport and an extension approximately 9 miles wide and 4 miles in length extending from the radius area to the southwest of the airport.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by designating a Greenville, Pennsylvania 700 foot floor transition area as follows:

Greenville, Pa.

That airspace extending upward from 700 feet above the surface within an 6.0 mile radius of the center (41°26'49"N/80°23'30"W) of the Greenville Municipal Airport, Greenville, Pennsylvania and within 4.5 each side of the Youngstown, Pennsylvania, VORTAC 062 radial from the 6.0 mile radius area to a point 7 miles east of the VORTAC.

(Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The Federal Aviation Administration has determined that this document involves a proposed 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). 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 operation, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Jamaica, New York, on July 17, 1980.

Lonnie D. Parrish,

Acting Director, Eastern Region.

[FR Doc. 80-24419 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-EA-50]

Proposed Alteration of Transition Area, Quarryville, Pa.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to designate a Quarryville, Pa., Transition Area over Tanglewood Airport, Quarryville, Pa. This designation will provide protection to aircraft executing a new VOR-DME-B instrument approach which has been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

DATES: Comments must be received on or before September 29, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430. The docket may be examined at the following location: FAA, Office of Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT: Douglas Ambrose, Airspace & Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

Comments invited

Interested parties may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430. All communications received on or before September 29, 1980, will be considered before action is taken on the proposed amendment. 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.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430, or by calling (212) 995-3391.

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

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate a Quarryville, Pa., Transition Area. The airport will be overlaid by a 700-foot area 6.5 miles in radius around the airport and with an extension of approximately 4.5 miles wide and 11 miles in length extending from the radius to the north of the airport.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by designating a Quarryville, Pennsylvania, 700-foot floor transition area as follows:

Quarryville, Pa.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the center (39°51'00"N/76°12'55"W) of Tanglewood Airport, Quarryville, Pennsylvania, and within 4.5 miles each side of the Lancaster, Pennsylvania, VORTAC 168° radial extending from the 6.5-mile radius area to the VORTAC.

(Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The Federal Aviation Administration has determined that this document involves a proposed 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). 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 operation, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Jamaica, New York on July 17, 1980.

Lonnie D. Parrish,

Acting Director, Eastern Region.

[FR Doc. 80-24418 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-EA-42]

Proposed Alteration of Transition Area; Sidney, N.Y.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Sidney, N.Y., Transition Area over Sidney Municipal Airport, Sidney, N.Y. This alteration will provide protection to aircraft executing a new VOR Runway 25 instrument approach which has been developed for the airport. An instrument approach procedure requires the designation of controlled airspace to protect instrument aircraft utilizing the instrument approach.

DATES: Comments must be received on or before September 29, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace and Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430. The docket may be examined at the following location: FAA, Office of Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, New York 11430.

FOR FURTHER INFORMATION CONTACT: Douglas Ambrose, Airspace & Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430, Telephone (212) 995-3391.

Comments Invited

Interested parties may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, New York 11430. All communications received on or before September 29, 1980, will be considered before action is taken on the proposed amendment. 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.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, New York 11430, or by calling (212) 995-3391.

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

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 Sidney, N.Y., Transition Area. The Airport is at present overlaid by a 700-foot area which will be extended to the northeast by approximately 10 miles in length and 12 miles in width. A major portion of the extension, however, is composed of the Oneonta and Norwich, N.Y., Transition Areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to amend the description of the Sidney, NY 700-foot floor transition area as follows:

Sidney, N.Y.

In the text delete, "from a 080° bearing to a 215° bearing from the airport", and substitute therefor, "from a 080° bearing to a 215° bearing from the airport and within 9.5 miles northwest and 4.5 miles southeast of the Rockdale VORTAC 218°/038° radials extending from 8.5 miles southwest to 11 miles northeast of the Rockdale VORTAC."

(Sec. 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—The Federal Aviation Administration has determined that this document involves a proposed 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). 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 operation, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Jamaica, New York, on July 17, 1980.

Lonnie D. Parrish,

Acting Director, Eastern Region.

[FR Doc. 80-24417 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 80-AWE-11]

Designation and Alteration of VOR Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate new VOR Federal Airways V-22 and V-317 in the vicinity of San Diego, Calif., and alter V-460 by extending the airway from Julian, Calif., to new VORTAC at Poggi, Calif. These changes would better define en route traffic flows and terminal operations in the San Diego area. Consequently, this action would simplify and increase flight safety.

DATE: Comments must be received on or before September 15, 1980.

ADDRESSES: Send comments on the proposal in triplicate to:

Director, FAA Western Region, Attention: Chief, Air Traffic Division, Docket No. 80-AWE-11, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009.

The Official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-204), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All communications received on or before September 15, 1980 will be considered before action is taken on the proposed amendment. 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 Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) that would designate new VOR Federal Airways V-22 from Oceanside, Calif., to Poggi, Calif., and V-317 from Mission Bay, Calif., via Poggi, to Imperial, Calif. Also, V-460 would be extended from Julian, Calif., to Poggi. The new Poggi VORTAC, identification PGY, will be located at Lat. 32°36'37" N., Long. 116°50'42" W. This action would improve en route traffic flow and terminal operations in the San Diego, Calif., Area, thereby, increasing flight safety. Subpart C of Part 71 was republished in the **Federal Register** on January 2, 1980 (45 FR 307).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (45 FR 307) as follows:

Under V-460—"From Julian, Calif.," is deleted and "From Poggi, Calif., via Julian, Calif.;" is substituted therefor.

"V-317—From Mission Bay, Calif., via Poggi, Calif., to Imperial, Calif." is added.

"V-22—From Oceanside, Calif., via INT Oceanside 143°T(129°M) and Poggi, Calif., 350°T(336°M) radials; to Poggi." is added.

(Secs. 307(a) and 313(a), Federal Aviation act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—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 Washington, D.C. on August 6, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air, Traffic Rules Division.

[FR Doc. 80-24433 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 75

[Airspace Docket No. 80-ASW-30]

Alteration of Jet Route and Establishment of Jet Route

Corrections

In FR Doc. 80-23637 appearing at page 52396 in the issue of Thursday, August 7, 1980, make the following changes:

(1) On page 52396, third column, bottom line, the zip code should read "76101".

(2) On page 52397, first column, second line under "FOR FURTHER INFORMATION * * *", "(ATT-230)" should read "(AAT-230)"; second column, fourth line of the first full paragraph "§ 74.100" should read "§ 75.100".

BILLING CODE 1505-01-M

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14 CFR Part 75

[Airspace Docket No. 80-AWE-10]

Alteration of Jet Routes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter several jet routes in the vicinity of Los Angeles, Calif. These changes would improve traffic flow between Los Angeles and San Francisco, Calif. In addition, these alterations would permit greater flexibility for maneuvering traffic in terminal areas, thereby reducing congestion and delays.

DATE: Comments must be received on or before September 15, 1980.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Western Region, Attention: Chief, Air Traffic Division, Docket No. 80-AWE-10, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-204), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591. An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis Still, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8525.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All communications received on or before September 15, 1980 will be considered before action is taken on the proposed amendment. 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 Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart B of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) that would realign Jet Route 5, 6, 126, and 501 in the vicinity of Los Angeles, Calif. These alterations would improve traffic flow in the San Francisco, Calif/Los Angeles corridor. Also, traffic congestion and delays at jet route merge points would be eliminated. Controller workload would be reduced by aligning jet routes in areas where aircraft are normally vectored. Section 75.100 of Part 75 was republished in the **Federal Register** on January 2, 1980 (45 FR 732).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as republished (45 FR 732) as follows:

Under Jet Route 5 "From Los Angeles, Calif., via the INT of the Palmdale, Calif., 291° and the Bakersfield, Calif., 149° radials; Bakersfield; Reno, Nev.;" is deleted and "From Seal Beach, Calif., via Porterville, Calif.; Reno, Nev.;" is substituted therefor.

Under Jet Route 6 "From the INT of the Salinas, Calif., 145° and the Palmdale, Calif., 291° radials via Palmdale; Hector, Calif.;" is deleted and "From Big Sur, Calif., via INT Big Sur 137°T(121°M) and Palmdale, Calif., 291°T(276°M) radials; Palmdale; hector, Calif.;" is substituted therefor.

Under Jet Route 126 "From Los Angeles, Calif., via the INT of the Los Angeles 319° and the Avenal, Calif., 145° radials; Avenal; Stockton, Calif.; Sacramento, Calif.;" is deleted and "From Los Angeles, Calif., via Santa Barbara, Calif.; Salinas, Calif.; Sacramento, Calif.;" is substituted therefor.

Under Jet Route 501 "From Point Reyes, Calif.," is deleted and "From Santa Barbara, Calif., via Big Sur, Calif.; Point Reyes, Calif.;" is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

Note.—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 Washington, D.C., on August 8, 1980.

B. Keith Potts,

Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc. 80-24583 Filed 8-13-80; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 260

[Docket No. RM80-69]

Proposed Revision To Annual Report of Gas Supply for Certain Natural Gas Pipelines: Form No. 15

Issued: August 7, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: By this Notice, the Federal Energy Regulatory Commission proposes to amend Form No. 15 (Interstate Pipelines' Annual Report of Gas Supply). The proposed amendments include changing the number of schedules contained in the form, the format of those schedules and statements in the form, and the instructions for completion of the form. As a result, the reporting burdens will be reduced by approximately one third. The proposed changes are a product of the Commission's ongoing effort to eliminate unnecessary reporting burdens and to update its forms.

DATE: Comments are due September 26, 1980.

ADDRESS: Comments to this Notice should be addressed to the Office of Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, and should reference Docket No. RM80-69.

FOR FURTHER INFORMATION CONTACT: Wayne Thompson, Chief, Gas Supply Branch, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Room 4402-B, Washington, D.C. 20426 (202) 357-9077.

SUPPLEMENTARY INFORMATION:

The Federal Energy Regulatory Commission (Commission) is engaged in an ongoing effort to eliminate unnecessary reporting burdens. This rulemaking to amend Form No. 15, Annual Report of Gas Supply for Certain Natural Gas Pipelines, is part of that effort and reflects an evaluation of data needed by the Commission to carry out its regulatory functions. The proposed amendments to the content, format, and instructions of Form No. 15 should result in a significant reduction in respondent burden and improve the quality of the responses filed under Form No. 15.*

A. Background

Form No. 15 was instituted to obtain an annual report of the total gas supply of each pipeline company under the jurisdiction of the Commission.[1] This gas supply consists of the pipeline company's owned reserves, producer contracts for which the producer has received a certificate to sell the gas to the pipeline,[2] gas purchase contracts with other jurisdictional pipelines,[3] purchases of gas from foreign suppliers, purchases of Liquefied Natural Gas

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* FERC Form No. 15 (Attachment A) is not being printed by the **Federal Register**. Copies are available in the Office of Public Information.

[1] Form No. 15 was initially promulgated in 1964: Order No. 279, Docket No. R-239, 29 FR 4874 (April 7, 1964). It has undergone four revisions since that date: Order No. 337, Docket No R-308, 32 FR 3292 (February 25, 1967), revised the form to allow companies with comparatively small volumes of reserves to file an abbreviated report, and made certain conforming amendments; Order 399, Docket No. R-308, 35 FR 6962 (May 1, 1970), amended the form to require respondents to submit estimates of productive capacity Mcf/d, maximum daily quantity Mcf/d for each source of gas supply, and gas reserves by independent producer rate schedules, and made other minor changes; Order No. 476, Docket No R-308, 38 FR 6810 (March 13, 1973), amended the form with reference to the reserves report; and Order No. 546, Docket No. R-308, 41 FR 9868 (March 8, 1976), revised the form to require that respondents disclose gas reserves filings with other Federal agencies.

[2] Pursuant to the Natural Gas Policy Act (NGPA), producers are no longer required to obtain certificates in certain instances. (*See* sections 302, 312 and 601, NGPA.)

[3] Pursuant to the NGPA, pipelines are permitted to purchase gas from nonjurisdictional companies. (*See* sections 302, 303 and 311, NGPA.)

(LNG), Synthetic Natural Gas (SNG),[4] and short-term or other purchases over which the Commission has regulatory authority.

Form No. 15 provides the Commission with information needed to address gas supply issues in certificate applications, to perform depreciation analyses in rate cases and to make determinations concerning new or increased sales, the extension of facilities, or the abandonment of services.

There are at least four problems which have become evident in the use of the current Form No. 15: (1) excessive detail is prescribed for individual reservoirs; (2) definitions and data requests in the form do not conform to changes resulting from passage of the Natural Gas Policy Act (NGPA); (3) definitions are not adequately standardized to permit cross checks with other data; and (4) the format of the computer printout ("hard copy") is designed for computer use, rather than human use.

By this rulemaking, the Commission is proposing certain changes in the form which will address these problems. In addition, the Commission's review of regulatory burdens indicates that the proposed revisions to Form No. 15 will make the form more concise, will better facilitate its use and will reduce respondent burdens.

B. Current Format

Form No. 15 is currently composed of: (1) forty-five pages of filing instructions (pp. 0001–0045); (2) three unnumbered statements—"Disclosure of Other Gas Supply Filings With Federal Agencies" (p. 0046), "Synopsis of Pipeline Company Gas Supply" (p. 0047), and "Gas Procurement Activity Statement" (p. 0048); (3) four schedules designed more for computer use rather than for completion by hand—"Schedule No. I—System Deliverability Summary," "Schedule No. II—Reservoir Data and Dedicated Remaining Recoverable Salable Reserves," "Schedule No. III—Deliverability Estimate for Each Supply Source," and "Schedule No. IV—Committed Reserves and Deliverability Estimates for Other Supply Sources;" and (4) a "Footnote Data" page.

C. Summary of Proposed Changes

1. General

The Commission proposes to revise and clarify Form No. 15 and its instructions, including consolidating and renumbering its schedules and reporting statements. The schedules would also be redesigned to better facilitate completion by hand. As a result of these revisions, the reporting requirement of the respondent pipelines should be reduced by approximately one third.

An "Identification Schedule" (page 1) which includes a certification section would be added to the form, on which the reporting pipeline company would identify itself, state the number of pages submitted for each statement and schedule, and attest to the accuracy of the reported information. "Synopsis of Pipeline Company Gas Supply" (page 0047) would be shortened to "Synopsis of Gas Supply" and renumbered as page 2; "Disclosure of Other Gas Supply Filings With Federal Agencies" (page 0046) would be redesignated as page 3; and the "Gas Procurement Activity Statement" (page 0048) would be identified as page 4. The current "Schedule I—System Deliverability Summary," would remain Schedule I (page 5); the present "Schedule II—Reservoir Data and Dedicated Remaining Recoverable Salable Reserves" and "Schedule III—Deliverability Estimate for Each Supply Source" would be combined into "Schedule II—Reservoir Data, Field Data, Salable Reserve Data and Deliverability Estimate" (page 6); and the current "Schedule IV—Committed Reserves and Deliverability Estimates for Other Supply Sources" would be renumbered as the new Schedule III (page 7). The "Footnote Data" page (page 8) would be revised to include certain classification and footnote codes for reporting the required data.

A requirement to report a "Class Code" on each statement and schedule would be deleted. A space would be provided on each statement and schedule for designating the report as "an original" or "a resubmission." A resubmission would be filed when reportable data have changed from the originally filed form. Only such altered data and data of resubmission would have to be reported. Finally, a separate instruction is included for the attachment of pipeline system maps.[5]

2. Statements

The first substantive statement, "Synopsis of Gas Supply" (new page 2) would be changed as follows: Items 4 through 10 of the old form which pertain to information from the last certificate application would be deleted. For purposes of clarification with reference to gas reserves, two lines are proposed to be added to the statement entitled, "Company Owned Recoverable Gas in Underground Storage," and "Gas Balance Due From Exchange Agreements (Positive or Negative)."

The second statement, "Disclosure of Other Gas Supply Filings With Federal Agencies" (new page 3) would remain essentially the same. The definition of the term "affiliates" would be included for purposes of clarification.

The third statement, "Gas Procurement Activity Statement" (page 4) would be essentially unchanged.

3. Schedules

The following items would be deleted from "Schedule I—System Deliverability Summary" (page 5): "Annual Requirements"[6] (for all years except the current year), "Gas Curtailments" (Line Nos. 03–22); "Firm Gas Sales," "Interruptible Gas Sales," "Other Use Gas," "Reserve Life Index," and "Short Term Contract Volume" (Line No. 25). The item labeled, "Contracted" which is presently reported under "Current Gas Supply" would be retitled "Producer Dedicated" for purposes of clarification.

The new "Schedule II—Reservoir Data, Field Data, Salable Reserve Data, and Deliverability Estimate" (page 6) would be the product of extensive revisions and deletions as a result of the merger of the current Schedules II and III. The schedule would be used only for reservoir and field data—all "Group" data would be required to be reported on the new Schedule III. Elements eliminated from each form would be as follows:

Current Schedule II

Group Code
Line No. 1—FPC Natural Gas Area
Line No. 2—Type calculation
Total Producing Completions
Total Net Completions
Dedicated Percentage of Sellers Reserves
Decline Factor MMCF Per PSI
Cumulative Wet Gas Production at Current Pressure
Current Z Value
Terminal Z Value
Depth Classification
Basic Lithology
Line No. 4—Recovery Factor
Productive Area—Acres
Average Net Thickness—Feet
Reservoir Volume—Acre/Feet
Porosity
Porosity By (How porosity is determined)
Connate Water
Connate Water By (How connate water is determined)
Initial Z Value
Yield Barrels Per MMCf
FVF (Initial Formation Volume Factor)
Mole Percent H_2S
Mole Percent N_2
Mole Percent CO_2

[4] Also known as "Substitute" Natural Gas.

[5] Elimination of the requirement to file individual reservoir area outline maps reduces the respondents' map filing burden by over 50 percent.

[6] Estimated total pipeline system annual gas requirements.

Current Schedule III

Line No. 1—all data elements
Line No. 2—all data elements
Line No. 3—Pc (Shut-in pressure)
Pt (Flowing pressure)
Pf (Formation pressure)
PS (Sandface pressure)
C (Coefficient C in back pressure equation)
n (value of slope n)
Q (rate of flow)
Duration Flow
Wellhead Open Flow
Absolute Open Flow
Daily Productive Capacity—Non-Associated Gas
Daily Productive Capacity—Associated and Solution Gas

Three data elements would be added to the new Schedule II for clarification purposes: "New Reservoirs," "Extensions", and "Revisions (Plus or Minus)."

The new "Schedule III—Committed Reserves and Deliverability Estimates for Other Supply Sources" (page 7) would require the filing of field data by those companies which are not required to file Schedule II,[7] or when there is insufficient data to file Schedule II. In these instances, the field name and code would be substituted for group name and code. The following items would be deleted from Schedule III: "FPC Natural Gas Area" (Line No. 1); "Daily Productive Capacity for Undesignated Gas," "Daily Productive Capacity for Non-Associated Gas," and "Daily Productive Capacity for Associated and Solution Gas" (Line No. 2); and "Gas Volume Not Scheduled" (Line No. 3). A requirement for filing "Type of Gas" is added for clarification. The Commission also proposes an additional line item entitled, "Intrastate or Interstate"[8] in order to identify the type of gas sale. Finally, certain changes are proposed for the current "Committed Reserves" portion of the form in order to better distinguish company owned production and reserves from contracted purchases and reserves. Thus, "Company Owned" is replaced by "Company Owned Remaining Dry Gas;" "Owned and Contracted" is now "Remaining Contracted Gas;" "Gas Purchased and/or Produced" is replaced by "Contracted Gas Purchased" and a new item, "Company Owned Dry Gas Produced" is added.

[7] Companies with gas reserves which are owned and controlled by producers and which amount to less than 50 billion cubic feet of natural gas at the end of any reporting year; or companies which purchase their entire supply of natural gas from other companies subject to Form No. 15 requirements, and/or from foreign suppliers.

[8] *See also* section 311, NGPA.

3. Instructions

The reporting instructions and definitions are proposed to be changed to reflect revisions in and to clarify reporting requirements of Form No. 15. While the schedules will be revised to better facilitate completion by hand, the Commission will retain its preference that respondents file a magnetic tape (computer copy) of the form.[9] In order to ease the data processing burdens for respondent companies, the Commission has requested the Energy Information Administration (EIA) to develop a computer program which would translate the current requirements into the proposed format. As a result, respondents could continue to file magnetic tape copies under the current format without reprogramming their computers.[10] The "hard copy" (computer printout) would, however, still have to be filed in the proposed format. The Commission specifically seeks views on this proposal from the affected respondents.

The Commission would also revise certain of the form's definitions to reflect other changes and to correspond to provisions in currently applicable statutes.

The proposed changes should provide the Commission with more meaningful data in a more usable form and should ease respondent burdens substantially. Because of these advantages, it is proposed that the changes described in this Notice should be implemented in time for the report due on or before April 1, 1981.

In addition to the above-described changes to Form No. 15, the Commission proposes to amend those regulations which reference Form No. 15. Section 260.7 would be changed to designate the form as "FERC" Form No. 15. In the prescription, the term "interstate pipeline companies, as defined by the Natural Gas Policy Act," would replace "natural gas company, as defined by the Natural Gas Act." Section 260.7a would be amended to provide for the filing of a statement of gas transported by pipelines for other companies. Other revisions would be made to reflect changes in the effective date and in schedule and statement designations, and to clarify the prescription of the form.

D. Written Comment Procedures

The Commission invites interested persons to submit written data, views and other information concerning the matters set out in this Notice. An original and 14 copies of such comments should be filed with the Commission by September 26, 1980. Comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 and should reference Docket No. RM80-69.

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, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426 during regular business hours.

(Department of Energy Organization Act, 42 U.S.C. 7101-7352; E.O. 12009, 42 FR 46267; Natural Gas Act, 42 U.S.C. 3301-3432)

In consideration of the foregoing, the Commission proposes to amend Form No. 15 as set forth in Attachment A, and Part 260, Chapter I, Title 18 of the Code of Federal Regulations as set forth below.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

1. Part 260—Statements and Reports (Schedules) is amended in the Table of Contents and in the text by revising §§ 260.7 and 260.7a to read as follows:

PART 260—STATEMENTS AND REPORTS (SCHEDULES)

* * * * *

Sec.
260.7 FERC Form No. 15, Interstate pipelines' annual report of gas supply.
260.7a Annual statement of gas transported by interstate natural gas pipelines for other interstate natural gas pipelines.

* * * * *

§ 260.7 FERC Form No. 15, Interstate pipelines' annual report of gas supply.

(a) *Prescription.* The form of Interstate Pipelines' Annual Report of Gas Supply, designated herein as FERC Form No. 15, is prescribed for the year 1980 and thereafter.

(b) *Filing requirements.* (1) *Who must file.* (i) *Generally.* All interstate pipeline companies, as defined by the Natural Gas Policy Act, section 2(15), shall prepare and file with the Energy Information Administration (EIA) an original and four copies of FERC Form No. 15.

(ii) *Exceptions.* The following interstate pipelines shall prepare and file with EIA an original and four copies of only the Identification Schedule (with Certification) (page 1), the "Synopsis of Gas Supply" (page 2) and Schedule III of FERC Form No. 15: (A) each interstate pipeline with gas reserves that are

[9] *See* Attachment A for the revised instructions for magnetic tape filings.

[10] In order for the translation program to be successful, EIA could make no exceptions for magnetic tape filings.

owned and controlled by producers and that amount to less than 50 billion cubic feet of natural gas at the end of any reporting year; or (B) each interstate pipeline that purchases its entire supply of natural gas from other interstate pipelines subject to the provisions of this section, and/or from foreign suppliers.

(2) *When to file.* Such reports shall be filed on or before April 1 for each calendar year ending December 31 of the previous year.

§ 260.7a Annual statement of gas transported by interstate pipelines for other interstate pipelines.

Each interstate pipeline, as defined by the Natural Gas Policy Act, section 2(15), which only transports natural gas for another interstate pipeline shall prepare and file with the Energy Information Administration an original and four copies of a statement which contains the name and address of each interstate pipeline for which it transports the gas. Such statement shall be filed on or before April 1 for each calendar year ending December 31 of the previous year.

[FR Doc. 80-24599 Filed 8-13-80; 8:45 am]

BILLING CODE 6450-85-M

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18 CFR Parts 271, 273 and 274

[Docket No. RM80-38]

High-Cost Natural Gas Produced From Wells Drilled in Deep Water; Extension of Time for Comment

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Extension of Time for Comment.

SUMMARY: On July 11, 1980, the Federal Energy Regulatory Commission issued a Notice of Proposed Rulemaking. (High-Cost Natural Gas Produced From Wells Drilled in Deep Waters, 45 FR 47863, July 17, 1980.) The notice prescribed a comment period ending August 11, 1980. The comment period on this rulemaking is hereby extended to September 10, 1980.

FOR FURTHER INFORMATION CONTACT: Kenneth F. Plumb, Secretary, Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357-8400.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-24601 8-13-80; 8:45 am]

BILLING CODE 6450-85-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 177

[521743]

Garments With Traditional, but Primarily Decorative Features: Garments With Simulated Features: Ornamented Wearing Apparel; Change of Practice Considered

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed change of practice.

SUMMARY: This document gives notice that the Customs Service is reviewing the current uniform and established practice of classifying certain garments with traditional, but primarily decorative, features as nonornamented wearing apparel. The practice of classifying certain garments with simulated features as nonornamented is also under review. The Customs Service is considering whether it must classify garments with traditional, but primarily decorative features, and garments with simulated features, as ornamented wearing apparel. The Customs Service is seeking public comment as to whether a recent decision of the Customs Court requires these changes.

DATE: Comments (preferably in triplicate) must be received on or before: September 15, 1980.

ADDRESS: Comments should be addressed to the Commissioner of Customs, Attention: Regulations and Research Division, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Philip Robins, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202) 566-8181.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to uniform and established practices, the Customs Service has classified various types of garments with traditional features which are also decorative as nonornamented wearing apparel. These features have included epaulets on raincoats, bush-safari jackets, and military-style garments, D-rings on the belts of trenchcoats, and overlaid yokes on Western-style shirts. It has also been the practice to classify garments with simulated features as nonornamented wearing apparel on the ground that the simulation is of a feature otherwise functional. These features have included simulated buttonholes, pockets, pocket flaps, belts and belt segments, or front openings (plackets).

Recently, in *The Ferriswheel* v. *United States*, C.D. 4844 (February 21, 1980), the United States Customs Court held Scottish Highland jackets, having traditional (but primarily decorative) epaulets, and braid which simulates buttonholes, to be thereby ornamented. In holding the merchandise to be classifiable as ornamented wearing apparel, the court found the jacket epaulets and braid to be primarily ornamental or decorative, i.e., intended primarily to enhance the beauty and appearance of the garments by adornment or embellishment. *Blaimoor Knitwear Corp.* v. *United States*, 60 Cust. Ct. 388, C.D. 3396, 284 F. Supp. 315 (1968). That the ornamental braid and epaulets are traditional in Highland dress, the court held, did not preclude classification as ornamented wearing apparel. While *Ferriswheel upheld* the Customs classification in that case, this opinion may be contrary to Customs' uniform and established practice of classifying other types of garments with traditional, but primarily decorative features, as nonornamented wearing apparel.

Proposed Change of Practice

The Customs Service is considering whether the opinion in the *Ferriswheel* case requires it to classify all garments having traditional, but primarily decorative, features as ornamented wearing apparel. Such a change of practice might affect raincoats, bush-safari jackets, and military-style garments, all having epaulets, trenchcoats with D-rings, and Western-style shirts with overlaid yokes, as well as all other garments with traditional features which might be considered to be primarily decorative.

The Customs Service is also considering whether the opinion in this case also requires it to classify garments with simulated features as ornamented wearing apparel. Subject to this change of practice would be garments with simulated buttonholes, pockets, pocket flaps, belts and belt segments, or front openings (plackets), as well as garments with any other simulated feature, notwithstanding that such simulation is of a feature otherwise functional.

The Customs Service seeks public comment as to the applicability of this opinion and as to whether these traditional and simulated features are primarily decorative or primarily functional.

Authority

Inasmuch as the proposed change of practice will affect the assessed duties

on garments subject to such change, the Customs Service is giving this notice and opportunity for comment in accordance with section 315(d) of the Tariff Act of 1930, as amended (19 U.S.C. 1315(d)), and section 177.10(c)(1) of the Customs Regulations (19 CFR 177.10(c)(1)).

Consideration will be given to any written comments submitted in writing to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with section 103.8(b), Customs Regulations (19 CFR 103.8(b)), during regular business hours at the Regulations and Research Division, Headquarters, Room 2426, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Drafting Information

The principal author of this notice was Harold I. Loring, Regulations and Research Division, U.S. Customs Service. However, personnel from other offices of the U.S. Customs Service participated in developing this notice, both on matters of style and substance.

R. E. Chasen,

Commissioner of Customs.

Approved: August 5, 1980.

Richard J. Davis,

Assistant Secretary of the Treasury.

[FR Doc. 80-24644 Filed 8-13-80; 8:45 am]

BILLING CODE 4810-22-M

INTERNATIONAL TRADE COMMISSION

19 CFR Part 207

Investigations To Review Outstanding Antidumping and Countervailing Duty Determinations and Outstanding Suspension Agreements

AGENCY: United States International Trade Commission.

ACTION: Proposed rule.

SUMMARY: The proposed amendment sets forth procedures for the conduct of Commission investigations to review suspension agreements under sections 704 and 734 of the Tariff Act of 1930 and determinations under sections 704(h)(2), 705(b), 734(h)(2), and 735(b) of the Tariff Act and determinations under the Antidumping Act, 1921, and the duty-free merchandise provisions of section 303(b) of the Tariff Act.

DATE: Comments on the proposed rule should be submitted on or before September 15, 1980.

ADDRESS: Comments on the proposed rule should be submitted to the Secretary, U.S. International Trade Commission, 701 E Street, NW, Washington, D.C. 20436.

FOR FURTHER INFORMATION CONTACT: Edward Easton, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street, NW, Washington, D.C., telephone (202) 523-0379.

SUPPLEMENTARY INFORMATION: Section 207.45 of the Commission's Rules of Practice and Procedure implements section 751 of the Tariff Act. The proposed amendments to the rule set forth a new procedure for the Commission decision whether to review an outstanding antidumping or countervailing duty determination upon receipt of a request for such a determination. The proposed amendment also changes the determination of the Commission in these investigations and investigations to review a suspension agreement accepted under section 704 or 734 of the Tariff Act to conform to the provisions of section 751 of the Tariff Act.

Section 207.45(a)(1) makes reference to "alleged" changed circumstances in describing the Commission's determination in investigations to review a suspension agreement accepted under section 704 or 734 of the Tariff Act. The proposed amendments would require the Commission to determine whether a request for a review of a suspension agreement "shows changed circumstances sufficient to warrant the review" prior to the institution of an investigation to determine "whether, in light of the changed circumstances, the agreement continues to eliminate completely the injurious effect of imports of the merchandise." This sequence and the standard for the determination are provided for in section 751 of the Tariff Act. Accordingly, the Commission proposes to remove the word "alleged" from § 207.45(a)(1).

Section 207.45(a)(2) provides the standard for a Commission determination in investigations to review outstanding antidumping and countervailing duty determinations. The subsection makes reference to "changed circumstances . . . which indicate" that an industry in the United States would not be threatened or the establishment of such an industry would not be materially retarded, if the countervailing duty order or antidumping order were modified or revoked. The linkage of changed circumstances with the threat of material injury or the possibility of material retardation is not provided for in section 751 of the Tariff Act and could possibly have a more restrictive effect than a standard relying only on the concepts of threat of material injury and the possibility of material retardation. Accordingly, the Commission proposes to delete the reference to changed circumstances in § 207.45(a)(2).

The Commission also proposes to change the formulation of the material injury determination in § 207.45(a) from the threat of material injury or material retardation to the standard found for countervailing duty investigations under section 104(b) of the Trade Agreements Act of 1979 (19 U.S.C. 1671 note); i.e., whether an industry in the United States would be materially injured, or would be threatened with material injury, or the establishment of an industry in the United States would be materially retarded, by reason of imports of the merchandise covered by the countervailing duty order or the antidumping order if the order were to be revoked.

Section 207.45(b) provides for the procedures to be followed in review investigations authoized by section 751 of the Tariff Act. At present § 207.45(b) provides that the procedures set forth in subpart C of Part 207, Title 19, shall be applicable to investigations conducted under section 207.45. This section also provides that investigations conducted under section 207.45 shall be completed within 120 days. Inquiries have been made concerning the starting date for the calculation of the 120 day period. The proposed amendment of this subsection would have the 120 days period run from the date of the insitution of an investigation.

Section 207.45(b) as it is now written does not provide the bifurcated procedure suggested in section 751 of the Tariff Act. Section 751 provides that the requests for the review of suspension agreements or countervailing duty or antidumping determinations must show changed circumstances sufficient to warrant a review. Only after the Commission is satisfied that the showing required is sufficient is the institution of a review investigation called for. Section 207.45(b) has been redrafted to provide for this sequential, bifurcated procedure. In the event that the Commission finds that a request does not show changed circumstances sufficient to warrant a review, the Commission shall publish a notice to this effect in the **Federal Register**. This publication is provided for in subsection 516A(a)(1)(C) of the Tariff Act.

The proposed rule reads as follows:

§ 207.45 Investigation to review outstanding determination.

(a) *Purpose.* Upon the receipt of information concerning, or upon a

request for a review of, a determination concerning a suspension agreement accepted under section 704 or 734 of the Act or an affirmative determination made under section 704(h)(2), 705(b), 734(h)(2), or 735(b) of the Act, or under the Antidumping Act or section 303(b) of the Act, which shows changed circumstances sufficient to warrant a review of such determination, the Commission shall institute an investigation to determine, as the case may be, (1) whether, in light of the changed circumstances, the agreement continues to eliminate completely the injurious effect of imports of the merchandise; or (2) whether an industry in the United States would be materially injured, or would be threatened with material injury, or the establishment of an industry in the United States would be materially retarded, by reason of imports of the merchandise covered by the countervailing duty order or the antidumping order if the order were to be revoked. In the absence of good cause shown, no investigation under this section 207.45 shall be instituted within 24 months of the date of publication of the notice of the suspension or determination.

(b) *Procedures.* (1) *Commencement of Proceedings.*

(i) *Upon receipt of a request.* A proceeding is commenced by filing with the Commission the original and nineteen (19) true copies of a request. Requests for a review investigation may be filed by any person. All requests shall set forth a description of changed circumstances sufficient to warrant the institution of a review investigation by the Commission under this section.

(ii) *Upon the initiative of the Commission.* Upon receipt of information concerning a suspension agreement accepted under section 704 or 734 of the act or an affirmative determination made under 704(h)(2), 705(b), 734(h)(2), or 735(b) of the Act, which shows changed circumstances sufficient to warrant a review of such determination, the Commission shall initiate an investigation to review such determination.

(2) *Institution of an investigation.* Within thirty (30) days after receipt of a request or, in exceptional circumstances, as soon after receipt of a request as possible, the Commission shall determine whether the request shows changed circumstances sufficient to warrant a review and, if so, shall institute an investigation. The investigation shall be instituted by notice published in the **Federal Register** and shall be completed within 120 days of the date of institution. If the Commission determines that a request does not show changed circumstances sufficient to warrant a review, the request will be dismissed and a notice of the dismissal shall be published in the **Federal Register** stating the reasons therefor.

(3) *Procedures set forth in Subpart C of Part 207.* The procedures set forth in §§ 207.21 through 207.24 and § 207.28 of this part shall apply to all investigations instituted under this § 207.45.

(Sec. 751, June 17, 1930, as amended, July 26, 1979, Pub. L. 96-39, 93 Stat. 175 (19 U.S.C. 1675))

By order of the Commission.

Kenneth R. Mason,

Secretary.

August 7, 1980.

[FR Doc. 80-24502 Filed 8-13-80; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Parts 804, 805, 841

[Docket No. R-80-856]

Maximum Limit on Total Development Cost; Transmittal of Proposed Rule to Congress

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of transmittal of proposed rule to Congress under Section 7(0) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the **Federal Register.** This notice lists and summarizes for public information a proposed rule which the Secretary is submitting to Congress for such review. This rule would establish a maximum limit on the total development cost of low-income public housing and Indian housing projects developed under the United States Housing Act of 1937.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations; Office of General Counsel, 451 7th Street SW., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing, and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document.

24 CFR Parts 804, 805 and 841—Maximum Limit on Total Development Cost

(Sec. 7(0) of the Department of HUD Act, (42 U.S.C. 3535(0)), sec. 324 of the Housing and Community Development Amendments of 1978)

Issued at Washington, D.C. August 8, 1980.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 80-24538 Filed 8-13-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 5, 13, 19, 170, 173, 186, 194, 195, 196, 197, 200, 201, 211, 212, 213, 231, 240, 250, 251 and 252

[Notice No. 347; Ref: Notice No. 329, TD-ATF-62]

Implementing the Distilled Spirits Tax Revision Act of 1979 (Pub. L. 96-39)

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.

ACTION: Extension of comment period.

SUMMARY: This notice extends the comment period for Notice No. 329, Implementing the Distilled Spirits Tax Revision Act of 1979 (Pub. L. 96-39), until October 15, 1980. Notice No. 329 was published in the **Federal Register** on December 11, 1979 (44 FR 71612).

DATE: The comment period for Notice No. 329 is extended until October 15, 1980.

ADDRESS: Comments should be submitted to the Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044 (Notice No. 329).

FOR FURTHER INFORMATION CONTACT: Edward J. Sheehan or E. J. Ference, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, Telephone: 202-566-7626.

SUPPLEMENTARY INFORMATION:

Background

On December 11, 1979, the Bureau of Alcohol, Tobacco and Firearms (ATF) published a notice of proposed rulemaking cross-reference to temporary regulations (Notice No. 329) to obtain comments on the temporary regulations for implementation of the Distilled

Spirits Tax Revision Act of 1979, Subtitle A of Title VIII of the Trade Agreements Act of 1979 (Pub. L. 96–39). The temporary regulations were published as Treasury Decision TD–ATF–62 in the **Federal Register** of December 11, 1979 (FR 44 71613). Those temporary regulations will remain in effect until superceded by final regulations. In the development of the final rule, ATF intends to—

(1) Eliminate unnecessary regulatory sections;

(2) Incorporate ATF rulings and industry circulars into the final regulations; and

(3) Rewrite the regulations into language that is more understandable.

Further comment from consumers and industry members will aid ATF in attaining these goals. For that reason, and due to comments received from an industry group, ATF is changing the comment period closing date for the notice and temporary regulations from September 11, 1980, to October 15, 1980.

Disclosure of Comments

Copies of written comments or data are available for public inspection in the ATF Reading Room, Room 4407, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, DC, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday.

ATF will not recognize any material in comments designated as confidential or as not to be disclosed; and any material that the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comments. The name of any person submitting comments is not exempt from disclosure.

Drafting Information

The principal author of this document is E. J. Ference of the Bureau of Alcohol, Tobacco and Firearms. However, other personnel of the Bureau and of the Treasury Department have participated in the preparation of this document, both in matters of substance and style.

Authority

This notice is issued under the authority contained in 26 U.S.C. 7805 (68a Stat. 917).

Signed: August 8, 1980.

G. R. Dickerson,

Director.

[FR Doc. 80-24708 Filed 8-13-80; 8:45 am]

BILLING CODE 4810-31-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1570-2]

State of West Virginia—Proposed Deadlines for Correcting Deficiencies in West Virginia's SIP Revision for Nonattainment Areas

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: Elsewhere in today's **Federal Register**, EPA is conditionally approving the West Virginia State Implementation Plan (SIP) in instances where the plan is deficient and the State has assured EPA that it will submit corrections. Conditional approvals mean that restrictions under Sections 110, 176, and 316 of the Clean Air Act will not apply unless West Virginia fails to submit the necessary corrections or EPA fails to approve them. This notice solicits comments on the adequacy of the deadlines established for conditionally approved items.

DATE: Comments must be submitted on or before September 15, 1980.

ADDRESS: Copies of the materials submitted by the State of West Virginia are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Curtis Building, Tenth Floor, Sixth and Walnut Streets, Philadelphia, PA 19106, ATTN: Raymond D. Chalmers

Public Information Reference Unit, EPA Library, Room 2922, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460

All comments on the proposed revision submitted within 30 days of publication of this notice will be considered and should be addressed to:

Howard Heim, Chief (3AH10), Air Programs Branch, U.S. Environmental Protection Agency, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, PA 19106, ATTN: AH300aWVA

FOR FURTHER INFORMATION CONTACT:

Mr. Raymond D. Chalmers (3AH12), Air Programs Branch, U.S. Environmental Protection Agency, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, PA 19106, Telephone: 215–597–8309.

SUPPLEMENTARY INFORMATION:

Elsewhere in today's **Federal Register**, EPA has published a notice approving, with certain conditions, West Virginia's State Implementation Plan (SIP) revision for attaining total suspended particulae (TSP), ozone (O_3), and sulfur dioxide (SO_2) air quality standards. This notice proposes the deadlines associated with the conditions EPA has established.

The SIP revisions that EPA has conditionally approved, and the conditions and deadlines EPA has established for correcting the deficiencies in these revisions, are:

1. West Virginia's SIP revision for attaining primary total suspended particulate standards in the Steubenville-Weirton-Wheeling Interstate AQCR and in those portions of Union and Winfield Magisterial Districts in Marion County west of Interstate Route 79, for attaining the ozone standard in the Kanawha Valley Intrastate AQCR, and for attaining sulfur dioxide standards in the New Manchester—Grant Magisterial District in Hancock County, is approved on the condition that:

(a) West Virginia adopts a permanent regulation requiring preconstruction review and emission offsets by (nine months after publication date of this notice). This regulation must be submitted to EPA for inclusion in the West Virginia SIP.

(b) West Virginia keeps a temporary regulation requiring preconstruction review and emission offsets in effect until EPA approves a permanent regulation.

(c) West Virginia submits all permits issued under the provisions of it temporary preconstruction review and offset regulations to EPA as SIP revisions.

(d) West Virginia submits to EPA by September 30, 1980, an adequate analysis of the health, economic, energy and social effects of its SIP revision, and an adequate summary of the public comments on this analysis.

2. West Virginia's SIP revision for attaining the ozone standard in the Kanawha Valley Intrastate AQCR is approved on the condition that West Virginia submits an adequate test method for Regulation XXIII to EPA by September 30, 1980 for inclusion in the West Virginia SIP.

3. West Virginia's SIP revision for attaining total suspended particulate standards in the Steubenville-Weirton-Wheeling Interstate AQCR is approved on the condition that West Virginia revises Regulation VII and submits this revised regulation to EPA by February 1, 1981 for incorporation into the West Virginia SIP.

EPA invites the public to submit comments on whether the deadlines

discussed above are acceptable and should be approved as a revision of the West Virginia State Implementation Plan. Comments should be submitted to the address given above.

The Administrator's decision to approve or disapprove the proposed revision will be based on the comments received and on a determination of whether the revision conforms to the requirements of Section 110(a)(2) of the Clean Air Act and of 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of Implementation Plans.

Note.—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." I have reviewed this regulation and have determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. 7401–642)

Dated: March 5, 1980.

Jack J. Schramm,

Regional Administrator.

[FR Doc. 80-24556 Filed 8-13-80; 8:45 am]

BILLING CODE 6560-01-M

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40 CFR Part 52

[FRL 1570-1]

State of West Virginia—Proposed Extension of the Deadline for Attaining Secondary TSP Standards

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The State of West Virginia has asked EPA to approve a new deadline of July 1, 1980, for the State to submit State Implementation Plan (SIP) revisions for attaining secondary total suspended particulate (TSP) standards in the Steubenville-Weirton-Wheeling Interstate Air Quality Control Region (AQCR), the Tygart Magisterial District in Wood County, and Kanawha County and Valley Magisterial Distict of Fayette County. This notice requests public comment on whether this new deadline should be approved.

DATE: Comments must be submitted on or before September 15, 1980.

ADDRESSES: Copies of the proposed SIP revision and the accompanying support documents are available for inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Air Programs Branch, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106, ATTN: Raymond D. Chalmers

West Virginia Air Pollution Control Commission, 1558 Washington Street, East Charleston, West Virginia 25311. ATTN: Carl G. Beard, II

Public Information Reference Unit, EPA Library Room 2922, U.S. Environmental Protection Agency, 401 M Street, SW. (Waterside Mall), Washington, D.C. 20460

All comments on the proposed revision submitted within 30 days of publication of this notice will be considered and should be directed to:

Mr. Howard R. Heim, Chief, Air Programs Branch (3AH10), Air, Toxics & Hazardous Material Division, U.S. Environmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, PA 19106. ATTN: AK300bWVA.

FOR FURTHER INFORMATION CONTACT: Raymond D. Chalmers, U.S. Envornmental Protection Agency, Region III, 6th & Walnut Streets, Philadelphia, PA 19106, Telephone Number: (215) 597–8309.

SUPPLEMENTARY INFORMATION: The Clean Air Act (CAA) Amendments of 1977 required States to submit SIP revisions for all areas where National Ambient Air Quality Standards (NAAQS) had not been attained. The CAA established a deadline of January 1, 1979, for the submission of these SIP revisions.

West Virginia submitted a SIP revision for attaining primary NAAQS for total suspended particulates, sulfur dioxide, and ozone. This SIP revision is being approved, with certain conditions, in a notice published elsewhere in today's **Federal Register.**

West Virginia has not submitted an adequate SIP revision for attaining secondary NAAQS for total suspended particulates (TSP) for three areas. Such a revision is required to assure the attainment of secondary TSP standards in the Steubenville-Weirton-Wheeling Interstate AQCR, the Tygart Magisterial District in Wood County, and Kanawha County and Valley Magisterial District of Fayette County.

West Virginia has asked EPA to approve a new deadline of July 1, 1980, for the submission of this revision. West Virginia requested that EPA approve this new deadline under the authority delegated EPA by Section 110(b) of the Clean Air Act. Section 110(b) of the CAA authorizes EPA to extend the period for submission of any plan which implements a national secondary ambient air quality standard for a period not to exceed eighteen months from the date otherwise required for the plan's submission.

EPA has listed the requirements a State must meet to receive an extension in 40 CFR 51.31. Three major requirements are listed. First, a request for an extension must be for areas in a priority I or II region. All the areas for which West Virginia has requested extensions are in priority I or II regions. Second, a request for an extension must show that attainment of secondary standards will require emission reductions exceeding those which can be achieved through the application of reasonably available control technology (RACT). EPA believes that emission reductions exceeding those which can be achieved through the application of RACT will be needed to bring into attainment those areas for which West Virginia has requested extensions. Third, a request made with respect to any State's portion of an interstate region must either be submitted jointly with requests for such extensions from all other States within the region, or show that all other States within the region have been notified of the request. West Virginia has requested extensions for two areas that are part of interstate regions. These are the West Virginia portion of the Steubenville-Weirton-Wheeling Interstate AQCR and the Tygart Magisterial District in Wood County. West Virginia has notified Ohio of its request for an extension in these areas.

EPA believes that West Virginia has met the requirements for obtaining a new deadline of July 1, 1980 for the submission of a SIP revision for attaining secondary TSP standards in the Steubenville-Weirton-Wheeling Interstate AQCR and the Tygart Magisterial District in Wood County, and Kanawha County and Valley Magisterial District of Fayette County. Therefore, EPA is proposing approval of West Virginia's request for a new deadline of July 1, 1980 for submitting a SIP revision for these areas.

EPA invites the public to submit comments on whether West Virginia's deadline for submitting plans for attaining secondary TSP standards should be changed. Comments should be submitted to the address given above.

The Administrator's decision to approve or disapprove the proposed revision will be based on the comments received and on a determination of whether the amendments meet the requirements of Section 110(b) of the Clean Air Act and of 40 CFR Part 51.

Note.—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." I have reviewed this regulation and have

determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. 7401–642)

Dated: March 5, 1980.

Jack J. Schramm,

Regional Administrator.

[FR Doc. 80–24555 Filed 8–13–80; 8:45 am]

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40 CFR Part 80

[FRL 1560–1]

Fuels and Fuel Additives; Petition To Repeal Lead Phasedown Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Denial of petition to repeal regulations controlling lead content in gasoline.

SUMMARY: On January 17, 1980, Du Pont Corporation (Du Point) submitted a petition seeking repeal of certain EPA regulations controlling the lead content in gasoline (the "lead phasedown regulations"). Du Pont also submitted an addendum to that petition dated May 19, 1980. EPA has examined Du Pont's petition, the addendum, and information submitted by Du Pont and others in support of the petition and finds that the various submissions do not contain new information warranting a new rulemaking proceeding to consider revision or revocation of the regulations. For this reason EPA denies Du Pont's petition.

ADDRESS: Information concerning this action may be found in Docket EN 79–14, Central Docket Section, Environmental Protection Agency, Gallery I–West Tower, 401 M St., S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Susan Finder, Attorney-Advisor, Fuels Section, Field Operations and Support Division, U.S. Environmental Protection Agency, at (202) 472–9367.

SUPPLEMENTARY INFORMATION:

Background

The original lead phasedown regulations were promulgted on December 6, 1973 (38 FR 33734), under Section 211(c) of the Clean Air Act, 42 U.S.C. 7545(c). They established a 0.5 gram per gallon (gpg) final standard effective January 1, 1979. In promulgating the 0.5 gpg standard the Administrator took into consideration the known health effects of lead exposure and the difficulty of establishing a safe exposure level, and concluded "it would be prudent to reduce preventable lead exposure from automobiles emitting airborne lead to the fullest extent possible." (38 FR 1259, January 10, 1973.)

Refiners and lead manufacturers sought judicial review of the regulations. The U.S. Court of Appeals for the District of Columbia Circuit set aside the regulations by a 2–1 vote on December 20, 1974. On March 17, 1975, the Court granted the Agency's petition for rehearing *en banc* and vacated the prior judgment and opinions, and on March 19, 1976, upheld the regulations. *Ethyl Corp.* v. *EPA*, 541 F.2d. 1 (en banc) (D.C. Cir. 1976), *Cert. denied* 426 U.S. 941 (1976). The Court concluded that the Administrator had not been arbitrary and capricious in promulgating the regulations but had in fact "handled an extraordinarily complicated problem with great care and candor" (541 F.2d. at 47).

EPA amended the regulations on September 28, 1976, to provide for a standard of 0.8 gpg effective January 1, 1978, and a 0.5 gpg standard effective October 1, 1979 (41 FR 42675). These amendments were designed to give refiners sufficient time to install the equipment necessary to meet the reduced lead level without causing a gasoline shortage.

The interruption of crude oil supplies from Iran in 1979 led the Agency to believe that a further temporary relaxation might be warranted. Therefore, on June 8, 1979, EPA proposed to amend the lead phasedown regulations to permit refiners to meet a 0.8 gpg standard until October 1, 1980, provided these refiners would produce increased percentages of unleaded gasoline (44 FR 33116). On June 20, 1979, a public hearing was held in Washington, D.C., on the proposed amendments. Du Point participated in the rulemaking. On September 12, 1979, the regulations were amended substantially as proposed ("the 1979 rulemaking") (44 FR 53144). At that time, EPA made clear that "we continue to believe that a 0.5 gpg lead standard should be achieved as rapidly as possible for purposes of public health but that this *short-term* relaxation should not have a substantial health effect." *Id.* (emphasis added).

Under 307(b)(1) of the Act, 42 U.S.C. § 4607(b)(1), the time for seeking judicial review of the 1979 rulemaking expired on November 11, 1979.[1] Du Pont did not seek judicial review.

On January 17, 1980, the Du Pont Corporation submitted a document to the Environmental Protection Agency entitled "Petition to Repeal Regulations Controlling Lead Content in Gasoline."[2] On May 19, 1980, Du Pont submitted an addendum to the petition. In general, the petition seeks to show that because of decreased demand for gasoline and an increasing proportion of vehicles using unleaded gasoline, revocation of the lead phasedown regulations would make little difference in terms of compliance with the national ambient air quality standard for lead and, further, that it would offer certain energy benefits.[3]

Criteria for Review of Du Pont's Petition

Du Pont asserts that it is submitting its petition in accordance with certain procedures set forth in *Oljato Chapter of the Navajo Tribe* v. *EPA*, 515 F.2d 654, 666 (D.C. Cir. 1975), which govern petitions for revision of rules promulgated under the Clean Air Act. The procedures described in *Oljato* are essentially that: (1) a petition for revision of such a rule, along with any supporting material, should first be submitted to the Agency; (2) the Agency should respond to the petition and, if it

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[1] The Federal Register notice appeared on September 12, 1979. Section 307(b)(1) of the Act states, in relevant part, that "a petition for review shall be filed within sixty days from the date notice of such promulgation appears in the Federal Register, except that if such petition is based solely on grounds arising after such sixtieth day, then any petition for review shall be filed within sixty days after such grounds arise."

[2] The Petrochemical Energy Group and the Ethyl Corporation also submitted information in support of the petition. Their submissions have been considered in this decision and are referred to below as appropriate.

[3] With its petition, Du Pont submitted nine exhibits:

Exhibit 1, a copy of the original phasedown regulations (38 FR 33734);

Exhibit 2, a copy of EPA's environmental impact statement for its ambient air standard for lead;

Exhibit 3, a Du Pont technical brief, "Forecast of Gasoline Demand Through 1990";

Exhibit 4, a technical paper by three Du Pont engineers, "Projections of Motor Vehicle Fuel Demand and Emissions";

Exhibit 5, a Du Pont memorandum, "Projected Air Lead Quality";

Exhibit 6, "Unleaded Gasoline Sales in Two Metropolitan Areas";

Exhibit 7, "Critique of a Study by the U.S. Department of Housing and Urban Development on Gasoline Lead Use and Blood Lead Levels of Children in New York City," by Du Pont employee E. S. Jacobs;

Exhibit 8, a copy of "Fact Sheet on the President's Program," April 4, 1979; and

Exhibit 9, a letter from the Du Pont Corporation, commenting on Docket No. ERA–R–77–7 (Department of Energy), Motor Gasoline De-Control.

In its addendum, Du Pont submitted the following items:

Appendix A, Affidavit of Anthony J. Yankel, P. E., one of the three author of a study considered by EPA in connection with establishing the national ambient air standard for lead; and

"Analysis of a Study by the Department of Housing and Urban Development on Blood Lead Levels of Children in New York City," by Emmet S. Jacobs and Charles G. Pfeifer, of Du Pont's Petroleum Laboratory.

denies the petition, set forth its reasons; and (3) if the petition is denied, the petitioner may seek judicial review pursuant to Section 307(b) of the Act. *Oljato, supra*, 515 F.2d at 666. By this notice the Agency is responding to Du Pont's petition and is setting forth the reasons for its decision.[4]

The scheme devised in *Oljato* was designed to address the situation where purportedly new information becomes available after promulgation of a rule. The Court concluded that such "new information" should be presented to the Agency first so that it may determine what administrative action, if any, should be taken before the matter is reviewed by a court. Under this scheme, the threshold determination to be made is whether a petitioner has submitted "new information."

If the information supporting a petition was raised or could have been raised in the original rulemaking, I do not consider it new information of the sort contemplated by the *Oljato* scheme and, accordingly, would not view it as warranting my reopening the previous rulemaking. This view is consistent with Section 307(d)(7)(B) of the Act, which governs certain petitions for reconsideration.[5] Moreover, to hold otherwise would permit a petitioner to circumvent the limitation on judicial review specified in Section 307(b)(1) of the Act. That section reads in pertinent part:

> Any petition for review under this subsection shall be filed within sixty days from the date notice of such promulgation, approval, or action appears in the Federal Register, except that if such petition is based solely on grounds arising after such sixtieth day, then any petition for review under this subsection shall be filed within sixty days after such grounds arise.

Section 307(b)(1) is designed to bring about a measure of finality to Agency rulemaking by limiting the period during which challenges can be made. If a party could cure its failure to seek judicial review during the period specified by petitioning the Agency for revision or revocation of the original rulemaking, based on information that was available at the time of the original rulemaking, and then seeking judicial review of the Agency's action on the petition, one of the main purposes of Section 307(b)(1) would be defeated.[6]

Assuming the information presented in the petition is "new" in the sense that it was not and could not have been presented in the original rulemaking, I must then determine whether it warrants my convening a supplemental rulemaking to consider revision or revocation of the regulations in question.

Although the Act does not provide specific criteria for making such a determination in the context of petitions for revision or revocation of regulations, it does not leave me completely without guidance. Section 307(d)(9)(A) suggests that the ultimate test of my threshold decision on such a position (i.e., my determination whether the petition and supporting materials warrant further rulemaking proceedings) is whether, in light of the information presented, the decision is arbitrary, capricious, or an abuse of discretion.[7] In addition, Section 307(d)(7)(B) provides some guidance in determining whether new information warrants the commencement of supplementary proceedings.[8] That section requires me to convene a proceeding for reconsideration if the new grounds presented are of "central relevance to the outcome of the rule." In another situation, I have interpreted this phrase as meaning that the petitioner must demonstrate that its objections, if assumed to be true, would cause me to seriously consider changing the rule previously promulgated. Denial of Petition for Reconsideration or Revision of the Lead Ambient Air Quality Standards, 45 FR 41211 (June 18,1980).

As a general matter, I conclude that the proper test in assessing new information in the context of a petition for revision or revocation of a rule is roughly the same as that for petitions for reconsideration under Section 307(d)(7)(B); that is, whether the petitioner has demonstrated that its objections, if assumed to be true, would cause me to seriously consider revising or revoking the rule previously promulgated.[9]

In summary, the criteria I am applying in deciding whether to initiate a new rulemaking proceeding in response to Du Pont's petition are that: (1) The petition must be based on information that was not and could not reasonably have been presented during the original rulemaking; and (2) Du Pont's objections, if assumed true, must be of such significance that they would cause me to seriously consider revising or revoking the regulations.

Discussion

Du Pont's petition and the supporting material fail to meet the criteria specified above. For the most part, Du Pont has relied on information that was presented or could have been presented during the 1979 rulemaking. Furthermore, none of the information submitted by Du Pont is of such significance that it would cause me to seriously consider revising or revoking the rule.

Therefore, I am not required to review once again the regulations as promulgated. Indeed, I continue to believe that the lead phasedown regulations are a reasonable exercise of my authority under Section 211 of the Clean Air Act to protect public health and welfare.

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[4] Du Pont also cites Section 108(c) of the Act, 42 U.S.C. 7408(c), as a basis for its petition. Section 108(c) concerns review and revision of air quality criteria documents and information on air pollution control techniques issued under Section 108(a)(2) and (b)(1). Du Pont has not explained its pertinence to revision or revocation of the lead phasedown regulations, which were promulgated under Section 211(c) of the Act. For present purposes, I believe it is sufficient to indicate my conclusion that Section 108(c), if pertinent at all, would not alter the criteria I have used in evaluating Du Pont's petition.

[5] Section 307(d)(7)(B) requires me to convene a proceeding to reconsider a rule if the person raising an objection can demonstrate, among other things, that it was impractical to raise such objection during the comment period or that the grounds for such objection arose after the comment period but within the time specified for judicial review. Du Pont has not relied on this section as the basis for its petition, and I have previously determined that Section 307(d)(B) is only applicable where the grounds for a petition arise after the comment period but within sixty days from the date a rule is published in the Federal Register. *See* Denial of Petition for Reconsideration or Revision of the Lead Ambient Air Quality Standards, 45 FR 41211 (June 18, 1980). In enacting Section 307(d)(7)(B), however, Congress was aware of the *Oljato* decision and intended to confirm it, particularly in requiring that purportedly new information be presented first to EPA so that the Agency may determine, in the first instance, whether supplementary proceedings are warranted. *See* H.R. Rep. No. 95-294, 95th Cong., 1st Sess. 323 (1977). Accordingly, I believe it is appropriate to view Section 307(d)(7)(B) as offering some guidance in assessing petitions for review that purport to be based on new information and are subject to the procedures set forth in *Oljato*.

[6] In a somewhat analogous context, the courts have viewed with disfavor attempts to present information or arguments in judicial review that could have been (but were not) first presented during the rulemaking process. *E.g., Lead Industries Association* v. *EPA*, No. 78-2201, slip op. at 87-88 (D.C. Cir. June 27, 1980); *American Iron and Steel Institute* v. *EPA*, 526 F.2d 1027, 1050 (3rd Cir. 1975). Similarly, Congress provided in Section 307(d)(7)(B) that "only an objection to a rule or procedure which was raised with reasonable specificity during the period for public comment (including any public hearing) may be raised during judicial review." Congress obviously sought to have parties raise all available objections during the rulemaking proceeding or not at all. The only exception provided is for objections based on "new information" of the sort specified in Section 307(d)(7)(B).

[7] *Cf. Union Electric* v. *EPA*, 427 U.S. 246, 256 (1975).

[8] *See* note 5, *supra*.

[9] For purposes of this decision, I have found it unnecessary to decide whether a greater or lesser showing is required to meet this test under Section 307(d)(7)(B) than in the present context. Nor have I found it necessary to decide whether or how circumstantial factors (for example, the imminence of scheduled reviews of regulations) may affect decisions on other petitions for revision or revocation of regulations.

I. A Major Portion of the Information Submitted by Du Pont Is Not "New Information"

Exhibits 1 and 2, identified in footnote 3 above, were generated by EPA prior to the promulgation of the September 1979 amendments to the phasedown regulations. Because EPA was obviously aware of these documents during the 1979 rulemaking, they cannot be considered to be "new information." Exhibit 9 was submitted by Du Pont to a Department of Energy rulemaking proceeding on Motor Gasoline De-Control in January 1979. Du Pont clearly had the opportunity to submit the information to EPA during the Agency's rulemaking.

Two other documents submitted by Du Pont, "An Analysis of a Study by the Department of Housing and Urban Development on Blood Lead Levels of Children in New York City" and Exhibit 7, "Critique of a Study by the U.S. Department of Housing and Urban Development on Gasoline Lead Use and Blood Lead Levels of Children in New York City," challenge a HUD study considered by EPA in the 1979 rulemaking. Du Pont is not submitting new data contradicting the results of the study, but is merely fashioning arguments why EPA should not rely on the study. Had Du Pont believed any reliance on the study was misplaced, it had the opportunity to state its objections fully during the 1979 rulemaking.

Du Pont also argues that substantial energy savings are possible if the lead phasedown regulations are revoked. In support of this argument, Du Pont submitted a copy of the press release for the president's Energy Message of April 5, 1979. The EPA was, of course, aware of the press release during the 1979 rulemaking, and Du Pont could, in any event, have submitted it at that time. The EPA was also aware, during the 1979 rulemaking, of the argument concerning the possible energy savings that might result from revocation of the phasedown program. Indeed, the Ethyl Corporation presented information in support of that argument in the 1979 rulemaking.[10] The energy arguments made now are virtually identical to those made and considered in the 1979 rulemaking. Therefore, they can hardly be regarded as new.

As is evident from the discussion above, much of the information Du Pont cites to support its petition was or could have been raised during the 1979 rulemaking. To that extent, I do not view the petition as presenting new information that would warrant my convening a proceeding for revision or revocation of the regulation. Nevertheless, I will discuss the information submitted and explain why it would not cause me to reconsider the regulations.

II. The Information Submitted by Du Pont Is Not of Such Significance That it Would Cause Me to Seriously Consider Changing the Rule Previously Promulgated

In general, the information submitted by Du Pont covers three subject areas: projected air quality, gasoline lead and blood lead levels, and the economic and energy impacts of revoking the phasedown requirements. Assuming for present purposes that all of the information submitted is true, none of it is of such significance that I would seriously consider revising or revoking the phasedown regulations.

A. Submissions Concerning Projected Air Quality

Du Pont cites its Exhibits 3–6 as demonstrating that because of the growth of unleaded gasoline use, due to sales of newer cars requiring unleaded gasoline, revoking the phasedown regulations would affect only minimally compliance with the national ambient air quality standards (NAAQS) for lead. Because the NAAQS for lead are intended to protect the public health with an adequate margin of safety,[11] Du Pont argues that the phasedown regulations are no longer necessary on health grounds. To the contrary, Du Pont's own analysis (assuming it is accurate) shows that the regulations are needed and to a greater extent than previously thought.

Du Pont uses its ESCON (estimated consumption) model (Exhibit 4) along with new gasoline demand estimates (Exhibit 3) to generate the projections of ambient air lead levels contained in Exhibit 5. Recent data submitted by Du Pont suggest both reduced total annual gasoline usage as well as reduced rate of change-over from leaded to unleaded gasoline. The newly projected lead levels indicate rates of compliance by air quality control regions (ACQRs) with the NAAQS for lead different from the estimates Du Pont submitted in the 1979 rulemaking. Du Pont's current projections suggest that 17 AQCR's will not comply with the NAAQS for lead in 1980, even if the lead phasedown regulations are preserved, while 28 AQCRs would not comply if the phasedown regulations were revoked. The corresponding numbers for 1982 are 6 and 14 respectively. In other words, by Du Pont's own analysis, the lead phasedown regulations are in fact necessary if 11 AQCR's in 1980 and 8 AQCR's in 1982 are to achieve the reductions in ambient lead levels needed to protect the public from the hazards of airborne lead.

In comments (docket EN–79–14, II–B–2–08) and testimony on the 1979 proposal (transcript of June 20, 1979 hearing at 103–104), Du Pont claimed that maintaining the 0.8 gram per gallon standard indefinitely ("arrested phase-down") would result in 22 AQCRs not complying with the ambient air lead standard in 1980, while going to 0.5 gpg in October 1980 would result in 20 noncomplying AQCRs. The projections for 1982 were 22 and 9, respectively. According to Du Pont's statement at that time, if the phasedown requirements were revoked "the number of regions not meeting the standard would not be much different at any one time from that of the arrested phasedown case." (EN–79–14, II–B–2–08, Du Pont's prepared statement at 13). In response, the Agency concluded that compliance with NAAQS for lead of two additional AQCRs in 1980, along with other factors, was sufficient reason for maintaining the phasedown program with 0.5 gpg becoming effective October 1, 1980. The information now indicating that attainment of the NAAQS in 11 AQCRs in 1980 depends on the phasedown regulations (assuming the information is correct) is an even more compelling reason for preserving the phasedown requirements than the information in the earlier record.

The significant increase in non-complying regions that would result if the phasedown regulations were revoked would, of course, raise the numbers of persons whose health potentially would be threatened by excess lead exposure. Although the Du Pont projections (assuming they are accurate) indicate that "natural phasedown" (that resulting from the increasing proportion of vehicles that require unleaded gasoline) would achieve the same degree of compliance with the NAAQS for lead as would the current regulations in 1985, the

[10] Analysis by Turner, Mason and Solomon, consulting engineers, entitled "Impact of Lead Antiknock Usage on Gasoline Production and Crude Oil Consumption," dated July 20, 1979, in docket EN–79–14. Ethyl also submitted the analysis in support of the Du Pont petition as Exhibit B. The comments of the Petrochemical Energy Group, addressing this point, are virtually identical to those submitted by the Group during the 1979 rulemaking.

[11] The ambient air lead standard of 1.5 micrograms per cubic meter was set based on my judgment that the level was the maximum ambient level allowable to protect public health from airborne lead. 43 FR 46246 (1978). The lead standard was upheld in *Lead Industries Association, Inc.* v. *EPA*, No. 78–2201 (D.C. Cir. June 27, 1980)

intervening five years could be critical for the millions whose health could be affected adversely. Moreover, data from Du Pont indicate that the shift from leaded to unleaded gasoline is proceeding slower than was earlier anticipated. Even with decreased demand, the slower shift will limit the effectiveness of a natural phasedown, and will make the phasedown regulations even more important to the protection of public health.

In addition, Du Pont has not addressed the problem of lead from dustfall (deposited lead) in any of the documents submitted with its petition. Lead from auto emissions contributes to the amount of lead in non-air sources such as soil, vegetation, and surfaces near highways and streets. In promulgating the original phasedown regulations, the EPA sought to decrease the amount of deposited lead, noting that:

> lead from gasoline is the most ubiquitous source of lead found in both the air and the dirt and dust in urban areas. Human exposure to this lead takes place by inhalation and by ingestion of dirt and dust contaminated by air lead fallout. Since exposure to lead among the general population is widespread, it is reasonable that efforts be made to reduce preventable sources of lead exposure including lead emissions from gasoline.

38 FR 33734–5 (1973). In *Ethyl*, the Court of Appeals specifically upheld EPA's reliance on evidence concerning lead exposure from dustfall. *Ethyl, supra*, 541 F.2d at 46. The NAAQS for lead were not designed to protect against exposure from non-air sources, including those resulting from automobile emissions.[12] For these reasons, Du Pont's basis premise, that attainment of the NAAQS will protect health fully from all effects resulting from lead emissions from automobiles, is incorrect. I continue to believe that it is prudent to reduce such emissions, by means of the phasedown regulations, to minimize their contribution to non-air sources of exposure.

Du Pont also submitted an affidavit by Anthony Yankel, one of the authors of one of the studies to which EPA referred in the preamble to the regulations establishing the NAAQS for lead.[13] In his affidavit, Mr. Yankel claims he has discovered an error of 25 percent or more in a model used to predict air lead levels in the study. He also objects to the manner in which EPA considered the study in establishing the NAAQS for lead.

In response to a separate petition filed by the Lead Industries Association, Inc., seeking revision of the NAAQS for lead, I concluded after careful consideration that Mr. Yankel's affidavit did not provide an adequate basis to warrant a supplemental rulemaking proceeding to revise the NAAQS for lead. Among other things, I concluded that his assertions, if assumed to be correct, were not centrally relevant to the outcome of the rulemaking on the NAAQS.[14] 45 FR 41211.

The only apparent relevance Mr. Yankel's affidavit would have to the lead phasedown regulations would be to the extent it called into question the level of the NAAQS for lead, which was one of the factors EPA considered in the 1979 rulemaking. Since I have previously determined that the affidavit does not warrant commencement of a proceeding to revise the NAAQS, I now conclude that it does not warrant commencement of a proceeding to revise or revoke the lead phasedown regulations.

B. Submissions Concerning Gasoline Lead and Blood Lead Levels

As noted above Du Pont submitted two documents to challenge a Housing and Urban Development (HUD) study considered by EPA in the 1979 rulemaking. This study by Dr. Irwin Billick and two associates[15] strongly suggested a highly significant relationship between geometric mean blood lead levels and the amount of lead present in gasoline sold during the same period.

Du Pont makes two claims concerning the HUD study: (1) the author of the study, Dr. Irwin Billick, used gasoline lead data that were not representative of lead consumption during the period of study; and (2) his method of analysis does not result in a correlation between gasoline lead and blood lead levels, let alone a prediction of an appropriate gasoline lead level to protect human health. For present purposes, I need not decide the merits of these claims. As indicated below, I would not seriously consider changing the phasedown requirements even if the claims were shown to be true. Nonetheless, I believe it is appropriate to indicate that I have some reservations concerning the merits of the claims.

As to the representativeness of the gasoline lead data used in the study, Du Pont claims that the study should have used data from gasoline sold only in New York City, and not from the New York metropolitan area.[16] However, it appears to have been reasonable to use three-state regional gasoline consumption data to calculate lead levels during 1970–76, because many cars fill up in the New Jersey, Connecticut, or suburban New York areas, where gasoline prices tend to be lower than in the inner city.[17] In addition, the lead levels that Dr. Billick computed are supported by data accumulated by the Motor Vehicle Manufacturers Association (MVMA) for New York City during this period.[18]

As to Du Pont's second claim, Dr. Billick appears to have derived a direct correlation between gasoline lead and blood lead levels. Changes in gasoline lead levels were followed, point by point, by changes in children's blood lead levels. Dupont has raised arguments that the statistics underlying the study are not reliable for various reasons such as that only a particular population was studied, that the study was not longitudinal, and that the number of samples and type of blood samples changed during the period of the study. First, these so-called errors would not necessarily alter the results of the study. The results only purported to apply to the population sampled. Second, and more importantly, the elements Du Pont raised, if true, would not explain the simultaneous concomitance shown between blood lead levels and gasoline lead. That is, the correlation demonstrated between blood lead levels and lead in gasoline could be shown t be unrealiable only if there was a third factor, somehow tied to one of the other two, which could have led to the corresponding rise and fall in measured blood lead levels and gasoline lead levels. Du Pont has not suggested the existence of such a factor. Statistical analysis by Billick shows that for black children in New York City, approximately 80% of the variation observed in blood lead levels can be explained by variations in gasoline lead levels. For these reasons, I conclude that

[12] *See, e.g.*, 43 FR 46253–54 (Oct. 5, 1978).

[13] "The Silver Valley Lead Study—The Relationship Between Childhood Lead Levels and Environmental Exposure," 27 J.A. Air Pollut. Cont. Ass'n 763–67 (1977).

[14] In *Lead Industries Association, Inc* v. *EPA* No. 78–2201 (D.C. Cir. June 27, 1980) (on motion to hold in abeyance), the Court noted a number of questions concerning both the accuracy and the significance of the Yankel affidavit and concluded that it did not warrant the Court's delaying a decision on the merits of the NAAQS for lead. Slip opinion at 6–10.

[15] Billick, Curran, and Shier, *Relation of Pediatric Blood Lead Levels to Lead in Gasoline*, No. II–A–4 in Docket No. EN–79–14.

[16] Du Pont has included in its addendum data on gasoline lead levels from a private survey conducted by the Ethyl Corporation from 1972 to 1978. These data seem questionable since they show no seasonal fluctuation in gasoline lead use, as is normally found to be the case.

[17] *See, e.g.*, American Automobile Association Fuel Gauge Report, July 1, 1980.

[18] MVMA National Fuel Surveys: Fall Season—January 15, 1976, Spring Season—July 15, 1976, Fall Season—January 15, 1977.

the Billick study is evidence of a correlation between blood lead levels and lead in gasoline.

In any event, even if the HUD study had not been considered in the 1979 rulemaking, I would have reached the same conclusion concerning the desirability of achieving the 0.5 gpg level. It should be noted that the original phasedown regulations were promulgated and upheld without the evidence contained in the HUD study.[19] For these reasons, I would not seriously consider changing the lead phasedown requirements even if Du Pont's objections to the HUD study were shown to be valid.

C. Submissions Regarding Energy Considerations

Lastly, Du Pont suggests that certain energy benefits would occur if the regulations were revoked. I do not read Du Pont's petition as arguing that these potential benefits provide an independent ground for revocation of the regulations. Moreover, as indicated previously, the information submitted on this point was submitted or could have been submitted in the 1979 rulemaking. Indeed, the arguments made are virtually identical to those considered in the 1979 rulemaking.

For these and other reasons, discussed below, I would not seriously consider revoking or revising the phasedown regulations even if Du Pont's energy arguments were shown to be correct. Although I need not decide their merits for present purposes, I believe it is appropriate to indicate that other information suggests that these arguments are overstated.

Reducing the lead content of gasoline does result in slightly higher usage of crude oil to provide constant gasoline output. As a review of the lead phasedown regulations reveals, the record has always shown that there is some energy penalty. Yet, currently gasoline stocks are at a high level, and gasoline demand has decreased.[20] Alternative technology exists for increasing octane levels in gasoline.[21] Other products, which do not apear to cause health related problems, such as ethanol, methyl tertiary-butyl ether (MBE), and tertiary-butyl alcohol (TBA), may be substituted in part for tetraethyl lead.[22] For these reasons, it appears that revoking the phasedown regulations would increase gasoline availability only minimally.

In any event, I believe Congress intended me to base regulation of fuels and fuel additives under Section 211(c)—the statutory basis for the phasedown regulations—primarily on protection of health, assuming that I may consider economic or social costs of the regulations at all.[23] Considering the nature of the health effects against which the phasedown regulations are intended to protect—particularly for Black and Hispanic urban children, who are exposed to large quantities of lead from automobile sources and may be especially sensitive to the harmful effects of lead [24]—I would not consider it appropriate to revoke the regulations even if the energy arguments made now were both new and shown to be correct.

Conclusion

For the reasons stated above Du Pont's petition is denied.

Note.—This is a nationally applicable, final Agency action. Under Section 307(b)(1) of the Clean Air Act, 42 U.S.C. 7607(b)(1), judicial review of this action is available *only* by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of [date of publication]. Under Section 307(b)(2), today's action may not be challenged later in a separate judicial proceeding brought by EPA to enforce the lead phasedown requirements.

Dated: August 7, 1980.

Douglas M. Costle,

Administrator.

[FR Doc. 80-24609 Filed 8-23-80; 8:45 am]

BILLING CODE 6560-01-M

[19] See 38 FR 33734, 33735 (1973).

[20] Department of Energy, "Energy Information Administration Weekly Petroleum Status Report", June 13, 1980.

[21] *See generally*, G. Unzelman, and G. Michalski, "Octane Improvement Economics—Antiknocks and Alternatives", paper presented at 1979 National Petroleum Refiners Association Annual Meeting, NPRA Reprint AM-79-46.

[22] *Id. See also* 44 FR 10530 (1979); 44 FR 12242 (1979); 44 FR 20777 (1979).

[23] As to economic costs, the issue was raised but not decided in *Ethyl, supra*, 541 F.2d at 54 n. 124.

[24] *See* EPA's Air Quality Criteria For Lead, EPA-600/8-77-017 (1977), p. 12-8.

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40 CFR Part 162

[FRL 1570-6; OPP-00127]

FIFRA Scientific Advisory Panel; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule notice.

SUMMARY: There will be a two-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel to discuss Subpart M: Data Requirements for Biorational Pesticides of the Guidelines for Registering Pesticides in the United States, and Subpart N: Chemistry Requirements: Environmental Fate. The meeting will be open to the public.

DATE: Thursday and Friday, September 4 and 5, 1980, from 9:00 a.m. to 5:00 p.m. daily.

ADDRESS: The meeting will be held at the: Marriott Hotel, 1999 Jefferson Davis Highway, Arlington, VA, 703-521-5500.

FOR FURTHER INFORMATION CONTACT: H. Wade Fowler, Jr., Executive Secretary, FIFRA Scientific Advisory Panel (TS-766), Office of Pesticide Programs, Rm. 803, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703-557-7560.

SUPPLEMENTARY INFORMATION: The agenda for this meeting is:

1. Review by the Panel on proposed rulemaking on Subpart M: Data Requirements for Biorational Pesticides of the Guidelines for Registering Pesticides in the United States;

1. Review by the Panel on proposed rulemaking on Subpart N: Chemistry Requirements, Environmental Fate of the Guidelines for Registering Pesticides in the United States;

3. Completion of any unfinished business from previous Panel meetings; and

4. In addition, the agency may present status reports on other ongoing programs of the Office of Pesticide Programs.

Copies of draft documents concerning item 1 and item 2 may be obtained by contacting William Preston, Hazard Evaluation Division (TS-769), Rm. 800, Crystal Mall, Building No. 2, at the address given above, telephone: 703-557-1405.

Any member of the public wishing to attend or submit a paper should contact Dr. H. Wade Fowler, Jr., at the address or phone listed above to be sure that the meeting is still scheduled and to confirm the Panel's agenda. Interested persons are permitted to file written statements before or after the meeting, and may, upon advance notice to the Executive Secretary, present oral statements to the extent that time permits. All statements will be made part of the record and will be taken into consideration by the Panel in formulating comments or in deciding to waive comments. Persons desirous of making oral statements must notify the Executive Secretary and submit the required number of copies of a summary no later than September 2, 1980.

Individuals who wish to file written statements are advised to contact the Executive Secretary in a timely manner to be instructed on the format and the number of copies to sumbit to ensure appropriate consideration by the Panel.

The tentative date for the next Scientific Advisory Panel meeting is October 7 and 8, 1980.

(Sec. 25(d), as amended, [92 Stat. 819; [7 U.S.C. 136]); sec. 10(a)(2), 86 Stat. 770 (5 U.S.C. App.))

Dated: August 8, 1980.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-24592 Filed 8-13-80; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 93

[CGD 77-162]

Damage Stability Standards for Great Lakes Bulk Dry Cargo Vessels

AGENCY: Coast Guard, DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The purpose of this notice is to inform the public of: (1) The plans and approximate scheduling for a regulatory proposal on improved damage stability/survivability standards for Great Lakes bulk dry cargo vessels of 1600 gross tons or more; (2) The effort to date including public response to a previous ANPRM concerning such a proposal; and (3) The results of the Maritime Administration's (MarAd) study of "Economic Benefits of Improved Watertight Subdivision for Great Lakes Bulk Carriers" with regard to the crew and ship safety viewpoint. This notice also provides interested parties with an opportunity to review and comment upon the MarAd study prior to the development of a stability standard by the Coast Guard.

DATE: Comments must be received on or before November 12, 1980.

ADDRESS: Copies of the Maritime Administration sponsored report on the economic benefits of subdivision of Great Lakes bulk carriers, (Report No. MA-RD-940-79031), are available for examination in Room 1206, Ship Characteristics Branch, Merchant Marine Technical Division (G-MMT-5/12), U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, D.C., 20593. Copies of this report may be purchased from the National Technical Information Service, Springfield, Virginia, 22151.

Comments may be mailed to Commandant (G-CMC/24), (CGD 77-162), U.S. Coast Guard, Washington, D.C., 20593. Comments may be delivered to and will be available for inspection or copying at the Marine Safety Council (G-CMC/24) Room 2418, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, D.C., 20593, (202) 426-1477, between the hours of 7 a.m. and 5 p.m. Monday through Thursday.

FOR FURTHER INFORMATION CONTACT: Mr. Jay Howell, Merchant Marine Technical Division (G-MMT-5/12), Room 1206, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, D.C., 20593, (202) 426-2187. Normal business hours are 7 a.m. to 5 p.m., Monday through Thursday.

SUPPLEMENTARY INFORMATION

On March 16, 1978, the Coast Guard issued an Advance Notice of Proposed Rulemaking (ANPRM) at 43 FR 10946, concerning the development of damage stability standards for Great Lakes bulk dry cargo vessels. This ANPRM indicated that a minimum level of subdivision was under consideration, solicited comments on specific questions of a technical and economic nature, and referred to the ongoing Maritime Administration (MarAd) study of economic benefits of watertight subdivision of Great Lakes vessels. Nineteen comments were received in response to the ANPRM.

Drafting Information

The principal persons involved in drafting this notice are Mr. Jay Howell, Project Manager, Office of Merchant Marine Safety, and Lcdr. Jack Orchard, Project Attorney, Office of the Chief Counsel.

Discussion

The Coast Guard's primary objective in formulating damage stability standards for Great Lakes bulk dry cargo vessels is to reduce the loss of life associated with vessel sinkings on the Great Lakes, especially losses caused by catastrophic, rapid sinkings which preclude the employment of lifesaving equipment. A secondary consideration is to prevent traffic blockages caused by loss of buoyancy in restricted channels. In addition, damage stability standards are intended to produce vessel designs that provide sufficient resistance to flooding incidents to save the vessel and its cargo.

As evidenced by the responses to the ANPRM, the concept of damage stability standards for Great Lakes vessels is a complex issue. The need for improved crew and vessel safety measures has been generally recognized since the tragic loss of the S.S. Edmund Fitzgerald. Therefore, the philosophy of including some kind of damage stability standard in future designs was not questioned by the commenters. Few commenters questioned the technical feasibility of providing either one or two compartment subdivision for both new vessel construction and as a retrofit on existing vessels. However, opinions differed as to how this should be accomplished. Some commenters expressed a lack of confidence in "guillotine" gates acting as barriers to provide watertight subdivision on vessels configured for self-unloading. (Self-unloading ships employ a conveyor system which runs the length of the cargo space, typically 75% to 90% of the vessel length, to unload the bulk cargo. To provide watertight integrity between bulkheads, "guillotine" gates or similar devices are used to create a seal around the conveyor belt where it passes through a bulkhead.)

The economic impact of imposing a damage stability standard received considerable attention, with widely varied opinions concerning feasibility or advisability, particularly with respect to existing vessels. One company indicated that establishing a retroactive subdivision standard would probably bankrupt its operation. Commenters who opposed a subdivision standard suggested several alternative methods which might improve the safety of Great Lakes vessels: procedural steps such as assuring hatch cover weathertight integrity; more extensive vessel traffic control; and modification of load lines to the pre-1969 standard (which required greater freeboard values).

Builders, naval architects, and seamen's unions expressed varying degrees of enthusiasm for damage stability standards. However, no definitive suggestions were made regarding what standard to impose or what damage assumptions to use. The commenters urged the Coast Guard to recognize the effects of longitudinal subdivision on damage stability, and to consider technical problems such as additional piping requirements and longitudinal strength in the damaged condition.

The MARAD Subdivision Study

Several commenters requested the opportunity to review the MarAd study, "Economic Benefits of Improved Watertight Subdivision for Great Lakes Bulk Carriers", before they provided their comments regarding this ANPRM. The study examines the economic effect of fitting Great Lakes bulk dry carriers with one or two compartment subdivision. It compares the cost of providing various levels of compartmentation with the cost savings which may be realized through a reduction in the number of vessels which are sunk. Standard economic analysis procedures were used in the

study to determine the change in the expected Net Present Value (NPV) of a vessel with respect to the risk of sinking, for each level of subdivision considered. Net Present Value is a standard measure of the economic worth of a vessel, which can be calculated using the initial cost, annual operating costs, annual revenues, economic life span, and end-of-life salvage value. However, the NPV at some future date cannot be determined because these variables are subject to random elements of risk which could incur large, unpredictable salvage and repair costs or could cut short the economic life span of the vessel. Therefore, the NPV should be expressed as a probabilistic quantity such as the "Expectation Value" of NPV. This value, symbolized mathematically as E(NPV), varies as the risk of sinking changes, so it can be used as a measure of merit in comparisons of safety systems (safety related design considerations or pieces of safety equipment). Each safety related system can be associated with both a cost and a change in the risk of sinking. If the cost of the safety system exceeds the increase in E(NPV) associated with the decrease in risk achieved by the system, the value of the vessel is decreased, and an economic disbenefit is said to occur.

Conversely, if the increase in E(NPV) associated with the decrease in risk achieved by the safety system exceeds the cost of the system, the value of the vessel increases and an economic benefit accrues. The relationship between the risk of sinking and the change in E(NPV) is a complex one which is highly dependent on the cost of sinking and the initial economic assumptions: ship price, operating costs, revenues, and the interest rate.

The initial assumptions made will determine the outcome of the study regarding both the quantitative assessment of the benefit or disbenefit and the conclusions reached. A salient point established early in the study is that a safety system of any kind is an economic liability to the vessel on which it is installed unless it is actually used to save the vessel or the lives of its crew, at which point practically any expense may be economically justified. The Coast Guard has reviewed the MarAd study with particular regard to ship survivability and crew safety rather than to economic benefit alone, and finds the study quite encouraging on these two points.

The study shows the Coast Guard that:

(1) Either one or two compartment subdivision protection is physically achievable on virtually all current Great Lakes ship arrangements if it is incorporated in the initial design.

(2) The number of additional bulkheads required to achieve a one or two compartment standard of subdivision may be quite small. In some cases, especially for one compartment protection, no more bulkheads are needed, but a slightly different arrangement of the same number of bulkheads provides the desired level of subdivision protection.

(3) The study utilizes the time honored standard of an average collision penetration of B/5 in its evaluation. The Coast Guard supports this decision as a first step for evaluation purposes. However, it may be proper to consider the greater possibility of minor damage (less than 760 mm (30 inches) penetration) in regard to the relative vulnerability of the ship to any impact penetration.

Alternatives To increase Survivability

The MarAd study and the PRM responses suggest several alternatives for improving damage stability or survivability, including several preventative measures. These alternatives can be categorized as either operational procedures or design and construction features.

Each of the suggested alternatives in the study can be effective in preventing or mitigating the effects of some of the mechanisms of vessel loss caused by flooding, so each should be analyzed before deciding on the most effective course of action. Alternative design and construction features include: compartmentation (such as that assumed in the MarAd study); other subdivision measures (including longitudinal bulkheads); stronger hatch covers and/or improved hatch and vent cover seals; and additional pumps. Alternative operational procedures include: weather limited operations (a heavy weather warning system); vessel traffic control; increased freeboard requirements; and hatch cover closure inspections.

Within each category of alternative there is a range of measures which could be instituted to improve the survivability or damage stability of Great Lakes bulk dry cargo vessels. The increased level of safety or survivability to be achieved is comparable to the magnitude of the changes made, thus the alternatives are susceptible to evaluation to ensure that an effective level of safety is achieved at a reasonable cost. The variety of worthwhile alternatives and combination of alternative measures which could be imposed is significant, so evaluation will require a considerable review effort by the Coast Guard. The damage stability measures adopted should be effective against most of the five major mechanisms of vessel loss:

(a) Loss of transverse stability (capsizing),

(b) Loss of longitudinal strength,

(c) Foundering,

(d) Plunging,

(e) Flooding from impact damage (collision, grounding, pier or tug impact, etc).

Passive containment systems such as compartmentation or subdivision are still attractive alternatives for several reasons: they are the traditional, proven methods of providing for damage stability in ship design; they are effective in four of the five major mechanisms of vessel loss listed above (with the exception of plunging); they require no crew action (other than maintenance) to function; and no international agreements would be necessary to implement a subdivision requirement. However, installation of additional bulkheads on existing vessels would be an expensive and time consuming process. In addition, if the hull girder is to withstand the loading in the flooded condition, longitudinal strengthening may be necessary. Extra bulkheads may also require the installation of additional piping systems, another expensive item.

Active prevention systems such as vessel traffic control and weather limited operation would require little or no direct vessel modification to achieve an increase in vessel safety. However, such systems would require active participation by the vessel's Master, improved weather and wave forecasting capabilities, and additional communications equipment. International agreements with Canada and compliance by foreign Masters would be required. In addition, these schemes would not mitigate the effects of an actual casualty (such as providing additional time for lifesaving measures). Furthermore, the increased communications system and weather/wave forecasting capability would require a substantial annual increase in Coast Guard budget allocations for both equipment and personnel to provide coverage over the Great Lakes region. Finally, it should be recognized that prevention systems alone will provide no protection in the event of flooding, should it occur despite all precautions.

Future Plans

Although this ANPRM is intended primarily to inform interested parties of the status of this rulemaking effort, comments and suggestions regarding subdivision and damage stability

standards for Great Lakes bulk dry cargo vessels are solicited. The Coast Guard intends to evaluate the MarAd study as well as comments by the public regarding this study prior to publication of a proposed set of regulations.

(R.S. § 4405, (46 U.S.C. 375); R.S. § 4417, (46 U.S.C. 391); R.S. § 4462, (46 U.S.C. 416))

Henry H. Bell,

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

August 6, 1980.

[FR Doc. 80-24613 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-14-M

Research and Special Programs Administration

49 CFR Parts 171, 173, 178

[Docket No. HM-176; Notice No. 80-7]

Specification and Usage Requirements for New DOT 3AL Seamless, Aluminum Cylinders

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, D.O.T.

ACTION: Notice of proposed rulemaking.

SUMMARY: The MTB proposes to amend the Department's Hazardous Materials Regulations to establish a new specification for aluminum cylinders and to authorize use of these cylinders for certain hazardous materials. A proposed new § 178.46 would contain the specification for the new 3AL aluminum cylinder which, bascially, would be constructed in accordance with recommended specifications contained in two petitions for rulemaking and the requirements specified in existing exemptions for aluminum cylinders. This proposed rule change would provide for greater acceptance of aluminum cylinders by purchasers and would terminate six exemptions authorizing use of over 1,000,000 cylinders.

DATE: Comments must be received November 1, 1980.

ADDRESS: Comments must be addressed to the Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590 (phone (202) 426-3148). Comments should identify the docket and be submitted, if possible, in five copies. The Dockets Branch is located in Room 8426 of the Nassif Building, 400 7th Street, S.W., Washington, D.C. Office hours are 8:30 a.m. to 5 p.m., Monday thru Friday.

FOR FURTHER INFORMATION CONTACT: Arthur Mallen, Chief, Technology Division, Office of Hazardous Materials Regulation, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590 (202-755-4906).

SUPPLEMENTARY INFORMATION: This proposed rule is based in part on the Compressed Gas Association's (CGA) petition dated November 3, 1975, and Airco Industrial Gases' (AIG) petition dated April 2, 1979, to add a new high pressure aluminum cylinder specification to Part 178. The proposed rule differs from the petitioners' requests on the following points.

Qualification, Maintenance and Filling of Cylinders

The applicable requirements pertaining to usage, maintenance, qualification and requalification of aluminum cylinders proposed by the petitioners are similar to current requirements specified for DOT 3A and DOT 3AA cylinders. This proposal modified the requests of the petitioners by incorporating certain requirements specified in existing aluminum cylinder exemptions (DOT-E 6498, 6567, 6688, 7042, 7941 and 8364) as follows:

(1) Since data on compatibility with aluminum is limited or nonexistent for some of the materials authorized in the exemptions and for many materials authorized for shipment in DOT 3A and DOT 3AA cylinders, the MTB proposes to allow only those materials authorized in existing exemptions for which satisfactory compatibility data are available to be charged and shipped in the proposed aluminum cylinders.

(2) Because of the lack of supporting retest data for aluminum cylinders, a ten year retest frequency (49 CFR 173.34(e)(11), (14), and (15)) and a visual inspection in lieu of a hydrostatic retest (49 CFR 173.34(e)(10)) would not be authorized. This matter will be addressed in a future rulemaking action when sufficient retest data has been accumulated to support such an action. The MTB invites public participation in the accumulation of this data.

(3) A "rejection elastic expansion" which is used as "service control" for DOT 3A and 3AA cylinders charged in accordance with 49 CFR 173.302(c) is not available for aluminum cylinders. Therefore, filling of aluminum cylinders would be limited to 100 per cent of the marked service pressure.

(4) When used in oxygen service, aluminum cylinders would be required:

(a) To have straight threads only;

(b) To have a marked service pressure not exceeding 3000 psi; and

(c) To be cleaned in compliance with Federal Specification RR-C-901b in order to remove contaminants that would support ignition.

(5) Due to the absence of industry justification and the lack of information on the compatibility of aluminum with certain hazardous materials listed in Part 173, manifolding of aluminum cylinders would not be authorized.

Specification for Aluminum Cylinders

The specification for aluminum cylinders in this proposed rule varies from the petitioners' proposals as follows:

(1) The MTB is proposing that inspections be performed by independent inspection agencies approved in accordance with §§ 173.300a or 173.300b. The duties of the inspector would be clarified so that certain specified tests must be witnessed or performed by the inspector, and certain quality controls using documented data must be verified by the inspector.

(2) To assure compliance with the material specification, the inspector, material producer or cylinder manufacturer would be required:

(a) To perform a chemical analysis on each melt or cast of material;

(b) To obtain a certified chemical analysis from the material manufacturer for each melt of material; or,

(c) To perform a check analysis on one cylinder out of each lot of 200 cylinders or less if in lieu of a certified chemical analysis a certificate indicating compliance with the material specification is obtained.

(3) In this proposal "Reporting volumetric capacity and tare weight" is not included in the listing of specific duties of the inspector (§ 178.46-4(d)). A specific listing of this duty is considered unnecessary since it would be performed in the process of fulfilling item (10) of 178.46-4(d)—"Preparing and providing the required report to the purchaser, cylinder maker, and the Associate Director for OE.

(4) A definition of a "lot" size, and "significant design change" would be provided.

(5) Starting material would be required to be traceable to cast stock and would be required to have uniform equiaxed grain structure not exceeding 250 microns average.

(6) The acceptable results obtained from certain physical and mechanical properties tests would be restricted to standards which are consistent with properties of cylinders manufactured under existing exemptions as follows:

(a) The elongation requirements would be changed from 10 percent to 14 percent using a 4D bar or 2 inch gauge length test specimen,

(b) The flattening test would be changed from 10t to 9t, and

(c) The minimum burst pressure would be increased from 2.3 to 2.5 times the marked service pressure; failure would be required to initiate in the sidewall; and the failed cylinder would be required to remain in one piece.

(7) An internal bottom knuckle radius of 12 percent of the inside diameter of the cylinder would be specified to minimize stress concentrations created by the transition from sidewall to bottom of the cylinder.

(8) The requirement for openings would be patterned after the more specific requirements in 49 CFR 178.45.

(9) Cylinders containing certain hazardous materials would be required to be packaged in strong outside packagings for proper protection of valves, safety devices or other connections.

(11) The flattening test procedure and the test result would be revised for consistency with current manufacturing practice. An acceptable level for failure would be specified for test results. An alternate bend test using an appropriately sized mandrel in lieu of performance of a flattening test would be authorized.

(12) As required by the regulations for other cylinder specifications, the symbol of the maker would be required to appear on the cylinder.

(13) The proposed rule would require an inspector to report the following additional information:

(a) the temper designation, along with the alloy designation, of the material;

(b) The flattening test result as a multiple of the actual sidewall thickness; and

(c) The design and the actual minimum thickness of the sidewall.

(14) The proposed rule would set the cyclic pressurization rate for the design qualification test at not more than 10 cycles per minute. In the absence of test data there is concern that a faster rate of cycling would not allow adequate time for the cylinder metal to fully respond to the stress reversals.

Cylinders determined to be in full compliance with the requirements specified in an exemption will be allowed to be re-marked with the appropriate cylinder specification number.

In addition to receiving comments on the other issues in this proposal, the MTB is taking the opportunity to solicit comments on hazardous materials being shipped in alumium cylinders. Comments should address or provide information on the following:

(1) A listing of materials actually shipped under exemption or other authority indicating the quantity shipped by cylinders, in cubic feet (gas), gallons (liquid) or some other unit of measurement along with a listing of the sources from which the compatibility data was derived such as shipping experience, tests, etc.

(2) Data to support or refute the 3000 psi service pressure limitation for aluminum cylinders in oxygen service.

(3) Data on the compatibility of aluminum with other hazardous materials not authorized in this proposed rule.

There are certain hazardous materials and conditions in which they are shipped that are in need of further evaluation to justify authorization for their use in aluminum cylinders such as those listed below:

(1) *Cylinders charged with poison A liquid or gas.*

(a) *Pressure Relief Devices.*—Section 173.34(d) prohibits the use of pressure relief devices on steel DOT specification cylinders charged with Poison A gas and liquid. The use of a pressure relief device is prohibited because it has been determined that poisonous materials must be contained to the maximum extent possible under all conditions. This prohibition is intended to provide the maximum safeguard against leakage under normal transportation conditions, in addition to maintaing the maximum possible duration of containment in a fire situation. For these materials, containment of the contents up to burst pressure of the cylinder is considered a lesser risk than that of releasing the contents at pressure relief device settings, even though there is a chance of cylinder failure.

(b) In addition to delaying the release of hazardous materials until cylinder failure occurs by prohibiting the use of a pressure relief device, further delay of such release is accomplished by lengthening the time to cylinder failure by limiting the filling pressure at 70° F. to a pressure less than the marked service pressure (see § 173.337(a)(1)). Consideration, then must be given to the filling pressure limits at 70° F. for aluminum cylinders to equate the time to release (cylinder failure) of the hazardous material to no less than the time to release for steel cylinders currently specified.

(2) *Aluminum cylinders charged with fluorine and other strong oxidizers.*

Fluorine and other strong oxidizers have been compatible with the steel cylinders currently authorized. These same materials are considered compatible with aluminum at ambient temperatures; however, evaluations must be made to determine if elevated temperatures such as in a fire situation change the compatibility of these hazardous materials with aluminum. The compatibility is to be determined using steel cylinders as the criteria.

(3) *Pressure limitations for certain hazardous materials.*

Cylinders charged with carbon monoxide and other gaseous materials are currently required to be filled at pressures less than the marked service pressure. Some of the reasons for this requirement are the reactions between the hazardous materials and the cylinder material, reactions between impurities in the hazardous material and the cylinder material (See § 173.301(f) and (g)), and a concern for the release of toxic materials if charged to the marked service pressure, as discussed in paragraph (1)(a) above.

It is requested that comments and meaningful data be supplied on these and other similar hazardous materials and their shipping state to provide the information necessary to determine the conditions that must be imposed and the acceptability of the aluminum cylinder for shipment of these materials. In developing the comments and data, the following should be taken into consideration.

1. Elevated temperature data (to include fire conditions) for cylinders without a pressure relief device to determine steel and aluminum cylinder failure levels at various temperatures and developed pressures for:

a. Liquids (poison A)

b. Liquefied gases (poison A)

c. Nonliquefied gas (poison A)

2. Effect of varying filling pressures at elevated temperatures to reach comparability with steel cylinders for the same materials listed above.

3. Elevated temperature reaction data for steel and aluminum cylinders filled with oxidizers currently authorized to be shipped in steel cylinders.

4. Corrosion or other reaction data for hazardous materials currently required to be shipped at pressures less than the cylinder marked service pressure.

The cylinder marking requirements proposed in this notice at § 178.46–15 are not fully consistent with the revised marking requirements proposed under Docket HM–172; Notice 80–2 (45 FR 9960) published on February 14, 1980. The MTB's consideration of final regulations under this rulemaking will take into account its decision concerning final regulations under Docket HM–172.

Primary drafters of this document are Arthur J. Mallen, Paul H. Seay, Jose Pena, Hattie Mitchell, Office of Hazardous Materials Regulation, MTB, and Douglas A. Crockett, Office of the Chief Counsel, Research and Special Programs Administration.

In consideration of the foregoing, it is proposed to amend Parts 171, 173, and

178 of Title 49 Code of Federal Regulations as follows:

PART 171—GENERAL INFORMATION, REGULATIONS AND DEFINITIONS

1. In § 171.7, paragraphs (d)(5)(x), (xi) and (xii), and (d)(23) would be added, paragraph (d)(19) would be revised to read as follows:

§ 171.7 Matter incorporated by reference.

* * * * *

(d) * * *

(5) * * *

(x) ASTM E-8-79 is titled "Standard Methods of Tension Testing of Metallic Materials," 1979 edition.

(xi) ASTM B-221-76 is titled "Standard Specification for Aluminum Alloy Extruded Bars, Rods, Shapes and Tubes," 1976 Edition.

(xii) ASTM E 290-77 is titled "Semi-Guided Bend Test for Ductility of Metallic Materials," 1977 edition.

* * * * *

(19) Federal Specification RR-C-901b is titled "Federal Specification, Cylinders, Compressed Gas: With Valve or Plug and Cap; ICC 3AA RR-C-901b, August 1, 1967."

* * * * *

(23) Aluminum Associations' Handbook is titled "Aluminum Standards and Data," Sixth Edition, 1979.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

2. In § 173.34, the Table in paragraph (e) would be amended by adding an entry "3AL" immediately following the entry "3A, 3AA"; paragraphs (e)(4) and (f)(4) would be revised, to read as follows:

§ 173.34 Qualification, maintenance and use of cylinders.

* * * * *

(e) * * *

Specification under which cylinder was made	Minimum retest pressure (pounds per square inch)	Retest period (years)
* * *	* *	* *
3AL	5/3 times service pressure	5
* * *	* *	* *

* * * * * * *

(4) A cylinder must be condemned when it leaks, or when internal or external corrosion, denting, bulging, or evidence of rough usage exists to the extent that the cylinder is likely to be weakened appreciably, or when the permanent expansion exceeds 10 percent of the total expansion, except that for DOT 4E aluminum cylinders, when the permanent expansion exceeds 12 percent of the total expansion. Except for DOT 3AL and DOT 4E aluminum cylinders, a cylinder condemned for excessive permanent expansion may be reheat-treated. (See paragraph (g) of this section.) DOT 4 series cylinders, condemned for other than excessive permanent expansion, may be repaired and rebuilt as otherwise provided in this section.

* * * * *

(f) * * *

(4) DOT 3AL and DOT 4E aluminum cylinders may not be reheat-treated and must be removed from service.

* * * * *

3. In § 173.119, paragraphs (a)(11), (f)(2) and (m)(9) would be revised to read as follows:

§ 173.119 Flammable liquids not specifically provided for.

(a) * * *

(11) Specification steel or nickel cylinders as prescribed for any compressed gas except acetylene.

* * * * *

(f) * * *

(2) Specification steel or nickel cylinders as prescribed for any compressed gas except acetylene.

* * * * *

(m) * * *

(9) Specification steel or nickel cylinders as prescribed for any compressed gas except acetylene. All cylinder valves must be protected by one of the methods described in § 173.301(g) (1), (2), or (3) of this part. See § 173.34(e)(16).

* * * * *

4. In § 173.123, paragraph (a)(4) would be revised to read as follows:

§ 173.123 Ethyl chloride.

(a) * * *

(4) Specification steel or nickel cylinders as prescribed for any compressed gas except acetylene.

* * * * *

5. In § 173.124, paragraph (a)(2) would be revised to read as follows:

§ 173.124 Ethylene oxide.

(a) * * *

(2) Specification steel or nickel cylinders as prescribed for any compressed gas except acetylene. All cylinders must be seamless or welded, and may not exceed 30 gallons nominal water capacity. Cylinders must be equipped with safety devices of the fusible plug type with threaded straight bore orifice and with yield temperature of 157° to 170° F. having a minimum vent area of 0.0055 square inch per pound of water capacity for cylinders not over 1-gallon capacity and 0.0012 square inch per pound of water capacity for all cylinders over 1-gallon capacity. Each cylinder must be tested for leakage at a pressure of at least 15 psig with an inert gas before each refilling. Filling must be such that the cylinder will not be liquid full at 185° F. Pressurizing valves must be provided for all cylinders over 1-gallon cacity. Educator tubes must be provided for all cylinders over 5-gallon capacity. Cylinders having a water capacity in excess of 1 gallon must be insulated with at least three coats of heat-retardant paint, of a type examined by the Bureau of Explosives and approved by the Associate Director for OE, applied over suitable primer and finished with suitable waterproof paint; or with other equally efficient insulation examined by the Bureau of Explosives and approved by the Associated Director for OE.

* * * * *

6. § 173.126 would be revised to read as follows:

§ 173.126 Nickel carbonyl.

Nickel carbonyl must be packed in specification steel or nickel cylinders as prescribed for any compressed gas except acetylene. A cylinder used exclusively for nickel carbonyl may be given a complete external visual inspection in lieu of the interior hydrostatic pressure test required by § 173.34(e) of this part. Visual inspection must be in accordance with CGA Pamphlet C-6.

7. In § 173.134, paragraph (a)(1) would be revised to read as follows:

§ 173.134 Pyroforic liquids, n.o.s.

(a) * * *

(1) Except for acetylene cylinders, any steel or nickel cylinder prescribed for any compressed gas having a minimum design pressure of 175 pounds per square inch is authorized. Cylinders with valves must be: * * *

* * * * *

8. In § 173.135, paragraph (a)(6) would be revised to read as follows:

§ 173.135 Diethyl dichlorosilane, dimethyl dichlorosilane, ethyl dichlorosilane, ethyl trichlorosilane, methyl trichlorosilane, trimethyl chlorosilane, and vinyl trichlorosilane.

(a) * * *

(6) Specification steel or nickel cylinders as prescribed for any compressed gas except acetylene.

* * * * *

9. In § 173.136, paragraph (a)(5) would be revised to read as follows:

§ 173.136 Methyl dichlorosilane and trichlorosilane.

(a) * * *

(5) Specification steel or nickel cylinders as prescribed for any compressed gas except acetylene.

* * * * *

10. In § 173.137, paragraph (a)(3) would be revised to read as follows:

§ 173.137 Lithium aluminum hydride, ethereal.

(a) * * *

(3) Specification steel or nickel cylinders as prescribed for any compressed gas except acetylene. Valves or fittings must be protected from injury by a metal cap or equally efficient device securely attached to the cylinder.

11. § 173.138 would be revised to read as follows:

§ 173.138 Pentaborane.

Except for acetylene cylinders, any steel or nickel cylinder prescribed for any compressed gas is authorized. Each cylinder must be protected with a valve protection cap or must be packed in a strong wooden box and blocked therein so as to protect the valve from injury under conditions normally incident to transportation. Cylinders not exceeding 2 inches in diameter nor 6 inches in lenght, excluding the length of the valve, may also be packed in strong solid fiberboard boxes, having no outside dimension less than 4 inches, completely filled with layers of strong corrugated fiberboard, the center of which shall be cut out to fit the cylinder valve, and otherwise so designed that neither the clyinder nor the valve will be in contact with the wall of the box under conditions normally incident to transportation.

12. In § 173.141, paragraph (a)(9) would be revised to read as follows:

§ 173.141 Amyl mercaptan, butyl mercaptan, ethyl mercaptan, isopropyl mercaptan, propyl mercaptan, and aliphatic mercaptan mixtures.

(a) * * *

(9) Specification steel or nickel cylinders as prescribed for any compressed gas except acetylene.

* * * * *

13. In § 173.148, paragraph (a)(2) would be revised to read as follows:

§ 173.148 Monoethylamine.

(a) * * *

(2) Specification steel or nickel cylinders as prescribed for any compressed gas except acetylene.

* * * * *

14. In § 173.245, paragraph (a)(28) would be revised to read as follows:

§ 173.245 Corrosive liquids not specifically provided for.

(a) * * *

(28) Except for acetylene cylinders, any steel or nickel cylinder prescribed for any compressed gas is authorized. All cylinder valves must be protected by one of the methods described in § 173.301(g)(1), (2), or (3) of this part. See § 173.34(e)(16).

* * * * *

15. In § 173.251, paragraph (a)(1) would be revised to read as follows:

§ 173.251 Boron trichloride and boron tribromide.

(a) * * *

(1) Specification steel or nickel cylinders as prescribed for any compressed gas except acetylene.

* * * * *

16. In § 173.280, paragraph (a)(6) would be revised to read as follows:

§ 173.280 Trichlorosilanes.

(a) * * *

(6) Specification steel or nickel cylinders as prescribed for any compressed gas except acetylene.

* * * * *

17. In § 173.301, paragraphs (d)(2) and (3) would be revised; the Table in paragraph (h) would be amended by adding the entry "3AL" immediately following the entry "DOT3A," as follows:

§ 173.301 General requirements for shipment of compressed gases in cylinders.

* * * * *

(d) * * *

(2) Specification steel or nickel cylinders containing the following nonliquefied gases may be manifolded: boron trifluoride, carbon monoxide, ethylene, hydrogen, hydrocarbon gases, methane, and nitrogen trifluoride, provided individual cylinders are equipped with approved safety relief devices as required by § 173.34(d) or § 173.315(i) of this part: *and provided further*, that each cylinder is equipped with an individual shutoff valve that must be tightly closed while in transit. Manifold branch lines of these individual shutoff valves must be sufficiently flexible to prevent injury to the valves which otherwise might result from the use of rigid branch lines. A temperature measuring device may be inserted in one cylinder of a manifold installation in place of the shutoff valve.

(3) Specification steel or nickel cylinders containing the following gases may be manifolded: ethane, ethylene, liquefied hydrocarbon gas, hydrogen chloride (anhydrous), liquefied petroleum gas and propylene provide each cylinder is equipped with approved safety relief devices as required by § 173.34(d) or § 173.315(i) of this part: and provided further, that each cylinder is equipped with an individual shutoff valve that must be tightly closed while in transit. Each cylinder must be separately charged and means must be provided to insure that no interchange of cylinder contents can occur during transportation. Manifold branch lines to these individual shutoff valves must be sufficiently flexible to prevent injury to the valves which otherwise might result from the use of rigid branch lines.

* * * * *

(h) * * *

Cylinders
* * * * *
DOT 3AL
* * * * *

* * * * *

18. In § 173.302, paragraph (a)(4)(iii) would be revised; a new paragraph (a)(5) would be added; and paragraph (f) would be revised to read as follows:

§ 173.302 Charging of cylinders with nonliquefied compressed gases.

(a) * * *

(4) * * *

(iii) Each cylinder must be cleaned and tested for oil contamination in compliance with the requirements of Federal Specification RR–C–901b, paragraphs 3.7.2, 3.8.2 and 4.4.2.3. One cylinder selected at random from each lot of 200 or less must be tested and meet the standard of cleanliness specified.

(5) Specification 3AL (§ 178.46 of this subchapter) cylinders are authorized only for the following nonliquefied gases: air, argon, carbon monoxide, helium, hydrogen, krypton, methane, nitrogen, neon, oxygen and xenon. When used in oxygen service, aluminum cylinders must be in compliance with the following conditions:

(i) Cylinder must be equipped only with brass valves;

(ii) Cylinder must have only straight threads in the opening;

(iii) Each cylinder must be cleaned and tested for oil contamination in compliance with the requirements of Federal Specification RR–C–901b, paragraphs 3.7.2, 3.8.2 and 4.4.2.3. One cylinder selected at random from each lot of 200 or less must be tested and meet the standard of cleanliness specified; and

(iv) Cylinder must have a marked service pressure not exceeding 3,000 psi.

* * * * *

((f) *Carbon monoxide.* Carbon monoxide must be shipped in a specification 3A, 3AX, 3AA, 3AAX, 3AL, 3, 3E, or 3T, (§§ 178.36, 178.37, 178.46, 178.42, 178.45 of this subchapter) cylinder having a minimum service pressure of 1,800 psig. The pressure in the cylinder must not exceed 1,000 psig at 70°F. except that if the gas is dry and sulfur free, the cylinder may be charged to five-sixths of the cylinder service pressure or 2,000 psig, whichever is the lesser.

* * * * *

19. In § 173.304, paragraphs (a)(1) and (d)(3)(i) would be revised; the table in paragraph (a)(2) would be revised to authorize DOT 3AL cylinders with various service pressures for certain commodities as follows:

§ 173.304 Charging of cylinders with liquefied compressed gases.

(a) * * *

(1) Specifications 3,[1] 3A, 3AA, 3AL, 3B, 3BN, 3D, 3E, 4, 4A, 4B, 4BA, 4B–ET, 4BW, 4E, 9,[1] 25,[1] 26,[1] 38,[1] 39, 40,[1] or 41[1] (§§ 178.36, 178.37, 178.46, 178.38, 178.39, 178.41, 178.42, 178.48, 178.49, 178.50, 178.51, 178.55, 178.61, 178.65, 178.68 of this subchapter), cylinders except that no specification 3AL, 9, 39, 4E, 40, or 41 cylinders may be charged and shipped with a mixture containing a pyrophoric liquid, carbon bisulfide (disulfide), ethyl chloride, ethylene oxide, nickel carbonyl, spirits of nitroglycerin, or poisonous material (class A, B, or irritating material), unless specifically authorized in this part.

(2) * * *

Kind of gas	Maximum permitted filling density (see note 1)	Containers marked as shown in this column or of the same type with higher service pressure must be used except as provided in § 173.34 (a), (b), § 173.301(j) (see notes following table)
Anhydrous ammonia	54 pct	DOT-4; DOT-3A480; DOT-3AA480; DOT-3A480X; DOT-4A480; DOT-3; DOT-4AA480; DOT-3E1800, DOT-3AL480.
* * *	*	* * *
Carbon dioxide, liquefied (See Notes 4, 7, and *)	68 pct	DOT-3A1800; DOT-3AX1800; DOT-3AA1800; DOT-3AAX1800; DOT-3; DOT-3E1800; DOT-3T1800; DOT-3HT2000; DOT-39; DOT-3AL1800.
Carbon dioxide-nitrous oxide mixture (See Notes 7 and *)	68 pct	DOT-3A1800; DOT-3AX1800; DOT-3AA1800; DOT-3AAX1800; DOT-3; DOT-3E1800; DOT-3T1800; DOT-3HT2000; DOT-39; DOT-3AL1800.
* * *	*	* * *
Cyclopropane (See Notes 8 and 9)	55 pct	DOT-3A225; DOT-3A480X, DOT-3AA225, DOT-3B225; DOT-4A225; DOT-4AA480, DOT-4B225; DOT-4BA225; DOT-4BW225; DOT-4B240ET; DOT-3; DOT-3E1800; DOT-39; DOT-3AL225.
Dichlorodifluoromethane (See Note 8)	119 pct	DOT-3A225; DOT-3AA225; DOT-3B225; DOT-4A225; DOT-4B225; DOT-4BA225; DOT-4BW225; DOT-4B240ET; DOT-4E225; DOT-9; DOT-39; DOT-41; DOT-3E1800; DOT-3AL225.
Dichlorodifluoromethane and difluoroethane mixture (constant boiling mixture) (See Note 8).	Not liquid full at 130° F.	DOT-3A240; DOT-3AA240, DOT-3B240; DOT-3E1800; DOT-4A240; DOT-4B240; DOT-4BA240; DOT-4BW240; DOT-4E240; DOT-9; DOT-39; DOT-3AL240.
Difluoroethane	79 pct	DOT-3A150; DOT-3AA150; DOT-3B150; DOT-4B150; DOT-4BA225; DOT-4BW225; DOT-3E1800; DOT-3AL150.
Difluoromonochloroethane (See Note 8)	100 pct	DOT-3A150; DOT-3AA150; DOT-3B150; DOT-4B150; DOT-4BA225; DOT-4BW225; DOT-3E1800; DOT-39; DOT-3AL150.
* * *	*	* * *
Ethane (See Notes 8 and 9)	35.8 pct	DOT-3A1800; DOT-3AX1800; DOT-3AA1800; DOT-3AAX1800; DOT-3; DOT-3E1800; DOT-3T1800; DOT-39; DOT-3AL1800.
Ethane (See Notes 8 and 9)	36.8 pct	DOT-3A2000; DOT-3AX2000; DOT-3AA2000; DOT-3AAX2000; DOT-3T2000; DOT-39; DOT-3AL2000.
Ethylene (See Notes 8 and 9)	31.0 pct	DOT-3A1800; DOT-3AX1800; DOT-3AA1800; DOT-3AAX1800; DOT-3; DOT-3E1800; DOT-3T1800; DOT-39; DOT-3AL1800.
Ethylene (See Notes 8 and 9)	32.5 pct	DOT-3A2000; DOT-3AX2000; DOT-3AA2000; DOT-3AAX2000; DOT-3T2000; DOT-39; DOT-3AL2000.
Ethylene (See Notes 8 and 9)	35.5 pct	DOT-3A2400; DOT-3AX2400; DOT-3AA2400; DOT-3AAX2400; DOT-3T2400; DOT-39; DOT-3AL2400.
* * *	*	* * *
Hydrogen sulfide (See Note 10)	62.5 pct	DOT-3A480; DOT-3AA480; DOT-3B480; DOT-4A480; DOT-4B480; DOT-4BA480; DOT-4BW480; DOT-26-480; DOT-3E1800; DOT-3AL480.
* * *	*	* * *
Methylacetylenepropadiene, stabilized (See Note 5)	Not liquid full at 130° F.	DOT-4B240, without brazed seams; DOT-4BA240, without brazed seams; DOT-3A240; DOT-3AA240; DOT-3B240; DOT-3E1800; DOT-4BW240; DOT-4E240; DOT-4B240ET; DOT-4; DOT-41; DOT-3AL240.
* * *	*	* * *
Monochlorodifluoromethane (See Note 8)	105 pct	DOT-3A240; DOT-3AA240; DOT-3B240; DOT-4B240; DOT-4BA240; DOT-4BW240; DOT-4B24 ET; DOT-4E240; DOT-39; DOT-41; DOT-3E1800; DOT-3AL240.
Monochloropentafluoroethane (See Note 8)	110 pct	DOT-3A225; DOT-3AA225; DOT-3B225; DOT-4A225; DOT-4B225; DOT-4BA225; DOT-4BW225; DOT-3E1800; DOT-39; DOT-3AL225.
Monochlorotriflouromethane (See Note 8)	100 pct	DOT-3A1800; DOT-3AA1800; DOT-3; DOT-3E1800; DOT-39; DOT-3AL1800.
* * *	*	* * *
Sulfur dioxide (See Note 8)	125 pct	DOT-3A225; DOT-3AA225; DOT-3B225; DOT-4A225; DOT-4B225; DOT-4BA225; DOT-4BW225; DOT-4B240ET; DOT-3; DOT-4; DOT-25; DOT-26-150; DOT-38; DOT-39; DOT-3E1800; DOT-3AL225.
Sulfur hexafluoride	120 pct	DOT-3A1000; DOT-3AA1000; DOT-3; DOT-3E1800; DOT-3AL1000.
* * *	*	* * *

Kind of gas	Maximum permitted filling density (see note 1)	Containers marked as shown in this column or of the same type with higher service pressure must be used except as provided in § 173.34 (a), (b), § 173.301(j) (see notes following table)
Vinyl chloride (See Note 5)	84 pct	DOT-4B150, without brazed seams; DOT-4BA225, without brazed seams; DOT-4BW225; DOT-3A150; DOT-3AA150; DOT-25; DOT-3E1800; DOT-3AL150.
*	*	*

(d) * * *

(3) * * *

(i) Specification 3,[1] 3A, 3AA, 3AL, 3B, 3E, 4, 4A, 4B, 4BA, 4B240FLW, 4B240ET, 4BW, 4B240X,[1] 4E, 9,[1] 25,[1] 26,[1] 38,[1] 39, or 41[1] (§§ 178.36, 178.37, 178.46, 178.38, 178.42, 178.48, 178.49, 178.50, 178.51, 178.54, 178.55, 178.61, 178.68, 178.65, of this subchapter) cylinders. The internal volume of a specification 39 cylinder must not exceed 75 cubic inches.

20. In § 173.346, paragraph (a)(11) would be revised to read as follows:

§ 173.346 Poison B liquids not specifically provided for.

(a) * * *

(11) Specification steel or nickel cylinders as prescribed for any compressed gas except acetylene.

21. In § 173.354, paragraph (a)(3) would be revised to read as follows:

§ 173.354 Motor fuel antiknock compound or tetraethyl lead.

(a) * * *

(3) Specification steel or nickel cylinders as prescribed for any compressed gas except acetylene.

22. In § 173.358, paragraph (a)(7) would be revised to read as follows:

§ 173.358 Hexaethyl tetraphosphate; methyl parathion; organic phosphate compound; organic phosphorous compound; parathion; tetraethyl dithio pyrophosphate; and tetraethyl phyrophosphate, liquid.

(a) * * *

(7) Specification steel or nickel cylinders as prescribed for any compressed gas except acetylene.

* * * * *

23. In § 173.382, paragraph (a)(4) would be revised to read as follows:

§ 173.382 Irritating materials, not specifically provided for.

(a) * * *

Except for acetylene cylinders, any steel or nickel cylinder prescribed for any compressed gas is authorized. These cylinders must be qualified, maintained, and filled in accordance with §§ 173.34 and 173.301(g) of this part. If used for material with vapor pressures exceeding 25 psig at 70° F., they must also be retested as required by § 173.34(e).

* * * * *

PART 178—SHIPPING CONTAINER SPECIFICATIONS

24. The Table of Sections to Subpart C, Part 178 would be amended by adding an entry for § 178.46 to read as follows:

* * * * *

§ 178.46 Specification 3AL; seamless cylinders made of definitely prescribed aluminum alloys.

* * * * *

25. § 178.46 would be added to read as follows:

§ 178.46 Specification DOT-3AL; seamless cylinders made of definitely prescribed aluminum alloys.

§ 178.46-1 Compliance.

Each specification DOT 3AL seamless cylinder must comply with this section and § 173.24 of this subchapter.

§ 178.46-2 Size and service pressure.

(a) The maximum water capacity is 1000 pounds.

(b) The minimum service pressure is 150 psi (see § 173.300(h) of this subchapter).

§ 178.46-3 Inspection.

Inspections and verifications must be performed by an independent inspection agency approved in writing by the Associate Director for OE in accordance with § 173.300a of this subchapter. Chemical analyses and tests as specified must be made within the United States unless otherwise approved in writing by the Associate Director for OE in accordance with § 173.300b of this subchapter.

§ 178.46-4 Duties of the Inspector.

(a) The inspector shall determine that all materials comply with this specification before releasing those materials for cylinder manufacture.

(b) The inspector shall verify compliance with the provisions of § 178.46-5(d)(1) by:

(1) Performing a chemical analyses on each melt or cast or other unit of starting material;

(2) Obtaining a certified chemical analysis from the material manufacturer for each melt or cast of material; or

(3) Performing a check analysis on one cylinder out of each lot of 200 cylinders or less, if in lieu of a certified chemical analysis a certificate indicating compliance with the material specification is obtained.

(c) The inspector shall verify ultrasonic inspection of all material by inspection or by obtaining the materials producer's certificate of ultrasonic inspection. Ultrasonic inspection must be performed or verified as having been performed in accordance with § 173.46-5(e).

(d) The inspector shall determine that each cylinder complies with this specification by:

(1) Making a complete internal inspection before closing;

(2) Making a complete external inspection;

(3) Verifying that heat treatment was proper;

(4) Selecting samples for all tests and check chemical analysis;

(5) Witnessing each test;

(6) Measuring the wall thickness and verifying that the prescribed minimum thickness was met;

(7) Verifying that the identification of material is proper;

(8) Verifying the threads, by gauge;

(9) Determining that each cylinder is marked in compliance with the specification; and

(10) Preparing and providing the required report to the purchaser, cylinder maker, and the Associate Director for OE.

(e) In this specification, a "lot" means a group of cylinders successively produced having the same:

(1) Size and configuration;

(2) specified material of construction;

(3) processs of manufacture and heat treatment;

(4) equipment of manufacture and heat treatment; and

(5) Conditions of time, temperature and atmosphere during heat treatment.

In no case may the lot size exceed 200 cylinders. Any cylinder processed for use in the required destructive physical testing need not be counted as being one of the 200, but must have been processed with the lot.

§ 178.46-5 Authorized material and identification of material.

(a) Starting stock must be cast stock that is later scalped prior to extrusion of the cylinder shell. If starting stock is not cast stock, it must be traceable to scalped cast stock.

(b) Material with seams, cracks, laminations, or other defects likely to weaken the finished cylinder may not be used.

(c) Material must be identified by a suitable method that will identify the alloy, the aluminum producer's cast number, and when performed, the solution heat treat batch number during all manufacturing operations.

(d) The material must be of uniform quality. Only the following heat treatable aluminum alloys are permitted:

BILLING CODE 4910-60-M

(1) Chemical Composition Limits 1/

Aluminum Association Alloy Designation Number	CHEMICAL COMPOSITION										
	Si	Fe	Cu	Mn	Mg	Cr	Zn	Ti	Others 2/ Each	Others 2/ Total	Al
6351	0.7-1.3	0.50 Max	0.10 Max	0.40 0.8	0.40 0.8		0.20 Max	0.20 Max	0.05 Max	0.15 Max.	Remainder
6061	0.40-0.8	0.7 Max	0.15 0.40	0.15 Max	0.8 1.2	0.04 0.35	0.25 Max	0.15 Max	0.05 Max	0.15 Max	Remainder

(2) Physical Property Limits

Alloy and Temper	TENSILE STRENGTH - PSI		Elongation - Percent Minimum for 2" or 4D 3/ Size Specimen
	Ultimate-Minimum	Yield-Minimum	
6351-T6	42,000	37,000	14
6061-T6	38,000	35,000	14

1/ ASTM B 221-76 Standard Specification for Aluminum-alloy Extruded Bars, Rods, Shapes, and Tubes, Table 1 Chemical Composition Limits.

2/ Analysis is regularly made only for the elements for which specific limits are shown, except for unalloyed aluminum. If, however, the presence of other elements is suspected to be, or in the course of routine analysis is indicated to be in excess of specified limits, further analysis is made to determine that these other elements are not in excess of the amount specified. (Aluminum Association Standards and Data - Sixth Edition 1979).

3/ "D" represents specimen diameter.

BILLING CODE 4910-60-C

(e) Before parting, all starting stock must be 100 per cent ultrasonically inspected, along the length at right angles to the central axis from two positions at 90° to one another. The equipment and continuous scanning procedure must be capable of detecting and rejecting internal defects such as cracks which have an ultrasonic response greater than that of a calibration block with a 5/64-inch diameter flat bottomed hole.

(f) Cast stock must have uniform equiaxed grain structure not to exceed 250 microns average.

(g) Any starting stock not complying with the above must be rejected.

§ 178.46-6 Manufacture.

(a) Cylinder shells must be manufactured by the backward extrusion method and have a cleanliness level adequate to ensure proper inspection.

(b) No fissure or other defect is acceptable that is likely to weaken the finished cylinder below the design strength requirements. A reasonably smooth and uniform surface finish is required. If not originally free from such defects, the surface may be machined or otherwise conditioned to eliminate these defects.

(c) The cylinder base must have a thickness not less than the prescribed minimum wall thickness of the cylindrical shell. The interior of the base must be concave to pressure and have a basic torispherical, hemispherical, or ellipsoidal shape with the dish radius no greater than 1.2 times the inside diameter of the shell. The inside knuckle radius must not be less than 12 percent of the inside diameter of the cylindrical shell.

(d) For free standing cylinders the base thickness must be at least two times the minimum wall thickness at the juncture between the cylinder base and the floor when the cylinders are in the vertical position.

(e) Welding or brazing is prohibited.

(f) Each new design and any significant change to any acceptable design must be qualified for production by testing prototype samples as follows:

(1) Three samples must be subjected to 100,000 pressure reversal cycles between zero and service pressure or 20,000 pressure reversal cycles between zero and test pressure, at a rate not in excess of 10 cycles per minute, without failure.

(2) Three samples must be pressurized to destruction and failure must not occur at less than 2.5 times the marked cylinder service pressure. Each cylinder must remain in one piece. Failure must initiate in the cylinder sidewall in a longitudinal direction.

(g) In this specification "significant change" means a 10 percent or greater change in cylinder design wall thickness or diameter; a 20 percent or greater change in length, service pressure or rated capacity; and any change in material.

§ 178.46-7 Wall thickness.

(a) The minimum wall thickness must be such that the wall stress at the minimum specified test pressure may not exceed 80 per cent of the minimum yield strength and may not exceed 67 per cent of the minimum ultimate tensile strength as verified by physical tests in § 178.46-13.

(b) Calculations must be made by the formula:

$$S=[P(1.3D^2+0.4d^2)]/[D^2-d^2-d^2]$$

Where:

S = wall stress in pounds per square inch;
P = prescribed minimum test pressure in pounds per square inch (see § 178.46-11(c));
D = outside diameter in inches;
d = inside diameter in inches.

(c) The minimum wall thickness for any cylinder with an outside diameter greater than 5 inches must be 0.125 inch.

§ 178.46-8 Openings.

(a) Openings are permitted in heads only.

(b) The size of any centered opening in a head may not exceed one-half the outside diameter of the cylinder.

(c) Other openings are permitted in the head of a cylinder if:

(i) Each opening does not exceed 2.625 inches in diameter, or one-half the outside diameter of the cylinder;

(ii) Each opening is separated from each other by a ligament; and

(iii) Each ligament which separates two openings must be at least three times the average of the diameters of the two openings.

(d) All openings must be circular.

(e) All openings must be threaded. Threads must comply with the following:

(1) Each thread must be clean cut, even, without any checks, and to gauge.

(2) Taper threads, when used, must be the American Standard Pipe Thread (NPT) type complying with the USDC, NBS Handbook H-28, Part III, Section VII, or the National Gas Taper Thread (NGT) standard complying with NBS Handbook H-28, Part II, Sections, VII and IX.

(3) Straight threads conforming with National Gas Straight Thread (NGS) standards are authorized. These threads must comply with NBS Handbook H-28, Part II, Section VII and IX.

§ 178.46-9 Heat treatment.

Prior to any test, all cylinders must be subject to a solution heat treatment and aging treatment appropriate for the aluminum alloy used.

§ 178.46-10 Safety relief devices and protection for valves, safety devices, and other connections.

Pressure relief devices and protection arrangements for valves, pressure relief devices, and other connections must comply with §§ 173.34(d) and 173.301(g) of this subchapter.

§ 178.46-11 Hydrostatic test.

(a) Each cylinder must be subjected to an internal test pressure using the water jacket equipment and method or other suitable equipment and method. The testing apparatus must be operated in a manner so as to obtain accurate data. The pressure gauge used must permit reading to an accuracy of 1 percent. The expansion gauge must permit reading to an accuracy of 1 percent of total expansion or 0.1 cubic centimeter, whichever is greater.

(b) The test pressure must be maintained for a sufficient period of time to assure complete expansion of the cylinder. In no case may the pressure be held less than 30 seconds. If, due to failure of the test apparatus, the required test pressure cannot be maintained, the test may be repeated at a pressure increased by 10 percent or 100 psi, whichever is lower. If the test apparatus again fails to maintain the test pressure, the cylinder being tested must be rejected. Any internal pressure applied to the cylinder after heat treatment and before any official test may not exceed 90 percent of the test pressure.

(c) The minimum test pressure is the greatest of the following:

(1) 450 psi regardless of service pressure;

(2) Two times the service pressure for cylinders having service pressure less than 500 psi; or

(3) Five-thirds times the service pressure for cylinders having a service pressure of at least 500 psi.

(d) Permanent volumetric expansion may not exceed to 10 percent of total volumetric expansion at test pressure.

§ 178.46-12 Flattening test.

(a) The flattening test must be performed on one cylinder taken at random out of each lot of 200 or less by placing the cylinder between wedge shaped knife edges having a 60° included angle, and rounded in accordance with the following table. The longitudinal axis of the cylinder

must be at an angle 90° to the knife edges during the test.

Table

Cylinder wall thickness in inches	Radius in inches
Under 0.150	0.500
0.150 to 0.249	.875
0.250 to 0.349	1.500
0.350 to 0.449	2.125
0.450 to 0.549	2.750
0.550 to 0.649	3.500
0.650 to 0.749	4.125

(b) An alternate bend test in accordance with ASTM E 290–77 performed on two test specimens cut from a ring, using a mandrel diameter not more than 6 times the wall thickness is authorized in the following cases:

(1) When the length of the cylindrical portion of the cylinder is less than 2 times the cylinder diameter; or

(2) When the wall thickness is greater than 0.500 inch.

(c) Each test cylinder must withstnd flattening to nine times the wall thickness without cracking. When the alternate bend test is used, the test specimens shall remain uncracked when bent around a mandrel in the direction of curvature of the cylinder wall, until the interior edges are at a distance apart not greater than the diameter of the mandrel.

§ 178.46–13 Physical test.

(a) Two test specimens cut from one cylinder representing each lot of 200 cylinders or less must be tested. The results of the test must conform to at least the minimum acceptable physical property limits for aluminum alloys as specified in § 178.46–5(d)(2).

(b) Specimens must be 4D bar or gauge length 2 inches with width not over 1½-inch taken in the direction of extrusion approximately 180° from each other and tested in accordance with ASTM E–8–79. The specimen, exclusive of grip ends, may not be flattened. Grip ends may be flattened to within one inch of each end of the reduced section. When the size of the cylinder does not permit securing straight specimens, the specimens may be taken in any location or direction and may be straightened or flattened cold by pressure only, not by blows. When such specimens are used, the inspector's report must show that the specimens were so taken and prepared. Heating of specimens for any purpose is forbidden.

(c) The yield strength in tension must be the stress corresponding to a permanent strain of 0.2 percent of the gauge length.

(1) The yield strength must be determined by either the "offset" method or the "extension under load" method as prescribed in ASTM Standard E–8–79.

(2) In using the "extension under load" method, the total strain (or "extension under load") corresponding to the stress at which the 0.2 percent permanent strain occurs may be determined with sufficient accuracy by calculating the elastic extension of the gauge length under appropriate load and adding thereto 0.2 percent of the gauge length. Elastic extension calculations must be based on an elastic modulus of 10,000,000 psi. In the event of controversy, the entire stress-strain diagram must be plotted and the yield strength determined from the 0.2 percent offset.

(3) For the purpose of strain measurement, the initial strain must be set while the specimen is under a stress of 6,000 psi, the strain indicator reading being set at the calculated corresponding strain.

(4) Cross-head speed of the testing machine may not exceed ⅛ inch per minute during yield strength determination.

§ 178.46–14 Rejected cylinder.

Reheat treatment is authorized one time; subsequent thereto, cylinders must pass all prescribed tests to be acceptable.

§ 178.46–15 Marking.

(a) Each cylinder must be plainly and permanently marked, by stamping on the cylinder shoulder, top head, or neck, in the following order)

(1) The specification marking "DOT 3AL" must appear first on the cylinder followed immediately by the service pressure (for example: DOT–3AL 1800).

(2) The serial number and an identifying symbol or letters appear next; location of the number to be just below or immediately following the DOT mark; location of the symbol to be just below or immediately following the number. The symbol and numbers must be those of the maker, or of the purchaser or user if the maker's symbol also appears near the date of the original test. The symbol must be registered with the Associate Director for OE. No duplication is authorized. Examples:

DOT–3AL 1800
1234

DOT–3AL1800–1234–XY.

(3) The inspector's official mark must appear near the serial number; then the date of test (such as 5–73 for May 1973), so placed that the dates of subsequent test can be easily added.

(4) Marks must be at least ¼ inch high if space permits.

(b) Other marks are authorized provided they are made in low stress areas other than the side wall and are not of a size and depth that will create harmful stress concentrations. Such marks may not conflict with any DOT required markings.

§ 178.46–16 Inspector's report.

(a) Required to be clear, legible, and in the following form:

Place _____
Date _____
Gas Cylinders:
Manufactured for _____
Location at _____
Manufactured by _____
Location at _____
Consigned to _____
Location at _____
Quantity _____
Size _____ inches outside diameter by _____ inches long
Marks stamped into the shoulder of the cylinder are:
Specification DOT _____
Serial number _____ to _____ inclusive
Identifying symbol (registered) _____
Cylinder manufacturer's identification symbol _____
Inspector's mark _____
Test Date _____
Tare weights (yes or no) _____
Other marks (if any) _____
These cylinders were made by process of _____
_____
The cylinders were heat treated by the process of _____
_____
(alloy and temper designation).

The material used was verified as to chemical analysis and record thereof is attached hereto.

All material and each cylinder were inspected; all that were accepted were found free from seams, cracks, laminations, and other defects which might prove injurious to the strength of the cylinder. The processess of manufacture and heat treatment of cylinders were supervised and found to be efficient and satisfactory.

The cylinder walls were measured and the minimum thickness noted was _____ inch. The outside diameter was determined to be _____ inches. The wall stress was calculated to be _____ pounds per square inch under an internal pressure of _____ pounds per square inch. The required minimum thickness is _____ inch and the maximum wall stress allowed is _____ pounds per square inch at an internal pressure of _____ pounds per square inch.

Hydrostatic tests, flattening tests, tensile tests of material, and other tests, as prescribed in Specification DOT-3AL were made in the presence of the inspector and all material and cylinders accepted were found to be in compliance with the specification. Records thereof are attached hereto.

I hereby certify that all of these cylinders proved satisfactory in every way and comply with the Department of Transportation Specification 3AL except as follows:

Exceptions _____

_____

_____

(Signed) _____

Inspector

(Place) _____

(Date) _____

BILLING CODE 4910-60-M

RECORD OF HYDROSTATIC TESTS ON CYLINDERS

Numbered ..... to ..... inclusive.
Size ..... inches outside diameter by .... inches long.
Made by ..... Company

Serial Nos. of cylinders tested arranged numerically	Actual test pressure (lbs. per sq. inch)	Total expansion (cubic centi-meters) 1/	Permanent expansion cubic centimeters) 1/	Percent ratio of permanent expansion to total expansion (Actual value)	Tare weight (lbs) 2/	Volumetric capacity
.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....

1/ If the tests are made by a method involving the measurement of the amount of liquid forced into the cylinder by the test pressures, then the basic data on which the calculations are made, such as the pump factors, temperature of liquid, coeffficient of compressibility of liquids, etc., must also be given.

2/ Do not include removable cap but state whether with or without valve. These weights must be accurate to a tolerance of 1 percent.

(Signed) .....

(Place) .....

(Date) .....

RECORD OF PHYSICAL TESTS OF MATERIAL FOR CYLINDERS

Numbered ..... to ..... inclusive.
Size ..... inches outside diameter by ..... inches long.
Made by ..... Company.
For ..... Company.

Test No.	Cylinders represented by test (Serial Nos.)	Yield Strength at 0.2 percent offset (lbs. per sq. inch).	Tensile Strength (Pounds per sq. inch).	Elongation (Percent in ____ size specimen)	Flattening Test (Record as multiple of t).
.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....

(Signed).....

(Place).....

(Date).....

RECORD OF CHEMICAL ANALYSES OF MATERIAL FOR CYLINDERS

Numbered .....to ..... inclusive.
Size ..... inches outside diameter by .... inches long.
Made by ..... Company.
For ..... Company.

Note: Any omission of analyses by heats, if authorized, must be accounted for by notation hereon reading "The prescribed certificate of the manufacturer of material has been secured, found satisfactory, and placed on file," or by attaching a copy of the certificate.

Alloy Designation*	Cylinders Represented (Serial Numbers)	Chemical Analyses										
		Si	Fe	Cu	Mn	Mg	Cr	Zn	Ti	Others Ea.	Others Total	Al
.....	.....	...	...	...	...	...	...	...	...	...	...	...
.....	.....	...	...	...	...	...	...	...	...	...	...	...
.....	.....	...	...	...	...	...	...	...	...	...	...	...
.....	.....	...	...	...	...	...	...	...	...	...	...	...

* Aluminum Association Alloy Designation Number

The analyses were made by .....

(Signed) .....
(Place) .....
(Date) .....

BILLING CODE 4910-60-C

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A to Part 1, and paragraph (a)(4) of App. A Part 106)

Note.—The Materials Transportation Bureau has determined that this document will not result in a major economic impact under the terms of Executive Order 12044 and DOT implementing procedures (44 FR 11034) nor require an environmental impact statement 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 July 31, 1980.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 80-24646 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-60-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1039

[Ex Parte No. 364]

Railroad Freight Forwarder Contract Rates; General Policy Statement

AGENCY: Interstate Commerce Commission.

ACTION: Proposed policy statement; notice of termination of proceeding.

SUMMARY: The issues in this proceeding were (1) the jurisdiction of the Commission to permit the filing of contract rates between rail carriers and freight forwarders; and (2) the standards to be used to judge these contracts, if permitted. (44 FR 33714, June 12, 1979) We had proposed, for these purposes, to treat freight forwarders as shippers, and had suggested that the standards developed in Ex Parte No. 383F, Change of Policy—Railroad Contract Rates, for rail contracts with shippers be imposed on rail contracts with freight forwarders.

Pub. L. No. 96-296 has made a number of changes that require a realignment of this approach. New section 10703(a)(4)(E) specifically authorizes these contracts with rail and water carriers. In addition, the legislative history [1] clearly states that, for contracting purposes, freight forwarders are to be treated as carriers, not as shippers. Thus, the issues raised in the notice in this proceeding are no longer relevant. Instead, the statutory amendments reflect the intent to treat these contracts in a fashion similar to contracts presently authorized under section 10766 (b). In addition, in this proceeding we proposed to issue a policy statement. The amendments require actual rules. Due to this basic inconsistency between our original notice and the recent statutory amendments, we are discontinuing this proceeding. A new proceeding, Ex Parte No. 364 (Sub No. 1), Freight Forwarder Contract Rates—Implementation of Pub. L. 96-296, is being instituted on this date to accomplish the changes required by the legislation.

This decision will not significantly affect either the quality of the human environment or conservation of energy resources.

EFFECTIVE DATE: August 14, 1980.

FOR FURTHER INFORMATION CONTACT: Richard B. Felder or Jane Mackall (202) 275-7693.

(49 U.S.C. 10321, 10703(a)(4)(E), 10749, and 10766(b), 5 U.S.C. 553.)

Decided: July 31, 1980.

By the Commission, Chairman Gaskins, Vice Chairman Gresham, Commissioners Stafford, Clapp, Trantum, Alexis, and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-24786 Filed 8-13-80; 8:45 am]

BILLING CODE 7035-01-M

[1] H.R. Rep. No. 96-1969, 96th Congress, 2d Session, p. 35 (1980).

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Extension of Comment Period on Leopard Reclassification

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of extension of comment period.

SUMMARY: In the Federal Register of 24 March 1980 (45 FR 19007), the Service published a proposed rule to reclassify the leopard (*Panthera pardus*) under the Endangered Species Act of 1973, from Endangered to Threatened status in Sub-Saharan Africa; the Service also proposed to permit the importation of sport-hunted leopard trophies from this area under the rules and regulations established by the Convention on International Trade in Endangered Species of Wild Fauna and Flora. The comment period permitted by the proposal expired on June 24, 1980, and during this established comment period the Service received an unprecedented amount of correspondence on the proposal. At the close of the comment period, the Service was still receiving a large volume of mail daily on the leopard issue, and it is obvious that many more comments remain to be received. Because of the great public interest in the matter, and the Service's desire to adequately address all the issues involved, it has now been decided that the comment period will be extended until November 24, 1980. All parties with data, comments, opinion, new insights, etc. on the proposal to reclassify the leopard in Sub-Saharan Africa, and to permit regulated importation of sport-hunted trophies, are invited to correspond with the Service before November 24, 1980.

DATES: All relevant comments and materials concerning the March 24, 1980, proposal to reclassify the leopard as a Threatened species and to permit the regulated import of sport-hunted trophies of this species, must be received no later than November 24, 1980.

ADDRESSES: All comments and materials should be sent to the Director (FWS/OES), U.S. Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240. Such comments and materials will be available for public inspection during normal business hours at the Service's Office of Endangered Species, 1000 N. Glebe Road, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-2771).

SUPPLEMENTARY INFORMATION:

Background

On March 24, 1980, the Service published in the **Federal Register** (45 FR 19007) a proposal to reclassify the leopard (*Panthera pardus*) in Sub-Saharan Africa from Endangered to Threatened status. The Service also proposed to permit the importation into the United States of legally-taken, sport-hunted trophies under the terms and conditions specified by the Convention on Trade in Endangered Species of Wild Fauna and Flora. The leopard is on Appendix I of the Convention which means that a valid export permit from the country of origin would be required, and a valid import permit must be issued by the United States Management Authority for the Convention before a trophy could be imported. An export permit will not be granted by the State of export unless its Scientific Authority advises that such export will not be detrimental to the survival of the species. The United States Management Authority will not issue an import permit unless it determines that an export permit has been granted and that the importation is

not for primarily commercial purposes, and unless the United States Scientific Authority has advised that the importation will be for purposes which are not detrimental to the survival of the species involved.

In addition to publishing the proposal in the **Federal Register**, the Service notified each of the African countries in which the leopard is resident of the proposed action and requested any comments, data, opinions or new insights they may have on the matter.

All interested and/or concerned parties were invited to submit their comments for consideration before June 24, 1980. This deadline for receipt of comments has now passed but the Service feels that, due to the following factors, it is necessary to extend the deadline date for comments to November 24, 1980.

(1) The response to the leopard proposal has been very large. At the time of the closing date for comments, letters were still arriving in great numbers and such correspondence continues to arrive daily. Additional time is required to allow the public to adequately express its views concerning the proposal.

(2) Only three African countries have responded to the Service's notification. It is essential that the other African countries have ample opportunity to present their data comments, and this can best be achieved by an extension of the comment period.

(3) Because of the great volume of new data and insights received, and the complexity of the issues involved, the Service will need more time than originally believed in which to analyze the data and arrive at a final determination. An extension of the comment period would provide the Service with the additional time needed.

Because of the above, the Service has decided to extend the comment period on the reclassification of the Sub-Saharan African leopard from June 24, 1980 to November 24, 1980. Complete details on the leopard's status and current distribution, and the Service's reasons for proposing reclassification and regulated trophy importation, may be found in the March 24, 1980 **Federal Register** (45 FR 19007–19012).

The Service is recontacting the Sub-Saharan African countries where the leopard is resident and requesting from them any data or comments relative to the status, distribution, population trends, or potential threats to the species. All data and comments received as a result of the proposal, and of this comment period extension, will be analyzed by the Service to determine whether the proposal should be made final, or whether it should be modified, or abandoned.

This notice was prepared by John L. Paradiso, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240.

Dated: August 1, 1980.

Lynn A. Greenwalt,

Director, Fish and Wildlife Service.

[FR Doc. 80-24540 Filed 8-13-80; 8:45 am]

BILLING CODE 4310-55-M

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50 CFR Part 17

Endangered and Threatened Wildlife and Plants: Notice of Withdrawal of An Expired Proposal for Listing of the Illinois Mud Turtle

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of withdrawal of an expired proposed rule.

SUMMARY: The Endangered Species Act mandates withdrawal of proposed rules to list species which have not been finalized within 2 years of the proposal. The time limit has expired for the Illinois mud turtle (*Kinosternon flavescens spooneri*) which was originally proposed for listing as Endangered with Critical Habitat on July 6, 1978 (43 FR 29152–54). This notice constitutes the withdrawal of the Illinois mud turtle listing proposal.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, Fish and Wildlife Service, Washington, D.C. 20240 (703/235–2771).

SUPPLEMENTARY INFORMATION: Background—The Illinois mud turtle (*Kinosternon flavescens spooneri*) was proposed to be an Endangered species, together with Critical Habitat areas in Illinois and Iowa, on July 6, 1978 (43 FR 29152–29154). The Critical Habitat portion of this proposal was withdrawn by the Service on March 6, 1979 (44 FR 12382–12384), because of procedural and substantive changes in prior law made by the Endangered Species Act Amendments of 1978. On December 7, 1979 (44 FR 70680–70682) the Service reproposed Critical Habitat for the Illinois mud turtle. The areas proposed were modified somewhat based upon information received subsequent to the original proposal. Public meetings were held on the proposal on January 30, 1980, in Springfield, Illinois, and on January 31, 1980, at Muscatine, Iowa. The public comment period on this reproposal expired on February 5, 1980, but was reopened from March 7 to March 22, 1980, in order for the Service to receive written comments submitted on the technical information presented at the two hearings (45 FR 14608–9). As a result of the comment periods a total of 131 written comments were received by the Service. Many of the comments were extensive and had appended scientific studies or reports.

As a result of analyzing the comments received it became apparent that there were strong differences of opinion among the commentors as to: (1) Whether the Illinois mud turtle was a valid subspecies, (2) whether any population estimates for the turtle were accurate, and (3) whether the species qualified for listing. It was the decision of the Service to convene a panel of outside qualified biologists to examine the submitted data and to advise the Service as to its considered judgment of the above questions, as well as other issues. The panel members were selected from a list recommended by the National Academy of Science. Accordingly, on June 5, 1980, the Service convened a 2 day panel meeting on the issues. The panel members were Dr. James F. Berry (Elmburst College), Dr. James L. Christiansen (Drake University), Dr. Carl H. Ernst (George Mason University), Dr. J. Whitfied Gibbons (Savannah River Ecology Laboratory), Dr. Paul N. Hinz (Iowa State University), and Dr. John B. Iverson (Earlham College). The panel felt *Kinosternon flavescens spooneri* was a valid subspecies, but that the small Nebraska population may belong to this subspecies, in addition to those known from Illinois, Iowa, and Missouri. The panel judged that no reliable overall population estimate was available, nor was it possible to determine an overall population trend. The panel did express that it felt the number of available habitats for the Illinois mud turtle were declining in quantity and quality, and went on to state that there is a need for protection of this subspecies, especially populations in Illinois. It should be noted that the panel did not state whether Federal, State, or local protection would be the most appropriate and effective strategy.

Based upon the panel's report it was felt that insufficient information is available to justify listing the Illinois mud turtle as a Threatened or Endangered species. Further, there is a need to conduct additional research so as to clarify the complex taxonomic relationship and to estimate the total population of this subspecies.

Accordingly, I have determined that the proposal to list the Illinois mud turtle should be withdrawn so that taxonomic and other questions raised by the panel may be clarified. A determination as to

whether or not to repropose the Illinois mud turtle will be made on the basis of findings from the above study.

Section 4(f)(5) of the Endangered Species Act of 1973, states that:

A final regulation adding a species to any list published pursuant to subsection (c) shall be published in the **Federal Register** not later than 2 years after the date of publication of the notice of the regulation proposing listing under paragraph (B)(i)(1). If a final regulation is not adopted within such 2 year period, the Secretary shall withdraw the proposed regulation and shall publish notice of such withdrawal in the **Federal Register** not later than 30 days after the end of such period.

The 2-year time limit on proposals established in this subsection have expired for the Illinois mud turtle which was proposed July 6, 1978 (43 FR 29152–54). The Illinois mud turtle is known to occur from several localities in Illinois, Iowa, and Missouri.

In accord with section 4(f)(5), the Illinois mud turtle is withdrawn. This action gives notice of the withdrawal of this species.

This notice is issued under the authority contained in the Endangered Species Act of 1973.

The primary author of this notice is Dr. Paul A. Opler, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1975).

Dated: August 1, 1980.

Lynn A. Greenwalt,

Director, Fish and Wildlife Service.

[FR Doc. 80-24647 Filed 8-13-80; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

Commercial and Recreational Salmon Fisheries Off the Coasts of Oregon, Washington, and California

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/ Commerce.

ACTION: Notice of preliminary projections.

SUMMARY: The Acting Director, Northwest Region, ("Regional Director") National Marine Fisheries Service, (NMFS), has completed a preliminary in-season review of pre-season estimates of coho salmon stock abundance and total ocean harvest of coho to date. This review is in accordance with the 1980 amendment to the Fishery Management Plan (FMP) for the "Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon and California Commencing in 1978," and regulations implementing the 1980 amendment. The area considered is from the U.S./Canadian boundary to the California/Oregon boundary.

On or before August 22, a final determination will be made using the best information then available. If the data indicate that in-season modification of the 1980 seasons or catch limits is necessary, such action will be taken by publication of a notice of final rulemaking in the **Federal Register** on or near August 22.

DATE: Public comments are invited until August 21, 1980.

ADDRESS: Comments may be sent to: H. A. Larkins, Acting Director, Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue North, Seattle, Washington 98109.

FOR FURTHER INFORMATION CONTACT: H. A. Larkins, Telephone 206–442–7575.

SUPPLEMENTARY INFORMATION: The final regulations implementing the FMP at 50 CFR Part 661, were filed with the **Federal Register** on July 29, 1980. They specify in § 661.12(b) that the Acting Director, Northwest Region, NMFS, on August 22, may modify the open seasons and catch limits set forth in § 661.10 and § 661.11 in any portion of Sub-areas A, B or C by issuing a field order if he determines that (1) actual conditions of abundance and distribution of salmon and fishing efforts and catches differ from conditions anticipated prior to May 1; and (2) in-season modifications are necessary to provide adequate escapement for spawning, to meet treaty-Indian allocation requirements, or to maintain insofar as possible the historical harvest ratio between commercial and recreational salmon fisheries. Sub-area A is the area extending from Cape Falcon, Oregon, to the U.S./Canadian boundary; Sub-area B is the area from Cape Falcon to Cape Blanco, Oregon, and Sub-area C extends from Cape Blanco to the California/ Oregon border.

According to § 661.12(d)(1) of the regulations, preliminary projections are to be made on August 7 based on the following factors:

(A) The number of participants, amount and distribution of fishing effort, in the commercial and recreational fisheries as of August 7 compared to similar time periods in prior years; and

(B) The current and historical coho salmon harvest ratios between the commerical fishery and the recreational fishery, as set forth in paragraph (e) of this section; and

(C) Abundance estimates and catches of coho stocks in the WPP Regulatory Area as of August 7 compared to the WPP estimate of coho salmon abundance and catch data for the 1974–1976 period; and

(D) Abundance estimates and catches of coho stocks in the OPI Regulatory Area, including private hatchery fish, compared to the original OPI predictions; and

(E) Data from marked-fish recoveries, including analysis of recoveries of coho salmon with implanted coded-wire tags and

(F) Any other scientific information relevant to the abundance and distribution of coho stocks, total fishing efforts and catches that is available as of August 7.

These criteria were applied to two major production areas as follows:

The Washington Production Projection (WPP) Regulatory Area

Catch Data

Information gathered through July 27, 1980, indicates that as of that time the ocean harvest of coho in the WPP was 498,668 fish: 283,397 caught in the recreational fishery and 214,271 in the troll fishery (31,637 by the treaty Indian ocean fishery). These data reveal a harvest ratio between the commercial and recreational fisheries of 43:57 as compared to the 1971–75 historic seasonal ratio of 60:40. Coho harvest figures for 1979 for the WPP through July 27 were 164,641 for the recreational fishery and 392,165 for the troll fishery. Comparable catch data for the 1974–76 period show an average WPP coho harvest of 502,085 fish for the first two weeks of the all species season for those years; 300,894 in the recreational fishery and 201,191 in the troll fishery.

Effort Data

Current WPP troll effort through July 27, 1980, is 12,079 boat days down approximately 36.5% from the 1979 effort to July 27 of 19,033 boat days. Recreational effort through the same date is 174,764 angler trips as compared to a 1979 level of 171,820 angler trips and a 1977–79 average of 216,773 angler trips.

The Oregon Production Index (OPI)

Catch Data

An estimated 623,265 coho have been harvested by the ocean fisheries in the OPI as of July 27, 1980. This total includes catches of 135,781 for Ilwaco, 440,641 for Oregon and 46,843 for California. The troll fishery harvested 228,409 compared with 394,856 for the recreational fishery. The 1980 harvest ratio between the commercial and recreational fisheries through the same date was 37:63 as compared to the 1971–75 historic seasonal ratio of 71:29.

Comparable OPI catch data as of the same date for the 1979 season was 760,952 coho for the troll fishery and 176,831 coho for the recreational fishery.

Effort Data

Effort for the combined Oregon, and Ilwaco, Washington, area through July 27, 1980 was 14,922 boat days for the troll fishery and 274,649 angler trips for the recreational fishery. This is compared with 1979 effort through a comparable date of 26,213 boat days for the troll fishery and 241,031 angler trips for the recreational fishery.

Coho Abundance in the WPP and OPI

Preliminary analysis of May through early July coded-wire tag (CWT) recoveries indicates a significant increase in percentage contribution of Columbia River-origin coho to the recreational fishery catches in all four Washington coastal areas as contrasted to final pre-season forecasts. This implies that either the OPI or the WPP or both pre-season forecasts of coho stock abundance are inaccurate and may be in need of modification. The possible reasons for this inaccuracy are:

a. The initial OPI abundance estimate is correct, but Puget Sound-Washington coastal coho abundance is much lower than originally forecast.

b. Coho abundance for the OPI is moderately higher than forecast, and Puget Sound-Washington coastal coho abundance is moderately lower than pre-season forecasts.

c. The initial Puget Sound-Washington coastal forecasts are correct, but the actual OPI coho abundance is much higher than forecast.

For the following reasons, alternative "b" above seems to be the most plausible, although refinement of stock composition and distribution analysis will require CWT data from the first three complete weeks of the all species troll fishery which are not currently available.

1. CWT data available to date in 1980 on 3-year-old adults show improved survival for delayed-release hatchery coho in the Columbia River system. Results from 1979 hatchery returns of 2-year-olds indicate, however, that this type of production also produces 2-year-old jack salmon at a much lower rate than normal releases. Since these jacks are the basis for the OPI abundance forecast, a reduction in jack production resulting from delayed releases can produce an OPI underestimate. In addition, delayed-release production was not uniformly distributed among artificial production stations included in the OPI jack total.

2. Preliminary analysis of 1977 brood year time-of-release experimental groups from four different Columbia River hatcheries show a survival advantage as adults of 2.18 to 1 for early June vs early May releases. An estimated 21% of total Columbia River yearling coho releases benefited from this advantage (release from May 16–June 7) which could translate into an increased Columbia River coho stock size as high as 25%.

3. To date, private Oregon aquaculture production has been a very small contributor to Washington's ocean salmon catch.

4. Although efforts to develop predictive methods similar to the OPI for salmon stocks predominating off northern Washington have been less successful to date, real time statistics available for the northern Washington troll fishery seem to indicate a lower abundance of coho than prevailed in any of the past five years.

Summary and Conclusions

It is apparent that to date the harvest of coho by recreational fishermen off Oregon and Washington is higher than anticipated. Through July 27, 623,265 coho have been harvested in the OPI, of which 63% (394,856 coho) were taken by the recreational fishery. The preseason forecast for the OPI was for a 820,000 coho harvest of which 29% (240,000) were expected to be harvested by recreational fishermen.

In the WPP, 498,668 coho were harvested through July 27, of which 284,397 coho were taken by the recreational fishery. The preseason estimate of available coho harvest in the WPP was 857,000 coho of which 40% (347,000 coho) were expected to be harvested in the recreational fishery.

As of this date there is insufficient reliable information to conclude that actual conditions of coho abundance differ from pre-season estimates although there are indicators that there could be differences identified by August 22, 1980, in either the OPI area, the WPP area or both. It is possible that the Columbia River component of the OPI is slightly higher than forecast and the Puget Sound component of the WPP is slightly lower than forecast. If such differences are confirmed by later data, modifications to provide adequate escapement for spawning, or to meet treaty-Indian allocation requirements, or to help insofar as possible achieve the historical harvest ratio between commercial and recreational salmon fisheries, may be made by notice of final rulemaking by the Regional Director on August 22. Such modifications could shorten or extend either the recreational or the troll season in the OPI area or the WPP area or both.

A finding that the Columbia River component of the OPI is slightly higher and the Puget Sound component of the WPP is slightly lower than originally forecast has the following implications: A downward revision of abundance for the WPP coho stocks will lead to a reduction in the 857,000 fish allowable ocean catch north of Cape Falcon since the fishery will be limited by the strength of the stocks and treaty Indian allocation requirements. This could lead to a shortening of the recreational season, the troll season, or both.

An upward revision of the OPI coho abundance forecast could increase the allowable ocean coho catch in the area south of Leadbetter Point and necessitate some lengthening of one or more of the seasons. Whether this occurs depends on the level of effort and catch rates between now and August 22. The 37 percent commercial *vs.* 63 percent recreational catch ratio, if maintained, will certainly be a factor in adjusting the seasons, if necessary, on August 22.

Comments and Subsequent Actions

In accordance with § 661.12(g) of the final regulations, the Regional Director finds that a public comment period ending August 21 would be in the best interests of the public and the resource prior to the finalization of these preliminary findings and determinations. Relevant data on which these preliminary projections are based may be reviewed at the offices of the Regional Director (address above) during the comment period.

As a result of comments received during the public comment period and updated information available on August 21, the Regional Director will consider further the necessity for in-season modifications in the 1980 open fishing seasons and catch limits of the ocean recreational and commercial fisheries and will, as soon as practicable, publish in the **Federal Register** either (a) a notice of final rulemaking that makes in-season modifications or (b) a notice of no change in the regulations.

Signed at Washington, D.C., this 11th day of August 1980.

(16 U.S.C. 1801 *et seq.*)

Robert K. Crowell,

Deputy Executive Director, National Marine Fisheries Service.

[FR Doc. 80-24678 Filed 8-13-80; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 45, No. 159
Thursday, August 14, 1980

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

Farmers Home Administration

[F.C.D.A. Number 10.422, Business and Industrial Loans]

Business and Industrial Loans; Insured Loan Interest Rates

AGENCY: Farmers Home Administration, USDA.

ACTION: Notice.

SUMMARY: Notice is hereby given by the Farmers Home Administration that the current rate of interest for insured business and industrial loans, established pursuant to 7 CFR 1980.423(b) is as follows:

a. Insured loans for other than public bodies in rural areas will be at the rate of eleven and one-half percent (11½%).

This rate will remain in effect until a change is published in the **Federal Register.**

Funds are very limited for this program. $10 million is available nationwide for fiscal year 1980.

EFFECTIVE DATE: August 14, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. LaVerne A. Isenberg, Room 4118, Farmers Home Administration, USDA, Washington, DC 20250. Phone: 202–447–4871.

This notice does not directly affect any FmHA program or projects which are subject to A–95 clearinghouse review.

Dated: August 1, 1980.

Gordon Cavanaugh,

Administrator, Farmers Home Administration.

FR Doc. 80-24190 Filed 8-13-80; 8:45 am]

BILLING CODE 3410-07-M

Federal Grain Inspection Service

Administrative Modification of Registration Procedures for Foreign Commerce Grain Businesses

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces a modification of the administrative procedures established by the Administrator of the Federal Grain Inspection Service (FGIS or Service) for purposes of inital implementation of the registration procedures for foreign commerce grain businesses under the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.)* (Act), and the regulations which implement the Act. The modification will permit grain firms to submit one application form and FGIS to issue one certificate of registration for the period from October 10, 1980, through December 31, 1981.

EFFECTIVE DATE: August 14, 1980.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, 2405 Auditors Building, Washington, D.C. 20250, telephone (202) 447–8262.

SUPPLEMENTARY INFORMATION: Section 17A of the Act requires the registration of all persons engaged in the business of buying grain for sale in foreign commerce, and in the business of handling, weighing, or transporting grain for sale in foreign commerce.

Sections 800.32–800.38 of the regulations require the registration of grain firms beginning October 10, 1980, (6 months after the effective date of the regulations). They further state that applications shall be made on a form furnished by the Service and that certificates of registration will terminate on December 31 of the year for which they are issued. Renewal notices may be sent to holders of a certificate of registration at least 60 calendar days before termination.

To prevent the duplication of effort involved in having grain firms complete two application forms (one for the period October 10, 1980, through December 31, 1980, and another for calendar year 1981), the Service will combine the two periods. Thus, the initial certificates of registration will be valid for the period from October 10, 1980, through December 31, 1981. Applicable registration fees (§ 800.71 of the regulations) will be prorated for the remainder of 1980, and the annual fee will be charged for calendar year 1981.

The Service has developed a list of potential registrants and will be mailing applications forms to them on or about August 15, 1980. Firms which do not receive application forms may request them by writing or calling the Compliance Division, Federal Grain Inspection Service, 2405 Auditors Building, Washington, D.C. 20250 (202) 447–9300. Firms having one or more facilities will be required to submit only one application for registration, since registration is done on a corporate basis, not a facility basis.

(Sec. 17A, Pub. L. 95–113, 91 Stat. 1024 (7 U.S.C. 87(f–1)))

Done in Washington, D.C., on August 8, 1980.

L. E. Bartelt,

Administrator.

[FR Doc. 80-24525 Filed 8-13-80; 8:45 am]

BILLING CODE 3410-02-M

Soil Conservation Service

Betsy Jeff Penn 4–H Center Critical Area Treatment RC&D Measure, North Carolina

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Jesse L. Hicks, State Conservationist, Soil Conservation Service, Room 544, Federal Building, 310 New Bern Avenue, Raleigh, North Carolina 27611, telephone 919–755–4210.

Notice: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Betsy Jeff Penn 4–H Center Critical Area Treatment RC&D Measure, Rockingham County, North Carolina.

The environmental assessment of this federally-assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these

findings, Mr. Jesse L. Hicks, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the reduction of erosion on 200 feet of streambank. The planned works of improvement include sloping existing streambank to a 2:1 slope and installing rock riprap. All disturbed areas will be seeded with adapted permanent vegetation.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Jesse L. Hicks, State Conservationist, Soil Conservation Service, Room 544, Federal Building, 310 New Bern Avenue, Raleigh, North Carolina 27611, telephone 919-755-4210. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until September 15, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A-95 regarding State and local Clearinghouse review of Federal and federally-assisted programs and projects is applicable)

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

July 30, 1980.

[FR Doc. 80-24508 Filed 8-13-80; 8:45 am]

BILLING CODE 3410-16-M

Black Creek-Mason Watershed, Michigan

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of deauthorization of Federal funding.

FOR FURTHER INFORMATION CONTACT: James W. Mitchell, Associate Deputy Chief for Natural Resource Projects, Soil Conservation Service, U.S. Department of Agriculture, P.O. Box 2890, Washington, D.C. 20013 (202-447-3587).

Notice: Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83-566, and the Soil Conservation Service Guidelines (7 CFR 622), the Soil Conservation Service gives notice of the deauthorization of Federal funding for the Black Creek-Mason Watershed project, Mason County, Michigan, effective on July 18, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular No. A-95 regarding State and local clearinghouse review of Federal and federally-assisted programs and projects is applicable)

Dated: July 30, 1980.

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 80-24510 Filed 8-13-80; 8:45 am]

BILLING CODE 3410-16-M

Placerville Airport RC&D Measure and the Georgetown Divide Public Utilities District RC&D Measure, California

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Francis C. H. Lum, State Conservationist; Soil Conservation Service, 2828 Chiles Road, Davis, California 95616; telephone 916-758-2200.

Notice: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 the Council on Environment Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service, U.S. Department of Agriculture, gives notice that environmental impact statements are not being prepared for the High Sierra RC&D Area, Placerville Airport and Georgetown Public Utilities District Critical Treatment Measures in El Dorado County, California.

The environmental assessment of these federally-assisted actions indicates that the projects will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Francis C. H. Lum, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for these measures.

The measures concern plans for critical area treatment. The planned works of improvement include erosion control practices such as small grade stabilization structures, diversions, minor grading and shaping, debris basins, metal culverts, concrete crib walls, grassed waterways, and revegetation of exposed and critically eroding areas.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Francis C. H. Lum, State Conservationist, Soil Conservation Service, 2828 Chiles Road, Davis, California 95616, telephone 916-758-2200. A combined environmental assessment and FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until September 15, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally-assisted programs and projects is applicable.)

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

July 30, 1980.

[FR. Doc. 80-24511 Filed 8-13-80; 8:45 am]

BILLING CODE 3410-16-M

Washington County Union School Flood Prevention RC&D Measure, North Carolina

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Jesse L. Hicks, State Conservationist, Soil Conservation Service, Room 544, Federal Building, 310 New Bern Avenue, Raleigh, North Carolina 27611, telephone 919-755-4210.

Notice: Pursuant to Section 192(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Washington County Union School Flood Prevention RC&D Measure, Washington, County, North Carolina.

The environmental assessment of this federally-assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Jesse L. Hicks, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for reducing flooding and for improving drainage on the school grounds. The planned works of improvement include installing catch basins, pipes, subsurface drainage tubing and one sump pump. Grading and shaping will be done to improve surface drainage and to

eliminate ponding. All disturbed areas will be seeded with adapted permanent vegetation.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Jesse L. Hicks, State Conservationist, Soil Conservation Service, Room 544, Federal Building, 310 New Bern Avenue, Raleigh, North Carolina 27611, telephone 919–755–4210. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until September 15, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A–95 regarding State and local Clearinghouse review of Federal and federally-assisted programs and projects is applicable)

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

July 30, 1980.

[FR Doc. 80–24509 Filed 8–13–8:45 am]

BILLING CODE 3410–16–M

Forest Service

Umatilla National Forest Grazing Advisory Board; Meeting

The Umatilla National Forest Grazing Advisory Board will meet at 1:00 p.m., September 23, 1980, at the U.S. Forest Service Office, 2517 S. W. Hailey Avenue in Pendleton, Oregon. The purpose of this meeting is to conduct the committee business meeting and hold election of officers; to adopt the Constitution and Bylaws; and to offer advice and make recommendations to the Forest Supervisor on any matter pertaining to the development of allotment management plans and the utilization of range betterment funds.

The meeting will be open to the public. Persons who wish to attend should notify the Forest Supervisor's Office at 2517 S. W. Hailey Avenue, Pendleton, Oregon 97801, or call 276–3811, ext. 231. Written statements may be filed with the Forest Service before or after the meeting.

The established rules for public participation are that a time period will be set up for the public to participate. Time limits may be set on individual public participation.

H. B. Rudolph,

Forest Supervisor.

[FR Doc. 80–24650 Filed 8–13–80; 8:45 am]

BILLING CODE 3410–11–M

Soil Conservation Service

Camp Whitney, W. Va., Advent Christian Conference Critical Area Treatment; R.C. & D. Measure, W. Va.; Finding of No Significant Impact

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a finding of no significant impact.

FOR FURTHER INFORMATION CONTACT: Mr. Craig M. Right, State Conservationist, Soil Conservation Service, 75 High Street, Morgantown, W. Va. 26505, telephone 304–599–7151.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Camp Whitney, W. Va., Advent Christian Conference Critical Area Treatment R.C. & D. Measure, Kanawha County, W. Va.

The environmental assessment of this federally-assisted action indicates that the projects will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Craig M. Right, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the installation of a subsurface drainage system totaling 1,340 feet of 4- and 6-inch tile to correct internal drainage problems. These drains will be constructed of clay tile and have a sand-gravel backfill to the ground surface. This will improve infiltration and also provide suitable bedding for the tile.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Craig M. Right, State Conservationist, Soil Conservaton Service, 75 High Street, Morgantown, W. Va. 26505, telephone 304–599–7151. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until September 15, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A–95 regarding State and local clearinghouse review of Federal and federally-assisted programs and projects is applicable)

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

[FR Doc. 80–24505 Filed 8–13–80; 8:45 am]

BILLING CODE 3410–16–M

Greenfield Lake Recreational Development R.C. & D. Measure, Iowa; Finding of No Significant Impact

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Brune, State Conservationist, Soil Conservation Service, 693 Federal Building, 210 Walnut Street, Des Moines, Iowa 50309, telephone 515–284–4260.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650): the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Greenfield Lake Recreation Development RC&D Measure, Adair County, Iowa.

The environmetnal assessment of this federally-assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. William J. Brune, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the construction of day-use and camping recreation facilities around an existing 47-acre lake. The planned works of improvement include a boat dock, shelters, pinic tables and grills, campsites, vault toilets, parking lots, and hard-surfaced access roads.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental

assessment are on file and may be reviewed by contacting Mr. William J. Brune, State Conservationist, Soil Conservation Service, 693 Federal Building, 210 Walnut Street, Des Moines, Iowa 50309, telephone 515–284–4260. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until September 15, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A–95 regarding State and local Clearinghouse review of Federal and federally-assisted programs and projects in applicable)

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

July 30, 1980.

[FR Doc. 80–24504 Filed 8–13–80; 8:45 am]

BILLING CODE 3410–16–M

Jebens Park Critical Area Treatment; R. C. & D. Measure, Wyoming; Finding of No Significant Impact

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Frank S. Dickson, Jr., State Conservationist, Soil Conservation Service, Room 3113, Federal Building, 100 East "B" Street, P.O. Box 2440, Casper, Wyoming 83602, telephone 307–265–5550, Ext. 5201.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Jebens Park Critical Area Treatment RC&D Measure, Carbon County, Wyoming.

The environmental assessment of this federally-assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Frank S. Dickson, Jr., State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan to stabilize about 640 feet of the Little Snake River streambank by use of rock gabions. Trees and shrubs will be planted behind the gabion structures. The measure area is entirely in the boundaries of Jebens Park, a town park for Baggs, Wyoming.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Frank S. Dickson, Jr., State Conservationist, Soil Conservation Service, Room 3113, Federal Building, 100 East "B" Street, P.O. Box 2440, Casper, Wyoming 82602, telephone 307–265–5550, Ext. 5201. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until September 15, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A–95 regarding State and local Clearinghouse review of Federal and federally-assisted programs and projects is applicable)

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

July 30, 1980.

[FR Doc. 80–24506 Filed 8–13–80; 8:45 am]

BILLING CODE 3410–16–M

Putnam County Vocational and Technical Center Critical Area Treatment R. C. & D. Measure, West Virginia; Finding of No Significant Impact

AGENCY: Soil Conservation Service, U.S. Department of Agriculture.

ACTION: Notice of a Finding of No Significant Impact.

FOR FURTHER INFORMATION CONTACT: Mr. Craig M. Right, State Conservationist, Soil Conservation Service, 75 High Street, Morgantown, West Virginia 26505, telephone 304–599–7151.

NOTICE: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Putnam County Vocational and Technical Center Critical Area Treatment RC&D Measure, Putnam County, West Virginia.

The environmental assessment of this federally-assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Craig M. Right, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the installation of critical area treatment on approximately 1.5 acres. About ¼ acre will be shaped to provide a stable slope for revegetation. The entire site will be vegetated in accordance with seeding recommendations for high-use areas.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Craig M. Right, State Conservationist, Soil Conservation Service, 75 High Street, Morgantown, West Virginia 26505, telephone 304–599–7151. The FNSI has been sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address.

Implementation of the proposal will not be initiated until September 15, 1980.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. Office of Management and Budget Circular No. A–95 regarding State and local Clearinghouse review of Federal and federally-assisted programs and projects is applicable)

Joseph W. Haas,

Deputy Chief for Natural Resource Projects.

July 30, 1980.

[FR Doc. 80–24507 Filed 8–13–80; 8:45 am]

BILLING CODE 3410–16–M

UNITED STATES DEPARTMENT OF COMMERCE

International Trade Administration

[Case No. 597 and Case No. 598]

Joseph Kelmer, d.b.a. Excel Industries and Peter G. Virag, d.b.a. DeVimy Test-Lab, Ltd.; Order Denying Export Privileges

In the matter of Jacob Kelmer, d.b.a. Excel Industries, 66 Hanita Street, Haifa, Isreal, and/or P.O. Box 11369, Tel Aviv, Isral, and/or 58 Bustenai Street, Ramat Hasharon, Israel, Respondent; Peter G. Virag, d.b.a.; DeVimy Test-Lab, Ltd., 388 St. James Street West; Montreal 126, Quebec, Canada, and/or 72 Manual Drive, Dallard des Orneaux, Montreal, Quebec, Canada; Respondent.

Separate proceedings were initiated by the June 13, 1980 service of charging letters issued by the Director, Office of

Export Administration (OEA) against Jacob Kelmer [1] (in Israel) and Peter G. Virag [2] (in Canada). The actions are joined because of their common background. Each of the parties was separately charged with violating the Export Administration Act, 50 U.S.C. App. 2401 *et seq.* OEA alleged that on not fewer than ten occasions, each unlawfully exported or caused to be exported or reexported, U.S. manufactured, and COCOM controlled, electronic manufacturing equipment valued in excess of $1,500,000. The Director alleged that the equipment was exported from the United States to Canada, thence to the Netherlands, or other friendly country, and ultimately delivered to proscribed destinations in the Eastern Bloc countries, all without authorization from the Office of Export Administration.

The respondents failed to answer or deny the charging letters. Although the charges against the parties may be taken as confessed, 15 CFR 388.9, the Compliance Division, OEA, submitted evidence to support the charges. The evidence was considered by the undersigned Hearing Commissioner, whose findings are limited to a single export of March 19, 1976, as detailed below.

The Compliance Division, while investigating a series of possible violations by the respondents, alerted the Customs authorities who seized an export from the United States at the control point in Champlain, New York, on May 19, 1976. Ostensibly, the consignment was for DeVimy, but the arrangements had been made with a shipping company for its immediate reexportation. In recognition of Virag's cooperation with the Department of Justice, criminal process was issued against and limited to DeVimy, which company was fined $1,500 in the U.S. District Court, Northern District, New York, Cr. No. 78–Cr.–3 (January 18, 1978), upon a finding that:

> Defendant has been convicted as charged of the offense(s) of wilfully and knowingly exporting from the United States, at the Port of Entry, Champlain, New York, to Amsterdam, Holland, a certain commodity, that is, one complete Mann photomask system, without a validated license authorizing such exportation having been applied for, granted or issued by the Office of Export Control, United States Department of Commerce as required by the Export Control Regulations issued under the Export Administration Act, on or about March 19, 1976, in violation of Title 50, Appendix, United States Code Section 2405(a); Title 15 CFR, § 370.3

Canada also found the company criminally guilty of violating that country's export laws. Kelmer was indicted for his complicity in the aborted export attempt of May 17. An unexecuted warrant for his arrest was issued from the U.S. District Court for the Northern District of New York, 78 Cr–60, and is outstanding. Although he was interviewed for his part in the illegal export activities by the Fraud Division, National Police Headquarters, Jaffa, Israel, Kelmer refused to give a written statement or to meet with the U.S. authorities. The gist of Virag's statements in connection with the criminal proceedings surrounding the seizure of May 19, 1976, and the voluntary information furnished by Kelmer to the fraud Division is the basis for the findings herein.

Kelmer is a commissioned merchant primarily dealing in catalogue items. He is fully knowledgeable of the import and export laws of the United States, Israel and the European countries. Knowing full well that controlled electronic manufacturing equipment would not be licensed to the Eastern Bloc countries, he devised a scheme to circumvent the export laws. He convinced Virag that the goods were destined for Israel and that a validated export license would be issued upon proper application for the commodities. However, in some inexplicable fashion, he convinced Virag that the Israelis wanted no publicity and enlisted his aid to that end. The vision of high dollar profits, even though he knew better, encouraged Virag to become a willing dupe in an illegal plot. Once involved, Virag was unable or unwilling to extricate himself. On instructions and cash advances from Kelmer, Virag purchased controlled electronic commodities in the United States. The end-user was stated to be the innocent-appearing Canadian manufacturing DeVimy company, for which no validated export license is required. Virag receipted the export declarations for the illegal shipment. It bore the caveat, "These commodities licensed by the United States for ultimate destination, Canada, diversion contrary to United States law prohibited." In reality the commodities were purchased for delivery to Eastern European destinations and delivered to the ultimate end-users in those countries.

When the scheme of operations was initiated, deliveries of electronic materials were made to a warehouse in Montreal. Later they were reexported to Amsterdam, where they were on-loaded for ultimate delivery to Eastern Europe. The seized shipment [3] destined for Czechoslavakia was one of a series of illegal exports.

Based on the foregoing, I find that respondents, by scheme and subterfuge, knowingly and wilfully engaged in illegal export activities and did effect illegal reexports, all in violation of the Export Administration Act and Regulations, as alleged in the separate charging letters. I find that an order denying export privileges to Jacob Kelmer for a period ending May 31, 1995 and an order denying export privileges to Peter G. Virag for a period ending May 31, 1990 is reasonably necessary to protect the public interest and to achieve effective enforcement of the regulations. Therefore, pursuant to the authority delegated to me, 15 CFR 388, *it is ordered*

I. All outstanding export licenses in which respondents appear or participate, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Administration for cancellation.

II. The respondents are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported or to be exported from the United States, in whole or in part. Without limitation of the generality of the foregoing, participation, directly or indirectly, in any manner or capacity; (a) As a party or as a representative of a party to any export license application; (b) in the preparation or filing of any export license application or reexportation authorization, or any document to be submitted therewith; (c) in the obtaining or using of any validated or general export license or other export control documents; (d) in the carrying on of negotiation with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data, in whole or in part, exported or to be exported from the United States; and (e) in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. Such denial of export privileges shall extend not only to the respondents but also to their agents, employees, representatives, and partners and to any other person, firm, corporation, or

[1] Unless otherwise stated, reference to Jacob Kelmer includes his wholly owned or controlled company, Excel Industries. Kelmer is also known as Jack Kay, Jack Kaye and Jack Kelmer. He was previously denied all export privileges, 37 FR 16511 (August 15, 1972).

[2] Unless otherwise stated, Peter G. Virag includes his wholly owned company, DeVimy Test-Lab Ltd.

[3] A Decree of Forfeiture, *U.S.* vs. *One Mann Type 3595 Photorepeater, Parts and Accessories*, U.S. District Court, Northern District, New York, Civil No. 79–CV–207, was entered on May 7, 1979.

business organization with which the respondents now or hereafter may be related by affiliation, ownershp, control, position of responsibility, or other connection in the conduct of trade or services connected therewith.

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Administration, shall do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with the respondents or any related party, or whereby the respondents or any related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly; (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States, by, to, or for said respondents or related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance; or otherwise service or participate in any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

V. (a) This order shall remain in effect against the respondents, Peter G. Virag and DeVimy Test-Lab, Ltd. for the period ending May 31, 1990. (b) This order shall remain in effect against the respondents Jacob Kelmer and Excel Industries for the period ending May 31, 1995. The prior order of August 15, 1972 is hereby superseded.

VI. In accordance with the provisions of § 388.18 of the Export Administration Regulations, the respondents may move at any time to vacate or modify this Denial Order by filing with the Hearing Commissioner, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, an appropriate motion for relief, supported by substantial evidence, and may also request an oral hearing thereon, which if requested shall be held before the Hearing Commissioner at the earliest convenient date.

This order shall become effective immediately.

Dated: August 7, 1980.

Bertram Freedman,

Hearing Commissioner.

[FR Doc. 80-24523 Filed 8-13-80; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF COMMERCE

Minority Business Development Agency

Financial Assistance Application Announcement

The Minority Business Development Agency (MBDA), formerly the Office of Minority Business Enterprise, announces that it is seeking applications under its program to operate one to three national projects for a 12 month period beginning October 1, 1980. The total cost of the project is estimated to be $600,000.

Funding Instrument: It is anticipated that the funding instrument as defined by the Federal Grant and Cooperative Agreement Act of 1977, will be a grant.

Program Description: Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to eligible clients in areas related to the establishment and operation of businesses. This proposed project is specifically designed to provide consulting and technical support services to minority buyers to assist them in evaluating the historical performance of the business being acquired, its present financial condition, prospects for the future, and the present management; to determine capital requirements in connection with the proposed purchase; to prepare a business plan and forecast financial statements for three years from the date of purchase; to aid in the negotiation of an agreement to purchase; and to identify sources of financing and prepare appropriate applications, documentation (other than legal) and information necessary to facilitate lenders and/or investors' decision. The Grantee, as an independent recipient and not as an agent of the Government, shall provide, on call, all qualified personnel, equipment, materials and facilities to perform all services required by this grant on a task-by-task basis.

Eligibility Requirements: There are no restrictions. Any for-profit or non-profit institution is eligible to submit an application.

Application Materials: An application kit for this project may be requested either by calling (202) 377-3165 or writing to the following address: Grants Administration Division, Minority Business Development Agency, U.S. Department of Commerce, Washington, D.C. 20230

In requesting an application kit, the applicant must specify its profit status (i.e., a State or local government, federally recognized Indian tribunal unit, educational institution, hospital, or other type of non-profit organization, or if the applicant is a for-profit firm). this information is necessary to enable MBDA to include the appropriate cost principles in the application kit.

Award Process: All applications that are submitted in accordance with the instructions in the application kit will be submitted to a panel for review and ranking. Specific criteria by which applications will be evaluated will be included in the application kit.

Closing Date: Applicants are encouraged to obtain an application kit as soon as possible in order to allow sufficient time to prepare and submit an application before the closing date of September 16, 1980. Detailed submission procedures are outlined in each application kit.

[Catalog of Federal Domestic Assistance. . This program is not subject to the requirements of OMB Circular A-95, 11.800 Minority Business Development]

Dated: August 8, 1980.

Allan A. Stephenson,

Deputy Director.

[FR Doc. 80-24532 Filed 8-13-80; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

Membership of National Oceanic and Atmospheric Administration Performance Review Boards

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of initial membership of NOAA Performance Review Boards.

SUMMARY: In conformance with the Civil Service Reform Act of 1978, 5 USC, 4314(c)(4), NOAA announces the appointment of persons to serve as members of NOAA Performance Review Boards (PRB's). The NOAA PRB's are responsible for reviewing performance apprisals and ratings of Senior Executive Service (SES) members and making written recommendations to the appointing authority on SES retention and compensation matters, including performance-based pay adjustments, awarding of bonuses and amounts, and initial recommendations from potential rank awards. The appointment of the initial members to the NOAA PRB's will be for a period of approximately 18

months service, which officially begins on August 8, 1980.

DATE: The effective date of service of initial appointees to the NOAA Performance Review Boards is August 8, 1980.

FOR FURTHER INFORMATION CONTACT: Ralph C. Reeder, Director, Office of Personnel, NOAA, 6001 Executive Boulevard, Rockville, Maryland 20852, (301) 443-8781.

SUPPLEMENTARY INFORMATION: The names and titles of the initial members of the NOAA PRB's (NOAA officials unless otherwise identified) are set forth below:

James P. Walsh—Deputy Administrator
George S. Benton—Associate Administrator
Martin H. Belsky—Assistant Administrator for Policy and Planning
Samuel A. Lawrence—Assistant Administrator for Management and Budget
James W. Brennan—Deputy General Counsel, Office of the General Counsel
William H. Stevenson—Deputy Assistant Administrator for Fisheries, Office of Fisheries
Martha O. Blaxall—Director, Office of Utilization and Development, Office of Fisheries
Mirco Snidero—Deputy Assistant Administrator for Management and Budget
Ned A. Ostenso—Deputy Assistant Administrator, Office of Research and Development
C. Gordon Little—Director, Wave Propagation Lab, Environmental Research Laboratories, Office of Research and Development
Hugo F. Bezdek—Director, Atlantic Oceanographic and Meteorological Laboratories, Environmental Research Laboratories, Office of Research and Development
Donald P. Martineau—Acting Deputy Assistant Administrator for Office of Oceanic and Atmospheric Services
Richard H. Hagemeyer—Executive Director, National Weather Service, Office of Oceanic and Atmospheric Services
Robert L. Carnahan—Director, Weather and Flood Warnings Coordination, National Weather Service, Office of Oceanic and Atmospheric Services
Thomas D. Potter—Director, Environmental Data and Information Service, Office of Oceanic and Atmospheric Services
Joan Hock—Director, Center for Environmental Assessment Services Environmental Data and Information Service, Office of Oceanic and Atmospheric Services
Clifford A. Spohn—Deputy Director, National Environmental Satellite Service, Office of Oceanic and Atmospheric Services
Ross Williams—Rear Admiral, Oceanographer of the Navy
Thomas A. Dillon—Deputy Director, National Bureau of Standards
Claude C. Gravett, Jr.—Deputy Director, Programs, National Measurements Laboratories, National Bureau of Standards
Mary Johrde—Oceanographer, Office of Astronomical, Atmospheric, Earth and Ocean Sciences, National Science Foundation
Helen McCammon—Director, Ecological Division, Department of Energy
Robert G. Prestemon—Director, Programs and Evaluation, Office of Assistant Secretary for Budget and Programs, Department of Transportation
Alexander Grant—Associate Commissioner of Consumer Affairs, Food and Drug Administration, Public Health Service, Health and Human Resources

Dated: August 8, 1980.

Samuel A. Lawrence,

Assistant Administrator for Management and Budget.

[FR Doc. 80-24515 Filed 8-13-80; 8:45 am]

BILLING CODE 3510-12-M

Office of the Secretary

Cost Comparison Reviews Scheduled for Commercial or Industrial Activities Performed by Government Personnel in the Office of the Secretary; Correction

In FR Doc. 20640, in the issue of Thursday, July 10, 1980, appearing on page 46471, please make the following correction:

In the chart appearing half way down the first column, delete the line "Library services * * * 09/01/80 05/31/81."

FOR FURTHER INFORMATION CONTACT: Albert D. Petrilak, Office of the Assistant Secretary for Administration, Department of Commerce, Washington, D.C. 20230 (202-377-2577).

Dated: August 5, 1980.

Guy W. Chamberlin, Jr.,

Deputy Assistant Secretary for Administration.

[FR Doc. 80-24516 Filed 8-13-80; 8:45 am]

BILLING CODE 3510-BR-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Cancelling Import Controls on Certain Man-Made Fiber Textile Products From Taiwan

AGENCY: Commitee for the Implementation of Textile Agreements.

ACTION: Cancelling the import controls established on man-made fiber textile products in Category 669, including fish netting and fishing nets in T.S.U.S.A. 355.4560, produced or manufactured in Taiwan and exported to the United States during the agreement year which began on January 1, 1980 and extends through December 31, 1980.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 31372), as amended on April 23, 1980 (45 FR 27463).)

SUMMARY: In discussions between the American Institute in Taiwan and the Coordination Council for North American Affairs, it has been agreed to establish an export certificate system pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 8, 1978, as amended, which will eliminate the need for further control of certain categories by the United States. Accordingly, the imports controls previously established on Category 669 and 669 pt. are being cancelled.

EFFECTIVE DATE: August 15, 1980.

FOR FURTHER INFORMATION CONTACT: Ronald J. Sorini, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230. (202/377-5423).

SUPPLEMENTARY INFORMATION: On December 28, 1979, there was published in the **Federal Register** (44 FR 76839) a letter dated December 21, 1979 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 Taiwan, including man-made fiber textile products in Category 669 and 669 pt., 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, 1980 and extends through December 31, 1980. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to cancel the import controls in effect on Category 669 and 669 pt.

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

August 11, 1980.

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 of December 21, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements which directed you to prohibit, effective on January 1, 1980 and for the twelve-month period extending through December 31, 1980, entry into the United States for consumption, and withdrawal from warehouse for consumption, of cotton, wool and man-made fiber textile products in certain designated categories.

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 Agreement of June 8, 1978, as amended, concerning cotton, wool and man-made fiber textile products exported from Taiwan; 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, effective on August 15, 1980, to cancel the import controls established in the directive of December 21, 1979 for Category 669 and 669 pt. (only T.S.U.S.A. 355.4560).

The action taken with respect to Taiwan and with respect to imports of man-made fiber textile products from Taiwan has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary to 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,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-24675 Filed 8-13-80; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of Army

Department of Army Performance Review Boards

AGENCY: Department of Army, DOD.

ACTION: Notice.

SUMMARY: Notice is hereby given of the names of the members of the Performance Review Boards for the Office of the Surgeon General and the Office of the Chief of Engineers.

EFFECTIVE DATE: August 15, 1980.

FOR FURTHER INFORMATION CONTACT: Carol D. Smith, Senior Executive Service Office, Directorate of Civilian Personnel, Headquarters, Department of Army, the Pentagon, Washington, DC 20310, (202) 697-2169.

SUPPLEMENTARY INFORMATION: Section 4314(c)(1) through (5) of Title 5 U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards. The boards shall review and evaluate the initial appraisal of senior executives' performance by the supervisor and make recommendations to the appointing authority or rating official relative to the performance of the senior executives. Each board's review and recommendation will include only those senior executives' appraisals from their respective commands or activities. Publication of this notice provides corrections, additions and/or deletions of members previously published in 45 FR, page 49122, dated July 23, 1980.

The Members of the Performance Review Board for the Office of the Surgeon General are:

1. Major General Enrique Mendex, Jr., M.D., Deputy Surgeon General-Chairman.
2. Brigadier General Robert T. Cutting, M.D., Director, Health Care Operations, Office of the Surgeon General.
3. Brigadier General Bernhard T. Mittemeyer, M.D., Director of Professional Services, Office of the Surgeon General.
4. Brigadier General Garrison Rapmund, M.D., Commander, U.S. Army Medical Research and Development Command.
5. Dr. F. K. Mostofi, M.D., Chairman, Center for Advanced Pathology, Armed Forces Institute of Pathology.
6. Dr. L. C. Johnson, M.D., Chairman, Department of Orthopedic Pathology, Armed Force Institute of Pathology.
7. Dr. G. F. Bahr, M.D., Chairman, Department of Cellular Pathology, Armed Forces Institute of Pathology.
8. Dr. W. R. Beisel, M.D., Deputy for Science, Walter Reed Army Institute of Research.
9. Dr. T. R. Sweeney, M.D., Ph.D., Scientific Advisor (Biochemistry), Walter Reed Army Institute of Research.

The Members of the Performance Review Board for the Office of the Chief of Engineers (OCE) are:

1. Major General Joseph K. Bratton, Deputy Chief of Engineers.
2. Major General William E. Read, Assistant Chief of Engineers.
3. Major General E. R. Heiberg, Director of Civil Works, Chief of Engineers.
4. Brigadier General Ames S. Albro, Jr., Division Engineer, Middle East Division.
5. Brigadier General Henry J. Hatch, Division Engineer, Pacific Ocean Division.
6. Ms. Betty J. Farwell, Director of Real Estate, Office, Chief of Engineers.
7. Dr. L. R. Shaffer, Technical Director, Construction Engineering Research Lab.
8. Mr. Lee Garrett, Chief, Engineer Division, Director of Military Programs, Office, Chief of Engineers.
9. Mr. Zane Goodwin, Chief, Engineer Division, North Central Division.
10. Mr. Herbert Howard, Chief, Engineer Division, North Altantic Division.
11. Mr. Rodney Resta, Chief, Engineer Division, Lower Mississippi Valley Division.
12. Mr. William N. McCormick, Chief, Engineer Division, South Atlantic Division.
13. Dr. James Choromokos, Chief, Research and Development, Office, Chief of Engineers.
14. Mr. George Brazier, Chief, Construction-Operations Division, Director of Civil Works, Office, Chief of Engineers.
15. Mr. Delbert E. Olsen, Chief, Planning Division, North Pacific Division.

Carol D. Smith, *Chief*

Senior Executive Service Office.

[FR Doc. 80-24652 Filed 8-13-80; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Brazos Island Harbor Channel, Brownsville, Tex. Regulatory Permit

AGENCY: Galveston District, U.S. Army Corps of Engineers, DOD.

APPLICANT: Brownsville Navigation District, Brownsville, Texas.

ACTION: Notice of intent to prepare a DEIS.

SUMMARY: 1. The Galveston District, Corps of Engineers has received an application for a permit to construct improvements to the Brazos Island Harbor Channel, Texas, an existing Federal navigation project in south Texas. A preliminary assessment of the application has determined that an EIS is required. A revised application is anticipated after development of the scope and preparation of an environmental report. The proposed project is intended to provide more efficient waterborne commerce in the general area of the Lower Rio Grande Valley of Texas. Benefits would be derived from savings in transportation of commodities such as petroleum, petroleum products, ores, and grains.

2. Potential alternatives proposed for consideration would include: (1) no action; (2) alternative means of commodity transport, i.e., rail, truck, barge, and pipeline; (3) alternative facility sitings, (4) alternative facility designs,

(5) alternative channel designs, i.e., depth, length, and width;

(6) alternative channel alignments, (7) alternative disposal methods for dredged material; and (8) alternative disposal sites, i.e., upland disposal, ocean disposal, upland/ocean disposal. Channel widening by 100 feet and channel deepening by 9 and 19 feet will be intensely investigated.

3.a. A public scoping and coordination meeting is scheduled to be held on 3 September 1980 for the purpose of obtaining government agency and other public comment on relevant matters of concern in examining the various alternatives of the project. Proposed plans will be developed in accordance with Corps of Engineers regulations, considering the views expressed by the public and agencies of the local, State, and Federal governments.

b. Some important environmental considerations to be analyzed because of the potential for special environmental concern include: (1) dredging and disposal, (2) aquatic ecology/wetlands, (3) sport and commercial fisheries, (4) water and sediment quality, (5) hydrography, (6) air quality, (7) socioeconomic/hazards analysis and, (8) cultural resources.

c. Agencies which may be requested to become cooperating agencies include the U.S. Fish and Wildlife Service, the Environmental Protection Agency, and the National Marine Fisheries Service.

d. Other environmental consultation and review will be conducted in accordance with various laws and regulations.

4. A public meeting specifically to determine the scope of the DEIS will be held on 3 September 1980 in Brownsville, Texas. All previous and future input to studies for the project will be considered in the scoping process, if made during the relevant time frames for comment and response in the overall permitting process.

5. The DEIS is scheduled to be available to the public in April 1981.

ADDRESS: Questions about the proposed action and DEIS can be answered by Mr. Marcos De La Rosa, Chief, Permit Branch, Galveston District, Corps of Engineers, P.O. Box 1229, Galveston, Texas 77553, (713) 763–1211, extension 382.

Dated: August 7, 1980.

James M. Sigler,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 80-24651 Filed 8-13-80; 8:45 am]

BILLING CODE 3710-GK-M

Corps of Engineers; Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Palo Blanco and Cibolo Creeks, Falfurrias, Tex., Flood Control Study

AGENCY: Galveston District, U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a DEIS.

SUMMARY: 1. The proposed action to be addressed in the DEIS consists of construction of flood control improvements to Palo Blanco and Cibolo Creeks at and in the vicinity of Falfurrias, Brooks County, Texas. The proposed project would provide for protection in the Falfurrias vicinity now subject to periodic stream flooding.

2. Alternatives to be considered in the DEIS include no action, diversion channels, reservoirs, various levels of flood plain buyout, ring levee, and various levels of channel enlargement and straightening with and without channel lining, and various combinations.

3.a. Coordination of the project has included a public meeting and workshop, consultation with local governing entities, and a planning aid document from the U.S. Fish and Wildlife Service. A public meeting and workshop was held in Falfurrias, Texas on April 13, 1977 to obtain information on flooding problems in Falfurrias and adjacent areas of Brooks County and to identify concerns of all interested individuals and groups. Proposed plans for improvement are being developed in accordance with Corps of Engineers' regulations considering the views expressed by the public and agencies of the local, State, and Federal governments. Additional meetings will be held to discuss these plans and to determine public views on issues and preferences on proposed alternative plans. A final plan will be developed to reflect the views expressed by the public and local, State and Federal agencies.

b. Some important environmental considerations to be analyzed as a result of past coordination and participation include: (1) Preserving and minimizing disturbance to the wildlife habitat along existing creeks and lakes, (2) preserving and enhancing acquatic ecosystems of natural lakes, especially Laguna Salada, by reducing erosion, (3) preserving or maintaining existing wetlands in lake and riparian areas, (4) preserving and enhancing species of recognized importance that may occur in the area, (5) avoiding removal of vegetation in brushland habitat, (6) disposing of excavated material in areas where environmental damages would be minimal, and (7) considering effects of burrowing animals on maintenance of levees.

c. Further coordintion and consultation will be continued with appropriate local, State, and Federal agencies and interested organizations and individuals.

d. Environmental consultation and review of the project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, Council on Environmental Quality Regulations (40 CFR Parts 1500–1508), and all other applicable laws, regulations and guidelines.

4. A scoping meeting specifically to determine and identify significant resources of the project area for preparing the DEIS is being planned.

The meeting is to be held on September 18, 1980 at Brooks County Court House, Falfurrias, Texas. Various Federal, State, and local agencies will be contacted and requested to send a representative to the meeting.

5. The DEIS is scheduled to be available to the public in early 1982.

ADDRESS: Questions about the proposed action can be answered by Mr. Paul Wilson, Chief, Regional Planning Section at (713) 763–1211, extension 313 or toll-free in Texas at 1–800–392–6412. Questions concerning the DEIS should be directed to Mr. C. R. Harbaugh, Chief, Environmental Resources Branch at (713) 763–1211, extension 492. Written inquiries should be addressed to the District Engineer, Galveston District, Corps of Engineers, P.O. Box 1229, Galveston, Texas 77553.

Dated: August 3, 1980.

James M. Sigler,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 80-24503 Filed 8-13-80; 8:45 am]

BILLING CODE 3710-6K-M

Corps of Engineers, Department of the Army

Rippowam River Basin Study in Connecticut and New York; Intent To Prepare a Draft Environmental Impact Statement (DEIS)

AGENCY: U.S. Army Corps of Engineers, DOD, New England Division.

ACTION: Notice of intent to prepare a draft environmental impact statement.

SUMMARY: 1. The proposed action is a plan to provide flood protection to the lower Rippowam River Basin. During the

course of the study, other water resource needs have also been investigated, including recreation, water supply, water quality, fish and wildlife, and environmental amenities.

2. The alternatives being considered include:

a. Structural channel enlargement with flood proofing of buildings in the residual flood plain,

b. Bypass tunnel to divert excess channel flow from the Stillwater Pond area into a 26' diameter deep rock tunnel to Stamford Harbor,

c. Bypass tunnel of same alignment but with a diameter reduced to 24' due to floodwater storage provided by a new enlarged dam and reservoir located at existing Siscowit Dam in Pound Ridge, New York and New Canaan, Connecticut,

d. Utilizing existing and proposed water supply reservoirs to provide seasonal flood control storage in conjunction with flood forecasting, warning and emergency evacuation,

e. No action.

3. a. Close coordination with key resource agencies and local interests is underway to determine the problems and needs to be addressed and to identify the significant issues related to each alternative being considered. Additional public meetings and coordination with other agencies will be held as issues and alternatives are more clearly defined. Affected Federal, State and local agencies and other interested organizations and parties will continue to be encouraged to participate in the identification of issues, problems and needs and the formulation of alternative courses of action by communicating with the addressee listed below.

b. Significant issues to be analyzed in depth in the DEIS include river basin flood damage control needs, fish and wildlife habitat requisites, potential impacts on proposed plans for a recreation greenbelt along the banks of the lower Rippowam River, water quality impacts resulting from retention and periodic discharge of water in a subsurface diversion tunnel, and construction activity impacts.

c. Consultation with the State Historic Preservation Officer and the U.S. Heritage Conservation and Recreation Service will be initiated in accordance with the National Historic Preservation Act of 1966 and Executive Order 11593. Planning is being coordinated with the U.S. Fish and Wildlife Service on an informal and formal basis, including the procedures required by the Fish and Wildlife Coordination Act of 1958 and the Endangered Species Act Amendments of 1978.

4. A scoping meeting will be held. The date and location will be identified through Public Notice procedures.

5. The DEIS is scheduled to be completed and available for review in September 1981.

ADDRESS: Information concerning the proposed action and DEIS can be obtained by contacting: Charles Freeman, Impact Analysis Branch, New England Division, U.S. Army Corps of Engineers, 424 Trapelo Road, Waltham, Massachusetts 02154, ATTN: NEDPL-IR, Phone (617) 894-2400, Extension 347; (FTS 839-7347).

Dated: August 7, 1980.

Max B. Scheider,

Colonel, Corps of Engineers, Division Engineer.

[FR Doc. 80-24513 Filed 8-13-80; 8:45 am]

BILLING CODE 3710-24-M

Office of the Secretary

Defense Advisory Committee on Women in the Services (DACOWITS); Meeting

Pursuant to Pub. L. 92-463, notice is hereby given that a meeting of the Executive Committee of the Defense Advisory Committee on Women in the Services (DACOWITS) is scheduled to be held from 1:30 p.m. to 5:00 p.m., September 8, 1980 and from 9:30 a.m. to approximately 1:00 p.m., September 9, 1980 in Room 1E801, The Pentagon. Meeting sessions will be open to the public.

The purpose of the meeting is to review responses to recommendations/requests for information made at the 1980 Spring Meeting, discuss current issues relevant to women in the Services, and plan the itinerary/program for the next Semi-Annual Meeting scheduled for November 16-19, 1980 in Scottsdale, Arizona.

Persons desiring to make oral presentations or submit written statements for consideration at the Executive Committee Meeting must contact Captain Mary J. Mayer, Executive Secretary, DACOWITS, OASD (Manpower, Reserve Affairs, and Logistics), Room 3D322, The Pentagon, Washington, D.C. 20301, telephone 202-697-5655 no later than September 1, 1980.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

August 11, 1980.

[FR Doc. 80-24528 Filed 8-13-80; 8:45 am]

BILLING CODE 3810-70-M

Defense Systems Management College; Board of Visitors Meeting

A meeting of the Defense Systems Management College (DSMC) Board of Visitors will be held in Building 202, Fort Belvoir, VA, on Wednesday, September 10, 1980, from 8:30 a.m. until 5 p.m. The agenda will include a review of accomplishments related to the system acquisition education, system acquisition research, and information collection and dissemination missions. It will also include a review of the DSMC plans, resources and operations. The meeting is open to the public; however, because of limitations on the space available, allocation of seating will be made on a first-come, first-served basis. Persons desiring to attend the meeting should call Lieutenant Commander Judy Ray (703-664-1175) to reserve a seat.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

August 8, 1980.

[FR Doc. 80-24527 Filed 8-13-80; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Proposed Contract Award

AGENCY: Economic Regulatory Administration.

ACTION: Notice of proposed contract award.

SUMMARY: In accordance with Department of Energy Procurement Regulations, the Economic Regulatory Administration gives public notice that two (2) contracts are being awarded, after taking into account the existence of potential organizational conflicts of interest, because this procurement is determined to be in the best interest of the United States.

FOR FURTHER INFORMATION CONTACT: Mr. Steven E. Ferguson, Office of Fuels Conversion, Economic Regulatory Administration, Room 3322-D, 2000 M Street, N.W., Washington, D.C. 20461.

SUPPLEMENTARY INFORMATION: Upon the basis of the following findings, mitigation and determination, the proposed contracts described below are being awarded, after taking into account the existence of potential organizational conflicts of interest, because this procurement is determined to be in the best interest of the United States pursuant to the authority of Department of Energy Procurement Regulation 41 CFR 9-1.5409(a)(3).

Findings

(1) The Department of Energy (DOE), Economic Regulatory Administration ERA), Office of Fuels Conversion implements the provisions of the Powerplant and Industrial Fuel Use Act of 1978 (the "Act") (Pub. L. 95–988). A primary purpose of the Act is to reduce the importation of petroleum and increase the Nation's capability to use indigenous energy resources of the United States by encouraging and fostering the greater use of coal and other alternate fuels, in lieu of natural gas and petroleum, as a primary energy source by utilities and major fuel burning installations. In implementing the Act, ERA, on an individual facility basis, (1) issues prohibition orders against the further use of petroleum or natural gas, and (2) processes petitions for exemption from the prohibitions against petroleum or natural gas use contained in the Act.

(2) In the course of implementing the Act it is necessary for ERA to obtain by contract technical support services regarding aspects of the environmental issues associated with acting on individual prohibition orders and exemption petitions. The contractors shall analyze and evaluate the site-specific environmental impacts of prohibiting specific powerplants and major fuel burning installations (MFBIs) or classes of powerplants and MFBIs from using natural gas or petroleum; shall evaluate the environmental impact of the granting or denying of a petition for exemption from prohibitions against natural gas or petroleum use; shall evaluate the adequacy and validity of environmental analyses provided in petitions for exemptions; and shall perform other similar assessments and analyses as appropriate. Without such environmental analyses Federal decisions cannot be made and the authorities of the Act would remain unimplemented.

A Source Evaluation Board (SEB) was convened for the procurement, since the anticipated cost for the requirement exceeded five (5) million dollars. The Request for Proposal (RFP) was sent to nearly 250 prospective offerors. Proposals were received from 15 firms. As a result of the evaluation process, it was determined that six (6) firms were in the competitive ranges. Two (2) contractors among the six (6) were selected for award. They are Dames & Moore, and Science Applications, Inc. (SAI).

(3) In accordance with 41 CFR 9–1.5405, all six (6) offerors in the competitive range provided disclosure of information concerning their interests related to the contract work to be performed. To aid in the information-gathering process, detailed questions concerning the nature of their businesses and how various aspects of them (e.g., organizational, Financial, past or current contracts) could contribute to a possible organizational conflict of interest were provided to each contractor. As a result of this process, DOE was furnished with information concerning whether possible organizational conflicts of interest exist with respect to (1) a contractor's ability to render impartial technically sound and objective assistance or advice, and (2) whether an unfair competitive advantage may be conferred on a contractor as a result of performing specific tasks.

(4) After a thorough review of the information submitted, DOE was unable to find that there is little or no likelihood that a possible organizational conflict of interest exists for any of the six (6) offerors. This result is due to the nature of the business in which the offerors (and in appropriate cases, their subcontractors) are engaged. All six (6) offerors actively seek work with private industry to provide environmental services similar to that required by this procurement. Any such firm would stand to benefit economically from actions taken by DOE regarding the continued use of petroleum or natural gas in powerplants and major fuel burning installations to the extent that such actions by DOE would increase the demand by energy firms for environmental professional support services.

However, the potential for an organizational conflict of interest varies among the six (6) offerors. Three (3) offerors have a substantially greater potential for a conflict because they design and construct powerplants and major fuel burning installations as well as provide environmental consulting services to the owner of such facilities. They could thus obtain additional work (e.g., design and/or construction of a new plant or a plant modification) as a direct result of a Federal action in which they participate. The other three (3) offerors perform only analytical studies rather than design and construction work and thus the professional services they render are the end product of their involvement with a private client. Any potential for bias would result only indirectly, i.e., from the expectation of obtaining additional industry business as environmental consultants because of their Federal association or the nature of the consultation they provide to the Federal Government. Both Dames & Moore and SAI are in the latter group.

(5) Dames & Moore performs a substantial part of its business in providing services to industry that are similar to those being procured. It describes itself as providing ". . . a broad range of geotechnical, planning and environmental services to both industry and governement." A significant portion of its business is with energy firms. Dames & Moore is not proposing to use subcontractors for this effort.

(6) Although SAI does a substantially smaller proportion of its business with private clients, it does actively seek similar business in the private sector. Thus, its potential for a conflict is different only in degree from that of Dames & Moore. In addtion, several of SAI's proposed subcontractors were found to have potential for conflicts, due to their work for industrial clients, including in some cases energy firms. These subcontractors were found to be essential to SAI's proposal. SAI proposed to use the following five (5) subcontractors: JRB Associates; GCA Corporation/Technology Division; Jacobs Engineering Group; Environmental Systems Corporation and Engineering Analysis, Inc.

(7) If an award is made to any of the six (6) firms in the competitive range, the possibility exists that the firm would be simultaneously performing similar technical and analytical services both for the Government and for private clients in support of different actions occurring under the Act.

(8) DOE has been unable to develop reasonable contractual language to totally avoid the type of potential conflict of interest recognized in this case. Furthermore, it is unreasonable as a condition for award to restrict any further the ability of a firm to secure business in the private section other than that provided in the Special Contract Clause (41 CFR 9–1.5408–2(b)), particularly when so doing would not affect the presence of the potential conflict, but rather would only contribute to the degree of mitigation achieved. Both the determination of whether a potential conflict exists and the establishment of reasonable mitigation in those cases where a potential conflict is recognized should be guided by good business judgment based upon the relevant facts and the work to be performed.

Mitigation

(1) Documents prepared by these contractors to support DOE's NEPA compliance requirements will be prepared under the regulations

promulgated by the Council on Environmental Quality (CEQ) (43 FR 55978, November 29, 1978). These regulations recognize that contractor assistance is an integral part of Federal agency NEPA documentation, and they provide that in order to avoid a conflict of interest, contractors shall submit a disclosure statement showing that they have no financial or other interest in the project being evaluated. The mitigation procedures used in this procurement to insure that no conflict of interest will in fact exist substantially exceed the CEQ requirement.

(2) Both contracts awarded under this procurement will include the Organizational Conflicts of Interest Special Clause (41 CFR 9-1.5408-2(b)), which will apply to both prime and subcontractors. The primary purpose of this clause is to aid in ensuring that the Contractor is not biased because of its past, present, or currently planned interests (financial, contractual, organizational, or otherwise) which relate to the work under this contract, and does not obtain any unfair competitive advantage over other parties by virtue of its performance of this contract.

(3) The RFP provides that a principal reason for awarding more than one contract under this procurement is to provide a mechanism for avoiding the situation where a conflict of interest would actually exist. Prior to the assignment of a task, the contractor will submit a statement as to whether performing that task for the Government would create a conflict because of work performed for the company in question under a past, present, or currently planned relationship. The contractor will also be required to state whether performing that task would require them to review work they had previously performed for the Government. Similar information will be required from all subcontractors. DOE will independently review that statement, and if a conflict is found the contractor will be disqualified and that task will be assigned to another contractor or will be completed with other resources at DOE's disposal. In the case of a prohibition by rule for a class of powerplants or MFBIs, DOE will prior to assignment of a task establish that no conflict exist for any facility included in the class.

(4) As stated in the RFP, all work performed by the contractors under this procurement will be independently reviewed by DOE. All final decisions will be made by the Government, and the contractors will play an advisory role only. In addition, all pertinent contractor analysis will become a part of the public record of the particular action in question and thus will be subject to close third-party scrutiny for the validity of the data and technical findings presented.

(5) Similarly, any work which one of the contractors might perform for a private client and which is submitted by that company as part of an action under the Act will also become part of the public record and subject to review and comment. Furthermore, any information so developed for and submitted by a company would be independently evaluated and verified by DOE (either by the other support contractor secured by this procurement or by another resource) before it is used in support of a Government decision.

Determination

In light of the above findings and mitigation, I hereby determine in accordance with 41 CFR 9-1.5409(a)(3) that award of these contracts would be in the best interests of the United States.

Dated August 5, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

[FR Doc. 80-24596 Filed 8-13-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1570-3]

California State Motor Vehicle Pollution Control Standards; Waiver of Federal Preemption

AGENCY: Environmental Protection Agency.

ACTION: Waiver of Federal preemption.

SUMMARY: This decision grants California a waiver of Federal preemption to enforce amendments to its 1979 and 1980 model year Assembly-Line Test procedures and New Vehicle Compliance Test procedures.

ADDRESSES: Information relevant to this decision is available for public inspection during normal working hours (8:00 a.m. to 4:30 p.m.) at: U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2404 (EPA Library), 401 M St., S.W., Washington, D.C. 20460. (202) 755-2808. Copies of the standards and test procedures are also available upon request from the California Air Resources Board, 1102 Q Street, P.O. Box 2815, Sacramento, California 95812.

FOR FURTHER INFORMATION CONTACT: Jerry Schwartz, Attorney/Advisor, Manufacturers Operations Division, (EM-340), U.S. Environmental Protection Agency, Washington, D.C. 20460, (202) 472-9421.

SUPPLEMENTARY INFORMATION:

I. Introduction

By this decision, issued under section 209(b) of the Clean Air Act, as amended (hereinafter the "Act"),[1] I am granting the State of California a waiver of Federal preemption to enforce the following enforcement procedures:

(1) Amendments to Assembly-Line Test procedures which California has adopted for (a) the 1979 model year, as set forth in section 2057 of title 13 of the California Administrative Code and in "California Assembly-Line Test Procedures for 1979 Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles" adopted December 19, 1977, as amended May 9, 1979,[2] and (b) the 1980 model year, as set forth in section 2058 of title 12 of the California Administrative Code and in "California Assembly-Line Test Procedures for 1980 Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles" adopted November 16, 1978, as amended January 30, 1979 and May 9, 1979.[3]

(2) California's New Vehicle Compliance Testing program under section 2100 et seq. of title 13 of the California Administrative Code and "California New Vehicle Compliance Test Procedures" adopted June 24, 1976, as amended May 9, 1979, for 1979 and subsequent model year gasoline- and diesel-powered passenger cars, light-duty trucks and medium-duty vehicles.

Under section 209(b)(1) of the Act, when California requests a waiver of Federal preemption as to accompanying enforcement procedures which relate to standards for which a waiver has

[1] 42 U.S.C. 7543(b) (1977).

[2] These amended procedures are applicable to 1979 model year gasoline-powered passenger cars, gasoline- and diesel-powered light-duty trucks, and gasoline- and diesel-powered medium-duty vehicles.

[3] These amended procedures are applicable to 1980 model year gasoline- and diesel-powered passenger cars, light-duty trucks and medium-duty vehicles. California has not requested a waiver of Federal preemption for its unamended 1980 model year Assembly-Line Test procedures, but the unamended 1980 procedures fall within the scope of the waiver I previously granted for the 1979 model year procedures. 44 FR 7807 (February 27, 1979). I have reached this conclusion because the unamended 1980 procedures are identical to the unamended 1979 procedures; thus, they are not new "initially adopted" standards or enforcement procedures, they do not undermine California's protectiveness determination, and they do not cause any inconsistency with section 202(a) of the Act. See 44 FR 61096 (October 23, 1979). No party presented evidence as part of these proceedings which would tend to contradict this conclusion.

already been granted and is still in effect, I must grant the requested waiver unless I find that (1) the procedures may cause the California standards, in the aggregate, to be less protective of public health and welfare than the applicable Federal standards or (2) the accompanying enforcement procedures are not consistent with section 202(a) of the Act. With regard to the first finding, if the public record of the proceedings before me contains plausible evidence that the California enforcement procedures may cause the California standards, in the aggregate, to be less protective than the corresponding Federal standards, then I must deny the waiver if: (1) California did not make a positive determination as to the protectiveness of the standards when coupled with the new enforcement procedures or (2) California did make such a determination, and the record contains clear and compelling evidence that its determination is arbitrary and capricious.[4] With regard to the second finding, State enforcement procedures are deemed not to be consistent with section 202(a) if there is inadequate lead time to permit the development of the technology necessary to implement the new procedures, giving appropriate consideration to the cost of compliance within that time frame, or if the Federal and California test procedures impose inconsistent certification requirements.

On the basis of the record before me, I cannot make the findings required for a denial of the waiver under section 209(b)(1) with respect to California's 1979 and 1980 model year Assembly-Line Test procedures and New Vehicle Compliance Test procedures.

II. Background

A. Amendments to Assembly-Line Test Procedures

The California Air Resources Board (CARB) adopted Assembly-Line Test (ALT) procedures (one of two separate programs which the amendments under consideration in this decision affect) for 1979 and 1980 model year passenger cars, light-duty trucks and medium-duty vehicles on February 16, 1978, and November 16, 1978, respectively. These ALT procedures require each manufacturer to conduct a functional inspection and a steady-state emissions test of every vehicle it produces for sale in California, and to perform quality audit tests (according to the full California exhaust emission test procedures) on at least two percent of its California production.

[4] 43 FR 9344, 9345, 9346 (March 7, 1978).

California received a waiver of Federal preemption to enforce its 1979 ALT procedures on February 2, 1979.[5] On May 9, 179, CARB adopted amendments to both the 1979 and 1980 ALT procedures that form part of the basis of this waiver request.[6] The 1979 ALT amendments contained several minor changes which no party contested in these waiver proceedings and an amendment regarding Quality Audit testing at remote facilities which several parties did contest.

California also incorporated these changes into its 1980 ALT procedures. These amendments along with some additional minor changes CARB adopted on January 30, 1979 (also uncontested in these waiver proceedings), are the changes relating to the 1980 model year vehicles for which California has requested a waiver.[7]

The Quality Audit testing change at issue pertains to test procedures performed at remote facilities.[8] Under the unamended 1979 procedure, California permitted manufacturers to perform a "Pre-Delivery Inspection" (PDI) prior to the actual emissions testing to correct any shipping-related defects that may have occurred during shipment to the remote facility.[9] Under the amendments, a manufacturer may correct shipping-related damage only *after* the initial Quality Audit test of the vehicle, except for "compelling reasons".[10] The manufacturer otherwise may not conduct any PDI activity prior to the emissions test. If the manufacturer performs a retest, the manufacturer may petition the Executive Officer to substitute the after-repair results for the original test results.[11] A manufacturer may perform PDI on Quality Audit test cars prior to initial test without petitioning the Executive Officer only if the manufacturer performs the same PDI on 100% of its production, subsequent to consignment for shipping from the assembly line.

CARB adopted these contested Quality Audit amendments to prevent a manufacturer from correcting previously undetected manufacturing defects along with shipping-related defects before Quality Audit testing, and thereby to ensure that a manufacturer will test vehicles in the same condition in which they arrive at the dealership.[12] CARB further stated that neither CARB nor the manufacturer has any real assurance that, before delivering a vehicle to a consumer, dealership personnel actually perform a PDI identical to that performed by the manufacturer at the Quality Audit test site.[13]

B. Amendments to New Vehicle Compliance Test Procedures

On June 24, 1976, California adopted its New Vehicle Compliance Test procedures (the other program which amendments under consideration in this decision affect), which, along with subsequent amendments, received waivers of Federal preemption.[14] The 1979 and subsequent model year amendments under consideration in these proceedings include the following provisions:

(1) A prohibition against pre-test mileage accumulation or modifications, and adjustments or special preparation

[5] 44 FR 7807 (February 27, 1979).

[6] The waiver request was contained in a letter from Mr. Thomas C. Austin, Executive Officer (CARB), to Administrator, Environmental Protection Agency (EPA), dated July 5, 1979. EPA held a public hearing on this request on October 24, 1979. At the same time, a waiver request for California's optional 100,000-mile emission standards and accompanying enforcement procedures applicable to 1980 and subsequent model year passenger cars, light-duty trucks and medium-duty vehicles was considered. I granted the waiver request for the 100,000-mile option in a decision published on February 25, 1980 (45 FR 12291).

[7] All of the amendments to both the 1979 and 1980 ALT procedures were before the Presiding Officer for his consideration at the October 24, 1979 waiver hearing.

[8] Under California's regulations, manufacturers have the option of performing their Quality Audit tests at either the end of their assembly lines, or at a "remote facility" away from the assembly line.

[9] PDI is any procedure a manufacturer may instruct its dealers to perform to identify and correct a variety of defects before the dealers actually deliver the vehicles to consumers. CARB's 1979 model year regulations initially permitted a manufacturer to perform its PDI procedures on Quality Audit vehicles shipped to remote facilities for testing because those procedures presumably would be representative of the repairs its dealers actually would perform to correct shipping-related defects on vehicles delivered to consumers. As a result, the emissions performance of the vehicles on which a manufacturer would conduct Quality Audit testing after performing PDI presumably would be representative of the emissions performance of the vehicles its dealers ultimately would deliver to consumers for actual use.

[10] Compelling reasons are "that the vehicle is not testable, or is not reasonably operative, or is not safe to drive, or that damage to the vehicle would be likely if the vehicle were tested". See California Assembly-Line Test Procedures for 1979 Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles, p. 11.

[11] The Executive Officer must respond to the petition within 10 days. *Id.*

[12] April 5, 1979 CARB Staff Report, "Public Hearing to Consider Proposed Changes in the Regulations of the Air Resources Board Regarding Predelivery Inspection and Compliance Test Evaluation," 4 (hereinafter "Staff Report").

[13] Staff Report, 6.

[14] 43 FR 9344 (March 7, 1978) (pertaining to 1978–1982 model year medium-duty vehicles, diesel-powered light-duty trucks and 1979–1982 model year gasoline-powered light-duty trucks), 43 FR 15490 (April 13, 1978) (pertaining to 1983 and later model year light-duty trucks and medium-duty vehicles); 43 FR 25729 (June 14, 1978) (pertaining to 1979 model year gasoline-powered passenger cars and 1980 and later year gasoline- and diesel-powered passenger cars.)

or maintenance, unless the manufacturer first procures written consent from the Executive Officer. The Executive Officer will not unreasonably withhold consent where the adjustments are necessary "to render the vehicle testable and reasonably operative."

(2) A manufacturer may perform "Specific, Special Maintenance" (SSM) necessary to restore test vehicles to their "natural condition" [15] Only if it has submitted an advance written request to the Executive Officer, and he approves the request.

(3) A manufacturer may inspect for and correct shipping-related damage or maladjustment only after it has conducted an initial emissions test of the vehicle, except where 100% of the manufacturer's production receives the same inspections or corrections. After the initial test, the manufacturer may request permission to correct shipping-related damages and to retest the vehicle. If it receives this permission, the manufacturer then may substitute its retest results for the original test results. This provision parallels the Assembly-Line test procedure amendment.

(4) The manufacturer must supply any unique specialty hardware and personnel necessary to perform the test.

(5) Under the unamended procedure, when the Executive Officer evaluated the test vehicles, if "no decision" was reached after 20 vehicles, he could not make a "pass" or a "fail" decision, and he did not have the authority to test any additional vehicles to give him an adequate basis for reaching a "pass" or "fail" decision. The amendments allow him to select 10 additional vehicles for testing. If the average emissions of the 30 vehicles tested exceed or are less than any of the exhaust emission standards, the Executive Officer may render a "fail" or "pass" decision, respectively.

III. Discussion

A. Public Health and Welfare

Test procedures like the California Assembly-Line Test procedures and New Vehicle Compliance Test procedures are "accompanying enforcement procedures" under section 209(b)(1) of the Act.[16] The criteria for my review of the public health and welfare issue as it pertains to accompanying enforcement procedures have been set forth in the introduction.

All exhaust emission standards to be enforced by the procedures under consideration here have received waivers of Federal preemption which are still in effect.[17] The public record contains no plausible evidence that the proposed Assembly-Line Test procedures or New Vehicle Compliance Test procedures reduce the protectiveness of these standards.[18] In fact, CARB testified that the amended PDI procedures are slightly more stringent than the current procedures.[19] With regard to the amended New Vehicle Compliance Test evaluation procedures, CARB,[20] the Motor Vehicle Manufacturers Association (MVMA)[21] Ford Motor Company (Ford),[22] and General Motors Corporation (GM) [23] agreed that the amended procedure is slightly more stringent than the current procedure. Accordingly, California did not need to make any additional public health and welfare determinations in conjunction with these waiver requests. Thus, I cannot find a basis for denying the waiver on this issue.

B. Consistency

Under section 209(b)(1)(C), I must grant a California waiver request unless I find that California's accompanying enforcement procedures are not consistent with section 202(a) of the Act. Section 202(a) states, in part, that any regulation promulgated under its authority "shall take effect after such period as the Administrator finds necessary to permit the development and application of the requisite technology, giving appropriate consideration to the cost of compliance within such period."

1. *Lead Time and Technology.*—With regard to the PDI rule for the Assembly-Line Test procedures and the New Vehicle Compliance Test procedures, Ford contended that the definition of the compelling reasons exception is too vague,[24] making it impossible to determine whether compliance with the proposed procedures is technically feasible.[25] GM opposed granting the waiver, stating that to continue performing PDI under the proposed procedure would necessitate the establishment of its own PDI center or centers in California, and that the amendment does not afford adequate lead time to consider this decision.[26] GM also contended that the compelling reasons exception was too vague and lacked objective criteria it could depend on and, thus, compliance with the rule would not be feasible when lead time is considered.[27] Chrysler testified that it would experience lead time problems in performing any engineering modifications the new procedures may require, and therefore only favored granting the waiver if the effective date were changed to the 1981 model year.[28] American Motors (AM), addressing its remarks only to the New Vehicle Compliance Test procedures, also expressed lead time concerns by stating that the amendments established a new test procedure. AM stated that manufacturers must receive lead time to facilitate compliance with this new procedure prior to the effective date of the amendments.[29] AM also was concerned that the New Vehicle Compliance Test procedures did not include a corresponding compelling reasons exception.[30]

Finally, CARB testified that no lead time is necessary, because the changes are not new requirements. CARB explained that the changes are simply intended to permit more accurate checks on assembly line quality, thus ensuring

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[15] E.g., to eliminate unnatural amounts of fuel vapor or carbon. California New Vehicle Compliance Test Procedures, p. 2.

[16] 42 FR 3192, 3194 (January 17, 1977).

[17] 43 FR 25729 (June 14, 1978) (pertaining to 1980 and subsequent model year passenger cars); 43 FR 1829 (January 12, 1978) (pertaining to 1979–1982 light-duty trucks and medium-duty vehicles); and 43 FR 15490 (April 13, 1978) (pertaining to 1983 and subsequent model year light-duty trucks and medium-duty vehicles).

[18] The Motor Vehicle Manufacturers Association (MVMA) testified that the PDI rule would adversely affect the enforcement procedures as they relate to the protectiveness of the standards. MVMA presented no evidence to support this claim, however, nor did it explain how this result would occur. Transcript of Public Hearing on California Waiver Request, 71 (October 24, 1979) (hereinafter "Tr.").

[19] Tr. 15.

[20] Tr. 10.

[21] Transcript of California Air Resources Board Hearing held on April 5, 1979, to consider these amendments, 102 (hereinafter "CARB Hearing Tr.") The MVMA expressed concern that the increased stringency would result in the failure of vehicles that would otherwise actually have passed.

[22] CARB Hearing Tr. 166. Ford expressed concerns similar to MVMA's regarding increased stringency.

[23] CARB Hearing Tr. 121.

[24] Although the New Vehicle Compliance Test procedures do not use the term "compelling reasons", the procedures provide that the Executive Officer will allow mileage accumulation, modifications, adjustments, or special preparation or maintenance where such action is needed to "render the vehicle testable and reasonably operative." See California New Vehicle Compliance Test Procedures, pp. 1–2. Additionally, CARB testified that the Executive Officer may permit SSM for reasons covered by the compelling reasons exception. See Tr. 27. For purposes of brevity, I will refer to these provisions in the Assembly-Line Test procedures and the New Vehicle Compliance Test procedures as the "compelling reasons exception," unless indicated otherwise.

[25] Tr. 92.

[26] Tr. 103–104. 111. In the alternative, GM suggested granting the waiver, while advancing the effective date to accommodate GM's lead time problem. See Tr. 108.

[27] Tr. 92.

[28] Tr. 161.

[29] Tr. 184.

[30] Letter from Mr. William C. Jones, Manager, Vehicles Emissions and Fuel Economy Standards, AM, to Charles N. Freed, Director, Manufacturers Operations Division, EPA (November 20, 1979). But see footnote 24.

that the vehicles actually tested under the Assembly-Line Test procedures and the New Vehicle Compliance Test procedures will be representative of vehicles leaving the assembly line.[31] As to the vagueness objection, CARB stated that the exceptions permitting PDI are sufficiently clear and specific, and that they adequately implement the intent of CARB's regulations by providing examples that show PDI is not allowed for the correction of manufacturing defects.[32] Moreover, CARB expressed its willingness to work with the manufacturers on a case-by-case basis to create a list of compelling reasons agreeable to both parties.[33]

The manufacturers' testimony also points out the deficiencies in their arguments regarding lead time and technology. Ford testified that it has already implemented the PDI rule, and it has had no greater difficulty complying with the emission standards.[34] GM testified that it already subjects every vehicle shipped to California to a thorough end-of-the-line inspection that, to some extent, is more thorough than the PDI performed by dealers.[35] Since GM performs this check on 100% of its California vehicles, it still may perform the check under the amended procedures. It did indicate, however, that the "key issue" involved the shipping-related defects that may occur after the vehicles leave the assembly line, because the end-of-assembly line check obviously cannot correct those problems.[36] The amended PDI procedure specifically addresses these shipping-related problems by permitting PDI to correct them after the manufacturer performs the initial test. Thus, GM apparently is already functioning successfully using procedures that it still may ultimately employ under the contested amendments.

GM also testified that it was considering constructing its own PDI center or centers in California to perform PDI on 100% of its California production. It has not yet decided whether it will construct any centers; therefore, any claims regarding lead time problems it may encounter in employing such a center are merely speculative.[37] AM testified that its lead time concerns would be somewhat vitiated if CARB included the compelling reasons exceptions in the New Vehicle Compliance Test procedures.[38] CARB had already testified at the October 24, 1979, EPA hearing that the substance of the exception is included in those procedures.[39]

With regard to the proposed changes in the evaluation of test results obtained from the New Vehicle Compliance Test procedure, if tests of 20 vehicles do not result in a "pass" or "fail" decision, the MVMA and several manufacturers testified that the increased stringency of the amended procedure may result in the failure of vehicles that would otherwise pass.[40] CARB testified, however, that the proposed evaluation procedures were only slightly more stringent than the present procedures.[41] Thus, the proposed changes are not a new requirement; they simply facilitate the capabilities of both the Assembly-Line Test and the New Vehicle Compliance Test procedures to ensure that production vehicles actually meet California's emission standards.

In light of the above discussion, I cannot conclude that manufacturers cannot develop and apply the requisite technology within the available lead time in order to achieve compliance with the California standards under the proposed Assembly-Line Test procedures and New Vehicle Compliance Test procedures.

2. *Cost of Compliance.*—With regard to the cost of compliance, GM testified that compliance with the proposed procedures might require the construction of its own PDI center or centers, which, because of GM's high volume of sales, would involve substantial costs.[42] Additionally, GM asserted that the burden of possible retests would also be very disruptive of manufacturing and impose a significant cost penalty, although it did not provide estimates of such costs.[43] AM testified that the additional personnel, equipment, and possible expansion of existing facilities that would be necessary to comply with the procedures would be costly. AM failed to provide estimates of the costs involved.[44] AM, also stated that administrative costs due to the possible double testing under the retest provision would be burdensome.[45]

Finally, CARB testified that under the Quality Audit Assembly-Line Test procedures, the PDI rule only applies to vehicles that have been shipped to remote facilities.[46] This is only a small percentage of total production; therefore, CARB contended that the potential additional costs manufacturers would incur in retesting these vehicles also would be limited. Moreover, a manufacturer may retest a vehicle only if it has corrected a shipping-related defect, and CARB indicated that it did not believe that there were many vehicles in that category. GM's projected costs for construction of its own PDI center or centers are uncertain, because GM has not actually decided to proceed with construction.[47] I therefore cannot find that the cost of compliance with any or all of the amendments at issue is so excessive as to warrant a denial of the waiver on these grounds.

Other Objections to Granting the Wavier. Ford and GM testified that their dealers are obligated by contract and specifically reimbursed to perform a thorough PDI. Additionally, they are subject to legal liability under section 11705 of the California code if they fail to do so. Ford [48] and GM [49] also introduced evidence intended to indicate that their dealers were complying with their obligations. Chrysler,[50] GM,[51] Ford [52] and MVMA [53] contended that testing vehicles without PDI constituted testing at an "intermediate" step, and that since the condition of the vehicle as received by the consumer is the crucial consideration, a manufacturer should conduct the tests after it performs any PDI procedure similar to that which the dealer will perform.

CARB, however, introduced evidence indicating that the manufacturers' PDI

[31] Tr. 17–18.

[32] Letter from Mr. K. D. Drachand, Acting Chief, Mobile Source Control Division, CARB, to Mr. C. N. Freed, Director, Manufacturers Operations Division, EPA (November 20, 1979) (hereinafter "CARB Letter") p.4.

[33] Tr. 201.

[34] Tr. 98.

[35] Tr. 112–113. GM has also tested engine families under the proposed New Vehicle Compliance Test procedures, and they have passed. See Tr. 117.

[36] Tr. 114.

[37] Tr. 115. GM may still correct defects by showing they are shipping related.

[38] Tr. 191.

[39] See footnote 24.

[40] CARB hearing Tr. 102, 121, 166.

[41] Tr. 15. See Staff Report at 15–17 for CARB's analysis of the risk of wrongful failure under the proposed New Vehicle Compliance Test evaluation procedures.

[42] Tr. 103–105.

[43] Tr. 122, 131.

[44] Tr. 184.

[45] CARB Hearing Tr. 150.

[46] Tr. 206. Under both the original and amended procedures manufacturers are not permitted to perform PDI on vehicles undergoing Quality Audit tests on the manufacturers' premises, except in limited circumstances.

[47] TR. 115, 145.

[48] Tr. 76 and Letter from Mr. Roger E. Maugh, Assistant Director Automobile Emissions Office, Environmental and Safety Engineering Staff (Ford) to Mr. Charles N. Freed, Director Mobile Sources Enforcement Division, EPA (August 24, 1979).

[49] Tr. 103, 107.

[50] Tr. 159.

[51] CARB Hearing Tr. 115.

[52] CARB Hearing Tr. 162.

[53] Tr. 66.

instructions were vague [54] and that dealers were not completely performing their PDI obligations.[55] More importantly, on occasion manufacturers can use PDI to correct production defects instead of only shipping-related defects as intended by the amended regulations.[56] The PDI rule, therefore, is not a new legal obligation, but simply a device to ensure that the manufacturer produces vehicles that meet the standards when they leave the assembly line. This is the point where the manufacturer relinquishes physical control over the condition of its vehicles.[57] The PDI rule simply fixes responsibility for emissions control with the manufacturer.

GM objected to the provision requiring the manufacturers to supply any personnel and unique specialty hardware that may be necessary to perform the tests. GM stated that the requirement was unnecessary since the manufacturers were already supplying them.[58]

The Act does not authorize me to deny California a waiver on the grounds supplied in these other objections. The decision on such matters of public policy is properly left to California's judgment.[59]

IV. Finding and Decision

Having given due consideration to the public hearing record of October 24, 1979, all material submitted for the record, and other relevant information, I find that I cannot make the determinations required for a denial of the waiver under section 209(b) of the Act, and therefore I hereby waive application of section 209(a) of the Act to the State of California with respect to the following enforcement procedures:

(1)(a) Amendments to the 1979 model year Assembly-Line Test procedures set forth in section 2057 of title 13 of the California Administrative Code and in "California Assembly-Line Test Procedures for 1979 Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles" adopted December 19, 1977, as amended May 9, 1979, for 1979 model year gasoline-powered passenger cars, gasoline- and diesel-powered light-duty trucks, and gasoline- and diesel-powered medium-duty vehicles.

The unamended 1980 model year Assembly-Line Test procedures fall within the scope of the waiver I previously granted for the unamended 1979 procedures because the unamended 1980 procedures are identical to the 1979 procedures, and therefore they do not: (1) undermine California's determinations that its standards, in the aggregate, are as protective of public health and welfare as applicable Federal Standard, nor (2) cause California's requirements to be inconsistent with section 202(a) of the Act.

(b) The amendments to the 1980 model year Assembly-Line Test procedures set forth in section 2058 of title 13 of the California Administrative Code and in "California Assembly-Line Test Procedures for 1980 Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles," adopted November 16, 1978, as amended January 30, 1979, and May 9, 1979. The procedures are applicable for 1980 model year gasoline- and diesel-powered passenger cars, light-duty trucks and medium-duty vehicles.

(2) California's New Vehicle Compliance Testing program under section 2100 et seq. of title 13 of the California Administrative Code and "California New Vehicle Compliance Test Procedures" adopted June 24, 1976, as amended May 9, 1979, for 1979 and subsequent model years gasoline- and diesel-powered passenger cars, light-duty trucks and medium-duty vehicles.

My decision will affect not only persons in California but also the manufacturers located outside the State which must comply with California's standards in order to produce motor vehicles for sale in California. For this reason, I hereby determine and find that this decision is of nationwide scope and effect.

Dated: August 8, 1980.

Douglas M. Costle,

Administrator.

[FR Doc. 80-24557 Filed 8-13-80; 8:45 am]

BILLING CODE 6560-01-M

[54] Tr. 209. See CARB Letter. Attachment 'F' "1979 Oldsmobile Pre-Delivery Inspection Procedure Check Sheet".

[55] See CARB Letter, Attachment 'G'. "General Motors New Vehicle Predelivery Inspection Survey," January, 1979. This survey indicates that while 93% of the dealers performed driveability tests, only 13% actually performed functional (underhood) vehicle emission component checks. Also, Ford's letter (see footnote 48) indicated that only 78% of their dealers perform a complete PDI.

[56] Tr. 29, 206.

[57] CARB Hearing Tr. 106.

[58] CARB Hearing Tr. 129.

[59] 43 FR 1829 (January 12, 1978).

[FRL 1570-4]

California State Motor Vehicle Pollution Control Standards; Amendments Within Previous Waivers of Federal Preemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The California Air Resources Board (CARB) has notified EPA that it has adpoted Assembly-Line Test procedures for various classes of new motor vehicles, for the 1981 model year. The 1981 procedures are essentially the same as those for the 1980 model year. The few changes which CARB has adopted are minor in nature. I find these changes to be included within the scope of previously granted waivers of Federal preemption and the accompanying waiver that I am granting today. Since the changes are included within these waivers, a public hearing to consider them is necessary. However, if any party asserts a *bona fide* objection to these findings, a public hearing will be held to provide an opportunity to present testimony and evidence to show that there are issues to be addressed through a section 209(b) waiver determination and that I should reconsider my findings.

DATES: Any *bona fide* objection to the findings in this notice must be filed on or before September 15, 1980; otherwise, at the expiration of this 30-day period these findings will be deemed final. Upon the receipt of any timely objection a public hearing will be scheduled and announced in a subsequent **Federal Register** notice.

ADDRESS: Any *bona fide* objection to the findings in this notice should be filed with Mr. Charles N. Freed, Director, Manufacturers Operations Division, (EN-340), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Copies of the above standards and procedures at issue in this notice, as well as those documents used in arriving at this decision, are available for public inspection during normal working hours (8 a.m. to 4:30 p.m.) at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2404 (EPA Library), 401 M Street, S.W., Washington, D.C. 20460. Copies of the standards and test procedures are also available upon request from the California Air Resources Board, 1102 Q Street, P.O. Box 2815, Sacremento, California 98512.

FOR FURTHER INFORMATION CONTACT: Jerry Schwartz, Manufacturers Operations Division, (EN-340), U.S. Environmental Protection Agency, Washington, D.C. 20460. (202) 472-9421.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 209(a) of the Clean Air Act, as amended ("Act"), 42 U.S.C. 7543(a), provides in part: "No State or any political subdivision thereof shall adopt or attempt to enforce any standard

relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this part. No State shall require certification, inspection, or any other approval to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment."

Section 209(b)(1) of the Act requires the Administrator, after notice and opportunity for public hearing, to waive application of the prohibitions of section 209 to any State which has adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines prior to March 30, 1966, if the State determines that the State standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. The Administrtor must grant a waiver unless he finds that: (1) the determination of the State is arbitrary and capricious, (2) the State does not need the State standards to meet compelling and extraordinary conditions, or (3) the State standards and accompanying enforcement procedures are not consistent with section 202(a) of the Act.

In addition, once the State receives a waiver of Federal preemption for its standards and enforcement procedures for a class of vehicles, it may adopt other conditions precedent to initial retail sale, titling or registration of the subject class of vehicles without the necessity of receiving a further waiver of Federal preemption.[1] If the State acts to change a previously-waived accompanying enforcement procedure, the change may be included within the scope of the previous waiver if it does not undermine the State's determination that its standards, in the aggregate, are as protective as comparable Federal standards, does not affect the technological feasibility of the State's requirements, and raises no new issues affecting the Administrator's previous waiver determinations.[2]

II. Discussion

In a February 13, 1980 letter to the Administrator, CARB notified EPA that it had adopted Assembly-Line Test (ALT) procedures for various classes of new motor vehicles for the 1981 model year.[3] CARB also stated its belief that the 1980 and 1981 model year ALT procedures are essentially the same, that changes from 1980 to 1981 are of a minor, technical nature, and that these 1981 changes are included within the scope of previous waivers of Federal preemption. I agree with CARB's judgment that these changes are included within the scope of previous waivers because they are not new, "initially-adopted" standards of enforcement procedures, present no new issues affecting my previous determinations with regard to California's standards and enforcement procedures, do not undermine California's "protectiveness in the aggregate" determination, and do not effect the technological feasibility of California's requirements.

The 1981 changes[4] adopted on December 19, 1979, and the existing waivers[5] which include them are as follows:

(i) Clarification of the "compelling reasons exception" to the pre-delivery inspection (PDI) rule of the Quality Audit test procedures.

The 1980 ALT procedures prohibit a manufacturer from correcting damages or maladjustments which have resulted from shipment of a vehicle to a remote testing facility until after the initial Quality Audit test,[6] except for "compelling reasons". The 1981 amendments delete the words "compelling reasons" but expand and clarify the substance of the exception to ensure that the exception includes only defects which are easily recognizable to the average observer. This restriction now applies to every adjustment or repair, whether a manufacturer performs it at a remote test facility or not. Previously, this restriction only applied to tests conducted at remote test facilities.

In addition, a manufacturer previously was required to report every adjustment or repair. The amendments now require the manufacturer to justify its adjustments and repairs, and delineate the information the manufacturer must report, such as the conditions and obvious symptoms of the vehicle and the reason for repair. These changes do not undermine the State's determination that its standards, in the aggregate, are as protective of public health and welfare as applicable Federal standards, do not cause the State's requirements to be inconsistent with section 202(a) of the Act, and raise no new issues affecting the Administrator's previous waiver determinations, and therefore, are included within the previous waiver for the 1980 ALT procedures.

(ii) Clarification of the exception permitting repair of Quality Audit test vehicles if, subsequent to shipping from the assembly line, the manufacturer performs an identical repair on all of its California production vehicles.

The 1980 ALT procedures permitted repair of vehicles prior to performance of the Quality Audit test if the manufacturer has been performing the same corrections on all California vehicles subsequent to consignment for shipping from the assembly line. The 1981 change clarifies the language to make it clear that inspections and repairs by dealers or distributors will not suffice to allow repairs on Quality Audit vehicles. Since this change is only a clarification of an existing requirement it does not undermine California's protectiveness determination, and it raises no new issues of technological feasibility or other issues. Accordingly, it is included within the previous waiver for the 1980 ALT procedures.

(iii) Requirement that each manufacturer report all of its invalidated or aborted Quality Audit tests, the retest results, and the reasons explaining the necessity for the retest before CARB will permit the invalidations. Additionally, each manufacturer must report the applicable exhaust emission standard it has elected to meet by listing options selected, durability mileage used, and whether non-methane or total hydrocarbon standards apply.

The 1980 ALT procedures already obligate the manufacturers to provide some of the information required in the 1981 ALT procedures; however, the manufacturers were not meeting all the

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[1] *See* 43 FR 36679, 36680 (1978).

[2] *See 44* FR 61096, 61099–61001 (1979); *see also*, letter from Marvin B. Durning, Assistant Administrator for Enforcement, Environmental Protection Agency (EPA), to Thomas C. Austin, Executive Officer, California Air Resources Board (CARB), March 8, 1979.

[3] Letter from Gary Rubenstein, Deputy Executive Officer, California Air Resources Board (CARB), to Douglas M. Costle, Administrator, Environmental Protection Agency (EPA), February 13, 1980. CARB's ALT program involves emission-related testing and inspection of new production motor vehciles coming off manufacturer's assembly line.

[4] The 1981 procedures are set forth in Section 2059 of Title 13 of the California Administrative Code and in State of California Air Resources Board, "California Assembly-Line Test Procedures for 1981 Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles" (hereinafter "1981 ALT procedures").

[5] Most of the changes are included within the 1980 Assembly Line Test Procedures as set forth in Section 2058 of Title 13 of the California Administrative Code and in State of California Air Resources Board "California Assembly-Line Test Procedures for 1980 Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles". The entire 1980 procedures, along with amendments to the 1979 ALT procedures received a waiver of Federal preemption in an accompanying notice published in today's **Federal Register**. Change number (iv) below is included within the scope of a previously granted waiver.

[6] The Quality Audit test is one of three tests performed in Assembly-Line testing, and is a slightly modified version of a full certification test procedure. The ALT procedures require the manufacturers to Quality Audit test approximately two percent of their California production for each engine family produced.

1980 reporting requirements.[7] Therefore, under these changes CARB now will not permit invalidation of any emission test result unless the manufacturer retests the vehicle and reports the reasons for invalidation. Additionally, since for the 1981 model year, a vehicle may meet any one of several emission standards to show compliance with the Quality Audit test procedure, a manufacturer must indicate the standards it is selecting, the durability mileage it has used, and whether it has taken non-methane or total hydrocarbon measurements. Because the manufacturers need only report the required information to comply with the amendments, they do not undermine the State's determination that its standards, in the aggregate, are as protective of public health and welfare as applicable Federal standards, do not cause the State's requirements to be inconsistent with section 202(a) of the Act, and raise no new issues affecting the Administrator's previous waiver determinations; therefore, they are included within the previous waiver for California's 1980 ALT procedures.

(iv) Requirement that if a manufacturer uses a flame ionization detector (FID) to measure non-methane hydrocarbon (HC) emissions the manufacturer must supply the hexane equivalent conversion value for each different FID model it uses and for each engine family it tests.

In an accompanying notice, I have determined that California's adoption of a specific reference method utilizing a gas chromatograph combined with a flame ionization detector for determining compliance with the non-methane hydrocarbon standard falls within the scope of a previously granted waiver.[8] In the past (and in the 1980 ALT procedures), EPA recommended and CARB used conversion factors to convert FID measurements of non-methane HC to non-dispersive infra-red (NDIR) measurements. CARB has concluded that the actual conversion factors, in fact, vary from CARB's and EPA's values;[9] therefore, CARB is now requirings the manufacturers to obtain the actual conversion value after they obtain their test results. Since this requirement raises no new issues of technological feasibility, raises no new issues affecting the Administrator's previous waiver determinations, and through increased accuracy of measurement will enhance the protectiveness of California's standards, it is included within the previous waivers for California's test procedures.

(v) Elimination of the Methane Content Correction Factor (MCCF) for Quality Audit testing. CARB's regulations now require engine families to meet the same HC standard they met during certification testing without application of the factor.

The 1980 ALT procedures provided a manfuacturer with the option of applying a MCCF to its HC measurements, whether the manufacturer certified an engine family to the non-methane HC standard or the total HC standard. The 1981 changes eliminate this MCCF option, thereby requiring a manufacturer to meet the same standards it met during certification while using the appropriate instrumentation. Although the manufacturers may encounter some possible lead time problems in procuring HC instrumentation necessary to certify to the non-methane standard, CARB's regulations still provide the manufacturers with the option of certifying to either a total HC standard or a non-methane standard.[10] Thus, the manfacturers are not required to purchase the non-methane HC instrumentation. Additionally, the MCCF was subject to certain inherent variability and inaccuracies; thus, its elimination will improve the reliability of HC measurements.[11] Since there do not appear to be potential technological feasibility problems, and since the increased accuracy of measurement will enhance the protectiveness of California's standards, this amendment is included within the previous waivers for the 1980 ALT procedures.

III. Finding and Decision

Accordingly, the California regulations addressed in this notice [12] need not independently meet the waiver criteria of Section 209(b)(1) and may be enforced by California at the expiration of 30 days (September 15, 1980) following publication of this notice unless a *bona fide* objection is filed.

My decision will affect not only persons in California but also the manufacturers located outside the State which must comply with California's standards in order to produce motor vehicles for sale in California. For this reason, I hereby determine and find that this decision is of nationwide scope and effect.

Dated: August 8, 1980

Douglas M. Costle,

Administrator.

[FR Doc. 80-24558 Filed 8-13-80; 8:45 am]

BILLING CODE 6560-01-M

[7] State of California Air Resources Board Staff Report "Public Hearing to Consider Proposed 1981 Assembly-Line Test Procedures" (hereinafter "Staff Report") November 19, 1979, p. 8.

[8] See the accompanying notice published in today's **Federal Register**.

[9] Staff Report, 5.

[10] 1981 ALT procedures, p. 18.

[11] Staff Report, 12.

[12] California Assembly-Line Test Procedures for 1981 Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles, adopted December 19, 1979.

[FRL 1570-5]

California State Motor Vehicle Pollution Control Standards; Amendments Within Previous Waivers of Federal Preemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The California Air Resources Board (CARB) has notified EPA that it has adopted several changes to the California Exhaust Emission Standards and Test Procedures, for various classes of new motor vehicles, for 1979, 1980, 1981 and subsequent model years. I find these changes to be included within the scope of previously granted waivers of Federal preemption. Since the changes are included within previous waivers, a public hearing to consider them is unnecessary. However, if any party asserts a *bona fide* objection to these findings, a public hearing will be held to provide an opportunity to present testimony and evidence to show that there are issues to be addressed through a section 209(b) waiver determination and that I should reconsider my findings.

DATES: Any *bona fide* objection to the findings in this notice must be filed on or before September 15, 1980; otherwise, at the expiration of this 30-day period these findings will be deemed final. Upon the receipt of any timely objection a public hearing will be scheduled and announced in a subsequent **Federal Register** notice.

ADDRESS: Any *bona fide* objection to the findings in this notice should be filed with Mr. Charles N. Freed, Director, Manufacturers Operations Division (EN-340), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Copies of the above standards and procedures at issue in this notice, as well as those documents used in arriving at this decision, are available for public inspection during normal working hours (8 a.m. to 4:30 p.m.) at the U.S. Environmental Protection Agency, Public Information Reference Unit, Room 2404 (EPA Library), 401 M Street, S.W., Washington, D.C. 20460. Copies of the standards and test procedures are also available upon request from the

California Air Resources Board, 1102 Q Street, P.O. Box 2815, Sacramento, California 98512.

FOR FURTHER INFORMATION CONTACT: Glenn Unterberger, Manufacturers Operations Division (EN-340), U.S. Environmental Protection Agency, Washington, D.C. 20460. Telephone 202-472-9421.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 209(a) of the Clean Air Act, as amended, 42 U.S.C. 7543(a) ("Act"), provides:

"No State or any political subdivision thereof shall adopt or attempt to enforce any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this part. No state shall require certification, inspection, or any other approval relating to the control of emissions from any new motor vehicle or new motor vehicle engine as condition precedent to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment."

Section 209(b)(1) of the Act requires the Administrator, after notice and opportunity for public hearing, to waive application of the prohibitions of section 209 to any State which has adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines prior to March 30, 1966, if the State determines that the State standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. The Administrator must grant a waiver unless he finds that: (A) the determination of the State is arbitrary and capricious, (B) the State does not need the State standards to meet compelling and extraordinary conditions, or (C) the State standards and accompanying enforcement procedures are not consistent with section 202(a) of the Act.

As previous waiver decisions have explained, State standards or enforcement procedures are not consistent with section 202(a) if there is inadequate lead time to permit the development of the technology necessary to meet those requirements, giving appropriate considerations to cost of compliance within that time frame, or if the Federal and State test procedures impose inconsistent certification requirements.[1] California is the only state which meets section 209(b)(1)'s eligibility criteria for receiving waivers.

Once California has received a waiver of Federal preemption for its standards and enforcement procedures for a class of vehicles, it may adopt other conditions precedent to initial retail sale, titling or registration of the subject class of vehicles without the necessity of receiving a further waiver of Federal preemption.[2] If California adopts a change to a previously-waived standard or accompanying enforcement procedure, the change may be included within the scope of the previous waiver if it does not cause California's standards, in the aggregate, to be less protective of public health and welfare than applicable Federal standards, does not cause California's requirements to be inconsistent with section 202(a) of the Act, and raises no new issues affecting the Administrator's previous waiver determinations.[3]

II. Discussion

In a May 30, 1979, letter to the Administrator,[4] the California Air Resources Board (CARB) notified EPA that it had adopted several changes to the California Exhaust Emission Standards and Test Procedures for various vehicle classes for the 1979, 1980, 1981, and later model years. CARB also stated its belief that the changes are of a minor, technical nature and are included within the scope of waivers of Federal preemption already granted to California. I agree with CARB's judgment that these changes are included within the scope of previous waivers because they are not new standards or enforcement procedures, they present no new issues affecting my previous determinations with regard to California's standards and enforcement procedures, they do not cause the California standards, in the aggregate, to be less protective than applicable Federal standards, and they do not affect the technological feasibility of California's requirements of their consistency with Federal certification test requirements. The amendments, adopted on May 24, 1978, and on September 6, 1978, and the existing waivers in which they are included, are as discussed below:

(i) *Adoption of a non-methane hydrocarbon (HC) test procedure for 1980 model year passenger cars and 1981 and subsequent model year passenger cars, light-duty trucks, and medium-duty vehicles.*[5]

In a notice published on June 14, 1978, EPA waived Federal preemption for California's non-methane hydrocarbon standard for these classes of vehicles, as well as for the method for determining compliance with that standard, provided that hydrocarbon emissions be measured with an analytical system which responds only to the non-methane fractions.[6] CARB now has adopted a specific reference method utilizing a gas chromatograph combined with a flame ionization detector to measure the non-methane fraction, and allows equivalent methods to be used.[7]

This specific test procedure merely identifies a specific method for compliance with a test procedure requirement for which California already has received a waiver. It does not affect the stringency of the standard or raise any new issues affecting the previous waiver determination. This specific reference method therefore constitutes a test procedure covered by the June 14, 1978, waiver.

(ii) *Addition of warning signal requirement for exhaust gas sensor in allowable maintenance regulations for 1980 and 1981 and later model passenger cars, light-duty trucks, and medium-duty vehicles.*[8]

EPA waived Federal preemption on July 17, 1978, for California to enforce its allowable maintenance regulations.[9] The regulations allow manufacturers to require replacement of exhaust gas sensors at 30,000 miles, and the May 24, 1978, California amendment requires manufacturers to provide an audible and/or visible signal to the driver if maintenance on this item is necessary. This requirement raises no new issues of technological feasibility of achieving applicable emission standards or of consistency in general with section 202(a) of the Act because it does not

[1] *See, e.g.*, 43 FR 32182 (July 25, 1978).

[2] *See* 43 FR 36679, 36680 (1978).

[3] *See* 44 FR 61096, 61099-61101 (1979); *see also*, letter from Marvin B. Durning, Assistant Administrator for Enforcement, Environmental Protection Agency (EPA, to Thomas C. Austin, Executive Officer, California Air Resources Board, March 8, 1979.

[4] Letter from Thomas C. Austin, Executive Officer, California Air Resources Board, to Douglas M. Costle, Administrator, EPA, May 30, 1979 (hereinafter "CARB May 30, 1979 letter").

[5] State of California, Air Resources Board, "California Non-Methane Hydrocarbon Test Procedures", adopted May 24, 1978, incorporated by reference in "California Exhaust Emissions Standards and Test Procedures for 1980 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles" [hereinafter "1980 Standards and Test Procedures"] ¶ 3 (a), and in "California Exhaust Emission Standards and Test Procedures for 1981 and Subsequent Model Passenger Cars, Light-Duty Tfucks, and Medium-Duty Vehicles" [hereinafter "1981 Standards and Test Procedures"], ¶ 3(a), as amended May 24, 1978.

[6] 43 FR 25729, 25730, n. 7 (1978).

[7] The gas chromatograph flame ionization procedure is recommended by SAE J 1151. Other acceptable methods are also described in SAE J 1151. "California Non-Methane Hydrocarbon Test Procedures", adopted May 24, 1978.

[8] 1980 Standards and Test Procedures, ¶ 3(f)(1)(i)(A)(5); 1981 Standards and Test Procedures, ¶ 3(e)(1)(i)(A)(5).

[9] 43 FR 32182 (1978).

impose any new emission control requirements on vehicles and requires little lead time or cost to implement.[10] In addition, the requirement, if anything, will serve to increase the protectiveness of California's standards by increasing the likelihood that consumers will be aware of and act on the need for maintenance of an emission control component. Finally, the requirement does not raise any new issues affecting the previous waiver determinations. As a result, the warning signal requirement is included within the scope of the July 17, 1978, waiver.

(iii) *Requirement that each manufacturer submit a statement that the driveability and performance characteristics of vehicles for which certification is requested satisfy the manufacturer's own driveability and performance requirements, applicable to 1980, 1981 and later model year passenger cars, light-duty trucks, and medium-duty vehicles.*[11]

On June 14, 1978, EPA waived Federal preemption for California to enforce its earlier adopted 1980 and 1981 and later model year passenger car standards and test procedures.[12] This May 24, 1978, amendment simply requires manufacturers to submit statements that their vehicles comply with their own driveability and performance criteria, and authorizes the Executive Officer of CARB to request from a manufacturer driveability data for vehicles demonstrating performance problems and to take appropriate enforcement action. There are no technological issues surrounding compliance with this requirement because it does not impose any new emission requirements on vehicles; rather, it merely requires the submittal of a statement by the manufacturers. For the same reason, it does not undermine California's previous determinations that its 1980 and later model year passenger car standards, in the aggregate, are as protective as applicable Federal standards. Nor does this requirement raise any new issues affecting the previous waiver determinations. Therefore, it is included within the scope of the previous waivers for California's standards and test procedures.

(iv) *Two-year postponement of 1.5 grams per vehicle mile (gpm) oxides of nitrogen (NO_x)* standard for 1979 and 1980 model year four-wheel drive lightduty trucks under 4,000 pounds, with appropriate amendments to 1979 model year assembly-line test procedures.[13]

EPA waived Federal preemption for California to enforce its emission standards for 1979 and 1980 model light-duty trucks, including a 1.5 gpm NO_x standard, on January 12, 1978.[14] CARB's postponement of the waived 1.5 gpm NO_x standard for 1979 and 1980 model light-duty trucks (LDTs) leaves in effect the model year 1978 NO_x standard of 2.0 gpm for these two years. Although this postponement affects the stringency of the standards, each California emission standard (i.e. for carbon monoxide (CO), HC and NO_x) for this vehicle class in these two model years remains more stringent than each corresponding Federal standard, and therefore does not affect California's determination that its own standards are at least as protective as Federal standards.[15] The Delay is intended to permit the enlargement of the chassis of the LDT in this small class of vehicles to accommodate the larger catalysts needed to permit this LDT to comply with the more stringent NO_x standard.[16] Since a waiver has already been granted California to enforce the more stringent NO_x standard of 1.5 gpm, california's lessening of the stringency presents no issues of technological feasibility. This amendment also raises no other new issues affecting the previous waiver determinations; therefore, it is included within the previous waiver for California's 1979 and 1980 LDT emissions standards.

(v) *Editorial and corrective changes to the standards and test procedures for 1980 and 1981 and later model passenger cars, light-duty trucks and medium-duty vehicles*[17] and to the standards and test procedures for 1980 and later model heavy-duty engines and vehicles.[18]

These changes consist merely of correcting and updating references, separating documentation, and reinstating items inadvertently omitted in earlier documents.[19] Thus, they automatically are incorporated into the waiver for these vehicle classes.

III. Finding and Decision

Accordingly, the California amendments addressed in this notice[20] are included within the scope of waivers California already has received and may be enforced by California at the expiration of 30 days (September 15, 1980) following publication of this notice unless a *bona fide* objection is filed.

My decision will affect not only persons in California but also the manufacturers located outside the State who must comply with California's standards in order to produce motor vehicles for sale in California. For this reason I hereby determine and find that

[10] Before adopting this amendment, California already had been enforcing a similar warning signal requirement when a manufacturer schedules catalyst or exhaust gas recirculation maintenance.

[11] 1980 Standards and Test Procedures, ¶ 5(g); 1981 Standards and Test Procedures, ¶ 5(g).

[12] 43 FR 25729 (1978).

[13] Title 13, California Administrative Code, ¶¶ 1959.5(a), 1960.0(a), and 2057, as amended September 7, 1978; "California Exhaust Emission Standards and Test Procedures for 1979 Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles", ¶ 4, as amended September 6, 1978; 1980 Standards and Test Procedures, ¶ 4, as amended September 6, 1978.

[14] 43FR 1829 (1978).

[15] The California standards for 1979 and 1980 model year four-wheel drive light-duty trucks under 4,000 pounds with the requested postponement of the 1.5 NO_x standard are:

HC:	CO:	NO_x
0.41	Model year 1979—9.0	2.0
0.39(0.41)*	Model year 1980—9.0	2.0

(*Beginning in 1980, the HC standard is expressed as a non-methane HC standard. HC standards in parentheses apply to total hydrocarbons, or, for 1980 models only, to emissions corrected by a methane content correction factor. 43 FR 1829, 1830 (1978).)

The Federal standards for the same vehicle class in these model years are: 1.7 gpm HC, 18 gpm CO and 2.3 gpm NO_x.

[16] CARB May 30, 1979, letter at 6; "Hearing Officers Report Regarding American Motors Petition for Modification of Light-Duty Truck Emission Standards for 1979–1980 Model Years."

[17] 1980 standards and Test Procedures, as amended May 24, 1978; 1981 Standards and Test Procedures, as amended May 24, 1978.

[18] "California Exhaust Emission Standards and Test Procedures for 1980 Model Heavy-Duty Engines", as amended May 24, Procedures for 1981 and Subsequent Model Heavy-Duty Engines", as amended May 24, 1978.

[19] *See* CARB May 30, 1979 letter, at 2, 5. Regarding the inadvertently omitted items, CARB explained that it had not included fuel filters and air filters in its list of allowable maintenance items from its earlier version of the "California Exhaust Emission Standards and Test Procedures for 1980 and Subsequent Model Passenger Cars, Light-Duty trucks, and Medium-Duty Vehicles."

[20] Specifically, those regulations are the following: "California Non-Methane Hydrocarbon Test Procedures", adopted May 24, 1978, incorporated by reference in "California Exhaust Emissions Standards and Test Procedures for 1980 Model Passenger Cars, Light-Duty Truck, and Medium-Duty vehicles" [hereinafter "1980 Standards and Test Procedures"] ¶ 3(a), and in "California Exhaust Emissions Standards and Test Procedures for 1981 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles" [hereinafter "1981 Standards and Test Procedures"], ¶ 3(a), as amended May 24, 1978; 1980 Standards and Test Procedures, ¶¶ 3(f)(l)(i)(A)(5), 5(g), and 3(f)(l)(ii), as amended May 24, 1978; 1980 Standards and Test Procedures, as amended May 24, 1978; 1981 Standards and Test Procedures, ¶¶(3)(l)(i)(A)(5), 5(g) and 3(e)(l)(ii), as amended May 24, 1978; 1981 Standards and Test Procedures, as amended May 24, 1978; "California Exhaust Emission Standards and Test Procedures for 1980 Model Heavy-Duty Engines", as amended May 24, 1978, and "California Exhaust Emission Standards and Test Procedures for 1981 and Subsequent Heavy-Duty Engines", as amended May 24, 1978; Title 13, California Administrative Code, ¶¶ 1959.5(a), 1960.0(a) and 2057, as amended September 7, 1978; "California Exhaust Emission Standards and Test Procedures for 1979 Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles", ¶4, as amended September 6, 1978; and 1980 Standards and Test Procedures, ¶4, as amended September 6, 1978.

this decision is of nationwide scope and effect.

Dated: August 8, 1980.

Douglas M. Costle,

Administrator.

[FR Doc. 80-24559 Filed 8-12-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1568-8]

National Pollutant Discharge Elimination System (NPDES); Availability of Wastewater Treatment Manual (Treatability Manual)

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of technical information and request for comments.

SUMMARY: This notice announces the availability of the Treatability Manual. The Treatability Manual is a compilation of available information including: (1) Physical, chemical, biological and treatability data on the toxic or "priority" pollutants; (2) descriptive information on numerous industrial categories; (3) summaries of performance data on existing pollutant treatment technologies; (4) capital, operating and maintenance cost estimates for these treatment technologies; and (5) an executive summary to assist users. To enhance the quality of information in future supplements or revisions to the Treatability Manual, EPA also is providing a review and comment period.

DATES: Comments may be submitted at any time. However, to be considered for inclusion in the Manual's first scheduled annual supplement or revision, comments must be received on or before April 1, 1981.

ADDRESSES: Interested persons may obtain a copy of the Treatability Manual after September 15, 1980 by requesting publication stock number 055-000-00190-1 from the Superintendent of Documents, U.S. Government Printing Office, Department 50, Washington, D.C. 20402. The price of the Manual is $47.00. The Treatability Manual is available for examination at the following EPA Regional Offices, Laboratories and State Offices after September 1, 1980:

EPA Regions

Region I

(Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont)

Library, EPA Region I, Twenty-first Floor, JFK Building, Boston, Massachusetts 02203, (617) 223-5791

Librarian, Environmental Research Laboratory, U.S. EPA, South Ferry Road, Narragansett, Rhode Island 02882, (401) 789-1071

Region II

(New Jersey, New York, Puerto Rico, Virgin Islands)

Water Permits Branch, EPA Region II, Room 845, 26 Federal Plaza, New York, New York 10278, (212) 264-9895

Region III

(Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia)

Library, EPA Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, (215) 597-0580

Region IV

(Alabama, Georgia, Florida, Mississippi, North Carolina, South Carolina, Tennessee, Kentucky)

Library, EPA Region IV, 345 Courtland Street, NE, Atlanta, Georgia 30365, (404) 881-4216

Chris L. West, Office of Public Awareness, Environmental Research Center, Room M-306, U.S. EPA, Research Triangle Park, North Carolina 27711, (919) 541-4577

Robert C. Ryans, Environmental Research Laboratory, U.S. EPA, College Station Road, Athens, Georgia 30613, (404) 546-3306

Andre Lowery, Librarian, Environmental Research Laboratory, U.S. EPA, Sabine Island, Gulf Breeze, Florida 32561, (904) 932-5311 Ext. 218

Region V

(Illinois, Indiana, Ohio, Michigan, Wisconsin, Minnesota)

Ms. Lou W. Tilley, Librarian, Library, EPA Region V, 230 S. Dearborn Street, Chicago, Illinois 60604, (312) 353-2022

Library, Environmental Research Laboratory, U.S. EPA, 6201 Congdon Blvd., Duluth, Minnesota 55804, (218) 727-6692

Office of Public Affairs, Environmental Research Laboratory, U.S. EPA, 26 W. St. Clair Street, Cincinnati, Ohio 45268, (513) 684-7771

Region VI

(Arkansas, Louisiana, Oklahoma, Texas, New Mexico)

Oscar Cabra, EPA Region VI, First International Building, 1201 Elm Street, Dallas, Texas 75270, (214) 767-4375

Marvin L. Wood, Robert S. Kerr Environmental Research Laboratory, U.S. EPA, Ada, Oklahoma 74820, (405) 332-8800

Region VII

(Iowa, Kansas, Missouri, Nebraska)

Library, EPA Region VII, 324 E. 11th Street, Kansas City, Missouri 64106, (816) 374-3497

Region VIII

(Colorado, Utah, Wyoming, Montana, North Dakota, South Dakota)

Delores Eddy, Librarian, EPA Region VIII, Room 101, 1860 Lincoln Street, Denver, Colorado 80295, (303) 837-2560

Region IX

(Arizona, California, Nevada, Hawaii)

Permits Branch, EPA Region IX, 215 Fremont Street, San Francisco, California 94111, (415) 556-3454

Office of Environmental Quality, City Hall, 400 East Stewart Street, Las Vegas, Nevada 89101, (702) 386-6277

Region X

(Alaska, Idaho, Oregon, Washington)

Harold Geren, EPA Region X, 1200 6th Avenue, Seattle, Washington 98101, (206) 442-1348

Public Information Office, Room 101, Environmental Research Laboratory, U.S. EPA, 200 SW 35th Street, Corvallis, Oregon 97330, (503) 757-4600

States and Territories

Alabama

Alabama Water Improvement Commission, Perry Hill Office Park, 3815 Interstate Court, Montgomery, Alabama 36109, (205) 277-3630

Alaska

Alaska Operation Office, EPA, Room E-535, Federal Building, 701 C Street, Anchorage, Alaska 99513, (907) 271-5083

American Samoa

Pati Faiai, Executive Secretary, Environmental Quality Commission, Pago Pago, American Samoa 96920

Arizona

Will Gilbert, Arizona Department of Health Services, 1740 West Adams Street, Phoenix, Arizona 85007, (602) 255-1277

Arkansas

John Ward, Arkansas Department of Pollution, Control and Ecology, 8001 National Drive, Little Rock, Arkansas 72209, (501) 371-1701

California

Edward C. Anton, California State Water Resources Control Board, 1416 9th Street, Room 631, Sacramento, California 95801, (916) 322-3133

Colorado

Mr. Arden Wallum, Colorado Department of Health, Water Quality Control Division, 4210 East 11th Avenue, Denver, Colorado 80220, (303) 320–8333 Ext. 3361

Connecticut

Connecticut Department of Environmental Protection, Water Compliance Unit, 122 Washington Street, Hartford, Connecticut 06115, (203) 566–7167

Delaware

Mr. Robert Zimmerman, Department of Environmental Control, Water Pollution Control Branch, Edward Tatnall Building, Legislative Avenue and William Penn Street, Dover, Delaware 19901, (302) 736–4761

District of Columbia

District of Columbia Department of Environmental Services, Room 309, 415 12th Street, N.W., Washington, D.C. 20004, (202) 727–5748

Florida

Library, Room 423, Florida Department of Environmental Regulation, Twin Tower Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32301, (904) 487–1620

Georgia

Water Protection Branch, Georgia Environmental Protection Division, 270 Washington Street, S.W., Atlanta, Georgia 30334, (404) 656–4887

Guam

O.V. Natarajan, Administrator, Guam Environmental Protection Agency, Agana, Guam 96910

Hawaii

Hawaii State Department of Health, Pollution Technical Review Branch, 645 Halekauwila Street, Honolulu, Hawaii 96813, (808) 548–6410

Idaho

Idaho Operation Office, EPA, 422 W. Washington Street, Boise, Idaho 83702, (208) 384–1450

Illinois

Permits Section, Illinois Environmental, Protection Agency, 2200 Churchill road, Springfield, Illinois 62706, (217) 782–0610

Indiana

Indiana State Board of Health, Division of Water Pollution Control, Room A–320, 1330 West Michigan Street, Indianapolis, Indiana 46206, (317) 633–0795

Iowa

Department of Environmental Quality, Henry A. Wallace Building, 900 E. Grand, Des Moines, Iowa 50313, (515) 281–8863

Kansas

Donald R. Carlson, Kansas Department of Health and Environment, Building 740—Forbes Field, Topeka, Kansas 66620, (913) 862–9360

Kentucky

Library Conference Room, Division of Water Quality, Kentucky Department for Natural Resources and Environmental Protection, Century Plaza #B, 1065 U.S. 127 Bypass South, Frankfort, Kentucky 40601, (502) 564–2126

Louisiana

Louisiana Department of Natural Resources, Water Pollution Control Division, 625 North 4th Street, Baton Rouge, Louisiana 70804, (504) 342–6363

Maine

Steve Groves, Maine Department of Environmental Protection, Hospital Road, Augusta, Maine 04333, (207) 289–2591

Maryland

William E. Chicca, Office of Environmental Programs, Tawes State Office Building, Annapolis, Maryland 21401, (301) 269–3821

Massachusetts

Massachusetts Division of Water Pollution Control, 110 Tremont Street, Boston, Massachusetts 02108, (617) 727–3855

Michigan

Water Quality Division, Michigan Department of Natural Resources, Stevens T. Mason Building, Lansing, Michigan 48909, (517) 373–8088

Minnesota

Randy D. Burnyeat, Minnesota Pollution Control Agency, Water Quality Division, Permits Section, 1935 West County Road B–2, Roseville, Minnesota 55113, (612) 296–7228

Mississippi

Mississippi Department of Natural Resources, Bureau of Pollution Control, 2380 Highway 80 West at Southport Mall, Jackson, Mississippi 39209, (601) 961–5171

Missouri

Missouri Department of Natural Resources, Division of Environmental Quality, Water Pollution Control Program, 2010 Missouri Boulevard, Jefferson City, Missouri 65101, (314) 751–3241

Montana

Montana Department of Health and Environmental Sciences, Water Quality Bureau, Cogswell Building, Helena, Montana 59601, (406) 449–2406

Nebraska

Nebraska Department of Environmental Control, 301 Centennial Mall South, Lincoln, Nebraska 68509, (402) 471–2186

Nevada

Nevada Division of Environmental Protection, 201 South Fall Street, Room 221, Carson City, Nevada 89710, (702) 885–4670

New Hampshire

New Hampshire Water Supply and Pollution Control Commission, Hazen Drive, Concord, New Hampshire 03301, (603) 271–3503

New Jersey

New Jersey State Library, 185 West State Street, Trenton, New Jersey 08625, (609) 292–6220

New Mexico

New Mexico Environmental Improvement Division, Water Pollution Control Bureau, 725 St. Michaels, Santa Fe, New Mexico 87503, (505) 827–5271

New York

New York Department of Environmental Conservation, Division of Water, Room 306, 50 Wolf Road, Albany, New York 12233, (518) 457–1067

North Carolina

Permits and Engineering Branch, North Carolina Division of Environmental Management, Room 912, Archdale Building, 512 North Salisbury Street, Raleigh, North Carolina 27611, (919) 733–7120

North Dakota

Division of Water Supply and Pollution Control, North Dakota State Department of Health, 1200 Missouri Avenue, Bismarck, North Dakota 58505, (701) 224–2354

Ohio

Ann Galli, Librarian, Environmental Technical Information Center, Ohio EPA, 361 E. Broad Street, Columbus, Ohio 43216, (614) 466–6058

Oklahoma

Office of Water Resources Board, Water Quality Division, 1000 N.E. 10th Street,

Oklahoma City, Oklahoma 73105, (405) 271–2555

Oregon

Oregon Department of Environmental Quality, Second Floor, 522 South West 5th Avenue, Portland, Oregon 97204, (503) 229–5325

Pennsylvania

Ernest Giovannitti, Division of Nonpoint and Industrial Sources, Bureau of Water Quality Management, Pennsylvania Department of Environmental Resources, 12th Floor, Foulton Bank Building, Third and Locust Streets, Harrisburg, Pennsylvania 21720, (717) 787–8184

Puerto Rico

Mr. Weems Clevenger, EPA Carribean Field Office, Stop 8½, Avenue Fernandez Juncos, San Juan, Puerto Rico 00902, (809) 725–7825

Rhode Island

James Fester, Division of Water Resources, Rhode Island Department of Environmental Management, Room 209, 75 Davis Street, Providence, Rhode Island 72908, (401) 227–2234

South Carolina

Charles R. Jeter, Chief, Bureau of Wastewater & Stream Quality Control, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201, (803) 758–3877

South Dakota

Steve Pirner, Office of Water Quality, South Dakota Department of Water and National Resources, Room 413, Joe Foss Building, Pierre, South Dakota 57501, (605) 773–4523

Tennessee

Paul E. Davis, Manager, Permits Section, Tennessee Department of Public Health, Division of Water Quality Control, Room 490, Capitol Hill Building, Nashville, Tennessee 37219, (615) 741–7883

Texas

Texas Department of Water Resources, Library, Room 511, Stephen F. Austin Building, 1700 North Congress, Austin, Texas, (512) 475–7896

Trust Territories

Nachsa Siren, Executive Director, Environmental Protection Board, Trust Territory of the Pacific Islands, Saipan, Mariana Islands 96950,

Utah

Steve McNeil, State of Utah, Bureau of Water Pollution Control, Room 410, 150 W. North Temple, Salt Lake City, Utah 84110, (801) 533–6146

Vermont

Vermont Agency of Environmental Conservation, 81 River Street, Montpelier, Vermont 05602, (802) 828–3345

Virgin Islands

Division of Natural Resources Management, Building 129, Sub Base, St. Thomas, Virgin Islands 00801, (809) 774–6420

Virginia

Larry G. Lawson, Virginia State Water Control Board, 211 N. Hamilton Street, Richmond, Virginia 23230, (804) 257–6361

Washington

State of Washington Department of Ecology, St. Martins College Campus, Olympia, Washington 98504, (206) 753–3864

West Virginia

Water Resources Division, West Virginia Department of Natural Resources, 1201 Greenbrier Street, Charleston, West Virginia 25305, (304) 348–2107

Wisconsin

Paul Didier, Wisconsin Department of Natural Resources, 101 S. Webster Street, Madison, Wisconsin 53707, (608) 266–0289

Wyoming

John F. Wagner, Wyoming Department of Environmental Quality, Water Quality Division, 401 West 19th Street, Cheyenne, Wyoming 82002, (307) 777–7781

Comments on the Treatability Manual should be submitted to:

William A. Cawley, Industrial Environmental Research Laboratory, U.S. Environmental Protection Agency, 26 West St. Clair, Cincinnati, Ohio 45268, (513) 684–4310

FOR FURTHER INFORMATION CONTACT: William A. Cawley, Industrial Environmental Research Laboratory, U.S. Environmental Protection Agency, 26 West St. Clair, Cincinnati, Ohio 45268, (513) 684–4310

SUPPLEMENTARY INFORMATION: The Clean Water Act of 1977 (the Act) places an increased emphasis on the control of discharges of toxic pollutants from industrial sources by requiring the achievement of effluent limitations based on the application of the best available technology economically achievable (BAT) by July 1, 1984. The BAT effluent limitations guidelines are currently under development by EPA's Effluent Guidelines Division for numerous industries which discharge toxic (priority) pollutants. Although BAT guidelines have been proposed for several industrial categories, some BAT guidelines will not be available in the immediate future. Also, even where guidelines are available, certain waste streams may not be covered by the guidelines. Therefore, in those cases where no national guidelines exist or where guidelines are not applicable, NPDES permitting authorities, either the EPA Regional Office or NPDES State, will be required to exercise "best engineering judgment" in order to establish BAT effluent limitations in new or renewed permits.

The Treatability Manual (The Manual) was developed by EPA's Office of Research and Development (ORD) with assistance from the Office of Water and Waste Management (OWWM) and the Office of Water Enforcement (OWE). The Manual is, primarily, a compilation of currently available data on the effectiveness of water pollution control technologies for removal of toxic pollutants from industrial waste streams. A variety of data sources were used to develop the Manual, including: EPA's Effluent Guidelines Division's technical files; EPA Regional and State files; government publications; ORD treatability studies; equipment vendors' information; and open literature.

The Manual is expected to be of general interest to industry, academia, and public interest groups. NPDES permitting authorities should find the Manual useful to develop case-by-case effluent limitations for toxic pollutants in permits in the absence of national effluent limitations guidelines. In addition, the Manual may be used to develop limitations for conventional and nonconventional pollutants as well as other pollutants not specifically addressed by national guidelines. In summary, the Manual is expected to be useful for:

- Evaluating the potential effectiveness and approximate costs of proposed effluent treatment systems;
- Determining the potential cost and feasibility of compliance with discharge limitations under consideration; and
- Developing wastewater pollution control strategies.

While the Manual has been developed to be a comprehensive information resource, it is not intended to be a substitute for effluent limitations guidelines.

The Manual consists of five volumes:

Volume I—Treatability Data,

Volume II—Industrial Descriptions,

Volume III—Technologies,
Volume IV—Cost Estimating,
Volume V—Summary.

Volume I is a compendium of treatability data for specific pollutants. Information is provided on the 129 priority pollutants developed by EPA from the list of 65 chemicals and classes of chemicals originally contained in a Consent Agreement between EPA and the Natural Resources Defense Council, 8 ERC 2120 (D.D.C. 1976). Also included is information on a number of compounds found among the 299 chemicals (now 297 with the deletion of calcium oxide and calcium hydroxide from the list) designated by EPA as hazardous substances under the authority of Section 311 of the Act. The pollutants contained in the volume are organized into the following chemical categories:

- Metals and inorganics
- Ethers
- Phthalates
- Nitrogen compounds
- Phenols
- Aromatics
- Polynuclear aromatic hydrocarbons
- PCB's and related compounds
- Halogenated hydrocarbons
- Pesticides
- Oxygenated compounds
- Miscellaneous

For each of the pollutants, the following information is provided when available:

- Alternate names of the chemical;
- Chemical Abstracts Number;
- Physical, chemical, and biological properties, including molecular weight, melting point, boiling point, vapor pressure, solubility in water at 20° C, log octanol/water partition coefficient, Henry's Law constant, and biodegradability data;
- Probable fate of the compound in the aqueous environment. Removal processes considered include photolysis, oxidation, hydrolysis, volatilization, sorption and biological processes;
- Isotherm data on the effectiveness of activated carbon to remove organics;
- Industrial occurrence of the material. Minimum, maximum, and mean concentrations are reported for both untreated and treated wastewater for each industry in which the substance has been detected; and
- Average and maximum removal efficiencies and average effluent concentrations for specific control technologies.

Volume II contains a general description of most of the primary industries (and their major subcategories) cited in the 1976 NRDC Consent Agreement. Also included are:

- Subcategory-wide or industry-wide tables covering,

The number of dischargers,
The types of pollution control systems in use,
The range of effluent flow rates and pollutant concentrations in controlled and uncontrolled waste streams, and
The efficiency of treatment systems, when available;

- Summary tables, when available, on BPT effluent guidelines and the status of BAT guidelines, New Source Performance Standards, and Pretreatment Standards; and
- Tabulated information on individual plants specifying industrial subcategory, treatment systems (including operating characteristics, when available), effluent pollutant concentrations, and influent pollutant concentrations, when available.

Volume III summarizes information on the nature and effectiveness of various pollution treatment technologies. It described the nature of the generic type of control equipment, the major variations of design, and the following information on each of the technologies:

- Design criteria
- Typical performance
- Applications and limitations
- Reliability information
- Chemical requirements
- Environmental impacts

A summary table for each technology is also provided showing the concentrations of various pollutants in the effluents; the minimum, maximum, median, and mean removal efficiencies for these pollutants; and the number of data points used to generate this information. Data sheets summarizing the sampling results at specific installations also are included.

Volume IV provides typical costs of treatment unit operations. The following information is provided for each unit operation:

- Equipment purchase and installation costs;
- Total capital cost;
- Total direct operating cost, including materials, chemicals, power, fuel and labor; and
- Total annual operating cost, including total direct operating cost and total indirect operating cost (plant overhead, taxes, insurance, administrative expenses, depreciation, and interest on working capital).

Volume V is a summary designed to facilitate the use of the first four volumes by including a user's guide and several summary tables in the appendices. Volume V also contains an executive summary of Volumes I through IV, and a bibliography listing all references examined and/or used in developing the Manual.

Although the Manual contains a considerable amount of data, it is not intended to be the sole source of information for permit writers in establishing case-by-case effluent limitations.

Permit writers can be expected to use other available information including but not limited to: Historical information on the individual facility; personal knowledge of the particular facility and similar facilities; applications for permit(s) previously submitted; applicable Effluent Guidelines' Development Documents; the initial permit for the discharger (if any) and associated files; consultation with technical experts both within and outside EPA; relevant technical reports such as those published by EPA's Office of Research and Development; attainable effluent limitations for similar facilities; EPA guidance for best practicable, best available and best conventional technologies as well as best management practices; trip reports on site visits; results of ambient and effluent water monitoring; compliance monitoring reports; and permit writers' engineering judgment.

The Manual, in the present form, is intended to be neither a definitive document on treatment systems performance, nor an effluent limitations guideline. The document is a compilation of existing data as of early 1980 on the performance of various water pollution control technologies and systems.

The Agency expects to update the Manual annually as additional data become available and believes that the Manual can be improved and important issues resolved by soliciting public comments on its content and format. Therefore, the Agency welcomes any data or comments of a technical nature that might improve the quality of the Manual.

At the present time, EPA plans to revise the Manual by publishing annually either a supplement or a revised Manual. The supplement or revision will consist of changes resulting from public comments and newly acquired data. The Agency will accept written comments on the Manual at any time after the date of this notice. However, in order for comments to be considered for inclusion in the first supplement or revision, comments must be received no later than April 1, 1981, 90 days before the expected publication date of the first annual supplement or revised Manual. Comments received after this date will be reviewed and considered for the next supplement or

revision. The same timetable is expected to be maintained for subsequent supplements or revisions, as necessary.

Each year, the Agency will review all comments received during the preceding 12-month period and respond to significant comments as appropriate. The response may take the form of the publication of a summary of significant comments and responses in the Federal Register and/or incorporation of suggestions into the annual supplement or revision.

Dated: July 29, 1980.

Jeffrey G. Miller,

Acting Assistant Administrator for Enforcement.

Stephen J. Gage,

Assistant Administrator for Research and Development.

[FR Doc. 80-24605 Filed 8-13-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1570-7]

Columbia Gas Transmission Corp.; Applicability of Regulations for Prevention of Significant Air Quality Deterioration; West Virginia

In the matter of the applicability of Title I, Part C of the Clean Air Act (the Act), as amended, 42 U.S.C. 7401 *et seq.*, and the Federal regulations promulgated thereunder at 40 CFR 52.21 (43 FR 26388, June 19, 1978) for the Prevention of Significant Deterioration of Air Quality (PSD), to Columbia Gas Transmission Corporation, 1700 MacCorkle Avenue, Southeast, Charleston, West Virginia 25314.

On March 7, 1980, Columbia Gas Transmission submitted a request to the U.S. Environmental Protection Agency (U.S. EPA), Region V office, for a determination of applicability of the regulations for PSD.

On May 19, 1980, Columbia Gas Transmission was notified that it is not subject to a PSD review.

This determination does not relieve Columbia Gas Transmission of the responsibility to comply with the control strategy and all local, State and Federal regulations which are part of the applicable State and local requirements.

This determination may now be considered final agency action which is locally applicable under Section 307(b)(1) of the Act and therefore a petition for review may be filed in the U.S. Court of Appeals for the Seventh Circuit by any appropriate party. In accordance with Section 307(b)(1), petitions for review must be filed on or before October 14, 1980.

For further information contact Eric Cohen, Chief, Compliance Section, Region V, U.S. EPA, 230 South Dearborn Street, Chicago, Illinois 60604. (312) 353-2090.

John McGuire,

Regional Administrator, Region V.

May 19, 1980

A. M. Ferenz, P. E., *supervisory Engineer, Engineeering Services, Columbia Gas Transmission Corp., 1700 MacCorkle Ave. SE., Charleston, W.Va.*

Dear Mr. Ferenz: We are in receipt of your request for exemption from New Source Review under the regulations for the Prevention of Significant Deterioration of Air Quality (PSD), 43 F.R. 26403, June 19, 1978 (40 CFR 52.21). Your letter of March 7, 1980 describes Columbia Gas Transmission's (CGT) proposed modification of the Crawford Compressor Station in Fairfield County, Ohio.

CGT currently has 15 natural gas compressor units and is replacing 3 Snow compressor units (totaling 4050 horsepower) with a single compressor unit rated at 4000 horsepower. After the modification, there would be 13 gas compressors at the site. The potential emissions have been calculated and are compared to the present source emissions in Table 1.

TABLE 1.—Changes in Potential to emit

[Tons per year]

	From	To	Change
NO_x	2,289.0	2,052.2	−236.8
CO	306.7	329.2	+22.5
HC*	62.4	100.0	+37.6
SO_2	.47	.47	0

*Nonmethane.

One set of emission factors applied to three of the Snow compressors in identical to the set which appears in the U.S. Environmental Protection Agency's (U.S. EPA) publication 42, while the factors used for the other compressors are believed to have been supplied by the manufacturers (including the factors for the new replacement unit).

As a result of the *Alabama Power Co.* vs. Douglas M. Costle (78-1006 and consolidated cases) ruling on December 14, 1978, and the proposed regulations promulgated on September 5, 1979, 44 F.R. 51924, the Crawford Compressor Station modification is not subject to PSD review. This exemption from PSD review does not relieve Columbia Gas Transmission of the responsibility to comply with the control strategy and all local, State, and Federal regulations which are part of the applicable State Implementation Plan, as well as all other applicable Federal, State and local requirements.

Thank you for cooperation.

Very truly yours,

Sandra S. Gardebring,

Director, Enforcement Division

Charles Taylor,

Chief, Office of Air Pollution Control, Ohio Environmental Protection Agency.

FR Doc. 80-24546 Filed 8-13-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL HOME LOAN BANK BOARD

Proposed Implementation of the Part-time Employment Program

AGENCY: The Federal Home Loan Bank Board.

ACTION: Proposed implementation of the Federal Employees Part-time Employment Program Act of 1978, 5 U.S.C. 3401 et seq by establishing a continuing program to provide career part-time employment opportunities within the Federal Home Loan Bank Board.

In accordance with 5 U.S.C. 3406, the Federal Home Loan Bank Board is required to publish its instructions in proposed form and to provide an opportunity for interested parties to comment. After comments have been received and reviewed, the final intructions will be issued and the Program implemented immediately.

DATES: Written comments will be considered if received by the person named below on or before October 14, 1980.

ADDRESS: Doris McGhee, Director of Personnel, Federal Home Loan Bank Board, 1700 G Street, NW—2nd Floor, Washington, DC 20552.

FOR FURTHER INFORMATION CONTACT: Lenor Reese (202) 377-6054 (this is not a toll free number).

Part-Time Employment Program

I. General Provisions

A. *Purpose*—These regulations implement Pub. L. 95-437, the Federal Employees Part-Time Career Employment Act of 1978, and establishes a continuing program to provide career part-time employment opportunities within the Federal Home Loan Bank Board (FHLBB).

B. *Policy*—It is the policy of the FHLBB to provide career part-time employment opportunities to the maximum extent possible consistent with agency resources and mission requirements for positions in GS-1 through GS-15, for hourly paid blue collar positions and any other career positions which do not exceed a GS-15 equivalent. This policy provides the FHLBB the opportunity to recognize talented workers who otherwise might not be available for employment.

C. *Definitions*—1. *Part-time career employment* is regularly scheduled work of 16 to 32 hours per week performed by individuals serving under competitive or excepted appointments in tenure groups of I or II.

2. *Tenure Group I* includes employees in the competitive service under career

appointments when not serving probation; and permanent employees in the excepted service where appointments carry no restrictions or conditions. This group does not include employment on a temporary or intermittent basis.

3. *Tenure Group II* includes employees in the competitive service serving probation; career-conditional employees in obligated positions; and employees in the excepted service serving trial periods whose tenure is indefinite solely because they occupy obligated positions, or whose tenure is equivalent to career-conditional in the competitive service.

D. Applicability—These regulations are applicable to all FHLBB Offices and Districts.

E. *Exceptions*—These regulations do not apply to positions which are in the Senior Executive Service or others at GS-16 and above.

II. Program Implementation

A. *Program Coordinator*—The Director of Personnel is hereby designated as the Agency Part-Time Employment Coordinator and assigned the following responsibilities:

1. Establishing Agency part-time employment goals and timetables.
2. Consulting with the Equal Employment Opportunity Officer, Selective Placement Coordinator, Federal Women's Program Coordinator, and Hispanic Employment Coordinator to assure that the specific needs of minorities, women and the handicapped are addressed and to assess the impact on these groups.
3. Consulting with interested parties in other special interest areas (e.g. employment of veterans, upward mobility) and with union officials.
4. Responding to requests for advice and assistance from management officials within the Agency.
5. Monitoring agency progress in expanding part-time employment opportunities within the Agency; and
6. Preparing reports on part-time employment for transmittal to the Office of Personnel Management and Congress.

B. Part-Time Employment Goals and Timetables

1. Each year the Program Coordinator will set goals for establishing and converting positions for part-time career employment; and a timetable setting forth interim and final deadlines for achieving such goals.
2. The goals and timetables will be based on considerations such as agency mission and occupational mix; workload fluctuations; size of workload; turnover rate; affirmative action; and employee interest in part-time employment.

C. Guidance for Managers, Supervisors and Employees

The Director of Personnel will be responsible for insuring that Office Directors and employees are informed of the procedures and benefits derived through the establishment of part-time positions.

D. Evaluating and Reporting

1. The part-time employment program will be received and evaluated through the internal personnel management evaluation process.
2. The Director of Personnel will report twice a year to the Office of Personnel Management on its progress in meeting part-time goals, noting any impediments encountered and measures taken to overcome them; and the extent to which part-time career employment opportunities have been extended to older persons, physically and mentally handicapped persons, persons with family responsibilities, and students.

E. Part-Time Employment Practices

1. *Vacant Positions*—Prior to filling any vacancy, the supervisor and Personnel Management Specialist shall give consideration to filling the position on a part-time basis.
2. *Establishment and Conversion of Part-Time Career Positions*—The Personnel Management Office is responsible for developing procedures and criteria for employees to follow in requesting a change from full-time to a part-time work schedule.
3. An employee requesting a change in employment from full-time to part-time should consult with the immediate supervisor to determine the effects the change would have on his/her rights and benefits. If the employee wishes to pursue the matter, a formal request should be made in writing to the immediate supervisor.
4. The supervisor should evaluate the request in terms of the following criteria:

a. Employment ceilings
b. Workloads
c. Special space and equipment requirements
d. Benefit to the employee
e. Retention of a valuable employee

A written decision will be given to the employee within 5 workdays.

5. A position may not be abolished in order to make the duties and responsibilites available to be performed on a part-time basis.
6. Specific part-time employment guidelines will be updated as needed and published in the agency's How-To-Do-It-Manual.

F. Notifying the Public of Part-Time Vacancies

The Personnel Management Office shall take appropriate steps to notify the public of vacant part-time positions. This requirement will be carried out through such methods as Federal Job Information Announcements and position vacancy listings.

J. J. Finn,
Secretary.

[FR Doc. 80-24648 Filed 8-13-80; 8:45 am]
BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, 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 the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before August 25, 1980. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation of detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement No. T-3918.

Filing Party: David A. Schaller, Director of Administration, Port Everglades Authority, P.O. Box 13136, Port Everglades, Florida 33316.

Summary: Agreement No. T-3918, between Port Everglades Authority (Port) and Sea-Land Service, Inc. (Sea-Land), restates and extends the terms of a previous lease agreement between the parties. Agreement No. T-3918 provides for the one-year lease

to Sea-Land of approximately 6 acres of land for use in the handling and processing of containers and related equipment. As compensation, Sea-Land will pay Port an annual rental of $47,460, as well as applicable State taxes. Rental, however, may be offset by dockage and wharfage payments.

By Order of the Federal Maritime Commission.

Dated: August 11, 1980.

Joseph C. Polking,

Assistant Secretary.

[FR Doc. 80-24655 Filed 8-13-80; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1603]

Aviation Transport Systems, Inc.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4 further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Aviation Transport Systems, Inc., 130-29 135th Avenue, South Ozone Park, New York, 11420, FMC No. 1603, was cancelled effective August 2, 1980.

By letter dated July 3, 1980, Aviation Transport Systems, Inc. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1603 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission.

Aviation Transport Systems, Inc. has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(d) dated August 8, 1977;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 1603 be and is hereby revoked effective August 2, 1980.

It is ordered, that Independent Ocean Freight Forwarder License No. 1603, issued to Aviation Transport Systems, Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Aviation Transport Systems, Inc.

Robert G. Drew,

Director, Bureau of Certification and Licensing.

[FR Doc. 80-24658 Filed 8-13-80; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight fowarder License No. 244R]

James Loudon & Co., Inc.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4 further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of James Loudon & Company, Inc., 110 West Ocean Boulevard, Long Beach, California, 90802, FMC No. 244R, was cancelled effective August 2, 1980.

By letter dated July 3, 1980, James Loudon & Company, Inc. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 244R would be automatically revoked or suspended unless a valid surety bond was filed with the Commission.

James Loudon & Company, Inc. has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(d) dated August 8, 1977;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 244R be and is hereby revoked effective August 2, 1980.

It is ordered, that Independent Ocean Freight Forwarder License No. 244R, issued to James Loudon & Company, Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon James Loudon & Company, Inc.

Robert G. Drew,

Director, Bureau of Certification and Licensing.

[FR Doc. 80-24659 Filed 8-13-80; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 729]

J. J. Gavin & Co., Inc.; Order of Revocation

On July 18, 1980, J. J. Gavin & Co., Inc., 140 Cedar Street, New York, New York, 10006, requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 729; on August 4, 1980, the licensee returned FMC License No. 729.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(c), dated August 8, 1977;

It is ordered, that Independent Ocean Freight Forwarder License No. 729 issued to J. J. Gavin & Co., Inc., be and is hereby revoked effective July 18, 1980, without prejudice to reapplication for a license in the future.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon J. J. Gavin & Co., Inc.

Robert G. Drew,

Director, Bureau of Certification and Licensing.

[FR Doc. 80-24657 Filed 8-13-80; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1006]

George A. Stattel, Inc.; Order of Revocation

On July 30, 1980, George A. Stattel, Inc., 17 Battery Place, New York, New York, 10004, voluntarily surrendered its Independent Ocean Freight Forwarder License No. 1006 for revocation.

Therefore, by virtue of authority vested in me my the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(c), dated August 8, 1977;

It Is Ordered, that Independent Ocean Freight Forwarder License No. 1006 issued to George A. Stattel, Inc., be and is hereby revoked effective July 30, 1980, without prejudice to reapplication for a license in the future.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon George A. Stattel, Inc.

Robert G. Drew,

Bureau of Certification and Licensing.

[FR Doc. 80-24660 Filed 8-13-80; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Assistant Secretary for Health

President's Council on Physical Fitness and Sports

The President's Council on Physical Fitness and Sports (PCPFS) will hold its quarterly meeting on Thursday, September 18, 1980. The meeting will be held from 10:00 a.m. to 4:00 p.m. in Room 2008 of the New Executive Office Building, 17th and Pennsylvania Avenue, NW., Washington, D.C.

The purpose of the meeting is to report on ongoing projects; to provide an update on progress that has been made on directives made to the Council by President Carter at the National Conference on Physical Fitness and Sports for All; and to discuss future directions of the PCPFS.

A list of Council members and the Executive Order 11562, as amended October 25, 1976, establishing their responsibility, may be obtained from: C. Carson Conrad, Executive Director, President's Council on Physical Fitness and Sports, Washington, DC 20201, Telephone: 202/755-7947. The meeting will be open to the public.

Dated: August 7, 1980.

V. L. Nicholson,

Acting Executive Director, President's Council on Physical Fitness and Sports.

[FR Doc. 80-24624 Filed 8-13-80; 8:45 am]

BILLING CODE 4110-08-M

Alcohol, Drug Abuse, and Mental Health Administration

Advisory Committees; Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National advisory bodies scheduled to assemble during the month of September 1980.

National Advisory Mental Health Council

September 16–18; 9:30 a.m. (September 16th Only), Conference Room 6, "C" Wing, Building 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205.

(September 17 and 18), Conference Room A, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Open—September 16, 9:30 a.m. to adjournment.

Closed—September 17 and 18.

Contact: Mrs. Ruth Gorin, Room 9-95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-4333.

Purpose: The National Advisory Mental Health Council advises the Secretary of Health and Human Services, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health, regarding the policies and programs of the Department in the field of mental health. The Council reviews applications for grants-in-aid relating to research, training, and services in the field of mental health and makes recommendations to the Secretary with respect to approval of applications for, and the amount of, these grants.

Agenda: On September 16, the meeting will be open for discussion of NIMH policy issues and will include current administrative, legislative, and program developments. Otherwise, the Council will conduct a final review of grant applications for Federal assistance and this session will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions set forth in Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

National Advisory Council on Alcohol Abuse and Alcoholism

September 22–23, 9:30 a.m., Conference Room 6, Building 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205.

Open—September 22.

Closed—September 23.

Contact: Mr. James Vaughan, Room 16C-06, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-3887.

Purpose: The Council advises the Secretary, Department of Health and Human Services regarding policy direction and program issues of national significance in the area of alcohol abuse and alcoholism. Reviews all grant applications submitted, evaluates these applications in terms of scientific merit and coherence with Department policies, and makes recommendations to the Secretary with respect to approval and amount of award.

Agenda: September 22 will be devoted to general business of the Council and a discussion of psychotherapy assessment, modified confidentiality regulations, and other subjects related to Institute programs. On September 23, the Council will conduct a final review of grant applications for Federal Assistance and this session will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions set forth in Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

National Advisory Council on Drug Abuse

September 25–26, 9:00 a.m., Conference Room C, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Open—September 25, 9:00 a.m. to 5:00 p.m., September 26, 1:00 p.m. to 5:00 p.m.

Closed—September 26, 9:00 a.m. to 12 noon.

Contact: Ms. Pamela Jo Thurber, Executive Secretary, National Advisory Council on Drug Abuse, 5600 Fishers Lane, Rockville, Maryland 20857 (301) 443-6480.

Purpose: The National Advisory Council on Drug Abuse advises and makes recommendations to the Secretary of Health and Human Services, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute on Drug Abuse, on the development of new initiatives and priorities and the efficient administration of drug abuse research, training, demonstration, prevention, and community services programs. The Council also gives advice on policies and priorities for drug abuse grants and contracts, and reviews and makes recommendations on grant applications.

Agenda: On September 25, from 9:00 a.m. to 5:00 p.m., and September 26, from 1:00 p.m. to 5:00 p.m., the session will be open to the public for discussion of program development and policy issues.

On September 26, from 9:00 a.m. to 12 noon, the session will be closed to the public for the final review of grant applications for Federal assistance, in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Substantive program information may be obtained from the contact persons listed above. The NIMH Information Officer, who will furnish upon request summaries of the meeting and rosters of the Council members, is Mr. Paul Sirovatka, Chief, Public Information Branch, Division of Scientific and Public Information, NIMH, Room 15-105, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-4536. The NIAAA Information Officer, who will furnish upon request summaries of the meeting and rosters of the Council members is Mr. Harry Bell, Associate Director, Office of Public Affairs, NIAAA, Room 11A-17, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3306. The NIDA Information Officer who will furnish summaries of the meeting and rosters of the Council members is Ms. Mary Carol Kelly, Program Information Officer for Drug Abuse, NIDA, Room 10A-56, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-6245.

Dated: August 8, 1980.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 80-24536 Filed 8-13-80; 8:45 am]

BILLING CODE 4110-88-M

Office of Human Development Services

Reallotment of Funds

Corrections

In FR Doc. 80-20119 appearing on page 45699 in the issue of Monday, July

7, 1980; second column, the total for "Basic Support" now reading "40,500" should read "405,000"; third column, the Commissioner's name should read "Evelyn Provitt".

BILLING CODE 1505-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. D-80-608]

Redelegation of Authority to Waive the Section 8 and Traditional Public Housing Conflict of Interest Provisions

AGENCY: Department of Housing and Urban Development.

ACTION: Redelegation of Authority to Waive the Section 8 and Traditional Public Housing Conflict of Interest Provisions.

SUMMARY: This Notice redelegates to each Regional Administrator, Deputy Regional Administrator, Area Manager, Deputy Area Manager, and Multifamily Service Office Supervisor authority to waive, to a limited extent, the conflict of interest provisions contained in the Annual Contributions Contracts, the Agreement to Enter into Housing Assistance Payments Contracts, the Housing Assistance Payments Contracts and the Consolidated Annual Contributions Contracts.

FOR FURTHER INFORMATION CONTACT: Joseph F. Gelletich, Assistant General Counsel, Office of General Counsel, Department of Housing and Urban Development, Washington, D.C. 20410, (202) 755-7227. This is not a toll free number.

SUPPLEMENTAL INFORMATION: The redelegation of authority by the Assistant Secretary for Housing-Federal Housing Commissioner published at 35 FR 16105, October 14, 1979, as amended at 35 FR 17964, November 31, 1970, 36 FR 21298, November 5, 1971, and 37 FR 12420, June 23, 1972, is amended to add the following provisions to section A paragraph 8c:

v. The Section 8 Existing Housing and Moderate Rehabilitation Programs' conflict of interest provisions.

vi. The Section 8 New Construction Substantial Rehabilitation, and State Agency Programs' conflict of interest provisions for individuals who involuntarily acquire an interest in the program or in a project, or who had acquired, prior to the beginning of their tenure, any such interest.

vii. The traditional Public Housing Programs' conflict of interest provisions for individuals who involuntarily acquire an interest in the program or in a project, or who had acquired, prior to the beginning of their tenure, any such interest.

Effective date: June 20, 1980.

(Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d))

Issued at Washington, D.C., August 7, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 80-24530 Filed 8-13-80; 8:45 am]

BILLING CODE 4210-01-M

Office of the Secretary

[Docket No. D-80-609]

Assistant Secretary for Community Planning and Development and Assistant Secretary for Housing; Delegation of Authority With Respect to the Section 312 Rehabilitation Loan Program

AGENCY: Department of Housing and Urban Development.

ACTION: Delegation of Authority.

SUMMARY: This Notice consolidates in one document, amends, and supersedes prior delegations of authority to the Assistant Secretaries of the Department with respect to the property rehabilitation loan program authorized by Section 312 of the Housing Act of 1964, as amended (Section 312). The principal substantive change is to transfer responsibility for servicing Section 312 loans to the Assistant Secretary for Community Planning and Development from the Assistant Secretary for Housing. In addition, the power and authority to establish interest rates, which was excepted from the authorities previously delegated to the Assistant Secretaries responsible for the Section 312 program, is being delegated in this Notice to the Assistant Secretary for Community Planning and Development. Existing redelegations to field officials of the Department are not affected by this Notice.

SUPPLEMENTARY INFORMATION: The previously issued delegations of authority to Assistant Secretaries of the Department concerning the Section 312 rehabilitation loan program are set forth at 36 FR 5004 (March 16, 1971), 36 FR 5005 (March 16, 1971), 38 FR 8011 (March 27, 1973) and 41 FR 24755 (June 18, 1976). This Notice amends, consolidates, and supersedes such prior delegations. However, outstanding redelegations to field officials concerning the Section 312 loan program are not contained in the cited documents and are not superseded by this Notice; such redelegations therefore remain in effect. The most significant of these redelegations were published at 41 FR 29011 (July 14, 1976), 37 FR 15948 (August 8, 1972), 35 FR 16104 (October 14, 1970) and 35 FR 16106 (October 14, 1970). While it is anticipated that some changes will be made in these redelegations, particularly with respect to the loan servicing function, any revised redelegations will be published at a later date, so that an orderly transfer of responsibility in the field can be arranged.

The principal substantive change made by this document in the pattern of delegated authority with respect to the Section 312 loan program is to transfer, from the Assistant Secretary for Housing to the Assistant Secretary for Community Planning and Development, the responsibility for loan servicing (i.e., management of loan collection activities, including responsibility for decisions to make expeditures for the protection of the Government's financial interest in non-acquired properties securing Section 312 loans, to seek mortgagee-in-possession status, to foreclose upon or otherwise to acquire security properties, or to take other legal action against the borrower.) However, the Assistant Secretary for Housing retains authority to act for the Secretary once mortgagee-in-possession status is obtained and with respect to the management and disposition of acquired properties.

Accordingly, the Secretary delegates as follows:

Section A. Authority delegated. The Assistant Secretary for Community Planning and Development shall exercise the power and authority to the Secretary with respect to the rehabilitation loan program under Section 312 of the Housing Act of 1964, as amended, except for the power and authority delegated to the Assistant Secretary for Housing in this Section A and as additionally excepted in Section B. The Assistant Secretary for Housing shall exercise the power and authority of the Secretary under Section 312 of the Housing Act of 1964, as amended, to manage, repair, lease, and otherwise take all actions necessary to protect the financial interest of the Secretary in properties as to which the Secretary is mortgagee-in-possession and to manage,

repair, complete, remodel and convert, administer, dispose of, lease, sell or exchange at public or private sale, pay annual sums in lieu of taxes on, obtain insurance against loss on, and otherwise to deal with properties as to which the Secretary has acquired title under the Section 312 rehabilitation loan program.

Section B. Authority excepted. There is excepted from the authority delegated in Section A the power to:

1. Issue notes or other obligations for purchase by the Secretary of the Treasury.

2. Exercise the powers under Section 402(a) of the Housing Act of 1950 (12 U.S.C. 1749(a)).

3. Sue and be sued.

Section C. Authority redelegated. The Assistant Secretary for Community Planning and Development is authorized to redelegate to employees of the Department any of the authority delegated to the Assistant Secretary for Community Planning and Development under Section A, except the power and authority to issue rules and regulations. The Assistant Secretary for Housing is authorized to redelegate to employees of the Department any of the authority delegated to the Assistant Secretary for Housing under Section A, except the authority to issue rules and regulations.

Section D. Continuation in effect of redelegations. Existing redelegations of authority by the Assistant Secretary for Community Planning and Development or the Assistant Secretary for Housing or their predecessors with respect to the Section 312 loan program which are in effect as of the effective date of this delegation of authority are continued in effect as if issued under this document, unless and until expressly modified or revoked by a delegation or redelegation of authority issued hereafter.

Section E. Supersedure. This delegation supersedes preceding delegations to the Assistant Secretary for Community Planning and Development or the Assistant Secretary for Housing or their predecessors with respect to the Section 312 rehabilitation loan program.

(Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)); and sec. 312(g) of the Housing Act of 1964, as amended (42 U.S.C. 1452b(g)))

Effective date. This delegation of authority shall be effective as of August 8, 1980.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 80-24529 Filed 8-13-80; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Permit Receipt of Application

Applicant: Death Valley National Monument, National Park Serivce, Death Valley, NV 92328.

The applicant requests a permit to take (harass) Devil's Hole pupfish *(Cyprinodon diabolis)* for habitat management and censusing purposes for enhancement of survival. No live fish will be collected.

Documents and other information submitted with this application are available to the public during normal business hours in Room 605, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service (WPO), P.O. Box 3654, Arlington, VA 22203.

This application has been assigned file number PRT 2-1856. Interested persons may comment on this application on or before September 15, 1980 by submitting written data, views, or arguments to the Director at the above address. Please refer to the file number when submitting comments.

Dated: August 8, 1980.

Donald G. Donahoo,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR. Doc. 80-24534 Filed 8-13-80; 8:45 am]

BILLING CODE 4310-55-M

Geological Survey

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Kerr-McGee Corporation has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 0828, Block 214, Ship Shoal Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 7002, Phome 504-837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: August 5, 1980.

R. L. Scrivener,

Deputy Conservation Manager, Offshore Resource Evaluation.

[FR Doc 80-24577 Filed 8-3-80; 8:45 am]

BILLING CODE 4310-31-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Pennzoil Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 2439, Block 335, East Cameron Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone 504-837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested

parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: August 5, 1980.

R. L. Scrivener,

Deputy Conservation Manager, Offshore Resource Evaluation.

[FR Doc. 80-24578 Filed 8-13-80; 8:45 am]

BILLING CODE 4310-31-M

Bureau of Land Management

Oregon, Lakeview Grazing Management Plan; Intent To Prepare an Environmental Impact Statement and Conduct Scoping Meeting

The Department of the Interior, Bureau of Land Management, Oregon State Office, will be preparing an Environmental Impact Statement (EIS) on the grazing management program on 3,360,000 acres of public land in the Lakeview District in south-central Oregon. The final statement is to be completed by September 30, 1981. Dicisionmaking will take place over a several-month period following comletion of the final statement. A public meeting will be held during the decisionmaking process.

The proposed grazing management program has evolved from coordinated land use allocations for all resources developed through the Bureau's land use planning system. The objectives of the proposed program are to enhance the vegetative resource, provide quality habitat for wildlife and wild horses, provide a continuous supply of livestock forage, reduce soil erosion and sedimentation damage, improve water quality, improve the recreation and visual resources, and protect archeological and historical sites.

The EIS will discuss alternatives to the proposed grazing management program. Two alternatives, no action and no livestock grazing, will be included in the EIS. Other alternatives being considered for discussion include a least a higher and lower level of livestock grazing than that in the proposal.

The EIS will identify the impacts that can be expected from implementation of either the proposed grazing management program or any of the alternatives discussed. The statement will be an analytical tool used in making final decisions for managing livestock grazing in the Lakeview EIS area.

A public scoping meeting will be held to identify the significant issues which must be discussed in detail in the EIS. Also to be discussed in the meetings are the various alternatives that could realistically be addressed in the EIS and the possible methods of obtaining public comment on the draft EIS after it is published next year. Input from the public will be sought in those areas.

The public meeting will be held September 3, 1980, at 7:30 p.m. at the Bureau of Land Management District Office, 1000 Ninth Street, Lakeview, Oregon 97630.

Further information may be obtained from:

Richard A. Gerity, District Manager, Bureau of Land Management, P.O. Box 151, Lakeview, Oregon 97630, Telephone (503) 947-2177.

Gerry Fullerton, Statement Leader, Bureau of Land Management (911.1), P.O. Box 2965, Portland,Oregon 97208, Telephone (503) 231-6955.

Dated: August 1, 1980.

Phillip C. Hamilton,

Chief, Planning and Environmental Coordination Staff, Oregon State Office.

[FR Doc. 80-24517 Filed 8-13-80; 8:45 am]

BILLING CODE 4310-84-M

Roswell District Advisory Council; Meeting

Notice is hereby given in accordance with Pub. L. 94-579 that a meeting of the Roswell District Advisory Council will be held on September 16, 1980, at 9:00 a.m. in the Conference Room of the Roswell District Office, 1717 W. Second Street, Roswell, New Mexico.

The agenda for the meeting will include: (1) An orientation to the U.S. Bureau of Land Management and the Roswell District Office; (2) definition of the organization and functions of the Council; (3) general discussion of programs, objectives, and goals for the 1981 fiscal year; (4) preliminary information on potential issues; (5) identification of additional issues the Council wishes to address; and (6) scheduling and determination of the agenda for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the Council or file written statements. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, by September 15, 1980. The public comment period will begin at 1:30 p.m. on the day of the Council meeting.

Summary minutes of the Council meeting will be maintained in the District Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

James H. O'Connor,

District Manager.

August 5, 1980.

[FR Doc. 80-24521 Filed 8-13-80; 8:45 am]

BILLING CODE 4310-84-M

Utah; Amendment of Maximum Party Size Per Trip Limits for Desolation and Gray Canyons of the Green River

AGENCY: Bureau of Land Management, Interior.

ACTION: Amendment of Maximum Party Size Per Trip Limits for Desolation and Gray Canyons of the Green River.

Summary

On November 2, 1979, the River Management Plan for Desolation and Gray Canyons portion of the Green River was issued to the general public.

The River Management Plan is a recreation use management plan. It provides a framework for management decisions and actions relating to river management in Desolation and Gray Canyons. This plan has been prepared to protect the resource and to meet the needs of the recreational users. Coordination has been carried out to ensure that the provisions of the River Management Plan result in minimum conflict with other multiple use resource management values.

The seven management objectives found on pages 19 and 20 of the plan spell out the long term goals for management action on Desolation and Gray Canyons. Based on the present knowledge, the seventeen management actions beginning on page 21 are intended to implement the management objectives until changes are needed.

In 1974, the State Director for the Bureau of Land Management in Utah established criteria for issuing commerical permits to river guides and outfitters, and setting amounts of use each would be entitled to. Noncommercial permits were also required that use could be managed within acceptable limits. In 1974, there was a maximum party size limitation of 40 persons, established for Desolation and Gray Canyons of the Green River.

Notice is hereby given that pursuant to the Federal Land Policy and Management Act of 1976, and the Land and Water Conservation Fund Act, as amended, Management Action Number 10—Maximum Party Size of the Desolation and Gray Canyons River Management Plan is amended to allow 25 persons per trip for non-commercial trips, and 25 persons plus boatman for commercial trips.

The above stated action becomes effective beginning the 1981 river use season, and will remain in effect unless modified by future publication in the **Federal Register.**

DATE: Effective Immediately.

ADDRESS: District Manager, Moab District, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532.

FOR FURTHER INFORMATION CONTACT: District Manager, Moab District (801) 259–6111.

Kenneth V. Rhea,

Assistant District Manager.

August 5, 1980.

[FR Doc. 80–24518 Filed 8–13–80; 8:45 am]

BILLING CODE 4310–84–M

Las Cruces District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Las Cruces District Office, New Mexico.

ACTION: Las Cruces District Advisory Council Meeting.

SUMMARY: Notice is hereby given, in accordance with Pub. L. 94–579 that a meeting of the Las Cruces Advisory Council will be held on Tuesday, September 23, 1980.

The meeting will begin at 9:30 a.m. in the conference room of the Santa Teresa Building, second level, at 317 N. Main, Las Cruces, New Mexico.

The agenda for the meeting will include:

(1) Function and duties of Advisory Councils

(2) Election of Officers

(3) Briefing on Major District Programs

(a) McGregor Environmental Impact Statement and Rangeland Management Program Document

(b) Wilderness Study Area Designations

(c) Las Cruces/Lordsburg Area Inventories

(d) Southern Rio Grande Planning and Environmental Impact Statement (EIS)

(e) Alternatives for Southern Rio Grande EIS

The meeting will be open to the public and interested persons may make oral statements to the council during an allotted time period beginning at 2:00 p.m. and lasting at least one-half hour. The District Manager may establish a time limit for oral statements depending on the number of persons wishing to make statements.

EFFECTIVE DATE: August 7, 1980.

ADDRESS: Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 1705 N. Valley Drive (P.O. Box 1420), Las Cruces, New Mexico 88001, by September 16, 1980.

FOR FURTHER INFORMATION CONTACT: Daniel C. B. Rathbun, District Manager, Las Cruces District, Bureau of Land Management, P.O. Box 1420, Las Cruces, NM 8801.

SUPPLEMENTAL INFORMATION: Summary minutes of the council meeting will be maintained in the Las Cruces BLM District Office and will be available for public inspections and reproduction (during regular business hours) for 30 days following the meeting.

Donnie R. Sparks,

Acting District Manager.

[FR Doc. 80–24603 Filed 8–13–80; 8:45 am]

BILLING CODE 4310–84–M

Opportunity To Participate in Geophysical Exploration of Eglin Air Force Base

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Opportunity to Participate in Geophysical Exploration of Elgin Air Force Base, Florida.

SUMMARY: Notice is hereby given that geophysical exploration of Eglin Air Force Base, Florida, will be conducted under an Exploration Permit issued by the Bureau of Land Management. Principals in the joint venture are:

GBD, Inc., 234 Loyola Building, Suite 303, New Orleans, Louisiana 70112

Paladin Geophysical Corporation, 1004 Pere Marquette Corporation, 150 Baronne Street, New Orleans, Louisiana 70112

American Geophysical Data, Inc., 6825 South Marion Circle East, Littleton, Colorado 80122

All interested parties are invited to participate on a cost-sharing basis in the data that will be obtained from the geophysical exploration.

All activities under the geophysical exploration permit will be controlled by the Operating Agreement authorized by the United States Air Force and signed by the principals in the joint venture. Copies of the Exploration Permit and Operating Agreement can be obtained from: Director (530), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

All operational decisions concerning the geophysical survey shall be made by the principals in the joint venture.

DATE: Anyone electing to participate in this geophysical exploration survey is required to send written notice to both the Bureau of Land Management and the principals in the joint venture by September 15, 1980.

ADDRESS: Written notice for the Bureau of Land Management shall be sent to: Director (530), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240.

Written notice for the principals in the joint venture shall be sent to: Eglin Geophysical Survey, c/o Murray, Murray, Ellis, Braden & Landry, 612 Gravier Street, New Orleans, Louisiana 70130.

FOR FURTHER INFORMATION CONTACT: Charles Weller, 202–343–7753.

Dated: August 8, 1980.

Ed Hastey,

Associate Director.

[FR Doc. 80–24575 Filed 8–13–80; 8:45 am]

BILLING CODE 4310–84–M

Powder River Resource Area Management Framework Plan; Update Report—July 1979

August 8, 1980.

This notice is to advise you that the findings of the surface owner view consultation process on certain specified lands were in error. The views on the following lands will be corrected to show that the surface owner has "expressed a preference in favor of mining": T. 3 S, R. 44 E., Sec. 12: NE¼ of Rosebud County and T. 3 S., R. 45 E., Sec. 8: N½N½, SW¼NW¼, NW¼SW¼, SE¼NE¼, NE¼SE¼ of Powder River County. The basis for this correction is the Federal Coal Management Regulation dated July 19, 1979. Specific reference is made to 43 CFR 3420.2–3(e)(2). This citation states in part " * * * any surface owner who has previously granted written consent to any party to mine by other than underground mining techniques shall be deemed to have expressed a preference in favor of mining."

For further information, contact Robert Bennett, Bureau of Land Management, Miles City District Office, P.O. Box 940, Miles City, MT 59301—Telephone: (406) 232–4331.

George Neuberg,

Miles City District Manager.

[FR Doc. 80–24649 Filed 8–13–80; 8:45 am]

BILLING CODE 4310–84–M

Socorro District, New Mexico; District Advisory Council Meeting

The first meeting of the Socorro District Advisory Council will be held September 5, 1980 beginning at 10:00 a.m. The meeting will be held in the Hospitality Room of the First State Bank, 103 Manzanares Avenue, NE, Socorro, New Mexico.

The agenda for the meeting will include: a presentation by New Mexico Bureau of Land Management State Office personnel concerning the function

and duties of the advisory council and a discussion of major programs within the Socorro District. Election of officers is scheduled for the second meeting.

The public is welcome to attend the meeting and may make oral statements to the council between 1:00 and 2:00 p.m. A per person time limit may be imposed depending on the number of people wishing to speak.

Minutes of the meeting will be prepared and made available for review within 30 days following the meeting.

Arlen P. Kennedy,

District Manager.

August 1, 1980.

[FR Doc. 80-24654 Filed 8-13-80; 8:45 am]

BILLING CODE 4310-84-M

Utah; Redelegation of Authority From the State Director to District Managers

In accordance with Bureau Order 701 and Amendments 1-27 and pursuant to the authority contained in Part III, Section 3.9 of that Bureau Order, District Managers of the Utah Districts are authorized to perform their respective areas of responsibility in accordance with existing written policies, instructions, information guides, and regulations published by the Department and the Bureau. Performance of these duties is under the direct supervision of the State Director.

Specific redelegation of significant functions listed below from the State Director to District Managers is subject to any limitations set forth in Bureau Order 701, as amended.

Authority in specified matters which Utah District Managers may take action on is listed below:

Authority in Specified Matters

Section 3.9—Land Use: The District Manager may take all listed action on:

(g) Material other than forest products not exceeding $10,000 in value unless authority to make sales in greater amounts is delegated by the State Director.

Dated: August 7, 1980.

Gerald E. Magnuson,

Acting State Director.

[FR Doc. 80-24653 Filed 8-13-80; 8:45 am]

BILLING CODE 4310-84-M

Wyoming; Amendment To Proposed Decision on Intensive Wilderness Inventory

The newspaper supplement entitled *BLM's Proposed Wilderness Study Areas—April 1980,* published in conjunction with the April 4, 1980, **Federal Register** notice proposing wilderness study areas (WSA) in Wyoming, included a proposal to reinstate certain lands in T. 13 N., R. 105 W., into the wilderness inventory. These lands known as the Overlook Annex are adjacent to the west side of wilderness inventory unit WY-040-406, Red Creek Badlands, and are shown on the map on page six of the newspaper supplement.

A previous decision issued on July 10, 1979 (final decision on the initial wilderness inventory), dropped the Overlook Annex area from the wilderness inventory and released it from the constraints of interim management.

Information on page 13 of the April 1980 newspaper supplement states that the intensive inventory for adjacent units WY-040-406, 407, and 410 was inconclusive in determining wilderness characteristics. Therefore, these units were proposed as WSA's pending a special public tour and further inventory. The inventory work and public tour have been completed. The additional inventory data and public information are sufficient to conclude that the Overlook annex to unit WY-040-406 does not possess wilderness characteristics.

Based on the findings of the reinventory and public tour, the proposed decision of April 4, 1980, to reinstate the Overlook Annex area into the wilderness inventory is hereby rescinded effective upon publication of this notice. As provided for in the July 10, 1979, decision, this area is dropped from the wilderness inventory and is no longer subject to the constraints of interim management. This notice affects no other unit or partial unit included in the April 4, 1980, decision and newspaper supplement.

F. William Eikenberry,

Associate State Director.

FR Doc. 80-24652 Filed 8-13-80; 8:45 am]

BILLING CODE 4310-84-M

Office of the Secretary

Senior Executive Service (SES) Performance Awards

AGENCY: Department of the Interior.

ACTION: Notice of Intention to Grant Senior Executive Service Performance Awards to Career Members of the SES.

SUMMARY: This Notice serves to establish September 2, 1980, through September 30, 1980 as the period during which SES Performance Awards will be granted to Career members of the SES in compliance with the new statutory limitations established by Congress of no more than 25 percent of the number of SES positions in the agency.

DATE: September 2, 1980 through September 30, 1980.

FOR FURTHER INFORMATION CONTACT: Morris A. Simms, Director of Personnel, Office of the Secretary, Department of the Interior, Room 5201, 1800 C Street, NW, Washington, D.C. 20240, Telephone Number 343-6761.

On July 21, 1980, the Director, Office of Personnel Management issued the following instructions:

"(b) Each agency should publish a notice in the **Federal Register** of the agency's schedule for awarding bonuses at least 14 days prior to the date on which the awards will be paid." The Department of the Interior intends to grant Senior Executive Service Performance Awards to Career Members of the SES during the period from September 2 through September 30, 1980."

Dated: August 6, 1980.

Larry E. Meierotto,

Assistant Secretary of the Interior.

[FR Doc. 80-24643 Filed 8-13-80; 8:45 am]

BILLING CODE 4310-10-M

Office of Surface Mining Reclamation and Enforcement

[Federal Lease No. NM 24005]

Great National Corporation (Nevada)—McCurtain No. 2—Federal Haskell County, Okla.; Notice of Pending Decision To Approve Coal Mining and Reclamation Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

ACTION: Notice of pending decision to approve surface coal mining and reclamation plan with stipulations.

SUMMARY: Pursuant to Section 1506.6 of Title 40 and Section 211.5 of Title 30 Code of Federal Regulations, notice is hereby given that the Region IV Office of Surface Mining Reclamation and Enforcement (OSM) has completed a technical and environmental review of Great National Corporations' McCurtain No. 2—Federal mining and reclamation plan and has recommended to the Department that the proposed plan be approved contingent on the applicant's acceptance of certain stipulations. The plan is described below. Notice of availability of the mining and reclamation plan for McCurtain was published in the **Federal Register** on May 30, 1980 (45 FR 36561).

Location of Lands to be Affected by Mining:

Applicant: Great National Corporation (Nevada)

Mine Name: McCurtain No. 2—Federal

State: Oklahoma
County: Haskell
Township, range section: Sections 14 and 15, T. 8 N., R. 22 E.

This proposed mine is located approximately one (1) mile north of McCurtain, Oklahoma and lies between two nonfederal tracts previously mined by the Great National Corporation under permits issued by the Oklahoma Department of Mines. The Great National Corporation is presently surface mining coal approximately one (1) mile east of the Federal lease under a permit issued by the Oklahoma Department of Mines. The Company proposes to mine on 140 acres of the Federal coal lease that contain approximately 32 acres of strippable coal. The company expects to produce coal for three years or until the strippable reserves are exhausted. A total of about 89.0 acres will be disturbed and reclaimed. Mining will be open pit stripping and removal of overburden with a dragline after blasting. All coal will be shipped by rail or truck. The reclamation plan is designed to provide productivity equal to or better than existing pastureland and rangeland. Other surface mining operations are conducted in the McCurtain area of eastern Oklahoma. OSM has prepared a technical analysis and a site-specific analysis of impacts, mitigating measures, and alternatives in an environmental assessment titled "Environmental Assessment, McCurtain No. 2—Federal Mine, Haskell County, Oklahoma." It was determined that the proposed operation would not have significant impacts on the environment.

The purpose of this notice is to inform the public that the Regional Director, Region IV, OSM, is recommending approval with stipulations of Great National Corporation's coal mining and reclamation plan, McCurtain No. 2—Federal mine, based on staff reviews and the reviews of the Oklahoma Department of Mines, the U.S. Bureau of Land Management, the U.S. Geological Survey and the U.S. Fish and Wildlife Service. Any persons having an interest that is or may be adversely affected by the recommended approval may, in writing, request a public meeting on the proposed decision.

Recent amendments to 30 CFR 701.11 and 741.11 postpone the effective date for implementation of the permanent regulatory program for Federal lands until the date of approval of a State program or until implementation of a Federal program for a State (See 44 FR 77440–47, December 31, 1979). Departmental action on Great National Corporation's mining and reclamation plan at this time would not relieve the applicant of the obligation to file a new permit application no later than two months after the effective date of the Oklahoma State program approval or an equivalent Federal program for that State. Upon receipt of that application, OSM will review the application pursuant to 30 CFR Chapter VII.

The Secretary's decision will be based on the recommendations of OSM, the Bureau of Land Management, the U.S. Geological Survey, and any public comments received on or before September 3, 1980.

DATES: All requests for a public meeting must be made on or before September 3, 1980. No decision on the plan will be made by the Assistant Secretary, Energy and Minerals, prior to the expiration of the 20-day period.

ADDRESSES: The mining and reclamation plan, proposed stipulations, the Technical Analysis and the Environmental Assessment are available upon request, for review in the Region IV Office of OSM. Any comments on the proposed approval should be submitted in writing, to the Regional Director, Office of Surface Mining, Reclamation and Enforcement, Region IV, 818 Grand Avenue, Scarritt Building, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Richard Dawes, Assistant Regional Director, Division of Technical Services and Research, Office of Surface Mining, Region IV, 818 Grand Avenue, Room 426, Scarritt Building, Kansas City, Missouri 64106. Telephone: (816) 374–5109 or FTS 758–5109.

Paul L. Reeves,
Acting Director.

[FR Doc. 80-24641 Filed 8-13-80; 8:45 am]
BILLING CODE 4310-05-M

[Federal Lease No. M-34980]

North American Coal Co.—Indian Head Mine, Mercer County, N.D.; Notice of Pending Decision To Approve a Major Modification to Coal Mining and Reclamation Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement, Department of the Interior

ACTION: Notice of pending decision to approve surface coal mining and reclamation plan with stipulations

SUMMARY: Pursuant to § 1506.6 of Title 40 and § 211.5 of Title 30, Code of Federal Regulations, notice is hereby given that the Region V Office of Surface Mining Reclamation and Enforcement (OSM) has completed a technical and environmental review of North American Coal Company's Indian Head mining and reclamation plan and has recommended to the Department that the plan be approved with stipulations. Notice of availability of North American Coal Company's application was published in the **Federal Register** on March 28, 1980, 45 FR No. 62, p. 20577.

Location of Lands to be affected by Mining:

Applicant: North American Coal Company
Mine Name: Indian Head
State: North Dakota
County: Mercer
Township, range, section: Lots 1, 2, S½ N½, SW14 and NW¼ SE¼ of Section 2, T. 143 N., R. 89 W.
Office of Surface Mining References No. ND0013a.

The mine, located about 8 miles southwest of Beulah, North Dakota, is operating on non-Federal lands under a State permit. State-owned coal has been mined in the past and private coal is presently mined at the rate of about 975,000 tons/year from a mine plan area of approximately 1,500 acres.

The proposed modification of the plan into the Federal coal lease area involves surface mining of Federal coal overlain by privately-owned surface for 2 years at a production rate of approximately 900,000 tons/year. The Federal coal lease area is 441.12 acres; of this area, approximately 370 acres will be disturbed. Coal would continue to be shipped via unit train to a local power generation plant.

The U.S. Bureau of Land Management (BLM) evaluated impacts that could occur from development of the Indian Head Mine in its Environmental Assessment ("Land Use Analysis"), "North American Coal Company Coal Lease Application M-34980 (ND)" (March, 1978). In addition the BLM and the State of North Dakota analyzed regional impacts from coal development in the *West Central North Dakota Regional Environmental Impact Study on Energy Development* (October, 1978). OSM has prepared a technical analysis and environmental assessment and based on these analyses, as well as the above mentioned analyses, determined that no significant impacts would occur to the 370 acres proposed to be disturbed, if the proposed mitigation measures required in the plan are implemented and monitored.

The purpose of this notice is to inform the public that based on OSM staff analysis of the mining and reclamation plan and the reviews of other State and Federal agencies, the Regional Director, Region V, OSM, is recommending approval with stipulations of the North American Coal's mining and

reclamation plan for the Indian Head Mine. Any person having an interest that may be adversely affected by the recommended approval may request, in writing, a public meeting on the proposed decision.

Recent amendments to 30 CFR 701.11 and 741.11 postpone the effective date for implementation of the Permanent Regulatory Program for Federal lands until the date of approval of a State program or until implementation of a Federal program for a State (See 44 FR 77440–47, December 31, 1979). Departmental action on North American Coal Company's mining and reclamation plan at this time would not relieve the applicant of the obligation to file a new permit application not later than two months after the effective date of the North Dakota program approval or an equivalent Federal program for that State. Upon receipt of that application, OSM will review the application pursuant to 30 CFR Chapter VII.

The Assistant Secretary for Energy and Mineral's decision will be based on the recommendations of OSM, the Bureau of Land Management, the U.S. Geological Survey, and any public comments received on or before September 3, 1980.

DATES: All requests for a public meeting must be made on or before September 3, 1980. No decision on the plan will be made by the Assistant Secretary, Energy and Minerals, prior to the expiration of the 20-day period.

ADDRESSES: The technical analysis, environmental assessment, and proposed stipulations are available on request from the Office of Surface Mining, Region V. Any comments on the proposed approval should be submitted to the Regional Director, Region V, Office of Surface Mining, Brooks Towers, 1020 Fifteenth Street, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT: Steve Manger or John Hardaway, Office of Surface Mining, Region V, Brooks Towers, 1020 Fifteenth Street, Denver, Colorado 80202. Telephone: (303) 837–4072 or FTS 327–4072.

Paul L. Reeves,

Acting Director.

[FR Doc. 80–24640 Filed 8–13–80; 8:45 am]

BILLING CODE 4310–05–M

Water and Power Resources Service

Colorado River Basin Salinity Control Advisory Council; Public Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of a meeting of the Colorado River Basin Salinity Control Advisory Council at 8:00 a.m. on September 12, 1980, in Room 339, Executive-Legislative Building, State Capitol Complex, Santa Fe, New Mexico.

Purpose of Meeting: Council members will be briefed on the status of salinity control activities and draft annual report.

Proposed Agenda: The Water and Power Resources Service, Soil Conservation Service, and Bureau of Land Management will each present a progress report and schedule of activities on salinity control in the Colorado River Basin. The Council will discuss Colorado River Basin salinity control activities and prepare a draft of their annual report.

Public Participation: The meeting of the Advisory Council is open to the public.

Any member of the public may file a written statement with the Council before, during, or after the meeting in person or by mail. To the extent that time permits, the Council chairman may allow public presentation of oral statements at the meeting.

All communications regarding this meeting including requests for time to make statements should be addressed to Mr. Michael J. Clinton, Chief, Colorado River Water Quality Office, Water and Power Resources Service, Engineering and Research Center, P.O. Box 25007, Denver, Colorado, 80225.

Dated: August 7, 1980.

D. D. Anderson,

Acting Commissioner of Water and Power Resources Service.

[FR Doc. 80–24499 Filed 8–13–8:45 am]

BILLING CODE 4310–09–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

[Public Notice No. 1, Revised]

Statement of Organization, Functions, and Procedures; Information Guidance

In compliance with the Freedom of Information Act (5 U.S.C. 552), this notice provides information for the guidance of the public regarding: the basic authorities and programs of the Agency for International Development; the organization and functions of the Agency's central and field organizations; the Agency's methods of operation; statements of policy, rules, and procedures; and the methods whereby the public, may obtain information, make submittals or requests, or obtain decisions.

This notice is a revision of "the Agency for International Development Public Notice No. 1," published in the **Federal Register** on August 2, 1978 (43 FR 33984–33990). It reflects the organization, basic functions, and methods of operations of the Agency for International Development as of July 25, 1980. Subsequent revisions of this statement will also be published in the **Federal Register.**

I. Creation and Authority of the Agency

The Agency for International Development (AID) carries out assistance programs designed to help the people of certain developing countries develop their human and economic resources, increase productive capacities, and improve the quality of human life as well as to promote economic or political stability in friendly countries.

The Foreign Assistance Act of 1961 (75 Stat. 424; 22 U.S.C. 2381), as amended, authorizes the President to exercise his functions under that act through such agency or officer of the U.S. Government as he/she may direct. Executive Order 12163 of September 29, 1979, delegates to the Director of the International Development Cooperation Agency (IDCA) the authorities set forth in the Foreign Assistance Act of 1961, as amended, and in certain other acts with certain limited exceptions. The Executive Order also directs that the Director of the International Development Cooperation Agency continue within that Agency the Agency of International Development.

International Development Cooperation Agency Delegation of Authority No. 1 of October 1, 1979 (44 FR 57521), continues the Agency for International Development as an agency within the International Development Cooperation Agency and delegates to the Administrator of the Agency the functions conferred upon the director of the International Development Cooperation Agency by Executive Order 12163 and certain related Executive Orders, unless otherwise reserved by the Director or delegated to others by him/her.

The Agency for International development performs its functions under an Administrator, who reports to the Director of the International Development Cooperation agency and the President, and is charged with central direction and responsibility for the U.S. foreign economic assistance program

II. Programs of the Agency

The Foreign Assistance Act of 1961 as amended, authorizes the Agency to

administer two kinds of foreign economic assistance: development assistance and economic support funds. The Agency, in cooperation with the Department of Agriculture, and the Department of State, also implements Public Law 480, the Agricultural Trade Development and Assistance Act of 1954 (68 Stat. 454; 7 U.S.C. 1691 et seq.), as amended, specifically the sale on concessional terms (Title I), the donation (Title II) of agricultural commodities, and the provision of food under the Food for Development Program (Title III).

To implement its economic assistance programs the Agency utilizes the following tools authorized by the Foreign Assistance Act: loans, on concessional terms repayable in dollars, to developing countries, emphasizing assistance in long-range plans and programs designed to meet the basic human needs of poor people in developing countries and achieve self-sustaining growth with equity; technical cooperation and development grants to promote economic development, including specific grant authorities for U.S. reseach, and educational institutions, American schools and hospitals abroad, reimbursement for international transporation costs of private, registered U.S. voluntary agency shipments of humanitarian relief and rehabilitation supplies, housing and other credit guarantee programs, including agricultural and productive credit and self-help community development programs, and development research into and evaluation of the process of economic development. Loan and grant assistance for programs relating to population growth are provided to foreign governments, the United Nations and its specialized agencies, other international organizations and programs, U.S. and foreign nonprofit organizations universities, hospitals, accredited health institutions, and voluntary health or other qualified organizations.

To prevent famine and promote freedom from hunger, the Agency provides assistance under Title XII of Chapter 2 of Part I of the Foreign Assistance Act of 1961, as amended, to support institution-building programs for the development of national and regional agricultural research, education and extension capacities in developing countries; build and strengthen human resource skills for agricultural and rural development; support international agricultural research; and stengthen the capacities of land and sea grant and other eligible universities to participate more extensively in the Agency for International Development programs overseas.

In carrying out all assistance programs, emphasis is placed on optimum participation in the task of economic development by the people of the developing countries through the encouragement of democratic private and local governmental institutions. Among recipient countries emphasis is given to the poorest and to those committed to helping their poor people participate in development.

B. Specifically, the Agency administers programs under the Foreign Assistance Act within the following major categories of assistance.

1. Development Assistance

The Agency for International Development focuses its development assistance programs on critical problem areas in those functional sectors which affect the majority of the people in the developing countries. The areas of concentration are:

a. *Food, Nutrition, and Rural Development.* To alleviate starvation, hunger, and malnutrition in the developing countries by increasing the food supply in order to achieve improvements in diets and by expanding employment opportunities for low-income families in both rural and urban areas to enable them to purchase the food they need.

b. *Population Planning and Health.* To address problems of rapid population growth and to extend family planning services to the village level through programs that provide or promote safe, effective, affordable, acceptable family planning services.

c. *Education and Human Resource Development.* To expand access to basic education the Agency for International Development supports programs in health, nutrition, family planning, and agriculture. Specifically, the Agency supports low-cost primary education, particularly for the rural poor; the use of mass media and communications technology, such as radio; curricula revision and teacher training to increase the relevancy of formal education to meet basic human needs; and the development of informal education and training approaches for rural families and workers in agriculture, nutrition, health, and family planning.

d. *Technical Assistance, Energy, Research, and Selected Development Problems (Selected Development Activities).* Selected Development Activities enable the Agency for International Development to deal with a wide range of development concerns which do not fall within the above functional sectors; e.g., projects directed toward assisting developing countries with their national energy problems; projects which lessen the problems of rapid urbanization, including employment and income problems; etc.

2. Economic Support Fund

The Economic Support Fund (ESF) program has a more immediate political orientation than development assistance. It is designed to promote economic or political stability in areas where the United States has special foreign policy interests and economic assistance can be immediately useful in securing peace or averting economic or political crises.

The Economic Support Fund is a flexible economic instrument which may take the form of unrestricted cash grants and general budget support, commodity import programs, capital projects, and programs specifically directed toward meeting basic human needs. It may concentrate on all of the critical areas which have been described above in Section II.B.1 In administering Economic Support Fund, the Agency for International Development seeks to develop economically and technically sound projects. Although the primary purpose of Economic Support Fund is to meet political objectives, these funds can provide an opportunity to encourage sound development. Congress has directed that, to the extent possible, Economic Support Fund be used to promote development efforts which effectively aid the poor.

3. Specific Programs

a. *Sahel Development.* The Agency for International Development participates in a long-term program for the development of the Sahelian region of West Africa. The objectives of the Sahel Development Program are to promote food self-sufficiency and self-sustaining economic growth. The program is coordinated, planned, and designed by the Club du Sahel, comprised of 8 Sahel states: Mali, Chad, Niger, Upper Volta, Senegal, Mauritania, Cape Verde, and Gambia; the United States; 11 other donor nations; and 8 multilateral organizations.

b. *American Schools and Hospitals Abroad.* The American Schools and Hospitals Abroad program provides grants to private U.S. nonprofit organizations sponsoring American schools and hospitals abroad. The purpose is to demonstrate American ideas and practices in education and medicine.

c. *International Disaster Assistance.* The President has designated the Administrator of the Agency for International Development as Special

Coordinator for International Disaster Assistance. In this role the Administrator may call upon the resources of any agency of the U.S. Government to provide emergency relief or technical assistance in disaster preparedness. Relief may also be channeled through U.S. voluntary agencies or international relief organizations in response to foreign disasters resulting from earthquakes, droughts and famines, epidemics, floods and storms, civil strife, power shortages, and accidents.

d. *Housing Guaranty Program.* The Agency for International Development's Housing Guaranty Program facilitates private financing for shelter for lower income families in developing countries by guaranteeing repayment to U.S. lenders for projects requested by these countries.

The Agency seeks to finance innovative programs, such as squatter upgrding through the provisions of sewerage, potable water, electricity, and credit for home improvements; sites and services by the provision of a basic urbanized lot, with the family constructing its own dwelling unit; and low-cost, expandable core housing units.

e. *Food for Peace.* In cooperation with the Department of Agriculture, the agency participates in the sale of agricultural commodities on concessional terms under Title I of Public Law 480 to encourage economic development, assist in combating hunger and malnutrition, and for other purposes. Under Title II, the Agency for International Development administers the donation of agricultural commodities to meet famine or other urgent or extraordinary relief requirements, to combat malnutrition, to promote economic and community development, and for needy persons and nonprofit school lunch and preschool feeding programs outside the United States. The Agency for International Development also administers Title III, which provides that a portion of funds accruing from Title I sales be used for Food for Development Programs to improve the production, protection, and utilization of food to increase the well-being of the poor in the rural sector of the recipient country, and that funds so used are applied against that government's Title I repayment obligation (Public Law 480, Agricultural Trade Development and Assistance Act of 1954, as amended). The Agency for International Development supports the use of food aid in ways which promote rather than hinder the growth of food production and associated policy and program initiatives in the host government.

4. Special Provisions

a. *Human Rights.* The Administrator of the Agency for International Development is responsible for implementing the statutory and policy guidelines for promoting human rights in its bilateral country programs. In consultation with the Assistant Secretary of State for Human Rights and Humanitarian Affairs, the Administrator determines the eligibility of countries to receive foreign assistance and how programs will be formulated to benefit needy people and promote human rights in countries violating internationally recognized human rights. Proposed assistance to such countries is brought before the Interagency Group on Human Rights and Foreign Assistance, chaired by the Deputy Secretry of State.

b. *Light Capital (Appropriate) Technology.* The Agency for International Development supports projects with the specific objective of broadening the range of technologies in use. This is accomplished by increasing local research and the flow of information on appropriate technologies; promoting local development, adaptation, and utilization of technologies appropriate to developing countries; and providing assistance which encourages the formulation of rational policies that broaden the range of technological options.

c. *Women in Development.* In recognition of the fact that women in developing countries play a significant role in economic production, family support, and the overall development process of the national economies of such countries, Congress requires that U.S. bilateral aid be administered so as to give particular attention to the programs, projects, and activities which tend to integrate women into the national economies of developing countries, thus improving their status and assisting the total development effort. The Agency carries out this Congressional mandate with leadership by the Office of Women in Development, Bureau for Program and Policy Coordination.

III. Organization, Functions, and Methods of Operations

A. *General.* The Agency for International Development consists of a central headquarters staff in the Washington metropolitan area (AID/W) and a number of overseas missions and offices. The structure of the Agency for International Development headquarters includes: The Office of the Administrator supported by the Office of the Executive Secretary; a Board for International Food and Agricultural Development Support Staff; eight staff offices; four functional bureaus for program and policy coordination, development support, private and development cooperation, and program and management services; and four geographic bureaus for Africa, Asia, Latin America and the Caribbean, and Near East.

B. *The Office of the Administrator.* The Administrator plans, directs, and coordinates the operations of the Agency and is responsible, subject to the approval of the Director of the International Development Cooperation Agency (IDCA) and the President, for the formulation and execution of U.S. foreign economic assistance policies and programs. The Administrator supervises and directs the activities of all personnel of the agency in the United States and overseas. In addition, the Agency for International Development Administrator serves as the President's Special Coordinator for International Disaster Assistance.

The Office of the Executive Secretary (ES) facilitates and expedites the decision-making process of the Agency for International Development. it serves as a channel of communication and coordination between the Office of the Administrator and the Agency's Senior Staff.

The *BIFAD Support Staff (BIFAD/S),* in compliance with the Agency for International Development's statutory obligation, provides staff support to the Board for International Food and Agricultural Development (BIFAD) and its subcommittees as authorized by section 298 of Title XII of the Foreign Assistance Act, as amended.

C. *Staff Offices.* The following staff offices report to the Office of the Administrator:

1. The *Office of the Auditor General (AG)* is the Agency's focal point for assuring the integrity of the Agency for International Development's operations. It is the central authority concerned with the quality, coverage, and coordination of the audit, inspection and investigation services of the Agency. In directing, monitoring, and reviewing these activities, the Auditor General emphasizes both the protective and constructive aspects of these services as a tool of management within a comprehensive Agency effort to attain improved management effectiveness. The Auditor General has full access to all phases of the Agency's operations in order to carry out a comprehensive plan of selected audits, investigations, surveys and reviews to provide reasonable protection and constructive advice for Agency management. Serves as liaison for the Agency for

International Development with the Department of State to assure adequate security services are performed by that Department.

2. The *Office of Legislative Affairs (LEG)* has responsibility for the Agency's relations with the Congress, and is the central point of contact between the Agency and the Congress, including Congressional members and Committees. The Office coordinates the preparation of the Agency for International Development's legislative program, including the preparation and submission of information relating to legislative authority and appropriations requests. The Office is also responsible for advising the Administrator and the Agency on the status of pending legislation of interest and on the history of pending legislation, including the concerns and views of members of the Congress on pending legislation and other matters of interest to the Agency for International Development.

3. The *Office of Public Affairs (OPA)* has responsibility for information policy leadership and coordination to ensure that information about the Agency's policies, objectives, and operations is disseminated fully and freely to the Congress and to the public. Dissemination of information is accomplished by concurrent external public affairs programs, such as: production and distribution to mass communication outlets of informational materials (e.g., an Agency magazine, press releases, speech texts, brochures, films, and video tapes); scheduling press conferences, media interviews, speaking and conference engagements for senior Agency officers; responding to public inquiries and to requests for information filed under the Freedom of Information Act and the Privacy Act; declassification of Agency documents. Internally, the Office of Public Affairs prepares and distributes certain informational materials such as a biweekly newspaper, public opinion analyses, press highlights and summaries.

4. The *Office of the General Counsel (GC)* provides all legal advice, counsel, and services to the Agency and its officials both in the United States and abroad, and ensures that the Agency for International Development programs are administered in accordance with legislative authorities. The Office maintains legal staffs both at headquarters and at regional or country organizations overseas.

5. The *Office of Personnel Management (PM)* has central responsibility for personnel administration. The Office develops policies, standards, and guidelines for operation of overseas and domestic personnel systems; operates centralized personnel recruitment, assignment, evaluation, and employee training programs; and conducts a full range of personnel operations for the Agency. Additionally, the Office is responsible for the administration of the Agency's labor relations program (Executive Orders 11491 and 11636).

6. The *Office of Equal Opportunity Programs (EOP)* is the central Agency office responsible for directing the policy and coordinating and monitoring the implementation of all Government laws, executive orders, policies, and regulations relating to the provision of equal opportunity for employees of, and applicants for employment with, the Agency for International Development and activities financed by it.

7. The *Office of Financial Management (FM)* as the principal financial Office of the Agency, provides advice and assistance to Agency management on the financial implications of legislation, plans, programs, policies, procedures, operating activities, and audit and evaluation findings. The Office administers and coordinates such financial management activities as accounting, operating expense and workforce budgets, internal financial management control, advice and assistance to overseas missions regarding financial policies, practices and procedures, and preparation and interpretation of financial and related statistical reports. The Office also administers the Agency's workforce resources management program.

8. The *Office of Small and Disadvantaged Business Utilization (SDB)* is the central Agency office responsible for encouraging, coordinating and ensuring the effective participation of small and disadvantaged businesses in the Agency for International Development-financed activities. The Office was established in accordance with the provisions of the Small Business Act, as amended, Pub. L. 95-507 and reports directly to the Administrator.

D. *Functional Bureaus.* 1. The *Bureau for Program and Policy Coordination (PPC)* is responsible for the Agency's overall program policy formulation, planning, coordination, resource allocation, evaluation activities, and the program management information systems which support them. The Bureau develops economic assistance policies, provides guidance on long-range program planning, economic analysis, sector assistance strategies, and project analysis and design. It coordinates the formulation and revision of the Agency's program and budget, and participates in the presentation of the Agency's program to the Congress. The Bureau reviews and monitors all country program strategies and project proposals and selectively reviews project papers from other to ensure compliance with Agency policy guidance. It provides in-depth analyses of development problems and related issues and formulates the Agency's position on major U.S. development policies affecting the Agency's assistance programs in the developing countries.

The Bureau assures implementation of Title IX of the Foreign Assistance Act (FAA), which emphasizes the encouragement of democratic institutions and seeks to develop an Agency policy for the furtherance of human rights in the developing countries, in accordance with sections 116 and 502B, and implements sections 113 and 305 of the FAA relating to women in development. The Bureau provides leadership in the development of Agency policies and procedures for the integrated use of capital, technical, Public Law 480, and other assistance and for evaluation of progress toward program goals; incorporates these policies and procedures into Agency directives; reviews the policy aspects of all types of Agency projects to assure consistency with Agency objectives; develops and coordinates Agency environmental policies; and serves as Secretariat for the Bilateral Assistance Subcommittee (BAS) of the Development Coordination Committee (DCC).

The Bureau carries out significant evaluations of Agency-supported projects which can introduce improve ideas and valuable experience into the Agency's program at key points. The Bureau exercises systems management responsibilities for the policy, planning, and program management systems, both automated and nonautomated, assigned to the Bureau; and provides central Agency statistical services.

2. The *Bureau for Development Support (DS)* administers the Agency's housing investment guaranty and international training programs and provides professional leadership and technical support to Agency activities in the areas of agriculture, nutrition, education, health, urban development, rural development and development administration, science and technology, population, engineering, and energy. Within each of these technical areas the Bureau:

a. Under the leadership of the Bureau for Program and Policy Coordination and in cooperation with geographical

bureaus, identifies problems impeding development and devises efforts to find solutions to those problems, including, but not limited to, those appropriately treated through central research and development activities.

b. Identifies, at the request of the geographical bureaus, field service needs most efficiently met from a central source, and arranges for these needs to be srved either by direct-hire staff or by contracted resources.

c. Ensures that new approaches to development are widely disseminated within the Agency for International Development and are utilized in field projects, and that the results of experimental efforts in one country are disseminated in useful form among the geographical bureaus, throughout the Agency, and to the international development community.

d. Provides leadership for the Agency's central research programs which shall be responsive to problems of priority concern to the Agency for International Development's field missions and developing countries. Leads efforts to ensure coordination of centrally funded, regional and country research activities. Assures provision of expert assistance in research design and methodology to geographical bureaus and missions as required. Gives particular attention to utilization of the results of research sponsored by the Agency.

The Bureau acts as the Agency's focal point for liaison with U.S. universities, government agencies, and professional and research organizations, and for technical coordination with United Nations specialized agencies and other international organizations. It coordinates participation with the Board for International Food and Agricultural Development and its committees in the management and implementation of programs/activities authorized under Title XII of the Foreign Assistance Act as amended.

3. The *Bureau for Private and Development Cooperation (PDC)* has central Agency responsibility for encouraging and strengthening the effective participation of nongovernmental organizations in support of the Agency for International Development's developmental and humanitarian objectives; performs designated Agency responsibilities for the Food-for-Peace Program; coordinates internal U.S. Government responses to foreign disasters with those of other private and international organizations; provides leadership and policy guidance for Agency activities in the development-related labor and manpower fields; and administers the American Schools and Hospitals Abroad Program.

In the area of private and voluntary cooperation, the Bureau creates and explores approaches to enlarge the role of volunteerism in the development process; maintains liaison with the American Council on Foreign Aid, the Advisory Committee on Overseas Cooperative Development and the U.S. cooperatives engaged in overseas cooperative development and with the community of voluntary agencies generally; and provides staff support to the Advisory Committee on Voluntary Foreign Aid.

4. The *Bureau for Program and Management Services (SER)* provides centralized services in the areas of management planning, management operations, data management, direct contracting, and commodity management. It establishes and monitors Agency policies, regulations, and procedures in all of these areas. The Bureau is also responsible for administering the U.S. Earthquake Reconstruction Program in Italy.

The Bureau assists Agency management in the development, implementation, and evaluation of management policies and practies; provides or arranges for management consulting services to the headquarters and overseas organizations; and oversees administration of the programs for organization and functional alignment, directives, committee management (Public Law 92–463), management improvement, and system coordination.

The Bureau develops policies, standards, and guidelines for, and oversees the development, operation, and management of worldwide administrative and logistical support systems; counsels and assists senior Agency personnel on all phases of administrative and logistical support services; acts as the Agency coordinator for overseas combined administrative support services, for all aspects of foreign affairs administrative support (FAAS), and joint nonappropriated fund activities; and provides a wide range of administrative and logistical services for the Agency for International Development.

The Bureau provides leadership and coordination to the development and administration of the Agency for International Development's automated data information systems; provides leadership and guidance on all phases of the use of automatic data processing technology; reviews, recommends, and monitors the Agency-wide use of management consulting firms, contracts, or Participating Agency Service Agreements (PASA) for automated data information systems; and provides leadership and policy guidance to the Agency's data management systems.

The Bureau directs the development and maintenance of policies, procedures, standards, and regulations governing direct contracting and the Agency for International Development-financed borrower/grantee contracting; directs centralized contracting services; encourages the participation of U.S. small business in services, contracting, and export supply activities of the Agency; and develops and maintains the Agency for International Development procurement regulations.

The Bureau provides leadership and coordination to the development and administration of the Agency's policies and procedures for commodity management; serves as the principal advisor on the commodity management aspects of the economic assistance programs; administers commodity import programs and provides support for the implementation of the commodity and transportation elements of other programs financed by the Agency; implements requirements for commodity marking and labeling; and provides support for the transportation element of all Agency programs and for programs financed by Title II, Public Law 480, and the world food programs.

E. *Geographic Bureaus.* There are four Geographic Bureaus: Africa, Asia, Latin America and the Caribbean and Near East.

These Bureaus are the principal line offices of the Agency for International Development with responsibility for the planning, formulation, and management of U.S. economic development and/or supporting assistance programs in their respective areas overseas. Their programs are administered within delegated authorities and in accordance with policies and standards established by the Admiministrator.

Each Geographic Bureau is headed by an Assistant Administrator who:

1. Directs and supervises the activities of the Bureau and its overseas missions and offices.

2. Directs the formulation of U.S. economic assistance programs; approves programs and projects within the limits of authorities delegated from the Administrator; and authorizes the execution of economic assistance agreements with Bureau countries and regional organizations.

3. Exercises policy control within the region over the housing guaranty programs which are administered by the Office of Housing within the Bureau for Development Support.

4. Submits, through the Bureau for Program and Policy Coordination for the Administrator's approval, an annual budget of proposed Bureau activities and assists in presenting the Bureau's program and budget to the Congress.

5. Approves and directs the allocation of available resources among Bureau offices and overseas missions.

6. Assures necessary liaison with other Agency offices, the Department of State, other U.S. bilateral, and multilateral agencies and officials of recipient countries; and represents the Agency for Internatinal Development at country consortia or consultative group meetings.

7. Oversees the implementation of Bureau programs and projects; monitors performance under loan and grant agreements, contracts, and other operating agreements; and takes or recommends any required remedial action.

8. Represents the Agency for International Development before the press and the public, as required.

F. *Overseas Missions and Offices.* 1. The Agency for International Development's country organizations are located in countries where the Agency is carrying out bilateral economic assistance programs. Such organizations report to the Geographic Bureau, with one exception as noted below, and include the following:

a. *Missions* are currently located in 46 countries for which the Agency for International Development program is major, continuing, and usually involves multiple types of aid in several sectors. Each mission is headed by the mission director who has been delegated program planning, implementation, and representation authorities.

b. *Offices* are currently located in 13 countries for which the Agency for International Development program is moderate, declining, or has limited objectives. Each office is usually headed by an Agency representative who has been delegated program planning, implementation, and representation authorities.

(Exception: The Regional Office—Fruili, in Italy, reports directly to the Bureau for Program and Management Services.)

c. *Sections of Embassy* are currently located in nine countries for which the Agency program is small or is being phased out. The Agency for International Development program planning and implementation authorities are delegated to the chief U.S. diplomatic representative in the country.

2. *Offices for Multicountry Programs* (Seven offices) administer the Agency for International Development's overseas program activities which involve more than one country. These offices may also perform "country organization" responsibilities for assigned countries and report directly to the Geographic Bureaus.

3. *Offices for Multicountry Services* (Four offices) provide services to other overseas organizations, primarily the Agency for International Development's country organizations and Multicountry Program Offices. (The Excess Property Field Offices report to the Bureau for Program and Management Services, all others report to the Geographic Bureaus.)

4. *Development Assistance Coordination and Representation Offices* (Five Offices) maintain liaison with various international organizations and represent U.S. and the Agency's interest in development assistance matters. Such offices may be only partially staffed by Agency personnel and may be headed by employees of other U.S. Government agencies.

5. *Audit and Inspections Offices* (12 offices) are maintained by the Office of the Auditor General at overseas locations to carry out a comprehensive program of selected audits, investigations, inspections, surveys, reviews, and security services for the Agency.

IV. Statements of General Policy, Rules, and Procedures

The statements of the Agency for International Development policy and the nature and requirements of formal and informal procedures, which are currently available to the public, are contained in the published regulations and other publications of the Agency listed below. To the extent applicable, these also contain descriptions of forms available or specify the places at which forms may be obtained, and give instructions as to the scope and content of papers, reports, or examinations involved in the transaction of business with the Agency for International Development.

The following Agency regulations are codified in chapter II of Title 22 of the Code of Federal Regulations.

Subject

No. 1. Rules and Procedures Applicable to Commodity Transactions Financed by the Agency for International Development.

No. 2. Overseas Shipments of Supplies by Voluntary Nonprofit Relief Agencies.

No. 3. Registration of Agencies for Voluntary Foreign Aid.

No. 5. Per Diem Payments to Participants in Nonmilitary Economic Development Training Programs.

No. 8. Suppliers of Commodities and Commodity-Related Services Ineligible for the Agency for International Development Financing.

No. 9. Nondiscrimination in Federally Assisted Programs of the Agency for International Development Effectuation of Title VI of the Civil Rights Act of 1964.

No. 10. Loyalty and Security Investigations for Persons Serving Under Contracts Financed from U.S. Foreign Assistance Funds.

No. 11. Transfer of Food Commodities for Use in Disaster Relief and Economic Development, and Other Assistance (Public Law 480, Title II).

No. 12. Public Information.

No. 13. Collection of Civil claims by the Agency for International Development.

No. 14. Advisory Committee Management.

No. 15. Implementation of Privacy Act of 1974.

No. 16. Environmental Procedures.

No. 17. [Reserved]

No. 18. Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance.

No. 19. [Reserved]

No. 20–22. Personnel Regulations Implementing Section 401 of the International Development and Food Assistance Act of 1978 (Obey Amendment)

The procurement regulations for the Agency for the International Development are codified in Chapter 7 of Title 41 of the Code of Federal Regulations. In addition, the following other Agency for International Development publications contain procedures available to the public:

1. The Agency for International Development's Country Contracting Precedures, including:

a. The Agency for International Development's Handbook 11—Country Contracting (formerly Capital Projects Guidelines).

b. Environmental Assessments Guidelines Manual.

c. Information Packet for Architect-Engineer Firms.

2. The Agency for International Development—Financed Export Opportunities.

3. The Agency for International Development's Procurement Information Bulletins.

4. The Agency for International Development's Small Business Memos.

5. The Agency for International Development's Importer Lists.

6. U.S. Small Supplier Lists.

Copies of the above listed Agency for International Development regulations and other publications are available for

public inspection and copying through the Office of Public Affairs, the Agency for International Development, the International Development Cooperation Agency, Washington, D.C. 20523. In addition, publications listed under No. 2 through No. 6 above are available from the Office of Small and Disadvantaged Business Utilization, the Agency for International Development, Washington, D.C. 20523, and at Department of Commerce field offices located in principal cities of the United States. The Agency for International Development procurement regulations are also for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

V. Information, Submittals, and Requests for Decisions

A. *Information.* The Agency for International Development Regulations Nos. 12, 14, and 15 (22 CFR Parts 212, 214, and 215, respectively) specify the Agency for International Development policy and procedures for public access to the Agency for International Development records.

B. *Submittals, Requests, or Decisions.* Members of the public doing business, or wishing to do business, with the Agency for International Development may make their submittals or requests, or obtain decisions at the cognizant Agency for International Development bureau or office described in section III above, in accordance with the provisions of the Agency for International Development regulation or other publication which govern the action or process.

In case of uncertainty by a member of the public as to the appropriate Agency for International Development bureau or office, or as to the methods of applying for or obtaining Agency for International Development action, application should be made to the Director, Office of Public Affairs, Agency for International Development, International Development Cooperation Agency, Room 4898, 21st Street and Virginia Avenue, N.W., Washington, D.C. 20523.

Effective date: This notice shall be effective July 25, 1980.

D. G. MacDonald,

Assistant Administrator for Program and Management Services.

August 1, 1980.

[FR Doc. 80-24512 Filed 8-13-80; 8:45 am]

BILLING CODE 4710-02-M

DEPARTMENT OF JUSTICE

United States v. International Minerals and Chemicals Corp. and IMC Chemical Group, Proposed Consent Decree in Action To Enjoin Discharge of Water Pollutants

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed amended consent decree in *United States* v. *International Minerals and Chemicals Corporation* and *IMC Chemical Group,* will be lodged with the United States District Court for the Western District of Louisiana, Monroe Division. The proposed decree modifies effluent limitations established in an existing decree for four specific parameters of the company's discharge into the Ouachita River from its Dixie Chemical Plant in Sterlington, Louisiana.

The Department of Justice will receive until September 15, 1980, written comments relating to the proposed amended decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C., 20530, and refer to *United States* v. *International Minerals and Chemicals Corporation et al.,* D. J. Ref. 90-5-1-1-532.

The proposed consent decree may be examined at the Office of the United States Attorney, Western District of Louisiana, Federal Building, Room 3B12, Shreveport, Louisiana 71101; at the Region VI Office of the Environmental Protection Agency, Enforcement Division, 1201 Elm Street, Dallas, Texas, 75270, and at the Pollution Control Section, Land and Natural Resources Division, Department of Justice (Room 2644), Ninth Street and Pennsylvania Avenue, NW., Washington, D.C., 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division, Department of Justice. In requesting a copy, please enclose a check in the amount of $1.00 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

Angus MacBeth,

Deputy Assistant Attorney General, Land and Natural Resource Division.

[FR Doc. 80-24501 Filed 8-13-80; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Manufacture of Controlled Substances; Application by Cordova Chemical Co.

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on April 19, 1980, Cordova Chemical Company, Highway 50 at Hazel Avenue, P.O. Box 13400, Sacramento, Calif., 95813, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule I controlled substance Tetrahydrocannabinols.

Any other such applicant, and any person who is presently registered with DEA to manufacture such substance, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any suth comments, objections or requests for a hearing may be addressed to the Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than September 15, 1980.

Dated: August 8, 1980.

Peter B. Bensinger,

Administrator, Drug Enforcement Administration.

[FR Doc. 80-24574 Filed 8-13-80; 8:45 am]

BILLING CODE 4410-09-M

Manufacture of Controlled Substances; Application by Diosynth Inc.; Correction

On April 11, 1980, the Drug Enforcement Administration published a Notice of Application in the **Federal Register** (Vol. 45, No. 72, pg. 24931) stating the Diosynth Inc., 3532 W. Henderson, Chicago, Illinois 60618, has submitted an application for registration as a bulk manufacturer of Concentrate of Poppy Straw, a basic class of controlled substance in Schedule II.

On April 15, 1980, the Drug Enforcement Administration was advised that Diosynth Inc., 3432 W. Henderson, Chicago, Illinois 60618, did not wish to apply for registration as a bulk manufacturer of Concentrate of Poppy Straw.

The Application having been withdrawn, any proceedings relating to the application have been terminated and the publication withdrawn. This pertains only to Concentrate of Poppy Straw (9670).

Dated: August 8, 1980.

Peter B. Bensinger,

Administrator, Drug Enforcement Administration.

[FR Doc. 80-24571 Filed 8-13-80; 8:45 am]

BILLING CODE 4410-09-M

Manufacture of Controlled Substances; Application by Merck and Co., Inc.

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 10, 1980, Merck & Co., Inc., Merck Chemical Manufacturing Div., P.O. Box 2000, Lincoln Avenue, Attn: Office of the Secretary, Rahway, New Jersey 07065, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic class of controlled substances listed below:

Drug	*Schedule*
Codeine	II
Ethylmorphine	II
Hydrocodone	II
Morphine	II
Thebaine	II
Anileridine	II

Any other such applicant, and any person who is presently registered with DEA to manufacture such substance, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, N.W., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than September 15, 1980.

Dated: August 8, 1980.

Peter B. Bensinger,

Administrator, Drug Enforcement Administration.

[FR Doc. 80-24570 Filed 8-13-80; 8:45 am]

BILLING CODE 4410-09-M

Manufacture of Controlled Substances; Application by Penick Corp.

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on February 26, 1980, Penick Corporation, 158 Mount Olivet Avenue, Newark, New Jersey 07114, made application to the Drug Enforcement Administration (DEA) for registration as bulk manufacturer of the basic class of controlled substances listed below:

Drug	Schedule
Pholcodine	I
LAAM	I
Codeine	II
Dihydrocodeine	II
Oxycodone	II
Diphenoxylate	II
Hydrocodone	II
Meperidine	II
Methadone	II
Methadone-Intermediate	II
Morphine	II
Thebaine	II
Opium Extracts	II
Opium Fluid Extracts	II
Opium Tinctures	II
Opium Powders	II
Opium Granulated	II
Mixed Alkaloids of Opium	II
Conc. of Poppy Straw	II
Phenazocine	II
Fentanyl	II

Any other such applicant, and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW, Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than September 15, 1980.

Dated: August 8, 1980.

Peter B. Bensinger,

Administrator, Drug Enforcement Administration.

[FR Doc. 80-24573 Filed 8-13-80; 8:45 am]

BILLING CODE 4410-09-M

Manufacture of Controlled Substances; Application by Sterling Drug Inc.

Pursuant to Section 1301.43(a) of Title 2 of the Code of Federal Regulations (CFR), this is notice that on May 20, 1980, Sterling Drug Inc., 33 Riverside Avenue, Rensselaer, New York, 12144, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the schedule II controlled substance meperidine.

Any other such applicant, and any person who is presently registered with DEA to manufacture such substance, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street NW, Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1203), and must be filed no later than September 15, 1980.

Dated: August 8, 1980.

Peter B. Bensinger,

Administrator, Drug Enforcement Administration.

[FR Doc. 80-24572 Filed 8-13-80; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 80-33]

Report, Safety Recommendations, Responses and Closeouts; Availability

Special Investigation Report

Design-Induced Landing Gear Retraction Accidents in Beech Baron, Bonanza and Other Light Aircraft (NTSB-SR-80-1).—The National Transportation Safety Board has recently concluded a detailed review of all inadvertent landing gear retraction accidents occurring from 1975 to 1978. The Board's special investigation report, released August 1, notes that the data indicated that Beech Bonanza and Baron-type aircraft, while comprising only one-quarter of the single-engine and light twin-engine fleets, were involved in the majority of these accidents. Pilot comments and a human engineering evaluation of contemporary light aircraft cockpits revealed that these two Beech aircraft had four design features which would tend to increase the probability of inadvertent retraction accidents.

The four problem areas singled out by the Safety Board are: (1) Lack of adequate "shape-coding" of the landing gear and flap control knobs to permit the pilot to differentiate between them on the basis of feel alone; (2) an arrangement of these two controls in nonstandard locations which increases the probability that the pilot will actuate one control while intending to actuate the other; (3) the location of the horizontal bar on which control wheels are mounted that obscures the pilot's view and obstructs his reach of these two controls; and (4) lack of a guard or latch mechanism over the landing gear control to prevent the pilot from

activating this control unless the guard/latch is moved first.

The human engineering problem areas documented in the report result largely from the fact that basic instrument panel in the aircraft was designed 35 years ago. A great deal of knowledge about the effects of good design in preventing human error has been acquired since these aircraft were originally certificated, and more appropriate standards have been established. The Safety Board notes that current Federal Aviation Administration regulations, however, permit the continued manufacture of these aircraft under their previously issued type certificates. This practice, which is not unique to the Bonanza and Baron aircraft, should be reconsidered.

As a result of this special investigation, the Safety Board on July 16 forwarded three "Class II, Priority Action" recommendations to the FAA. (See 45 FR 49410, July 24, 1980.)

Railroad Safety Recommendation Letter

R-80-27 through -29 to the Western Pacific Railroad Co., August 1, 1980.—The Safety Board notes that Western Pacific has reported to the Federal Railroad Administraiton 29 accidents which occurred in the Sacramento area from November 1, 1978, to November 1, 1979. Although none of these accidents met the established criteria for investigation by the Safety Board, the Board undertook a review of the accident reports and an on-site inspection to determine whether these accidents collectively indicate a situation posing a potential threat to public safety.

Investigation revealed that 22 of the 29 accidents were not directly relevant to operations in the South Sacramento Yard: 5 were rail/highway grade crossing accidents, 5 were side collisions, 6 were car derailments, 5 involved engines with cars which were pushed or pulled through improperly aligned switches, and 1 involved a car which rolled into and damaged a railroad shop door. The remaining seven accidents and a subsequent one on June 6, 1980, however, occurred in the vicinity of 21st Street yard area and, with one exception, involved cars and/or locomotives which rolled uncontrolled to a collision or derailment. General descriptions of these accidents may be found in an attachment to the Safety Board's recommendation letter.

The Board notes that South Sacramento Yard is managed by a Terminal Superintendent and Trainmaster who also are responsible for 120 miles of main track and branch lines, including three other terminals. Yardmasters are responsible for around-the-clock supervision of South Sacramento Yard, which is surrounded by residential and commercial buildings. Public streets on both sides of the yard and a main street which crosses the main tracks at grade at the east end of the yard are relatively heavily traveled. A city college and a high school are located nearby on Freeport Boulevard and many of the students walk across the railroad property going to and from the schools.

The track grade in the yard descends from the west end to the east end at an average rate of about 0.25 percent and from the approximate midpoint to the east end of about 0.3 percent. Just short of the main track at the east end of the yard, a "run-out" track, built in 1972 to prevent uncontrolled cars and locomotives from running into the main track.

After the fourth of six similar accidents which occurred between March 31 and September 21, 1979, the Terminal Superintendent issued a "notice" on July 24, 1979, to train and engine employees, yardmasters, and all concerned advising them of the need to understand and adhere strictly to Western Pacific rules which require proper securement of rolling stock left on yard tracks and warning that future violations might be disciplined serverly. Following the sixth accident, the Terminal Superintendent issued another "notice" on September 5 regarding the "critical problem in this yard relating to the failure of personnel to carry out instructions." Third and fourth notices were issued on September 15 and 19, respectively, regarding the securement of standing cars. On June 7, 1980, improperly secured cars rolled out of the east end of track 1 into the "run-out" track and derailed the east car. Understandably, the neighboring residents have voiced concern regarding a perceived threat to public safety.

Despite the fact that none of the aforementioned eight accidents resulted in harm to the public, the Safety Board's experience in investigating similar accidents indicated that such accidents represent a threat to residents of the surrounding area, especially if hazardous materials are involved. In addition, each accident posed a threat to the safety of the yard employees.

The Safety Board concludes that Western Pacific's operations at South Sacramento Yard are not managed and supervised adequately to provide a satisfactory level of safety to the public. Management has not achieved a balance between the required level of safety and the level of training and motivation exhibited by the employees, and the existing physical redundancies such as the "run-out" track are not adequate to assure the required level of safety. Yard tracks with a descending grade of 0.3 percent should have some means of preventing cuts of cars from rolling out at the lower ends of each track. Accordingly, the Safety Board recommends that Western Pacific:

Install physical appliances, such as car retarders, track skates, or derails, to prevent cars from rolling out of the lower ends of the tracks at South Sacramento Yard. (R-80-27)

Improve the quality of supervision and the training of yard employees in respect to the safe operation of South Sacramento Yard. (R-80-28)

Periodically examine employees on those rules which govern their performance. The examination should ensure that employees exhibit knowledge and understanding of the pertinent rules and proficiency in their application. (R-80-29)

Each of the above recommendations is designated "Class II, Priority Action."

Response to Railroad Safety Recommendations

R-79-14 through -28, from the Federal Railroad Administration, July 18, 1980.—Response is in reference to the Safety Board's letter of May 12, 1980, commenting on FRA's response of last October 12 (44 FR 72248, December 13, 1979) to recommendations issued in connection with Board report No. NTSB-SEE-79-2, "Safety Effectiveness Evaluation—Review of the Federal Railroad Administration's Hazardous Materials Program and the Applicable Track Safety Standards."

The Safety Board's letter of May 12 advised that FRA's response to recommendations R-79-14 (re qualifications of the Associate Administrator for the FRA's Office of Safety) and R-79-15 (re organizational changes in FRA's Office of Safety) had been found to be satisfactory. Both recommendations are now classified as "Closed—Acceptable Action." The Board noted that recommendation R-79-16 (re establishment of a data base for railroad safety problems) will continue in "Open—Acceptable Action" status, awaiting development of the proposed hazardous materials information system.

With respect to recommendation R-79-17, concerning revision of the track safety program, the Safety Board's May 12 letter affirms that all track should be maintained and made safe for the passage of all trains and that trackage in urban corridors should be given high priority maintenance if such trackage carries hazardous materials traffic because of the increased risk of harm to the public. The Board notes that recommendation R-79-17 and

recommendations R-78-32 and R-79-22 indicate plainly that the Board favors decisions based on an acceptable level of risk. Further in response to R-78-32 on January 16, 1979, and June 6, 1979, FRA advised of an accident study in conjunction with population/traffic density data to identify urban corridors which may qualify for track improvement funding. The Board states that that response appears to be inconsistent with FRA's current position that it will not differentiate in track requirements based on risk. Also, the Board takes issue with FRA's belief that risk levels must be equated with deferred maintenance and capital shortfall of carriers. The Board agrees that financial hardships have been, in large measure, responsible for the track problems of today; however, the Board cannot passively continue to accept substandard track conditions. Aside from clarification of these issues, the Board asked to receive FRA's System Safety Plan, particularly as it relates to R-79-17.

In its July 18 response concerning reommendation R-79-17, FRA points to its January 16, 1979, response which discussed track improvement funding and specified that funding was pursuant to Title 5 of the Railroad Revitalization and Regulatory Reform Act of 1976. This Act established a fund to provide the necessary capital to furnish financial assistance to railroads for facilities maintenance, rehabilitation, improvements, and acquisitions. FRA says this assistance is only available to those railroads which apply for such funds through FRA and that FRA does not fund projects without an application. FRA notes that its January 16, 1979, response implied that such information as accident data, volume of hazardous materials traffic, etc., is beneficial in justifying these loan applications. Also, FRA states that the report referred to in its June 6, 1979, response has not yet been received. This report will provide valuable information concerning the transportation of hazardous material but it will not provide the funds necessary to upgrade the track to some level higher than now required, FRA states.

With respect to recommendation R-79-18 concerning selective upgrading of track, the Safety Board's May 12 letter notes that (a) monthly accident report printouts are furnished to track inspectors in the field, (b) these reports enable the inspectors to determine the locations of trackage having a high derailment history and concentrate track inspection efforts in these areas, and (c) upgrading of substandard track is thus brought about through FRA's enforcement program. The Board said that this approach fulfills the objective of the recommendation and R-79-18 will be classified as "Closed—Acceptable Action."

In connection with recommendation R-79-19, regarding revision of track safety standards, the Safety Board said it is aware of FRA's ongoing revision of the track standards and trusts a final rule will be issued following analysis of the material presented at the public hearing; evaluation of FRA's response to recommendation R-79-19 is dependent on the revisions contained in the final rule. In the interim, the recommendation will be classified as "Open—Acceptable Action."

Concerning recommendation R-79-20 (evaluation of the Automated Track Inspection Program (ATIP)), the Safety Board understands that FRA will ultimately relate the output from the Hazard Analysis and Priority Determination System (HAPDS) with the ATIP to establish priorities for dealing with the problems of track maintenance inspections and to measure the succes of ATIP efforts. The impact of the combined programs will be incorporated in FRA's System Safety Plan. Accordingly, the Board's May 12 letter notes, until the HAPDS becomes operative, recommendation R-79-20 will be classified "Open—Acceptable Action."

The Safety Board notes that FRA's response to recommendation R-79-21, relating to the State Participation Program, does not address the problem as the Board perceives it. FRA's and the State's opinion differ because of different interest. The Board believes that an objective evaluation of the reasons why more States haven't joined the State Participation Program can only be performed by an unbiased, independent party. The Board does not consider FRA's response to satisfy the requirements of the recommendation and, therefore, the recommendation will be classified as "Open—Unacceptable Action."

With respect to recommendation R-79-22, which concerned bypass routing of hazardous materials, the Safety Board's May 12 letter expressed appreciation of FRA's efforts to determine the feasibility of special routes for hazardous materials traffic. As previously stated, the Board believes that safety would be enhanced by requiring that trackage in urban corridors be given high priority maintenance if the trackage is utilized for hazardous materials movement. Should the feasibility study lead to the establishment of special routes for hazardous materials, the high-density hazardous material movement will emphasize the importance of the track quality. The Board asked to be advised of the anticipated completion date of the feasibility study and urged FRA to establish a cooperative working procedure with the Interstate Commerce Commission (ICC) in the determination of routes for hazardous materials. Recommendation R-79-22 is classified as "Open—Acceptable Action."

In its July 18 response concerning R-79-22, FRA indicates that a national program of rerouting hazardous materials cars to avoid exposure to major population centers was found to be counterproductive due to the incurrence of additional car mileage, increased interchange switching and more exposure to yard handling activities which are associated with circuitous routing. FRA notes that in the simulation of this study, actual casualties were lower in 1975 through 1977 when compared with the number of expected casualties under the following conditions:

- Minimize population exposure but no change in traffic shares. The historical junctions between railroads would be maintained.
- Minimize population exposure, with no restraints on any rerouting which would change a railroad's traffic share.

FRA reports that the final report on this study is currently being prepared for FRA by the Transportation Systems Center, and as soon as the report is available a copy will be forwarded to the Safety Board. FRA is also studying the effectiveness of selective local rerouting of hazardous materials cars. A case study of the costs and benefits of rerouting hazardous materials cars in a single local area is now underway. A followup contract to identify those sites in which localized rerouting may be useful is planned.

The Safety Board's May 12 letter with respect to recommendation R-79-23, which concerns tank car head shield and insulation program, expresses emphatic opposition to the process in which tank car owners were routinely allowed to transfer tank cars from the "T" to the "J" retrofit programs. The Board's concern was clearly expressed with the issuance of recommendations R-79-65 and -66 on October 19, 1979. However, the Board is now pleased to learn that FRA has accelerated the retrofit program, and that the tank cars shifted from the "T" to the "J" retrofit were not counted in the requirement for 65 percent retrofit completion of "J" tank cars by December 31, 1979. The Board asked FRA to report the progress of the head shield and insulation program.

Meanwhile, recommendation R-79-65 will be classified in an "Open—Acceptable Action" status. In response, FRA reports that as of June 15, 1980, 75 compliance reports covering 17,622 DOT Specification 112 and 114 tank cars have been received as required by regulations issued in Materials Transportation Bureau Docket HM-144. The tank car retrofit status as of April 1, 1980, is as follows:

Cars with Completed Coupler Retrofit	17,622 (100%)
Cars with Completed "A" Retrofit	788 (100%)
Cars Subject to "S" Retrofit	2,233
Completed	2,217 (99.3%)
Cars Subject to "T" Retrofit	1,858
Completed	1,338 (70.0%)
Cars Subject to "J" Retrofit	12,744
Completed	10,921 (85.7%)

With further reference to recommendation R-79-23, FRA reports that 29 owners with Specification 112 and 114 tank car fleets ranging from 1 to 468 tank cars have completed their retrofit program. A total of 1,529 cars have been completed by these owners. Also, according to commodity usage, 15,242 out of 17,622 tank cars (86.5%) have been completely retrofitted. The "S" retrofit program is essentially completed. As of April 1, 1980, 16 tank cars remained to be retrofitted with headshields; 15 of these were at car repair shops and the 16th was en route. FRA notes that encouraging progress is being made in completing the "T" retrofit. Of these tank cars, 70 percent have been completed. Approximately 16 cars are being retrofitted each week with thermal protection. At this rate, the retrofit should be completed by December 31, 1980. Twelve of these cars lacked headshields as of April 1, 1980; however, they were in car shops for retrofitting. Further, FRA reports that the "J" retrofit continues ahead of schedule with approximately 1,400 more tank cars completely retrofitted on April 1, 1980, than required by the regulation. The current retrofit rate is approximately 125 tank cars per week. At this rate, this program should be completed by September 15, 1980.

The Safety Board's May 12 letter states that FRA's response fails to address the specifics of recommendation R-79-24, which concerns safety improvement of tank cars. The Board feels that the Inter-Industry Task Force is the appropriate and most effective group to determine what additional cost-effective steps, based on risk-ranking results, can be taken to make tank cars more resistant to hazardous materials releases in derailments. The Board asked for a response which speaks to the specifics of the recommendation, and continues to classify R-79-24 as "Open—Unacceptable Action."

FRA's July 12 response with respect to recommendation R-79-24 states that the Inter-Industry Task Force could play a part in the process of determining proper modification to tank cars so as to reduce the incidence of hazardous materials released in derailments. However, since 1972 FRA has been jointly working with the Association of American Railroads/Railway Progress Institute Tank Cars Safety Research Project. FRA believes that this is the key body for achieving results since it has the knowledge, expertise and ability to effect improvement in tank car safety. Shipper, carrier, and car builder information is stored in usable form and is regularly applied to developing safety modifications for tank cars. As a result of this effort, the tank car builders have developed "low profile" bottom unloading valves. Other areas of current study include bottom shield protection and improved top fitting protection. FRA believes that this program is the most effective one in developing cost-effective improvements so as to improve tank car safety.

With respect to recommendation R-79-25, which concerned lowering of main track classifications, the Safety Board in its May 12 letter states that the Board's concern in making this recommendation was that when a carrier lowers its track classification, it is permitted to accordingly decrease the maintenance standards. As noted in Board Report No. NTSB-SEE-79-2, in CY 1975, 40 percent of train accidents occurred on Class I track; in CY 1977, this track class accounted for 52 percent of the train accidents. Recommendation R-79-25 asks FRA to make a determination of the safety effect of the lowering of maintenance standards as opposed to requiring that the track be maintained to the standards of the higher class. With this clarification, the Board asked to be apprised of FRA's plans to determine the safety effect of permitting reduced maintenance standards (track classification) in lieu of maintaining the track in the originally higher track class. Pending receipt of this information, recommendation R-79-25 will also be classified as "Open—Unacceptable Action."

In response to the Board's comments on recommendation R-79-25, FRA notes that the present track standards allow the railroads to determine the classification of track to which the track will be maintained. However, the safety equivalency among the six track classifications is intended to be preserved by speed reductions as the classification decreases. Even though the major portion of train accidents occur on Class I trackage, almost two-thirds of past derailments are in yards where a comparatively high frequency of movement (exposure) occurs and where the severity potential is significantly reduced due to the maximum speed limitation of 10 mph. FRA data shows that the damage to equipment and track in derailments is directly related to speed. Thus, maintaining the physical plant to a higher class becomes an economic rather than a safety issue.

With respect to recommendation R-79-26, regarding the development of compatible economic and safety policies, the Safety Board states that FRA's response reflects full awareness of the various constraints which adversely affect the financial status of railroads but does not indicate coordination between FRA and ICC in establishing the economic and safety policies cited in the recommendation, pending Congressional action on the Railroad Deregulation Act. The Safety Board asked to be advised of any constructive actions that have been mutually undertaken by the FRA and the ICC so as to establish consonant policies of both safety and profit. Pending receipt of this information, recommendation R-79-26 will be classified as "Open—Unacceptable Action." FRA's July 18 letter does not address recommendation R079026.

The Safety Board's May 12 letter with respect to the recommendation R-79-27, which concerned Transportation Test Center (TTC) policies, notes that FRA and the Board are in accord in their conclusion that the TTC data output is not sufficiently timely. FRA's intent to acquire a computer to expedite data processing is regarded as an effective method to correct the problem. The Board asked FRA to determine whether the current policy encourages the "filing" of industry data which should be publicized. Also, the Board asked to be advised when the computer system becomes operative at the TTC. Until such time, recommendation R-79-27 will be classified as "Open—Acceptable Action." In response, FRA reports that the computer system at TTC is now in full operation. This computer will help to expedite the analysis of test results, thus reducting the Center's dependence upon outside contractors. However, in order to encourage voluntary testing and improvement, FRA will continue to treat designated private industry test data as proprietary data.

Recommendation R-79-28 is concerned with reduced speeds of trains

carrying hazardous materials in tank cars not equipped with shelf couplers and tank head protection. The Safety Board in its May 12 letter expresses disagreement with FRA's belief that it would be impractical if not impossible to make a distinction of freight train speed based on nonequipped cars. The Board notes that restriction of a train's speed due to any unusual equipment in the train is an everyday operating practice. The problem of the timeframe to amend the regulations could be readily handled through the issuance of an Emergency Order. Ast to the effect of Emergency Order No. 5, this restriction essentially governs car handling techniques in switching yards and is not applicable to this recommendation. The Board directed FRA's attention to 44 FR 8407 of February 9, 1979, relating to FRA Emergency Order No. 11. As noted, "Placement of a limitation on the speed of trains transporting placarded hazardous materials cars is also important because it minimizes the risk created by certain other factors that could cause a derailment, etc. . . ." The Safety Board supports this judgment, and believes that nonequipped tank car safety problems can be lessened through the protection of movement at reduced speed. The Board asked FRA for its intent to act on this recommendation and noted that R-79-28 will be continued in "Open—Acceptable Action" status.

FRA's July 18 response in connection with recommendation R-79-28 notes that the status report contained in response to recommendation R-79-23, above, indicates that the shelf coupler and tank head retrofitting process is nearing completion. Therefore, the problems with 112 and 114 tank cars are minimized. In addition, steps are being taken to require shelf couplers on all tank cars carrying hazardous materials. FRA states that in the interim, options concerning train speed are being considered in the context of the overall transportation system impact. At present, it appears that while speed restrictions in selected local cases may be justifiable, a national restriction on the speed of all cars carrying hazardous materials commodities (70 to 85 percent of all trains) would not result in desirable economic or safety outcomes.

Note.—Single copies of Safety Board reports are available without charge, as long as limited supplies last. Copies of Board recommendation letters, responses and related correspondence are also provided free of charge. All requests for copies must be in writing, identified by recommendation or report number. Address requests to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of Safety Board reports may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22161.

(49 U.S.C. 1903(a)(2), 1906)

Margaret L. Fisher,

Federal Register Liaison Officer.

August 8, 1980.

[FR Doc. 80-24524 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-58-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-389-A] Florida Power & Light Co.;

City of Orlando, Fla. and the Orlando Utilities Commission; Receipt of Additional Antitrust Information; Time for Submission of Views on Antitrust Matters

Florida Power and Light Company, pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, (the Act), filed on June 13, 1980, information requested by the Attorney General for Antitrust Review as required by 10 CFR Part 50, Appendix L. The information concerns the addition of the City of Orlando, Florida and the Orlando Utilities Commission, as an owner of the St. Lucie Plant, Unit 2, located on Hutchinson Island in St. Lucie County, Florida. The Orlando Utilities Commission was created by the Florida State Legislature and is a part of the City of Orlando, Florida.

The information was filed in connection with Florida Power and Light Company's application for an amendment to Construction Permit No. CPPR-144 to the St. Lucie Plant, Unit 2. Construction Permit No. CPPR-144 was issued on May 2, 1977 and construction of the plant is underway.

The original Notice of Receipt of application for construction permit and operating license included the antitrust aspects of the application and was published in the **Federal Register** on June 16, 1971, (36 FR 11473).

A copy of the Florida Power and Light Company letter, dated June 13, 1980 and above stated documents are available for public examination and copying for a fee at the Commission's Public Document Room located at 1717 H Street, NW, Washington, D.C. and at the Indian River Community College Library, 3209 Virginia Avenue, Ft. Pierce, Florida 33450

Any person who wishes to have his views on the antitrust matters with respect to the City of Orlando, Florida and Orlando Utilities Commission presented to the Attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Utility Finance Branch, Division of Engineering, Office of Nuclear Reactor Regulation on or before September 29, 1980.

Dated at Bethesda, Maryland this 18th day of July 1980.

For the Nuclear Regulatory Commission.

B. J. Youngblood,

Chief Licensing Branch No. 1, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 80-22794 Filed 7-29-80; 8:45 am]

BILLING CODE 7590-01-

POSTAL SERVICE

Rate Adjustment for Qualified Political Committees

On August 5, 1980, the Governors of the Postal Service, pursuant to 39 U.S.C. 3627, adopted the following resolution concerning the adjustment of the bulk third-class rates of postage paid by qualified political committees pursuant to 39 U.S.C. 3626(e):

Resolution of the Governors of the U.S. Postal Service

[Resolution No. 80-5]

Adjustment of Bulk Third-Class Rates for Political Committee Mailings

Resolved: Pursuant to section 3627 of title 39, United States Code, and in accordance with the provisions of the Postal Service Appropriation Act, 1980 (Public Law 96-74), the Governors of the Postal Service determine that the rate for bulk third-class mail matter mailed by any qualified political committee authorized by section 3626(e) of title 39, United States Code (Public Law 95-593), shall be the regular rate for such mail matter, rather than the nonprofit rate, when the $4 million appropriated by Public Law 96-74 to cover qualified political committee mailings is expended before the end of fiscal year 1980. In making this determination, the Governors find that, in light of the upcoming election campaigns, there is a strong likelihood that the appropriation will not be sufficient to last through the remainder of the fiscal year. The Governors take this prospective rate adjustment action in order to ensure that the rate adjustment is made promptly upon the exhaustion of the revenue forgone appropriation. The rate adjustment shall take effect at the time that the appropriation for qualified political committees is fully depleted.

The foregoing Resolution was adopted by the Governors on August 5, 1980.

Louis A. Cox,

Secretary

Approximately $3 million of the amount appropriated for fiscal year 1980 has now been expended. The Postal Service intends to cease accepting bulk

third-class mailings by qualified political committees at the special (reduced) rates when the remaining funds are depleted. Because of the need for prompt action at that time, the Postal Service will be unable to five prior notice to qualified political committees that the full appropriation has been depleted. However, specific notice of the Governors' action is being given to each political committee presently authorized to mail at the special bulk third-class rates.

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 80-24533 Filed 8-13-80; 8:45 am]

BILLING CODE 7710-12-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 21676; (31-775)]

Conoco Inc. and Louisiana Gas System Inc.; Application for Exemption Pursuant to Section 2(a)(4)

August 8, 1980.

Notice is hereby given that Conoco Inc. ("Conoco"), High Ridge Park Stamford, Connecticut 06904, a Delaware corporation, and its wholly-owned subsidiary, Louisiana Gas System Inc. ("Louisiana Gas"), 5 Greenway Plaza East, Houston, Texas 77046, also a Delaware corporation, have filed an application pursuant to Section 2(a)(4) of the Public Utility Holding Company Act of 1935 ("Act") for an order declaring Louisiana Gas not to be a "gas utility company" under the Act. All interested persons are referred to the application, which is summarized below, for a description of the applicants and a statement as to the basis upon which the exemption is sought.

Conoco, directly and through subsidiaries, engages in business in over 20 countries. Its operations include the following: exploring for, developing and producing crude oil and natural gas; refining petroleum; producing and processing chemicals; and transporting and marketing crude oil, natural gas, refined products and chemicals. In addition, Conoco has held a major position in the coal industry in the United States through its wholly-owned subsidiary, Consolidated Coal Company, and has engaged in exploring for and producing uranium, and exploring for copper and other associated minerals. Conoco's natural gas transportation facilities include a 610 mile intrastate pipeline system in Louisiana (the "System") through which natural gas produced or purchased by Conoco is transported to its Gillis Plant for processing and to certain direct customers. In addition, Conoco transports natural gas for others over the System.

At December 31, 1979, Conoco reported consolidated assets of $8,802,139,000, and for the year then ended, consolidated revenues of $3,404,570,000. At that date, and for the same period, the total assets of the System were $34,048,000, and its total revenues were $70,775,000. Of the total revenues of the System, approximately $33,561,000 (or 47.42%) were from sales of natural gas for fed stock, fuel and pressure maintenance to industrial and utility purchasers (43,895 MCF representing $32,797,000) and to domestic and irrigation purchasers (231 MCF representing $462,000).

Approximately $35,828,000 (or 50.62%) of the System's total revenues were from intercompany transfers, and the balance was derived from fees for transporting gas for others.

Conoco proposes to transfer the System to Louisiana Gas. Following the transfer, Louisiana Gas will be primarily engaged in the pipeline business, but will, by virtue of retail sales of natural gas to purchasers other than Conoco's refining and chemical department and its industrial and utility purchasers, be a "gas utility company" within the meaning of Section 2(a)(4) of the Act. Conoco states that sales of natural gas at retail will not exceed 1% of the total revenues of Louisiana Gas on a *pro forma* basis, and requests that the Commission find that by reason of the small amount of such sales at retail Louisiana Gas will not be deemed a "gas utility company."

Section 2(a)(4) provides, in part, that the Commission may declare a company not to be a "gas utility company" if it finds that "(A) such company is primarily engaged in one or more businesses other than the business of a gas utility company, and (B) by reason of the small amount of natural or manufactured gas distributed at retail by such company it is not necessary in the public interest or for the protection of investors and consumers that such company be considered a gas utility comany for the purposes of [the Act]." Rule 10(a)(1) under the Act provides, further, that a company shall be exempt from the duties, liabilities and obligations imposed under the Act upon it as a "holding company" with respect to a subsidiary which, insofar as it is a public utility company, is declared not to be a "gas utility company" under Section 2(a)(4).

Notice is further given that any interested person may, not later than September 3, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted in the manner provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may take such other action as it deems appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley F. Hollis,

Assistant Secretary.

[FR Doc. 80-24565 Filed 8-13-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11292; (812-4671)]

Intercapital Income Securities Inc., et al.; Filing of Application Pursuant to Section 10(e)(3) of the Act for an Order Suspending the Operation of Section 15(f)(1) of the Act for a Period of 150 Days

August 8, 1980.

In the Matter of Intercapital Income Securities, Inc., Intercapital Liquid Asset Fund Inc. and Dean Witter Reynolds Intercapital Inc., One Battery Park Plaza, New York, New York 10004.

Notice is hereby given that InterCapital Income Securities Inc., a registered closed-end, diversified investment company, InterCapital Liquid Asset Fund Inc., a registered, open-end, diversified investment company (collectively, the "InterCapital Funds"), and Dean Witter Reynolds InterCapital Inc. ("InterCapital Adviser," collectively with the InterCapital Funds, "Applicants"), adviser to the InterCapital Funds, filed an application pursuant to Section 10(e)(3) of the Investment Company Act of 1940 ("Act") on May 23, 1980, with an

amendment thereto on July 1, 1980, for an order declaring that, for purposes of the requirements of Section 15(f)(1) of the Act, the period for filling a currently existing vacancy on each of the InterCapital Funds' boards of directors be expanded to 150 days. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Applicants state that, effective September 1, 1977, the InterCapital Funds' advisory contracts with InterCapital Adviser were assigned as a result of a transaction in which all of the outstanding stock of InterCapital Adviser was transferred from Standard & Poors Corporation to Dean Witter Organization Inc. (now Dean Witter Reynolds Organization Inc.). Applicants further state that, from September 1, 1977, to March 23, 1980, at least 75 percent of the InterCapital Funds' boards of directors consisted of persons who were not interested persons of InterCapital Adviser. According to the application, on March 23, 1980, Dr. Arthur M. Okun, who had served as a director who was not an interested person of InterCapital Adviser, died, leaving a vacancy on the InterCapital Funds' boards of directors and leaving each board with only two of three directors being directors who are not interested persons of InterCapital Adviser. Section 15(f)(3) of the Act provides, in part, that an investment adviser of a registered investment company may receive any amount or benefit in connection with a sale of securities of such investment adviser which results in an assignment of an investment advisory contract with such registered investment company if, for a period of three years after the time of such action at least 75 percent of the members of the board of directors of the registered investment company whose advisory contract was assigned are not interested persons of the investment adviser of such company or interested persons of the predecessor investment adviser and if there is no unfair burden imposed upon the registered investment company as a result of such transaction.

Section 10(e) of the Act provides, in part, that if by reason of the death of any director the requirements of Section 15(f)(1) in respect of directors shall not be met by an investment company, the operation of such provision shall be suspended for a period of thirty days if the vacancy may be filled by action of the board of directors, for a period of sixty days if a vote of stockholders is required to fill the vacancy, or for such longer period as the Commission may prescribe, by order upon application, as not inconsistent with the protection of investors.

Applicants represent that the two remaining directors who are not interested persons of InterCapital Adviser ("Disinterested Directors") commenced a search for a replacement for Dr. Okun promptly after his death. Applicants represent that, despite diligent efforts to locate a replacement, no replacement has yet been found. Applicants state that since the vacancy occurred, Applicants have not taken action to renew or extend the InterCapital Funds' investment advisory or principal underwriting contracts or to appoint independent public accountants as the InterCapital Funds' auditors, and further represent that no such actions will be required or taken during the period of time for which an extension has been requested in the application. Applicants represent that, since the vacancies have occurred, Applicants have not taken any action that would impose an "unfair burden" (as that term is used in Section 15(f)(2)(B) of the Act) on the InterCapital Funds and that it is not contemplated that any such action will be taken during the period of the requested extension. Applicants also state that two-thirds of the InterCapital Funds' present boards of directors are not interested persons of the InterCapital Funds or InterCapital Adviser and that all of the directors of the InterCapital Funds were elected to office by a vote of shareholders at an annual or special meeting of shareholders. Applicants further state that the nominee for election to the boards of directors will not be an interested person of InterCapital Adviser or the InterCapital Funds. Applicants assert that, in light of the above representations, the order that they request would not be inconsistent with the protection of investors.

Notice is further given that any interested person may, not later than September 2, 1980, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

FR Doc. 80-24567 Filed 8-13-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11293; (811-2065)]

Metropolitan Fund, Inc., (The); Filing of Application Pursuant to Section 8(f) of the Investment Company Act of 1940 for an Order of the Commission Declaring That Applicant Has Ceased To Be an Investment Company

Notice is hereby given that The Metropolitan Fund, Inc. ("Applicant"), c/o The Plains Corporation, 7000 E. Camelback Road No. 33, Scottsdale, Arizona 85251, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on June 21, 1980, pursuant to Section 8(f) of the Act, for an order of the Commission declaring that Applicant has ceased to be an investment company as that term is defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant was organized under the laws of the State of Arizona. It registered under the Act on May 25, 1970. The application states that Applicant has not filed a registration statement pursuant to the Securities Act of 1953, and thus has never made a public offering of its securities. The application also states, among other things, that Applicant's charter has been abandoned; that it has no securityholders; that it has no assets, debts or liabilities outstanding; that it is not a party to any pending litigation or administrative proceedings; and that Applicant has not within the last

eighteen months transferred any of its assets to a separate trust the beneficiaries of which were or are shareholders of Applicant. Finally, Applicant states it is not currently engaged in nor will it engage in any business activities except the winding-up of its business affairs.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than September 8, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 80-24566 Filed 8-13-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 17052; (SR-MSRB-80-6)]

Municipal Securities Rulemaking Board; Filing of Proposed Rule Change by the Municipal Securities Rulemaking Board and Order Approving Proposed Rule Change

August 6, 1980.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act"), notice is hereby given that on July 24, 1980, the Municipal Securities Rulemaking Board (the "MSRB") 1150 Connecticut Avenue, N.W., Suite 507, Washington, D.C. 20036, filed with the Commission copies of a proposed rule change which would amend MSRB rule G-3, the MSRB's professional qualifications rule. The proposed rule change would extend from August 11, 1980, to September 15, 1980, the effective date of the requirement that persons performing the fucntions of municipal securities principals must qualify as municipal securities principals by taking and passing the Municipal Securities Principal Qualification Examination (the "Examination"), if they are not eligible for one of the exemptions provided under the rule. The text of the proposed rule change is as follows:[1]

Rule G-3. Classification of Principals and Representatives; Numerical Requirements; Testing

No municipal securities broker or municipal securities dealer or person who is a municipal securities principal, financial and operations principal, or municipal securities representative (as hereafter defined) shall be qualified for purposes of rule G-2 unless such municipal securities dealer or person meets the requirements of this rule.

(a) through (b). No change.

(c) Qualification Requirements for Municipal Securities Principals.

(i) through (v). No change.

(vi) The requirements of paragraph (c)(i) shall become effective on *September 15, 1980* [August 11, 1980 (six months following the date of the first administration of the Municipal Securities Principal Qualification Examination)].

(d) through (h). No change.

Interested persons are invited to submit written data, views, and arguments concerning the proposed rule change by September 4, 1980. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-MSRB-80-6.

Copies of the submission, all subsequent amendments, and all written statements with respect to the proposed rule change which are filed with the Commission, and of all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB and, in particular, the requirements of Section 15B, and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof. The proposed rule change, by extending from August 11, 1980, to September 15, 1980, the date by which candidates subject to the examination requirement must take and pass the Examination, will ensure that all candidates are afforded at least the six month period contemplated by MSRB rule G-3 for taking and passing the Examination. The six month time period was included in MSRB rule G-3 to provide a reasonable time for a person currently performing activities as a municipal securities principal to satisfy the examination requirement. Candidates associated with securities firms that are not members of the National Association of Securities Dealers, Inc. ("SECO firms"), and banks for which the Commission is the appropriate regulatory agency were not able, however, to enroll for the Examination until early March of 1980. Accordingly, by approving the rule on an accelerated basis, the Commission will provide at least a six month period for all candidates.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule changes referenced above be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 80-24569 Filed 8-13-80; 8:45 am]

BILLING CODE 8010-01-M

[1] *Italics* indicate new language; [Brackets] indicate deletions.

[Release No. 11291; (811-2595)]

Trinwall Cash Reserve, Inc.; Filing of Application for an Order Pursuant to Section 8(f) of the Act Declaring that Applicant Has Ceased To Be an Investment Company

August 7, 1980.

Notice is hereby given that Trinwall Cash Reserve, Inc. ("Applicant"), 61 Broadway, New York, New York 10006, an open-end, diversified, investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on June 17, 1980, pursuant to Section 8(f) of the Act, and Rule 8f-1 thereunder, for an order declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

On September 30, 1975, Applicant, a Maryland corporation, registered under the Act and filed a registration statement under the Securities Act of 1933 with respect to 4,000,000 shares of its capital stock, $1.00 par value. Such registration statement was declared effective on December 5, 1975, and Applicant commenced offering its shares to the public on that date.

Applicant represents that on October 26, 1979 its board of directors voted to recommend to shareholders approval of transactions contemplated by Articles of Transfer and Agreement and Plan of Reorganization (the "Agreement"), providing for the acquisition by Putnam Daily Dividend Trust ("Putnam"), an open-end, diversified investment company registered under the act, of substantially all of the assets of Applicant in exchange for shares of Putnam, the pro rata distribution of such shares to shareholders of Applicant, and for Applicant's dissolution. Applicant further states that on February 8, 1980 the Agreement was approved by its shareholders, and that on February 11, 1980 substantially all of its assets were acquired by Putnam in exchange for shares of beneficial interest in Putnam under the terms of the Agreement.

Applicant represents that as of the date of the filing of the application it had no assets and no assets and no debts or other liabilities outstanding, and was not a party to any litigation or administrative proceedings. Applicant further represents that it is not engaged, and does not proposed to engage, in any business activities other than those necessary for the winding up of its affairs.

Section 8(f) of the Act provides, in part, that when the Commission upon application finds that a registered investment company has ceased to be an investment compnay, it shall so declare by order and, upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than September 2, 1980, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the cse of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 80-24588 Filed 8-13-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21675; (70-6482)]

Western Massachusetts Electric Co.; Supplemental Notice Regarding Proposed Issuance and Sale of First Mortgage Bonds at Competitive Bidding

August 8, 1980.

Supplemental notice is hereby given that Western Massachusetts Electric Company ("WMECO"), 174 Brush Hill Avenue, West Springfield, Massachusetts, a public-utility subsidiary company of Northeast Utilities, a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the following proposed transaction. All interested parties are referred to said application, which is summarized below, for a complete statement of the proposed transaction.

On August 4, 1980, WMECO's proposal to issue and sell, at competitive bidding, up to $30,000,000 principal amount of its First Mortgage Bonds, Series N, — % due October 1, 2010 was noticed. The notice stated that, among other things, the interest rate, which shall be a multiple of ⅛ of 1%, and the price, exclusive of accrued interest, to be paid to WMECO, would be not less than 100% nor more than 103% of the principal amount thereof, to be determined by competitive bidding. WMECO now informs the Commission that the price, exclusive of accured interest, to be paid to WMECO, would be not less than 98% nor more than 102% of the principal amount thereof, to be determined by competitive bidding.

The notice also stated that the net proceeds from the sale of the bonds together with capital contributions totaling $15,000,000 scheduled to be made by Northeast Utilities to WMECO prior to the sale of the bonds, will be used by WMECO to repay a portion of the company's short-term borrowings estimated to total $37,000,000 at the time of such sale. WMECO now estimates such short-term borrowings to total $31,000,000 at the time of such sale.

In all other respects the proposed transactions remain the same.

Notice is further given that any interested person may, not later than August 31, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem

appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

Shirley F. Hollis,

Assistant Secretary.

[FR Doc. 80-24564 Filed 8-13-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11290; (811-2142)]

Zenith Growth Fund, Inc.; Proposal to Terminate Registration Pursuant to Section 8(f) of the Investment Company Act of 1940

August 7, 1980.

Notice is hereby given that the Commission proposes, pursuant to Section 8(f) of the Investment Company Act of 1940 ("Act"), to declare by order on its own motion, that Zenith Growth Fund, Inc. ("Fund"), c/o Bernard W. Heinel, President, Fund/Plan Services, Inc., P.O. Box 8079, Philadelphia, Pa. 19101, registered under the Act as an open-end, diversified, management investment company, has ceased to be an investment company as defined in the Act.

Information contained in the files of the Commission indicates that the Fund was organized under the laws of the State of Delaware on May 20, 1970; that it registered under the Act on November 10, 1970; and that it filed a registration statement (File No. 2-38782) pursuant to the Securities Act of 1933. This registration statement became effective on June 16, 1972, and permitted the Fund to commence the public offer and sale of shares of its capital stock. The Fund's last effective proposectus used in the offer and sale of its shares was dated October 6, 1972. In December, 1973, the public sale of the Fund's shares was discontinued, and on April 24, 1974, the Fund's Board of Directors suspended the right of redemption and no Fund shares were redeemed after that date. By August, 1974, the Fund was left without any officers or directors, and with no investment adviser.

The First Pennsylvania Bank, N.A. ("Bank"), acting as the Fund's custodian, presently has in its possession portfolio securities of the Fund which it has found to have no value. The Bank last received its custodian fee from the Fund in November, 1973. In August, 1977, and June, 1978, the Bank received $425.11 and $2100.00, respectively, for the shares of five companies held by the Fund. The Bank applied these amounts to the payment of fees owed it by the Fund. The Bank is still owed $3,000.00 under its Custody Agreement with the Fund, and Fund/Plan Services, Inc., an affiliate of the Bank, is owed approximately $38,500 for shareholder services it provided the Fund. The Fund appears to have a number of other outstanding obligations, including bills for legal services and state taxes, no provision for payment of which has been made, and which far exceed the presently valueless assets being held by the Bank for the Fund.

The Bank has also acted as the Fund's transfer agent. According to the transfer agent's files, the Fund currently has 38 shareholders holding some 10,918.441 shares of the Fund (of which 4710 shares are in certificated form). Since the date that the right to redeem Fund shares was suspended, there has been no shareholder activity. In addition, because the assets of the Fund being held by the Bank currently have no value there are no assets available which may be distributed to Fund shareholders as a liquidating dividend. If the Fund assets held by the Bank should develop a value, it is possible that the Bank and Fund/Plan Services, Inc., would succeed in claiming such assets in payment for debts due them for services provided to the Fund. Since 1973 the Fund has not filed any of the periodic reports required by the Act. Thus, based on the above information, it appears that the Fund is not currently engaged in the business of an investment company.

Section 3(c)(1) of the Act provides in pertinent part, that any issuer whose outstanding securities (other than short term-paper) are beneficially owned by not more than 100 persons and which is not making and does not presently propose to make a public offering of its securities is not an investment company within the meaning of the Act.

Section 8(f) of the Act provides in pertinent part, that whenever the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than September 8, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personnally or by mail upon the Fund at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the matter will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley F. Hollis,

Assistant Secretary.

[FR Doc. 80-24563 Filed 8-13-80; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Application No. 09/09-5272]

Myriad Capital, Inc.

An application for a license to operate as a small business investment company under Section 301(d) of the Small business Investment Act of 1958, as amended (The Act) (15 U.S.C. 661 *et seq.*), has been filed by Myriad Capital, Inc. (Applicant), with the Small Business Administration (SBA) pursuant to 13 C.F.R. 107.102 (1980).

The officers, directors and stockholders of the Applicant are as follows:

Chuang-I Lin, 2770 Calle Aventura, Ranchos Palos Verdes, California 90274; president, director, 40.38 percent stockholder

Betty C. Lin, 2770 Calle Aventura, Ranchos Palos Verdes, California 90274; secretary, chief financial officer, director, 40.38 percent stockholder

Kuo Hung Chen, 10030 Daines Drive, Temple City, California 91780; director, 9.62 percent stockholder

Chin Ying Wang, 5507 Cartagena Drive, Houston, Texas 77035; director, 9.62 percent stockholder

The Applicant, a California corporation, with its principal place of

business at 8820 Sepulveda Boulevard, Suite 109, Los Angeles, California 90045, will begin operations with $520,000 of paid-in capital and paid-in surplus derived from the sale of 5,200 shares of common stock.

The Applicant will conduct its activities primarily in the States of California, Texas, Louisiana, and Arizona.

Applicant intends to provide assistance to all qualified socially or economically disadvantaged small business concerns as the opportunity to profitably assist such concerns is presented.

As a small business investment company under Section 301(d) of the Act the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended, from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the Applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the Applicant under their management, including adequate profitibility and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations

Notice is hereby given that any person may, not later than 15 days from the date of publication of this notice, submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Associate Administrator for Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 200416.

A copy of this notice shall be published in a newspaper of general circulation in Los Angeles, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 7, 1980.

Michael K. Casey,

Associate Administrator for Investment.

[FR Doc. 80-24526 Filed 8-13-80; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Office of the Secretary

[Delegation of Authority No. 145-1, Public Notice 719]

Foreign Assistance Act of 1961 and Certain Related Acts; Delegation of Authority

Correction

In FR Doc. 80-23265 appearing on page 51974 in the issue of Tuesday, August 5, 1980, the "Delegation of Authority No." should read as set forth in the heading above.

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD (80-101)]

Chemical Transportation Advisory Committee; Meeting of Subcommittee on Liquefied Gas Vessels

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Chemical Transportation Advisory Committee's Subcommittee on Liquefied Gas Vessels to be held on Wednesday, September 17, 1980, beginning at 9 a.m., Room 8334, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590. The agenda for its meeting is as follows:

To discuss inspection and testing standards for new liquefied gas ships, i.e. those ships subject to 46 CFR Part 154, "Safety Standards for Self-Propelled Vessels Carrying Bulk Liquefied Gases."

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements. Any member of the public may present a written statement to the Subcommittee at any time. For additional information, contact: Mary M. Williams, Commandant (G-MHM), 2100 Second Street, SW., U.S. Coast Guard Headquarters, Washington, D.C. 20593, (202) 426-2306.

For scheduling and for providing adequate seating, those wishing to present oral statements or attend the meeting should notify the above office no later than the day before the meeting.

Issued in Washington, D.C., on August 6, 1980.

Henry H. Bell,

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

[FR Doc. 80-24645 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-14-M

Federal Highway Administration

Environmental Impact Statement; Collier County, Fla.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Collier County, Florida.

FOR FURTHER INFORMATION CONTACT: R. V. Robertson, District Engineer, Federal Highway Administration, Post Office Box 1079, Tallahassee, Florida 32302, Telephone: (904) 224-8111.

SUPPLEMENTAL INFORMATION: The FHWA, in cooperation with the Florida Department of Transportation, will prepare an Environmental Impact Statement (EIS) for a proposal to improve State Road 951 in Collier County, Florida. The proposed improvement would involve the reconstruction of State Road 951 from State Road 92 on Marco Island to U.S. Route 41, for a distance of approximately 10 miles. Also included in this proposal is the structure carrying State Road 951 over Big Marco Pass.

Alternatives under consideration include (1) taking no action; (2) widening to four lanes, with a minimal separation between opposing traffic; and (3) widening to four lanes, with a safer, wider median. Approximately three miles of the project passes through coastal wetlands. Widening the existing roadway will require filling of existing canals and areas of mangrove vegetation.

Federal, State, and local agencies have contributed early coordination comments through the A-95 process. Additionally, a project planning team developing this project has contacted State, Federal, County, and local agencies for information relative to land use planning, water quality analysis, and local planning needs. A series of public information meetings will be held during the development of this EIS. In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearings. The draft EIS will be made available for public and agency review and comment

prior to the public hearing. No formal scoping meeting is planned at this time.

To insure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Issued on: August 4, 1980.

P. E. Carpenter,

Division Administrator, Tallahassee, Florida.

[FR Doc. 80-24220 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement: Douglas County, Oreg.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway in Douglas County, Oregon.

FOR FURTHER INFORMATION CONTACT: Paul V. Riedl, Environmental Coordinator, Federal Highway Administration, Equitable Center, Suite 100, 530 Center Street NE., Salem, Oregon 97301, Telephone: (503) 378-3832.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Oregon Department of Transportation, will prepare an environmental impact statement (EIS) on a proposal to reconstruct a 1.3 mile section of the Oakland-Shady Highway (State Route No. 234/ORE 99) in Douglas County, Oregon. The project is located in the northern city limits of Roseburg and passes through commercial, light industrial and residential land uses. The proposed improvements are considered necessary to provide for the existing and projected traffic demand and a safe and efficient highway meeting modern design standards.

Alternatives under consideration include (1) taking no action; (2) reconstructing the existing narrow two-lane road to current urban street standards: five lanes with curbs and sidewalks, with minor possible variations in alignment; and (3) other feasible alternatives that may develop during the project study stage.

Information describing the proposed action will be sent to the appropriate Federal, State, and local agencies and to citizens who have previously been involved and expressed interest in this proposal. As necessary, public meetings will be held and, in addition, a public hearing will be held. No formal scoping meeting is planned at this time.

Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Catalog of Federal Domestic Assistance Program Number 20.205, "Reconstruction of Oakland-Shady Highway from NW. Hooker Road-NE. Alamada Avenue."

The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program issued August 4, 1980.

E. J. Valach,

Program Development Engineer, Oregon Division, Salem, Oreg.

[FR Doc. 80-24519 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement: Multnomah & Clackamas Counties, Oreg.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Multnomah and Clackamas Counties, Oregon.

FOR FURTHER INFORMATION CONTACT: Paul V. Riedl, Environmental Coordinator, Federal Highway Administration, Equitable Center, Suite 100, 530 Center Street NE., Salem, Oregon 97301, Telephone: (503) 378-3832.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the Oregon Department of Transportation will prepare an environmental impact statement (EIS) on a proposal to widen a 4.1 mile section of Pacific Highway East (McLoughlin Blvd.) (State Route 99E/U.S. No. 1E) in Multnomah and Clackamas Counties, from the Ross Island Bridge in Portland to the Clackamas Highway Interchange in the City of Milwaukie, Oregon. The project is located in a developed urban area. The proposed improvements are considered necessary to provide for the existing and projected traffic demand.

Alternatives under consideration include: (1) Taking no action; (2) reconstructing the existing 4 to 6 lane facility to 6 travel lanes and one to two high occupancy vehicle (HOV) lanes, which may be reversible in portions; and (3) other feasible alternatives that may develop during the project study stage.

Information describing the proposed action will be sent to the appropriate Federal, State, and local agencies and to private organizations and citizens who have previously expressed interest in this proposal. As necessary, public meetings will be held and, in addition, a public hearing will be held. No formal scoping meeting is planned at this time.

Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

Catalog of Federal Domestic Assistance Program Number 20.205, "Reconstruction of McLoughlin Boulevard from Ross Island Bridge to Milwaukie.

The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and Federally assisted programs and projects apply to this program issued August 4, 1980.

E. J. Valach,

Program Development Engineer, Oregon Division Salem, Oreg.

[FR Doc. 80-24520 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

[Docket No. 25; Notice 41]

Consumer Information Regulations, Uniform Tire Quality Grading

AGENCY: National Highway Traffic Safety Administration.

ACTION: Notice of change in course monitoring tire size.

SUMMARY: This notice announces the selection by the National Highway Traffic Safety Administration (NHTSA) of a new tire size for radial course monitoring tires (CMT's) used in treadwear testing under the Uniform Tire Quality Grading (UTQG) Standards (49 CFR 575.104). UTQG treadwear grades are determined from treadwear projections based on tire performance in a 6,400-mile test sequence on a prescribed test course near San Angelo, Texas. The UTQG treadwear grading procedure accounts for environmental influence on the treadwear rates of tested tires by means of an adjustment factor derived by comparing the wear rates of concurrently run CMT's with an established CMT wear rate for the test course, the base course wear rate (49 CFR 575.104(d)(2)). CMT's are made available by NHTSA at the agency's San Angelo test facility for purchase by any person conducting UTQG testing.

Production of the radial construction CMT presently being supplies by NHTSA, the Goodyear Custom Polysteel Radial, has been discontinued in the size (GR 78–15) initially chosen by the agency for UTQG testing. In order to meet the continuing demand for radial CMT's, NHTSA has selected a new radial CMT, the Goodyear Custom Polysteel Radial, size P 195/75 R 14. Selection of a smaller size tire is considered desirable in view of the increasing trend toward downsized motor vehicles using smaller tire sizes. Use of the smaller CMT, which will not affect UTQG test results, will assure that the tire chosen will be appropriate for use on large numbers of vehicles to be produced in the coming years. Testing to establish a base course wear rate for the new tires is now underway and the tires should be available for purchase by the public by August of this year.

Due to reduced demand for bias ply and bias ply and bias-belted CMT's and the adequate stocks of these tires already on hand, no corresponding change in CMT size for these construction types is contemplated at this time. For further information on CMT availability contact Mr. James C. Gilkey, Office of Vehicle Safety Compliance, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202–426–2834).

(Sec. 103, 112, 119, 201, 203, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407, 1421, 1423); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on August 6, 1980.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 80–24369 Filed 8–8–80; 10:52 am]

BILLING CODE 4910–59–M

Petition for Hearing on Notification and Remedy of Defects; Denial

This notice sets forth the reasons for the denial of a petition for a hearing on the question of whether a manufacturer has reasonably met its obligation to remedy a safety-related defect.

On May 30, 1980, Ms. Carmen Cesario of Schaumburg, Illinois, petitioned the agency to hold a public hearing pursuant to 49 CFR 557.3(c) to determine if American Honda Motor Co. Inc. had reasonably met its responsibility to correct a safety-related defect in her 1977/78 CB750A motorcycle, specifically to replace the fusebox. Honda had notified her of the safety-related defect in her machine but her local dealer seemingly had never received the replacement part.

Information received from Honda indicated that the vehicle was repaired on June 18, 1980. Based upon the fact that the problem was resolved without holding a hearing, the petition was denied on July 17, 1980.

(Sec. 156, Pub. L. 93–492, 38 Stat. 1470 (15 U.S.C. 1416); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on August 7, 1980.

Lynn L. Bradford,

Associate Administrator for Enforcement.

[FR Doc. 80–24280 Filed 8–13–80; 8:45 am]

BILLING CODE 4910–59–M

Research and Special Programs Administration

Grants and Denials of Applications for Exemptions

AGENCY: Materials Transportation Bureau, D.O.T.

ACTION: Notice of Grants and Denials of Applications for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in June 1980. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
		Renewal and Party to Exemptions		
2587–P	DOT–E 2587	Mid-West Gases, Inc., Kansas City, KS	49 CFR 173.315(a)(1)	To become a party to Exemption 2587. (Mode 1.)
2732–X	DOT–E 2732	U.S. Department of Energy, Washington, DC	49 CFR 173.65(a), 173.65(b), 173.65(c).	To authorize the use of non-DOT specification packagings for the transportation of high explosives. (Modes 1, 2.)
2981–X	DOT–E 2981	Auston Powder Company, Cleveland, OH	49 CFR 173.64(a), 173.93(a)	To authorize the transportation of certain Class A and Class B explosives in packagings not prescribed in 49 CFR. (Modes 1, 2.)
2981–X	DOT–E 2981	Hercules, Incorporated, Wilmington, DE	49 CFR 173.64(a), 173.93(a)	To authorize the transportation of certain Class A and Class B explosives in packagings not prescribed in 49 CFR. (Modes 1, 2.)
3128–X	DOT–E 3128	Walter Kidde & Co., Inc., Belleville, NJ	49 CFR 173.304, 175.3	To authorize the use of non-DOT specification cylinders for the transportation of a Class C explosive and a liquefied nonflammable gas. (Modes 1, 2, 3, 4.)
3302–X	DOT–E 3302	Liquid Air Corporation of America, Chicago, IL	49 CFR 173.302, 175.3	To authorize the use of non-DOT specification sampling bottles (cylinders) for the transportation of certain nonflammable gases. (Modes 1, 2, 3, 4.)
3302–X	DOT–E 3302	Air Products and Chemicals, Inc., Allentown, PA	49 CFR 173.302, 175.3	To authorize the use of non-DOT specification sampling bottles (cylinders) for the transportation of certain nonflammable gases. (Modes 1, 2, 3, 4.)
3302–X	DOT–E 3302	Airco Industrial Gases, Murry Hill, NJ	49 CFR 173.302, 175.3	To authorize the use of non-DOT specification sampling bottles (cylinders) for the transportation of certain nonflammable gases. (Modes 1, 2, 3, 4.)
3563–X	DOT–E 3563	U.S. Department of Energy, Washington, DC	49 CFR 172.101, 173.302(a), 173.395(a).	To authorize the use of non-DOT specification cylinders for the transportation of a nonflammable, nonliquefied compressed gas. (Modes 1, 2, 4, 5.)
4390–X	DOT–E 4390	MCB Manufacturing Chemists, Inc., Cincinnati, OH.	49 CFR 173.119(a), 173.119(b), 173.125, 173.245, 173.263, 173.266, 173.268(e), 173.269, 173.272, 173.289, 173.346, 173.349.	To authorize the use of non-DOT specification glass inner packaging overpacked in a form fitting polystyrene case for the transportation of certain oxidizers, corrosive, flammable, and poison B liquids. (Modes 1, 2, 3.)
4390–X	DOT–E 4390	Mallinckrodt, Inc., St. Louis, MO	49 CFR 173.119(a), 173.119(b), 173.125, 173.245, 173.263, 173.266, 173.268(e), 173.269, 173.272, 173.289, 173.346, 173.349.	To authorize the use of non-DOT specification glass inner packaging overpacked in a form fitting polystyrene case for the transportation of certain oxidizers, corrosive, flammable, and poison B liquids. (Modes 1, 2, 3.)
4453–X	DOT–E 4453	Strawn Explosives, Inc., Dallas, TX	49 CFR 173.182(c), 173.114a(h)(3)	To authorize the use of non-DOT specification bulk, hopper-type tanks for the transportation of an oxidizer. (Mode 1.)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
		Renewal and Party to Exemptions—Continued		
4453-X	DOT-E 4453	Austin Powder Company, Cleveland, OH	49 CFR 173.182(c), 173.114a(h)(3)	To authorize the use of non-DOT specification bulk, hopper-type tanks for the transportation of an oxidizer. (Mode 1.)
4734-X	DOT-E 4734	General Electric Company, Waterford, NY	49 CFR 173.135(a)(9), 173.136(a)(8), 173.280(a)(8).	To authorize the use of a modified DOT Specification MC-331 cargo tank for the transportation of certain flammable liquids and corrosive materials. (Mode 1.)
4790-X	DOT-E 4790	Smith & Wesson/General Ordnance Equipment Company, Pittsburgh, PA.	49 CFR 173.305(d), 173.385(a)(1)	To authorize the use of non-DOT inside containers overpacked in DOT Specification 12B fiberboard boxes for the transportation of an irritating material. (Modes 1, 2.)
5196-X	DOT-E 5196	Air Products & Chemicals, Inc., Allentown, PA	49 CFR 172.101, 173.315(a)(1)	To authorize the use of non-DOT specification cargo tanks for the transportation of liquefied ethylene, a flammable gas. (Mode 1.)
5206-P	DOT-E 5206	Independent Explosives Co., Cleveland, OH	49 CFR 173.182(c)	To become a party to Exemption 5206. (Mode 1.)
5372-X	DOT-E 5372	Airco Industrial Gases, Murray Hill, NJ	49 CFR 173.301(d), 173.302(a)(3), 173.304(a)(2).	To authorize the shipment of various flammable and nonflammable gases in DOT Specification 3T cylinders marked "DOT-SP 5372" instead of "DOT 3T".
5372-X	DOT-E 5372	Union Carbide Corporation, Tarrytown, NY	49 CFR 173.301(d), 173.302(a)(3), 173.304(a)(2).	To authorize the shipment of various flammable and nonflammable gases in DOT Specification 3T cylinders marked "DOT-SP 5372" instead of "DOT 3T".
5372-X	DOT-E 5372	Air Products and Chemicals, Inc., Allentown, PA	49 CFR 173.301(d), 173.302(a)(3), 173.304(a)(2).	To authorize the shipment of various flammable and nonflammable gases in DOT Specification 3T cylinders marked "DOT-SP 5372" instead of "DOT 3T".
5456-X	DOT-E 5456	Fisher Scientific Company, Fair Lawn, NJ	49 CFR 173.245, 173.247, 173.263, 173.268, 173.269, 173.272, 173.349.	To authorize the use of non-DOT specification glass carboys overpacked in polystyrene drums for the transportation of certain poison B liquids, corrosive liquids, and oxidizers. (Modes 1, 2, 3.)
5704-X	DOT-E 5704	Hercules, Incorporated, Wilmington, DE	49 CFR 173.93(e), 173.62, 173.93(e)	To authorize the transportation of certain Class A and Class B explosives in prescribed non-DOT specification drums. (Modes 1, 2, 3.)
5852-X	DOT-E 5852	Philadelphia Gas Works, Philadelphia, PA	49 CFR 172.101, 173.315(a)	To authorize the use of non-DOT specification cargo tanks for the transportation of certain flammable liquefied compressed gases. (Mode 1.)
6113-X	DOT-E 6113	Fitchburg Gas and Electric Light Co., Canton, MA	49 CFR 172.101, 173.315(a)	To authorize the transportation of certain flammable gases in non-DOT specification cargo tanks. (Mode 1.)
6113-X	DOT-E 6113	Bay State Gas Co., Canton, MA	49 CFR 172.101, 173.315(a)	To authorize the shipment of certain flammable gases in non-DOT specification cargo tanks. (Mode 1.)
6113-X	DOT-E 6113	Providence Gas Co., Providence, RI	49 CFR 172.101, 173.315(a)	To authorize the transportation of certain flammable gases in non-DOT specification cargo tanks. (Mode 1.)
6197-X	DOT-E 6197	Providence Gas Company, Providence, RI	49 CFR 172.101, 173.315(a)(1)	To authorize the use of a non-DOT specification cargo tank for the transportation of liquefied natural gas or methane, flammable gases. (Mode 1.)
6225-X	DOT-E 6225	Great Lakes Chemical Corporation, El Dorado, AR.	49 CFR 173.252(g)	To authorize the shipment of bromine in packaging not presently allowed: glass jugs overpacked in polystyrene case and fiberboard box or fiberboard box with zonolite cushioning. (Modes 1, 3.)
6263-X	DOT-E 6263	Amtrol, Incorporated, West Warwick, RI	49 CFR 173.302(a)(1)	To authorize the transportation of certain nonflammable compressed gases in non-DOT specification welded, cylindrical or spherical, steel tanks. (Modes 1, 2.)
6296-X	DOT-E 6296	Olin Chemicals Group, Stamford, CT	49 CFR 173.377(g)	To authorize additional bag packagings, DOT Specification 44D, for the transportation of certain Class B poisons. (Modes 1, 2.)
6536-X	DOT-E 6536	SunOlin Chemical Company, Claymont, DE	49 CFR 172.101, 173.315(a)	To authorize the use of non-DOT specification cargo tank for the transportation of certain flammable and nonflammable gases. (Mode 1.)
6536-X	DOT-E 6536	Air Products & Chemicals, Inc., Allentown, PA	49 CFR 172.101, 173.315(a)	To authorize the use of non-DOT specification cargo tanks for the transportation of certain flammable and nonflammable gases. (Mode 1.)
6536-X	DOT-E 6536	Utility Propane Company, Elizabeth, NJ	49 CFR 172.101, 173.315(a)	To authorize the use of non-DOT specification cargo tanks for the transportation of certain flammable and nonflammable gases. (Mode 1.)
6536-X	DOT-E 6536	L. P. Transportation, Inc., Chester, NY	49 CFR 172.101, 173.315(a)	To authorize the use of non-DOT specification cargo tanks for the transportation of certain flammable and nonflammable gases. (Mode 1.)
6536-X	DOT-E 6536	New Jersey Natural Gas Company, Asbury Park, NJ.	49 CFR 172.101, 173.315(a)	To authorize the use of non-DOT specification cargo tanks for the transportation of certain flammable and nonflammable gases. (Mode 1.)
6536-X	DOT-E 6536	Public Service Electric and Gas Company, Newark, NJ.	49 CFR 172.101, 173.315(a)	To authorize the use of non-DOT specification cargo tanks for the transportation of certain flammable and nonflammable gases. (Mode 1.)
6602-P	DOT-E 6602	Jones Chemicals, Inc., Caledonia, NY	49 CFR 173.245(a), 173.314(c), 173.315(a)(1).	To become a party to Exemption 6602. (Modes 1, 2.)
6614-P	DOT-E 6614	Jones Chemicals, Inc., Caledonia, NY	49 CFR 173.263(a)(28), 173.277(a)(6).	To become a party to Exemption 6614. (Mode 1.)
6637-X	DOT-E 6637	Advanced Chemical Technology, City of Industry, CA.	49 CFR 173.119(a), (b), (m), 173.221, 173.245(a)(26), 173.249(a)(1), 173.250(a)(1), 173.257(a)(1), 173.263(a)(28), 173.265(d)(6), 173.266(b)(8), 173.272(i)(9), 173.277(a)(6), 173.287(c)(1), 173.289(a)(1), 173.292(a)(1), 173.346(a), 173.357(b), 173.358(a), 173.359(a), 178.19.	To authorize the manufacture, marking, and sale of non-DOT specification polyethylene drums for use in the transportation of various hazardous materials. (Modes 1, 2, 3.)
6755-X	DOT-E 6755	Lincoln Welding Supply Company, Lincoln, NE	49 CFR 173.315(a)(1)	To authorize the shipment of liquid argon, nitrogen, and oxygen in non-DOT specification cargo tanks. (Mode 1.)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
		Renewal and Party to Exemptions—Continued		
6765-X	DOT-E 6765	Kansas Refined Helium Co., Otis, KS	49 CFR 172.101, 173.315(a)	To authorize the use of non-DOT specification portable tanks for the transportation of a flammable and a non-flammable gas. (Modes 1, 3.)
6768-P	DOT-E 6768	Van De Mark Chemical Co., Inc., Lockport, NY	49 CFR 173.315(a)(1), 172.101	To become a party to Exemption 6768. (Mode 1.)
6787-X	DOT-E 6787	Advanced Chemical Technology, City of Industry, CA.	49 CFR 173.119(a)(b), 173.119(m), 173.221, 173.245, 173.346(a), 173.357(b), 173.358(a), 173.359(a)(b).	To authorize the manufacture, marking, and sale of DOT-34 polyethylene drums for use in the transportation of various hazardous materials. (Modes 1, 2, 3.)
6805-X	DOT-E 6805	Union Carbide Corporation, Tarrytown, NY	49 CFR 173.301(d), 173.302(a)(3)	To authorize the use of Dot Specification 3AAX steel cylinders for the transportation of a flammable compressed gas mixture. (Mode 1.)
6828-X	DOT-E 6828	Boyle-Midway Div. of American Home Products Corp., New York, NY.	49 CFR 173.244(a), 173.1200(a)	To authorize the use of inside glass bottles packed in fiberboard boxes for the transportation of certain corrosive materials. (Modes 1, 2, 3.)
6861-X	DOT-E 6861	Teledyne McCormick Selph, Hollister, CA	49 CFR 173.65(a)	To authorize the use of a DOT Specification 21P/2SL or 2U composite container for the transportation of certain Class A explosives. (Mode 1.)
6898-X	DOT-E 6898	Ashland Chemical Company, Columbus, OH	49 CFR 178.150-4(a)(1)	To authorize ½-inch poly-propylene type strapping instead of 1¼ inch tape for closure of a container used in the transportation of certain corrosive liquids and an oxidizer. (Modes 1, 2, 3.)
6898-X	DOT-E 6898	J. T. Baker Chemical Co., Phillipsburg, NJ	49 CFR 178.150-4(a)(1)	To authorize ½-inch poly-propylene type strapping instead of 1¼ inch tape for closure of containers used in the transportation of certain corrosive liquids and an oxidizer. (Modes 1, 2, 3.)
6902-X	DOT-E 6902	Halocarbon Products Corporation, Hackensack, NJ.	49 CFR 173.314(c), 179.300-15	To authorize shipment of a liquefied nonflammable compressed gas in DOT Specification 110A800W multi-unit tank car tank. (Modes 1, 2.)
6919-X	DOT-E 6919	Northern Petrochemical Company, Des Plaines, IL.	49 CFR 172.101, 173.315(a)	To authorize the use of a non-DOT specification insulated cargo tank for the transportation of certain flammable gases. (Mode 1.)
7005-P	DOT-E 7005	Itel Container Division, San Francisco, CA	49 CFR 173.119, 173.141(a)(10), 173.245(a)(30), 173.346, 173.620, 173.630, 46 CFR 90.05-35.	To become a party to Exemption 7005. (Modes 1, 2, 3.)
7023-X	DOT-E 7023	HiPure Chemicals, Inc., Nazareth, PA	49 CFR 173.245(a), 173.264(a), 173.266, 173.268(f)(5), 173.272(g), 173.272(i)(24).	To authorize use of non-DOT specification steel portable tanks, packaging which is not presently prescribed, for the transportation of an oxidizer or corrosive material. (Mode 1.)
7023-X	DOT-E 7023	Western Electric Company, Inc., Greensboro, NC.	49 CFR 173.245(a), 173.264(a), 173.266, 173.268(f)(5), 173.272(g), 173.272(i)(24).	To authorize use of non-DOT specification steel portable tanks, packaging which is not presently prescribed, for the transportation of an oxidizer or corrosive material. (Mode 1.)
7023-X	DOT-E 7023	Texas Instruments Incorporated, Dallas, TX	49 CFR 173.245(a), 173.264(a), 173.266, 173.268(f)(5), 173.272(g), 173.272(i)(24).	To authorize use of non-DOT specification steel portable tanks, packaging which is not presently prescribed, for the transportation of an oxidizer or corrosive material. (Mode 1.)
7023-X	DOT-E 7023	Allied Chemical Corporation, Morristown, NJ	49 CFR 173.245(a), 173.264(a), 173.266, 173.268(f)(5), 173.272(g), 173.272(i)(24).	To authorize use of non-DOT specification steel portable tanks, packaging which is not presently authorized, for the transportation of an oxidizer or corrosive material. (Mode 1.)
7042-X	DOT-E 7042	Walter Kidde & Company, Inc., Mebane, NC	49 CFR 173.302(a)(1), 173.304(a)(1), 173.304(d)(3), 173.336(a)(2), 173.337(a)(1), 175.3.	To authorize the use of non-DOT specification aluminum cylinders, for the transportation of of various compressed gases and other hazardous materials. (Modes 1, 2, 3, 4, 5.)
7052-X	DOT-E 7052	Eagle-Picher Industries, Inc., Joplin, MO	49 CFR 172.101, 173.206(e)(1), 175.3	To authorize the shipment of batteries containing lithium and other materials. (Modes 1, 2, 3, 4.)
7052-X	DOT-E 7052	GTE Products Corporation, Needham Heights, MA.	49 CFR 172.101, 173.206(e)(1), 175.3	To authorize the shipment of batteries containing lithium and other materials. (Modes 1, 2, 3, 4.)
7598-X	DOT-E 7598	Pratt & Whitney Aircraft Group, East Hartford, CT	49 CFR 173.154(a), 173.182(b), 173.194(a), 173.234(a), 173.245(a), 173.249(a), 173.263, 173.264, 173.266, 173.268, 173.272, 173.283, 173.287, 173.352, 173.370, 178.255-1(a).	To authorize the use of portable tanks, complying with DOT Specification 60, except that the ends are bolted instead of welded, for the transportation of certain corrosive materials, oxidizers, and Class B poisons. (Mode 1.)
7601-X	DOT-E 7601	Atlantic Research Corporation, Gainesville, Va	49 CFR 173.53(e), 173.62	To authorize the shipment of desensitized nitroglycerin in non-DOT specification packaging. (Mode 1.)
7607-X	DOT-E 7607	Century Systems Corporation, Arkansas City, KS.	49 CFR 172.101, 175.3	To authorize the shipment of hydrogen in certain non-DOT specification cylinders. (Mode 5.)
7607-P	DOT-E 7607	Foxboro Company, Burlington, MA	49 CFR 172.101, 175.3	To become a party to Exemption 7607. (Mode 5.)
7607-X	DOT-E 7607	U.S. Department of Health, Education, and Welfare, Rockville, MD.	49 CFR 172.101, 175.3	To authorize the shipment of hydrogen in certain non-DOT specification cylinders. (Mode 5.)
7620-P	DOT-E 7620	Pennwalt Corporation, Philadelphia, PA	49 CFR, 46 CFR 90.05-35, 173.119, 173.154, 173.245, 173.247, 173.268, 173.346.	To become a party to Exemption 7620. (Modes 1, 3.)
7621-X	DOT-E 7621	Great Lakes Chemical Corporation, West Lafayette, IN.	49 CFR 173.353, 173.357	To authorize the use of an ISO portable tank for the transportation of methyl bromide and chloropicrin. (Modes 1, 2, 3.)
7632-X	DOT-E 7632	Enterprise Service Company, Houston, TX	49 CFR 173.315(a)(1), 173.315(c)(1)	To authorize the use of an insulated DOT MC-331 cargo tank for the transportation of a liquefied gas mixture. (Mode 1.)
7651-X	DOT-E 7651	Austin Powder Company, Cleveland, OH	49 CFR 173.93(e), 177.834(l)(1)	To authorize the shipment of a Class B explosive in tank packaging not presently authorized in 49 CFR. (Mode 1.)
7682-X	DOT-E 7682	Igloo Corporation, Houston, TX	49 CFR 173.245(a)(26), 173.249(a)(1), 173.250a(a)(1), 173.257(a)(1), 173.263(a)(28), 173.265(d)(6), 173.272(i)(9), 173.277(a)(6), 173.287(c)(1), 173.289(a)(1), 173.292(a)(1), 178.19.	To authorize the shipment of corrosive liquids in a 35-gallon non-DOT specification all-polyethylene drum. (Modes 1, 2, 3.)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
Renewal and Party to Exemptions—Continued				
7777-X	DOT-E 7777	Saunders Chemical Co., Inc., Evans, CO	49 CFR 173.248	To authorize the use of several different DOT specification packagings for the transportation of spent sulfuric acid. (Modes 1, 2, 3.)
7796-X	DOT-E 7796	Dow Chemical Co., Midland, MI	49 CFR 173.357	To authorize the use of a non-DOT specification metal can not authorized in 49 CFR for the transportation of chloropicrin. (Modes 1, 2, 3.)
7804-X	DOT-E 7804	Igloo Corporation, Houston, TX	49 CFR 178.35a-1	To authorize the molding of a DOT Specification 2SL inside polyethylene container of high density, high molecular weight resin for the transportation of commodities presently authorized for shipment in DOT 2SL container. (Modes 1, 2, 3.)
7819-X	DOT-E 7819	Societe Anonyme pour L'Industrie Chimique, Mulhouse Cedex, France.	49 CFR, 46 CFR 90.05-3549, 173.119, 173.125, 173.131(a)(1), 173.145, 173.147, 173.245(a), 173.247, 173.253, 173.255.	To authorize the shipment of certain hazardous materials in a non-DOT specification IMCO type I portable tank. (Modes 1, 2, 3.)
7819-X	DOT-E 7819	Compagnie des Container Reservoirs, Seine, France.	49 CFR, 46 CFR 90.05-3549, 173.119, 173.125, 173.131(a)(1), 173.145, 173.147, 173.245(a), 173.247, 173.253, 173.255.	To authorize the shipment of certain hazardous materials in a non-DOT specification IMCO type I portable tank. (Modes 1, 2, 3.)
7819-X	DOT-E 7819	Hugonnet, S.A., Paris, France	49 CFR, 46 CFR 90.05-3549, 173.119, 173.125, 173.131(a)(1), 173.145, 173.147, 173.245(a), 173.247, 173.253, 173.255.	To authorize the shipment of certain hazardous materials in a non-DOT specification IMCO type I portable tank. (Modes 1, 2, 3.)
7929-X	DOT-E 7929	C-I-L Chemicals Inc., Plattsburg, NJ	49 CFR 173.65	To authorize the transportation of flaked or pelletized TNT in woven plastic bags with plastic film liners. (Modes 1, 2.)
7929-X	DOT-E 7929	C-I-L Inc., Montreal, Canada	49 CFR 173.65	To authorize the transportation of flaked or pelletized TNT in woven plastic bags with plastic film liners. (Modes 1, 2.)
7933-X	DOT-E 7933	Grief Brothers Corporation, Union, NJ	49 CFR 173.119(a)(b), 173.124, 173.245(a)(26), 173.249(a)(1), 173.250a(a)(1), 173.257(a)(1), 173.263(a)(28), 173.265(d)(6), 173.266(b)(8), 173.272(i)(9), 173.277(a)(6), 173.287(c)(1), 173.289(a)(1), 173.292(a)(1), 173.364, 178.19.	To authorize the manufacture, marking, and sale of non-DOT specification 55-gallon polyethylene Specification 34 type container for the transportation of certain corrosive liquids, flammable liquids, and oxidizers. (Modes 1, 2, 3.)
7945-X	DOT-E 7945	HTL Industries, Inc., Monrovia, CA	49 CFR 173.304(a)(1), 175.3, 178.47	To authorize the use of a non-DOT specification stainless steel for the construction of a cylinder in compliance with DOT Specification 4DS. (Modes 1, 2, 4, 5.)
7963-X	DOT-E 7963	Stauffer Chemical Co., Westport, CT	49 CFR 173.360(a)(5), 46 CFR 90.05-35.	To authorize the transportation of perchloromethyl mercaptan in monel tanks constructed in accordance with DOT Specification 51. (Modes 1, 2, 3.)
7997-X	DOT-E 7997	Dow Chemical U.S.A., Midland, MI	49 CFR 173.245	To authorize the transportation of bromine chloride in a DOT Specification MC-312/ISO type lead lined portable tank by highway and vessel. (Modes 1, 3.)
8006-P	DOT-E 8006	Toy Armory, Inc., Florence, Italy	49 CFR 172.400(a), 172.504 Table 2	To become a party to Exemption 8006. (Mode 1.)
8146-P	DOT-E 8146	PPG Industries, Inc., Pittsburgh, PA	49 CFR 173.375	To become a party to Exemption 8146. (Modes 1, 2.)
8168-X	DOT-E 8168	Container Corporation of America, Wilmington, DE.	49 CFR 173.217, 173.245(b), 178.19	To authorize the use of non-DOT specification fully removable head polyethylene drums of 30- and 57-gallon capacity for the shipment of certain corrosive solids and solid oxidizers. (Modes 1, 2, 3.)
8206-X	DOT-E 8206	Rexnord, Brookfield, WI	49 CFR 173.245(a)(17), 175.3, 178.131.	To authorize shipment of certain corrosive liquids, n.o.s. in two one-quart tin cans overpacked in a modified 26-gage, unlined DOT Specification 37A five-gallon drum, also containing a one-gallon tin can of non-hazardous resin mix. (Modes 1, 2, 3, 4.)
8207-X	DOT-E 8207	Rexnord, Brookfield, WI	49 CFR 173.245(a)(17), 175.3, 178.131.	To authorize shipment of certain corrosive liquids, n.o.s. in a one-quart tin can, placed in a molded polyethylene liner, overpacked in a modified 28-gage, unlined DOT Specification 37A two-gallon drum, also containing a non-hazardous resin mix. (Modes 1, 2, 3, 4.)
8240-P	DOT-E 8240	Hoyer S.A.G.L., Chiasso, Switzerland	49 CFR 173.119, 173.125, 173.245, 173.271, 173.346.	To become a party to Exemption 8240. (Modes 1, 2, 3.)
8249-X	DOT-E 8249	Lawrence Packaging Supply Corporation, Newark, NJ.	49 CFR 172.400, 172.402(a)(2), 172.402(a)(3), 172.402(a)(4), 172.504(a), 173.25(a), 175.3, 173.126, 173.138, 173.237, 173.246.	To provide latitude in the cushioning requirement for an inside packaging integral to composite packaging for certain Class B poisons and flammable solids. (Modes 1, 2, 4.)
New Exemptions				
8240-N	DOT-E 8240	Container and Pressure Vessel, Ltd., Monaghan, Ireland.	49 CFR 173.119, 173.125, 173.245, 173.271, 173.346.	To authorize the use of non-DOT specification intermodal portable tanks for the transportation of certain flammable, corrosive, and poison B liquids. (Modes 1, 2, 3.)
8299-N	DOT-E 8299	HTL Industries, Incorporated, Monrovia, CA	49 CFR 173.304(a)(1), 175.3, 178.44	To authorize the manufacture, marking and sale of non-DOT specification pressure vessels for use in the transportation of a compressed gas. (Modes 1, 2, 4, 5.)
8339-N	DOT-E 8339	Eastern Steel Barrel Corp., Piscataway, NJ	49 CFR 173.119(a),(b), 173.245(a)(26), 173.245(b)(6), 173.249(a)(1), 173.250a(a)(1), 173.257(a)(1), 173.263(a)(28), 173.265(d)(6), 173.266(b)(8), 173.271, 173.272(i)(9),	To authorize the manufacture, marking, and sale of a non-DOT specification 55-gallon polyethylene Specification 34 type container for the tranportation of various hazardous materials. (Modes 1, 2, 3.)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
		New Exemptions—Continued		
8340-N	DOT-E 8340	Columbus Steel Drum Company, Blackstick, OH	49 CFR 173.28(o), 173.277(a)(6), 173.287(c)(1), 173.289(a)(1), 173.292(a)(1), 173.357(b), 179.19, 178,118-10(a), 175.3.	To authorize the conversion of a non-DOT specification 55-gallon steel drum to an open-head, DOT-17H drum for the transportation of materials authorized for the 17H drum. (Modes 1, 2, 3, 4.)
8351-N	DOT-E 8351	Du Bois Chemical Company, Cincinnati, OH	49 CFR 173.245	To authorize the use of a stainless steel DOT Specification 57 portable tank for the transportation of certain corrosive liquids. (Mode 1.)
8363-N	DOT-E 8363	E. I. du Pont de Nemours and Company, Wilmington, DE.	49 CFR 173.93(a)	To authorize the shipment of certain solid propellant explosives in metal cannisters overpacked in DOT Specification 12H 65 fiberboard boxes. (Modes 1, 3.)
8380-N	DOT-E 8380	Sherwin-Williams Company, Cleveland, OH	49 CFR 173.1200(a)(8)(ii)(A), 173.1200(a)(8)(ii)(E).	To authorize a slightly larger DOT-2Q container and a variation in heat test procedure for filled inside metal containers used in the transportation of certain nonflammable, compressed gases. (Mode 1.)
8382-N	DOT-E 8382	Walter Kidde & Company, Incorporated, Belleville, NY.	49 CFR 173.302(a), 175.3	To authorize the manufacture, marking, and sale of a non-DOT specification cylinder for the transportation of certain nonflammable, compressed gases. (Modes 1, 2, 3, 4, 5.)
8383-N	DOT-E 8383	D & R Instruments and Manufacturing, Inc., Tulsa, OK.	49 CFR 173.306(f), 175.3	To authorize the use of a non-DOT specification pressure vessel for the transportation of a flammable gas under pressure. (Modes 1, 4.)
		Emergency Exemptions		
EE 8012-P	DOT-E 8012	Liqui-Tank, Limited, Dallas, TX	49 CFR 173.266	To become a party to Exemption 8012. (Modes 1, 2, 3.)

Withdrawals

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7060-P	Petroleum Air Transport, Inc., Hazelwood, MO	49 CFR 175.75(a)(3), 175.700(a)	To become a party to Exemption 7060. (Mode 4.)
8261-N	Department of the Army, Washington, DC	49 CFR 173.62	To authorize shipment of nitrocellulose nitroglycerin in two-gallon capacity polyethylene jugs sealed with rubber stoppers overpacked in a DOT 15M container. (Mode 1.)
8418-N	Aerojet Tactical Systems Company, Sacramento, CA.	49 CFR 172.101, 175.30	To authorize a one-time shipment of a rocket motor, Class B explosive, exceeding the weight limitations presently authorized by cargo-only aircraft. (Mode 4.)

Denials

6614-P—Request by Esbro Chemical, Redwood City, CA to authorize use of non-DOT specification polyethylene bottles packed inside a high density polyethylene box for the transportation of corrosive liquids denied June 30, 1980.

7227-P—Request by Brisam, Inc., Houston, TX to authorize the use of non-DOT specification portable tanks for the transportation of nonflammable gas denied June 30, 1980.

8187-N—Appeal by PPG Industries, Incorporated, Pittsburgh, PA to denial of their request to authorize the use of a DOT Specification 17E steel drum of 20/18 gauge, and having triple-seamed top and bottom chimes, for shipment of paint or lacquer thinning compounds with flash points above zero degrees F denied June 30, 1980.

8296-P—Request by Eurotainer, Paris, France to authorize shipment of vinyl bromide and two low pressure gases in non-DOT specification IMCO type V portable tanks denied June 30, 1980.

Issued in Washington, D.C., on August 1, 1980.

J. R. Grothe,

Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 80-24604 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-60-M

Public Meeting on Proposed Revisions to the International Atomic Energy Agency Regulations

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

ACTION: Notice of public meeting.

SUMMARY: A public meeting will be held for discussion on the comments which have been received by the International Atomic Energy Agency (IAEA) as suggested changes to its "Regulations for the Safe Transport of Radioactive Materials, Safety Series No. 6".

DATE: August 18, 1980 at 8:30 a.m.

ADDRESS: Fifth floor conference room, East-West Towers Building, 4350 East-West Highway, Bethesda, MD.

FOR FURTHER INFORMATION CONTACT: Richard Rawl, Office of Hazardous Materials Regulation, Materials Transportation Bureau, (202) 426-2311.

SUPPLEMENTARY INFORMATION: In early 1979 the IAEA asked all Member States to submit comments and suggestions for change on its radioactive material transport regulations.

As a result of this request, on April 5, 1979 (44 FR 20532, FR Doc. 79-10262) the MTB issued a request for public comment on the IAEA regulations.

A compilation of all comments received in response to this Federal Register notice was sent to the IAEA for its consideration. The U.S. comments have been compiled with the comments of other Member States and these comments are available in the Dockets Branch, Materials Transportation Bureau, Department of Transportation, 400 Seventh St., SW., Washington, D.C. 20590, Room 8426, 8:30-5.

This meeting will be held to discuss as many of the comments as possible in the time available (1 day), particularly those comments received in response to the **Federal Register** Notice. Minutes of the meeting will also be made available in the Dockets Branch.

Joseph T. Horning,

Acting Associate Director, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 80-24787 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-60-M

Urban Mass Transportation Administration

Specifications for Light Rail Vehicles

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Extension of Comment Period.

SUMMARY: In the **Federal Register** of July 3, 1980 (45 FR 45447), the Urban Mass Transportation Administration announced the availability of "A General Specification for the Procurement of Light Rail Vehicles" and requested comments on the specification. Interested parties were given until August 22, 1980 to submit comments. A request has been received to extend the comment period, and a new closing date for comments has been established and is set out below.

DATE: Comments must be received on or before September 22, 1980.

FOR FURTHER INFORMATION CONTACT: Stephen S. Teel, Office of Rail and Construction Technology, (202) 426-0090.

Dated: August 7, 1980.

Theodore C. Lutz,

Administrator.

[FR Doc. 80-24625 Filed 8-13-80; 8:45 am]

BILLING CODE 4910-57-M

DEPARTMENT OF THE TREASURY

Customs Service

[TMK-2-RRUEE]

Application for Recordation of Trade Name Donnkenny, Inc.

Application has been filed pursuant to § 133.12, Customs Regulations (19 CFR 13.12), for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name DONNKENNY, INC., used by Donnkenny, Inc., a corporation organized under the laws of the State of Delaware, located at 1411 Broadway, New York, New York 10018.

The application states that the trade name is associated with women's wearing apparel and sportswear including but not limited to sweaters, skirts, tops, jackets, shirts, jeans, and slacks. The application states further that no foreign firm is authorized to use the trade name sought to be recorded. Appropriate accompanying papers were submitted with the application.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Any such submission should be addressed to the Commissioner of Customs, Washington, D.C. 20229, in time to be received not later than September 15, 1980.

Notice of the action taken on the application for recordation of the trade name will be published in the **Federal Register.**

Dated: August 8, 1980.

Salvatore E. Caramagno,

Acting Director, Office of Regulations and Rulings.

[FR Doc. 80-24677 Filed 8-13-80; 8:45 am]

BILLING CODE 4810-22

[TMK-2-RRUEE]

Application for Recordation of Trade Name R. B. K. Importers, Inc.

Application has been filed pursuant to § 133.12, Customs Regulations (19 CFR 133.12), for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name R.B.K. IMPORTERS, INC., used by R.B.K. Importers, Inc., a corporation organized under the laws of the State of Delaware, located at 940 So. Alameda Street, Los Angeles, California 90021.

The application states that the trade name is associated with women's wearing apparel and sportswear including but not limited to sweaters, skirts, tops, jackets, shirts, jeans, and slacks. The application states further that no foreign firm is authorized to use the trade name sought to be recorded. Appropriate accompanying papers were submitted with the application.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Any such submission should be addressed to the Commissioner of Customs, Washington, D.C. 20229, in time to be received not later than September 15, 1980.

Notice of the action taken on the application for recordation of the trade name will be published in the **Federal Register.**

Dated: August 8, 1980.

Donald W. Lewis,

Director, Office of Regulations and Rulings.

Office of Revenue Sharing

Final Date of Adjustment Demands: Entitlement Period Ten

August 6, 1980.

AGENCY: Office of Revenue Sharing, Department of Treasury.

ACTION: Data notice.

SUMMARY: This notice announces that allocation payments to State and local governments for Entitlement Period Ten (October 1, 1978-September 30, 1979) of general revenue sharing will be final, unless a demand for adjustment has been received by September 30, 1980.

FOR FURTHER INFORMATION CONTACT: Matthew Butler, Manager, Data and Demography Division, Office of Revenue Sharing, 2401 E Street, N.W., Washington, D.C. 20226, telephone (202) 634-5166.

SUPPLEMENTARY INFORMATION: Section 102(b) of the State and Local Fiscal Assistance Act of 1972, as amended by Section 6(e)(2) of the State and Local Fiscal Assistance Amendments of 1976 (Pub. L. 94-488; 90 Stat. 2347; 31 U.S.C. 1221) provides that for entitlement periods beginning after December 31, 1976, no adjustment shall be made in a government's payments for an entitlement period, unless a demand for adjustment has been made by the recipient government or the Secretary of the Treasury within one year after the end of that entitlement period. A demand by the Director or Deputy Director of the Office of Revenue Sharing will be treated as a demand for adjustment by the Secretary.

An entry in the **Federal Register** of April 7, 1978 (43 FR 14785) originally gave notice that the Office of Revenue Sharing will honor adjustment demands for Entitlement Period Ten received from a government or the Secretary of the Treasury by September 30, 1980. Thus, this notice finalizes the Entitlement Period Ten allocations to recipient governments for which demands for adjustment are not pending with the Office of Revenue Sharing on September 30, 1980. A demand accompanied by adequate supporting documentation pending at the close of business on the September 30, 1980 deadline will be researched and a written decision on the data challenge will be rendered. Any resulting adjustment to a government's allocation due to a pending adjustment will be made by the Office of Revenue Sharing.

Dated: August 6, 1980.

Jose Pepe Lucero,

Director, Office of Revenue Sharing.

[FR Doc. 80-24514 Filed 8-13-80; 8:45 am]

BILLING CODE 4810-28-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 159
Thursday, August 14, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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	Items
Federal Election Commission	1
Federal Deposit Insurance Corporation (2 documents)	2 and 3

1

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Tuesday, August 19, 1980 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance. Personnel. Threshold Audits. 9038(a) Audits.

* * * * *

DATE AND TIME: Wednesday, August 20, 1980 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Any matters not concluded on August 19, 1980.

* * * * *

DATE AND TIME: Thursday, August 21, 1980 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings.
Correction and approval of minutes.
Certifications.
Advisory Opinions:
- Draft AO 1980-51: Virgil H. Moore, Jr., President, First Farmers and Merchants National Bank of Columbia.
- Draft AO 1980-68 (Supplement): H. Oliver Welch, Treasurer, Zell Miller for U.S. Senate Committee.
- Draft AO 1980-81: Henry F. Frisch (on behalf of Mark Dayton).
- Draft AO 1980-83: Jan W. Baran (Crane for President Committee, Inc.).
- Draft AO 1980-84: G. William Fowler, Treasurer, Congressional Club of the Permian Basin.
- Draft AO 1980-86: Connie Gale, American Natural Resources PAC/ANR Freight PAC/ANR Coal PAC.

Clearinghouse project review.
Contributions from unregistered organizations.
1980 Election and related matters.
Appropriations and budget:
- Budget Execution Report.
- Proposed FY 1981 Management Report.

Pending legislation.
Classification actions.
Routine administrative matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer; telephone: 202-523-4065.

Marjorie W. Emmons,
Secretary to the Commission.

[S-1532-80 Filed 8-12-80; 3:16 pm]

BILLING CODE 6715-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, August 18, 1980, to consider the following matters:

Disposition of minutes of previous meetings.

Memorandum and Resolution re: Final amendments to Part 339 of the Corporation's rules and regulations entitled "Loans in Areas Having Special Flood Hazards".

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.
Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: August 11, 1980.

Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.

[S-1530-80 Filed 8-12-80; 2:30 pm]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, August 18, 1980, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of Title 5, United States Code, to consider the following matters:

Application for consent to establish a branch:

Great Western Bank & Trust, Phoenix, Arizona, for consent to establish a branch in the 1300 block of Iron Springs Road, Prescott, Arizona.

Request for modification of a condition previously imposed in connection with approval to establish a branch:

Bank of Commerce, San Diego, California.

Request for exemption pursuant to section 348.4(b)(2) of the Corporation's rules and regulations entitled "Management Official Interlocks":

Richmond Commerce Bank, Houston, Texas.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44-421-NR United States National Bank, San Diego, California.
Memorandum re: The Monroe Bank and Trust Company, Monroe, Connecticut.
Memorandum re: First Augusta Bank & Trust Company, Augusta, Georgia.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents, or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

Grievance officer's findings and recommendations in connection with the formal grievance of a Corporation employees:

Name of employee authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: August 11, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Exective Secretary.

[S-1531-80 Filed 8-12-80; 2:30 pm]

BILLING CODE 6714-01-M

federal register

Thursday
August 14, 1980

Part II

Department of Justice

Law Enforcement Assistance Administration

Juvenile Justice and Delinquency Prevention; Formula Grant Program; Deinstitutionalization Requirement

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

Proposed OJJDP Policy and Criteria for de Minimis Exceptions to Full Compliance With the Deinstitutionalization Requirement of Section 223(a)(12)(A) of the Juvenile Justice and Delinquency Prevention Act of 1974, as Amended

AGENCY: Law Enforcement Assistance Administration (LEAA).

ACTION: Request for public comment.

SUMMARY: Notice is hereby given that the Office of Juvenile Justice and Delinquency Prevention, Law Enforcement Assistance Administration, pursuant to the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 U.S.C. 5601, et seq. (JJDP Act), proposes to issue a policy and criteria for determining full compliance with de minimis exceptions to the deinstitutionalization requirement of Section 223(a)(12)(A) of the JJDP Act, as amended.

SUPPLEMENTARY INFORMATION: Section 223(a)(12)(A) of the JJDP Act requires that states participating in the Formula Grant Program (Part B, Subpart I) of the JJDP Act "provide within three years after submission of the initial plan that juveniles who are charged with or who have committed offenses that would not be criminal if committed by an adult, or such nonoffenders as dependent or neglected children, shall not be placed in juvenile detention or correctional facilities." Section 223(c) of the Act further provides that failure to achieve compliance with the Section 223(a)(12)(A) requirement within the three-year time limitation shall terminate a State's eligibility for formula grant funding unless a determination is made that the State is in substantial compliance, through achievement of deinstitutionalization of not less than 75 percent of such juveniles, and has made an unequivocal commitment to achieving full compliance within two additional years. The LEAA Office of General Counsel Legal Opinion 76–7, October 7, 1975, indicated that a state's failure to meet the Section 223(a)(12) requirement within the statutorily designated time frame would result in future ineligibility for Formula Grants unless such failure was de minimis. The opinion further stated that determinations would be made on a case-by-case basis.

OJJDP's proposed policy and criteria for making determinations of full compliance with the deinstitutionalization requirement is set forth in Appendix A. The Office specifically invites comment on whether there may be exceptional circumstances and the nature of those circumstances, which would justify a finding of full compliance with de minimis exceptions for any state which has a rate of institutionalization in excess of 28.4 incidences per 100,000 population (see Criterion A). This notice and opportunity to submit written views and comments on the proposed policy is provided pursuant to Executive Order No. 12044, Improving Government Regulations. OMB Circular No. A–95, regarding State and Local Clearinghouse review of Federal and Federally-assisted programs and projects, is not applicable to the issuance of this policy. This policy is specificaly applicable to Program No. 16.540, Juvenile Justice and Delinquency Prevention Allocation to States, within the Catalog of Federal Domestic Assistance.

Interested persons are invited to submit written comments or suggestions to Mr. Ira M. Schwartz, Administrator, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, NW, Room 442, Washington, D.C. 20531, on or before October 14, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Doyle A. Wood, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue NW, Washington, D.C. 20531, (202) 724–7775.

Ira M. Schwartz,

Administrator, Office of Juvenile Justice and Deliquency Prevention.

Policy and Criteria for de Minimis Exceptions to Full Compliance With the Deinstitutionalization Requirement of Section 223(a)(12)(A) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended

The following provides the Office of Juvenile Justice and Delinquency Prevention policy for the determination of State compliance with Section 223(a)(12)(A) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended (42 U.S.C. 5601 *et seq.).* The criteria presented below will be applied in determining whether a State has achieved full compliance, with de minimis exceptions, with the above cited deinstitutionalization requirement of the Juvenile Justice Act. Also specified is the information which each state must provide in response to each criterion when seeking from OJJDP a finding of full compliance with de minimis exceptions.

States requesting a finding of full compliance with de minimus exceptions should submit the request at the time the annual monitoring report is submitted or as soon thereafter as all information required for a determination is available. For those States that have participated in the formula grant program continuously since 1975 such a request, if needed, would be due December 31, 1980, because that is the first monitoring report due after five years of participation. States that had extremely low rates of institutionalization when they begin participation in the program are eligible to request a finding of full compliance with de minimis exceptions after three years of participation in lieu of demonstrating a 75% reduction from the number of status and non-offenders institutionalized in their base year.

Background

Office of General Counsel Legal Opinion 76–7, October 7, 1975, established that a State's "good faith" effort to meet the (then) two year requirement for deinstitutionalization of status offenders would preclude the imposition of sanctions with regard to funds already granted to the State under the formula grant program. However, a State's "good faith" effort cannot be considered in determining whether the statutory minimum compliance level has been met. In terms of eligibility for funding, the opinion concluded:

> A State's failure to meet the Section 223(a)(12) requirement within a maximum of two years from the date of submission of the initial plan would result in future fund cut-off unless such failure was de minimis. These determinations would be made on a case-by-case basis.

Subsequent amendments to the Juvenile Justice Act in 1977 modified Section 223(a)(12) to require full compliance within three years. However, Section 223(c) was also amended to provide that if a State was in substantial compliance with the modified Section 223(a)(12)(A) provision at the end of three years, substantial compliance being defined as a 75 percent reduction in the number of status offenders held in juvenile detention or correctional facilities, then the State could be given up to two additional years to achieve full compliance.

Thus, this opinion provides the legal basis for the OJJDP to utilize the de minimis principle, i.e., by disregarding instances of non-compliance that are of slight consequence or insignficant, in making a determination regarding a state's full compliance with Section 223(a)(12)(A) of the Act.

Parameters

The legal concept of de minimis, meaning "the law cares not for small things," is generally applied where small, insignificant or infinitesimal matters are at issue. Whether a matter, such as the number of status offenders and non-offenders held in non-compliance with Section 223(a)(12)(A), can be characterized as de minimis cannot be determined by an inflexible formula. Therefore, OJJDP will consider each case on its merits based on criteria which take into consideration relative numbers, circumstances of non-compliance, and State law and policy. The establishment of these criteria is intended to achieve an equitable determination process. States reporting significant numbers of institutionalized status and non-offenders should not expect a finding of full compliance with de minimis exceptions.

In determining whether a State has achieved substantial compliance within three years, OJJDP must compare the number of status and non-offenders held in non-compliance with Section 223(a)(12)(A) at the conclusion of the three-year period with the number of status and non-offenders held at the start of the three year period (the State's baseline figure). However, in determining whether a State is in full compliance with de minimis exceptions, OJJDP does not consider a comparison of current situation to baseline to be relevant. Only data and information which accurately and completely portrays the current situation is relevant when demonstrating full compliance with de minimis exceptions.

Individual states must continue to show progress toward achieving 100 percent compliance in order to maintain eligibility for a finding of full compliance with de minimis exceptions.

Criteria and Required Information

The OJJDP has determined that the following criteria will be applied in making a determination of whether a State has demonstrated full compliance with Section 223(a)(12)(A) with de minimis exceptions. While States are not necessarily required to meet each criterion at a fully satisfactory level, OJJDP will consider the extent to which each criterion has been met in making its determination of whether the State is in full compliance with de minimis exceptions. The information following each criterion must be provided to enable OJJDP to make this determination.

Criterion A

The extent of non-compliance is insignificant or of slight consequence in terms of the total juvenile population in the State.

In applying this criterion OJJDP will compare the State's status offender and non-offender detention and correctional institutionalization rate per 100,000 population under age 18 to the average rate that has been calculated for eight states (e.g., two states from each of the four Bureau of Census regions). The eight states selected by OJJDP were those having the smallest institutionalization rate per 100,000 population *and* which also had an adequate system of monitoring for compliance. By applying this procedure and utilizing the information provided by the eight states' most recently submitted monitoring reports, OJJDP determined that the eight states' average annual rate was 15.8 incidences of status offenders and non-offenders held per 100,000 population under age 18. In computing the standard deviation from the mean of 15.8, it was determined that a rate of 3.2 per 100,000 was one standard deviation below the mean and 28.4 per 100,000 was one standard deviation above the mean. Therefore, in applying Criterion A, states which have an institutionalization rate less than 3.2 per 100,000 population will be considered to be in full compliance with de minimis exceptions and will not be required to address Criteria B and C. Those states whose rate falls between 15.8 and 3.2 per 100,000 population will be eligible for a finding of full compliance with de minimis exceptions if they adequately meet Criteria Board B and C. Those states whose rate is above the average of 15.8 but does not exceed 28.4 per 100,000 will be eligible for a finding of full compliance with de minimis exceptions only if they fully satisfy Criteria B and C. Finally, those states which have a placement rate in excess of 28.4 per 100,000 population are presumptively ineligible for a finding of full compliance with de minimis exceptions because any rate above that level is considered to represent an excessive and significant level of status offenders and non-offenders held in juvenile detention or correctional facilities.

OJJDP deems it to be of critical importance that all states seeking a finding of full compliance with de minimis exceptions demonstrate progress toward 100 percent compliance and continue to demonstrate progress annually in order to be eligible for a finding of full compliance with de minimis exceptions.

The following information must be provided in response to criterion A and must cover the most recent and available 12 months of data (calendar, fiscal, or other period) or available data for less than 12 months, projected to 12 months in a statistically valid manner. If data projection is used the state must provide both the statistical method used and the specific data used. States are encouraged to use and expand upon currently available monitoring data gathered for purposes of the annual monitoring report required by Section 223(a)(14).

1. Total number of *accused* status offenders and non-offenders held in juvenile detention or correctional facilities in excess of 24 hours (per OJJDP monitoring policy).
2. Total number of *adjudicated* status offenders and non-offenders held in juvenile detention or correctional facilities.
3. Total number of status offenders and non-offenders held in juvenile detention or correctional facilities (i.e., sum of items 1 and 2).
4. Total juvenile population (under 18) of the State according to the most recent available U.S. Bureau of the Census data or census projections.

States may provide additional pertinent statistics that they deem relevant in determining the extent to which the number of non-compliant incidence is insignificant or of slight consequence. However, factors such as local practice, available resources, or organizational structure of local government will not be considered relevant by OJJDP in making this determination.

Criterion B

The extent to which the instances of non-compliance were in apparent violation of State law or established executive or judicial policy.

The following information must be provided in response to criterion B and must be sufficient to make a determination as to whether the instances of non-compliance with Section 223(a)(12)(A) as reported in the State's monitoring report were in apparent violation of, or departures from, state law or established executive or judicial policy. OJJDP will consider this criterion to be satisfied by those States that demonstrate that all or substantially all of the instances of non-compliance were in apparent violation of, or departures from, state law or established executive or judicial policy. This is because such instances of non-compliance can more readily be eliminated by legal or other enforcement processes. The existence of such law or

policy is also an indicator of the commitment of the State to the deinstitutionalization requirement and to future 100% compliance. Therefore, information should also be included on any newly established law or policy which can reasonably be expected to reduce the State's rate of deinstitutionalization in the future.

1. A brief description of the non-compliant incidents must be provided which includes a statement of the circumstances surrounding the instances of non-compliance. (For example: Of 15 status offenders/non-offenders held in juvenile detention or correctional facilities during 12 month period for State X, 3 were accused status offenders held in jail in excess of 24 hours, 6 were accused status offenders held in detention facilities in excess of 24 hours, 2 were adjudicated status offenders held in a juvenile correctional facility, 3 were accused status offenders held in excess of 24 hours in a diagnostic and evaluation facility, and 1 was an adjudicated status offender placed in a mental health facility pursuant to the court's status offender jurisdiction.) Do not use actual names of juveniles.

2. Describe whether the instances of non-compliance were in apparent violation of State law or established executive or judicial policy.

A statement should be made for each circumstance discussed in item 1 above. A copy of the pertinent/applicable law or established policy should be attached.

(For example. The 3 assused status offenders held in jail in excess of 24 hours were held in apparent violation of a State law which does not permit the placement of status offenders in jail under any circumstances. Attachment "X" is a copy of this law.

The 6 status offenders held in juvenile detention were placed there pursuant to a disruptive behavior clause in our statute which allows status offenders to be placed in juvenile detention facilities for a period of up to 72 hours if their behavior in a shelter care facility warrants secure placement. Attachment "X" is a copy of this statute. A similar statement must be provided for each circumstance.)

Criterion C

The extent to which an acceptable plan has been developed which is designed to eliminate the non-compliant incidents within a reasonable time, where the instances of non-compliance either (1) indicate a pattern or practice, *or* (2) appear to be consistent with State law or established executive or judicial policy, or both.

If the State determines that instances of non-compliance (1) do not indicate a pattern or practice, *and* (2) are inconsistent with and in apparent violation of State law or established executive or judicial policy, then the State must explain the basis for this determination. In such case no plan would be required as a part of the request for a finding of full compliance under this policy.

The following must be addressed as elements of an acceptable plan for the elimination of non-compliance incidents that will result in the modification or enforcement of state law or executive or judicial policy to ensure consistency between the state's practices and the JJDP Act deinstitutionalization requirements.

1. If the instances of non-compliance are currently sanctioned by State law or executive or judicial policy, the plan must contain a strategy to modify the law or policy to prohibit non-compliant placement.

2. If the instances on non-compliance were in apparent violation of State law or executive or judicial policy, but amount to or constitute a pattern or practice rather than isolated instances of non-compliance, the plan must detail a strategy which will be employed to rapidly identify violations and ensure the prompt enforcement of applicable State law or executive or jucicial policy.

3. If the instances on non-compliance are sanctioned or consistent with State law or executive or judicial policy, then the plan should detail a strategy to modify the law or policy so that it is consistent with the Federal deinstitutionalization requirement.

4. In addition, the plan must be targeted specifically to the agencies, courts, or facilities responsible for the placement of status offenders and non-offenders in non-compliance with Section 223(a)(12)(A). It must include a specific strategy to eliminate instances of non-compliance through statutory reform, changes in facility policy and procedure, modification of court policy and practice, or other appropriate means.

Implementation of Plan and Maintenance of full compliance

If OJJDP makes a finding that a State is in full compliance with de minimis exceptions based, in part, upon the submission of an acceptable plan under criteria C above, the State will be required to include the plan as a part of its current or next submitted formula grant plan as appropriate. OJJDP will measure the State's success in implementing the plan by comparison of the data in the next monitoring report indicating the extent to which non-compliant incidences have been eliminated.

Determinations of full compliance status will be made annually by OJJDP following the submission of the monitoring report due by December 31st of each year. Any State reporting less than 100% compliance in any annual monitoring report would, therefore, be required to follow the above procedures in requesting a finding of full compliance with de minimis exceptions. Subject to amendment to the Juvenile Justice Act, an annual monitoring report will continue to be due by December 31 of each year.

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Part III

Department of Housing and Urban Development

Office of Assistant Secretary for Housing—Federal Housing Commissioner

HUD Housing Programs; Previous Participation Review and Clearance Procedure

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 200

[Docket No. R 80-767]

HUD Housing Programs; Previous Participation Review and Clearance Procedure

AGENCY: Department of Housing and Urban Development/Office of the Assistant Secretary for Housing—Federal Housing Commissioner.

ACTION: Final rule.

SUMMARY: This rule amends the procedure for parties (who apply to become a sponsor, owner, prime contractor, turnkey developer, management agent, packager or consultant in HUD projects) to report and certify their previous participation record and the other background data necessary for approval to participate in HUD housing programs.

EFFECTIVE DATE: January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Jon Will Pitts, Room 9212, 451 7th Street, SW., Washington, D.C. 20410, (202) 755-6533 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: On March 6, 1980, a proposed revision of the regulation pertaining to these procedures under 24 CFR 200.210, et seq. was published in the **Federal Register** at 45 FR 14826 for public comment. Interested parties were given until May 5, 1980 to submit comments.

This revised regulation provides the procedure for parties (who apply to become a sponsor, owner, prime contractor, turnkey developer, management agent, packager or consultant in HUD projects) to report and certify their previous participation record and other background data necessary for approval to participate in HUD multifamily housing programs.

This procedure was initiated by HUD in 1966 to prescreen applicants for FHA multifamily housing project mortgage insurance. In the housing industry, it is generally known as the "2530 procedure." Using HUD Form 2530, principals applying to participate must report their participation records in HUD programs before they are approved to participate in other projects.

Twenty-two individuals and organizations submitted comments in response to HUD's proposal of March 6. All of these comments have been carefully reviewed and changes are being made in the regulation in response to the comments received. A discussion of comments and changes follows.

One comment suggested that the regulation require that the Form 2530 certificate, when approved, be made a part of the A-95 Review and Comment procedure in order that local Governments and planning agencies might know the identity of each principal in project proposals referred to them for review and comment. HUD declines to accept this suggestion. Local Government review agencies under the A-95 system who have a need to know the identity of principals involved with any specific HUD proposal, may obtain this information from their local HUD office upon request.

Section 200.215—Definitions

Several commentors complained about the vagueness of the definition given for the word "affiliate". The term is employed to determine the full identities of responsible principals and individuals who seek HUD assistance or approval. A revised definition of affiliate has been adopted which is designed to address this concern.

Under the definition of "principal," several parties objected to the inclusion of "packagers and consultants". This requirement was added to present regulations about 10 years ago because in most states, packagers and consultants (unlike attorneys and architects) are not subject to professional licensing boards that determine and monitor qualifications, standards, ethical conduct, etc. HUD believes it should be continued because of the complex and crucial nature of their role in the formation of a successful project.

Other comments related to the inclusion of limited partners with 25 percent or more interest in the project. Some contended that limited partners should be exempted from the process altogether because by definition they play no active role in management. However, limited partners can assume an active role in the management of the project and, by doing so, become general partners even though it was not their intention to become general partners. This makes their active participation a real contingency and, therefore, they must be included. In addition, those limited partners with an interest of 25 percent or more can certainly play a persuasive role in the decisions made by the general partners in the operation of the project. For these reasons, HUD needs to know the previous participation of limited partners who have interests of 26 percent or more.

Another party objected to the inclusion of management agents as principals in this procedure since both HUD and owners under the regulatory agreement have authority to approve and/or replace such agents. HUD could not agree to such an exemption or exclusion as experience has taught that an up-front review of the previous participation records of management agents is essential if HUD is to avoid repeating past bad experiences.

Section 200.217—Filing the Certificate

Several comments received objected to the requirements that the certificate must be filed 60 days prior to the commencement of participation. They contend that such a requirement will limit their ability to make quick and necessary business decisions. HUD agrees. The sixty day lead requirement has been deleted.

Section 200.218—Who Must Sign and Certify

This section is being changed in response to comments relative to the burden corporate principals encountered in obtaining signatures of all officers, directors and major stockholders. From now on, officers can sign for the corporation and disclose all other principals in most cases where they all have the same previous record. Their signatures will not by required.

Section 200.219—Content of Certification

More than a dozen responses objected to the provisions of § 200.219(a)(5) relating to work stoppages of 20 days or more and for projects completed for 90 days or more when loans have not gone to final closing. All comments seem to agree that the 90 day period following project completion was too short due to frequent delays in final processing of cost certification by Area Offices. The section has been amended to address this problem. Others pointed out that a 20 day work stoppage constitutes a default under the Building Loan Agreement. We believe that both time frames are appropriate when clarified to meet our objective of surfacing serious problems caused by principals with on going projects.

Based on comments intended to clarify the language of the certificate's content, we have made the following changes:

A. 200.219(a)(2)(iii) Changing "no unresolved findings raised as a result of HUD audits * * *" to "no *known* unresolved findings * * *"

A. 200.219(a)(2)(iv) Deleting "for cause" and substituting "attributable to the fault or negligence of principal".

Section 200.225—Authority of Area Manager To Approve Limited Partners

A new section has been added in response to comments concerning limited partners with interests of 25% or more in the project. The new section permits Area Managers to approve such limited partners when they have no other record of participation on their certificate except that of a limited partner. This addition should substantially speed many final closings where such last-minute additions are frequently encountered.

Section 200.228—Determination by the Review Committee

One commentor advocated automatic approvals if HUD had failed to approve, withhold or disapprove certificates within 120 days. Such a provision could be very costly to the Government and could result in approvals of unacceptable risks if certificates were lost in transit, mis-filed or in need of complex reports concerning past performance. While such occurrences are infrequent, they do happen.

Other Comments

Numerous other comments went beyond the published proposal. One response advocated limiting principals to participation in only three projects and to prohibit participation as combined owner, builder and manager. One advocated that violations of local building codes should be a basis for disapproval of principals. Another suggested that actions by the Multifamily Participation Review Committee should require a ⅔ vote. These suggestions were rejected as being beyond the intended scope or capacity of the proposed process.

All comments received were carefully reviewed and evaluated and HUD appreciates the overall response and public interest in the proposal.

Effective Date and Implementation

The effective date of these new regulations is January 1, 1981. HUD needs time to issue new processing instructions to field offices and to revise HUD Form 2530 and have it approved by OMB, printed and made available to the public.

Inapplicability of NEPA

HUD has made a Finding of Inapplicability regarding requirements under the National Environmental Policy Act of 1969 in accordance with HUD procedures. A copy of the Findings of Inapplicability is available for public inspection during regular business hours at the Office of the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410.

This rule is not listed in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044.

Accordingly, 24 CFR Chapter II, Subpart H of Part 200 is amended to read as follows:

Subpart H—Participation and Compliance Requirements

Previous Participation Review and Clearance Procedure

Sec.
200.210 Policy.
200.213 Applicability of Procedure.
200.215 Definitions.
200.217 Filing of Previous Participation Certificate on Prescribed Form.
200.218 Who Must Certify and Sign.
200.219 Content of Certification.
200.222 Certification or Previous Record on Basis of a Master List.
200.224 Multifamily Participation Review Committee and Participation Control Officer.
200.225 Approvals by Area Manager for Limited Partners.
200.226 Determinations by the Participation Control Officer.
200.228 Determination by the Review Committee.
200.229 Withholding Approval.
200.230 Standards for Disapproval.
200.233 Effect and Requirement of Approval.
200.236 Modification or Withdrawal of Certain Approvals.
200.239 Notice of Determination.
200.241 Request for Reconsideration of an Adverse Determination and Request for a Hearing.
200.243 Hearing Rules: How and When to Apply.
200.245 Hearing Officer Determines Facts and Law; Review Committee Makes Final Administrative Decision.

Authority. Sec. 7(d), Dept. of HUD Act, 79 Stat. 670, (42 U.S.C. 3535(d)); and the National Housing Act, 48 Stat. 1246 as amended (42 U.S.C. 1701, et seq.)

Subpart H—Participation and Compliance Requirements

Previous Participation Review and Clearance Procedure

§ 200.210 Policy.

It is the Department's policy that participants in its housing programs be responsible individuals and organizations who will honor their legal, financial and contractual obligations. Accordingly, uniform standards are established in this part for approval, disapproval, or withholding of action on principals in projects based upon their past performance as well as other aspects of their records.

§ 200.213 Applicability of Procedure.

The Previous Participation Review and Clearance procedure set forth in this part is administered by the Assistant Secretary for Housing-Federal Housing Commissioner and is applicable to all principals and to their: (a) Projects already financed or which are proposed to be financed with a mortgage insured under the National Housing Act and projects subject to a mortgage held by the Secretary under that Act or projects acquired by the Secretary under that Act (FHA projects); (b) projects financed or to be financed with direct loans or projects acquired by the Secretary pursuant to Section 202 of the Housing Act of 1959 (Housing for the Elderly and Handicapped); (c) projects in which 20% or more of the units now receive or will receive a subsidy in the form of: (1) Interest reduction payments under Section 236 of the National Housing Act; (2) Rent Supplement payments under Section 101 of the Housing and Urban Development Act of 1965, (3) Housing assistance payments under Section 8 of the United States Housing Act of 1937 (with the exception of the programs described in 24 CFR Part 882, which are the Section 8 Existing Housing and Moderate Rehabilitation programs); (d) Public Housing projects financed or to be financed or modernized under the United States Housing Act of 1937; and (e) Sales of projects by the Secretary.

§ 200.215 Definitions.

(a) *Affiliate.* Any person or business concern that directly or indirectly controls policy of a principal or has the power to do so is an affiliate. Persons and business concerns controlled by the same third party are also affiliates.

(b) *Felony.* A felony is any offense punishable by imprisonment for a term exceeding one year, but does not include any offense classified as a misdemeanor under the laws of a State *and* punishable by a term of imprisonment of two years or less.

(c) *Packager or Consultant.* A person or firm that furnishes or proposes to furnish advisory services in connection with the financing or construction of a project and the related HUD requirements. Such services may include, but are not limited to, the selection and negotiation of contracts with a general contractor, architect, attorney or management agent.

(d) *Participation Control Officer.* (See § 200.224)

(e) *Principal.* (1) An individual, joint venture, partnership, corporation, trust, nonprofit association or any other public or private entity proposing to participate, or participating, in a project as sponsor, owner, prime contractor, Turnkey Developer, management agent, packager, or consultant and architects and attorneys who have any interest in the project other than an arms-length fee arrangement for professional services. (2) The term principal also includes (i) any affiliates of a principal; (ii) if the principal is a partnership, all general partners, and each limited partner having a 25 percent or more interest in the partnership; (iii) if the principal is a public or private corporation or governmental entity; the President, Vice-President, Secretary and Treasurer and any other executive officers who are directly responsible to the Board of Directors, or the equivalent thereof; all the directors; and each stockholder having a 10 percent or more interest. (3) Specifically excepted from this definition of a principal are: (i) Parties whose sole interest is that of purchaser or owner of less than five individual unit(s) in the same condominium or cooperative development; (ii) parties whose sole interest is that of a tenant; and (iii) Public Housing Agencies.

(f) *Project.* A project is: (1) Five or more residential units covered by a single mortgage, loan or contract of assistance; (2) a hospital, group practice facility or nursing home; (3) cooperative and condominium developments; and (4) a subdivision being developed and financed with a mortgage under Title X of the National Housing Act.

(g) *Review Committee.* (See §§ 200.224 and 200.93)

§ 200.217 Filing of Previous Participation Certificate on Prescribed Form.

(a) A previous participation certificate on a form prescribed by the Assistant Secretary of Housing-Federal Housing Commissioner shall be completed by every principal in each of the following transactions and shall be filed with HUD at the times specified herein: (1) Projects to be financed with mortgages insured under the National Housing Act (FHA)—With an Application for a Site Appraisal and Market Analysis Letter, Feasibility Letter, Conditional Commitment for Mortgage Insurance, or Firm Commitment for Mortgage Insurance, whichever Application is first filed; (2) Projects to be financed pursuant to Section 202 of the Housing Act of 1959 (Elderly and Handicapped)—With the Application for a Fund Reservation; (3) Public housing projects to be financed pursuant to the United States Housing Act of 1937; (i) The developer and prime contractor—With the Turnkey proposal or Conventional Construction Bid; (ii) All other Principals—Prior to selection; (4) Projects in which 20% or more of the units are to receive a subsidy as described under § 200.213(c)—With the first request for a reservation of funds for assistance payments; (5) Purchase of a project subject to a mortgage insured or held by the Secretary—With the Application for Transfer of Physical Assets; (6) Purchase of a Secretary-owned project—With the Bid to Purchase; (7) Proposed substitution or addition of a principal, such as management agents or partners or proposed participation in a different capacity from that previously approved for the same project—Prior to the date that the proposed action or transfer is to become final; and (8) Proposed acquisition by existing limited partner or stockholder of additional interest resulting in a total interest of at least 25 percent or 10 percent, respectively—Prior to the proposed acquisition.

(b) Certificates are not required for interests acquired by inheritance or by Court decree.

§ 200.218 Who Must Certify and Sign.

All principals must certify and sign the certificate personally as to their individual record and are responsible for its timely filing with the HUD Area Office in whose jurisdiction the project or proposal is located except: (a) When a corporation is a principal all its officers, directors and principal stockholders need not individually sign, certify nor file the certificate when they all have the same record. When their previous participation records are the same the officer authorized to sign for the corporation will list on the certificate the full names for all such principals connected with the corporation who do not elect to sign. Those principals who have a separate participation record outside that of their corporation must certify, sign and file. The objective is full disclosure.

(b) The Participation Control Officer is authorized to waive the requirement for signatures for good cause in cases where he finds that adequate provision has been made for full disclosure, and the signature is thereafter provided.

§ 200.219 Content of Certification.

(a) Each principal who executes the certificate certifies that: (1) The certificate contains a listing of every assisted or insured project of HUD, Farmers Home Administration and State or local government housing finance agencies in which the principal has been or is now a principal; (2) For a period beginning 10 years prior to the date of the certificate under review and except as shown on the certificate; (i) no mortgage on a project listed has ever been in default nor has mortgage relief been given; (ii) there have been no defaults or noncompliances under any conventional construction contract or Turnkey contract of sale in connection with a public housing project; (iii) there are no known unresolved findings raised as a result of HUD audits, management reviews or other governmental investigations; (iv) there has been no suspension or termination of payments under any HUD assistance contract attributable to the fault or negligence of principal; (v) the principal has not been convicted of a felony (See definitions § 200.215(b)) and is not presently the subject of a complaint or indictment charging a felony; (vi) the principal has not been suspended, debarred, or otherwise restricted by any Department or Agency of the Federal Government or of a State Government from doing business with such Department or Agency; (vii) the principal has not defaulted on an obligation covered by a surety or performance bond, and has not been the subject of a Claim under an employee fidelity bond; (3) The principal has listed all parties who are known to him to be principals under § 200.215(e)(2); (4) The principal is not a HUD employee or a member of an employee's immediate household as defined by HUD's Standards of Conduct in 24 CFR O.735-205(c); (5) Except as shown on the certificate under review, the principal is not a participant (i) in a HUD assisted or insured project on which construction, as of the date of said certificate, has stopped for a period in excess of twenty days or; (ii) in an insured project on which construction, as of the date of said certificate, has been substantially completed for more than 90 days and documents for closing, including cost certification, have not been filed with HUD;

(b) The project owner shall certify that he has also listed all other parties who are principals under § 200.215(e)(1);

(c) If a principal cannot certify as to any items under paragraphs (a) and (b) of this section, such items may be deleted from the face of the certificate and a full explanation of the reason for the deletion, signed by the principal, may be attached to the certificate for HUD's review, evaluation and determination;

(d) Each principal who executes the certificate must also certify that said principal is not a Member of Congress or a Resident Commissioner.

§ 200.222 Certification of Previous Record on Basis of a Master List.

A principal may avoid repetitious listings by providing HUD with a complete master list, acceptable to the Participation Control Officer, of all projects in which the principal has participated. Where such a list has been provided, the principal may submit a certificate which refers to the master list and which supplements it by the addition of all information required under § 200.219 with respect to occurrences since the date of the master list (including subsequent occurrences with respect to the projects on the master list as well as subsequent projects). Partners, corporate officers, directors and stockholders may likewise refer to and thereby incorporate their firm's master list when they certify.

§ 200.224 Multifamily Participation Review Committee and Participation Control Officer.

The membership and authority of the Multifamily Participation Review Committee (hereinafter referred to as the Review Committee) are set forth in § 200.93. A majority of the members of the Review Committee shall constitute a quorum. The Executive Secretary of the Review Committee shall be the Participation Control Officer under this part and shall serve under the administrative supervision of the Director of the Participation and Compliance Division, who acts as Participation Control Officer in his absence.

§ 200.225 Approvals by Area Managers for Limited Partners.

The Area Manager of the HUD Area Office where the certificate is filed is authorized to review the certificate and approve for participation limited partner principals: *Provided*, That they have no previous record of participation or their only participation in previous projects covered by these regulations has been as a limited partner. All other certificates must be forwarded to the Participation Control Officer.

§ 200.226 Determination by the Participation Control Officer.

(a) The Participation Control Officer is authorized to: (1) Approve a principal when a review of the previous participation certificate and other available information reveals that there are no grounds to withhold approval or disapprove under the standards in § 200.229 or § 200.230, respectively; (2) Disapprove a principal who; (i) is suspended or debarred or otherwise restricted under 24 CFR Part 24; or (ii) has been disapproved for participation no more than 12 months prior to the filing of the certificate under review, unless the principal has requested reconsideration of the disapproval; (3) Refer all other cases to the Review Committee, together with all available information and documents and a recommendation of the action to be taken.

§ 200.228 Determination by the Review Committee.

(a) The Review Committee shall make one of the following determinations in connection with every case referred to it by the Participation Control Officer: (1) Approve the principal after consideration of the entire record in the light of the standards in § 200.230. All mitigating or extenuating factors will be considered. In each case, the decision shall be within the discretion of the Review Committee and rendered in the best interest of the Government and the public; (2) conditionally approve the principal's participation with such conditions or limitations which in the Review Committee's judgment are necessary to make the principal approvable; (3) withhold approval of the principal in accordance with § 200.229; or (4) disapprove the principal when approval is not justified and withholding approval is not appropriate.

(b) All determinations by the Review Committee shall be made by majority vote of those members present and entitled to vote.

§ 200.229 Withholding Approval.

Approval of a principal may be withheld for (a) a period not to exceed 120 days when such action is deemed necessary to secure additional information upon which to base a final action including a determination as to whether a suspension or debarment action will be taken; or (b) for a longer period pending the resolution of a criminal complaint or indictment.

§ 200.230 Standards for Disapproval.

The standards for disapproval shall be as follows: (a) Suspension, debarment or other restriction of the principal under Part 24 of this title; (b) Suspension, debarment or other restriction of the principal by any other Department or Agency of the Federal Government from doing business with such Department or Agency; (c) Unless the Review Committee finds mitigating or extenuating circumstances that enables it to make an intelligent risk determination for approval, any of the following occurrences attributable or legally imputable to the fault or neglect of a principal may be the basis for disapproval whether or not the principal was actively involved in the project: (1) Mortgage defaults, or assignments, or foreclosures for which principal was wholly or partially responsible; (2) defaults or noncompliance under any conventional construction contract or turnkey contract of sale in connection with a public housing project; (3) violation of the regulatory agreement or noncompliance with any other obligation to HUD that has not been corrected to the satisfaction of the Review Committee at the time of its consideration; (4) suspension or termination of payments under any HUD assistance contract; (5) defaults under an obligation covered by a surety or performance bond and/or claims under an employee fidelity bond; (6) unresolved findings as a result of HUD or other governmental audits or investigations; or (7) a criminal record or other evidence that the principal's previous conduct or method of doing business has been such that his participation in the project would make it an unacceptable risk from the underwriting standpoint of an insurer, lender or governmental agency; (d) With respect to any HUD insured or assisted projects, work stoppage for a period in excess of 20 days, or in the case of an insured project, failure to achieve final endorsement of the mortgage where the project has been substantially completed for more than 90 days but documents for closing, including cost certification have not been filed with HUD and such is chargeable to the fault or neglect of the principal; (e) Any serious and significant violation by a management agent of a project management contract, where the contract required HUD or other Governmental agency approval at its inception; (f) Any other significant violation of or noncompliance with regulations, or programs or contract requirements of HUD, Farmers Home Administration or a State or local government's Housing Finance Agency in connection with any insured or assisted project.

§ 200.233 Effect and requirement of approval.

Approval is required as a precondition for participation and constitutes clearance of the principal under this part for participation only for a specific project in a specific role. Approval of a principal does not obligate the Department to approve the principal's applications or contracts for program participation.

§ 200.236 Modification or withdrawal of certain approvals.

Approvals will not be modified or withdrawn except in cases where the

principal is subsequently suspended or debarred from further participation in any HUD programs under Part 24 of this title, or is found by the Review Committee to have obtained approval based upon submission of a false, fraudulent or incomplete report or certificate submitted to HUD. In such cases the Review Committee may take such action, including modification or withdrawal of approval, as it determines to be in the best interest of the Department and the public. For the purpose of this section, the term approval includes conditional approval.

§ 200.239 Notice of determination.

The Participation Control Officer shall give written notice to the principal and to the field office concerned of disapproval under § 200.226, and conditional approval, withholding of approval or disapproval by the Review Committee under § 200.228. In the case of any such adverse notice: (a) The notice shall contain a general statement of the reasons for the determination; and (b) the notice to the principal shall be sent by certified mail to the address shown on the certificate with a return receipt requested.

§ 200.241 Request for reconsideration of an adverse determination and request for a hearing.

(a) Where approval has been withheld, denied, or conditionally granted, the principal may request reconsideration by the Review Committee. Such request shall be made in writing, within 30 days of receipt of the notice of such action, addressed to the Review Committee. It may contain such supporting material as principal desires; or (b) the principal may file a request for a hearing before a Hearing Officer as provided in § 200.243. Such request for a hearing shall be made in writing within 30 days from the date of receipt of the determination.

§ 200.243 Hearing rules—How and when to apply.

(a) A principal whose request for reconsideration has resulted in an adverse determination by the Review Committee or who is disapproved by the Participation Control Officer may request a hearing before a Hearing Officer in accordance with 24 CFR Part 24. Such request must be made within 30 days from the date of receipt of the notice of the Review Committee's determination. The requirement in § 24.7 of this title that a request for a hearing must be made within 10 days shall not apply to requests for a hearing under this section or under § 200.241; (b) hearings and review of determination by the Hearing Officer shall be governed by the procedures contained in Part 24 of this Title except as modified in paragraph (a) of this section and by § 200.245.

§ 200.245 Hearing Officer determines facts and law: Review Committee makes final administrative decision.

The Hearing Officer will determine the facts and the law relevant to the issues and will report the determination in writing to the Review Committee and to the principal. The Review Committee shall be bound by the Hearing Officer's findings of facts and law and will make a final decision based upon its application of the uniform underwriting and risk evaluation standards contained in this part. It will notify principal of the final action taken.

(Sec. 7(d), Department of HUD Act, 79 Stat. 670 (42 U.S.C. 3535(d)); and the National Housing Act, 48 Stat. 1246 as amended (42 U.S.C. 1701, *et seq.*))

Issued at Washington, D.C., August 7, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 80-24539 Filed 8-13-80; 8:45 am]

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Thursday
August 14, 1980

Part IV

Department of Housing and Urban Development

Office of Assistant Secretary for Housing—Federal Housing Commissioner

Transfer From Nonprofit to Profit-Motivated Ownership for Multifamily Housing Projects With HUD-Insured or HUD-Held Mortgages; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 265

[Docket No. R-80-698]

Transfer From Nonprofit to Profit-Motivated Ownership for Multifamily Housing Projects With HUD-Insured or HUD-Held Mortgages

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Final rule.

SUMMARY: This rule establishes HUD's policy on the transfer of physical assets from nonprofit to profit-motivated ownership for multifamily housing projects with HUD-insured or HUD-held mortgages and is applicable to all applications for transfer received by the Department on and after the publication of this regulation. The lack of a clear policy has made it difficult for HUD and nonprofit owners to use the transfer of physical assets process effectively. This rule will clarify HUD requirements and ensure that the physical, financial and management needs of a housing project will be met satisfactorily by a transfer to new ownership.

EFFECTIVE DATE: September 15, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Jimmy Bell, Director, Management Operations Division, Office of Multifamily Housing Management and Occupancy, Department of Housing and Urban Development, 451 7th Street, SW., Room 6150, Washington, D.C. 20410. Telephone (202) 755-5866. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: In issuing these regulations, HUD is recognizing that under certain conditions the sale of a project from a nonprofit to a profit-motivated owner can result in significant benefits to the project, the neighborhood and the tenants, as well as protect the interests of the government.

Nonprofit ownership is an important element of HUD's multifamily housing programs. The Department believes that a transfer should be approved only when it is necessary to respond satisfactorily to the problems of a project. Therefore, as a first step before formally accepting an application for a transfer of physical assets from nonprofit to profit-motivated ownership, HUD will establish that a transfer of ownership is necessary to resolve the problems of the project either because the nonprofit owner lacks the present capability or willingness to own and operate the project successfully or the needs of the project for financial assistance cannot be satisfied without additional cash contributions. If the basis for the proposed transfer is only that the nonprofit lacks the capability or willingness to continue successful ownership, HUD will first seek a transfer to another nonprofit entity. (See § 265.7)

Transfers of physical assets, i.e., the sale or transfer of projects by original or subsequent owners to a new owner without prepayment of the existing mortgage, are controlled by the Regulatory Agreement. The Regulatory Agreement provides that owners or sponsors shall not convey, transfer or encumber any of the mortgaged property without the express written approval of the Secretary of HUD.

Prior to 1976, any requests for sale by a nonprofit to a profit-motivated owner required that the mortgage be paid down by 10%. That requirement adjusted for the 100% mortgage received by a nonprofit owner and 90% mortgages available to a profit-motivated owner. A change in policy allowed local office directors to accept less than the 10% equity contribution on such transfers if certain conditions were met. It further provided that funds received by the project from the sale could be utilized for various purposes other than paying down the mortgage, such as curing mortgage payment delinquencies or correcting deferred maintenance.

On September 26, 1979, the Secretary of HUD published a Notice of Proposed Rulemaking (24 CFR Part 265) to clarify the process and criteria for the transfer of physical assets from nonprofit to profit-motivated ownership for multifamily housing projects with HUD-insured or HUD-held mortgages. Comments were invited until November 26, 1979. Five comments were received. The following is a summary of the comments and the changes made to the proposed rule.

(1) One writer suggested we define non-troubled project, leaving the balance to be considered as trouble, rather than defining a troubled project. Under that approach, a project would be considered a troubled project if it did not satisfy the definition of non-troubled. In the final rule, we have eliminated the definitional distinction between troubled and non-troubled projects. All transfers will be subject to the same requirements for review and approval.

(2) We received several comments that the 10% cash contribution requirement (8% cash plus 2% cash reserve or letter of credit) for a distressed project is too high. Two writers said that the 2% irrevocable letter of credit is the same as requiring a cash reserve because the letter of credit must be collateralized with a cash deposit. One person suggested that the amount of cash contribution be determined by the actual needs of the project and the availability of other forms of financial assistance. There were several comments recommending deletion of the competitive bid option for ascertaining the level of contribution. We agree that the 8+2% scheme is unnecessary. However, we are not persuaded that a 10% cash contribution for a distressed project is unworkable. We agree that the minimum contribution should be related to the actual physical and financial needs of the project. We are firm, however, on the requirement that a profit-motivated owner make a minimum cash contribution to signify commitment to the project and to symbolize a change in ownership status from non-profit to profit. Therefore, § 265.12(a) requires a cash contribution for all transfers which is the greatest of 10% of the unpaid mortgage principal balance or an amount equal to the physical and financial needs of the project as determined by the Director. This provision does not preclude the Director from considering other forms of assistance available from the Department when determining the purchaser's contribution for cases where the physical and financial needs of the project are greater than the 10% minimum contribution.

The competitive bid element has been dropped from the final rule. However, this option remains available should a nonprofit decide that it is the best method of transferring ownership. The basic minimum contribution requirements described above would still apply.

(3) We received several comments that the requirement of a local general partner and local management agent is too restrictive. Although we believe that local accountability is an issue of serious merit, we have revised this requirement recognizing that the success of the project will be dependent more on overall management and ownership ability, which must be shown in any case, than on geographic accountability. However, we are strongly encouraging that there be a local general partner and a local manager. If the new owner or management entity is other than local, the owner and manager must show evidence of their capability to own or manage a project outside of their immediate area of business.

(4) We deleted the requirement that the 10% cash contribution on a project

which is not distressed by used only to prepay the mortgage as part of removing the definitional distinction from troubled and non-troubled projects. We are providing the Director with greater flexibility by leaving the decision to authorize other uses of the contribution at the field office level. We are recognizing that a project which is not distressed may benefit from some repairs or other improvements.

(5) Several writers objected strenuously to the requirement that an investor's prospectus be submitted to HUD when the new owner is a limited dividend partnership. The intent of this requirement was to provide HUD with a full disclosure of the details surrounding the transaction. We deleted the requirement entirely because the information necessary for our review is contained in the limited partnership agreement. The submission of the partnership agreement is a normal requirement of any transfer of physical assets.

(6) We received several comments objecting to the exclusion of a return on equity in the rent formula to be used by the project after transfer to profit-motivated ownership. We excluded the allowance for return on equity in the rent formula so that rents would not increase solely because of the change to profit-motivated status. It should be noted, however, that the rent formula for nonprofit projects presently provides for a reserve in excess of operating expenses, which in effect could provide a margin for return on equity. A return of up to 6% of the initial equity investment is permitted if the project generates surplus cash, which would come typically from more efficient operation, higher occupancy rates and the operating reserve.

(7) One comment suggested requiring the cash contribution to be made over a 36-month period rather than 24 months. The final rule requires payments to be made over a 24-month period unless the Director determines that in order to meet the cash contribution a 36-month period pay-in is necessary.

(8) Most of the comments favored the decentralization of authority to approve the transfers to the field office level. It is HUD's intention to give the field office Director such authority when the necessary training, instruction and guidance have been provided to the field office staff. The final rule has been written to permit this authority to be delegated by administrative instructions without the need to amend these regulations further.

(9) To highlight energy use and conservation, the Director's review pursuant to § 265.6 must specifically identify energy related needs and problems through an energy audit, to which the proposed purchaser must then respond.

(10) The proposed rule contained a specific requirement for adhering to tenant participation requirements which were to have been published in 24 CFR Part 402. These have not yet been promulgated so that specific reference has been dropped.

(11) The intent to apply these regulations to projects which have reached final endorsement is clarified in § 265.2.

(12) Several other minor changes were made to improve the format and readability of the regulations.

A Finding of Inapplicability with respect to environmental impact has been prepared in accordance with Procedures for Protection and Enhancement of Environmental Quality. Copies of the finding are available for inspection and copying in the Office of the Rules Docket Clerk at the above address.

This rule is not listed in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044.

Accordingly, the Department adds Part 265 to 24 CFR Chapter II, Subchapter B, to read as follows:

PART 265—TRANSFER FROM NONPROFIT TO PROFIT-MOTIVATED OWNERSHIP FOR MULTIFAMILY HOUSING PROJECTS WITH HUD-INSURED OR HUD-HELD MORTGAGES

Sec.

265.1 Purpose.
265.2 Applicability.
265.3 Definitions.
265.4 Waivers.
265.5 Limitations Against Transfer.
265.6 Review of Projects Proposed for Transfer and Notice to Proposed Purchaser.
265.7 Director's Analysis and Findings on the Need for a Transfer.
265.9 Applying for Transfer of Physical Assets.
265.10 Criteria for Approval.
265.11 Approval of Transfer of Physical Assets.
265.12 Contributions and Schedule for Payments.
265.13 Prohibition Against Payment to the Nonprofit Owner.
265.14 Rents and Leases.
265.15 Limits on Distributions.
265.16 Prepayment Prohibition.

Authority: Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

§ 265.1 Purpose.

This part governs the transfer of physical assets from nonprofit to profit-motivated ownership of certain multifamily housing projects with HUD-insured or HUD-held mortgages. It provides for the orderly processing and approval of these transfers and assures HUD that the physical, financial and management needs of the projects are met through the change in ownership.

§ 265.2 Applicability.

These regulations apply to each nonprofit owned multifamily housing project with a finally endorsed HUD-insured or HUD-held mortgage which is assisted under one of these programs:

(a) Section 236 of the National Housing Act;

(b) Section 221(d)(5) of the National Housing Act;

(c) Section 101 of the Housing and Urban Development Act of 1965; or

(d) Section 8 of the U.S. Housing Act of 1937.

§ 265.3 Definitions.

"Commissioner" means the Assistant Secretary for Housing-Federal Housing Commissioner.

"Director" means the HUD field office Director, who is either an Area Office Manager in a HUD Area Office, a Supervisor in a HUD Service Office with multifamily management responsibility, or the Regional Administrator in the Denver Regional/Area Office.

"Local General Partner" means a general partner which has as its principal place of business an office within the market area served by the multifamily housing project.

"Local Management Agent" means a management agent which has as its principal place of business an office within the market area served by the multifamily housing project.

"Market Area" means the geographical area established for the purpose of setting Section 8 Fair Market Rents under 24 CFR Part 888.

"Multifamily Housing Project" (or "Project") means any property, or combination of properties, consisting of five or more living units with a HUD-insured or HUD-held mortgage.

"Nonprofit" means a corporation or association organized for purposes other than the making of profit or gain for itself or any persons identified with it and which the Commissioner finds is in no manner controlled or directed by persons or firms seeking to derive profit or gain from it.

"Profit-motivated" means a corporation, trust, association, partnership, individual or other entity capable of holding title to real property and organized for the purposes of making profit or gain.

§ 265.4 Waivers.

Upon a determination and finding of good cause, the Commissioner may waive any provision of this part in any particular case subject only to statutory limitations. Each waiver shall be in writing supported by documentation of the facts and reasons which formed the basis for the waiver.

§ 265.5 Limitations Against Transfer.

No nonprofit owner of a multifamily housing project may convey, transfer, or encumber any of the mortgaged property without the prior written approval of the Commissioner.

§ 265.6 Review of Projects Proposed for Transfer and Notice to Proposed Purchaser.

When a project is proposed for a transfer of physical assets, the Director shall schedule a full review of the project to identify the present physical, financial, management and tenant needs, including the energy related problems and needs of the project. The Director shall provide the nonprofit owner and the proposed purchaser with the results of this review in writing, including a complete physical inspection report and management review report, indicating HUD's recommended corrective actions. The Director will require the proposed purchaser to respond satisfactorily in writing to all the deficiencies noted in the Director's reports, as well as the criteria of § 265.10. A current energy audit of the project shall be used to determine its energy related problems and needs. HUD and the proposed purchaser shall review the audit and develop a plan to implement energy conservation improvements.

§ 265.7 Director's Analysis and Findings on the Need for a Transfer.

(a) Before accepting an application for a transfer of physical assets from nonprofit to profit-motivated ownership, the Director shall make a written finding that a transfer of ownership to a profit-motivated owner is necessary to resolve the problems of the project based on one or both of the following factors:

(1) The nonprofit owner is no longer capable or willing to own and operate the project successfully; or

(2) There is a need for additional cash contributions to satisfy the present physical and financial needs of the project as determined by the review conducted pursuant to § 265.6 because assistance for the project from HUD, considering other use of this assistance, is not available in amounts necessary to satisfy these needs.

(b) If the sole basis for a proposed transfer is the lack of capability or willingness of the existing nonprofit sponsor to own and operate the project successfully, the Director shall determine that there is no capable, nonprofit sponsor in the area which is interested in assuming ownership of the project.

§ 265.9 Applying for Transfer of Physical Assets.

The proposed purchaser shall submit the following to the Director:

(a) An application for transfer of physical assets and all required attachments as stated on the application form and in the Insured Project Servicing Handbook, 4350.1, Chapter 4;

(b) A narrative explanation of why the owner is proposing a transfer of physical assets; and

(c) A check for the transfer fee in the amount of 50 cents per thousand dollars of the original principal amount of the mortgage.

§ 265.10 Criteria for Approval.

(a) The proposed purchaser and its principals shall, to the Director's satisfaction, meet the following criteria as supported by written findings of fact:

(1) Include a local general partner if an acceptable local general partner is available. If a local general partner is not available, the proposed ownership entity shall show evidence of its capability to own and successfully operate a project outside the area of its principal place of business.

(2) Show the ability to provide sound project management, especially sound physical and financial management. Employing a local management agent is strongly encouraged. If a proposed management agent is not local, the agent shall show evidence of its capability to manage a project successfully outside the area of its principal place of business.

(3) Show the ability to respond to the needs of the tenants and to work cooperatively with tenant organizations as demonstrated by prior experience in other mutlifamily housing projects or as described in an acceptable plan for establishing sound working relationships with individual tenants and tenant organizations.

(4) Show an overall capacity, including financial capacity as determined by the Commissioner, to operate the project successfully for the remaining term of the mortgage. The involvement of the owner in other multifamily housing projects will be considered in making this determination.

(b) Any proposed purchaser shall satisfy the following additional criteria as determined by the Director and supported by written findings of fact:

(1) Develop a detailed plan acceptable to the Director which responds to the needs of the project and the corrective actions specified by the Director in the review prepared pursuant to § 265.6. Where there is a mortgage delinquency, the plan shall provide that the delinquency will be eliminated by a specified date.

(2) Receive previous participation clearance (2530) for the proposed purchaser and the proposed management agent.

(3) Execute a new regulatory agreement governing the future operation of the project, which shall include the requirement to adhere to the project's Affirmative Fair Housing Marketing Plan on record, as updated and approved by HUD for the transfer. The updated plan shall cover particularly the marketing of vacant units both at the time of transfer and during normal turnover. Proposed purchasers of projects not covered under an Affirmative Fair Housing Marketing Plan shall submit a plan in accordance with 24 CFR 200.600.

§ 265.11 Approval of Transfer of Physical Assets.

(a) The Director shall make a written finding determining whether or not the proposed purchaser meets the criteria set out in § 265.10.

(b) The Director may reject any application upon a written finding of its failure to meet any of the criteria of this part.

(c) If the Director finds that all of the criteria are met, the Commissioner or the Commissioner's designee may approve the transfer.

§ 265.12 Contributions and Schedule for Payments.

(a) The proposed purchaser shall contribute to the project in cash an amount equal to the greater of 10 percent of the unpaid mortgage principal balance or an amount sufficient, in addition to assistance available from HUD, to meet the present physical and financial needs of the project as determined by the Director pursuant to § 265.6.

(b) The proposed purchaser shall pay the required cash contribution in equal or successively smaller installments over a 24-month period or, if the Director determines it to be necessary in order to meet the cash contribution required by the needs of the project, over a 36-month period. The initial contribution shall be made at the final closing of the transfer

and shall be sufficient to meet the project's immediate physical and financial needs as specified by HUD in its review under § 265.6.

(c) Cash contributions shall be placed either in the reserve for replacement account or in a restricted bank account established pursuant to the receipt of flexible subsidy assistance as provided by 24 CFR Part 219 or paid directly to the mortgages as a prepayment on the mortgage or to HUD in the case of HUD-held mortgages. The Director shall determine the appropriate use of the cash contributions and shall approve each withdrawal from the reserve for replacement and escrow accounts.

§ 265.13 Prohibition Against Payment to the Nonprofit Owner.

(a) Except as provided in paragraph (b) of this section, the nonprofit owner selling the project shall not receive any remuneration in any form, either in direct payment in respect of the transfer or in respect of any other contribution to the nonprofit, its parent or affiliate organizations, in excess of nominal consideration necessary to effect the sale.

(b) If approved by the Director, the nonprofit owner may be reimbursed in order to repay advances or loans made within the 24 months prior to HUD's approval of the transfer to assure the continued operation of the project.

§ 265.14 Rents and Leases.

(a) The rental formula to be used in determining maximum rents after the transfer shall be the same formula as applied previously to the project under the nonprofit owner. No separate allowance shall be made in the rent formula for a return on equity to the profit-motivated owner. This does not preclude the owner from receiving a distribution if the criteria in § 265.15 are satisfied.

(b) The owner shall honor all existing leases on the property regardless of state or local law.

§ 265.15 Limits on Distributions.

(a) Distribution can be made only as permitted by the Regulatory Agreement.

(b) The Director shall limit the owner in any one year to a maximum distribution of six percent of the actual cash contribution.

§ 265.16 Prepayment Prohibition.

Prepayment of mortgages in whole or in part of projects transferred from nonprofit to profit-motivated ownership shall be prohibited without the prior written approval of the Commissioner.

Issued at: Washington, D.C., August 8, 1980.

Clyde McHenry,

Deputy Assistance Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 80-24537 Filed 8-13-80; 8:45 am]

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federal register

Thursday
August 14, 1980

Part V

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

General Prototype Housing Costs for One- to Four-Family Dwelling Units

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-80-1018]

General Prototype Housing Costs for One- to Four-Family Dwelling Units

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner/Department of Housing and Urban Development.

ACTION: Notice.

SUMMARY: On August 21, 1979, the Department published, "General Prototype Housing Costs for One- to Four-Family Dwelling Units." The Department is revising for all areas the prototype costs, based on cost data and other current information received from HUD Field Offices and the public.

DATE: These revised prototype costs will be effective from August 14, 1981 until publication of new cost figures in 1981.

FOR FURTHER INFORMATION CONTACT: John J. Coonts, Director, Single Family Development Division, Office of Single Family Housing, Department of Housing and Urban Development, Washington, D.C. 20410, telephone (202) 755-6720.

SUPPLEMENTARY INFORMATION: Section 904 of the Housing and Community Development Act of 1977 requires HUD to publish prototype housing costs for a broad variety of one- to four-family housing in each market area. These prototype figures serve merely as an aid to the general public and *are not* applicable to prototype determinations required for public housing under the United States Housing Act of 1937. The costs for land and site improvements are included in the Section 904 prototype cost figures.

In order to cover various economic situations, prototype costs are divided into three cost ranges; low, medium and high. The information sources for developing the figures include data from HUD Field Offices, the public, and the basic Section 203(b) mortgage insurance program. The prototype costs are generally representative of the sales prices.

Due to the lack of information on two-, three-, and four-family dwelling units, generally costs shown are for one-family dwellings. The market areas, as designated, are the Base and Key Localities and cover both the urban and rural areas of each market area. Every HUD Field Office has maps of these designated areas. The typical low-range, one-family dwelling will contain three bedrooms and one full bath. The medium range one-family dwelling will contain three or four bedrooms and two full baths. The high range one-family dwelling will contain three to five bedrooms and two or three full baths.

The figures shown below the cost range designations are the typical square-foot areas of a one-family dwelling in the captioned market area.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. This rule is not listed in the Department's semiannual agenda of significant rules, published pursuant to Executive Order 12044.

(Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d); sec. 904, Housing and Community Development Act of 1977 (42 U.S.C. 3540.

Issued at Washington, DC, on August 4, 1980.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

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(Continuation Sheet)
Field Office: Boston, Massachusetts

Market Area: Boston	Low Range 1000	Medium Range 1250	High Range 1760
One Family Dw.	46,000	69,800	90,700
Two Family Dw.	68,300		
Three Family Dw.			
Four Family Dw.			

Market Area: Pittsfield			
One Family Dw.	43,200	64,900	83,100
Two Family Dw.	63,700		
Three Family Dw.			
Four Family Dw.			

Market Area: Worcester			
One Family Dw.	42,900	62,300	82,000
Two Family Dw.	63,200		
Three Family Dw.			
Four Family Dw.			

Market Area: Springfield			
One Family Dw.	44,000	65,300	83,700
Two Family Dw.	63,900		
Three Family Dw.			
Four Family Dw.			

Market Area: Cape Cod			
One Family Dw.	45,100	68,500	86,300
Two Family Dw.	65,500		
Three Family Dw.			
Four Family Dw.			

NOTICE N 78-111 (HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: HARTFORD, CONNECTICUT

Market Area: HARTFORD	Low Range 820	Medium Range 960	High Range 1270
One Family Dw.	53,000	57,500	62,900
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: NEW HAVEN-BRIDGEPORT			
One Family Dw.	55,200	60,000	65,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: STAMFORD			
One Family Dw.	60,000	67,200	79,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111 (HED)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: MANCHESTER, NEW HAMPSHIRE

	Low Range 960	Medium Range 1690	High Range 1980
Market Area: PORTLAND, MAINE			
One Family Dw.	$45,400	$71,100	$92,100
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: BANGOR, MAINE			
One Family Dw.	44,600	70,800	92,200
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: AUGUSTA, MAINE			
One Family Dw.	46,000	72,500	94,100
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: MANCHESTER, NEW HAMPSHIRE			
One Family Dw.	43,900	74,100	99,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: KEENE, NEW HAMPSHIRE			
One Family Dw.	42,700	68,600	94,100
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

(Continuation Sheet)
Field Office: MANCHESTER, NEW HAMPSHIRE

	Low Range	Medium Range	High Range
Market Area: PORTSMOUTH, NEW HAMPSHIRE			
One Family Dw.	46,900	75,300	99,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: BURLINGTON, VERMONT			
One Family Dw.	45,100	72,700	95,800
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE N 78-111(HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: PROVIDENCE, RHODE ISLAND

	Low Range 1040	Medium Range 1250	High Range 1540
Market Area: Rhode Island			
One Family Dw.	46,700	59,300	70,900
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE N 78-111(HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: ALBANY, NEW YORK

	Low Range 940	Medium Range 1090	High Range 1970
Market Area: ALBANY-TROY			
One Family Dw.	37,000	46,300	72,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: AUBURN			
One Family Dw.	36,500	46,100	69,200
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: BINGHAMTON			
One Family Dw.	36,700	46,000	71,900
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: ITHACA			
One Family Dw.	38,200	47,500	77,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: PLATTSBURGH			
One Family Dw.	34,900	45,600	71,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE # 78-111(RD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

(Continuation Sheet)
Field Office: ALBANY, NEW YORK

Market Area: SCHENECTADY	Low Range	Medium Range	High Range
One Family Dw.	37,000	46,300	72,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: SYRACUSE			
One Family Dw.	38,300	47,900	74,800
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: UTICA-ROME			
One Family Dw.	35,700	46,600	72,900
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: WATERTOWN			
One Family Dw.	34,900	44,100	71,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Field Office: BUFFALO, NEW YORK

Market Area: BUFFALO	Low Range 960	Medium Range 1040	High Range 1140
One Family Dw.	45,000	53,500	68,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: ROCHESTER			
One Family Dw.	45,500	54,100	69,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: ELMIRA			
One Family Dw.	41,800	49,800	63,700
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: JAMESTOWN			
One Family Dw.	41,700	49,700	63,500
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE N 78-111 (HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: CAMDEN, NEW JERSEY

	Low Range 1160	Medium Range 1320	High Range 1480
Market Area: COMDON, GLOUCESTER, BURLINGTON			
One Family Dw.	45,200	59,900	65,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: ATLANTIC (SHORE)			
One Family Dw.	46,500	57,500	69,100
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: OCEAN COUNTY			
One Family Dw.	47,300	60,700	66,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: B.A.S.C.			
One Family Dw.	44,500	57,100	60,200
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: MERCER			
One Family Dw.	51,100	64,800	68,700
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE N 78-111 (HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: NEWARK, NEW JERSEY

	Low Range 1,000	Medium Range 1,475	High Range 1,856
Market Area: JERSEY CITY - BAYONNE			
One Family Dw.	44,000	55,600	60,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: EDISON - NEW BRUNSWICK			
One Family Dw.	53,400	64,000	68,900
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: MORRISTOWN			
One Family Dw.	63,400	71,700	78,800
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: SOMERVILLE			
One Family Dw.	56,900	67,300	72,200
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: ASBURY PARK			
One Family Dw.	51,500	61,800	66,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE N 78-111 (HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: NEW YORK, NEW YORK

	Low Range 940	Medium Range 1490	High Range 2230
Market Area: NASSAU/SUFFOLK			
One Family Dw.	39,700	52,500	82,500
Two Family Dw.	53,200	73,200	90,900
Three Family Dw.	84,300	99,500	129,500
Four Family Dw.	102,200	127,800	155,900
Market Area: NEW YORK CITY			
One Family Dw.	42,900	62,700	76,000
Two Family Dw.	59,500	80,800	92,500
Three Family Dw.	86,100	110,900	135,100
Four Family Dw.	104,900	136,700	156,900
Market Area: ROCKLAND			
One Family Dw.	46,800	57,400	70,100
Two Family Dw.	57,800	73,300	85,700
Three Family Dw.	84,500	96,700	119,000
Four Family Dw.	101,800	128,300	146,600
Market Area: ORANGE			
One Family Dw.	42,200	54,700	68,600
Two Family Dw.	55,000	67,800	83,600
Three Family Dw.	81,800	93,300	116,400
Four Family Dw.	98,800	119,800	145,600
Market Area: DUTCHESS, ULSTER & SULLIVAN			
One Family Dw.	44,200	52,600	67,600
Two Family Dw.	53,900	66,200	78,900
Three Family Dw.	79,180	[illegible]	115,400
Four Family Dw.	97,300	120,800	138,900

NOTICE N 78-111 (HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: SAN JUAN, PUERTO RICO

	Low Range 850	Medium Range 1170	High Range 1490
Market Area: San Juan			
One Family Dw.	45,500	53,300	70,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: PONCE			
One Family Dw.	35,000	56,100	69,200
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: MAYAGUEZ			
One Family Dw.	35,000	51,500	64,500
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE N 78-111(HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: BALTIMORE, MARYLAND

	Low Range 1090	Medium Range 1660	High Range 1950
Market Area: BALTIMORE			
One Family Dw.	65,700	79,900	90,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: HAGERSTOWN			
One Family Dw.		53,800	85,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: SALISBURY			
One Family Dw.	51,400	58,400	69,800
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: WALDORF			
One Family Dw.	52,800	77,800	97,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE N 78-111(HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: CHARLESTON, WEST VIRGINIA

	Low Range 980	Medium Range 1150	High Range 2600
Market Area: CHARLESTON			
One Family Dw.	50,500	86,400	134,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: BECKLEY, PRINCETON, BLUEFIELD			
One Family Dw.	49,000	83,500	129,500
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: MARTINSBURG			
One Family Dw.	47,400	80,600	125,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: WHEELING			
One Family Dw.	51,400	88,200	137,200
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: HUNTINGTON			
One Family Dw.	48,100	81,800	127,200
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

(Continuation Sheet)
Field Office: CHARLESTON, WEST VIRGINIA

Market Area: PARKERSBURG

	Low Range	Medium Range	High Range
One Family Dw.	47,300	80,700	126,100
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: UPPER MONONGALIA

One Family Dw.	49,800	85,200	132,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: _____

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: _____

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: _____

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111 (HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: PHILADELPHIA, PENNSYLVANIA

	Low Range 1220	Medium Range 1790	High Range 2200

Market Area: Philadelphia

One Family Dw.	38,200	65,000	120,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: POTTSTOWN - READING

One Family Dw.	49,000	57,500	71,500
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: ALLENTOWN - BETHLEHEM - EASTON

One Family Dw.	61,000	72,000	99,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: LANCASTER - YORK

One Family Dw.	50,000	56,600	77,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: HARRISBURG

One Family Dw.	61,000	72,000	88,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

(Continuation Sheet)
Field Office: PHILADELPHIA, PENNSYLVANIA

Market Area: WILKES BARRE - SCRANTON

	Low Range	Medium Range	High Range
One Family Dw.	49,500	60,500	71,500
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: BELLEFONTE

One Family Dw.	49,500	60,500	77,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: TIOGA

One Family Dw.	49,000	54,900	74,800
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: WILMINGTON - STATE OF DELAWARE

One Family Dw.	53,000	66,500	82,500
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: _____

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111 (HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: PITTSBURGH AREA OFFICE

	Low Range 960	Medium Range 1610	High Range 2210

Market Area: PITTSBURGH

One Family Dw.	77,400	87,000	98,100
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: ERIE

One Family Dw.	72,800	82,600	93,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: ALTOONA

One Family Dw.	71,000	81,600	91,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: JOHNSTOWN

One Family Dw.	71,600	80,200	91,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: _____

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

The Pittsburgh Area Office experiences no two, three or four family dwellings

NOTICE H 78-111(HD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: RICHMOND, VIRGINIA

	Low Range	Medium Range	High Range
	1090	2110	2240
Market Area: RICHMOND			
One Family Dw.	40,400	57,400	100,100
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: PETERSBURG			
One Family Dw.	38,300	54,700	90,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: LYNCHBURG			
One Family Dw.	34,500	51,200	85,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: ROANOKE			
One Family Dw.	36,600	53,100	87,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: DANVILLE			
One Family Dw.	34,600	51,300	83,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

(Continuation Sheet)
Field Office: RICHMOND, VIRGINIA

	Low Range	Medium Range	High Range
Market Area: FREDERICKSBURG			
One Family Dw.	40,300	57,700	99,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: CHARLOTTESVILLE			
One Family Dw.	36,100	51,500	88,100
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: NEWPORT NEWS			
One Family Dw.	40,000	57,200	99,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: NORFOLK			
One Family Dw.	38,600	55,600	95,200
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: VIRGINIA BEACH			
One Family Dw.	39,200	56,000	95,100
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

(Continuation Sheet)
Field Office: RICHMOND, VIRGINIA

	Low Range	Medium Range	High Range
Market Area: WINCHESTER			
One Family Dw.	36,500	53,100	89,100
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE № 78-111(HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: WASHINGTON, D.C.

	Low Range 1060	Medium Range 1370	High Range 2480
Market Area: WASHINGTON METRO AREAS			
One Family Dw.	67,000	114,000	155,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE N 78-111(HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: ATLANTA, GEORGIA

	Low Range	Medium Range	High Range
Market Area: ATLANTA	980	1420	2130
One Family Dw.	40,800	64,300	91,500
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: ATHENS			
One Family Dw.	36,600	56,000	82,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: ALBANY			
One Family Dw.	36,600	57,500	78,500
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: AUGUSTA			
One Family Dw.	36,100	56,000	79,500
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: COLUMBUS			
One Family Dw.	38,000	57,500	82,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

(Continuation Sheet)
Field Office: ATLANTA, GEORGIA

	Low Range	Medium Range	High Range
Market Area: ROME			
One Family Dw.	37,600	58,300	84,500
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: SAVANNAH			
One Family Dw.	39,200	61,700	87,500
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE # 78-111(HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: BIRMINGHAM, ALABAMA

	Low Range 1030	Medium Range 1350	High Range 1680
Market Area: ANNISTON			
One Family Dw.	39,400	49,700	73,800
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: BIRMINGHAM			
One Family Dw.	37,200	50,200	72,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: DOTHAN			
One Family Dw.	38,400	56,000	60,900
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: FLORENCE			
One Family Dw.	35,600	53,700	61,800
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: GADSDEN			
One Family Dw.	39,300	*47,500	64,300
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

(Continuation Sheet)

Field Office: BIRMINGHAM, ALABAMA

	Low Range	Medium Range	High Range
Market Area: HUNTSVILLE			
One Family Dw.	40,200	47,700	64,700
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: MOBILE			
One Family Dw.	42,700	49,700	63,300
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: MONTGOMERY			
One Family Dw.	38,300	43,000	58,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: TUSCALOOSA			
One Family Dw.	37,500	44,400	63,100
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE N 78-111 (HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings
RMS Number MM070000202S

Field Office: COLUMBIA AREA OFFICE

	Low Range 1070	Medium Range 1360	High Range 1510
Market Area: ROCK HILL-AIKEN			
One Family Dw.	40,900	51,100	56,900
Two Family Dw.	58,900	70,500	
Three Family Dw.			
Four Family Dw.			
Market Area: COLUMBIA-ORANGEBURG-FLORENCE			
One Family Dw.	40,700	51,800	60,100
Two Family Dw.	58,400	70,800	
Three Family Dw.			
Four Family Dw.			
Market Area: CHARLESTON-MYRTLE BEACH			
One Family Dw.	42,800	54,600	63,100
Two Family Dw.	61,000	74,300	
Three Family Dw.			
Four Family Dw.			
Market Area: GREENVILLE			
One Family Dw.	40,800	52,300	59,500
Two Family Dw.	58,600		
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE N 78-111 (HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: CORAL GABLES, FLORIDA

	Low Range 1000	Medium Range 1250	High Range 1970
Market Area: DADE			
One Family Dw.	36,800	54,000	87,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: BROWARD			
One Family Dw.	38,500	55,000	87,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: PALM BEACH			
One Family Dw.	34,100	51,700	83,700
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: LEE			
One Family Dw.	33,400	47,700	75,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: MONROE			
One Family Dw.	35,600	61,700	94,700
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE # 78-111 (HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: GREENSBORO, NORTH CAROLINA

	Low Range 1000	Medium Range 1300	High Range 1680
Market Area: GREENSBORO			
One Family Dw.	38,000	46,400	59,800
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: ASHEVILLE			
One Family Dw.	40,100	44,500	56,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: CHARLOTTE			
One Family Dw.	37,700	41,600	60,300
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: ELIZABETH CITY			
One Family Dw.	36,900	42,700	
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: GREENVILLE			
One Family Dw.	38,100	46,300	59,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

(Continuation Sheet)
Field Office: GREENSBORO, NORTH CAROLINA

	Low Range	Medium Range	High Range
Market Area: RALEIGH			
One Family Dw.	37,500	47,400	59,100
Two Family Dw.		59,300	
Three Family Dw.			
Four Family Dw.		100,600	
Market Area: WILMINGTON			
One Family Dw.	40,000	46,100	
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE: H 78-111 (HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: JACKSON, MISSISSIPPI

	Low Range	Medium Range	High Range
Market Area: BILOXI-GULFPORT	1170	1860	2560
One Family Dw.	41,300	65,500	93,500
Two Family Dw.	63,700		
Three Family Dw.			
Four Family Dw.	103,700		
Market Area: COLUMBUS			
One Family Dw.	41,200	66,600	95,200
Two Family Dw.	65,900		
Three Family Dw.			
Four Family Dw.	105,900		
Market Area: GREENVILLE			
One Family Dw.	38,500	64,400	100,700
Two Family Dw.	62,600		
Three Family Dw.			
Four Family Dw.	100,800		
Market Area: HATTIESBURG			
One Family Dw.	41,200	65,600	94,200
Two Family Dw.	65,400		
Three Family Dw.			
Four Family Dw.	106,400		
Market Area: JACKSON			
One Family Dw.	41,800	66,600	98,700
Two Family Dw.	70,300		
Three Family Dw.			
Four Family Dw.	105,700		

(Continuation Sheet)
Field Office: JACKSON, MISSISSIPPI

	Low Range	Medium Range	High Range
Market Area: LAUREL			
One Family Dw.	40,900	67,600	91,900
Two Family Dw.	66,900		
Three Family Dw.			
Four Family Dw.	105,400		
Market Area: MERIDIAN			
One Family Dw.	39,200	64,300	88,900
Two Family Dw.	63,500		
Three Family Dw.			
Four Family Dw.	102,000		
Market Area: NATCHEZ			
One Family Dw.	38,000	63,700	89,000
Two Family Dw.	61,900		
Three Family Dw.			
Four Family Dw.	90,200		
Market Area: VICKSBURG			
One Family Dw.	40,200	66,400	90,100
Two Family Dw.	65,200		
Three Family Dw.			
Four Family Dw.	104,700		
Market Area: SOUTHHAVEN			
One Family Dw.	43,400	69,400	97,900
Two Family Dw.	68,600		
Three Family Dw.			
Four Family Dw.	110,500		

NOTICE N 78-111 (HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: JACKSONVILLE, FLORIDA

	Low Range 1090	Medium Range 1340	High Range 1620
Market Area: JACKSONVILLE			
One Family Dw.	42,300	52,800	65,200
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: GAINSVILLE			
One Family Dw.	40,500	48,100	60,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: TALLAHASSEE			
One Family Dw.	37,300	47,400	56,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: PANAMA CITY			
One Family Dw.	39,800	46,400	59,800
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: PENSACOLA			
One Family Dw.	42,300	46,000	61,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE N 78-111 (HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: KNOXVILLE, TENNESSEE

	Low Range 980	Medium Range 1030	High Range 1300
Market Area: KNOXVILLE			
One Family Dw.	40,000	46,000	55,000
Two Family Dw.		55,000	69,500
Three Family Dw.			
Four Family Dw.	111,000	120,000	
Market Area: CHATTANOOGA			
One Family Dw.	38,500	44,750	55,500
Two Family Dw.		53,500	67,750
Three Family Dw.			
Four Family Dw.	106,000	114,000	
Market Area: KINGSPORT			
One Family Dw.	38,750	45,000	53,250
Two Family Dw.		53,000	67,000
Three Family Dw.			
Four Family Dw.	106,000	114,500	
Market Area: JOHNSON CITY			
One Family Dw.	39,000	45,500	53,750
Two Family Dw.		53,500	67,750
Three Family Dw.			
Four Family Dw.	107,000	115,500	
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE N 78-111(HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: LOUISVILLE, KENTUCKY

	Low Range 930	Medium Range 1630	High Range 1930
Market Area: LOUISVILLE			
One Family Dw.	40,800	55,900	76,900
Two Family Dw.	53,200	113.000	
Three Family Dw.			
Four Family Dw.	100,300	131,600	
Market Area: OWENSBORO			
One Family Dw.	38,700	52,600	72,800
Two Family Dw.	50,500	90,300	
Three Family Dw.			
Four Family Dw.	93,600	125,000	
Market Area: ASHLAND			
One Family Dw.	40,800	55,900	76,900
Two Family Dw.	54,000	113.500	
Three Family Dw.			
Four Family Dw.	98,600	131,600	
Market Area: COVINGTON			
One Family Dw.	41,300	56,700	78,500
Two Family Dw.	54.600	115,100	
Three Family Dw.			
Four Family Dw.	117,200	133,800	
Market Area: PADUCAH			
One Family Dw.	37,900	51,600	62,800
Two Family Dw.	50,700	89,500	
Three Family Dw.			
Four Family Dw.	109,000	123,900	

NOTICE N 78-111(HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: MEMPHIS, TENNESSEE

	Low Range 1020	Medium Range 2020	High Range 3030
Market Area: MEMPHIS			
One Family Dw.	43,000	67,100	85,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: JACKSON			
One Family Dw.	42,200	65,300	83,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE N 78-111 (HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: NASHVILLE, TENNESSEE

Market Area: NASHVILLE

	Low Range 1040	Medium Range 1260	High Range 2190
One Family Dw.	38,200	57,800	81,400
Two Family Dw.	57,500	76,300	
Three Family Dw.			
Four Family Dw.			

Market Area: _____

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: _____

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: _____

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: _____

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE N 78-111 (HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: ORLANDO, FLORIDA

Market Area: ORANGE, SEMINOLE/OSCOLA

	Low Range 1050	Medium Range 1200	High Range 1760
One Family Dw.	40,000	50,000	75,000
Two Family Dw.		70,000	
Three Family Dw.			
Four Family Dw.			

Market Area: BREVARD

One Family Dw.	40,000	50,000	75,000
Two Family Dw.		70,000	
Three Family Dw.			
Four Family Dw.			

Market Area: VOLUSIA

One Family Dw.	40,000	50,000	75,000
Two Family Dw.		70,000	
Three Family Dw.			
Four Family Dw.			

Market Area: _____

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: _____

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE N 78-111 (HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: TAMPA, FLORIDA

	Low Range 1010	Medium Range 1320	High Range 1690
Market Area: TAMPA			
One Family Dw.	38,600	56,000	81,900
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: LAKELAND			
One Family Dw.	33,200	50,200	87,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: BRODENTON-SARASOTA			
One Family Dw.	39,400	54,600	81,900
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE N 78-111 (HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: CHICAGO, ILLINOIS

	Low Range 1130	Medium Range 1500	High Range 2000
Market Area: CHICAGO			
One Family Dw.	52,500	89,800	124,900
Two Family Dw.	84,000	106,000	130,000
Three Family Dw.			
Four Family Dw.	155,000	164,200	178,200
Market Area: ROCKFORD			
One Family Dw.	46,200	77,800	108,500
Two Family Dw.	73,900	92,200	113,000
Three Family Dw.			
Four Family Dw.			
Market Area: ROCK ISLAND			
One Family Dw.	47,800	79,800	111,200
Two Family Dw.	77,300	94,300	115,700
Three Family Dw.			
Four Family Dw.			
Market Area: STERLING			
One Family Dw.	45,800	77,300	108,000
Two Family Dw.	73,900	91,200	111,800
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE N 78-111 (HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: CINCINNATI, OHIO

Market Area: CINCINNATI

	Low Range 1120	Medium Range 1220	High Range 2020
One Family Dw.	49,500	58,700	89,400
Two Family Dw.	89,500		
Three Family Dw.	Not typical for the area		
Four Family Dw.	140,000	163,500	

Market Area: DAYTON

One Family Dw.	43,500	62,000	88,000
Two Family Dw.	See Note		
Three Family Dw.	Not typical for the area		
Four Family Dw.	See Note		

NOTE: In the past year construction of the two (2) and four (4) family dwelling unit has declined in the Dayton Area. We, therefore, are submitting no data for this area, for these types of buildings.

Market Area: _____

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: _____

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: _____

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE N 78-111 (HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: CLEVELAND, OHIO

Market Area: CLEVELAND

	Low Range 1040	Medium Range 1320	High Range 1790
One Family Dw.	54,400	81,800	126,900
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: AKRON

One Family Dw.	51,100	68,000	121,100
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: TOLEDO

One Family Dw.	53,600	70,800	126,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: YOUNGSTOWN

One Family Dw.	50,700	67,600	120,200
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: FINDLEY

One Family Dw.	53,600	70,800	126,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

(Continuation Sheet)
Field Office: CLEVELAND, OHIO

	Low Range	Medium Range	High Range
Market Area: LORAIN			
One Family Dw.	54,000	70,800	126,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: MANSFIELD			
One Family Dw.	49,900	65,700	116,900
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: COLUMBUS, OHIO

	Low Range	Medium Range	High Range
	940	1680	2210
Market Area: COLUMBUS			
One Family Dw.	43,300	64,700	100,800
Two Family Dw.	77,300	97,600	
Three Family Dw.			
Four Family Dw.			162,700
Market Area: ATHENS			
One Family Dw.	38,600	69,400	100,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: LIMA			
One Family Dw.	43,600	77,100	100,400
Two Family Dw.	85,700	104,100	
Three Family Dw.			
Four Family Dw.			
Market Area: ZANESVILLE			
One Family Dw.	42,800	60,600	92,100
Two Family Dw.			
Three Family Dw.		110,000	
Four Family Dw.			
Market Area: NEWARK			
One Family Dw.	47,700	67,600	88,400
Two Family Dw.	71,500	90,300	
Three Family Dw.		115,400	
Four Family Dw.		132,000	

(Continuation Sheet)
Field Office: COLUMBUS, OHIO

	Low Range	Medium Range	High Range
Market Area: SPRINGFIELD			
One Family Dw.	44,000	71,300	99,700
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: TROY			
One Family Dw.	38,700	71,400	99,200
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE N 78-111 (HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: DETROIT, MICHIGAN

	Low Range 900	Medium Range 1600	High Range 2300
Market Area: DETROIT			
One Family Dw.	49,000	62,200	90,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE N 78-111(HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: FLINT, MICHIGAN

	Low Range 1000	Medium Range 1220	High Range 1530
Market Area: FLINT			
One Family Dw.	47,300	60,000	100,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: SAGINAW			
One Family Dw.	47,000	55,000	90,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: BAY CITY			
One Family Dw.	47,000	55,000	90,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: MIDLAND			
One Family Dw.	47,000	65,000	100,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE N 78-111(HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: GRAND RAPIDS, MICHIGAN

	Low Range 1060	Medium Range 1320	High Range 1860
Market Area: GRAND RAPIDS			
One Family Dw.	45,800	52,100	72,000
Two Family Dw.	62,300	73,700	81,000
Three Family Dw.			
Four Family Dw.			
Market Area: BENTON HARBOR			
One Family Dw.	38,800	45,200	65,200
Two Family Dw.	52,700	64,300	71,600
Three Family Dw.			
Four Family Dw.			
Market Area: JACKSON			
One Family Dw.	43,500	50,300	72,000
Two Family Dw.	60,300	72,600	80,500
Three Family Dw.			
Four Family Dw.			
Market Area: LANSING			
One Family Dw.	46,400	53,100	74,000
Two Family Dw.	67,500	79,500	87,200
Three Family Dw.			
Four Family Dw.			
Market Area: BATTLE CREEK			
One Family Dw.	47,600	53,900	74,000
Two Family Dw.	63,000	76,700	84,000
Three Family Dw.			
Four Family Dw.			

(Continuation Sheet)
Field Office: GRAND RAPIDS, MICHIGAN

	Low Range	Medium Range	High Range
Market Area: MUSKEGON			
One Family Dw.	40,500	46,900	67,500
Two Family Dw.	54,900	68,000	75,400
Three Family Dw.			
Four Family Dw.			
Market Area: TRAVERSE CITY			
One Family Dw.	45,900	52,300	72,800
Two Family Dw.	60,300	72,400	79,700
Three Family Dw.			
Four Family Dw.			
Market Area: MT. PLEASANT			
One Family Dw.	41,700	48,100	69,000
Two Family Dw.	56,900	69,500	76,800
Three Family Dw.			
Four Family Dw.			
Market Area: MARQUETTE			
One Family Dw.	46,400	52,900	74,700
Two Family Dw.	63,100	75,900	83,400
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(REV)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: INDIANAPOLIS, INDIANA

	Low Range	Medium Range	High Range
	1060	1120	2100
Market Area: INDIANAPOLIS			
One Family Dw.	44,400	55,700	86,100
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: FT. WAYNE			
One Family Dw.	43,800	54,400	83,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: TERRE HAUTE			
One Family Dw.	46,100	57,900	89,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: GARY			
One Family Dw.	54,000	59,800	91,900
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE N 78-111(HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: MILWAUKEE, WISCONSIN

Market Area: MILWAUKEE	Low Range 1200	Medium Range 1650	High Range 2020
One Family Dw.	62,100	92,000	137,000
Two Family Dw.	103,300	127,000	169,300
Three Family Dw.	152,600	188,600	248,800
Four Family Dw.	203,500	254,300	333,900

Market Area: MADISON			
One Family Dw.	57,400	85,200	126,700
Two Family Dw.	95,100	117,900	157,700
Three Family Dw.	139,700	174,400	230,500
Four Family Dw.	187,200	233,200	307,900

Market Area: GREEN BAY			
One Family Dw.	48,600	76,400	117,400
Two Family Dw.	84,900	106,800	145,600
Three Family Dw.	129,900	162,400	216,400
Four Family Dw.	173,900	217,200	287,100

Market Area: EAU CLAIRE			
One Family Dw.	45,400	71,900	109,700
Two Family Dw.	81,500	102,900	140,800
Three Family Dw.	122,600	154,600	207,600
Four Family Dw.	164,100	208,800	280,400

Market Area: SUPERIOR			
One Family Dw.	45,400	73,200	113,300
Two Family Dw.	83,800	106,300	146,200
Three Family Dw.	126,300	159,900	215,400
Four Family Dw.	168,600	214,400	288,500

NOTICE N 78-111(HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: MINNEAPOLIS, MINNESOTA

Market Area: DULUTH	Low Range 1080	Medium Range 1260	High Range 2010
One Family Dw.	53,100	72,300	98,100
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: HIBBING			
One Family Dw.	52,800	71,900	97,500
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: MANKATO/WORTHINGTON			
One Family Dw.	52,400	71,400	96,800
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: MINNEAPOLIS/ST. PAUL			
One Family Dw.	55,800	75,500	101,700
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: MOORHEAD			
One Family Dw.	52,100	70,900	96,200
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

(Continuation Sheet)
Field Office: MINNEAPOLIS, MINNESOTA

Market Area: ROCHESTER/AUSTIN

	Low Range	Medium Range	High Range
One Family Dw.	52,800	71,900	97,500
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: ST. CLOUD

One Family Dw.	52,400	71,400	96,800
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: _____

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: _____

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: _____

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111 (HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: SPRINGFIELD, ILLINOIS

	Low Range 1130	Medium Range 1350	High Range 2020
Market Area: SPRINGFIELD			
One Family Dw.	51,500	62,900	67,100
Two Family Dw.	53,700	55,000	72,300
Three Family Dw.	75,600	78,400	107,900
Four Family Dw.	100,700	102,100	147,000
Market Area: PEORIA-PEKIN			
One Family Dw.			
Two Family Dw.	SAME	AS ABOVE	
Three Family Dw.			
Four Family Dw.			
Market Area: BLOOMINGTON-NORMAL			
One Family Dw.			
Two Family Dw.	SAME	AS ABOVE	
Three Family Dw.			
Four Family Dw.			
Market Area: CHAMPAIGN-URBANA			
One Family Dw.			
Two Family Dw.	SAME	AS ABOVE	
Three Family Dw.			
Four Family Dw.			
Market Area: BELLEVILLE-ALTON			
One Family Dw.			
Two Family Dw.	SAME	AS ABOVE	
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: ALBUQUERQUE SERVICE OFFICE

	Low Range 1160	Medium Range 1680	High Range 2000
Market Area: ALBUQUERQUE			
One Family Dw.	49,300	71,600	98,200
Two Family Dw.			
Three Family Dw.		92,300	
Four Family Dw.		118,800	
Market Area: SANTA FE			
One Family Dw.	53,200	74,000	104,600
Two Family Dw.			
Three Family Dw.		108,700	
Four Family Dw.		129,300	
Market Area: CLOVIS			
One Family Dw.	38,300	59,600	74,800
Two Family Dw.			
Three Family Dw.		83,700	
Four Family Dw.		98,400	
Market Area: HOBBS			
One Family Dw.	43,200	55,600	80,700
Two Family Dw.			
Three Family Dw.		94,800	
Four Family Dw.		110,100	
Market Area: LAS CRUCES			
One Family Dw.	45,800	63,100	84,300
Two Family Dw.			
Three Family Dw.		93,800	
Four Family Dw.		113,000	

NOTICE H 78-111(HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: DALLAS, TEXAS

	Low Range 1090	Medium Range 1600	High Range 2390
Market Area: DALLAS			
One Family Dw.	36,000	66,600	113,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: WACO			
One Family Dw.	33,800	60,100	107,500
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: TYLER			
One Family Dw.	34,500	56,200	109,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111 (HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: FT. WORTH, TEXAS

	Low Range 1400	Medium Range 1600	High Range 2200
Market Area: FT. WORTH			
One Family Dw.	56,000	66,500	80,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: WICHITA FALLS			
One Family Dw.	52,700	61,900	76,700
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: ABILENE			
One Family Dw.	44,800	61,300	77,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: BROWNWOOD			
One Family Dw.	42,700	51,900	77,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: SAN ANGELO			
One Family Dw.	42,700	59,600	77,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111 (HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: HOUSTON, TEXAS

	Low Range 1100	Medium Range 1620	High Range 2150
Market Area: HOUSTON			
One Family Dw.	41,000	67,900	112,600
Two Family Dw.	66,400	94,400	130,200
Three Family Dw.			
Four Family Dw.			
Market Area: BEAUMONT-PORT ARTHUR			
One Family Dw.	39,500	66,900	112,200
Two Family Dw.	64,500	92,800	130,300
Three Family Dw.			
Four Family Dw.			
Market Area: TEXAS CITY-GALVESTON			
One Family Dw.	41,000	68,900	115,100
Two Family Dw.	66,800	95,600	132,600
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE N 78-111 (HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: LITTLE ROCK, ARKANSAS

	Low Range 1200	Medium Range 1260	High Range 2420
Market Area: LITTLE ROCK			
One Family Dw.	39,500	46,900	81,300
Two Family Dw.		80,200	87,500
Three Family Dw.			
Four Family Dw.	101,200	111,700	130,600
Market Area: TEXARKANA			
One Family Dw.	39,200	46,100	76,900
Two Family Dw.		79,500	85,600
Three Family Dw.			
Four Family Dw.	102,600	112,000	130,200
Market Area: JONESBORO			
One Family Dw.	37,000	44,800	75,800
Two Family Dw.		75,300	84,200
Three Family Dw.			
Four Family Dw.	96,000	105,900	125,200
Market Area: FORT SMITH			
One Family Dw.	38,000	46,200	80,300
Two Family Dw.		77,900	88,400
Three Family Dw.			
Four Family Dw.	96,000	110,500	129,400
Market Area: FAYETTEVILLE			
One Family Dw.	38,200	45,700	80,300
Two Family Dw.		76,600	86,900
Three Family Dw.			
Four Family Dw.	98,500	108,900	129,400

NOTICE N 78-111 (HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: LUBBOCK, TEXAS

	Low Range 1060	Medium Range 1390	High Range 1700
Market Area: AMARILLO			
One Family Dw.	35,900	53,300	71,200
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: EL PASO			
One Family Dw.	35,400	51,400	67,700
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: LUBBOCK			
One Family Dw.	36,000	52,800	70,200
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: MIDLAND-ODESSA			
One Family Dw.	37,200	54,400	73,200
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: NEW ORLEANS, LOUISIANA

	Low Range	Medium Range	High Range
	980	1470	2260
Market Area: NEW ORLEANS			
One Family Dw.	42,000	67,200	101,400
Two Family Dw.	67,900	106,300	
Three Family Dw.	111,700	134,900	
Four Family Dw.	130,600	175,000	
Market Area: BATON ROUGE			
One Family Dw.	34,000	67,900	107,200
Two Family Dw.	60,100	93,900	
Three Family Dw.	87,600	115,800	
Four Family Dw.	106,400	158,000	
Market Area: HOUMA			
One Family Dw.	38,500	62,300	94,300
Two Family Dw.	67,100	96,300	
Three Family Dw.	95,200	117,900	
Four Family Dw.	115,000	152,000	
Market Area: LAFAYETTE			
One Family Dw.	37,100	61,500	103,300
Two Family Dw.	55,400	81,500	
Three Family Dw.	86,100	107,500	
Four Family Dw.	109,500	145,400	
Market Area: LAKE CHARLES			
One Family Dw.	34,000	55,100	89,300
Two Family Dw.	52,700	84,600	
Three Family Dw.	85,900	106,600	
Four Family Dw.	103,800	141,800	

NOTICE H 78-111(HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: OKLAHOMA CITY, OKLAHOMA

	Low Range	Medium Range	High Range
	1060	1420	1730
Market Area: OKLAHOMA CITY			
One Family Dw.	40,600	55,300	62,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: ENID			
One Family Dw.	40,700	57,400	60,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: LAWTON			
One Family Dw.	40,600	56,800	59,900
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: WOODWARD			
One Family Dw.	42,400	58,300	63,500
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: ARDMORE			
One Family Dw.	39,800	55,900	59,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE N 78-111 (HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: SAN ANTONIO AREA OFFICE

	Low Range 900	Medium Range 1310	High Range 1700
Market Area: SAN ANTONIO, TEXAS			
One Family Dw.	32,900	54,500	67,500
Two Family Dw.	54,900	62,000	74,400
Three Family Dw.			
Four Family Dw.			
Market Area: AUSTIN, TEXAS			
One Family Dw.	33,800	54,000	68,700
Two Family Dw.	56,000	63,300	75,800
Three Family Dw.			
Four Family Dw.			
Market Area: CORPUS CHRISTI, TEXAS			
One Family Dw.	33,000	52,700	67,000
Two Family Dw.	54,700	61,700	73,900
Three Family Dw.			
Four Family Dw.			
Market Area: RIO GRANDE VALLEY, TEXAS			
One Family Dw.			
Two Family Dw.	31,900	50,600	64,200
Three Family Dw.	52,500	59,200	70,700
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE N 78-111 (HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: SHREVEPORT, LOUISIANA

	Low Range 1090	Medium Range 1650	High Range 2770
Market Area: SHREVEPORT			
One Family Dw.	45,000	83,200	99,600
Two Family Dw.			102,400
Three Family Dw.			
Four Family Dw.			129,000
Market Area: MONROE			
One Family Dw.	41,500	64,100	92,200
Two Family Dw.			95,000
Three Family Dw.			
Four Family Dw.			120,400
Market Area: ALEXANDRIA			
One Family Dw.	43,000	66,100	86,700
Two Family Dw.			97,000
Three Family Dw.			
Four Family Dw.			121,900
Market Area: MARSHALL, TEXAS			
One Family Dw.	38,500	63,100	84,700
Two Family Dw.			97,000
Three Family Dw.			
Four Family Dw.			123,000
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: TULSA, OKLAHOMA

	Low Range 1220	Medium Range 1530	High Range 1920
Market Area: ULSA			
One Family Dw.	51,700	65,900	80,800
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: BARTLESVILLE			
One Family Dw.	51,200	66,100	81,300
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: MCALESTER			
One Family Dw.	47,600	61,900	76,200
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: MUSKOGEE			
One Family Dw.	47,900	62,300	76,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: DES MOINES, IOWA

	Low Range 860	Medium Range 960	High Range 1400
Market Area: CEDAR RAPIDS			
One Family Dw.	40,800	60,300	98,900
Two Family Dw.	70,700	107,300	
Three Family Dw.			
Four Family Dw.	106,100	133,500	
Market Area: COUNCIL BLUFFS			
One Family Dw.	40,300	59,500	97,600
Two Family Dw.	69,700	105,800	
Three Family Dw.			
Four Family Dw.	104,600	131,500	
Market Area: DAVENPORT			
One Family Dw.	42,000	61,900	101,500
Two Family Dw.	72,600	110,300	
Three Family Dw.			
Four Family Dw.	108,500	136,600	
Market Area: DES MOINES			
One Family Dw.	40,300	59,500	97,600
Two Family Dw.	69,700	105,800	
Three Family Dw.			
Four Family Dw.	104,600	131,500	
Market Area: SIOUX CITY			
One Family Dw.	39,700	58,800	96,300
Two Family Dw.	68,800	104,300	
Three Family Dw.			
Four Family Dw.	103,000	129,400	

NOTICE N 78-111 (HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: KANSAS CITY, KANSAS

	Low Range 1060	Medium Range 1200	High Range 2150
Market Area: KANSAS CITY			
One Family Dw.	49,300	60,800	92,900
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: JOPLIN			
One Family Dw.	54,500	68,600	104,700
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: SEDALIA			
One Family Dw.	53,900	76,400	
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: SPRINGFIELD			
One Family Dw.	54,000	72,900	102,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: ST. JOSEPH			
One Family Dw.	50,400	56,200	91,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE N 78-111 (HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: OMAHA, NEBRASKA

	Low Range 960	Medium Range 1020	High Range 1210
Market Area: OMAHA BASE CITY			
One Family Dw.	42,900	47,400	63,100
Two Family Dw.	NOT AVAILABLE	NOT AVAILABLE	NOT AVAILABLE
Three Family Dw.	"	"	"
Four Family Dw.	"	"	"
Market Area: LINCOLN KEY AREA #2			
One Family Dw.	44,900	50,000	66,700
Two Family Dw.	NOT AVAILABLE	NOT AVAILABLE	NOT AVAILABLE
Three Family Dw.	"	"	"
Four Family Dw.	"	"	"
Market Area: NORFOLK KEY AREA #4			
One Family Dw.	45,600	NOT AVAILABLE	NOT AVAILABLE
Two Family Dw.	NOT AVAILABLE	"	"
Three Family Dw.	"	"	"
Four Family Dw.	"	"	"
Market Area: GRAND ISLAND KEY AREA #5			
One Family Dw.	NOT AVAILABLE	53,700	NOT AVAILABLE
Two Family Dw.	"	NOT AVAILABLE	"
Three Family Dw.	"	"	"
Four Family Dw.	"	"	"
Market Area: NORTH PLATTE KEY AREA #7			
One Family Dw.	NOT AVAILABLE	53,700	NOT AVAILABLE
Two Family Dw.	"	NOT AVAILABLE	"
Three Family Dw.	"	"	"
Four Family Dw.	"	"	"

(Continuation Sheet)
Field Office: OMAHA, NEBRASKA

	Low Range	Medium Range	High Range
Market Area: SCOTTSBLUFF KEY AREA #8			
One Family Dw.	NOT AVAILABLE	53,700	NOT AVAILABLE
Two Family Dw.	"	NOT AVAILABLE	"
Three Family Dw.	"	"	"
Four Family Dw.	"	"	"
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: ST. LOUIS AREA OFFICE (MO.)

	Low Range	Medium Range	High Range
	1050	1800	2360
Market Area: ST. LOUIS			
One Family Dw.	41,000	54,000	85,000
Two Family Dw.		80,000	
Three Family Dw.			
Four Family Dw.			
Market Area: KIRKSVILLE			
One Family Dw.	40,000		92,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: COLUMBIA			
One Family Dw.	42,000	52,000	
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: ROLLA			
One Family Dw.	53,000	67,000	145,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: CAPE GIRARDEAU			
One Family Dw.	77,000	95,000	162,500
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE N 78-111 (HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: TOPEKA, KANSAS

	Low Range 1060	Medium Range 1200	High Range 2150
Market Area: TOPEKA			
One Family Dw.	48,300	55,000	85,800
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: PITTSBURG			
One Family Dw.	50,300	59,200	85,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: WICHITA			
One Family Dw.	50,000	58,900	84,900
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: GARDEN CITY			
One Family Dw.	48,100	55,000	83,900
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE N 78-111 (HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: CASPER, WYOMING

	Low Range 900	Medium Range 1930	High Range 1700
Market Area: CASPER			
One Family Dw.	51,500	75,100	111,700
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: CHEYENNE			
One Family Dw.	46,900	69,600	103,100
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: CODY/POWELL			
One Family Dw.	49,800	72,000	104,800
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: JACKSON			
One Family Dw.	62,300	96,100	137,700
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: LARAMIE			
One Family Dw.	46,400	67,000	102,100
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

(Continuation Sheet)
Field Office: CASPER, WYOMING

Market Area: GILLETTE

	Low Range	Medium Range	High Range
One Family Dw.	51,000	74,200	106,800
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: RIVERTON

One Family Dw.	50,300	72,600	104,800
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: ROCK SPRINGS

One Family Dw.	53,300	77,900	113,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area:

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area:

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111 (HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: DENVER, COLORADO

Market Area: DENVER

	Low Range 860	Medium Range 1610	High Range 2110
One Family Dw.	41,100	74,100	113,200
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: COLORADO SPRINGS

One Family Dw.	37,700	67,700	104,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: PUEBLO

One Family Dw.	35,200	64,700	101,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: DURANGO, CORTEZ

One Family Dw.	41,000	77,000	118,800
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: GRAND JUNCTION

One Family Dw.	39,400	72,200	115,100
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

(Continuation Sheet)
Field Office: DENVER, COLORADO

Market Area: GREELEY

	Low Range	Medium Range	High Range
One Family Dw.	39,600	73,600	112,200
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: FORT COLLINS

One Family Dw.	47,600	77,400	116,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: ASPEN/CARBONDALE

One Family Dw.	53,000	87,900	128,700
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: RANGELY

One Family Dw.	41,200	70,900	107,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: COLORADO CITY

One Family Dw.	36,300	64,900	100,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

(Continuation Sheet)
Field Office: DENVER, COLORADO

Market Area: LEADVILLE

	Low Range	Medium Range	High Range
One Family Dw.	35,700	65,800	104,700
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: GEORGETOWN

One Family Dw.	51,400	83,800	123,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area:

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area:

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area:

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE N 78-111 (HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: FARGO, NORTH DAKOTA

	Low Range 960	Medium Range 970	High Range 1330
Market Area: FARGO			
One Family Dw.	54,400	77,100	91,800
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: BISMARK			
One Family Dw.	54,100	77,700	91,800
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: DICKINSON			
One Family Dw.	54,600	77,200	92,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: GRAND FORKS			
One Family Dw.	53,200	75,700	91,300
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: MINOT			
One Family Dw.	51,800	73,900	90,600
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE N 78-111 (HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: HELENA, MONTANA

	Low Range 860	Medium Range 1330	High Range
Market Area: MISSOULA			
One Family Dw.	46,500	74,800	
Two Family Dw.			
Three Family Dw.			
Four Family Dw.	84,000	114,500	
Market Area: BILLINGS			
One Family Dw.	46,500	75,500	
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: LEWISTON			
One Family Dw.	47,600	76,200	
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: HELENA			
One Family Dw.	48,600	76,200	
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: GREAT FALLS			
One Family Dw.	47,600	76,200	
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

(Continuation Sheet)
Field Office: HELENA, MONTANA

Market Area: BUTTE

	Low Range	Medium Range	High Range
One Family Dw.	45,500	75,200	
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: BOZEMAN

One Family Dw.	47,100	76,800	
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: _____

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: _____

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: _____

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE # 78-111(IID)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: SALT LAKE CITY, UTAH

	Low Range	Medium Range	High Range
	890	1110	1640

Market Area: SALT LAKE CITY

One Family Dw.	48,600	56,900	96,500
Two Family Dw.			
Three Family Dw.			
Four Family Dw.		129,500	

Market Area: CEDAR CITY

One Family Dw.	47,300	61,500	96,800
Two Family Dw.			
Three Family Dw.			
Four Family Dw.		126,900	

Market Area: LOGAN

One Family Dw.	46,900	50,900	96,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.		127,200	

Market Area: MOAB

One Family Dw.	46,000	53,000	94,100
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: PROVO

One Family Dw.	50,700	57,400	98,800
Two Family Dw.			
Three Family Dw.			
Four Family Dw.		133,100	

(Continuation Sheet)
Field Office: SALT LAKE CITY, UTAH

Market Area: VERNAL

	Low Range	Medium Range	High Range
One Family Dw.	45,400	58,200	92,300
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: RICHFIELD

One Family Dw.	44,200	49,000	91,100
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area:

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area:

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area:

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111 (HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: SIOUX FALLAS, SOUTH DAKOTA

	Low Range 900	Medium Range 1450	High Range 1700

Market Area: SIOUX FALLS

One Family Dw.	44,900	66,800	106,800
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: ABERDEEN

One Family Dw.	43,600	64,500	104,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: RAPID CITY

One Family Dw.	45,100	76,100	107,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: MITCHELL

One Family Dw.	42,600	63,200	102,100
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: PIERRE

One Family Dw.	44,400	64,800	103,700
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

(Continuation Sheet)
Field Office: SIOUX FALLS, SOUTH DAKOTA

	Low Range	Medium Range	High Range
Market Area: WATERTOWN			
One Family Dw.	41,800	61,900	99,900
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE N 78-111 (HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: FRESNO SERVICE OFFICE

	Low Range 1150	Medium Range 1580	High Range 2000
Market Area: FRESNO			
One Family Dw.	50,500	75,500	127,000
Two Family Dw.	84,750	128,250	198,750
Three Family Dw.	*25,500	*36,000	*52,000
Four Family Dw.	*32,750	*46,250	*65,500
Market Area: MODESTO			
One Family Dw.	51,000	76,000	128,750
Two Family Dw.	85,500	129,750	200,750
Three Family Dw.	*26,750	*37,500	*54,000
Four Family Dw.	*34,500	*48,500	*71,000
Market Area: VISALIA			
One Family Dw.	49,000	73,250	123,000
Two Family Dw.	84,500	128,500	195,750
Three Family Dw.	*23,750	*34,000	*50,500
Four Family Dw.	*31,000	*44,000	*63,000
Market Area: BAKERSFIELD			
One Family Dw.	48,500	73,500	123,500
Two Family Dw.	83,750	128,000	196,250
Three Family Dw.	*23,250	*33,500	*50,000
Four Family Dw.	*30,250	*42,000	*61,000
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111 (HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: HONOLULU AREA OFFICE

	Low Range 900	Medium Range 1400	High Range 1800
Market Area: HONOLULU			
One Family Dw.	98,000	151,000	224,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: MAUI			
One Family Dw.	96,000	145,000	177,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: HAWAII			
One Family Dw.	74,000	107,000	144,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: KAUAI			
One Family Dw.	75,000	110,000	147,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: GUAM			
One Family Dw.	55,000	80,000	101,000
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111 (HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: LAS VEGAS, NEVADA

	Low Range 900	Medium Range 1390	High Range 2200
Market Area: LAS VEGAS			
One Family Dw.	46,700	69,400	94,300
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: LOS ANGELES, CALIFORNIA

	Low Range 1280	Medium Range 2070	High Range 2760
Market Area: LOS ANGELES			
One Family Dw.	71,100	114,000	193,100
Two Family Dw.	126,100		
Three Family Dw.			
Four Family Dw.	178,100	249,300	
Market Area: LANCASTER, PALMDALE			
One Family Dw.	61,000	108,300	163,300
Two Family Dw.	90,600		
Three Family Dw.			
Four Family Dw.	158,100		
Market Area: VENTURA, OXNARD			
One Family Dw.	72,800	106,200	177,500
Two Family Dw.	118,300		
Three Family Dw.			
Four Family Dw.		197,500	
Market Area: SANTA BARBARA, OJAI, PIRU			
One Family Dw.		170,600	233,600
Two Family Dw.	156,200		
Three Family Dw.			
Four Family Dw.		220,600	
Market Area: SAN LUIS OBISPO, SANTA MARIA, PASO ROBLES			
One Family Dw.	60,400	121,200	169,000
Two Family Dw.	109,400		
Three Family Dw.			
Four Family Dw.	169,100		

NOTICE H 78-111(HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: PHOENIX, ARIZONA

	Low Range 840	Medium Range 1240	High Range 2370
Market Area: PHOENIX			
One Family Dw.	33,700	60,100	117,600
Two Family Dw.	61,600	90,400	115,600
Three Family Dw.	87,100	107,600	
Four Family Dw.	103,200	136,100	174,400
Market Area: FLAGSTAFF			
One Family Dw.	35,300	62,600	119,600
Two Family Dw.	63,200	93,600	116,700
Three Family Dw.	90,300	109,300	
Four Family Dw.	106,900	136,800	177,200
Market Area: PRESCOTT			
One Family Dw.	34,100	56,400	109,200
Two Family Dw.	59,900	90,300	114,300
Three Family Dw.	83,900	108,900	
Four Family Dw.	109,400	139,200	179,600
Market Area: YUMA			
One Family Dw.	32,200	52,300	100,100
Two Family Dw.	58,900	87,600	108,700
Three Family Dw.	81,800	102,200	
Four Family Dw.	99,400	128,900	164,600
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE # 78-111 (RED)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: RENO, NEVADA SERVICE OFFICE

Market Area: RENO/SPARKS NEVADA

	Low Range 1050	Medium Range 1390	High Range 2190
One Family Dw.	59,500	72,500	93,400
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: _____

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: _____

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: _____

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: _____

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE # 78-111 (RED)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: SACRAMENTO, CALIFORNIA

Market Area: SACRAMENTO

	Low Range 840	Medium Range 1190	High Range 1810
One Family Dw.	47,300	62,500	92,800
Two Family Dw.		81,800	103,700
Three Family Dw.			
Four Family Dw.		175,500	

Market Area: PLACERVILLE

One Family Dw.	55,100	60,800	93,300
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: CHICO

One Family Dw.	44,300	54,300	99,500
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: YREKA

One Family Dw.	46,100	62,600	
Two Family Dw.	82,200		
Three Family Dw.			
Four Family Dw.			

Market Area: _____

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE N 78-111(HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: SAN DIEGO SERVICE OFFICE

Market Area: SAN DIEGO

	Low Range 940	Medium Range 1640	High Range 2640
One Family Dw.	64,400	102,800	135,500
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: _____

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: _____

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: _____

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: _____

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE N 78-111(HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: SAN FRANCISCO, CALIFORNIA

Market Area: SAN FRANCISCO

	Low Range 1260	Medium Range 1470	High Range 2090
One Family Dw.	114,800	129,800	181,500
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: SAN JOSE

One Family Dw.	77,800	92,100	151,600
Two Family Dw.		155,900	
Three Family Dw.			
Four Family Dw.			

Market Area: SAN RAFAEL

One Family Dw.	100,200	119,200	174,700
Two Family Dw.		184,100	
Three Family Dw.			
Four Family Dw.			

Market Area: SALINAS

One Family Dw.	68,900	81,400	137,200
Two Family Dw.		142,800	
Three Family Dw.			
Four Family Dw.			

Market Area: _____

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111 (HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: SANTA ANA, CALIFORNIA

	Low Range 1120	Medium Range 1710	High Range 2190
Market Area: SANTA ANA			
One Family Dw.	61,300	109,300	162,300
Two Family Dw.		161,300	
Three Family Dw.			
Four Family Dw.			
Market Area: VICTORVILLE			
One Family Dw.	55,000	103,300	
Two Family Dw.		130,500	
Three Family Dw.			
Four Family Dw.			
Market Area: INDIO			
One Family Dw.	57,500	106,000	
Two Family Dw.		133,500	
Three Family Dw.			
Four Family Dw.			
Market Area: BLYTHE			
One Family Dw.	53,800	101,800	
Two Family Dw.		127,300	
Three Family Dw.			
Four Family Dw.			
Market Area: BIG BEAR			
One Family Dw.	60,800	113,000	
Two Family Dw.		140,800	
Three Family Dw.			
Four Family Dw.			

(Continuation Sheet)
Field Office: SANTA ANA, CALIFORNIA

	Low Range	Medium Range	High Range
Market Area: BISHOP			
One Family Dw.	56,500	106,300	
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: TUCSON, ARIZONA

Market Area: TUCSON

	Low Range 910	Medium Range 1280	High Range 2000
One Family Dw.	42,300	63,500	94,300
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: SIERRA VISTA

One Family Dw.	42,300	63,500	94,300
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: NOGALES

One Family Dw.	42,300	63,500	94,300
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area:

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area:

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE H 78-111(HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: ANCHORAGE, ALASKA

Market Area: ANCHORAGE

	Low Range 1020	Medium Range 1450	High Range 1800
One Family Dw.	94,300	125,100	146,200
Two Family Dw.	105,600	142,400	166,900
Three Family Dw.			
Four Family Dw.	135,400	194,300	238,900

Market Area: FAIRBANKS

One Family Dw.	86,700	116,700	138,500
Two Family Dw.	93,700	129,400	155,800
Three Family Dw.			
Four Family Dw.	121,700	183,000	231,500

Market Area: JUNEAU

One Family Dw.	83,200	112,200	130,900
Two Family Dw.	91,900	126,300	147,400
Three Family Dw.			
Four Family Dw.	120,200	178,900	221,200

Market Area:

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area:

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE N 78-111 (HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: BOISE, IDAHO

	Low Range 1040	Medium Range 1220	High Range 2340
Market Area: BOISE			
One Family Dw.	44,100	56,600	85,800
Two Family Dw.	67,800	76,200	
Three Family Dw.			
Four Family Dw.		160,600	
Market Area: IDAHO FALLS			
One Family Dw.	44,500	52,700	81,300
Two Family Dw.	65,200	73,200	
Three Family Dw.			
Four Family Dw.		153,000	
Market Area: MCCALL			
One Family Dw.	42,700		
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: POCATELLO			
One Family Dw.	44,400	52,500	81,200
Two Family Dw.	65,000	73,000	
Three Family Dw.			
Four Family Dw.		152,800	
Market Area: TWIN FALLS			
One Family Dw.	42,000	54,300	80,900
Two Family Dw.	65,600	73,400	
Three Family Dw.			
Four Family Dw.		150,800	

(Continuation Sheet)
Field Office: BOISE, IDAHO

	Low Range	Medium Range	High Range
Market Area: LEWISTON			
One Family Dw.	44,000		
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area: COEUR D' ALENE			
One Family Dw.	47,600	56,200	86,300
Two Family Dw.	68,600	77,400	
Three Family Dw.			
Four Family Dw.		166,100	
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE N 78-111(HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: PORTLAND, OREGON

Market Area: PORTLAND

	Low Range 1160	Medium Range	High Range
One Family Dw.	50,000	58,500	71,000
Two Family Dw.	77,300	85,200	97,700
Three Family Dw.	117,300	128,200	146,800
Four Family Dw.	141,600	155,400	178,300

Market Area: BEND, COOS BAY & EUGENE

One Family Dw.	48,400	57,200	68,600
Two Family Dw.	74,300	84,100	95,300
Three Family Dw.	115,500	125,100	143,100
Four Family Dw.	137,600	151,000	172,700

Market Area: MEDFORD

One Family Dw.	48,700	56,600	66,800
Two Family Dw.	73,900	82,800	95,400
Three Family Dw.	115,000	125,800	144,200
Four Family Dw.	139,100	152,800	175,500

Market Area: _____

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

Market Area: _____

One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

NOTICE N 78-111(HUD)

FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: SEATTLE, WASHINGTON

Market Area: SEATTLE

	Low Range 1060	Medium Range 1130	High Range 1340
One Family Dw.	62,100	70,600	77,100
Two Family Dw.	79,300	96,400	123,200
Three Family Dw.		144,300	
Four Family Dw.		192,900	

Market Area: BELLINGHAM

One Family Dw.	60,700	69,100	75,700
Two Family Dw.	77,800	94,800	121,400
Three Family Dw.		142,400	
Four Family Dw.		190,700	

Market Area: OLYMPIA

One Family Dw.	59,600	68,200	74,900
Two Family Dw.	77,000	94,400	121,600
Three Family Dw.		142,900	
Four Family Dw.		192,100	

Market Area: ABERDEEN

One Family Dw.	57,900	66,400	73,000
Two Family Dw.	75,100	92,200	119,000
Three Family Dw.		140,100	
Four Family Dw.		188,700	

Market Area: LONGVIEW

One Family Dw.	58,100	66,500	73,000
Two Family Dw.	75,200	92,200	118,800
Three Family Dw.		139,800	
Four Family Dw.		188,100	

(Continuation Sheet)
Field Office: SEATTLE, WASHINGTON

	Low Range	Medium Range	High Range
Market Area: PORT ANGELES			
One Family Dw.	59,600	68,200	74,000
Two Family Dw.	77,000	94,400	121,600
Three Family Dw.		142,900	
Four Family Dw.		182,100	
Market Area: YAKIMA			
One Family Dw.	57,800	66,000	72,300
Two Family Dw.	74,500	91,000	116,700
Three Family Dw.		137,300	
Four Family Dw.		184,500	
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

[FR Doc. 80-24531 Filed 8-13-80; 8:45 am]
BILLING CODE 4210-01-C

NOTICE # 78-111(HUD)
FORMAT

Schedule of Prototype Housing Costs: One- to Four-Family Dwellings

Field Office: SPOKANE, WASHINGTON

	Low Range	Medium Range	High Range
	1000	1000	1100
Market Area: SPOKANE			
One Family Dw.	44,700	54,700	72,700
Two Family Dw.	60,700	71,500	92,600
Three Family Dw.			
Four Family Dw.	97,300	111,900	131,900
Market Area: CHENEY			
One Family Dw.	45,100	55,200	73,600
Two Family Dw.	61,400	72,300	93,800
Three Family Dw.			
Four Family Dw.	98,600	113,400	133,700
Market Area: KENNEWICK			
One Family Dw.	44,100	63,400	84,900
Two Family Dw.	66,800	80,900	105,600
Three Family Dw.			
Four Family Dw.	113,800	128,600	148,900
Market Area: PULLMAN			
One Family Dw.	44,700	57,000	78,600
Two Family Dw.	59,400	72,400	96,600
Three Family Dw.			
Four Family Dw.	99,700	116,200	138,100
Market Area:			
One Family Dw.			
Two Family Dw.			
Three Family Dw.			
Four Family Dw.			

federal register

Thursday
August 14, 1980

Part VI

Department of Energy

Office of Alcohol Fuels and Office of Conservation and Solar Energy

Loan Guarantees for Alcohol Fuels, Biomass Energy and Municipal Waste Energy Projects; Proposed Rulemaking, Written Comments, and Request for Voluntary Applications

DEPARTMENT OF ENERGY

Office of Alcohol Fuels and Offices of Conservation and Solar Energy

10 CFR Part 799

Loan Guarantees for Alcohol Fuels, Biomass Energy and Municipal Waste Energy Projects; Proposed Rulemaking, Written Comments, and Request for Voluntary Applications

AGENCY: Department of Energy.

ACTION: Proposed Rule and Request for Voluntary Applications.

SUMMARY: On June 30, 1980, the President signed the Energy Security Act, Pub. L. 96–294 which contains Title II, the Biomass Energy and Alcohol Fuels Act of 1980 (the "Act"). The Act, among other things, authorizes the Department of Energy ("DOE") to provide various forms of financial assistance to alcohol fuels, biomass energy and municipal waste energy projects to reduce the dependence of the United States on imported petroleum and natural gas. This notice sets forth as a proposal the rules under which DOE will provide loan guarantees to assist such projects, requests public comments on the proposed rule, and establishes dates for public hearings on the proposed rule. This notice also requests persons to file voluntary applications for loan guarantees prior to promulgation of the final rule.

DATES: Written comments in response to this notice September 12, 1980; requests to speak by August 29, 1980; public hearing on the dates set forth below; and speakers to be notified by 4:30 p.m., September 3, 1980. Public hearings:
September 5—Denver, Colorado.
September 8—Chicago, Illinois.
September 9—Washington, D.C.

ADDRESSES: Public hearing begin at 9:30 a.m. and will be held on the following dates and at the following places:

September 5, 1980: Post Ofiice Auditorium, Room 269, 1825 Stout Street, Denver, Colorado

Send Requests To Speak to: Mr. Dale Eriksen, DOE, Region VIII, 1075 South Yukon Street, P.O. Box 26247, Belmar Branch, Lakewood, Colorado 80226, (303) 234–2420

September 8, 1980: Pick Congress Hotel, 8th Floor, Michigan and Congress Avenues, Chicago, Illinois

Send Requests To Speak to: Ms. Janice Rudzinski, DOE, Region V, 175 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8778

September 9, 1980: Room 2105, 2000 M Street, NW., Washington , D.C.

Send Requests To Speak to: Ms. Dorothy Hamid, Room B210, 2000 M Street, NW., Washington D.C. 20461, (202) 653–3974

Written comments should be sent to Public Hearings Management, Department of Energy, Room B210, Box XU, 2000 M Street, NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

As to alcohol fuels projects: Bert Greenglass, Acting Director, Office of Alcohol Fuels, Mail Stop 6A–211, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–9487

As to non-alcohol biomass projects: Leslie S. Levine, Acting Director, Office of Solar Applications for Industry, Mail Stop 404, 600 E Street, NW., Washington, D.C. 20585, (202) 376–4424

As to municipal waste projects: Donald K. Walter, Chief, Community Technology Stystems Branch, Mail Stop 1E–276, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–9393

As to hearing procedures: Ms. Dorothy Hamid, Office of Public Hearings Management, Room B210, 2000 M Street, NW., Washington, D.C. 20461, (202) 653–3974

As to legal matters: Thomas L. Blair, Office of General Counsel, Mail Stop E–067, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–6967

SUPPLEMENTARY INFORMATION: For the submission of voluntary applications: See addresses specified in Subparts B, C, or D of the regulation as applicable.

I. Background
A. Energy Production goals
B. Relationship of USDA and DOE Regarding Alcohol Fuels and Biomass Energy Projects
C. Availability of Funds
II. Requests for Voluntary Applications
III. Discussion of the Proposed Rule
A. General Provisions
B. Alcohol Fuels Projects
C. Biomass Energy Projects
D. Municipal Waste Energy Projects
IV. National Environmental Policy Act Review
V. Regulatory Analysis
VI. Period for Public Comment
VII. Comment and Hearing Procedures
A. Written Comments
B. Request Procedures
C. Conduct of Hearings

I. Background

The Act provides the framework for a national effort to stimulate the production of energy from alcohol fuels, biomass and municipal waste projects to reduce dependence on imported petroleum and natural gas. DOE and the United States Department of Agriculture ("USDA") are authorized by Subtitle A of the Act to provide loan guarantees, purchase agreements and price guarantees for alcohol fuel and biomass energy projects. DOE is also authorized by Subtitle B of the Act to provide construction loans, construction loan guarantees, price guarantees and price support loans for municipal waste energy projects. This proposal is the first rule promulgated by DOE to implement the Act and concerns loan guarantees only. The United States Department of Agriculture has also issued a proposed rule for implementing its authority to make loan guarantees under the Act. the public is invited to review that proposed rule and comment to DOE regarding any material discrepancies between the two proposed rules which would affect their ability to participate in these programs.

A. Energy Production Goals

Section 211(a) of the Act requires the Secretary of USDA and the Secretary of DOE to prepare a plan for the President and the Congress by the end of this year. This plan will detail the methods for maximizing the production and use of alcohol fuels and biomass energy and be designed to achieve a total level of alcohol production and use within the United States of at least 60,000 barrels per day of alcohol by December 31, 1982.

Section 211(b) requires submission of a similar plan by January 1, 1982, to cover the period from January 1, 1983, to December 31, 1990. This plan is to be designed to achieve a level of alcohol production within the United States Equal to at least 10 percent of the level of gasoline consumption within the United States, as estimated by the Secretary of DOE for the calendar year 1990. The Secretary of Agriculture and the Secretary of Energy are to include within this plan their evaluation of the feasibility of reaching such goals.

While there is not statutory production goal for municipal waste energy projects, section 231 of the Act does required the Secretary of Energy to prepare a comprehensive plan, in consultation with various heads of other federal agencies, by the end of September 1980. This plan will detail the anticipated research, development, demonstration and commercialization objectives to be achieved; the managment structure and approach to be adopted to carry out the plan; the program strategies and detailed milestones goals; and the total federal and non-federal funding required therefor. A second report, due by January 1, 1982, shall describe any financial, intitutional, environmental and social barriers to the development

and application of technologies for the recovery of energy from municipal wastes.

B. Relationship of USDA and DOE Regarding Alcohol Fuels and Biomass Energy Projects

As noted above, USDA and DOE are both authorized under the Act to issue loan guaranteed for alcohol fuels and biomass energy projects. Section 212 of the Act generally provides that USDA is authorized to provide financial assistance to any alcohol fuel or biomass energy project which has an anticipated annual capacity of less than 15,000,000 gallons of ethanol or its energy equivalent and that DOE is authorized to assist biomass energy projects of larger anticipated capacity. However, DOE has the sole authority to provide financial assistance for all projects, without regard to capacity, which use aquatic plants as feedstock. USDA and DOE are both authorized, jointly or separately, to provide financial assistance for any project of 15,000,000, gallons or more which uses wood, wood wastes or residues as the feedstock; or which is owned and operated by an agricultural cooperative. USDA and DOE have jointly issued a notice (published in the **Federal Register** as 45 FR 52911 on August 8, 1980) which prescribes the method of determining the equivalency of 15,000,000 gallons of ethanol with other energy produced by a biomass energy project. This notice is required under Section 212(g) of the Act.

The Act provides for consultation between the Secretaries of Agriculture and Energy prior to providing financial assistance for biomass energy projects. In addition, either Secretary must concur before the other may offer assistance to projects over 15,000,000 gallons based on wood wood wastes or residues as the feedstock or owned by a cooperative. Although USDA and DOE could issue joint regulations covering these projects, the agencies have determined that the concurrence system rather than the issuance of joint regulations, will result in applications being processed more expeditiously. In addition, the Act also established an Office of Alcohol Fuels and an Office of Energy from Municipal Waste to be located in the Department of Energy. These offices have responsibility for implementing the financial assistance programs established by DOE under the authority of the Act for their respective technology areas.

Availability of Funds

Section 204(a) of the Act provides the Secretary of Energy with an authorization for appropriations under Subtitle A of $600,000,000 of which at least $500,000,000 shall be available to the Office of Alcohol Fuels for its financial assistance activities under the Act, including providing loan guarantees for alcohol fuels projects. In addition to the $600,000,000 authorization, the Act also provides the Secretary of DOE with an authorization for appropriations under Subtitle B of $250,000,000 for carrying out the activities of Subtitle B which contains all the provisions of the Act relating to financial assistance for municipal waste energy projects.

Section 204(c) of the Act provides that for purposes of determining the availability of appropriations, loan guarantees shall be counted at their initial face value.

The Supplemental Appropriations and Recission Act, 1980 (Pub. L. 96-304), which was enacted on July 8, 1980, appropriated a total of $525,000,000 to DOE for carrying out its alcohol fuels and biomass energy activities under the Act. This law also appropriated $220,000,000 to DOE for purposes of carrying out municipal waste energy projects under Subtitle B. DOE gives no assurance that it will in fact issue or conditionally commit ot issue loan guarantees in such total amounts, since such decision can only be made after review and selection of applications in accordance with the provisions of this rule.

II. Requests for Voluntary Applications

Section 212(b)(2) of the Act provides that the Secretary of Energy may use procedures not specified in the Act to the extent the Secretary finds that they will result in applications being processed more expeditiously. Based on this expression of Congressional intent, together with the need for a fast start program in order to meet the production goals previously noted, DOE has determined that it may not initially issue a separate solicitation announcement for the first competition cycle, but will permit the immediate filing of applications for loan guarantees in an initial competition cycle which will remain open until at least October 1, 1980 as discussed below. In this context, the provisions of this paragraph constitute the equivalent of a solicitation announcement as required in § 799.3(c) of the proposed rule. Therefore, DOE requests interested persons to submit their applications for loan guarantees so that evaluations of such applications may commence at once. A response to this request before the proposed rule becomes final is voluntary and involves some risks to early applicants. If the final rule differs from the proposed rule, it may be necessary for initial applicants to amend their applications to come into conformity with the final rule. Since few proposed rules become final without any changes, it is likely that such amendments will be necessary. In addition, this proposed rule has been submitted to the Office of Management and Budget for clearance under the provisions of the Federal Report Act. Therefore, revisions or additions may occur as a result of such review and necessary changes will be reflected in the final rule.

DOE anticipates, and the rule so reflects, that the final rule will be effective on its publication rather than 30 days thereafter as normally required and that no applications received after the tenth day following the date of the publishing of the final rule will be considered during the initial competition cycle. This competitive cycle will not end, in any event, before October 1, 1980. Thereafter, for applications under Subpart A, an additional competition cycle shall occur beginning on the eleventh day following final publication and ending on December 31, 1980 whereupon competition cycles shall occur for all types of applications as described in § 799.3 of the proposed rule. Although evaluation of voluntary applications will begin immediately upon receipt, final selection from the applications received in this initial competitive cycle will not occur until after such tenth day. Applications for this first competition cycle should be filed at the locations identified in the applicable subparts (B, C, or D) of the proposed rule.

III. Discussion of the Proposed Rule

This proposal, which sets forth the guidelines and procedures to be used for the alcohol, biomass energy and municipal waste energy loan guarantee programs, consists of four subparts. Subpart A contains general provisions relating to all loan guarantees under the Act; Subparts B, C and D contain the specific provisions relating to the alcohol fuels, biomass energy and municipal waste energy loan guarantee programs, respectively. Each of these subparts is discussed below.

A. General Provisions

Subpart A of the proposed rule contains sixteen sections which will be applicable to all DOE loan guarantees for biomass energy projects. Each section of the subpart is discussed in the order in which it appears. This discussion also identifies those sections upon which DOE particularly desires the views of the public.

Section 799.1 states the purpose of the regulation and further provides that the authority of the Secretary to issue loan guarantees under the rule is limited to the extent provided in advance in appropriation acts.

Section 799.2 sets forth the definitions to be used throughout the regulation. Many of these definitions come directly from the Act while others are defined in accordance with their normal meaning, with specific language, where required, to make them applicable to loan guarantees under this regulation. A number of these definitions are discussed below. DOE has defined applicant in the broadest sense. This would allow any legal form of business entity and any State, local, or special purpose governmental unit to be eligible to file applications for loan guarantees. Further, in accordance with the Act, projects which receive guarantees under this regulation must be built and operated in the United States. DOE has included a definition of "contracting officer" to make it clear that such official is the only DOE representative legally authorized to contractually obligate the Department and enter into agreements that are binding upon the Department. Parties dealing with the agency regarding activities covered by this rule, should inquire as to the representative's authority as a contracting officer. "Loan" is broadly defined to include any form of appropriate financial obligation to which a guarantee could be attached under the proposed regulation. Finally, it should be noted that the definition of "municipal waste," in accordance with the provisions of the Act, includes, among other things, industrial or commercial waste, but excludes any hazardous waste. However, for environmental reasons, explained in Part IV of this preamble, DOE is proposing to temporarily not accept applications for the utilization of industrial waste, except for limited categories specified. With respect to hazardous waste, DOE is proposing a definition of "municipal waste" which excludes any hazardous waste listed by the Environmental Protection Agency in 40 CFR Part 261 pursuant to the Resource Conservation and Recovery Act of 1976, Pub. L. 94–580, as well as any other waste determined by the Secretary to be hazardous on a case by case basis. The proposed rule specifically makes projects found by the Secretary to involve hazardous waste ineligible to receive a loan guarantee.

Section 799.3, which is entitled Solicitation, Evaluation, and Approval of Applications, is a particularly important section of the regulation for the public to review because it describes the general policies and procedures which will be utilized by DOE in receiving, evaluating, and approving applications which become eligible for the issuance of a loan guarantee. DOE intends the process specified to provide for competition between guarantee applicants within a technology area for the amount of loan guarantees that are available in each competition cycle.

The selection of applications after a competitive evaluation does not, however, necessarily mean those applications selected will receive loan guarantees. The Application Approving Official will identify the conditions under which DOE will execute a loan guarantee for a particular application. Thereafter negotiation will be undertaken with the applicant and the applicant's lender to determine if the application will result in a transaction which meets the Department's conditions and complies with the provisions of the regulation. While the Department is optimistic that successful negotiations will occur in every case, it is realistic to assume that some selected applicants may ultimately fail to receive executed loan guarantees. The procedure by which DOE intends to notify the public of the availability of loan guarantees is through the publishing of a Solicitation Announcement in the Federal Register and the Commerce Business Daily. Parties interested in submitting applications, but who are unable to determine if in fact applications are being solicited, should make inquiries through one of the offices listed for receipt of such applications. Applications should be submitted to those offices specified in Subpart B, C, or D, as appropriate.

Section 799.4 sets forth the detailed information which must be included in an application. The requirements contained in this section are designed to ensure that applications provide the information necessary for accurately evaluating and ranking applicants and their projects. Among other things, the proposed rule requires that applicants supply detailed technical, financial, environmental, legal, and marketing information concerning the project for which a loan guarantee is sought. It is the applicant's responsibility to organize the application in accordance with the evaluation consideration areas described in § 799.3(e) of the proposed rule. The application should contain sufficient information to allow the DOE evaluation panel to make recommendations to the Application Approving Official concerning the ability of the applicant to comply with the requirements described in § 799.6 of the proposed rule and to apply the policy considerations described in § 799.5.

Applications timely received by the Department of Energy, will be comparatively evaluated with other applications received during the same competition cycle. The panel evaluating the applications will rank the applications and make recommendations to the Application Approving Official concerning the selection of applications for possible award. The Application Approving Official may direct the panel to undertake competitive negotiations with one or more of the applicants prior to making a selection when the Application Approving Official determines competitive negotiations to be necessary. These negotiations will further identify for the Application Approving Official those projects most capable of achieving the objectives specified by the Secretary. The Application Approving Official shall then designate those applicants to which conditional commitments should be issued. The purpose of the conditional commitment is to identify those terms and conditions upon which the Department of Energy will issue a guarantee to the applicant. Officials of the Department of Energy will then undertake negotiations in an effort to satisfy the conditions of the conditional commitment and bring the transaction to a closing. Interested parties are specifically requested to provide comments to the Department regarding the procedures for the evaluation and selection of competing proposals.

Section 799.5 contains the general policy considerations which the Department will use as part of the evaluation process. These policy considerations include the extent to which the guarantee is needed, the amount of borrower equity in the project, the degree of risk of the lender, the availability of feedbacks, the length of time to which the Government is exposed to risk in the project, the percentage of the guarantee, and factors associated with competition in the energy industry. Public comments are invited on the proposed policy factors to be applied by the Department as part of the application evaluation process. Particular comments are requested on subsection (b) of § 799.5 which provides that the amount of the guarantee shall not in any event exceed 90% of the principal and accured interest of the loan. The Department of Energy has

decided to limit guarantees to partial guarantee of not more than 90% in order to ensure compliance with the provisions of the Act which require that the lender bear an appropriate degree of risk in the financing of the biomass energy project. The Department would be particularly interested in receiving comments from lenders concerning their willingness to participate in the program under a maximum 90% guarantee and other ways which could be utilized by the Department to ensure that the lender bear an appropriate degree of risk in the project.

Section 799.6 specifies required determinations for the issuance of a guarantee and § 799.7 specifies terms and conditions that will be contained in the guarantee agreement. Comments are desired from potential borrowers and lenders concerning these requirements and terms and conditions and whether or not they pose potential problems to borrowers or lenders who might wish to participate in the program. Comments are particularly desired on § 799.6(c) which provides that guaranteed loans be secured by a first lien on assets of the project but in some instances may find other lien positions acceptable. Comments are also invited on § 799.7(a)(2) and (3) which pertain to patents and other technology utilized or developed in the course of a project to which a guarantee is issued.

Section 799.9 deals with those circumstances under which the Secretary may limit the guarantee to the amount of funds that have then been disbursed under a guaranteed loan. Subsection (b)(3) provides that one of the reasons for such limitation of the guarantee would be if the Secretary determines that the economic or environmental acceptibility of the project is no longer achievable. This is an important consideration which should be fully understood by prospective borrowers and lenders. In no event would be Secretary be able to terminate the protection of the guarantee to that portion of the loan that had already been disbursed, in accordance with the terms and conditions of the guarantee and lending agreements, assuming no other violations of the guarantee had occurred.

Section 799.10 attempts to illustrate eligible and ineligible project costs. Comments are requested from prospective applicants concerning the list of eligible and ineligible project costs and whether any such includable or excludable costs pose significant problems for the project which is contemplated.

Section 799.13 establishes servicing requirements by the lender in the servicing of loans which are guaranteed under this proposed rule. Prospective lenders should review such requirements and comment upon their ability or inability to comply with this section.

Section 799.15 establishes default circumstances which will result in a payment on a guarantee by the Secretary, and defines the rights of the lender to accelerate the debt and make demand with or without the consent of the Secretary. Basically this section provides that the lender may accelerate the debt without the consent of the Secretary only when the borrower is in default as a result of the failure to pay principal or interest on the debt in accordance with the terms and conditions of the debt instrument. Other occasions of default will require the Secretary's consent before the lender can accelerate and make demand for payment pursuant to the guarantee. In all cases the lender will be required to give written notice to the Secretary prior to taking any adverse action against the borrower. Also included in this section of the proposed rule are provisons for liquidation of collateral. Because partial guarantees are involved in transactions made under this rule, the Department envisions that joint plans of liquidation will be involved in most loan default situations. Lenders are particularly requested to comment upon the provisions of this section.

Finally, § 799.16 provides procedures by which disputes arising out of a guarantee agreement or other contractual relationships made under the proposed rule may be decided by the Financial Assistance Appeal Board of the Department. The purpose of this provision is to provide a method of resolving disputes which may make recourse to the courts unnecessary. The provisions do not, however, prevent any party from pursuing his or her legal rights in an appropriate court of law should such action become necessary.

B. Alcohol Fuels Loan Guarantee Program

Subpart B sets forth the policies and procedures which apply to alcohol fuels projects in addition to those applicable under Subpart A to any loan guarantee under the Act. The purpose of Subpart B is set forth in § 799.20. Section 799.22 gives the addresses where applications may be filed. Section 799.23 establishes the additional eligibility requirements for projects as specified in Section 212 of the Act, and as discussed in the Background section of the preamble. Section 799.24, also implementing requirements of the Act, sets forth additional required findings and determinations which the Application Approving Official must make, and the need to consult, and, where applicable, obtain the concurrence of the Secretary of Agriculture. Finally, § 799.25 sets forth the requirements of the Act that certain projects be given priority.

C. Biomass Energy Loan Guarantee Program

In a similar manner, Subpart B sets forth the policies and procedures which apply to biomass energy projects not covered under Subpart B or Subpart D. The sections of this subpart include those type of provisions as mentioned in the discussion of Subpart B. These policies and procedures are in addition to those applicable under Subpart A to any loan guarantee under the Act.

D. Municipal Waste Energy Loan Guarantee Program

Similarily, the provisions of Subpart D deal with eligibility requirements, additional application requirements, policy considerations, additional required findings and determinations, priorities, tax treatment of obligations, and interagency coordination with EPA. These provisions are unique to municipal waste energy projects. Most of these provisions are based on the language of the Act or the related conference report.

IV. Compliance with the National Environmental Policy Act (NEPA)

Although the Secretary is obligated under section 212 of the Act to promulgate program guidelines within 90 days, DOE is endeavoring to comply with the NEPA to the fullest extent possible prior to promulgation of these guidelines. In this connection, DOE has completed or will expeditiously complete, programmatic NEPA reviews of the three separate components of the program covered by the Act.

A. DOE published a notice of availability of an environmental assessment (EA) (DOE/EA-0095) and negative declaration in the Federal Register on July 18, 1979 (44 FR 42110) stating that the Department's overall urban waste program (covering municipal waste other than industrial waste) would not constitute a "major Federal action significantly affecting the quality of the human environment" within the meaning of NEPA, 42 U.S.C. 4321 *et seq.* DOE has reviewed this EA and negative declaration and has concluded that the analysis in the EA and the negative declaration (i.e., the finding of no significant impact) are applicable to this rulemaking.

Industrial waste, which is included in the Act's definition of municipal waste, is not covered by the urban waste EA. Therefore, DOE is preparing a separate industrial waste EA, which may support: (1) A finding of no significant impact as to certain industrial waste processes; and (2) a determination that, as to other industrial waste processes, environmental impacts could be significant. Consequently, in the near term loan guarantees would be available only for those technologies with impacts that are environmentally not significant under NEPA, as determined by the final EA and a finding of no significant impact. (These technologies are expected to include those using waste wood, waste paper, and food process waste which do not constitute agricultural or forest wastes.) See proposed § 799.43(b). Following completion of a programmatic environmental impact statement (EIS) concerning industrial waste, DOE may amend the rule to permit issuance of loan guarantees for additional technologies covered in the EIS. Should the EA not support a finding of no significant impact for certain industrial waste processes, proposed § 799.43(b) would be appropriately amended and all loan guarantees for industrial waste processes would be deferred until EIS completion.

B. DOE issued a notice of availability of an EA (DOE/EA-0107) and a finding of no significant impact on June 27, 1980, which reflected DOE's determination that the impacts of increasing production of alcohol by 30,000 barrels/day would not constitute a "major Federal action significantly affecting the quality of the human environment." DOE has reviewed the EA and believes that the analysis in the EA will be generally applicable to the first phase of the alcohol program under this Act. In any event, DOE is presently preparing a programmatic EA on biomass energy including alcohol fuels. This EA is expected to support both DOE's preparation of the plan required by Section 211(a) and awards made in the second (and subsequent) competitive cycles should the EA not support a finding of no significant impact, then a programmatic EIS will be prepared. Furthermore, DOE will undertake the preparation of an EIS to support preparation of the plan required by Section 211(b).

In addition to the environmental analyses referred to above, DOE will evaluate (and point score) the environmental aspects of each proposal as set forth in the application's environmental report. Further, DOE will complete prior to issuing any loan guarantee, any appropriate NEPA site-specific analysis that may be required.

IV. Review Under Executive Order 12044 and OMB Circular A-116

Today's proposal was reviewed under Executive Order 12044, (43 FR 12661, March 23, 1978) implementing DOE directives thereunder and OMB Circular A-116. DOE has determined that it will be "significant" because of its widespread impact. However, DOE has concluded that it will not be "major" because it will not have the kind or degree of effect which, under Executive Order 12044, necessitates a regulatory analysis. For the same reason, an urban and community impact analysis under OMB Circular A-116 is not required.

V. Period for Public Comment

Taking into account the 90 day statutory deadline for promulgating this as a final regulation, DOE has determined that it would be inappropriate to delay final issuance of this rulemaking any longer than is absolutely required to allow a minimally adequate period for public comment. Accordingly, a 30-day comment period rather than a 60-day period is being provided for public review and comment on this proposed rulemaking.

In light of these considerations, DOE believes that good cause exists to make the final rule effective on the date it is published. Comments of the public are solicited on this course of action.

VI. Comment and Hearings Procedures

A. Written Comments

Interested persons are invited to participate in this rulemaking by submitting data, views or arguments with respect to today's proposed rule. comments should be submitted by September 12, 1980, to the address indicated in the beginning of this preamble. Comments should be identified on the outside of the envelope and on documents submitted to DOE with the designation "ESA loan guarantees." Ten copies should be submitted. All comments received will be available for public inspection in the DOE Reading Room, Room 5B-180, Forrestal Building, 1000 Independence Avenue, SW, between 8:00 a.m. and 4:00 p.m., Monday through Friday.

Pursuant to the provisions of 10 CFR 1004.11, any person submitting information which he or she believes to be confidential and exempt by law from public disclosure should submit one complete copy, and fifteen copies from which information claimed to be confidential has been deleted. In accordance with the procedures established in 10 CFR 1004.11, DOE shall make its own determination with regard to any claim that information submitted be exempt from public disclosure.

B. Hearing Procedures

The time and place of the public hearings are indicated in the dates and addresses section of this preamble. DOE invites any person who has an interest in this proposed regulation, or who is representative of a group or class of persons that has such interest, to make a written request for an opportunity to make an oral presentation. Such a request should be directed to the addresses indicated in the addresses section of this preamble, must be received before 4:30 p.m., August 29, 1980 and may be hand-delivered to such address, between the hours of 9:00 a.m. and 4:30 p.m.

The person making the request should briefly describe the interest concerned; if appropriate, state why she or he is a proper representative of a group or class of persons that has such an interest; and give a concise summary of the proposed oral presentation and a telephone number where she or he may be contacted during the day.

DOE will notify each person selected to appear at the hearings on or before September 3, 1980. Each person selected to be heard should bring 50 copies of his or her statement to the hearing location.

C. Conduct of Hearings

DOE reserves the right to select the persons to be heard at the hearings, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard.

A DOE official will be designated to preside at the hearings. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination. At the conclusion of all initial oral statements, each person who has made an oral statement will, if time permits, be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any person who wishes to have a question asked at the hearing may submit the question, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant, and whether the time limitations permit it to be asked.

Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding officer.

A transcript of the hearings will be made, and the entire record of the hearings, including the transcripts, will be retained by DOE and made available for inspection at the DOE Freedom of Information Reading Room, Room 5B-180, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:00 pm., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

In consideration of the foregoing, DOE hereby proposes to amend Chapter II of Title 10, Code of Federal Regulations, by establishing Part 799 as set forth below.

Issued in Washington, D.C., August 8, 1980.

John A. Hewitt, Jr.,

Acting Secretary of Energy.

PART 799—LOAN GUARANTEES FOR ALCOHOL FUELS, BIOMASS ENERGY AND MUNICIPAL WASTE ENERGY PROJECTS

Subpart A—General Provisions

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799.49 EPA role in program administration.

Authority:—Title II of the Energy Security Act (Pub. L. 96-294), 94 Stat. 683, 42 U.S.C. 8801 et seq. and the Department of Energy Organization Act (Pub. L. 95-91), sec. 644, et seq. 91 Stat. 599 (42 U.S.C. 7254).

Subpart A—General Provisions

§ 799.1 Purpose.

The purpose of this regulation is to set forth policies and procedures utilized by the Secretary to receive, evaluate, and approve applications seeking federal loan guarantees for the financing of biomass energy projects (which include alcohol fuels, biomass, and municipal waste energy projects). This regulation also identifies those requirements and conditions which will be imposed by the Secretary under loan guarantees issued for the purpose of providing financial assistance for the construction of biomass energy projects. The authority of the Secretary to issue loan guarantees under this regulation shall be limited to the extent provided in advance in appropriation acts.

§ 799.2 Definitions.

For the purposes of this regulation:

"Act" means the Biomass Energy and Alcohol Fuels Act of 1980, Pub. L. 96-294 (Title II).

"Alcohol" means alcohol (including methanol and ethanol) which is produced from biomass and which is suitable for use by itself or in combination with other substances as a fuel or as a substitute for petroleum or petrochemical feedstocks.

"Applicant" means any individual, company, cooperative, partnership, corporation, association, consortium, unincorporated organization, trust, estate, or any entity organized for a common business purpose, any state or local government (including any special purpose district or similar governmental unit) or any agency or instrumentality thereof, or any Indian tribe or tribal organization which has the authority to enter into and is seeking a loan guarantee under this regulation.

"Application Approving Official" means the Secretary or person designated by the Secretary who is authorized to approve an application for a loan guarantee under this regulation and to authorize the negotiation and award of commitments to guarantee, guarantee agreements and other contractual documents. In the case of loan guarantees issued under Subpart B of this part, the Secretary has designated the Director of the Office of Alcohol Fuels as the Application Approving Official.

"Application Evaluation Panel" (also referred to as "the Panel") means a team of Federal employees appointed by an Application Approving Official to evaluate loan guarantee applications and make approval or disapproval recommendations regarding such applications.

"Biomass" means any organic matter which is available on a renewable basis, including agricultural crops and agricultural waste and residues, wood and wood waste residues, animal waste, municipal waste, and aquatic plants.

"Biomass energy" means biomass fuel; or energy or steam derived from the direct combustion of biomass for the generation of electricity, mechanical power, or industrial process heat.

"Biomass fuel" means any gaseous, liquid, or solid fuel produced by conversion of biomass.

"Biomass energy project" means any facility (or portion of a facility) located in the United States which is primarily for the production of biomass fuel (and by-products); or the combustion of biomass for the purpose of generating industrial process heat, mechanical power, or electricity (including congeneration).

"Borrower" means any applicant who enters into a loan all or any portion of which is guaranteed under this regulation.

"Btu" means British thermal unit.

"Cogeneration" means the combined generation by any facility of electrical or mechanical power, and steam or forms of useful energy (such as heat) which are used for industrial, commerical, heating or cooling purposes.

"Competiton cycle" means the period of time in which applications will be received for evaluation. The initial competition cycle will expire on the fifteenth day following the effective date of this regulation. An additional competition cycle may occur immediately thereafter and end on December 31, 1980. Then, beginning with 1981, the competition cycle for applications submitted under Subparts B and C will begin with the first day of each calendar quarter (e.g. January 1, April 1, July 1 and October 1) and expire on the last day of each calendar quarter (e.g. March 31, June 30, September 30

and December 31) unless otherwise modified as provided in § 799.3. For applications submitted under Subpart D, beginning in 1981, the competition cycle will begin on January 1 and July 1, and end on June 30 and December 31 respectively, unless otherwise modified as provided in § 799.3.

"Construction" means the construction or acquisition of any biomass energy project; for the conversion of any facility to a biomass energy project; or the expansion or improvement of any biomass energy project which increases the capacity or efficiency of that facility to produce biomass energy. Such term includes the acquisition of equipment and machinery for use in or at the site of a biomass energy project and the acquisition of land and improvements thereon for the construction, expansion, or improvement of such a project, or the conversion of a facility to such a project including the capital costs necessary to meet environmental standards. Such term does not include the acquisition of any facility which was operated as a biomass energy project before the acquisition.

"Cooperative" means any agricultural association as that term is defined in section 15(a) of the Act of June 15, 1929, as amended (46 Stat. 18; 12 U.S.C. 1141j), commonly known as the Agricultural Marketing Act.

"Contracting Officer" means the Department of Energy official warranted and authorized to contractually obligate the Department of Energy and execute written agreements that are binding on the Department.

"Cost overrun" means any cost that exceeds the estimated total cost of the project as established by the Secretary prior to or at the time of the execution of a loan guarantee agreement.

"Default" means the actual failure by the borrower to make payment of principal or interest in accordance with the terms and conditions of a loan guaranteed under this regulation, or the failure of the borrower to meet other requirements specified as a default condition in the guarantee agreement.

"Disadvantaged business concern" means a concern which is at least 51 percent owned by one or more socially and economically disadvantaged individuals (as defined in Pub. L. 95-507).

"Federal Agency" means any Executive agency, as defined in Section 105 of Title 5, United States Code.

"Guarantee Agreement" means the same as that definition contained herein for "Loan Guarantee".

"Holder" means a person or entity holding in due course all or part of the rights, title and interest in the guaranteed portion of the loan.

"Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaskan native village or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"Lender" means any entity which makes a loan that is guaranteed under this regulation. Examples of lenders include, but are not limited to, commercial banks, savings and loan institutions, insurance companies, factoring companies, investment banking organizations, institutional investors, venture capital investment companies, trust companies, trusts, or other entities designated as trustees or agents acting on behalf of bond holders or other lenders: *Provided*, That the term lender does not include the Federal Financing Bank, or any other Federal agency.

"Loan" means any written financial obligation, including, but not limited to, bonds, debentures, notes, or other instruments, under which the payment of money is guaranteed in accordance with the provisions of this regulation.

"Loan guarantee" or "Guarantee agreement" means a written agreement issued by the Department of Energy that guarantees, in accordance with the terms and conditions contained therein, the payment of sums of money owing by a borrower to a lender.

"Motor fuel" means gasoline, kerosene, and middle distillates (including diesel fuel).

"Municipal waste" means any organic matter, including sewage, sewage sludge, and industrial or commercial waste, and mixtures of such matter and inorganic refuse from any publicly or privately operated municipal waste collection or similar disposal system, or from similar waste flows (other than such flows which constitute agricultural waste or residues, or wood waste or residues from wood harvesting activities or production of forest products). Such term does not include any hazardous waste specifically listed in 40 CFR Part 261 or which when utilized in any biomass energy project would, in the opinion of the Secretary, endanger the public health or negatively impact the environment in a significant way.

"Municipal waste energy project" means any facility (or portion of a facility) located in the United States primarily for—

(a) The production of biomass fuel (and byproducts) from municipal waste; or

(b) The combustion of municipal waste for the purpose of generating steam or forms of useful energy, including industrial process heat, mechanical power, or electricity (including cogeneration).

Such term includes any necessary transportation, preparation, and disposal equipment and machinery for use in or at the site of the facility involved.

"Primary fuel" means the predominate fuel used by the biomass energy project and does not include incidental use of petroleum and natural gas.

"Project cost" means any cost that is described in § 799.10 of this regulation.

"Secretary" means the Secretary of Energy or his designee, by delegation or otherwise.

A "small business" is a concern which, including its affiliates, is independently owned and operated and not dominant in its field of operation, has a net worth less than $6 million or has an average net income (after Federal income taxes) for the preceding two years of less than $2 million or has 1000 employees or less.

"State" means any of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

§ 799.3 Solicitation, evaluation, and approval of applications.

(a) *Competition.* It is Department of Energy policy to solicit and evaluate applications on a competitive basis as provided herein. Each application received in accordance with the provisions of this regulation will be considered within the competition cycle in which it is received.

(b) *Application Process.* The Application Process will consist of the following:

(1) The continuing solicitation of applications during the competition cycle or otherwise as provided in paragraph (c) of this section;

(2) Submission of an application which complies with § 799.4 of this regulation;

(3) Preliminary review and screening of applications;

(4) Comparative evaluation;

(5) Selection of applications, to the extent that appropriations are available, by the Application Approving Official for commitment to guarantee, subject to appropriate conditions as determined by

the Application Approving Official in his or her sole discretion;

(6) Issuance of such conditional commitment;

(7) Negotiation; and

(8) Execution of a loan guarantee upon satisfaction of conditions in such conditional commitment.

(c) *Solicitation announcement.* (1) The Secretary will, after the beginning of each competition cycle, issue a Solicitation Announcement, which shall at a minimum be published in the **Federal Register** and the Commerce Business Daily. A Solicitation Announcement will indicate some or all of the following:

(i) The place and time for application submission;

(ii) The programmatic or technological areas that will be emphasized in the next competition cycle;

(iii) Identification of the issuing office;

(iv) Identification of statutory authority and relevant regulations;

(v) Any special requirements not contained in the regulation;

(vi) Application receipt deadline and location to which application must be delivered if different from that specified in the regulation;

(vii) The extent to which appropriations are currently available for loan guarantees; and

(viii) Date of presubmission conference, if any, open to all interested parties.

(2) Presubmission discussion between prospective applicants and DOE personnel (other than the Contracting Officer or designee) regarding the competition is prohibited outside the presubmission conference.

(d) *Receipt and handling of applications.* (1) Applications for loan guarantees may be filed at the addresses specified in the applicable subparts of this regulation in accordance with the type of project to be undertaken.

(2) An application received after 4:30 p.m. at the location of filing on the last day of the competition cycle will not be considered in that competition cycle unless

(i) It is received before a commitment to guarantee is made under that solicitation cycle and;

(ii) It was sent by registered or certified mail not later than the fifth calendar day prior to the date specified for receipt of the application; or

(iii) It was sent by mail and is determined by the contracting officer that the late receipt was due solely to mishandling by the Department of Energy after receipt at the Department of Energy receiving office.

(3) Late applications, unless excepted in paragraph (d)(2) of this section, will be considered in the next competition cycle, if any.

(e) *Evaluation and ranking of applications.* (1)(i) Evaluation and ranking of applications shall be accomplished by an appointed Application Evaluation Panel or other appropriate officials designated by the Application Approving Official (hereinafter referred to as the Panel) for the purpose of determining eligibility of applications and identifying those best suited for selection to accomplish the purpose of the Act. The application evaluation process is intended to provide the Application Approving Official with appropriate findings to permit an optimal selection from among competing applications. The Panel shall be appointed by the Application Approving Official. The Panel is responsible for preliminary review and screening, comparative evaluations, and presentation of its findings and recommendations to the Application Approving Official.

(ii) Applicants shall not be permitted to modify applications in the course of evaluations, nor are discussions with applicants anticipated, except as provided by paragraph (f) of this section, prior to completion of evaluations and presentation of findings to the Application Approving Official.

(iii) Applicants shall not be permitted to modify applications in the course of evaluations, nor are discussions with applicants anticipated, except as provided by paragraph (f) of this section, prior to completion of evaluations and presentation of findings to the Application Approving Official.

(2) Preliminary review and screening of all applications received shall be conducted to determine which applications should be considered in comparative evaluations. The Panel shall review the applications to determine whether each application:

(i) Appears to comply with statutory requirements for project eligibility;

(ii) Appears to comply with programmatic eligibility requirements stated in this regulation and the Solicitation Announcement, if any;

(iii) Contains sufficient information to enable the Panel to perform a comparative evaluation; and

(iv) Is signed by an authorized official of the applicant organization and the lending institution making the loan.

(3) The Panel shall consider the following in comparatively ranking applications:

(i) Technical project feasibility and likelihood of success;

(ii) Market potential and economic feasibility;

(iii) Financial

(A) Credibility of cost estimates,

(B) Adequacy of capitalization, cash flow, working capital, and other financial capability,

(C) Financial condition of applicant and other principals:

(iv) Financing structure

(A) Financial commitment of applicant and other principals to the project,

(B) Lender commitment and debt financing plan,

(C) Other factors which are relevant to a full description of the particular financing structure of the proposed project;

(v) Management plan

(A) Corporate and personnel experience,

(B) Management organization and interrelationships,

(C) Key personnel and associated responsibilities;

(vi) Environmental, health, safety and socio-economic impacts of the proposed project; and

(vii) Ability of applicant to comply with requirements of this regulation.

(4) In developing its recommendations, the Panel shall also utilize the policy considerations specified in § 799.5 and the policy considerations specified in the applicable subparts of this regulation.

(5) The Panel shall present to the Application Approving Offical its ranking of the applications together with its findings and recommendations in a comprehensive report, which represents internal evaluations and judgments prior to final decision making.

(f) *Selection of Applications.* The Application Approving Official may, in his sole discretion, select any number of the competing applications, subject only to the requirement that appropriations be available for the total guaranteed loan amount of the applications selected.

(1) Prior to making a decision, the Application Approving Official may determine that additional project specific information is required. Such additional information requirements will be communicated in writing directly to all applicants still competing, or, in some cases, their respective lenders or servicers.

(2) The Application Approving Official will consider the report of the Panel and such other information as the Application Approving Official determines to be relevant pursuant to the provisions of this regulation in selecting applications for conditional

commitments or competitive negotiations, as appropriate.

(3) When the Application Approving Official determines that competitive negotiations are appropriate, the Panel will negotiate with all or a subset of competing applicants indentified by the Application Approving Official for the purpose of clearly defining the degree and extent of the competitive issues related to the applications prior to the selection of applications for conditional commitments. The Panel will revise its report to the Application Approving Official to reflect the results of negotiations.

(4) Upon, or, in some cases, subject to, the satisfactory completion of the rquirements contained in this section, the Application Approving Official may authorize a contracting officer to issue a conditional commitment to provide a guarantee for the transaction proposed by the application. The conditional commitment will identify the terms and conditions under which the guarantee would be issued, and any additional requirements to be placed upon the applicant as a condition of the guarantee.

(5) Decisions by the Application Approving Official shall be made within 120 days of the deadline for receipt of applications (as specified in the Solicitation Announcement). For the purpose of beginning this 120 day period, all applications received during a competition cycle shall be considered as received on the last day of the competition cycle. Those applications not approved for issuance of a conditional commitment shall receive an immediate notification of such disapproval and reasons therefor from the Contracting Officer.

(6) After the Conditional Commitment is executed, negotiations will normally be conducted with the borrower and the lender to determine compliance with the conditions established by the Application Approving Official. The Application Approving Official shall designate a Contracting Officer and other DOE representatives for the purpose of negotiations. In the event that these representatives are unable to negotiate agreements that satisfy such conditions, they shall advise the Application Approving Official who shall determine if the applications should be disapproved or the conditions of the commitment modified.

(g) *Post Selection Negotiation and Closing.* (1) Subsequent to execution of a conditional commitment, the Application Approving Official shall designate a Contracting Officer to ensure that the conditions of the conditional commitment are met and negotiate such terms and conditions of the guarantee agreement and related documents as may be required to comply with the Act and this regulation including §§ 799.7 and 799.8.

In performing the functions under paragraph (g)(1) of this section, the Contracting Officer may request necessary additional information from any relevant party.

(3) If, withing a reasonable period of time, the Contracting Officer is unable to negotiate satisfactory terms and conditions, or conditions of the conditional commitment cannot be met, on a timely basis, the Application Approving Official shall determine whether to continue negotiations, authorize modification of the commitment, disapprove the application, or take other appropriate action. A condition of the conditional commitment shall be unsatisfied unless the Contracting Officer certifies in writing that the condition has been met or, in the alternative, the guarantee agreement is executed.

(4) If the Contracting Officer can negotiate satisfactory terms and conditions in the instruments to be used in the closing of the guaranteed loan, and the conditions of the conditional commitment are met, the Contracting Officer shall schedule a closing, subsequent to obtaining the approval of the Application Approving Official, for the purpose of signing the loan guarantee agreement. The date, time and place for closing shall be fixed by agreement with the applicant and the lender. Nothing contained in the conditional commitment shall in any way constrain or restrict the ability of the Contracting Officer to require additional documentation, or the insertion of additional terms and conditions which, in his or her sole discretion, are reasonable and necessary for the protection of the interests of the United States. Issuance of the guarantee shall be conclusive evidence that the loan and guarantee comply with the Act and these regulations; that the loan has been approved by the Secretary; and that the guarantee is an obligation supported by the full faith and credit of the United States of America.

(h) *Unsolicited Applications.* Because applications will be evaluated on a competitive basis, unsolicited applications for a loan guarantee will not be considered under this regulation. Applications not submitted pursuant to a specific solicitation announcement will be returned to the applicant with a recommendation to refile in accordance with the next publicized solicitation announcement.

(i) *Discussion with Unsuccessful Applicants.* Upon the written request by an applicant whose application did not result in a loan guarantee, representatives of the Application Approving Official will explain in detail why the application was disapproved.

(j) *Non-written Representations.* No representation shall be binding on the Department of energy unless written and duly signed by a Contracting Officer and all instruments and modifications thereof shall not be considered as approved by the Department unless approved by a Contracting Officer.

§ 799.4 Applications.

(a) The Secretary's consideration of a loan guarantee request for a specific biomass energy project shall begin with a filing of an application which complies with the application requirements of this regulation. In addition to the application requirements specified by this regulation, the Secretary may publish additional application requirements in Solicitation Announcements issued pursuant to § 799.3 of this regulation. In general, an applicant is expected to provide information in the application which is similar to that required by an investment banking or other financial institution which might consider the biomass energy project for debt financing. The application must contain the most current data available, and be adequate for the Secretary to properly evaluate the project. Applications shall be filed with one original and four legible copies. Each application must contain the following information submitted in a brief but precise manner:

(1) A description of the scope, nature, extent, and location of the proposed project, including identification and feasibility of the technology to be utilized in the project and the extent to which such applicant is applying for, or receiving any other Federal or other governmental financial assistance for the project;

(2) A preliminary or conceptual design of the proposed facility;

(3) A description of prior construction and operating experience of the applicant with the technology to be utilized in the project;

(4) A detailed estimate for the total construction and financing cost of the project (including escalation and contingencies);

(5) A general description of the overall financial plan for the proposed project including all sources of equity, debt, and the liability of parties associated therewith, necessary for the construction and operation of the project;

(6) Construction and operation schedules for the project including major activity and cost milestones;

(7) Copies of proposed or actual construction contracts together with a description of the construction contractor's experience and financial strength;

(8) An analysis of the market for the product to be producted including relevant economics justifying the analysis and proposed and actual marketing contracts or letters of intent, if any;

(9) A description of the applicant's management concept and plan of operation to be employed in carrying out the project;

(10) A description of the general management experience of the applicant in organizing and undertaking projects of this nature;

(11) Pro forma cash flow statements for at least the first five (5) years of project operation;

(12) Proposed risk allocation among project participants and financial statement supporting the project participant's ability to contribute equity to the project;

(13) Financial statements for the past three (3) years of the applicant and parties relevant to the applicant's financial backing, together with business and financial interests of principal organizations such as parent and/or subsidiary corporations or partners of the applicant;

(14) An environmental report containing a detailed analysis of the potential environmental, health, safety and socio-economic (EHSS) impacts of the project and any necessary or proposed mitigation measures and other relevant data to enable the Department to assess the probable EHSS impacts and provide the Department with information for any documents required by the National Environmental Policy Act.

(15) A list of all applications filed or to be filed, and approvals issued or to be issued by Federal, state, and local government agencies for all required permits and authorizations to undertake construction and begin operations associated with the project. If these approvals have not been obtained, or applications not filed, the estimated date of such filings and approvals should be provided. Explain any past, present or anticipated problems in obtaining any approvals.

(16) A description of the applicant's organization and, where applicable, a copy of partnership agreement or corporate charter, articles of incorporation, bylaws, and appropriate authorizing resolutions or their equivalent;

(17) A written affirmation from both the applicant and any proposed lender justifying the need for a Federal loan guarantee in order to finance the project;

(18) The amount of the loan and percentage of guarantee requested, proposed repayment schedule, and other relevant terms and conditions of the anticipated debt financing;

(19) A copy of any lending commitment issued to the applicant by the proposed lender in the transaction;

(20) A statement from the lender reciting the lender's general experience in financing and servicing debt related to projects of the size and general type of the proposed project, together with the lender's proposed loan servicing and monitoring plan for the proposed project;

(21) A listing of assets, associated, or to be associated, with the project and any other asset which will serve as collateral for the loan to be guaranteed, including appropriate data as to the value and useful life of any physical assets and a description of any other associated security and its value;

(22) Copies of all current or proposed contracts between the applicant and any third parties which are significant to the proposed project including any feedstock supply agreements and contracts for the sale of biomass energy and related byproducts.

(23) Information relevant to findings or determinations which the Secretary must make under the Act or this regulation in accordance with § 799.6, and §§ 799.24, 799.34 or § 799.46, as appropriate.

(24) Information relevant to the policy considerations under § 799.5 and the priorities and policy considerations under Subparts B, C, or D of this part, as appropriate.

(b) In addition to the above requirements, the application shall contain such additional information as may be required by the appropriate subpart of this regulation which will apply to the specific type of biomass energy projects for which a loan guarantee is requested.

(c) Information received by the Secretary under this regulation may be made available to the public subject to the provision of 5 U.S.C. 552 and 18 U.S.C. 1905; *Provided*, That,

(1) Subject to the requirements of law, information such as trade secrets, commercial and financial information, and other information or data concerning the project that the applicant or lender submits to the Secretary in an application or at other time throughout the duration of the project, on a privileged or confidential basis, will not be disclosed by the Department of Energy without prior notice to the submitter in accordance with Department of Energy regulations concerning public disclosure of information. Any submitter asserting that the information is privileged or confidential should appropriately identify and mark such information.

(2) Upon a showing satisfactory to the Secretary by any person that any information or portion thereof obtained under this regulation would, if made public, divulge trade secrets or other proprietary information of such person, the Secretary may not disclose such information.

(3) This section shall not be construed as authority to withhold information from Congress, or from any committee of Congress upon request of the Chairman.

(d) When information submitted by the applicant pursuant to an application filed under this regulation or in response to a request for additional information made by the Secretary, is significantly changed as a result of new circumstances which make the originally submitted information inaccurate or incomplete, the applicant shall promptly notify the Secretary in writing.

§ 799.5 Policy considerations.

The following policy considerations described under this subpart, and other subparts to this regulation which are relevant to the specific type of biomass energy project for which a guarantee has been requested, will be utilized by the Application Approving Official in the selection process.

(a) The Application Approving Official shall consider the extent to which a loan guarantee is necessary for the lender to extend credit to the applicant at reasonable rates and terms, taking into consideration prevailing rates and terms for loans for similar purposes and periods of time. The Application Approving Official shall also consider whether the financial assistance applied for encourages and supplements, but does not compete with nor supplant, any private capital investment which otherwise would be available to the proposed project on reasonable terms and conditions.

(b) In evaluating applications for loan guarantees to be issued under this regulation, the Application Approving Official shall consider the percentage of the guarantee in relation to the total cost of the project and any nonguaranteed loan being provided to the project: *Provided*, That the amount of the guaranteed loan does not, in any event, exceed 90 percent of the cost of the construction of the project, as estimated

by the Application Approving Official: *And further provided,* That the amount of the guarantee does not in any event exceed 90 percent of the principal and interest of the loan.

(c) In evaluating applications for loan guarantees to be made under this regulation, the Application Approving Official shall consider the degree to which the borrower is investing equity funds into the project, which were not provided through the issuance of debt, and the extent to which responsible financial parties affiliated with or constituting the legal entity of the borrower are liable for repayment of the debt to be guaranteed.

(d) The Application Approving Official shall consider the degree to which the lender has accepted a reasonable and appropriate degree of risk in the financing of the project. The Application Approving Official shall also consider the extent to which liability will accrue to the Government for repayment of loan proceeds during both the interim and permanent financing stages of the project.

(e) The Application Official shall consider the extent to which necessary feedstocks and a market for the biomass energy produced and related project by-products are available and reasonably expected to be available throughout the life of a biomass energy project.

(f) In evaluating applications for loan guarantees to be made under this regulation, the Application Approving Official shall consider the length of time over which the proposed borrower will repay the guaranteed debt, with regard to the anticipated cash flow of the project and the length of time that the Government should reasonably be exposed to liability for debt associated with the project.

(g) The Application Approving Official shall consider competition factors associated with the concentration and control of biomass energy production that may result from the issuance of a loan guarantee in connection with a particular biomass energy project.

(h) The Application Approving Official shall consider the degree to which the project is receiving other Federal Financial Assistance.

(i) The Application Approving Official shall consider the relative ability of a project or technology to maintain or improve the quality of the environment.

§ 799.6 Required finding and determination.

In addition to meeting the requirements set forth in other applicable subparts of this regulation, a loan guarantee for a biomass energy project shall be issued only after the Secretary is satisfied, in the sole discretion of the Secretary, that the following requirements have been met:

(a) The amount of the loan to be guaranteed, when combined with other funds available to the applicant, will be sufficient to carry out the project, including adequate contingency funds and working capital;

(b) There is a reasonable assurance of repayment of principal and interest of the loan by the borrower;

(c) The project assets (or other acceptable forms of collateral) and other collateral or surety, as determined by the Secretary to be necessary, are pledged by the borrower as security for the repayment of the loan and a valid first and superior lien or other acceptable lien position will exist on such assets, collateral, or surety for the mutual benefit of the lender and the Department of Energy in accordance with their pro-rata interest;

(d) The terms, conditions, maturity, security, and repayment provisions with respect to the guaranteed loan are reasonable and sufficient to protect the interest of the United States pursuant to the guarantee;

(e) The interest rate on the loan to be guaranteed and other fees charged by the lender in connection with the making of the loan are determined to be reasonable by the Secretary after consideration of the range of interest rates and fees prevailing in the private sector for similar obligations and the degree to which the lender is protected from risk by the guarantee;

(f) Advancement of the loan proceeds by the lender to the borrower will be made under a milestone and disbursement schedule which is satisfactory to the Secretary;

(g) The Secretary has determined that there is satisfactory evidence that the applicant is capable of constructing and operating in a competent manner, the project for which the loan is made;

(h) The Secretary is satisfied that the lender is capable of servicing the debt that is guaranteed in accordance with the requirements of § 799.13 of this regulation;

(i) The Secretary has determined that the loan to be guaranteed is for the construction of a project which falls within the applicable purposes and objectives of this regulation;

(j) The Secretary has determined that the project will be in conformance with established environmental statutes, regulations, and Executive Orders, which shall include, but are not limited to, the following: (1) Completing any environmental analysis required pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 et seq., Pub. L. 91-190); (2) conformance with Executive Order 11988—Floodplain Management, and Executive Order 11990—Protection of Wetlands, and DOE regulations thereunder (10 CFR Part 1022); and (3) receiving, or anticipated receipt of, all necessary environmental permits and approvals;

(k) The Secretary has determined that the project is technically and economically feasible and environmentally acceptable;

(l) There is sufficient evidence that the applicant will initiate and complete the project in a timely, efficient and acceptable manner;

(m) The Secretary has determined that necessary feedstocks are available and will reasonably continue to be available for the life of the project and that the process to be used by the project (except in the case of municipal waste energy projects) will extract the protein content of the feedstock as food or feed unless such extraction would be technically or economically impractical;

(n) The Secretary has determined that no portion of the interest paid on the guaranteed portion of the loan will be excluded from the gross income of the holder of the debt pursuant to the provision of the Internal Revenue Code of 1954, as amended;

(o) The project meets such additional requirements as determined reasonable and necessary by the Secretary for the protection of the interest of the United States; and

(p) The Secretary has made the findings and determinations required under Subparts B, C, or D of this part, as appropriate.

§ 799.7 Guarantee Agreement Terms and Conditions.

(a) A loan guarantee agreement issued by the Secretary under this regulation shall contain the following requirements and conditions:

(1) A requirement that the lender may not accelerate repayment of the borrower's indebtedness or exercise other remedies available to the lender in the event of the borrower's default, except in the case of the borrower's failure to pay a required payment of principal or interest, without the prior consent of the Secretary or as otherwise permitted in the guarantee agreement;

(2) A requirement that patents and other proprietary rights necessary for the construction or operation of the project, or accruing to the borrower and resulting from the project, will be, in the case of default, treated as collateral in accordance with terms and conditions in the loan or guarantee agreement;

(3) A requirement that patents or other proprietary intellectual property rights utilized in or resulting from the project, which are owned or controlled by the borrower, shall be made available to other domestic parties upon reasonable terms and conditions which protect the confidentiality of information, if such action is determined by the Secretary to be in the public interest;

(4) A requirement that no change of project ownership or financial arrangement will occur without the prior written consent of the Secretary;

(5) A requirement that the project be built and operated in the United States;

(6) A requirement that, in the event that the Secretary makes a payment of principal or interest on the guaranteed loan in accordance with liability accruing to the Secretary under the guarantee, the Secretary shall be subrogated to the rights of the recipient of such payment and have superior right in and to the property acquired by virtue of such payment;

(7) A requirement that the borrower not obtain credit from any creditor without the written, consent of the Secretary, unless such creditor agrees to subordinate, in a manner acceptable to the Secretary, its rights to receive payment, in the event that such creditor would, without such subordination, receive by contract or otherwise a lien on the assets securing the guaranteed loan;

(8) A provision that specifies that when a lender holds a guaranteed and a non-guaranteed portion of a loan for a biomass energy project, payments of principal or interest made by the borrower under such loan shall be applied by the lender, unless the Secretary agrees in writing to the contrary, to reduce the guaranteed and non-guaranteed portion of the loan on a proportionate basis and that the non-guaranteed portion of the loan shall not, in any event, receive preferential treatment over the guaranteed portion of the loan;

(9) A requirement that the lender provide an adequate period of grace of not less than 60 days prior to the making of demand for payment pursuant to the guarantee agreement in order that the Secretary have adequate time to make a decision regarding principal and interest assistance in accordance with the provisions of § 799.9 of this regulation;

(10) A requirement that the borrower keep and maintain adequate records and documents concerning the construction and operation of the project in order that representatives of the Secretary may determine the technical and financial condition of the project and its compliance with environmental requirements;

(11) A requirement for the borrower to prepare and deliver to the Secretary annual audited financial statements according to generally accepted accounting principles;

(12) A requirement that duly authorized representatives of the Secretary shall have access to the project site at all reasonable times during construction and operation of the project;

(13) A requirement that the borrower agree to make every effort reasonable to protect and preserve the project assets and other collateral serving as security for the guaranteed loan and to assist in the liquidation of the collateral in the event of loan default for the purpose of minimizing loss;

(14) A requirement providing for the orderly liquidation of the assets of the project in the event of loan default with an option on the part of the Secretary to acquire from the lender the lender's interest in the project assets pursuant to any non-guaranteed portion of the loan;

(15) A requirement that the borrower not discriminate against any person on the grounds of race, color, national origin, sex, handicap, or age in the carrying out or completion of the project;

(16) A requirement that the borrower agree to take positive efforts to maximize the utilization of small and disadvantaged business concerns in connection with the project;

(17) A requirement that the Secretary be paid at the closing of the guaranteed loan, a fee for the issuance of the loan guarantee, which fee shall not exceed 1 percent of the total amount of the guaranteed portion of the loan;

(18) A requirement that the lender perfect and maintain the lien on the collateral pledged as security for the guaranteed loan and undertake such other loan servicing functions normally performed by a reasonable and prudent lender or as required of the lender in accordance with the provisions of § 799.13 of this regulation;

(19) A requirement that performance of contractors engaged in the construction of the project for which the guaranteed loan is made be fully bonded;

(20) A requirement that the project operate in full compliance with all laws and regulations, including, but not limited to, environmental laws requiring permits, monitoring, and reporting;

(21) A provision permitting free transferability and assignability of shares of all or partial interests in the guaranteed loan: *Provided*, That such transfers take place under agreements acceptable to the Secretary and the lender will not transfer or assign the servicing requirements levied upon the lender by the guarantee without the prior written approval of the Secretary;

(22) A requirement that the lender not take any adverse action against the borrower without providing 15 days prior notice to the Secretary;

(23) Such other terms and conditions as determined by the Secretary to be reasonable and necessary for the protection of the United States.

(b) Upon the issuance of a duly executed guarantee agreement in accordance with the requirements of this regulation, the full faith and credit of the United States shall be pledged to the payment of sums of money due and lawfully owing under such guarantee. The guarantee agreement shall be conclusive evidence that the guarantee and underlying loan for which the guarantee is issued comply with the provisions of the Act and this regulation and such a guarantee subject to terms and conditions of the guarantee shall be valid and incontestable by the Government except for fraud or misrepresentation by the holder of the loan to which the guarantee applies.

§ 799.8 Loan agreement requirements and conditions.

In addition to meeting the requirements set forth in § 799.6 of this regulation, a guarantee for a loan may be made only if the underlying loan agreement and other documents necessary for the financing transaction to which the guarantee applies contain provisions which are determined to be satisfactory to the Secretary, at the Secretary's sole discretion, and which meet the following requirements:

(a) The notes, bonds, debentures, or other instruments of debt, credit agreements, security agreements, guarantees, collateral pledge agreements, mortgages, and all other instruments, legal opinions, certificates, licenses, contracts and other documents determined necessary by the Secretary to properly document and close the lending transaction, and the terms and conditions related thereto, are satisafactory to the Secretary in both form and content.

(b) The plan for marketing the debt, if any, to secondary lenders or other holders, is acceptable to the Secretary and provides a reasonable assurance that the debt will be funded in a timely manner in accordance with the requirements of the project. The Secretary must also be satisfied that the types of debt instruments and the mix between long term and short term securities, if any, are appropriate for the size and scope of the project and

reasonably minimize the cost of borrowing.

(c) The orderly and ratable retirement of the loan which may include sinking fund provisions, installment payment provisions, or other methods of payment and reserves which are appropriate and necessary in accordance with the size and type of the project and the type of debt instruments to be used.

(d) The lending agreements contain provisions for a minimum period of grace of 60 days from the date the principal or interest payment is due.

(e) The loan proceeds will be advanced by the lender to the borrower on an identified disbursement scehedule which is appropriate for the size and type of project to be financed and has adequate control mechanisms to ensure that the funds are utilized in the construction of the project and for the purpose intended.

(f) Trustee escrow agents, fiscal agents and other fiduciaries acting for benefit of the lender, the borrower, holders, or any other party, agree, in accordance with the powers, rights and duties expressed in the written contract by virtue of which they so act, to appropriately recognize and protect the interests of the United States Government pursuant to the guarantee.

(g) An option on the part of the borrower to prepay the loan at acceptable time intervals, with prepayment penalties, if any, determined acceptable by the Secretary in accordance with the type of debt instrument utilized and the likely holder of such debt at the time of prepayment.

(h) Appropriate opportunities on the part of the borrower to cure any default, failure, or breach of any of the convenants, conditions and obligations undertaken by the borrower pursuant to the provisions of the loan agreement and other documents relevant to the financing transaction.

(i) The exclusion of any provision which prohibits forbearance or waiver of any breach or failure on the part of the borrower.

(j) Appropriate provisions for the acceleration and demand for full payment of the entire indebtness in the event of the occurrence of identifiable occasions of default on the part of the borrower.

(k) A requirement that the borrower keep the assets of the project insured in an acceptable amount from risk of loss, and acceptable provisions for control over any proceeds of insurance paid in the event of such a loss to assure that such proceeds are appropriately utilized for the benefit of the project.

(l) A requirement that the borrower maintain its legal entity in good standing with applicable federal, state, and local laws and requirements regulating the conduct of its business, including the payment of all taxes, fees and other charges, and the maintenance of all requisite licenses and any other governmental authorization necessary for the continued operation of the project.

(m) A requirement that the borrower not suffer or permit any judgment, lien, or other encumbrance to be placed against any asset of the project (excluding those liens obtained by the lender pursuant to the loan guarantee under this regulation.)

(n) An acceptable provision for the control over project revenue which ensures that profits above a predetermined level are made available to the project for the future requirements of the project or for prepayment of the guaranteed loan.

(o) A provision specifying to what extent project profits can be utilized for dividends and other distributions to the equity participants in the project.

(p) Such other terms and conditions determined necessary by the Secretary for the protection of the interest of the United States.

§ 799.9 Withdrawal or limitation of guarantee.

(a) The Secretary may withdraw the guarantee by written notice to the lender and the borrower if after discussions with the borrower and lender, it is determined that initiation of the project has not occurred within the period of time set forth in the guarantee agreement of collateral documents, and such failure has materially affected the purposes of the Government in issuing the guarantee.

(b) The Secretary may limit the guarantee by written notice to the lender and the borrower to those amounts already disbursed under the guaranteed loan if it is determined that:

(1) The borrower has failed to acquire capital from intended or alternate sources, or has failed to comply with material terms and conditions as set forth in the loan or guarantee agreement. The Secretary will notify the borrower and the lender that the guarantee shall be limited only to the amount that has been received by the borrower as of the date of the written notice;

(2) The lender has failed to comply with any material term or condition set forth in the guarantee or loan agreement. The guarantee may be limited to the amount that has been received by the borrower as of the date the Secretary's notice of reduction of the guarantee. Notice of the Secretary's finding that a material term has not been complied with by the lender shall be sent by the Secretary to the borrower and the lender. Following notification, the borrower will be allowed reasonable time to acquire a substitute lender that is capable of complying with provisions in the loan and guarantee agreements.

(3) The project's economic success or environmental acceptability is no longer achievable as determined by the Secretary. The guarantee shall be limited to amounts which have been received by the borrower as of the date that the notice is received by the lender. Any guaranteed funds held by a servicing agent shall be returned to the lender.

(c) The guarantee agreement or collateral documents shall provide that the lender will obtain a substitute servicing agent whenever the Secretary, by written notice to the lender, determines that the current servicing agent has failed to comply with a material term or condition in the guarantee agreement or collateral document.

§ 799.10 Project costs.

(a) Project costs will be recorded in accordance with generally accepted accounting principles which are customarily applied.

(b) Except as set forth in paragraph (c) of this section, those reasonable and customary costs that have been incurred, are expected to be incurred, and which are directly related to the project shall be used to estimate total project costs. Examples of these costs may include, but are not limited to the following:

(1) Costs of acquisition or rental of real property, including engineering fees, surveys, title insurance, recording fees, real estate commissions, and legal fees incurred in connection with land acquisition or rental, site improvements, site restoration, access roads and fencing;

(2) Professional services and fees necessary to obtain licenses, permits, and to prepare environmental reports and data;

(3) Financial, accounting, and legal services costs;

(4) Engineering and architectural fees;

(5) Equipment purchase, placement and testing costs;

(6) Materials, labor, utility services, travel, and transportation;

(7) Costs to provide safety and environmental protection equipment, facilities, and services;

(8) Interest costs and other normal costs charged by lenders during the construction period;

(9) Bond financing costs and trustee's fees and commissions during the construction period;

(10) Necessary and appropriate insurance and bonds of all types related to the construction of the project;

(11) Purchase of flood and other natural disaster insurance, if required;

(12) Taxes to be paid to Federal, State, and local government agencies, and other taxing authorities during construction;

(13) A reasonable contingency reserve to cover the possibility of construction cost overruns;

(14) Other necessary and reasonable costs, as approved by the Secretary.

(c) Costs that are not considered as allowable project costs include the following:

(1) Fees and commissions charged to the borrower, including finder fees, for obtaining the Federal guarantee;

(2) Parent corporation general and administrative expenses, including company organizational expenses;

(3) Goodwill, franchise, trade, or brand name costs;

(4) Dividends and profit sharing to stockholders, employees, and officers;

(5) Expenses not paid or incurred by the applicant;

(6) Costs that are excessive or are not directly required to construct the project, as determined by the Secretary.

(d) The Secretary may audit any or all cost elements included in the estimated project cost, and reserves the right to exclude or reduce the amount of any cost which the Secretary determines to be unnecessary or excessive. The borrower will make available records and other data necessary to permit the Secretary to carry out such an audit. In carrying out this responsibility, the Secretary may utilize employees of other Federal agencies or may direct the borrower to submit to a review performed by an independent public accountant or other competent authority.

§ 799.11 Cost overruns.

(a) At the discretion of the Secretary, a guarantee agreement may be amended to increase the amount of the loan guaranteed in the event that the actual construction cost incurred exceeds the original estimated construction cost. In no event may the guarantee be increased to cover overruns that amount to more than that allowed in paragraph (c) of this section. All of the following conditions must be met by the borrower before the Secretary may determine whether to amend the guarantee agreement to cover such cost overruns:

(1) The Secretary must be notified as soon as an overrun is anticipated, along with the reasons for such cost overrun;

(2) The borrower, when requesting overrun assistance, provides a revised expected completion date, and revised construction costs for the project;

(3) The borrower submits an acceptable plan indicating how the borrower's share of the cost overruns will be funded;

(4) The borrower provides a list of the additional collateral, if any, to be pledged for the increased guarantee(s) to cover the expected cost overruns; and

(5) The borrower provides updated information on the project economics to indicate that a reasonable assurance of repayment of the guaranteed loan (including the cost overruns) still exists.

(b) Based on the information submitted by the borrower and other information known to the Secretary, the Secretary may determine, at his discretion, to provide for the guarantee of additional loan funds for the expected cost overruns if the Secretary finds that:

(1) The continuation of the project is worthwhile to meet the program's objectives and is in the public interest or

(2) The probable net costs to the Government in increasing the loan guarantee, in the event of cost overruns, will be less than that which would result in the event of default.

(c) In no event may the original loan guarantee be increased to cover overruns that amount to more than:

(1) 60 percent of the estimated overrun costs for biomass energy projects (excluding municipal waste projects); or

(2) 90 percent of a loan to cover estimated overrun costs for construction of municipal waste energy projects, providing that such overrun costs do not exceed 10 percent of the total initially estimated project costs.

§ 799.12 Principal and interest assistance.

With respect to any loan guaranteed pursuant to this regulation, the Secretary may enter into a principal and interest assistance contract with the borrower to pay the lender, on behalf of the borrower, the principal and interest charges that become due and payable on the unpaid balance of such loan, if the Secretary finds that:

(a) The borrower is unable to meet principal or interest payments or both and is not in default;

(b) It is in the public interest to permit the borrower to continue to pursue the purposes of the project;

(c) The probable net benefit to the Federal Government in paying such principal or interest will be greater than that which would result in the event of a default for the nonpayment of principal or interest;

(d) The amount of principal or interest payment which may be made under this section will not be greater than the amount of principal or interest that the borrower is obligated to pay under the loan agreement; and

(e) The borrower agrees to reimburse the Secretary for such payment (including interest) on terms and conditions which are satisfactory to the Secretary and executes all written contracts required by the Secretary for such purpose.

§ 799.13 Lender servicing requirements.

(a) The loan guarantee agreement shall provide that the lender service the loan in accordance with these regulations, and the terms and conditions of the guarantee. In this regard the lender is generally expected to undertake those servicing responsibilities that a reasonable and prudent lender would undertake in a similar transaction which was not guaranteed by the Government. The lender may select another party to service the loan in the event that the lender is a private entity that normally does not service loans or in other situations where such course of action is determined by the Secretary to be appropriate and such services are acceptable to the Secretary.

(b) The lender or other party servicing the loan shall exercise such care and diligence in the disbursement, servicing, and collection of the loan as would be exercised by a reasonable and prudent lender in dealing with a loan without a guarantee.

(c) The lender or other party servicing the loan shall notify the Secretary in writing without delay:

(1) That the disbursement or loan drawdown for the first project milestone is ready to be made, together with evidence from the borrower that the project has begun or is about to begin;

(2) Of the date and amount of disbursement for each subsequent milestone under the loan;

(3) Of any nonreceipt of payment within 10 days after the date specified for payment, together with evidence of appropriate notifications to the borrower;

(4) Of any known failure by an intended source of capital to honor its commitment;

(5) Of any known failure by the borrower to comply with terms and conditions as set forth in the loan guarantee agreement;

(6) Of evidence that the borrower may fall within any of the default conditions set forth in the loan agreement or the

borrower may not be able to meet any future scheduled payment of principal or interest; or

(7) Of any significant changes from the original cash flow projections as evidenced from information and reports by the borrower.

(d) The guarantee agreement or related documents shall require the lender or other party servicing the loan to submit to the Secretary periodic financial reports on the status and condition of the loan.

§ 799.14 Project monitoring.

The guarantee agreement or collateral documents shall provide that employees and representatives of DOE shall have access at reasonable times and under reasonable circumstances to the project site. Further, the agreement shall provide that auditors selected by the Secretary or the U.S. Comptroller General shall have access to, and the right to examine any directly pertinent documents and records of the borrower. The lender or servicing agent, to the extent lawful and within its control, and the borrower will assure availability of information related to the project as is necessary to permit the Secretary to determine technical progress, soundness of financial condition, management stability, compliance with environmental protection requirements, and other matters pertinent to the guarantee. The guarantee agreement or related documents shall identify those items or types of information which the Secretary may not make available for public dissemination.

§ 799.15 Default, demand, payment and collateral liquidation.

(a) In the event that the borrower has defaulted in the making of required payments of principal or interest on the loan guaranteed by the Secretary, and such default has not been cured within the period of grace provided in the guarantee and loan agreements, the lender, or any nominee or trustee empowered to act for the lender, may make written demand upon the Secretary for payment pursuant to the provisions of the guarantee agreement.

(b) In the event that the borrower has failed to comply with one or more of the terms of the guarantee agreement, note, loan agreement, or other contractural obligation relating to the transaction, other than the borrower's obligation to pay principal or interest, as provided in paragraph (a) of this section, the lender will not be entitled to make demand for payment pursuant to the guarantee, unless the Secretary agrees in writing that such default has materially affected the rights or security of the parties, and finds that the lender should be entitled to receive payment pursuant to the guarantee agreement.

(c) No provision of this regulation shall be construed to preclude forbearance by the Secretary or the lender, with the consent of the Secretary, for the benefit of the borrower in accordance with the terms and conditions of the guarantee.

(d) Upon the making of demand for payment as provided in paragraph (a) or (b) of this section, the lender shall provide, in conjunction with such demand, or immediately thereafter at the request of the Secretary, such supporting documentation as may be reasonably required to justify such demand.

(e) Payment as required by the guarantee agreement shall be made within 60 days after receipt by the Secretary of written demand for payment: *Provided*, That the demand complies with terms and conditions of the guarantee agreement.

(f) The guarantee agreement shall provide that upon payment of the guaranteed portion of the loan by the Secretary, the lender shall transfer and assign to the Secretary all rights held by the lender in the guaranteed portion of the loan. Such assignment shall include all related liens, security, and collateral rights. Upon such payments and assignment, the Secretary shall be subrogated to the rights of the recipient of the payment and shall have superior rights in the property acquired from the recipient of the payment.

(g) The guarantee agreement will specify the terms and conditions for the handling of collateral by the lender and the Secretary in loan default situations. Such provisions may provide for liquidation of the collateral either prior to or after the Secretary has made payment pursuant to the guarantee.

(h) The guarantee agreement shall specify the respective rights of the parties who are the legal owners of the guaranteed loan with respect to the liquidation of assets securing the loan. Such agreement shall include a specification that proceeds received, for the benefit of the legal owners of the loan which was guaranteed, as a result of collateral liquidation, shall be applied in the following manner:

(1) First to the payment of legaly recoverable expenses actually incurred as a result of such recovery;

(2) Second to the payment of accrued interest on the loan;

(3) Third to the payment of the outstanding principal balance of the loan; and

(4) Fourth to the payment of other recognizable claims held by the legal owners of the loan and for which such proceeds may be lawfully utilized.

The proceeds so recovered shall be paid to each of the legal owners of the loan in accordance with their respective percentage of ownership.

(i) In the event that proceeds received as a result of liquidation of the assets securing the loan are insufficient to fully pay all expenses of recovery, and the principal and accrued interest of the loan, the legal owners of the loan shall be entitled to attempt further recovery from any parties liable for such deficiency in accordance with the provisions of the loan agreement and other documents related thereto. No action taken in the liquidation of any assets pledged by the borrower to secure the loan will, unless agreed otherwise, affect the rights of any party, including the Secretary, to attempt further recovery of any deficiency.

§ 799.16 Appeals.

The guarantee agreement shall include a provision which specifies that any dispute concerning a question of fact arising under the guarantee shall be decided in writing by the Contracting Officer. The borrower or lender may request the Contracting Officer to reconsider any such decision. If not satisfied with the Contracting Officer's final decision, the borrower or lender upon receipt of such written decision, may appeal the decision within 30 days, in writing, to the Chairman, Financial Assistance Appeal Board (FAAB) Department of Energy, Washington, D.C. 20585. The Board shall proceed in accordance with the Department of Energy's rules and regulations for such purpose. The decision of the Board with respect to such appeals shall be the final decision of the Secretary.

§ 799.17 Deviations and contract modifications.

(a) To the extent that such requirements are not specified by the Act, relevant Appropriations Acts, or in other applicable statutes, the Secretary may deviate on an individual application basis from the requirements of this regulation upon a finding that a deviation is necessary and warranted in the individual case to the accomplishment of program objectives and unique circumstances in the guarantee application make a deviation clearly in the best interests of the Government.

(b) The Contracting Officer may approve, subject to approval by other necessary parties, modifications or amendments to the terms and conditions in a guarantee agreement, collateral agreements, or other documents

pertaining to the project: *Provided*, That such modifications will not deviate from provisions in this regulation.

Subpart B—Alcohol Fuel Projects

§ 799.20 Purpose.

The purpose of this subpart is to set forth the policies and procedures, in addition to those of Subpart A, of this part under which the Secretary will approve an application and issue, or commit to issue, a Federal guarantee on a loan or loans to construct facilities for the production of alcohol fuel from biomass (other than municipal waste) in an environmentally acceptable manner.

§ 799.21 Program management and administration.

Program management of the alcohol fuels loan guarantee program is assigned to the Director of the Office of Alcohol Fuels ("Director"). For purposes of this subpart the Director is the Application Approving Official as defined in § 799.2 and exercises the functions of the Application Approving Official described in Subpart A of this part. That authority includes, but is limited to, determining terms and conditions for inclusion in conditional commitments and guarantee agreements, selecting members of the application evaluation panel, selecting recipients of loan guarantees, and representing the Secretary in consultations with other Federal agencies on alcohol fuel program matters.

§ 799.22 Receipt of applications.

(a) Applicants are requested to file applications under this subpart directly with: Manager, Idaho Operations Office, 550 2nd Street, Idaho Falls, Idaho 83401.

(b) Applications may also be filed at one of the following regional offices:

Region I

Department of Energy, Regional Representative, 150 Causeway Street, Analex Building, Room 700, Boston, MA 02114

Region II

Department of Energy, Regional Representative, 26 Federal Plaza, Room 3206, New York, NY 10007

Region III

Department of Energy, Regional Representative, 1421 Cherry Street, Room 1001, Philadelphia, PA 19102

Region IV

Department of Energy, Regional Representative, 1651 Peachtree Street, 8th Floor, Atlanta, GA 30309

Region V

Department of Energy, Regional Representative, 175 West Jackson Boulevard, Room A-333, Chicago, IL 60604

Region VI

Department of Energy, Regional Representative, P.O. Box 35228, 2626 West Mockingbird Lane, Dallas, TX 75235

Region VII

Department of Energy, Regional Representative, Twelve Grand Building, P.O. Box 2208, 112 East 12th Street, Kansas City, MO 64142

Region VIII

Department of Energy, Regional Representative, P.O. Box 26247, Belmar Branch, Lakewood, CO 80226

Region IX

Department of Energy, Regional Representative, 111 Pine Street, Third Floor, San Francisco, CA 94111

Region X

Department of Energy, Regional Representative, 1992 Federal Building, 915 Second Avenue, Seattle, WA 98174

(c) All applications should be marked by the application on the outside of the package "Application for Loan Guarantee—"Alcohol Fuel."

§ 799.23 Eligible projects.

In addition to meeting the requirements of Subpart A, to be eligible under this subpart to receive a Federal guarantee on a loan or loans to construct facilities for the production of alcohol fuel from biomass (other than municipal waste), a project must either:

(a) Utilize aquatic plants as feedstocks; or

(b) Have an anticipated annual energy production capacity equal to at least the energy equivalent of 15 million gallons of ethanol.

§ 799.24 Additional required findings and determinations.

(a) In addition to meeting the requirements of Subpart A of this part, prior to committing to issue, or issuing a loan guarantee, the Application Approving Official must find with respect to an eligible project:

(1) The Btu content of the motor fuels to be used in the facility involved to produce the alcohol fuel will not exceed the Btu content of the alcohol fuel produced in the facility. In making this determination, the Application Approving Official shall take into account any displacement of motor fuel or other petroleum products which result from the alcohol fuel produced in the facility involved;

(2) The process to be used by the project will extract the protein content of the feedstock for use as food or feed for readily available markets where such extraction is technically and economically practicable; and

(3) Necessary feedstocks are available and will continue to be available in the future to sustain long term commercial operations, and for alcohol fuel projects using wood, wood wastes or residues from the National Forest System, the current levels of use by existing facilities have been considered.

(b) Prior to committing to issue, or issuing a loan guarantee, the Application Approving Official shall, to the extent and in the manner required by the Act, consult with and, where applicable, obtain the concurrence of the Secretary of Agriculture.

§ 799.25 Priorities.

(a) In evaluating applications under Subpart A of this part, priority will be given to eligible projects which use a primary fuel other than petroleum or natural gas in the production of alcohol fuel; apply new technologies that expand possible feedstocks; produce alcohol using improved or new technologies; or any combination of the foregoing.

(b) Within the group of priority projects preferential consideration will be given to:

(1) Projects which have the smallest ratio of petroleum or natural gas consumed to biomass energy produced;

(2) Applicants proposing projects that evidence a strong likelihood of business success and economic viability;

(3) Applicants that qualify as small or disadvantaged business concerns;

(4) Applicants which maximize private investment and have a strong equity position;

(5) Projects which promote competition.

Subpart C—Biomass Energy Projects

§ 799.30 Purpose.

The purpose of this Subpart is to set forth the policies and procedures in addition to those of Subpart A of this part, under which the Secretary will approve an application and issue, or commit to issue, a Federal guarantee on a loan or loans to construct facilities for the production of biomass energy (other than alcohol) from biomass (other than municipal waste) in an environmentally acceptable manner.

§ 799.31 Program Management and Administration. [Reserved]

§ 799.32 Receipt of applications.

(a) Applicants are requested to file applications under this subpart directly with:

Department of Energy, Manager, Idaho Operations Office, 550 2nd Street, Idaho Falls, Idaho 83401

(b) Applications may also be filed at one of the following regional offices:

Region I

Department of Energy, Regional Representative, 150 Causeway Street, Analex Building, Room 700, Boston, MA 02114

Region II

Department of Energy, Regional Representative, 26 Federal Plaza, Room 3206, New York, NY 10007

Region III

Department of Energy, Regional Representative, 1421 Cherry Street, Room 1001, Philadelphia, PA 19102

Region IV

Department of Energy, Regional Representative, 1651 Peachtree Street NE., 8th Floor, Atlanta, GA 30309

Region V

Department of Energy, Regional Representative, 175 West Jackson Boulevard, Room A-333, Chicago, IL 60604

Region VI

Department of Energy, Regional Representative, P.O. Box 35228, 2626 West Mockingbird Lane, Dallas, TX 75235

Region VII

Department of Energy, Regional Representative, Twelve Grand Building, P.O. Box 2208, 112 East 12th Street, Kansas City, MO 64142

Region VIII

Department of Energy, Regional Representative, P.O. Box 26247, Belmar Branch, Lakewood, CO 80226

Region IX

Department of Energy, Regional Representative, 111 Pine Street, Third Floor, San Francisco, CA 94111

Region X

Department of Energy, Regional Representative, 1992 Federal Building, 915 Second Avenue, Seattle, WA 98174

(c) All applications should be marked by the applicant on the outside of the package "Application for Loan Guarantee Biomass."

§ 799.33 Eligible projects.

In addition to meeting the requirements of Subpart A of this part, to be eligible under this subpart to receive a Federal guarantee on a loan or loans to construct facilities for the production of biomass energy (other than alcohol) from biomass (other than municipal waste), a project must either:

(a) Utilize aquatic plants as feedstock; or

(b) Have an anticipated annual energy production capacity equal to at least the energy equivalent of 15 million gallons of ethanol as determined pursuant to a notice issued by DOE and USDA, 45 FR 52911, August 8, 1980, or any revisions thereof.

§ 799.34 Additional required findings and determinations.

(a) Prior to committing to issue, or issuing a loan guarantee, the Secretary must find with respect to an eligible project that:

(1) The Btu content of the motor fuels to be used in the facility involved to produce the biomass fuel will not exeed the Btu content of the biomass fuel produced in the facility, taking into account any displacement of motor fuel or other petroleum products which results from the biomass fuel produced in the facility involved;

(2) The process to be used by the project will extract the protein content of the feedstock for use as food or feed for readily available markets where such extraction is technically and economically practicable;

(3) Necessary feedstocks are available and will continue to be available in the future to sustain long term commerical operations, and for biomass energy projects using wood, wood wastes or residues from the National Forest System, the current levels of use by existing facilities have been considered.

(b) Prior to committing to issue, or issuing a loan guarantee, the Secretary shall, to the extent and in the manner required by the Act, consult with and, where applicable, obtain the concurrence of the Secretary of Agriculture.

(c) In cases where a variety of technologies is available, the Secretary shall assure that the awards of financial assistance are designed to minimize duplication of technologies.

§ 799.35 Priorities.

(a) In evaluating applications under Subpart A of this part, priority will be given to eligible projects which use a primary fuel other than petroleum or natural gas in the production of biomass fuel; apply new technologies that expand possible feedstocks or produce new forms of energy, produce energy (other than alcohol) using improved or new technologies; or any combination of the foregoing.

(b) Within the group of priority projects preferential consideration will be given to:

(1) Projects which have the smallest ratio of petroleum or natural gas consumed to biomass energy produced;

(2) Applicants proposing projects that evidence a strong likelihood of business success and economic viability;

(3) Applicants that qualify as small or disadvantaged business concerns;

(4) Applicants which maximize private investment and have a strong equity position;

(5) Projects which promote competition.

Subpart D—Municipal Waste Energy Projects

§ 799.40 Purpose.

The purpose of this subpart is to set forth the policies and procedures in addition to those of Subpart A of this part, under which the Secretary will approve an application and issue, or commit to issue, a Federal guarantee on a loan or loans to construct facilities for the production of biomass energy from municipal waste in an environmentally acceptable manner.

§ 799.41 Program Management and Administration. [Reserved]

§ 799.42 Receipt of applications.

(a) Applications under this subpart shall be filed with

Department of Energy, Procurement and Contracts Management Directorate, Mail Stop 1J009, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585

(b) All applications should be marked by the applicant on the outside of the package "Application for Loan Guarantee—Municipal Waste."

§ 799.43 Eligible and ineligible projects.

(a) In addition to meeting the requirements of Subpart A of this part, to be eligible under this Part to receive a Federal guarantee on a loan or loans to construct facilities for the production of biomass energy, a project must utilize municipal waste as a feedstock.

(b) Pending completion of an environmental impact statement for industrial waste, loan guarantees for municipal waste energy projects involving industrial waste shall be available only for waste wood, waste paper, and food process waste which do not constitute the wastes or residues of agricultural activities, wood harvesting activities or production of forest products. These latter categories may be eligible for loan guarantees subject to the completion of an environmental assessment which is anticipated to be available prior to this rule becoming final.

§ 799.44 Additional application requirements.

An application for a loan guarantee for a municipal waste energy project shall include the following additional information—

(a) An analysis of the feasibility and effect of source separation techniques, including identification of existing source separation efforts, if applicable;

(b) Assurances that the project will not use, in any substantial quantities, waste paper which would otherwise be recycled for a use other than as a fuel and will not substantially compete with facilities in existence on the date of issuance of the loan guarantee which are engaged in the separation or recovery of reuseable materials from municipal waste.

(c) A description of the materials in the waste stream and an analysis to the extent practicable, of the economic and energy conservation potential for alternative uses of materials derived from the municipal waste stream.

(d) Other information relevant to the policy considerations, required findings and determinations, and priorities under this subpart.

§ 799.45 Policy considerations.

The following additional considerations apply to evaluation of applciations—

(a) The extent of energy that can be recovered or conserved economically by the project including, but not limited to, energy savings resulting from recycling of source separated and otherwise recovered material and from displacement of petroleum or natural gas.

(b) The extent of the economic and energy conservation potential of alternative uses of source separated components of the municipal waste feedstock.

(c) The extent to which there are performance guarantees on the technology;

(d) The extent of coordination with local or regional planning activities;

(e) The extent to which the project minimizes unnecessary disruption of existing municipal waste collection and disposal services.

§ 799.46 Additional required findings and determinations.

In addition to the requirements stated in Subpart A, the Application Approving Official must, prior to committing to issue or issuing a loan guarantee, for an eligible project determine that:

(a) With respect to projects producing biomass energy other than biomass fuel, that the project does not use petroleum or natural gas except for flame stabilization or startup;

(b) With respect to projects producing biomass fuel, that the Btu content of the biomass fuel exceeds the Btu content of any petroleum or natural gas used in the project to produce the biomass fuel; and

(c) Assurances have been provided as required under § 799.44(b).

§ 799.47 Priorities.

In evaluating applications under Subpart A of this part, priority will be given to eligible projects which will:

(a) Produce a liquid fuel from municipal waste; or

(b) Will displace petroleum or natural gas as a fuel.

§ 799.48 Tax treatment.

(a) With respect to any loan or debt obligation which is—

(1) Issued after June 30, 1980, by or on behalf of, any State or any political subdivision or governmental entity thereof,

(2) Guaranteed by the Secretary, and

(3) Not supported by the full faith and credit of the issuer as a general obligation of the issuer, the interest paid on such obligation and received by the purchaser thereof (or the purchaser's successors in interest) shall be included in gross income for the purposes of chapter 1 of the Internal Revenue Code of 1954.

(b) With respect to the amount of obligations described in paragraph (a)(1) of this section that the issuer would have been able to issue as tax exempt obligations (other than obligations secured by the full faith and credit of the issuer as a general obligation of the issuer), the Secretary is authorized to pay only to the issuer any portion of the interest on such obligations, as determined by the Secretary of the Treasury after taking into account the interest rate which would have been paid on the obligations had they been issued as tax exempt obligations without being so guaranteed by the Secretary and the interest rate actually paid on the obligations when issued as taxable obligations. Such payments shall be made in amounts determined by the Secretary and in accordance with such terms and conditions as the Secretary of the Treasury shall require.

§ 799.49 EPA role in Program Administration.

The administration of any project entered into pursuant to these regulations for any commercial demonstration facility for the conversion or bioconversion of solid waste will be administered in accordance with the May 7, 1976, Interagency Agreement between the Environmental Protection Agency (EPA) and DOE on the "Development of Energy From Solid Wastes," and related documents. The interagency agreement provides that:

(a) For those energy-related projects of mutual interest, planning will be conducted jointly by EPA and DOE, following which project responsibility will be assigned to one agency;

(b) Energy-related projects for recovery of synthetic fuels or other forms of energy from solid waste will be the responsibility of DOE; and

(c) EPA will retain responsibility for the environmental, and institutional aspects of solid waste projects and for assurance that these projects are consistent with any applicable suggested guidelines pursuant to Section 1008 of the Resource Conservation and Recovery Act of 1976, Pub. L. 94-580, as amended, and any applicable State or regional solid waste management plan.

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federal register

Thursday
August 14, 1980

Part VII

Department of Agriculture

Federal Grain Inspection Service

Assignment of Additional Geographic Area to the Grain Inspection Services, Inc., Battle Creek, Mich.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Official Agency Geographic Area; Assignment of Additional Geographic Area to the Grain Inspection Services, Inc., Battle Creek, Michigan

AGENCY: Federal Grain Inspection Service.

ACTION: Notice.

SUMMARY: This notice announces assignment of additional geographic area to the Grain Inspection Service, Inc., for the performance of official grain inspection functions under the authority of the United States Grain Standards Act, as amended.

EFFECTIVE DATE: September 15, 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. Actions of this kind were anticipated under the provisions of Section 7 of the United States Grain Standards Act as amended (7 U.S.C. 79) and are specifically considered in the Final Impact Statement prepared for this notice. Thus, the Final Impact Statement describing the options considered in developing this notice and the impact of implementing each option is available on request from the Issuance and Coordination Staff, United States Department of Agriculture, Federal Grain Inspection Service, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified as "not significant."

Grain Inspection Services, Inc., 24 First Street, Battle Creek, Michigan 49017 (the "Agency"), was designated as an official agency 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 August 31, 1978. The designation also included an assignment of geographic area, on an interim basis, within which this Agency would operate. The proposed geographic area assigned on an interim basis to the Agency was announced in the January 12, 1979, issue of the **Federal Register** (44 FR 2641). Final assignment of geographic area to the Agency was announced in the January 31, 1980, issue of the **Federal Register** (44 FR 6979). Subsequent to the publication of the January 12, 1979, notice, the Agency requested and was assigned the additional geographic area on an interim basis effective April 1, 1979. 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 additional geographic area assigned on an interim basis to the Agency was announced in the April 4, 1980, issue of the **Federal Register** (44 FR 23005). No comments were received. Accordingly, after due consideration of all information available to the United States Department of Agriculture, the additional geographic area shall remain as originally proposed.

The additional geographic area assigned to the Agency is:

Bounded: on the North by the northern Isabella County line; the eastern Isabella County line south to the northern Gratiot County line; the northern Gratiot County line east to the northern Saginaw County line; the northern Saginaw County line east to State Route 52;

Bounded: on the East by State Route 52 from the northern Saginaw County line south to State Route 21;

Bounded: on the South by State Route 21 from State Route 52, west to the western Shiawassee County line; and

Bounded: on the West by the western Shiawassee County line from State Route 21 north to the southern Gratiot County line; the southern Gratiot County line west to State Route 27; State Route 27 north to the southern Isabella County line; the southern Isabella County line west to the western Isabella County line; the western Isabella County line north to the northern Isabella County line.

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 inspecitions 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 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 assigned additional geographic area for this Agency together with the original geographic area and a list of specified service points by contacting the Agency or the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2870 (7 U.S.C. 79))

Done in Washington, D.C. on: August 11, 1980.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 80-24623 Filed 8-13-80; 8:45 am]

BILLING CODE 3410-01-M

federal register

Thursday
August 14, 1980

Part VIII

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

August 1, 1980.

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93–344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of August 1, 1980 of 59 rescission proposals and 72 deferrals contained in the first eleven special messages of FY 1980. These messages were transmitted to the Congress on October 1, November 15, December 26, 1979, January 28, February 20, March 4, April 16, May 13, May 20, June 18, and July 30, 1980.

(*See* Rescissions—Table A and Attachment A).

Congressional action has been completed on all FY 1980 rescission proposals. Table A summarizes the status of rescissions proposed by the President as of August 1, 1980, while Attachment A shows the history and status of each rescission proposed during FY 1980.

(*See* Deferrals—Table B and Attachment B).

As of August 1, 1980, $2,670.2 million in 1980 budget authority was being deferred from obligation and another $10.0 million in 1980 obligations was being deferred from expenditure. Table B summarizes the status of deferrals reported by the President as of August 1, 1980, while Attachment B shows the history and status of each deferral reported during FY 1980.

Information From Special Messages

The special messages containing information on the rescissions and the deferrals covered by the cumulative report are printed in the Federal Registers of:

Friday, October 5, 1979 (Vol. 44, No. 195, Part IX)
Tuesday, November 20, 1979 (Vol. 44, No. 225, Part III)
Monday, December 31, 1979 (Vol. 44, No. 251, Part VII)
Thursday, January 31, 1980 (Vol. 45, No. 22, Part X)
Tuesday, February 26, 1980 (Vol. 45, No. 39, Part V)
Monday, March 10, 1980 (Vol. 45, No. 48, Part VI)
Wednesday, April 23, 1980 (Vol. 45, No. 80, Part III)
Friday, May 16, 1980 (Vol. 45, No. 97, Part IX)
Friday, May 23, 1980 (Vol. 45, No. 102, Part V)
Friday, June 20, 1980 (Vol. 45, No. 121, Part IX)
Friday, August 1, 1980 (Vol. 45, No. 150, Part XII)

James T. McIntyre, Jr.,
Director.

BILLING CODE 3110-01-M

Table A

STATUS OF 1980 RESCISSION PROPOSALS

	Amount (In millions of dollars)
Rescissions proposed by the President	$1,618.1 a
Accepted by the Congress	(550.8)b
Rejected by the Congress	(1,067.3)c

a. This amount is net of a $6.4 million reduction proposed in a Department of Health, Education, and Welfare rescission (R80-2A).

b. Of the $638.1 million identified in attachment A (page 7) as rescinded by the Congress in action on the Administration's proposals, $87.3 million exceeded the amounts proposed for rescission. This amount excludes the $87.3 million not proposed by the Administration.

c. Of the $1,515.9 million identified in attachment A (page 7) as made available, $546.4 million proposed for rescission on April 16, 1980 was subsequently rescinded. (An additional $4.4 million proposed for rescission on May 20, 1980 was also accepted by the Congress.) In addition, funds related to a $97.8 million rescission proposal (R80-36) were not withheld.

* *

Table B

STATUS OF 1980 DEFERRALS

	Amount (In millions of dollars)*
Deferrals proposed by the President	$10,507.2
Routine Executive releases (-$1,828.6 million) and adjustments (-$501.9 million) through August 1, 1980	-2,330.5
Overturned by the Congress	-5,496.6 a
Currently before the Congress	2,680.2 b

a. This amount includes $3,263.4 million overturned by the Senate on August 1, 1980 (see the Department of Interior deferral, D80-56 and the Environmental Protection Agency deferral, D80-65A). These funds were released on August 5, 1980.

b. This amount includes $10.0 million in outlays for a Department of the Treasury deferral (D80-23A) and three Department of Energy deferrals (D80-51A, D80-52A, and D80-53A).

* Detail does not add to total due to rounding.

Attachments

ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1980 AS OF 08/05/80 10 14

AS OF AUGUST 1, 1980 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
DEPARTMENT OF AGRICULTURE							
Science and Education Administration							
Cooperative research BA	R80- 5	2,500		4 16 80	3,000	2,500a	6 5 80
Extension activities BA	R80- 6	1,500		4 16 80		1,500	6 5 80
Farmers Home Administration							
Rural water and waste disposal grants BA	R80- 7	75,000		4 16 80	10,000	75,000b	6 5 80
Rural development planning grants BA	R80 8	2,000		4 16 80	1,000	2,000b	6 5 80
Soil Conservation Service							
Watershed and flood prevention operations BA	R80- 9	20,000		4 16 80	2,000	20,000b	6 5 80
Resource conservation and development BA	R80-10	4,000		4 16 80		4,000	6 5 80
DEPARTMENT OF AGRICULTURE TOTAL BA		105,000			16,000	105,000	
DEPARTMENT OF COMMERCE							
National Oceanic and Atmospheric Administration							
Coastal energy impact fund BA	R80-11	50,000		4 16 80	35,400	50,000b	6 5 80
DEPARTMENT OF ENERGY							
Atomic Energy Defense Activities							
Operating expenses BA	R80-12	3,400		4 16 80	6,400	3,400a	6 5 80
Plant and capital equipment BA	R80- 4	17,000		3 4 80		17,000	4 30 80
Energy Programs							
Energy supply R&D- operating expenses BA	R80-13	5,350		4 16 80	44,350	5,350a	6 5 80
Energy supply R&D- plant and capital equip BA	R80-14	6,150		4 16 80	5,150	6,150b	6 5 80
Uranium enrichment-operating expenses BA	R80-15	1,000		4 16 80	4,000	1,000a	6 5 80
Fossil energy research and development BA	R80-16	22,000		4 16 80	17,600	22,000b	6 5 80
Energy conservation BA	R80-17	4,000		4 16 80	10,000	4,000a	6 5 80
Economic regulation BA	R80-18	1,000		4 16 80	1,000	1,000a	6 5 80
Departmental Administration							
Departmental administration BA	R80-19	3,000		4 16 80	31,725	3,000a	6 5 80
DEPARTMENT OF ENERGY TOTAL BA		62,900			120,225	62,900	

ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1980 AS OF 08/05/80 10 14

AS OF AUGUST 1, 1980 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE							
Health Services Administration							
Health services							
BA	R80 20c	34,900		4 16 80	18,500	34,900b	6 5 80
Indian health facilities							
BA	R80-21c	18,000		4 16 80		18,000	6 5 80
National Institutes of Health							
National Cancer Institute							
BA	R80-22c	17,000		4 16 80		17,000	6 5 80
National Heart, Lung, and Blood Institute							
BA	R80-23c	7,000		4 16 80		7,000	6 5 80
National Institute of Dental Research							
BA	R80-24c	300		4 16 80		300	6 5 80
Nat Inst. of Arthr., Metabolism, & Diges Disease							
BA	R80-25c	2,500		4 16 80		2,500	6 5 80
Nat Inst of Neurol and Comm Disord. and Stroke							
BA	R80-26c	2,000		4 16 80		2,000	6 5 80
Nat Inst. of Allergy and Infectious Diseases							
BA	R80-27c	1,500		4 16 80		1,500	6 5 80
Nat Inst of General Medical Sciences							
BA	R80-28c	500		4 16 80		500	6 5 80
Nat Inst. of Child Health and Human Develop							
BA	R80-29c	1,000		4 16 80		1,000	6 5 80
National Eye Institute							
BA	R80-30c	3,200		4 16 80		3,200	6 5 80
Nat Inst of Environmental Health Sciences							
BA	R80-31c	500		4 16 80		500	6 5 80
National Institute of Aging							
BA	R80-32c	500		4 16 80		500	6 5 80
Research resources							
BA	R80-33c	5,000		4 16 80		5,000	6 5 80
National Library of Medicine							
BA	R80 34c	500		4 16 80		500	6 5 80
Alcohol, Drug Abuse, and Mental Health Administrat							
Alcohol, drug abuse, and mental health							
BA	R80-35c	4,000		4 16 80	4,000	4,000a	6 5 80
Health Resources Administration							
Health resources							
BA	R80- 2c	104,218		1 28 80			
BA	R80- 7A	-6,450		2 20 80		97,768	3 18 80
BA	R80-36c	149,953d		4 16 80	19,300	52,185b	6 5 80
Office of Assistant Secretary for Health							
Salaries and expenses							
BA	R80-37c	12,800		4 16 80	18,500	12,800a	6 5 80
Office of Education							
Elementary and secondary education							
BA	R80-38c	135,750		4 16 80	130,750	135,750b	6 5 80
Emergency school aid							
BA	R80-39c	25,123		4 16 80	21,052	25,123b	6 5 80
Occupational, vocational, and adult education							
BA	R80-40c	87,500		4 16 80		87,500	6 5 80
Student assistance							
BA	R80-41c	108,000		4 16 80		108,000	6 5 80

ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1980 AS OF 08/05/80 10:14

AS OF AUGUST 1, 1980 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
Higher and continuing education							
BA	R80-42c	44,275		4 16 80	16,000	44,275b	6 5 80
Library resources							
BA	R80-43c	18,000		4 16 80	18,000	18,000a	6 5 80
Special projects and training							
BA	R80-44c	11,000		4 16 80	5,000	11,000b	6 5 80
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE TOTAL BA		788,569			251,102	690,801	
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT							
Community Planning and Development							
Community development grants							
BA	R80-45	153,200		4 16 80	153,200	153,200a	6 5 80
Rehabilitation loan fund							
BA	R80-46	38,000		4 16 80	25,500	38,000b	6 5 80
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT TOTAL BA		191,200			178,700	191,200	
DEPARTMENT OF THE INTERIOR							
Heritage Conservation and Recreation Service							
Urban park and recreation grants							
BA	R80-47	85,000		4 16 80	15,000	85,000b	6 5 80
Land and water conservation fund							
BA	R80-48	251,000		4 16 80		251,000	6 5 80
Historic preservation fund							
BA	R80-49	16,500		4 16 80		16,500	6 5 80
Geological Survey							
Exploration of natl petroleum reserve-Alaska							
BA	R80- 3	18,000		1 28 80		18,000	3 18 80
DEPARTMENT OF THE INTERIOR TOTAL BA		370,500			15,000	370,500	
DEPARTMENT OF JUSTICE							
Office of Justice Assist., Research, and Statistic							
Law enforcement assistance							
BA	R80-59	12,439		5 20 80	4,439	8,000	7 25 80
DEPARTMENT OF THE TREASURY							
Bureau of Government Financial Operations							
Salaries and expenses							
BA	R80-50	322		4 16 80	322	322a	6 5 80
OTHER INDEPENDENT AGENCIES							
Arms Control and Disarmament Agency							
Arms control and disarmament activities							
BA	R80-51	720		4 16 80	720	720a	6 5 80
Federal Mine Safety and Health Review Commission							
Salaries and expenses							
BA	R80-52	188		4 16 80	188	188a	6 5 80
International Communication Agency							
Special international exhibitions							
BA	R80- 1	114		10 1 79		114	11 15 79

ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1980 AS OF 08/05/80 10:14

AS OF AUGUST 1, 1980 AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT CURRENTLY BEFORE THE CONGRESS	DATE OF MESSAGE MO DA YR	AMOUNT RESCINDED	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
Merit Systems Protection Board							
Office of the special counsel							
BA	R80-53	1,000		4 16 80	2,000	1,000a	6 5 80
National Alcohol Fuels Commission							
Salaries and expenses							
BA	R80-58	9		5 13 80		9	7 3 80
National Science Foundation							
Science education activities							
BA	R80-54	5,000		4 16 80	2,500	5,000b	6 9 80
Occupational, Safety, and Health Review Comm.							
Salaries and expenses							
BA	R80-55	100		4 16 80	100	100a	6 5 80
Small Business Administration							
Business loan and investment fund							
BA	R80-56	19,000		4 16 80		19,000	6 5 80
Water Resources Council							
Water resources planning							
BA	R80-57	11,000		4 16 80	11,431	11,000a	6 5 80
OTHER INDEPENDENT AGENCIES TOTAL BA		37,131			16,939	37,131	
TOTAL BA		1,618,061			638,127	1,515,854	

FOOTNOTES

a. These funds were made available for obligation on June 5, 1980. Subsequently, the funds were rescinded by the 1980 Supplemental Appropriations and Rescission Act (P.L. 96-304), signed into law on July 8, 1980.

b. These funds were made available for obligation on June 5, 1980. Subsequently, the amount listed in the adjacent column was rescinded by P.L. 96-304 resulting in a like decrease in the amount remaining available.

c. This rescission proposal was made prior to the formation of the Department of Health and Human Services and the Department of Education on May 7, 1980. At the time this proposal was transmitted to the Congress, it was reported under the Department of Health, Education, and Welfare.

d. These funds include $97,768,000 previously proposed for rescission in R80-2a which were not withheld pending congressional action on R80-36.

END OF REPORT

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1980 AS OF 08/04/80 17:59

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 08-01-80
FUNDS APPROPRIATED TO THE PRESIDENT									
Appalachian Regional Development Programs									
Appalachian regional development programs	BA	D80-48	14,300		4 16 80				14,300
International Security Assistance									
Economic support fund	BA	D80- 1	100,000		10 1 79				100,000
FUNDS APPROPRIATED TO THE PRESIDENT TOTAL	BA		114,300						114,300
DEPARTMENT OF AGRICULTURE									
Farmers Home Administration									
Mutual self-help housing	BA	D80-46	15,000		2 20 80	-10,000			5,000
Forest Service									
Timber salvage sales	BA	D80- 2	9,298		10 1 79				9,298
Expenses, brush disposal	BA	D80- 3	32,060		10 1 79				
	BA	D80- 3A		20,643	6 18 80				52,703
Restoration of forest lands	BA	D80- 4	38		10 1 79	-4			34
DEPARTMENT OF AGRICULTURE TOTAL	BA		56,396	20,643		-10,004			67,035
DEPARTMENT OF COMMERCE									
Economic Development Administration									
Local public works program	BA	D80-69	6,447		5 13 80	-6,447			
National Oceanic and Atmospheric Administration									
Construction	BA	D80- 5	7,000		10 1 79				
	BA	D80- 5A		39,459	1 28 80				46,459
Coastal zone management	BA	D80- 6	20,000		10 1 79				
	BA	D80- 6A		a	11 15 79				20,000
Promote and develop fishery products and research	BA	D80- 7	2,400		10 1 79	-2,400			
Fisheries loan fund	BA	D80- 8	5,300		10 1 79				
	BA	D80- 8A		b	1 28 80	-293			5,007
Coastal energy impact fund	BA	D80-49	54,922c		4 16 80				54,922
DEPARTMENT OF COMMERCE TOTAL	BA		96,069	39,459		-9,140			126,388
DEPARTMENT OF DEFENSE-MILITARY									
Procurement									
Shipbuilding and conversion, Navy	BA	D80-41	997,500		1 28 80	-27,500			970,000
Military Construction									
Military construction, all services	BA	D80- 9	31,386		10 1 79				
	BA	D80- 9A		355,780d	1 28 80				
	BA	D80- 9B		e	7 30 80	-375,976		26,194	37,384
Family Housing, Defense									
Family housing, Defense	BA	D80-42	18,651		1 28 80				18,651
Various Activities									
Various accounts	BA	D80-50	801,700f		4 16 80				
	BA	D80-50A		112,900	5 20 80	-728,400			186,200

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1980 AS OF 08/04/80 17.59

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 08-01-80
DEPARTMENT OF DEFENSE-MILITARY								
TOTAL BA		1,849,237	468,680		-1,131,876		26,194	1,212,235
DEPARTMENT OF DEFENSE-CIVIL								
Cemeterial Expenses, Army								
Salaries and expenses								
BA	D80-71	113		6 18 80				113
Wildlife Conservation, Military Reservations								
Wildlife conservation, all services								
BA	D80-10	595		10 1 79				
BA	D80-10A		114	12 26 79	-86			623
DEPARTMENT OF DEFENSE-CIVIL								
TOTAL BA		708	114		-86			736
DEPARTMENT OF ENERGY								
Atomic Energy Defense Activities								
Operating expenses								
BA	D80-51			4 16 80				
O	D80-51A		1,000g	5 20 80				1,000
Energy Programs								
Energy supply R&D-operating expenses								
BA	D80-52			4 16 80				
O	D80-52A		2,500g	5 20 80				2,500
Fossil energy construction								
BA	D80-11	50,000		10 1 79	-50,000			
Departmental Administration								
Departmental administration								
BA	D80-53			4 16 80				
O	D80-53A		1,000g	5 20 80				1,000
DEPARTMENT OF ENERGY								
TOTAL BA		50,000			-50,000			
TOTAL O			4,500					4,500
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE								
Alcohol, Drug Abuse & Mental Health Administration								
Construction & renovation, St. Elizabeths Hospital								
BA	D80-12h	23,314		10 1 79				23,314
Office of Assistant Secretary for Health								
Special foreign currency program								
BA	D80-43h	10,000		1 28 80				10,000
Office of Education								
Student assistance								
BA	D80-54h	140,000		4 16 80			-140,000i	
Social Security Administration								
Limitation on administrative expenses								
BA	D80-47h	5,000		2 20 80				5,000
Human Development Services								
White House Conferences - Aging, Families, & Child								
BA	D80-13h	4,649		10 1 79				
BA	D80-13A			2 20 80	-3,054		1,604	3,199
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE								
TOTAL BA		182,963			-3,054		-138,396	41,513
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT								
Housing Programs								
Troubled projects operating subsidy								
BA	D80-55	10,000		4 16 80				10,000

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1980 AS OF 08/04/80 17 59

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 08-01-80
DEPARTMENT OF THE INTERIOR								
Bureau of Land Management								
Oregon and California grant lands								
	BA D80-44	1,134		1 28 80				1,134
Heritage Conservation and Recreation Service								
Land and water conservation fund								
	BA D80-14	30,000		10 1 79				30,000
National Park Serivice								
Construction								
	BA D80-56	15,500		4 16 80		-15,500k		
Geological Survey								
Payments from proceeds, sale of water								
	BA D80-15	39		10 1 79				39
Bureau of Mines								
Drainage of anthracite mines								
	BA D80-16	1,137		10 1 79				
	BA D80-16A		328	1 28 80	-500			965
DEPARTMENT OF THE INTERIOR TOTAL BA		47,810	328		-500	-15,500		32,138
DEPARTMENT OF JUSTICE								
Legal Activities								
Fees and expenses of witnesses								
	BA D80-45	1,181		1 28 80	-1,181			
Federal Prison System								
Buildings and facilities								
	BA D80-17	22,853		10 1 79				
	BA D80-17A		14,888	11 15 79				
	BA D80-17B		12,610	1 28 80	-28,214			22,137
Office of Justice Assist., Research, and Statistic								
Law enforcement assistance								
	BA D80-70	13,396		5 13 80				
	BA D80-70A		6,000	5 20 80	-19,396			
DEPARTMENT OF JUSTICE TOTAL BA		37,430	33,498		-48,791			22,137
DEPARTMENT OF LABOR								
Employment and Training Administration								
Employment and training assistance								
	BA D80-57	190,760		4 16 80	-27,500			163,260
Temporary employment assistance								
	BA D80-58	203,000		4 16 80				203,000
DEPARTMENT OF STATE								
International Organizations and Conferences								
Contributions to intl peacekeeping activities								
	BA D80-32	10,000		11 15 79				
	BA D80-32A		2,000	1 28 80	-12,000			
Other								
Emergency refugee and migration assistance fund								
	BA D80-18	5,650		10 1 79				
	BA D80-18A		19,350l	1 28 80	-15,300		1,194	10,894
DEPARTMENT OF STATE TOTAL BA		15,650	21,350		-27,300		1,194	10,894

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1980 AS OF 08/04/80 17 59

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 08-01-80
DEPARTMENT OF TRANSPORTATION									
Coast Guard									
Acquisition, construction, and improvements	BA	D80-59	33,800		4 16 80				33,800
Federal Aviation Administration									
Construction, Metropolitan Washington Airports	BA	D80-60	4,000		4 16 80				4,000
Civil supersonic aircraft development termination	BA	D80-19	5,004		10 1 79	-5,000			4
Facilities & equip. (Airport & airway trust fund)	BA	D80-20	138,211		10 1 79				
	BA	D80-20A		166,081	1 28 80				304,292
Federal Highway Administration									
Federal aid highways	BA	D80-33	495,789		11 15 79	-495,789			
	BA	D80-61	1,659,000		4 16 80		-1,659,000m		
Federal Railroad Administration									
Railroad research and development	BA	D80-62	3,800		4 16 80				3,800
Northeast corridor improvement program	BA	D80-63	75,000		4 16 80				75,000
Urban Mass Transportation Administration									
Urban mass transportation fund	BA	D80-21	393,076		10 1 79			-393,076n	
	BA	D80-64	7,875		4 16 80		-7,875m		
	BA	D80-72	166,245		6 18 80		-166,245m		
DEPARTMENT OF TRANSPORTATION TOTAL BA			2,981,800	166,081		-500,789	-1,833,120	-393,076	420,896
DEPARTMENT OF THE TREASURY									
Office of the Secretary									
Investment in national consumer cooperative bank	BA	D80-38	12,550		12 26 79				12,550
Office of Revenue Sharing									
State and local government fiscal assistance fund	BA	D80-22	79,548		10 1 79				
	BA	D80-22A		34,245	12 26 79	-2,322		14	111,485
	O	D80-23	2,735		10 1 79				
	O	D80-23A		13,850o	2 20 80	-13,269		2,173	5,489
Bureau of the Mint									
Construction of mint facilities	BA	D80-24	3,230		10 1 79				
	BA	D80-24A		2,500	1 28 80				5,730
DEPARTMENT OF THE TREASURY TOTAL BA			95,328	36,745		-2,322		14	129,765
TOTAL O			2,735	13,850		-13,269		2,173	5,489
ENVIRONMENTAL PROTECTION AGENCY									
Construction grants	BA	D80-65	3,636,254		4 16 80				
	BA	D80-65A		11,694p	5 20 80		-3,647,948q		
OTHER INDEPENDENT AGENCIES									
District of Columbia									
Loans for capital outlay	BA	D80-39	8,130		12 26 79				8,130
Federal Emergency Management Agency									
Emergency planning, preparedness, and mobilization	BA	D80-25	80		10 1 79				80
Foreign Claims Settlement Commission									
Payment of Vietnam prisoner of war claims	BA	D80-26	1,800		10 1 79	-940			860
General Services Administration									
Federal Buildings Fund	BA	D80-66	25,000		4 16 80				25,000

ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1980 AS OF 08/04/80 17 59

AMOUNTS IN THOUSANDS OF DOLLARS / AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 08-01-80
International Communication Agency								
Salaries & expenses								
	BA D80-34	2,000		11 15 79				2,000
Special foreign currency program								
	BA D80-35	1,600		11 15 79				
	BA D80-35A		137	7 30 80				1,737
Acquisition & construction of radio facilities								
	BA D80-27	10,973		10 1 79				10,973
National Consumer Cooperative Bank								
Self-help development fund								
	BA D80-40	8,000		12 26 79				8,000
National Science Foundation								
Research and related activities								
	BA D80-67	18,000		4 16 80	-2,000			16,000
National Commission on Social Security								
Salaries and expenses								
	BA D80-29	250		10 1 79				
	BA D80-29A		145	12 26 79				395
Navajo & Hopi Indian Relocation Commission								
Salaries and expenses								
	BA D80-30	5,300		10 1 79				5,300
Railroad Retirement Board								
Regional rail transportation protective account								
	BA D80-36	1,000		11 15 79	-1,000			
Smithsonian Institution								
Construction								
	BA D80-68	19,000		4 16 80				19,000
National Alcohol Fuels Commission								
Salaries and expenses								
	BA D80-28	250		10 1 79				
	BA D80-28A		500	1 28 80	9			741
President s Commission on Pension Policy								
Salaries and expenses								
	BA D80-37	700		11 15 79				700
Tennessee Valley Authority								
Tennessee Valley Authority fund								
	BA D80-31	17,000		10 1 79				17,000
OTHER INDEPENDENT AGENCIES								
	TOTAL BA	119,083	782		-3,949			115,916
	TOTAL BA	9,686,788	799,374		-1,815,311	-5,496,568	-504,070	2,670,213
	TOTAL O	2,735	18,350		-13,269		2,173	9,989

FOOTNOTES

a. This supplementary report was transmitted solely to expand the application of this deferral to include funds appropriated in FY 1980 as well as balances carried forward from previous years.

b. This supplementary report was transmitted solely to change the justification for deferring the funds.

c. This deferral action was taken in conjunction with a rescission proposal (RSO-11).

d. This amount includes the effect of releases totalling $18,270 thousand made prior to the transmittal of the supplementary report.

e. This supplementary report was transmitted solely to reflect a change in justification involving the delay of an additional construction project.

f. These deferral items were transmitted to the Congress in a consolidated deferral report which listed the individual items as D80-50.1 through 50.34.

g. This supplementary report was transmitted solely to make a technical correction to the original report by reflecting a delay of expenditures (outlays) rather than a delay of obligations (BA).

h. This deferral was made prior to the formation of the Department of Health and Human Services and the Department of Education on May 7, 1980. At the time this item was transmitted to the Congress, it was reported under the Department of Health, Education, and Welfare.

i. This amount was rescinded by the 1980 Supplemental Appropriations and Rescission Act, P.L. 96-304.

j. This supplementary report was transmitted to expand the application of this deferral.

k. The Senate disapproved this deferral (S Res. 464) on August 1, 1980. The release of these funds occurred on August 5, 1980.

l. This supplementary report includes the effect of releases totalling $8,000 thousand and adjustments of $5,582 thousand made prior to the transmittal of the report.

m. This release was required pursuant to Chapter XIII of P.L. 96-304.

n. Congressional action on the 1980 Transportation and Related Agencies Appropriation Bill (P.L.96-131) rescinded these funds.

o. This amount includes the effect of releases totalling $2,691 thousand made prior to the transmittal of the supplementary report.

p. This amount includes the effect of a release totalling $12,456 thousand made prior to the transmittal of the supplementary report.

q. A release of $400 million was required on July 8 pursuant to Chapter VII of P.L. 96-304. The Senate disapproved the remainder of this deferral ($3,247,948,114)--S Res. 470-- on August 1, 1980. The release of these funds occurred on August 5, 1980.

[FR Doc. 80-24785 Filed 8-13-80; 8:45 am]

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Federal Register

Vol. 45, No. 159

Thursday, August 14, 1980

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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 41 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	HHS/FDA		DOT/SLSDC	HHS/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

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

HEALTH AND HUMAN SERVICES DEPARTMENT

47612 7-15-80 / Records and reports; applicability of requirements to manufacturers of industrial dielectric heaters, including radio frequency (RF) sealers, and electromagnetic (EM) induction heating equipment

INTERIOR DEPARTMENT

Bureau of Land Management—

47618 7-15-80 / Financial assistance, local governments entitlement lands; payments in lieu of taxes

List of Public Laws

Last Listing August 13, 1980

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).

H.R. 7786 / Pub. L. 96-329 To amend Public Law 90-331 to provide for personal protection of the spouses of major Presidential and Vice Presidential candidates during the 120-day period before a general Presidential election. (Aug. 11, 1980; 94 Stat. 1029) Price $1.

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WHEN: October 22, 1980; November 19, 1980; January 21, 1981; February 25, 1981; May 13, 1981

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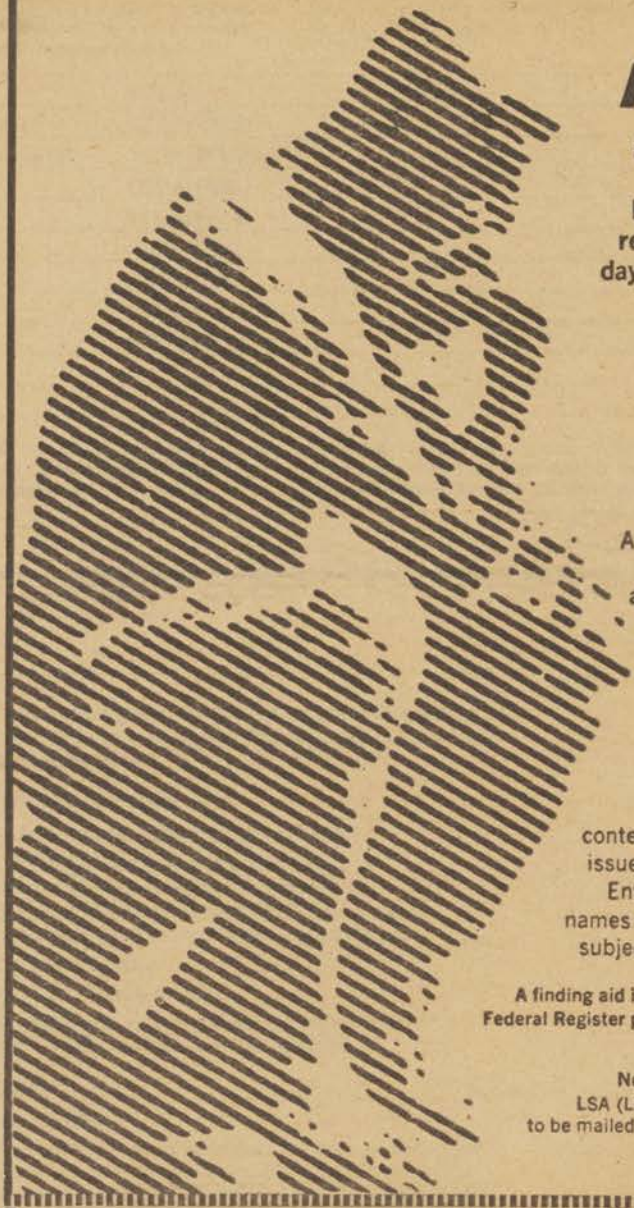

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