12-23-81
Vol. 46 No. 246
Pages 62239-62390

federal register

Wednesday
December 23, 1981

Highlights

CONTINUED INSIDE

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

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

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $75.00 per year, or $45.00 for six months, payable in advance. The charge for individual copies is $1.00 for each issue, or $1.00 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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

Contents

Federal Register
Vol. 46, No. 246
Wednesday, December 23, 1981

Meetings Announced in This Issue

HEARINGS

CFR PARTS AFFECTED IN THIS ISSUE

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

Federal Register
Vol. 46, No. 246
Wednesday, December 23, 1981

Presidential Documents

Title 3—

The President

Executive Order 12336 of December 21, 1981

The Task Force on Legal Equity for Women

By the authority vested in me as President by the Constitution of the United States of America, and in order to provide for the systematic elimination of regulatory and procedural barriers which have unfairly precluded women from receiving equal treatment from Federal activities, it is hereby ordered as follows:

Section 1. *Establishment.* (a) There is established the Task Force on Legal Equity for Women.

(b) The Task Force members shall be appointed by the President from among nominees by the heads of the following Executive agencies, each of which shall have one representative on the Task Force.

(1) Department of State.

(2) Department of The Treasury.

(3) Department of Defense.

(4) Department of Justice.

(5) Department of The Interior.

(6) Department of Agriculture.

(7) Department of Commerce.

(8) Department of Labor.

(9) Department of Health and Human Services.

(10) Department of Housing and Urban Development.

(11) Department of Transportation.

(12) Department of Energy.

(13) Department of Education.

(14) Agency for International Development.

(15) Veterans Administration.

(16) Office of Management and Budget.

(17) International Communication Agency.

(18) Office of Personnel Management.

(19) Environmental Protection Agency.

(20) ACTION.

(21) Small Business Administration.

(c) The President shall designate one of the members to chair the Task Force. Other agencies may be invited to participate in the functions of the Task Force.

Sec. 2. *Functions.* (a) The members of the Task Force shall be responsible for coordinating and facilitating in their respective agencies, under the direction of the head of their agency, the implementation of changes ordered by the President in sex-discriminatory Federal regulations, policies, and practices.

(b) The Task Force shall periodically report to the President on the progress made throughout the Government in implementing the President's directives.

(c) The Attorney General shall complete the review of Federal laws, regulations, policies, and practices which contain language that unjustifiably differentiates, or which effectively discriminates, on the basis of sex. The Attorney General or his designee shall, on a quarterly basis, report his findings to the President through the Cabinet Council on Human Resources.

Sec. 3. *Administration.* (a) The head of each Executive agency shall, to the extent permitted by law, provide the Task Force with such information and advice as the Task Force may identify as being useful to fulfill its functions.

(b) The agency with its representative chairing the Task Force shall, to the extent permitted by law, provide the Task Force with such administrative support as may be necessary for the effective performance of its functions.

(c) The head of each agency represented on the Task Force shall, to the extent permitted by law, furnish its representative such administrative support as is necessary and appropriate.

Sec. 4. *General Provisions.* (a) Section 1–101(h) of Executive Order No. 12258, as amended, is revoked.

(b) Executive Order No. 12135 is revoked.

(c) Section 6 of Executive Order No. 12050, as amended, is revoked.

Ronald Reagan

THE WHITE HOUSE,
December 21, 1981.

Editorial Note: The President's remarks of Dec. 21, 1981, on signing Executive Order 12336, are printed in the Weekly Compilation of Presidential Documents (vol. 17, no. 52).

[FR Doc. 81-36758
Filed 12-21-81; 2:43 pm]
Billing code 3195-01-M

Presidential Documents

Presidential Determination No. 82–3 of December 5, 1981

Assistance for the Organization of African Unity Peacekeeping Operation in Chad

Memorandum for the Secretary of State

By virtue of the authority vested in me under sections 610(a) and 614(a)(1) of the Foreign Assistance Act of 1961, as amended (the Act), I hereby:

(1) determine that it is necessary for the purposes of the Act that up to $12,000,000 appropriated under the authority of Chapter 4 of part II of the Act be transferred to, and consolidated with, appropriations made under Chapter 6 of part II of the Act, to support the Peacekeeping Force in Chad of the Organization of African Unity;

(2) determine that it is important to the security interests of the United States that up to $2,000,000 of such funds be obligated immediately without regard to the provisions of Section 634A of the Act and of applicable appropriations legislation,

(3) authorize the furnishing of up to $12,000,000 of assistance for the Peacekeeping Force of the Organization of African Unity.

You are requested to report this determination to the Congress immediately, and none of the assistance provided for herein shall be furnished until after such report has been made.

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

Ronald Reagan

THE WHITE HOUSE,
Washington, December 5, 1981.

[FR. Doc. 81-36760
Filed 12-21-81; 4:21 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 46, No. 246
Wednesday, December 23, 1981

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 982

Filberts/Hazelnuts Grown in Oregon and Washington; Final Free and Restricted Percentages for the 1981–82 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule establishes marketing percentages for inshell filberts for the marketing year which began May 1, 1981. The action is taken to promote orderly marketing conditions for the 1981 crop. It was recommended by the Filbert/Hazelnut Marketing Board which works with the USDA in administering the program.

EFFECTIVE DATES: May 1, 1981 through April 30, 1982.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D. C. 20250 (202) 447–5697.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified a "non-major" rule under criteria contained therein.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it would result in only minimal costs being incurred by the regulated nine handlers.

Information collection (reporting and recordkeeping) under this part are subject to clearance by the Office of Management and Budget and are in the process of review. These information requirements shall not become effective until such time as clearance by OMB has been obtained.

It is found that an emergency situation exists which makes it impractical, unnecessary, and contrary to the public interest to: (a) Allow an opportunity for written public comment on this final rule; and (b) postpone the effective time of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because: (1) The percentages established herein for the 1981–82 marketing year apply to all merchantable filberts handled during that year; (2) currently handlers are shipping 1981 crop filberts in volume and this action must be taken promptly to achieve its purpose of releasing the full inshell trade demand quantity established October 19, 1981 (46 FR 52087); (3) handlers are aware of this action as recommended by the Board at an open meeting held November 13, 1981, and require no additional time to comply; and (4) this action relieves restrictions on handlers in that the final free percentage is greater than the final free computed percentage currently in effect.

This rule establishes final free and restricted percentages of 29 percent and 71 percent, respectively, for the 1981–82 marketing year. The establishment is pursuant to § 982.40 of the marketing agreement and Order No. 982, both as amended (7 CFR Part 982; 46 FR 26037), regulating the handling of filberts/hazelnuts grown in Oregon and Washington. The marketing agreement and order are collectively referred to as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

Section 982.40(b) of the order prescribes that prior to August 1 of a marketing year, the Filbert/Hazelnut Marketing Board shall recommend establishment of an inshell trade demand for that year to the Secretary. If the Secretary finds, on the basis of the Board's recommendation or other information, that volume regulation for that marketing year would tend to effectuate the declared policy of the act, the Secretary shall establish the trade demand computed in accordance with § 982.40(b). On October 19, 1981, a trade demand of 5,043 tons was established because anticipated inshell supplies were expected to be far in excess of inshell needs, and volume regulation appeared appropriate for the 1981–82 marketing year.

Section 982.40(c)(1) of the order requires the Board to compute and announce prior to September 20 preliminary computed free and restricted percentages to release 70 percent of the established trade demand for a marketing year. The difference between 100 percent and the preliminary computed free percentage shall be the preliminary computed restricted percentage. Upon determining that a firm field price has been established between growers and handlers, § 982.40(c)(2) requires the Board to compute and announce final computed free and restricted percentages to release 80 percent of the established trade demand. The difference between 100 percent and the final computed free percentage shall be the final computed restricted percentage.

In accordance with these provisions, the Board computed and announced preliminary computed free and restricted percentages of 19 percent and 81 percent on September 16, 1981, and, after it determined that a firm field price was established, final computed free and restricted percentages of 22 percent and 78 percent on October 9, 1981.

Under § 982.40(c)(3) of the order, the Board, on or before November 15, shall meet to recommend to the Secretary the final free and restricted percentages to release 100 percent, or up to 110 percent if market conditions justify, of the inshell trade demand previously established by the Secretary for the marketing year. On November 13, 1981, the Board met and recommended final free and restricted percentages of 29 percent and 71 percent to release 100 percent of the previously established inshell trade demand of 5,043 tons.

In calculating the percentages, the Board considered the following supply and demand information for the 1981–82 marketing year:

	Tons
Inshell supply:	
(1) Total production	15,000
(2) Less substandard, farm use, etc	1,500
(3) Merchantable production	13,500
(4) Plus carryover May 1, 1981, subject to regulation	920
(5) Supply subject to regulation (Item 3 plus Item 4)	14,420

	Tons
Inshell requirements:	
(6) Computed trade demand previously established	5,043
(7) Less carryover May 1, 1981, not subject to regulation	839
(8) Adjusted trade demand	4,204
Percentages:	
(9) Free percentage (item 8 divided by item 5)	29%
(10) Restricted percentage (100 percent minus 29 percent)	71%

The free percentage prescribes that portion of the total merchantable supply subject to regulation which may be handled as inshell filberts. The restricted percentage prescribes that portion which must be withheld from such handling. Restricted filberts may be shelled (for domestic or foreign consumption), exported, or disposed of in outlets determined by the Board to be non-competitive with normal market outlets for inshell filberts.

After consideration of all relevant matter presented, the information and recommendation submitted by the Board, and other available information, it is further found that the establishment, under § 982.40, of final free and restricted percentages for the 1981–82 marketing year will tend to effectuate the declared policy of the act.

PART 982—FILBERTS/HAZELNUTS GROWN IN OREGON AND WASHINGTON

Therefore, a new paragraph (b) is added to § 982.231 (46 FR 52087) to read as follows: (The following section will not be published in the Code of Federal Regulations).

§ 982.231 Trade demand and final free and restricted percentages—1981–82 marketing year.

* * * * *

(b) The final free and restricted percentages for merchantable filberts/hazelnuts for the 1981–82 marketing year shall be 29 percent and 71 percent, respectively.

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

Dated: December 18, 1981.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 81-36575 Filed 12-22-81; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Parts 2855, 2856, 2859, and 2870

Increase in Fees and Charges

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The interim rule with request for comments published October 7, 1981 (46 FR 49569) which increased fees and charges for poultry, rabbit, and egg grading and egg products inspection is made final. These changes are necessary to cover increased costs associated with the programs. This document finalizes charges for the Federal voluntary egg products inspection; egg, poultry, and rabbit grading; and laboratory services and the overtime and appeal rates for Federal mandatory egg products inspection as revised in the interim rule.

EFFECTIVE DATE: December 23, 1981.

FOR FURTHER INFORMATION CONTACT: D. M. Holbrook, (202) 447–3506.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures established in accordance with Executive Order 12291, and has been classified "nonmajor" as it does not meet the criteria contained therein for major regulatory actions. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because the fees and charges merely reflect, on a cost-per-unit-graded/inspected basis, a minimal increase in the costs currently borne by those entities utilizing the services, and because competitive effects are offset under the major voluntary programs (resident shell egg and poultry) through administrative charges based on the volume of product handled; i.e., the cost to users increases in proportion to increased volume.

The Agricultural Marketing Act of 1946, as amended, provides for the collection of fees approximately equal to the cost of providing Federal voluntary egg products inspection; egg, poultry, and rabbit grading; and laboratory services. The Egg Products Inspection Act requires that the cost for overtime inspection be borne by the user of the service. Because fees and charges for these services—as determined by the grader's or inspector's salary and fringe, cost of supervision, travel, and other overhead and administrative costs—have increased since the last adjustment, it was necessary to make the revised charges effective November 1, 1981, to cover the costs of services.

Since the last nonresident program fee increase, which was based primarily on the pay increase effective in October 1980, Federal employees have received a 4.8-percent pay increase, and grader training and other fringe costs have increased 3 to 4 percent. In addition to these added costs, the grade level or pay scale of the graders performing service on a nonresident or lot basis has shifted to a higher level. Therefore, overall, the fee for nonresident service on an hourly basis was increased about 15 percent.

Costs have increased also for the resident shell egg and poultry grading programs. The hourly rate charged for graders under the resident grading programs does not cover costs of supervision, travel, and other overhead and administrative expenses. These costs are covered by an administrative service charge which is based on the number of cases of shell eggs and the number of pounds of poultry handled in plants using the service. Since these rates were last increased in 1976, supervisory salaries have increased 38 percent; per diem, 50 percent; mileage, 50 percent; rent, 23 percent; and telephone, 65 percent. To compensate for these significant cost increases, the administrative service charge per case of shell eggs and per pound of poultry and the minimum and maximum payment per billing period for each official plant were increased on an average about 39 percent. Similar cost increases have also occurred elsewhere in these programs, as is more fully detailed in the interim rulemaking document.

Because increased revenues were urgently needed to cover costs of services, an interim rule published October 7, 1981, with an effective date of November 1, 1981, was necessary. The interim rule invited comments for 60 days ending December 7, 1981. One comment was received from a State department of agriculture addressing objection to the short time frame between publication of the interim rule and the effective date and the size of the increases. However, no data were presented demonstrating an error in the Agency's data or determination of the level of charges necessary to cover costs. These increases are mandated under the Agricultural Marketing Act of 1946, as amended, and the Egg Products Inspection Act, and it was necessary to implement the revised charges effective November 1, 1981, to cover the costs of services. Since the document does not alter the regulations which have been in effect since November 1, 1981, there is no reason to postpone its effective date for 30 days. Thus, good cause is found to make this document effective December 23, 1981.

Accordingly, for the reasons and purposes stated above and in the interim rule published October 7, 1981 (46 FR 49569), the amendments made to §§ 2855.510, 2855.550, and 2855.560 of Part 2855; §§ 2856.46, 2856.47, 2856.52,

and 2856.54 of Part 2856; §§ 2859.126 and 2859.370 of Part 2859; and §§ 2870.71, 2870.72, 2870.76, and 2870.77 of Part 2870; Title 7, Code of Federal Regulations, by the said interim rule are hereby made final, without any change.

(Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*); Egg Products Inspection Act (21 U.S.C. 1031–1056))

Done at Washington, D.C. on December 18, 1981.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 81-36012 Filed 12-22-81; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF COMMERCE

Office of the Secretary

15 CFR Part 4

Public Information; Centralization of Handling; Final Rule

AGENCY: Office of the Secretary, Commerce.

ACTION: Final rule.

SUMMARY: The Department of Commerce is amending certain provisions of Part 4 of Title 15 of the Code of Federal Regulations to centralize the handling of Freedom of Information Act (FOIA) appeals. Centralization is expected to increase the efficiency and timeliness of handling FOIA appeals.

EFFECTIVE DATE: December 23, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Levine (202) 377–5384.

SUPPLEMENTARY INFORMATION: These amendments pertain solely to matters of agency organization and procedure. Therefore, the provisions of the Administrative Procedure Act on rulemaking, 5 U.S.C. 553, requiring notice of proposed rulemaking and opportunity for public participation are inapplicable. The requirement for preparation of an initial or final regulatory flexibility analysis under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, is also inapplicable. Further, these amendments are exempt from the requirements of Executive Order 12291. Since these amendments do not contain an information collection requirement, the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, does not apply.

The purpose of the proposed amendments is to centralize the handling of all appeals from initial denials of FOIA requests for records. This will be accomplished by making the General Counsel the sole official responsible for all final determinations regarding such appeals. This process is expected to result in: (1) More timely and efficient handling of appeals; (2) elimination of the possibility of inconsistencies in the interpretations of the applicable law; and (3) facilitation of the development of greater in-depth expertise in matters relating to the FOIA.

PART 4—PUBLIC INFORMATION

For the reasons set out in the preamble, Part 4, Subtitle A of Title 15, Code of Federal Regulations, is amended as set forth below.

Authority: 5 U.S.C. 552; 5 U.S.C. 553; 5 U.S.C. 301; Reorganization Plan No. 5 of 1950.

2. Section 4.6 is amended by revising paragraphs (b)(5)(iv) and (b)(6) to read as follows:

§ 4.6 Initial determinations of availability of records.

* * * * *

(b) * * *

(5) * * *

(iv) A brief statement of the right of the requester to appeal the determination to the General Counsel and the address to which the appeal should be sent, in accordance with § 4.8 (a) and (b).

(6) A copy of each initial denial and its incoming request for records shall be provided to the Assistant General Counsel for Administration.

3. Section 4.8 is amended by revising paragraphs (b), (c), (e), and (g) to read as follows:

§ 4.8 Appeals from initial denials or untimely delays.

* * * * *

(b) An appeal shall be addressed to the General Counsel, Department of Commerce, Room 5879, 14th and Constitution Avenue NW., Washington, D.C. 20230. Both the appeals envelope and the letter shall be clearly marked "Freedom of Information Appeal" or "Appeal for Records" or the equivalent. An appeal not addressed and marked as provided herein will be so marked by Department personnel when it is so identified, and will be forwarded immediately to the General Counsel. An appeal incorrectly addressed will not be deemed to have been "received" for purposes of the time period for appeal set forth in 5 U.S.C. 552(a)(6), until the earlier of the time that (1) forwarding to the General Counsel has been effected, or (2) such forwarding would have been effected with the exercise of due diligence by Department personnel. In each instance when an appeal is so forwarded, the Office of Gneral Counsel shall notify the requester that the appeal was improperly addressed and of the date the appeal was received by the office.

(c) The General Counsel shall act upon an appeal within twenty days (excluding Saturdays, Sundays and legal public holidays) of its receipt, unless an extension of time is made in unusual circumstances, when the time for action may be extended up to ten days (excluding Saturdays, Sundays and legal public holidays) minus any days of extension granted at the initial request level. A notice of such extension shall be sent to the requester, setting forth the reasons and the date on which a determination of the appeal is expected to be sent. As used in this paragraph, "unusual circumstances" are defined in § 4.6(b)(2).

* * * * *

(e) If no determination of an appeal has been sent to the requester within the twenty day period or the last extension thereof, the requester is deemed to have exhausted his administrative remedies with respect to such request, giving rise to a right of judicial review as specified in 5 U.S.C. 552(e)(4). When no determination can be sent to the requester within the time limit, the General Counsel shall nonetheless exercise due diligence in continuing to process the appeal. When the time limit expires, the requester shall be informed of the reason for the delay, of the date when a determination may be expected to be made, and of his right to seek judicial review. The requester may be asked to forego judicial review until the appeal is determined.

* * * * *

(g) The General Counsel shall send a copy of each determination on appeal to the central public reference facility referred to in § 4.4(c) where it will be indexed and kept available for public inspection and copying.

Appendix A [Amended]

4. Sections 4 and 5 of Appendix A to 15 CFR Part 4 have been amended by revising paragraphs .01–.05 in Section 4. and by revising paragraph .03b.5., .03c. introductory text, and paragraph .04 in Sec. 5 to read as follows:

Sec. 4. Delegation of authority.

.01 The Secretary of Commerce is responsible for the effective administration of the Act and other laws applicable to the dissemination of records and other information of the Department. Aside from the Secretary's retaining authority for his immediate office, or as he otherwise may act, authority is hereby delegated to the following officials of the Department to decide initially whether or not to make publicly available

records and other information subject to the Act which are in the possession of their organizations, in accord with the provisions of the Act, this order and rules supplementing it, other applicable law, and as may be otherwise provided by the Secretary:

a. Secretarial Officers, for their respective offices and for the Department staff units reporting to them (as defined in Department Organization Order 1-1, "Mission and Organization of the Department of Commerce" (35 FR 19704, December 27, 1970)), as amended.

b. Heads of operating units of the Department (as defined in Department Organization Order 1-1).

.02 Although the officials having authority under subsection 4.01 of this section may permit employees within their organizations to make records and information publicly available under the Act, they shall redelegate authority initially to *deny* such records and information only to a limited number of officers or employees under them without power of further redelegation.

.03 The authority to make final decisions on appeal of initially denied requests for records is hereby delegated to the General Counsel of the Department without power of further redelegation.

.04 The General Counsel of the Department, and his designees, shall provide legal services to enable the officials designated in subsections 4.01 and 4.02 of this section to discharge their respective duties and responsibilities under and pursuant to this order, and shall make legal interpretations of questions arising thereunder. The General Counsel shall also act as the focal point within the Department for consultation or other communication with the Department of Justice with respect to any actions to be taken in connection with the Act, this order, and rules implementing it.

.05a. Program officials shall provide all support and assistance necessary to enable the General Counsel to perform the functions delegated in this order. This shall include (i) keeping the Office of the General Counsel informed of Freedom of Information Act requests received by the unit; (ii) providing prompt responses to Office of the General Counsel instructions, or requests for assistance; (iii) as requested, allowing the Office of the General Counsel access to relevant records; and (iv) promptly consulting with the Office of the General Counsel regarding any legal issues which arise during the processing of a request.

b. The Office of the Inspector General shall comply with the provisions of this order, except that Office of the Inspector General need not allow the Office of the General Counsel access to records to the extent that (i) information contained therein might reveal the identity of a confidential source, or (ii) the Inspector General determines that disclosure to Office of the General Counsel would interfere with an audit, investigation, or prosecution.

Sec. 5. Functions and responsibilities.

* * * * *

.03 * * *

b. * * *

5. A procedure for administrative appeal of a request for a record initially denied in whole or in part. The appeal procedure shall include provisions which insure that: (i) the requester may file an appeal, in writing, within thirty days of receipt of an initial denial; (ii) an appeal shall be considered received when properly addressed to the General Counsel; (iii) appeals shall be decided without right of the requester for a personal appearance, oral argument, or hearing; (iv) timely decisions on appeals or other notices concerning them shall be made in writing, and communicated to the requester; (v) if the decision is wholly or partly in favor of the requester, the General Counsel shall make the particular records or information available to the requester or order that such be done; and to the extent that the decision is adverse to the requester, it shall briefly state the reason for the decision and the identity of the official responsible for making it, (vi) whenever applicable, requesters shall be effectively notified of their right to seek judicial review.

* * * * *

c. The officials designated in subsections 4.01 and 4.02 of this order who are responsible for initially determing whether any records properly requested under the Act may be made available, shall include in their consideration:

* * * * *

.04 *Special review requirements.*—a. The General Counsel or one of his designees shall be consulted before any initial denial is issued.

b. The Director of the Office of Public Affairs or his designee shall be informed before any decision on an appeal from an initial denial is issued.

c. As provided in Part B, Chapter IV, subsection 5.06f. of the Department's Handbook of Security Regulations and Procedures, appeals of initial denials based, even in part, on the ground that the matter is exempted from disclosure under 5 U.S.C. 552(b)(1) (classified information) shall be referred to the Departmental Information Security Program Committee. That Committee shall conduct a declassification review and determine if the record(s) involved may be made available to the public.

d. Whenever, on appeal from an initially denied request, the General Counsel and the concerned Secretarial Officer or operating unit head cannot agree on whether applicable exemptions should be waived, as provided in subsection .03c.4. of this section, the matter shall be promptly referred to the Secretary for resoultion.

Arlene Triplett,

Assistant Secretary for Administration.

[FR Doc. 81-36542 Filed 12-22-81; 8:45 am]

BILLING CODE 3510-BW-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 249 and 274

[Release Nos. 33-6366, 34-18337, IC-12107; File No. S7-864]

Revisions of Investment Company Current Report Forms

AGENCY: Securities and Exchange Commission.

ACTION: Final rules and amendments to forms.

SUMMARY: The Commission is adopting today three revisions to the form used by most management investment companies to report the occurrence during the preceding calendar quarter of any one or more of twelve specified events. The Commission is eliminating the requirement that investment companies filing the form list on a calendar quarterly basis certain information about their securities portfolios. In addition, the Commission is excepting certain routine actions relating to investment advisory contracts from the form's requirement that reporting companies furnish information concerning matters submitted to security holders for approval. Finally, the Commission is adopting a revision of the form to require that reports pursuant to the form be filed on a fiscal quarter rather than calendar quarter basis. The Commission is adopting these amendments in order to reduce the number of times management investment companies must file reports and to make reporting on that form less burdensome for those companies.

EFFECTIVE DATE: December 16, 1981.

FOR FURTHER INFORMATION CONTACT: Anthony A. Vertuno, Esq. (202) 272-2107, or Jane A. Kanter, Esq. (202) 272-2033, Division of Investment Management, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission announced today the adoption of amendments to its Form N-1Q (17 CFR 274.106), which form was adopted by the Commission pursuant to section 30 of the Investment Company Act of 1940 ("1940 Act") [15 U.S.C. 80a-29] and sections 13 and 15(d) of the Securities Exchange Act of 1934 ("1934 Act") (15 U.S.C. 78m, 78o(d)), and is used by management investment companies to report the occurrence during the preceding calendar quarter of any one of the twelve events specified in the form.

A report on Form N–1Q must be filed within 30 days after the calendar quarter during which any of the twelve specified events has occured. Among the events which an investment company required to file Form N–1Q must report on that form are changes in the company's securities portfolio and matters submitted to a vote of its security holders.[1]

The effect of requiring investment companies to report portfolio transaction is that management investment companies generally must submit Form N–1Q to the Commission four times a year. Further, the requirement to report on matters submitted to shareholders requires the reporting of the continuation of an existing advisory contract as well as the approval of a new one. As discussed in detail below, the Commission is adopting proposed revisions of Form N–1Q, which eliminate the requirement to report portfolio changes and shareholder voting on the continuation of an advisory contract and revise from a calendar year basis to a fiscal year basis the requirement to file the report.

Background

1. Reporting of Changes in Securities Portfolios

Item 1 of Form N–1Q requires all management investment companies, except small business investment companies and certain venture capital companies, to report any acquisition or disposition of portfolio securities made during a calendar quarter. The first report filed by an investment company pursuant to Item 1 and the first report filed pursuant to that item after the end of a year must include information as to the reporting company's entire securities portfolio.

When the Commission adopted Form N–1Q in Securities Exchange Act Release No. 8201, it stated that Item 1 of the form was being adopted for three reasons: To aid the Commission in carrying out its regulatory responsibilities under the 1940 Act; to aid the Commission in conducting studies of investment company portfolio transactions and their effects on the market place; and to provide the public with information about the securities transactions of Management investment companies.

The Commission's proposal to amend Form N–1Q, published on November 17, 1980, in Securities Act Release No. 6263 (45 FR 78158 (November 25, 1980)), reflected its belief that, although investment company portfolio transaction data is important for a number of purposes, it no longer needed to receive that information on a quarterly basis. Pursuant to its authority under section 31(b) [15 U.S.C. 80a–30(b)] of the 1940 Act to inspect investment company books and records, the Commission can obtain current information about portfolio transactions in individual cases where necessary. In light of its ability to inspect books and records, it appeared to the Commission that an annual reporting of investment company portfolio transactions would be sufficient to allow it to conduct whatever studies of those transactions might be necessary and to carry out its regulatory responsibilities under the 1940 Act effectively and efficiently.

In addition, the proposed amendment reflected the Commission's belief that any adverse effects on the public that could result from the elimination of quarterly reporting of portfolio transactions by investment companies would be minimal. It appeared to the Commission that, to the extent members of the public needed information on a calendar quarterly basis concerning the portfolios of investment companies, those individuals could rely on information contained in Form 13F [17 CFR 249.325] reports by institutional investment managers filed pursuant to section 13(f) [15 U.S.C. 78m(f)(1)] of the 1934 Act. Although the information contained in Forms 13F and N–1Q is not identical, and is not reported in the same manner on the two forms, the Commission believed in light of all the circumstances that Form 13F reports provide a reasonable source of public information concerning investment company securities portfolios.[2]

Finally, since virtually all investment companies engage in portfolio transactions during every calendar quarter, they are required to file Form N–1Q reports four times a year, and the Commission found that Form N–1Q was often filed for the sole purpose of reporting the occurrence of portfolio transactions. In light of the reporting burden for investment companies in filing Form N–1Q, and in consideration of the purposes for which the requirement was imposed, the Commission, on November 17, 1980, proposed to amend Form N–1Q by, among other things, eliminating the requirement that investment companies filing Form N–1Q include portfolio information. In addition, at that time the Commission proposed to amend Form N–1 (17 CFR 239.15, 17 CFR 274.11), which is used by open-end management investment companies to update their 1940 Act registration statements, and Form N–2 (17 CFR 239.14, 17 CFR 274.11a–1), which is used by closed-end management investment companies for the same purpose, to require the reporting of certain portfolio information.[3] Under the amendments as proposed, reporting companies would include in Part II of their annual updating amendments to their registration statements a table of portfolio information virtually identical to the table that is now required by Item 1 of Form N–1Q. Reporting companies would be required to show in a tabular format: (a) The number of shares (or other units) of equity securities or principal amount of debt securities acquired or disposed of for their portfolios during the preceding fiscal year; (b) their holdings of such securities and cash at the end of the fiscal year; and (c) their holdings of all other securities as the end of the fiscal year.

The Commission did not include in its proposal for annual reporting of investment company portfolio transactions a confidential treatment provision similar to the one now contained in Item 1 of Form N–1Q. Instruction 8 to Item 1 provides generally for confidential treatment of information filed in a Form N–1Q report relating to a program of purchasing securities of a particular issuer or issuers engaged in by the reporting company both at the end of the calendar quarter and on the date the report is filed. Instruction 8 was originally made part of Form N–1Q in response to public comments maintaining that, if a reporting company's current portfolio purchase program were disclosed, the company might have to pay higher prices for the securities being

[1] The other reportable events are as follows: (a) Changes in the reporting company's policies with respect to security investments; (b) legal proceedings involving the reporting company; (c) changes in the assets securing any class of debt of the reporting company; (d) defaults and arrears on the reporting company's senior securities; (e) changes in control of the reporting company; (f) changes in the constituent instruments defining the rights of the holders of any class of the reporting company's securities; (g) reevaluation of the reporting company's assets or restatement of its capital share acccounts; (h) changes in the reporting company's certifying accountant; (i) changes in the accounting principles and practices followed by the reporting company; and (j) any merger or consolidation of the reporting company with one or more other registered investment companies. Adopted by the Commission in Securities Exchange Act Release No. 8201, December 6, 1967 [32 FR 17583 (December 8, 1967)].

[2] For a more detailed discussion and comparison of these two forms see Securities Act Release No. 6263.

[3] Rule 8b–16 under the 1940 Act [17 CFR 270.8b–16] requires management investment companies, other than small business investment companies, to update their 1940 Act registration statements annually.

purchased.[4] It appeared to the Commission that, since annual updates filed on either Form N–1 or Form N–2 would cover longer time periods than Form N–1Q currently does, and since the time allowed for the filing of those annual updates is significantly longer than the time allowed for the filing of Form N–1Q,[5] the danger that a registrant would be required to disclose sensitive information relating to an ongoing purchase program would be remote. Thus, the Commission believed that a provision resembling Instruction 8 to Item 1 of Form N–1Q did not need to be incorporated as part of the annual reporting requirement being proposed.

2. Reporting of Matters Submitted to Shareholders

Item 2 of Form N–1Q requires a reporting investment company to furnish certain information about any matter submitted to a vote of the company's security holders during the preceding quarter year. Instruction 2 to that item provides that Item 2 need not be answered as to procedural matters, the selection or approval of auditors, and the uncontested election of directors. Instruction 2 reflected the Commission's belief that certain routine matters voted upon at shareholder meetings need not be reported on Form N–1Q. In Securities Act Release No. 6263 the Commission proposed to amend Instruction 2 to add voting on the continuation of the reporting company's current advisory contract to the list of routine matters that need not be reported under Item 2 of Form N–1Q.[6] The Commission expected that this amendment, together with the elimination of Item 1, would have the effect of appreciably reducing the number of Form N–1Q reports management investment companies must file.

3. Changing Filing Date of Form N–1Q

At the present time, Form N–1Q is required to be filed within 30 days after the close of each calendar quarter during which any of the twelve events specified in the form has occurred. Calendar quarterly filing of Form N–1Q was adopted by the Commission to obtain information about portfolio transactions on a comparable time basis.[7] In light of the Commission's proposal to eliminate the requirement to include portfolio transaction information on Form N–1Q, the Commission also proposed to revise the form to require that reports be filed 30 days after the end of an investment company's fiscal quarter during which any of the events specified in the form occurred. The Commission believed that this additional change would also reduce unnecessary burdens on investment companies in filing the report.

The Commission today adopts the proposed amendments to Form N–1Q, and withdraws its proposal to amend Forms N–1 and N–2. The amendments to Form N–1Q are being adopted in the same form as they were proposed, and the major issues raised by the commentators are discussed in detail in this release. Readers are referred to Securities Act Release No. 6263 for a more extensive discussion of the proposed amendments.

Public Comments

The Commission received one hundred sixty-nine comments on Securities Act Release No. 6263. Eleven of the commentators endorsed the Commission's proposal to amend Form N–1Q by eliminating the requirement that investment companies report portfolio transaction changes on Form N–1Q. Most commentators, however, had specific objections to several of the proposed amendments to Forms N–1Q, N–1 and N–2. In addition, many of the commentators addressed issues that were not specifically raised in Securities Act Release No. 6263. Many of the comments opposing adoption of the proposal were substantially similar. The Commission has considered the matters discussed in the comments and has determined to adopt the amendments to Form N–1Q as previously published and to withdraw its proposal to amend Forms N–1 and N–2.

Comments on Elimination of Item 1 from Form N–1Q

Of the comments received by the Commission, one hundred fifty-three objected to the Commission's proposal to eliminate Item 1 from Form N–1Q. As stated earlier, that item requires that management investment companies list on a calender quarterly basis all changes in the company's securities portfolio. The arguments made by the commentators opposing this proposal can be considered in three general categories.

1. Utility of Item 1 in Identifying Corporate Shareholders

One hundred and four of the commentators expressed the view that, due to the use of "street" and "nominee" names,[8] and the additional layering resulting from the use of depositories holding registered securities in nominee names, issuers of securities frequently have difficulty in ascertaining exactly who their shareholders are.[9] These commentators asserted that Item 1 of Form N–1Q provides operating companies with an important source of information in determining the identity of their major stockholders.

A majority of these commentators did not explain their particular need for detailed information concerning shareholder identity. Of those who did, some indicated that Item 1 of Form N–1Q is used by issuers of securities to understand and analyze transactions involving their stock, to ascertain investment patterns or trends within the investment community pertaining to their stock, and to keep generally informed of institutional investment activity. In addition, some commentators stated that shareholder identification is essential to the investor relations programs of operating companies. Many of these commentators argued that corporate management has a responsibility to communicate with its beneficial owners and to provide them with current information about their corporation through the use of updated financial reports, shareholder meetings and proxy solicitations. Further, these

[4] Securities Act Release No. 6263.

[5] Rule 8b–16 under the 1940 Act requires annual updates on either Form N–1 or Form N–2 to be filed within 120 days after the end of the reporting company's fiscal year; whereas, Form N–1Q must be filed within 30 days after the end of a quarter in which a reportable event occurs.

[6] The Commission's view that the determination to approve or disapprove a management investment company's current advisory contract as a routine matters was reflected in an earlier release authorized by the Commission setting forth its Division of Investment Management's review procedure applicable to preliminary proxy material. Securities Act Release No. 5988, October 19, 1978 [43 FR 49866 (October 25, 1978)]. In that release, the Division of Investment Management indicated that the staff will ordinarily make no substantive review of proxy statements that have no proposals other than those relating to the uncontested election of directors, the ratification of the selection of accountants, and the continuation of a current advisory contract.

[7] Securities Exchange Act Release No. 8201.

[8] A nominee is a partnership formed to act as record holder of securities held by institutional investors and financial intermediaries for their own account or the account of their customers who are the beneficial owners of the stock. Street name refers to the form of nominee name registration brokers use to register securities they hold for customers or for their own account. *Staff Report On Corporate Accountability*, Division of Corporation Finance, Securities and Exchange Commission, printed for the use of the Senate Committee on Banking, Housing and Urban Affairs, 96th Cong. 2d Sess. (September 4, 1980).

[9] Many commentators indicated that a large percentage of their shares were held by "institutional investors," although none indicated what percentage of their shares were held in nominee or street name, or what percentage were held by investment companies.

commentators asserted that, without detailed knowledge of specific stockholders and their needs, the operating companies would be unable to contact their shareholders or formulate financial policies to meet their investment objectives. They further suggested that Item 1 of Form N–1Q enables them not only to maintain an up-to-date profile of the owners of their securities, but also to identify prospective shareholders by ascertaining which institutions own stock in their direct competitors. In addition, several of the commentators stated that the information obtained from Item 1 enables issuers of securities to establish personal contact with the representatives of major investors and fund "portfolio decision makers," so that they can provide current information to these individuals and schedule meetings with these larger investors. Along the same lines, some of the commentators suggested that it was important to know which specific entity has "voting control" of a security, and to know the actual entity responsible for acquisition or disposition decisions.

A few of the commentators indicated that information obtained from Item 1 of Form N–1Q is reported in the financial press and therefore provides the public in general with data concerning the extent of institutional interest in specific companies. One of the commentators also stated that it was important for a corporation to have knowledge of all large investor groups who were accumulating its stock, even when these investors did not own sufficient stock to require the filing of a beneficial ownership report on Schedule 13D [17 CFR 240.13d–101] pursuant to the 1934 Act.[10]

Nine of the commentators stated that many operating companies, at present, have difficulty in identifying their shareholders because of the increasing use of street and nominee names by institutional investors, in concert with the prevalence of registered clearing agencies, such as the Depository Trust Company. In addition, these commentators stated that, as a consequence, operating companies were experiencing an increasing inability to establish quorums for their annual meetings, which problem they felt would be exacerbated if Item 1 of Form N–1Q was eliminated. These commentators asserted that Item 1 is vital for proxy solicitation purposes, since the information which can be obtained from Form N–1Q specifically identifies the entity that has beneficial ownership of their securities.

Many of the commentators who were concerned about shareholder identification for the reasons previously specified, expressed the view that other sources of information concerning management investment company portfolio holdings are not sufficient. Specifically, sixty-eight commentators asserted that Form 13F of the 1934 Act was not an adequate source of information concerning investment company portfolio holdings for several reasons. These commentators stated that, whereas one Form N–1Q is filed for each reporting investment company and provides information about only that reporting company, an investment adviser filing Form 13F reports the aggregate portfolio information with respect to all investment companies it advises.[11] The commentators asserted that, in view of the aggregate nature of the Form 13F reports, they are unable to use the information contained in Form 13F to identify a particular investment company's ownership interest in their securities, or to ascertain whether the holdings of a particular investment company are included in an investment adviser's Form 13F report. In addition, these commentators indicated that, because of the reporting thresholds applicable to Form 13F,[12] it was their understanding that the securities holdings of approximately thirty to forty percent of all investment companies were also not included on Form 13F reports.[13]

2. Use of Item 1 Data by Investors and Securities Professionals

In addition to the preceding comments regarding shareholder identification, which generally reflect the concerns of operating companies about identifying their shareholders, the Commission received twenty-four comments from persons represenfing brokerage firms, market analysts and securities traders. Many of these commentators suggested that the information from Item 1 of Form N–1Q is used on a daily basis by market analysts, investors and fund boards of directors as part of their selection process in evaluating the investment decisions and policies of current or prospective investment advisers.[14] These commentators indicated that their evaluation of an adviser is accomplished by performing periodic examinations of the adviser's investment decisions as reflected in the portfolio transactions of the funds managed by that particular adviser. Further, these commentators stated that although shareholder reports are available on a fiscal basis, it is necessary for them to receive information for all investment companies as of a specifically determinable date for comparability purposes, and that, consequently, reports prepared on a fiscal basis would not be as easily comparable since many investment companies would be reporting at different times.

Similarly, some of these commentators suggested that Item 1 information is used by investors in monitoring financial and investment positions of funds in which the investor has an interest or might be prospectively interested. Several of these commentators suggested that investors select funds on the basis of specific investment criteria, and rely on Item 1 for information concerning a particular fund's performance. A few of these commentators stated that the information available from Form 13F would not be appropriate for their purposes since, in view of the aggregated nature of Form 13F information, advice provided by a particular adviser to different funds which have dissimilar strategies would not be revealed. Moreover, one of the commentators suggested that one of the attractions of investment companies for sophisticated investors is the "high degree of disclosure" presently required for investment companies.

In addition, several of these commentators stated that smaller brokerage firms need the transactional information available from Item 1 since they believe that they cannot absorb the overhead costs for more sophisticated portfolio updating services. These commentators asserted that for a

[10] This report is required to be filed pursuant to section 13(d) of the 1934 Act [15 U.S.C. 78m(d)], when beneficial ownership of any equity security is above a specified level.

[11] The Commission previously noted these differences between Form 13F and Form N–1Q in Securities Act Release No. 6283.

[12] Under rule 13F–1, an institutional investment manager is required to file a Form 13F only if it exercises investment discretion over accounts having $100,000,000 or more in certain equity securities as of a specified date. Thus, the holdings of investment companies receiving advice from an adviser not meeting the $100,000,000 threshold would not be disclosed in a Form 13F report. In addition, Form 13F requires holdings of only certain equity securities to be reported. A Form 13F reporting investment adviser is also not required to include in its report holdings of fewer than 10,000 shares having an aggregate fair market value of less than $200,000.

[13] As indicated in the comments, this thirty to forty percent figure appears to be based on the assumption that 250 investment companies are not included in the Form 13F reports filed by investment advisers.

[14] One commentator suggested that such analysis is essential for boards of directors of investment companies to review in acquitting their responsibilities to review and approve annually investment advisory contracts.

brokerage firm to compete and provide accurate, efficient and timely executions at cost effective rates, it is necessary for the firm to be fully informed of each institutional account's holdings and transactions. Further, these commentators suggested that their ability to transact block business efficiently, with minimal disruptions of the market place, is dependent upon their brokers' ability to locate potential buyers and sellers quickly. These commentators stated that the information which they obtain from Item 1 of Form N–1Q is utilized for the above purposes. Additionally, several of these commentators suggested that the information from Form N–1Q helps to contribute to greater market liquidity and depth.

Although these commentators indicated that they are interested in the transactional information contained in Item 1, a majority of the commentators who objected to the elimination of Item 1 specifically stated that their primary concern in retaining Item 1 was so that they could ascertain the net portfolio equity securities positions of investment companies. In addition, certain private firms which tabulate the information contained in Form N–1Q reports suggested in their comments that the transactional information in Item 1 is costly and unnecessary, and that, both to alleviate the compliance burden on investment companies and to provide the financial community with the information it really needs, Form N–1Q should be modified to report only end of quarter equity securities holdings, as Form 13F currently does.

In addition to the comments received from securities professionals, the Commission received several comments from individual investors who mistakenly believed that the proposed revisions of Form N–1Q would result in the elimination of all reporting by management investment companies of their portfolio holdings. These commentators appeared to be unaware that, notwithstanding the proposed revision of Form N–1Q, investment companies would still have to continue to make other required reports, including periodic reports to shareholders showing a schedule of investments.

3. Reporting Burden

Forty-one commentators addressed the issue of whether Item 1 of Form N–1Q was burdensome for investment companies to prepare. Of these, thirty-five, none of whom represented investment companies, asserted that the costs to investment companies of preparing Item 1 of Form N–1Q are minimal. Specifically, several of these commentators, pointing to the fact that an investment company is required on a daily basis to make calculations of the sales and redemption price of its shares, argued that an investment company should be able to generate on a calendar quarterly basis information concerning all acquisitions and dispositions of portfolio securities made during a calendar quarter by that investment company. Several commentators were under the mistaken impression that the information required by Item 1 consists of quarter-end portfolio positions, and argued that such information is not burdensome for investment companies to compile. Similarly, several commentators argued that the reporting burden for investment companies should not be onerous in view of the fact that most of these companies generate quarterly reports to their shareholders which contain information concerning their portfolio securities holdings. In addition, a few other commentators stated that it was their understanding that most investment companies record all information on computers in a manner which is easily accessible for purposes of Form N–1Q. Finally, some of these commentators argued that the reporting burden for investment companies is far outweighed by the benefit to users of Item 1 of the Form N–1Q reports.

On the other hand, six commentators representing various investment companies claimed that the reporting burden for these companies is significant. In particular, one commentator argued that the requirement that all transactions and holdings must be adjusted for splits and stock dividends imposes "a great burden" on the filers of Form N–1Q, since in order to comply with the requirements of the form it is necessary for the investment company to review every security that was held by the company at any time during the reporting period and to ascertain whether any shares were split or otherwise adjusted. If so, an adjustment is required in each such case.

All of these commentators stated that information virtually identical to what is reported in Item 1 is available from other sources, of which Form 13F reports are only one. They asserted that the elimination of such duplicative information, therefore, in the interests of the investment company's shareholder directly, if the company pays the expense of preparing Form N–1Q, or indirectly, if such expense is paid by the investment adviser. One commentator asserted, in this connection, that the elimination of duplicative reporting requirements is mandated by section 30(c) [15 U.S.C. 80a–29(c)] of the 1940 Act, arguing that section 30(c) requires the Commission to issue rules to eliminate the duplication of filings which result from the overlapping reporting requirements of sections 13 and 15(d) of the 1934 Act and section 30 of the 1940 Act.[15]

Discussion of Comments on Elimination of Item 1 From Form N–1Q

The Commission has carefully considered the foregoing comments but has determined to adopt the position set forth in Securities Act Release No. 6263 that continuation of the requirement that investment company portfolio transactions be reported each quarter is not justified. As discussed above, the Commission adopted Item 1 for three reasons: to aid it in its regulatory responsibilities, to collect information for studies, and to make the information available to the public. We have concluded that the information is no longer required for the first two purposes and that, in the absence of those two reasons, it is not necessary to continue this reporting requirement solely for the purpose of institutional disclosure. Under the institutional disclosure program, which was implemented by the Commission pursuant to section 13(f) of the 1934 Act, certain institutional investment managers, including investment companies and investment advisers, began in February of 1979 to file quarterly reports on Form 13F of their holdings of equity securities.[16] The Commission adopted this program after extensive consideration of the appropriate balance between the public interest in institutional disclosure and the costs and other burdens reporting would impose on institutions. After reviewing the comments on the present proposal, the Commission believes that most of the information the commentators want is available in a somewhat different but suitable form on the Forms 13F of investment companies and their investment advisers and, accordingly, that the limited benefit to the public of quarterly transaction reporting by investment companies is

[15] Section 30(c) provides: "The Commission shall issue rules and regulations permitting the filing with the Commission, and with any national securities exchange concerned, of copies of periodic reports, or of extracts therefrom, filed by any registered investment company pursuant to subsections (a) and (b), in lieu of any reports and documents required of such company under sections 13 and 15(d) of the Securities Exchange Act of 1934."

[16] The requirements of the institutional disclosure program are discussed in more detail in note 12, *supra*.

outweighed by the costs of such reporting. In this regard, nothing in the comments provides a basis for concluding that investment companies should be subject to more burdensome portfolio reporting requirements than are other institutional investors. Finally, even in the absence of quarterly reporting, investment companies will continue to be subject to portfolio disclosure requirements in addition to those imposed by Form 13F. The Commission's analysis of the comments is set forth with more particularity below.

1. Utility of Item 1 in Identifying Corporate Shareholders

As stated in the proposing release, the Commission recognizes that the information contained in Form 13F is not identical to that contained in Form N–1Q reports. Nonetheless, the Commission believes that the differences between these two forms do not prevent Form 13F from being an adequate alternative to Item 1 of Form N–1Q as a source of information to corporations about investment company ownership of their shares.

First, although there may appear to be a significant number of investment companies that are too small individually to meet the threshold reporting requirements for Form 13F,[17] such companies account for only about twenty percent of the total assets held by all management investment companies other than money market funds.[18] Moreover, the holdings of investment companies that are not themselves subject to the reporting requirements for Form 13F are, nevertheless, reported in aggregate form by their investment advisers if they are managed by investment advisers who are required to report. The fact that such holdings are reported in the aggregate should not diminish the value of the Form 13F report to issuers that are interested in communicating with their shareholders, since such issuers could achieve their objective by contacting or addressing communications to the reporting investment adviser. Second, the total stockholdings of open-end investment companies comprise only about eight percent of total institutional stockholdings[19] and about three percent of total stock outstanding.[20]

Accordingly, even if some investment companies that are required to report on Form N–1Q are not directly or indirectly subject to Form 13F reporting, it does not appear that the proposed amendment to Form N–1Q would have a materially adverse effect on the ability of issuers to identify their shareholders.[21] Certainly any decrease in the availability of information about stockholdings that would result from adopting the proposal would be slight in comparison to the large increase in the availability of such information occasioned by the implementation of the institutional disclosure program. Therefore, the Commission believes that the elimination of Item 1 of Form N–1Q would not significantly reduce an issuer's ability to identify and communicate with its shareholders for all purposes.

It should be emphasized, however, that the Commission is sensitive to the concerns expressed by commentators regarding impediments to effective corporate-shareholder communications that may arise when securities are registered in street or other nominee name. In recent years, the Commission had adopted, in addition to the implementation of the institutional disclosure program, new or revised rules intended to improve the ability of issuers to communicate with the beneficial owners of nominee held securities.[22] In addition, in April 1981 the Commission established the SEC Advisory Committee on Shareholder Communications (the Committee) for the purpose of exploring all the possibilities for developing a better means for issuers to communicate with their beneficial owners.[23] The Committee, through the facilities of the Commission, recently issued a release soliciting public comment on a number of specific suggestions which have been made to improve the communications process.[24] By June 1982, it is anticipated that the Committee will submit to the Division of Corporation Finance a final report containing its recommendations. The Commission has concluded that it is preferable to approach existing problems generally through the Committee, which is particularly well situated to formulate the appropriate mix of policies—voluntary, self-regulatory or regulatory—needed to minimize or eliminate the existing problems.

In addition, as several of the commentators noted, investment companies are and will continue to be subject to portfolio disclosure requirements in addition to Form N–1Q and Form 13F. Section 30(d) [15 U.S.C. 80a–29(d)] of the 1940 Act requires that every registered investment company transmit reports to its stockholders at least semi-annually containing, among other things, a listing of the Company's portfolio showing the amounts and values of securities owned. Several of the commentators pointed out that most investment companies, in fact, advise their shareholders on a quarterly basis of the company's portfolio positions in their quarterly reports to shareholders. This information is also required to be filed with the Commission and is, therefore, as readily available to the public as is Form N–1Q.

Finally, several reporting requirements under the 1934 Act, besides those imposed pursuant to section 13(f), may apply to investment companies and their investment advisers: (1) The rules under sections 13(d) and 13(g) [15 U.S.C. 78m(g)] which require persons who have acquired directly or indirectly beneficial ownership of more than 5 percent of any equity security, as specified therein, to file a Schedule 13D or Schedule 13G [17 CFR 240.13d–102] report; (2) the provisions of section 16(a) [15 U.S.C. 78p(a)] and the rules thereunder which

---

[17] Some of the commentators stated that 250 investment companies are not included on the Form 13F reports filed.

[18] Securities Act Release No. 6302, March 20, 1981 [46 FR 18251 (March 30, 1981)] Table 2. The holdings of money market funds are not relevant here since they do not purchase stock.

[19] Securities and Exchange Commission Annual Report for 1980, 46th Annual Report, Table 15 at page 117.

[20] *Id.*

[21] Adopting the proposal would appear to have little effect on the problems issuers have as a result of shares being held in street or nominee name. As stated, there would continue to be extensive disclosure of investment company stockholdings. Moreover, all investment companies do not necessarily have their securities held in street or nominee name. In any event, since approximately 30 percent of all equity securities are registered in street or nominee names, even if all securities held by investment companies were held in nominee or street name, this amount would still represent only a small percentage of all outstanding stock so held. New York Stock Exchange, 1975 *Shareownership* 20 (1975).

[22] In January 1981, the Commission authorized the Division of Corporation Finance to issue an interpretive release reminding issuers and broker-dealers of their obligations with respect to the distribution of proxy material to beneficial shareowners. Securities Exchange Act Release No. 17424 (January 8, 1981) [46 FR 3204 (January 14, 1981)]. The Commission also adopted Rule 17Ad–8 [17 CFR 240.17Ad–8] to enable issuers to distribute more easily proxy statements and other corporate communications to the beneficial owners of securities held by participants in a registered clearing agency. Securities Exchange Act Release No. 16443 (December 20, 1979) [44 FR 76774 (December 28, 1979)]. In 1977, the Commission amended Rule 14a–3(d) [17 CFR 240.14a–3(d)] to provide that issuers must make the required inquiry of nominees "at least 10 days prior to" the record date for the security holders' meeting and adopted Rule 14b–1 [17 CFR 240.14b–1] requiring broker-dealers to respond "promptly" to such inquiries by indicating the number of customers who beneficially own the issuer's securities and, upon receipt of proxy materials, to forward them promptly to such beneficial owners. Securities Exchange Act Release No. 13919 (July 5, 1977) [42 FR 35953 (July 13, 1977)].

[23] Securities Exchange Act Release No. 17707 (April 10, 1981) [46 FR 22508 (April 17, 1981)].

[24] Securities Exchange Act Release No. 18195 (October 21, 1981) [46 FR 52470 (October 27, 1981)].

require any person who is directly or indirectly the beneficial owner of more than 10 percent of any class of an equity security, that is registered pursuant to section 12 (15 U.S.C. 781) of the 1934 Act, to file on Form 3 [17 CFR 249.103] an initial statement of beneficial ownership and on Form 4 [17 CFR 249.104] any changes required by section 16(a); (3) the rules under section 14(d) [15 U.S.C. 78n(d)] which require persons who intend to make a tender offer and who are the beneficial owners of more than 5 percent of a class of the subject company's securities to file a Schedule 14D–1 [17 CFR 240.14d–100] with the Commission. All of the information indicated above, which is required to be reported under the 1934 Act, is also available for public inspection and dissemination and, of course, can be used by any person concerned with shareholder identification.

2. Use of Item 1 Data by Investors and Securities Professionals

Based on a review of the comments of securities professionals concerning the utility of Form N–1Q portfolio transaction data, it appears, as mentioned earlier, that, although some securities professionals have expressed an interest in learning about investment company acquisitions and dispositions, users of Item 1 information are generally more interested in investment company equity holdings than in the reporting of transactions. In addition, the interest in this information seems to relate mainly to equity holdings, rather than holdings of debt securities. Consequently, the Commission is of the opinion that the value of information available on Form 13F as a substitute for the information currently reported on Form N–1Q is not diminished by the fact that Form 13F does not include either transactional reporting or debt securities. Moreover, to the extent that there is interest in information concerning transactions as distinct from holdings, the Commission believes that the reporting of the net position changes in securities from one quarter to the next would provide an adequate approximation of the acquisitions and dispositions of institutions.[25] Furthermore, as discussed above, securities professionals also have available other portfolio reports.

3. Reporting Burden

The Commission has considered all the relevant comments, and still believes that the current requirements of Item 1 of Form N–1Q are unnecessarily burdensome for investment companies in light of the degree to which they are duplicative of other reporting requirements. The Commission assumes that, as asserted by commentators favoring retention of this reporting requirement, most of the required information is readily available to the reporting companies. Nevertheless, the preparation and submission to the Commission of that information in report format necessarily involves added expense.

In addition, it should be noted that pursuant to section 13(f)(4) of the 1934 Act (15 U.S.C. 78m(f)(4)) the Commission is required as part of its responsibility under section 13(f) "to take such steps as are within its power to achieve uniform, centralized reporting of information concerning holdings and transactions of institutional investment managers, to eliminate duplicative reporting by, and to minimize the compliance burdens on, institutional investment managers. . . ." The legislative history of this section reflects a strong concern with coordinating reporting requirements and minimizing the burdens of compliance. The 1934 Act establishes the Commission as the central collection and dissemination point for detailed information with respect to both holdings and transactions of institutional investment managers, and vests in the Commission authority and responsibility for the institutional disclosure program in order to eliminate duplicative reporting and reduce the compliance burden. In light of this responsibility, at the time of the proposal of rule 13f–1[26] and subsequently when final rules and forms relating to section 13(f) were adopted,[27] the Commission stated that it intended to consider the content and format of Form N–1Q with a view toward coordinating that report with Form 13F to the extent possible. The Commission has now determined that the elimination of Item 1 of Form N–1Q is in keeping with its responsibility to eliminate duplicative reporting and minimize the compliance burdens on institutional investors.

Annual Reporting of Portfolio Transactions

In conjunction with its proposal to eliminate Item 1 from Form N–1Q, the Commission has proposed to amend Forms N–1 and N–2 so that reporting companies would be required to include in Part II of their annual updating amendments to their registration statements a table of portfolio information virtually identical to the table that is presently required by Item 1 of Form N–1Q. A large number of commentators who were opposed to the elimination of Item 1 from Form N–1Q stated that the related amendment to Forms N–1 and N–2 would be an inadequate alternative to the existing reporting system. They argued that the required information would become available to the public at a time when the data was no longer current, and thus not useful in understanding the present portfolio of an investment company.

A few of the commentators, representing investment companies, suggested that Item 1 information should not be reported even on an annual basis, in view of the fact that such information is duplicative of data already available, and is burdensome to compile and report on an annual basis.

The Commission has concluded that annual reporting of transaction information is not necessary for its enforcement and regulatory responsibilities. In view thereof, and in view of the fact that there appears to be no significant public interest in maintaining an annual transaction reporting requirement, the Commission has determined to withdraw its proposal to amend Forms N–1 and N–2. The Commission's release withdrawing these proposals, Release No. 33–6367 (December 16, 1981), is published under Proposed Rules in this issue.

The Commission received several comments concerning the fact that the Commission did not include in its proposal for annual reporting of investment company portfolio transactions a confidential treatment provision similar to the one contained in Item 1 of Form N–1Q. Because of the Commission's decision to withdraw the proposed amendments to Forms N–1 and N–2, the objections of the commentators on this point are moot and need not be considered further.

Reporting of Matters Submitted to Shareholders

In response to the Commission's request for comments on its proposal to amend Instruction 2 to add voting on the continuation of the reporting company's current advisory contract to the list of routine matters that need not be reported under Item 2 of Form N–1Q, the Commission received a small number of

[25] The principal vendor of 13F information makes this calculation with respect to each reported holding and includes the results in its commercially available tabulation of 13F information.

[26] Securities Exchange Act Release No. 13390, March 22, 1977 [42 FR 16831 (March 30, 1977)].

[27] Securities Exchange Act Release No. 14852, June 15, 1978 [42 FR 26700 (June 22, 1978)].

comments, all of which favored the proposal. For the reasons discussed in detail in the proposing release, the Commission is adopting the amendment to Instruction 2 as proposed.

Changing Filing Date of Form N-1Q

In connection with the Commission's proposal to eliminate the requirement to include portfolio transaction information on Form N-1Q, the Commission proposed to revise the form to require that Form N-1Q reports be filed 30 days after the end of an investment company's fiscal quarter (rather than calendar quarter) during which any of the events specified in the form occurred. The Commission received no comments concerning this specific change in filing requirements, although the issue of comparability of calendar quarterly reports was discussed by the commentators objecting to the proposed elimination of portfolio transaction reporting. Since the Commission believes that reporting on a calendar quarterly basis would be unnecessary in the absence of portfolio transaction reporting, and would be more burdensome than reporting on a fiscal quarterly basis, it has determined to adopt this revision of the Form N-1Q as proposed.

Certain Attachments to Form N-1Q Unaffected

Certain applicants who have received Commission orders granting exemptions from the provisions of section 2(a)(41) of the Act [15 U.S.C. 80a-2(a)(41)] and Rules 2a-4 (17 CFR 270.2a-4) and 22c-1 (17 CFR 270.22c-1) thereunder to the extent necessary to permit them to value their portfolio securities by means of the amortized cost method of valuation or to use the "pennyrounding" method of pricing are required by a condition in the orders granted to attach certain information to their quarterly filing of Form N-1Q. Although the Commission is adopting certain revisions to Form N-1Q that will, as previously described, have the effect of reducing the number of occasions on which the form is required to be filed, any company that is relying on an order subject to the above described condition is expected to file Form N-1Q and to attach the applicable information, even though the company would not otherwise be required to file Form N-1Q.

Text of the Amendments

Chapter II of Title 17 of the Code of Federal Regulations is hereby amended as follows:

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

1. By amending the general instructions to Form N-1Q as follows:

§ 249.331 Form N-1Q, quarterly report of management investment companies registered under the Investment Company Act of 1940.

§ 274.106 Form N-1Q, for quarterly report of registered management investment company.

A. *Rule as to use of Form N-1Q.* General instruction A. is amended by deleting the word "calendar" in paragraphs (a) and (b) and inserting the word "fiscal" in its place.

B. *Application of General Rules and Regulations.* General instruction E. is eliminated.

C. *Preparation of Report.* General instruction F. is redesignated general instruction E.

2. By amending Form N-1Q as follows:

§ 249.331 Form N-1Q, quarterly report of management investment companies registered under the Investment Company Act of 1940.

§ 274.106 Form N-1Q, for quarterly report of registered management investment company.

A. Item 1 is eliminated.

B. Instruction 2. to Item 2. is amended to read as follows:

Item 2. Submission of Matters to a Vote of Security Holders.

* * * * *

Instructions.

* * * * *

2. This item need not be answered as to (i) procedural matters, (ii) the selection or approval of auditors, (iii) the continuation of the current advisory contract, or (iv) the election of directors or officers in cases where there was no solicitation in opposition to the management's nominee, as listed in a proxy statement pursuant to rule 20a-1 under the Act [17 CFR 270.20a-1] and Regulation 14A under the Securities Exchange Act of 1934 [17 CFR 240.14a-1—240.14b-1], and all of such nominees were elected. This item may be omitted if action at the meeting was limited to the foregoing. In cases where the registrant does not solicit proxies and the board of directors as previously reported to the Commission was re-elected in its entirety, a statement to that effect will suffice.

C. Items 2 through 13 are renumbered 1 through 12.

(Secs. 13, 15(d), and 23(a), Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o(d), and 78w(a)) and Secs. 8, 30, and 38, Investment Company Act of 1940 (15 U.S.C. 80a-8, 80a-29, and 80a-37))

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 81-36489 Filed 12-22-81; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 934

Approval of Abandoned Mine Land Reclamation Plan for State of North Dakota

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule.

SUMMARY: On July 28, 1981, the State of North Dakota submitted to OSM its proposed Abandoned Mine Land Reclamation Plan (Plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The purpose of this submission is to demonstrate the State's intent and capability to assume responsibility for administering and conducting the Abandoned Mine Land Reclamation Program established by Title IV of SMCRA and regulations adopted by OSM (30 CFR Chapter VII, Subchapter R., 43 FR 49932–49952, October 25, 1978). After opportunity for public comment and review of the plan submission, the Assistant Secretary for Energy and Minerals, of the Department of the Interior has determined that the North Dakota Abandoned Mine Land Reclamation Plan meets the requirements of SMCRA and the Secretary's regulations. Accordingly, the Assistant Secretary has approved the North Dakota Plan.

EFFECTIVE DATE: This rule is effective December 23, 1981.

ADDRESSES: Copies of the full text of the North Dakota Plan are available for review during regular business hours at the following locations:

Division of Reclamation, Public Service Commission of North Dakota, Capitol Building, Bismarck, North Dakota 58505

The Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, N.W., Room 153, Washington, D.C. 20240

FOR FURTHER INFORMATION CONTACT: Don Willen, Chief, Division of Abandoned Mine Land Reclamation, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue,

N.W., Washington, D.C. 20240
Telephone (202) 343-7951.

SUPPLEMENTARY INFORMATION:

General Background of the Abandoned Mine Land Reclamation Program

Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) (Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*) establishes an abandoned mine land reclamation program for the purposes of reclaiming and restoring lands and water resources adversely affected by past mining. This program is funded by a reclamation fee imposed upon the production of coal. Lands and water eligible for reclamation under the program are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing responsibility under State or Federal law. Each State, having within its borders coal mined lands eligible for reclamation under Title IV of SMCRA, may submit to the Department a State reclamation plan demonstrating its capability for administering an abandoned mine land reclamation program. Title IV provides that the Department may approve the plan once the State has an approved Regulatory program under Title V of SMCRA. If the Department determines that a State has developed and submitted a program for reclamation and has the necessary State legislation to implement the provisions of Title IV, the Department shall grant the State exclusive responsibility and authority to implement the provisions of the approved plan. Section 405 of SMCRA (30 U.S.C. 1235) contains the requirements for State reclamation plans.

The Secretary has adopted regulations that specify the content requirements of a State reclamation plan and the criteria for plan approval (30 CFR Part 884, 43 FR 49932, 48847, October 25, 1978). Under those regulations, the Director of the Office of Surface Mining is required to review the plan and solicit and consider comments of other Federal agencies and the public. If the State plan is disapproved, the State may resubmit a revised reclamation plan at any time.

Upon approval of the State reclamation plan, the State may submit to the Director on an annual basis an application for funds to be expended in such State on specific reclamation projects which are necessary to implement the State reclamation plan as approved. Such annual requests are reviewed and approved by OSM in compliance with the requirements of 30 CFR Part 886.

To codify information applicable to individual States under SMCRA, including decisions on State reclamation plans, OSM has established a new Subchapter T to 30 CFR Chapter VII. Subchapter T consists of Parts 900 through 950. Provisions relating to North Dakota are found in 30 CFR Part 934.

Background on the North Dakota Abandoned Mine Land Reclamation Plan Submission

On May 27, 1980, a cooperative agreement between the North Dakota Public Service Commission and the Office of Surface Mining was approved. The purpose of this agreement was to assure that information required for the preparation of the North Dakota Abandoned Mine Land Reclamation Plan would be assembled.

On May 18, 19, 20, 21 and 22, 1981, the Public Service Commission held public hearings in Williston, Dickinson, Bowman, Beulah, and Bismarck, North Dakota to get comments on the Plan.

On July 28, 1981, the State of North Dakota submitted its proposed Abandoned Mine Land Reclamation Plan to the Office of Surface Mining.

Notice of receipt of the submission initiating the Plan review was published October 6, 1981 (46 FR 49141-49143). The announcement requested public comments. On December 2, 1981, OSM's State Director and on December 11, 1981, the Assistant Director for Program Operations and Inspection recommended to the Director that the Assistant Secretary approve the North Dakota Plan.

The administrative record on the North Dakota Plan is available for review during regular business hours at the Office of Surface Mining Reclamation and Enforcement at the address listed above in "Addresses."

EFFECTIVE DATE: This rule is effective December 23, 1981. The good cause for making this rule effective upon date of publication is: (1) The Office of Surface Mining wants to minimize the time between the approval of Title V regulatory programs and the Title IV State reclamation program plans; and (2) grants are pending approval of the Title IV plan and OSM wishes to expedite grant assistance to States to initiate needed reclamation work as required by the Act.

Assistant Secretary's Findings

1. In accordance with section 405 of SMCRA the Assistant Secretary finds that North Dakota has submitted a Plan for reclamation of abandoned mines and has the ability and necessary State legislation to implement the provisions of Title IV of SMCRA.

2. The Assistant Secretary has determined, pursuant to 30 CFR 884.14, that:

(a) The North Dakota Public Service Commission, Reclamation Division, has the legal authority, policies and administrative structure necessary to carry out the Plan;

(b) The Plan meets all the requirements of 30 CFR Chapter VII, Subchapter R;

(c) The State has an approved regulatory program; and

(d) The Plan is in compliance with all applicable State and Federal laws and regulations.

3. The Assistant Secretary has solicited and considered the views of the Federal agencies having an interest in the Plan as required by 30 CFR 884.13(a)(2). These agencies include: The United States Geological Survey (USGS), The United States Fish and Wildlife Service (FWS), Soil Conservation Service (SCS), The U.S. Forest Service (USFS), and the Advisory Council of Historic Preservation (ACHP).

Disposition of Comments

The following comments received on the North Dakota Plan during the public comment period were considered in the Assistant Secretary's evaluation of the North Dakota Plan as indicated.

1. The FWS commented that the North Dakota Plan does not adequately address threatened and endangered species. North Dakota has added a new paragraph in Volume II, page 60, § 884.13(f)(5) of its Plan which acknowledges the threatened and endangered wildlife whose range includes North Dakota. In addition, the OSM and the FWS signed a memorandum of understanding (June 10, 1980) that provides for formal consultation on those projects which may affect threatened or endangered species. OSM is satisfied that provisions for addressing threatened and endangered species in the North Dakota Plan are adequate.

2. The FWS commented that lands currently supporting productive wildlife habitat should not be reclaimed to a different land use if no threat to health, safety, general welfare and property exists. OSM's response is that the values of an unreclaimed abandoned mine land site including wildlife habitat, are considered in the ranking factors under the project selection procedures established by North Dakota in its Plan. OSM is satisfied that adequate consideration will be given to wildlife

habitat and other values on abandoned mine land sites by the North Dakota Program.

3. The FWS suggested that the first paragraph on page 46, Volume II, be changed to read as follows: "There were 257 Waterfowl Production Areas as of January 1, 1981, accounting for approximately 49,000 acres (Table 23). Burleigh, Divide, Mountrail, and Ward Counties have the largest acreages." North Dakota has revised its Plan by adopting the above language.

4. The FWS suggested that the last paragraph on page 46, Volume II, be changed to read as follows: "Table 25 lists the fee owned and easements in the National Wildlife Refuges in the 23 county area. Of the 189,603 acres, 15 areas, accounting for 169,152 acres, are federally owned and 18 areas, accounting for 20,451 acres, are under easement to the United States. The FWS has primary jurisdiction over all of the areas except Audubon National Wildlife Refuge which was acquired by the U.S. Corps of Engineers." North Dakota has revised its Plan by adopting the FWS's suggestion.

5. The FWS proposed an undated Table 23 on page 47, Volume II, which more accurately reflects the FWS Waterfowl Production Areas located in the 23 county area. North Dakota agreed to revise Table 23 to reflect the updated information available from the FWS.

6. The FWS proposed an updated Table 25 on page 49, Volume II, which more accurately reflects the FWS National Wildlife Refuges located in the 23 county areas. North Dakota agreed to revise Table 25 to reflect the updated information available from the FWS.

7. The FWS proposed that on page 60, Volume II, second paragraph, the last sentence be amended to indicate that grassland habitat has decreased by approximately 10 percent since the 1980 North Dakota Conservation Needs Inventory figures were published. North Dakota adopted this suggestion.

8. The SCS commented that there was a discrepancy between the number of abandoned mine land sites reported by Phase I of the National Inventory on page 9, Volume I, and the inventory results reported on page 4, Volume II. OSM's position is that no such discrepancy exists. The number, 616, given on page 9, Volume I, is the number of sites actually visited. The number, 1,101, indicated on page 4, Volume II, is the number of abandoned sites arrived at by a literature search. Of these 1,101 sites, the State was unable to locate 371 sites. The State also eliminated 114 sites because they are small surface mines at relatively great distances from occupied dwellings and public use areas.

9. The USGS commented that many of the 1,101 initially listed abandoned mine land sites were eliminated from further consideration based on smallness and relative distance from occupied dwellings and public use areas. The USGS is concerned that some of these deleted sites could pose a serious safety hazard to persons using these sites for hunting and fishing. OSM's response is that North Dakota has limited resources for abandoned mine land reclamation and has properly chosen to concentrate its resources on those sites presenting the most serious problems. Lesser priority sites, like those which are small and far from public use areas, can be addressed as future resources become available.

10. The USGS commented that the Plan does not provide information on the number of surface ponds or impoundments that are present on abandoned mine lands. OSM's response is that under 30 CFR 884 a State plan need only be based on available data. North Dakota and other States will be updating the information in their Plans as new information becomes available.

11. The USGS questioned whether North Dakota considered unauthorized swimming in ponds or impoundments located on abandoned mine lands a significant problem with respect to water quality or a significant safety hazard based on submerged obstacles or unsupervised swimming. The USGS suggested that future detail be provided in the State Plan concerning this parameter. OSM's position is that the State Plan adequately addresses this issue and that no further elaboration is needed. If the swimming poses a health or safety risk to the public, this factor will immediately affect the project's priority ranking.

12. The ACHP commented that the Plan fails to specify the procedure that will be followed to ensure appropriate measures are taken to protect significant historic properties affected by reclamation activities. OSM's response is that North Dakota indicates on p. 15 of its Plan that it will consult with the State Historical Society with respect to potential abandoned mine land reclamation projects. As for the process of consultation, OSM finds that the Plan's section on coordination of reclamation work with agencies (pp 15–16) to be sufficient to accomplish consultation to ensure protection of historic properties.

Additional Findings

The Office of Surface Mining has examined this rulemaking under section 1(b) of Executive Order No. 12291 (February 17, 1981), and has determined that, based on available quantitative data, it does not constitute a major rule. The reasons underlying this determination are as follows:

1. Approval will not have an effect on costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; and

2. Approval will not have adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rulemaking has been examined pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, and the Office of Surface Mining has determined that the rule will not have a significant economic effect on a substantial number of small entities. The reason for this determination is that approval will not have demographic effects, direct costs, information collection and recordkeeping requirements, indirect costs, nonquantifiable costs, competitive effects, enforcement costs or aggregate effects on small entities.

The Assistant Secretary has determined that the North Dakota Abandoned Mine Land Reclamation Plan will not have a significant effect on the quality of the human environment because the decision relates only to policies, procedures and organization of the State's Abandoned Mine Land Reclamation Program. Therefore, under the Department of Interior Manual DM 516.2.3d(A)(1), the Assistant Secretary's decision on the North Dakota Plan is categorically excluded from the National Environmental Policy Act requirements. As a result, no environmental assessment or environmental impact statement (EIS) has been prepared on this action. It should be noted that a programmatic EIS was prepared by OSM in conjunction with the implementation of Title IV. Also, an environmental analysis or an EIS will be prepared for the approval of grants for the abandoned mine land reclamation projects under 30 CFR Part 886.

Dated: December 16, 1981.

J. Steven Griles,

Acting Director, Office of Surface Mining.

Dated: December 17, 1981.

Daniel N. Miller, Jr.,

Assistant Secretary—Energy and Minerals.

PART 934—NORTH DAKOTA

Therefore Part 934 is amended by adding § 934.20 to read as follows:

§ 934.20 Approval of North Dakota Abandoned Mine Plan.

The North Dakota Abandoned Mine Plan, as submitted on July 28, 1981, is approved. Copies of the approved program are available at:

The Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, N.W., Room 153, Washington, D.C. 20240

Division of Reclamation, North Dakota Public Service Commission, Capitol Building, Bismarck, North Dakota 58505

(Title IV of Pub. L. 95-87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1235))

[FR Doc. 81-36494 Filed 12-22-81; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 57

[DoD Directive 1342.12] [1]

Education of Handicapped Children in the DoD Dependents Schools

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: This final rule is being issued to implement the Education for All Handicapped Children Act of 1975 and the Defense Dependents' Education Act of 1978. The final rule establishes policy and procedures for providing a free appropriate public education to handicapped children receiving or entitled to receive educational instruction from the Department of Defense Dependents Schools (DoDDS). It also creates the Overseas Dependents Schools National Advisory Panel on the Education of Handicapped Dependents (National Advisory Panel) and the Department of Defense Coordinating Committee on Special Education and Related Services.

EFFECTIVE DATE: December 17, 1981.

FOR FURTHER INFORMATION CONTACT: Dr. Diane L. Goltz, Department of Defense Dependents Schools, 2461 Eisenhower Avenue, Alexandria, VA 22331, 202-325-7810.

SUPPLEMENTARY INFORMATION: In FR Doc. 81-26583, appearing in the **Federal Register** on September 11, 1981 (46 FR 45368), the Office of the Secretary of Defense proposed a rule that would implement the Education for All Handicapped Children Act of 1975 and the Defense Dependents' Education Act of 1978. Written comments on the proposed rule were invited and were due on October 13, 1981. In response to this invitation, 19 individuals and organizations submitted comments. In addition, pursuant to a notice appearing in the **Federal Register** on September 24, 1981 (46 FR 47090, FR Doc. 81-27733), the Office of the Secretary of Defense conducted public hearings concerning the proposed rule on October 15, 1981. All written comments and the transcript of public hearings are available for public inspection in the offices of DoDDS at the above address.

The Office of the Secretary of Defense has carefully considered the views of the public as reflected in the written comments and testimony at the public hearings. A description of these views and a discussion of the Department's response to them follows.

General. During the coordination within the Department of Defense, DoD Components recommended numerous changes to improve the clarity of the rule and to make it consistent with the format established for DoD issuances. As a result, several editorial changes were incorporated into the final rule. Section 57.2, entitled "Applicability" in the proposed rule, is now entitled "Applicability and Scope." In addition, the terms defined in Section 57.3 have been placed in alphabetical order.

One commenter suggested a series of amendments to the proposed rule concerning children whose native language is not English. This commenter was concerned that such children might be incorrectly found to need special education and related services because of their limited English language ability. Because the proposed rule provides sufficient assurances against that possibility, most of the changes offered by this commenter have not been accepted. At his suggestion, however, language has been added to subsection F.1 of Appendix 1 explicitly requiring that specified notices to a parent be in his or her native language, unless it is clearly not feasible to do so.

The Chief Counsel for Advocacy of the Small Business Administration noted that the preamble to the proposed rule did not contain a statement concerning compliance with the Regulatory Flexibility Act, Pub. L. No. 96-354, 5 U.S.C.A. 601 *et seq.* (1981 Supp.). The General Counsel, Department of Defense, has determined that the Act does not apply to this rule. The Act encompasses only rulemakings for which 5 U.S.C. 553 or another law requires the publication of a "general notice of proposed rulemaking." 5 U.S.C.A. 603(a). Since this rulemaking is not subject to such a requirement, discussion of the Regulatory Flexibility Act in the preamble to the proposed rule was not necessary.

One organization commented that the term "speech-language pathology" instead of "speech therapy" should be used throughout the rule in order to emphasize that the service is rendered by independent professionals, not by technicians implementing a physician's prescription. Since speech therapists within the DoDDS system are professionally independent, changing their title would confuse rather than clarify their role. Accordingly, this comment has not been adopted.

Finally, references to "parents and guardians" throughout the rule have been changed to "parents." Since the definition of "parent" in § 57.5 expressly encompasses the guardian of a handicapped child, the use of the term "guardian" in the rest of the rule is unnecessary. Under this definition, a child's guardian has the same rights as would his or her parents.

Section 57.1. One commenter suggested that this provision state that children who are three to 21 years old are covered by the rule. The Department of Defense has rejected this comment because ages of eligibility for DoDDS services are prescribed by DoD Instruction 1342.10, "Eligibility Criteria for Education of Minor Dependents in Overseas Areas," May 4, 1970. Another commenter observed that the proposed rule did not specifically deal with the distinction between "space available" and "space required" students. DoD Instruction 1342.10 prescribes guidance in that area.

Section 57.2. Several commenters questioned limiting the applicability of the proposed rule to DoD overseas schools. As stated above and in the notice of proposed rulemaking, this rule is intended to implement Pub. L. No. 95-561, which extends the coverage of Pub. L. No. 94-142 only to the Department's overseas schools.

Section 57.3. One commenter noted that, in § 57.3(a), the phrase "enrolled and entitled to be enrolled in a school administered by DoDDS" appeared to be used interchangeably with the phrase "receiving or entitled to receive educational instruction from DoDDS." The commenter recommended that only one of these phrases be used in order to prevent confusion. The first phrase has been deleted, with the second phrase placed in its stead.

Several commenters suggested that § 57.3(e) be modified to make clear that, in cases requiring medical evaluations

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120. Attention: Code 301.

of possibly handicapped children, DoDDS personnel as well as medical authorities will jointly participate in such evaluations. The language of this section has been changed accordingly.

Section 57.4. One commenter recommended modification of the order in which responsibilities assigned by this section are listed. Because the Department believes that the proposed rule accurately reflects the relationship of the various components performing those responsibilities, this suggestion has not been adopted.

One commenter recommended that the responsibilities of the Director of DoDDS specifically include the obligation to provide a free appropriate public education to handicapped children. The Department has accepted this suggestion and has revised § 57.4(a)(1) accordingly.

Several commenters asserted that § 57.4(a)(4) could be interpreted to permit the Director of DoDDS to provide special education and related services only if funds were authorized and appropriated. The intention of this section is just the opposite: the Director must appropriately serve all handicapped children within the requirements of Pub. L. No. 94–142 and this rule. This section is designed merely to ensure that, to the extent that the Director and his staff rely upon other federal agencies or private entities to meet this responsibility, funds are legally available. In order to dispel any confusion on this point, §§ 57.4(a)(4) and 57.4(b) have been revised.

Several commenters suggested that the treatment of the comprehensive system of personnel development be expanded in § 57.4(a)(5). This comment has not been adopted. DoDDS has issued DS Reg. 2020.1, which establishes guidance for personnel development. As the need arises, DoDDS will promulgate further regulations.

In § 57.4(a)(8), a commenter urged that an agency other than DoDDS evaluate compliance with Pub. L. No. 94–142 and this rule. This comment has not been adopted, since the Department believes that its customary management and oversight mechanisms are sufficient.

One commenter suggested that the boundary between medical and non-medical related services be specified in § 57.4(b). The Department of Defense does not believe this is necessary. Under Pub. L. No. 94–142 and this rule, the Department is responsible for providing all related services necessary for a handicapped DoDDS student to benefit from special education. If there are disputes within the Department over which component should furnish or pay for a particular related service, they can be resolved by senior officials in the Department of Defense.

With respect to § 57.4(d), another commenter urged that the specific responsibilities and membership of the DoD Coordinating Committee on Special Education and Related Services be delineated. In order to preserve the Department's flexibility to use this committee to best advantage, this recommendation has been rejected.

With respect to § 57.4(e), several commenters urged that teachers of special and regular education be expressly included in the composition of the National Advisory Panel. Another commenter recommended that providers of related services also sit on the National Advisory Panel. The Department has accommodated these suggestions. A third commenter has requested representation for the Overseas Education Association, Inc., on the National Advisory Panel. Teachers serving on the National Advisory Panel may be members of the Overseas Education Association or another professional or labor organization. The Department, however, does not believe that either Pub. L. No. 94–142 or applicable federal labor-management statutes entitle the Overseas Education Association to membership on the National Advisory Panel. In addition, the Department believes that the National Advisory Panel is not a suitable forum for discussing matters relating to the terms and conditions of the employment of DoDDS teachers. Accordingly, this suggestion has been rejected.

Section 57.5. As noted above, the definitions contained in this section have been placed in alphabetical order in the final rule, thereby necessitating the renumbering of subsections within the section. Citations in the following discussion are to sections in the proposed rule ("old Section ————") and to the final rule ("new Section ————").

In old § 57.5(b)(5), new § 57.5(e)(5), the Department has declined to accept the suggestion that the definition of "multihandicapped" be deleted. This definition is helpful in describing a category of handicapped children who must be served under Pub. L. No. 94–142.

One commenter queried whether old § 57.5(b)(8), new § 57.5(e)(8), would permit DoDDS school psychologists who are certified or licensed clinical psychologists to evaluate and diagnose children for serious emotional disturbances. Under this section, school psychologists who are certified clinical psychologists, as well as other clinical psychologists and physicians, may perform such evaluations and diagnoses. Another commenter questioned the use of the phrase "where appropriate" in Section 57.5(b)(8). This phrase has been deleted. The Case Study Committee for a child will determine appropriateness. This commenter also recommended that the term "socially maladjusted" be deleted. This comment has been rejected. Although the term does not lend itself to precise definition, it is useful because it usually encompasses juvenile delinquency, chronic disruptive behavior, and other socially inappropriate conduct that is not indicative of emotional disturbance.

In the definition of "specific learning disability" (old § 57.5(b)(9), new § 57.5(e)(9)), the words "emotional disturbance," have been added and the word "differences" substituted for "disadvantage." Both of these changes were made in the interest of clarity.

One commenter urged that the definition of "speech impaired" in old § 57.5(b)(10), new § 57.5(e)(10), be revised in order to emphasize the communicative nature of speech impairments. The Department believes that the definition as proposed comports fully with Pub. L. No. 94–142 and has declined to revise this section.

One commenter urged that language in old Section 57.5(c)(1), new § 57.5(q)(1), permitting variegated rates of tuition for handicapped and non-handicapped children be deleted. This commenter believes that such a provision is "probably discriminatory." The Department has declined to accept this suggestion because Section 1404 of Pub. L. No. 95–561, 20 U.S.C. 923(b)(1), authorizes variable tuition rates. This section makes clear that DoDDS may not impose fees for special education and related services that are provided to a child who is entitled to receive educational instruction from DoDDS, although assessing incidental fees that are normally charged to nonhandicapped students or their parents is permissible.

With respect to the definitions of types of related services in old § 57.5(d), new § 57.5(o), one commenter contended that some related services were themselves described, while in other cases the providers of the services were listed. The Department believes that this is not objectionable.

In old § 57.5(d)(1)(iii), new § 57.5(o)(1)(iii), one commenter suggested that the range of services provided by audiologists include the recommendation of appropriate amplification devices and other rehabilitation services. This suggestion has been accepted.

In response to several commenters, old § 57.5(d)(4), new § 57.5(o)(4), has

been clarified to state that DoDDS personnel as well as a licensed physician must participate in the determination of whether a child has a medically-related handicapping condition that results in the need for special education and related services.

Old §§ 57.5(d)(5) and 57.5(d)(7), new §§ 57.5(o)(5) and 57.5(o)(7), have been revised to state explicitly that occupational therapy and physical therapy consist of services not only provided but also supervised by occupational and physical therapists.

One commenter recommended that old § 57.5(d)(6), new § 57.5(o)(6), be expanded to require the Department to provide generalized information about child development. Although this rule will not bar the dissemination of such data, neither Pub. L. No. 94–142, Pub. L. No. 95–561, nor considerations of public policy require it.

One commenter suggested that old § 57.5(d)(8)(iii), new § 57.5(o)(8)(iii), be expanded to encompass generalized information about child behavior and learning theory. The Department has retained this provision as set forth in the proposed rule, since related services, including those of a psychological nature, are for the benefit of specific children.

With respect to old § 57.5(d)(10), new § 57.5(o)(10), several commenters questioned the exclusion of specified functions from the category of "school health services." As proposed, this Section permits DoDDS employees to perform those functions only when authorized or directed by a DoDDS regional director. If DoDDS employees are not empowered to provide these services and they are required by a child's Individualized Education Program (IEP), they will be supplied by personnel in the Military Departments or by other organizations or individuals.

One commenter recommended the deletion of old § 57.5(f). Since this section adds to the clarity of the entire rule, it will be retained. This section has the same number in the final rule.

In old § 57.5(m), new § 57.5(g), one commenter contended that, in order for an evaluation to be independent, it must be administered by an examiner who is not employed by DoDDS. The Department believes that an examiner who is not employed by the DoDDS school responsible for the child's education would be sufficiently objective, detached, and professionally unfettered to satisfy the mandate of Pub. L. No. 94–142 for an independent evaluation.

At the suggestion of a commenter, § 57.5(q), new § 57.5(a), has been clarified by listing examples of child-find activities. Another commenter questioned whether child-find efforts should extend to children from birth to 21 years of age. Under Pub. L. No. 94–142 and this rule, all children who may need special education and related services in that age range should be identified, located, and evaluated through child-find activities. This Section has been modified to clarify those responsibilities.

Appendix 1. In paragraph A.2.a, one commenter suggested adding the words "written and oral communication." Since the paragraph as proposed complied fully with Pub. L. No. 94–142 and did not prohibit screening for written and oral communication skills, this suggestion has not been adopted. Another commenter suggested that the clause "who may be in need of special education and related services" be substituted for the words "to determine whether a child has an undetected handicap." In the interest of clarity, this recommendation has been adopted.

One commenter recommended that the words "speech, language" be added to subparagraph A.2.b.1 after the word "hearing." This comment has been accepted. This commenter also suggested the inclusion of the phrase "and education" following the word "health." Since the rule as a whole accommodates this concern, this phrase is unnecessary.

In paragraph A.2.d, a commenter urged the Department to make clear that the provision of direction and guidelines for child-find activities includes public information and screening and referral procedures. The definition of child-find in § 57.5 has been expanded so as to incorporate this suggestion.

One commenter suggested that subsection A.5 through paragraph A.7.e be placed under section B. Paragraphs A.7.b through A.7.f have been moved to section B. In the Department's view, the other provisions belong in section A.

In subsection A.5., one commenter urged that it be mandatory for the school principal or designee to serve on the Case Study Committee (CSC). This suggestion has been adopted.

With respect to paragraph A.5.a, one commenter questioned whether the term "DoDDS resources educators" is limited to related services personnel. The term is intended to include not only those personnel but also special educators, such as reading improvement specialists. Additional examples of resource personnel have been added to this paragraph in order to clarify this issue. Additional examples have also been included in subsection A.6. In addition, paragraph A.5.a has been revised to authorize expressly the assignment of members of a regional CSC to a school CSC.

One commenter recommended the deletion of paragraph A.7.a, on the theory that a CSC evaluates but does not identify handicapped children. In order to accommodate this concern, this paragraph has been modified to provide that a CSC shall assist in identifying handicapped children.

Paragraph A.7.b in the proposed rule (paragraph B.2.a in the final rule) has been revised to refer explicitly to the responsibility of the CSC to determine whether a child has a handicapping condition that necessitates that he or she receives special education and related services.

With respect to paragraph A.7.f in the proposed rule (paragraph B.2.e in the final rule), one commenter urged that local and regional administrators determine whether a child's needs can be met by local resources. The Department has adopted this suggestion, and this paragraph has been amended to provide that the appropriate regional director will decide when local resources are inadequate.

One commenter suggested that section B. be revised to require explicitly that tests be selected and administered so as to reflect accurately a child's aptitude or achievement level, instead of his or her impaired sensory, manual or speaking skills, except when those skills are being measured by the test. The Department believes that the rule, taken as a whole, adequately ensures against these problems. Accordingly, it has rejected this recommendation.

In subsection B.1, one commenter recommended that the phrase "development of an Individualized Education Plan and" be inserted after the word "regarding" in the second sentence. This change has been made to increase the clarity of this provision. Another commenter urged the insertion of a reference to the development of an IEP after the words "regarding." This suggestion has been adopted.

With respect to paragraph B.2.d in the proposed rule (paragraph B.3.d in the final rule), one commenter requested clarification as to the meaning of "qualified personnel." In response to this concern, the Department has provided examples of such personnel in the final rule.

With respect to subsection B.4 in the proposed rule (subsection B.5 in the final rule), one commenter observed that all handicapped children may not require evaluations in each of the areas listed in this paragraph. The Department shares this view, and this paragraph has been revised to make clear that as the

described components of an evaluation need be performed "only when necessary."

This commenter also suggested that paragraph B.5.d in the proposed rule (paragraph B.6.d in the final rule) be revised, since in the commenter's view not all speech-impaired children require a written evaluation report describing their current academic progress. This observation applies to children with other handicapping conditions as well, and the phrase "when necessary" has been added.

With respect to subsection B.7 in the proposed rule (subsection B.8 in the final rule), a commenter has recommended that a parent or teacher be able to obtain the reevaluation of a child. Since there is no statutory requirement for this change, the Department has decided not to modify this paragraph. Moreover, this paragraph provides for a reevaluation "if conditions warrant." The Department believes that this language affords sufficient flexibility to ensure that the needs of the child will be met.

In subsection C.2, one commenter suggested that the inclusion of the language requiring that the frequency and intensity of related services be stated in an IEP. This suggestion has been accepted. In paragraph C.2.c, another commenter urged that the word "special" be added after the word "specific." The Department has agreed to this change.

With respect to subsection C.6, one commenter asked the Department to make clear that parents have the right to bring whomever they desire to IEP meetings. Pub. L. No. 94–142 provides that such a meeting must be attended by specified educators, the child's parents, and, when appropriate, the child. 20 U.S.C. 1401(19). Accordingly, this suggestion has not been accepted. Several commenters urged that this section expressly require the attendance of the child's regular or special education teacher or the persons providing related services to the child. This objection has been partially accommodated by modifying the paragraph to require that a teacher of special education attend the meeting. Another commenter recommended that the IEP be reviewed annually. The rule already contains this requirement.

With respect to subsection C.9, one commenter stated that both parents should understand the proceedings at an IEP meeting. It may be impractical to ensure that in all instances both parents understand those proceedings. The rule does require that at least one parent understand what transpires at an IEP meeting. Since Pub. L. No. 94–142 does not require more, the Department has decided to leave this provision of the rule undisturbed.

In section C.12, a commenter suggested the insertion of express references to "good faith" efforts by DoD personnel and to "the right of parents to redress and due process." Since the rule as proposed already accommodates these concerns, this suggestion has been rejected.

Another commenter suggested requiring a full continuum of placements for handicapped children in section D. This rule and Pub. L. No. 94–142 both require that a handicapped child not only receive a free appropriate public education but also be placed in the least restrictive environment suitable for the child. It is, therefore, unnecessary to accept this suggestion. This commenter also suggested that section D. be revised to provide that handicapped children participate with non-handicapped children in school activities to the maximum extent appropriate. This suggestion has been accepted.

A new provision, paragraph D.5.f, has been added to make, explicit that a handicapped child's educational placement must, to the maximum extent appropriate, be designed such that the child participates in school activities with nonhandicapped children.

With respect to section E., one commenter requested the inclusion of language making DoDDS responsible for the implementation of the IEP of a child in a non-DoDDS school or facility. This is unnecessary, because paragraph C.13 already imposes that obligation. Another commenter cautioned that the availability of appropriate schools or facilities does not relieve DoDDS from its responsibility to serve handicapped children itself, if possible. In the Department's view, this obligation is plain and is reflected in the rule.

One commenter recommended that subsection F.1 be expanded to include the requirement that the prescribed notice contain all relevant information and be in the native language or mode of communication of the parent. The latter suggestion has been adopted. The former suggestion has been rejected, since the paragraph already requires that the notice "fully inform" the parent.

In the interest of clarity and to reiterate the applicable provisions of Pub. L. No. 94–142 and Appendix 2 of this rule, the phrase "or DoDDS" was added to subsection F.6.

One commenter questioned the possibility of imposing additional fees for special education and related services under subsection F.8. The rule and Pub. L. No. 94–142 prohibit DoDDS from charging additional tuition for special education and related services provided to a child who is entitled to receive educational instruction from DoDDS. Moreover, Pub. L. No. 95–561 provides that dependents, as defined by that Act, may receive a free education from DoDDS. However, nothing in this rule, Pub. L. No. 94–142 or Pub. L. No. 95–561 prevents the imposition of additional fees for special education and related services provided to children who are not dependents under Pub. L. No. 95–561 and thus who are not entitled to receive educational instruction from DoDDS.

Several commenters objected to subsection F.9, which would have authorized the General Counsel of the Department of Defense to modify Appendix 2. This paragraph has been clarified to provide that the General Counsel shall coordinate on modifications to Appendix 2.

In subsection F.10, one commenter urged that the Department prescribe time lines for investigating complaints. The Department has not accepted this suggestion, since the need for a rigid schedule for resolving complaints has not been demonstrated. Several commenters suggested that specific DoDDS officials be designated to investigate complaints. The Department prefers to leave such assignments to the Director of the Department of Defense Dependents Schools and his subordinate administrators.

One commenter observed that subsection H.2 does not require that parents receive written notification before their handicapped child's educational placement is changed by suspension or expulsion. Since subsection F.1 of Appendix 1 demands prior written notification to the parents of any change in placement, it is unnecessary to modify subsection H.2.

The Department received some comments dealing generally with Appendix 1. Several commenters recommended the establishment of time lines for the identification, evaluation, and placement of handicapped children. The Department has decided not to prescribe such time lines in this rule, because variations among DoDDS regions may be necessary. The Department and its overseas schools are committed to identifying, evaluating, and placing handicapped children in a timely manner.

Appendix 2. In subsection B.3, one commenter recommended that hearing officers be drawn from professions other than the law. Because hearings conducted under this rule must conform with a comprehensive set of procedural requirements, the Department believes

that attorneys are best suited to serve as hearing officers.

In subsection B.4, one commenter urged the deletion of the word "qualified." This suggestion has been accepted. Another commenter contended that the Department must inform parents of "any free and low-cost legal and other relevant services available in the area." Such advice is not required by Pub. L. 94-142, and the Department has decided against including it in the rule.

With respect to paragraph D.1.i, one commenter noted that, under the proposed rule, a child is not explicitly entitled to attend an impartial due process hearing concerning his or her special education and related services. The Department has decided not to modify this paragraph. Pub. L. No. 94-142 does not guarantee the child's attendance at a hearing. In addition, the Department believes that the paragraph provides sufficient protection to parents and children, since it permits the hearing officer to allow the child and others to attend the hearing, consistent with the privacy interests of the parents and the child, and affords the parents the right to an open hearing.

In paragraph D.3.e, one commenter questioned the jurisdiction of a court to compel compliance with a discovery order issued by a hearing officer. Pub. L. No. 94-142 confers such jurisdiction by entitling a party to a hearing "to compel the attendance of witnesses." 20 U.S.C. 1415(d)(2). That right would be meaningless if it could not be vindicated by the courts. The authority to compel the production of evidence is ancillary to the power to compel the attendance of witnesses.

With respect to section F., one commenter objected to designating the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics) to decide appeals from hearing officers' findings of fact and decisions. The Department has decided not to adopt this comment. The Assistant Secretary would not be improperly influenced by DoDDS personnel, since they report to him and are subject to his direction, authority, and control. Rather, the Assistant Secretary is sufficiently detached from DoDDS to review impartially the determinations of hearing officers concerning the education of handicapped DoDDS students. Finally,if this suggestion were accepted it would be necessary to increase the amount of time allowed for deciding appeals in order to permit the Department to assemble an appellate panel when an appeal is filed. Because of these legal and policy considerations, the Department believes implementation of this suggestion would be unwise.

Several commenters raised general matters about Appendix 2. One commenter suggested that the language of Appendix 2 be simplified or, in the alternative, that legal terms be defined. The Department believes that, to the extent legal terminology is used, it is necessary to assure precision and uniformity in the administration of impartial due process hearings. The Department also is persuaded that the language of this appendix is understandable without the inclusion of definitions. Accordingly, this suggestion has not been adopted. Several commenters urged the Department to reduce the time allowed for impartial due process hearings. In response to these recommendations, the Department has shortened the time lines prescribed in Appendix 2.

Accordingly, 32 CFR Chapter I is amended by adding a new Part 57, reading as follows:

PART 57—EDUCATION OF HANDICAPPED CHILDREN IN THE DOD DEPENDENTS SCHOOLS

Sec.

Authority: Pub. L. 94-142, as amended; Pub. L. 95-561, as amended.

§ 57.1 Purpose.

This Part establishes policies and procedures for providing a free appropriate public education to handicapped children receiving or entitled to receive educational instruction from the DoD Dependents Schools (DoDDS) pursuant to Pub. L. 94-142 and Pub. L. 95-561 and in accordance with Part 69 of this Title; establishes an Overseas Dependents Schools National Advisory Panel on the Education of Handicapped Dependents (National Advisory Panel) consistent with the provisions of DoD Directive 5105.18,[1] "Department of Defense Committee Management Program," April 25, 1975, and a DoD Coordinating Committee on Special Education and Related Services.

§ 57.2 Applicability and scope.

(a) The provisions of the Part apply to the Office of the Secretary of Defense and its field activity, DoDDS and DoDDS constituent elements; the Military Departments; the Organization of the Joint Chiefs of Staff; the Unified and Specified Commands; and the Defense Agencies (collectively DoD Components).

(b) The provisions encompass children receiving or entitled to receive educational instruction from DoDDS, and the parents of those children.

(c) The provisions do not apply to schools operated by the Department of Defense within the United States.

§ 57.3 Policy.

(a) All handicapped children receiving or entitled to receive educational instruction from DoDDS shall be provided a free appropriate public education under the provisions of this Part.

(b) DoDDS shall have the responsibility of providing a free appropriate public education to all handicapped children enrolled in its schools.

(c) Handicapped children receiving or entitled to receive educational instruction from DoDDS shall have a free appropriate public education, the same educational opportunities and services offered by DoDDS to nonhandicapped children, and an equal opportunity to participate in school activities.

(d) Physical education services, modified or specially designed if necessary, shall be available to every handicapped child receiving a free appropriate public education from DoDDS.

(e) When appropriate, a qualified military medical authority shall conduct or verify a medical evaluation and participate with DoDDS personnel in determining whether a child has a handicapping condition requiring special education and related services.

§ 57.4 Responsibilities.

(a) The *Director, Department of Defense Dependents Schools, and his subordinate organizational structure,* shall:

(1) Ensure that handicapped children receiving educational instruction from DoDDS are provided a free appropriate public education and that the educational needs of handicapped and nonhandicapped children are met comparably, using the procedures established by this Part.

(2) Ensure that educational facilities and services operated by DoDDS for handicapped children are comparable to DoDDS educational facilities and services for nonhandicapped children.

[1] See footnote on page 1.

(3) Maintain records on special education and related services provided to handicapped children.

(4) Provide any or all special education and related services required by a handicapped child, other than those furnished by the Secretaries of the Military Departments. In fulfilling this responsibility, the Director and his subordinate organizational structure may use interagency, intra-agency, and interservice arrangements, or act through contracts with private parties, when funds are authorized and appropriated.

(5) Develop and implement a comprehensive system of personnel development.

(6) Monitor compliance with this Instruction.

(7) Provide technical assistance.

(8) Undertake evaluation activities to ensure compliance with this Part.

(b) The *Secretaries of the Military Departments* shall provide those related services that are supplied by a physician or that require professional medical supervision. In general, those services, which are diagnostic and therapeutic in nature, shall be provided to DoDDS by the appropriate military command having responsibility for medical care in the geographical region. The services provided by the Secretaries of the Military Departments include medical services for diagnostic and evaluation purposes, occupational therapy, physical therapy, and audiology as may be required to assist a handicapped child to benefit from special education.

(c) The *Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) (ASD(MRA&L))*, in consultation with the Assistant Secretary of Defense (Health Affairs) and the Secretaries of the Military Departments, shall assign specific functions and geographical areas of responsibility for all related services.

(d) The *Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics)*, or designee, shall:

(1) Chair the DoD Coordinating Committee on Special Education and Related Services, which shall be composed of representatives of the Secretaries of the Military Departments, the ASD(MRA&L), the Assistant Secretary of Defense (Health Affairs), the General Counsel of the Department of Defense, and DoDDS.

(2) Through the Committee, monitor the provision of related services furnished under this Instruction, and ensure that related services and DoDDS special education programs are properly coordinated.

(3) Ensure that impartial due process hearings concerning disputes arising under this Part are provided in conformity with this Part.

(e) The *National Advisory Panel* shall:

(1) Consist of members appointed by the Secretary of Defense, or designee. Membership shall include at least one representative from each of the following groups:

(i) Handicapped persons.

(ii) DoDDS special education teachers.

(iii) DoDDS regular education teachers.

(iv) Parents of handicapped children.

(v) DoDDS headquarters.

(vi) DoDDS regional offices.

(vii) DoDDS special educational program administrators.

(viii) Military Departments and overseas commands, including providers of related services.

(ix) Other appropriate persons.

(2) Meet as often as necessary.

(3) Perform the following duties:

(i) Review information regarding improvements in services provided to handicapped students in DoDDS.

(ii) Receive and consider the views of various parent, student, and professional groups, and handicapped individuals.

(iii) When necessary, establish committees for short-term purposes composed of representatives from parent, student, and professional groups, and handicapped individuals.

(iv) Review the findings of fact and decision of each impartial due process hearing conducted pursuant to this Part.

(v) Assist in developing and reporting such information and evaluations as may aid DoDDS in the performance of its duties under this Part.

(vi) Make recommendations, based on program and operational information, for changes in the budget, organization, and general management of the special education program, and in policy and procedure.

(vii) Comment publicly on rules or standards regarding the education of handicapped children.

(viii) Perform such other tasks as may be requested by the Director.

(4) Submit an annual report of its activities and suggestions to the Director, DoDDS, by July 31, of each year. This report is exempt from formal review and licensing pursuant to subsection VII.C. of enclosure 3 to DoD Directive 5000.19,[1] "Policies for the Management and Control of Information Requirements," March 12, 1976.

§ 57.5 Definitions.

(a) *Child-Find.* The ongoing process used by DoDDS and the Military Departments to seek and identify children (from birth to 21 years of age) who show indications that they might be in need of special education and related services. Child-find activities include the dissemination of information to the public and identification, screening, and referral procedures.

(b) *Consent.* This term means that:

(1) The parent of a handicapped child has been fully informed, in his or her native language or in another mode of communication, of all information relevant to the activity for which permission is sought.

(2) The parent understands and agrees in writing to the implementation of the activity for which his or her permission is sought. The writing must describe that activity, list the child's records that will be released and to whom, and acknowledge that the parent understands consent is voluntary and may be prospectively revoked at any time.

(c) *Evaluation.* Procedures used to determine whether a child is handicapped and the nature and extent of the special education and related services that the child needs. To qualify as an evaluation, these procedures must be used selectively with an individual child and may not include basic tests administered to, or used with, all children in a school, grade, or class.

(d) *Free Appropriate Public Education.* Special education and related services that:

(1) Are provided at no cost to parents or handicapped children and are under the general supervision and direction of DoDDS.

(2) Provide appropriate preschool, elementary, or secondary school education.

(3) Are provided in conformity with an Individualized Education Program.

(4) Meet the requirements of this Part.

(e) *Handicapped Children.* Those children, evaluated in accordance with this Part who are mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, other health impaired, deaf-blind, or multihandicapped, or have specific learning disabilities, and who because of such impairments need special education and related services.

(1) *Deaf.* A hearing loss or deficit so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, to the extent that his or her educational performance is adversely affected.

(2) *Deaf-blind.* Concomitant hearing and visual impairments, the combination of which causes such

[1] See footnote on page 1.

severe communication and other developmental and educational problems that they cannot be accommodated in special education programs solely for deaf or blind children.

(3) *Hard of Hearing.* A hearing impairment, whether permanent or fluctuating, that adversely affects a child's educational performance but that does not consitute deafness.

(4) *Mentally Retarded.* Significantly subaverage general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, that adversely affects a child's educational performance.

(5) *Multihandicapped.* Concomitant impairments (such as mentally retarded-blind or mentally retarded-orthopedically impaired), the combination of which causes such severe educational problems that they cannot be accommodated in special educational programs solely for one of the impairments.

(6) *Orthopedically Impaired.* A severe orthopedic impairment that adversely affects a child's educational performance. The term includes congenital impairments (such as clubfoot and absence of some member), impairments caused by disease (such as poliomyelitis and bone tuberculosis), and impairments from other causes (such as cerebral palsy, amputations, and fractures or burns causing contractures).

(7) *Other Health Impaired.* Limited strength, vitality, or alertness due to chronic or acute health problems that adversely affect a child's educational performance, including heart condition, tuberculosis, rheumatic fever, nephritis, asthma, sickle-cell anemia, hemophilia, epilepsy, lead poisoning, leukemia, diabetes, or autism.

(8) *Seriously Emotionally Disturbed.* A condition that has been confirmed by clinical evaluation and diagnosis and that, over a long period of time and to a marked degree, adversely affects educational performance, and that exhibits one or more of the following characteristics:

(i) An inability to learn that cannot be explained by intellectual, sensory, or health factors.

(ii) an inability to build or maintain satisfactory interpersonal relationships with peers and teachers.

(iii) inappropriate types of behavior under normal circumstances.

(iv) a tendency to develop physical symptoms or fears associated with personal or school problems.

(v) a general pervasive mood of unhappiness or depression.

The term includes children who are schizophrenic, but does not include children who are socially maladjusted, unless it is determined that they are seriously emotionally disturbed.

(9) *Specific Learning Disability.* A disorder in one or more of the basic psychological processes involved in understanding or in using spoken or written language that may manifest itself as an imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. The term includes such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. The term does not include children who have learning problems that are primarily the result of visual, hearing, or motor handicaps, mental retardation, emotional disturbance, or environmental, cultural, or economic differences.

(10) *Speech Impaired.* A communication disorder, such as stuttering, impaired articulation, language impairment, or a voice impairment, that adversely affects a child's educational performance.

(11) *Visually Handicapped.* A visual impairment that, even with correction, adversely affects a child's educational performance. The term includes both partially seeing and blind children.

(f) *Include; Such As.* Not all the possible items are covered, whether like or unlike the ones named.

(g) *Independent Evaluation.* An evaluation conducted by a qualified examiner who is not employed by the DoDDS school with responsibility for educating the child being evaluated.

(h) *Individualized Education Program (IEP).* A written statement for a handicapped child that is developed and implemented in accordance with this Part.

(i) *Native Language.* When used with reference to an individual of limited English proficiency, the language normally used by such individual, or in the case of a child, the language normally used by the parent of the child.

(j) *Non-DoDDS Placement.* An assignment by DoDDS of a handicapped child to a non-DoDDS school or facility.

(k) *Non-DoDDS School or Facility.* A public or private school or other institution not operated by DoDDS.

(l) *Parent.* A parent or guardian of a child who is receiving or is entitled to receive educational instruction from DoDDS.

(m) *Qualified.* A person who has met DoDDS requirements and educational standards in the area in which he or she is providing special education or related services to handicapped children.

(n) *Regional Director.* The Regional Director of a DoDDS region, or designee.

(o) *Related Services.* Transportation and such developmental, corrective, and other supportive services as are required to assist a handicapped child to benefit from special education pursuant to that child's IEP. The term includes speech therapy and audiology, psychological services, physical and occupational therapy, recreation, early identification and assessment of disabilities in children, counseling services, and medical services for diagnostic or evaluative purposes. The term also includes school health services, social work counseling services in schools, and voluntary parent counseling.

(1) *Audiology.* This term includes:

(i) Identification of children with hearing loss.

(ii) Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention designed to ameliorate or correct that loss.

(iii) Provision of ameliorative and corrective activities, including language and auditory training, speech-reading (lip-reading), hearing evaluation, speech conservation, the recommendation of amplification devices, and other aural rehabilitation services.

(2) *Counseling Services.* Services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel.

(3) *Early Identification.* The implementation of a formal plan for identifying a disability as early as possible in the child's life.

(4) *Medical Services.* Services provided by a licensed physician to determine and diagnose, in conjunction with the Case Study Committee (CSC), whether a child has a medically related handicapping condition that results in the child's need for special education and related services.

(5) *Occupational Therapy.* Services provided or supervised by a qualified occupational therapist.

(6) *Parent Counseling and Training.* Assisting parents in understanding the special needs of their child's development and special education.

(7) *Physical Therapy.* Services provided or supervised by a qualified physical therapist.

(8) *Psychological Services.* This term includes:

(i) Administering psychological and educational tests and other assessment procedures.

(ii) interpreting test and assessment results.

(iii) obtaining, integrating, and interpreting information about a child's

behavior and conditions relating to his or her learning.

(iv) consulting with other staff members in planning school programs to meet the special needs of children, as indicated by psychological tests, interviews, and behavioral evaluations.

(v) planning and managing a program of psychological services, including psychological counseling for children.

(9) *Recreation.* This term includes:

(i) Therapeutic recreational activities.

(ii) recreational programs in schools and community agencies.

(10) *School Health Services.* Services provided by a qualified school nurse or other qualified health professional. The term does not include catheterization, injections, transfusions, or administration of any drug or substance, whether or not prescribed, recommended, or authorized by any physician, nurse, another health professional, or other person. The term also does not include any medical or nonmedical procedure, treatment, or course of treatment necessary to sustain or maintain a child's life, life function, or life support function. Nothing herein shall be construed to preclude a duly trained, certified, or licensed DoDDS employee from performing any of the foregoing activities when authorized or directed by a DoDDS regional director.

(11) *Social Work Counseling Services in Schools.* This term includes:

(i) Preparing a social or developmental history on a handicapped child.

(ii) counseling the child and his or her family on a group or individual basis.

(iii) working with those problems in a child's home, school, and community that adversely affect the child's adjustment in school.

(iv) using school and community resources to enable the child to receive maximum benefit from his or her educational program.

(12) *Speech Therapy.* This term includes the:

(i) Identification of children with speech or language disorders.

(ii) diagnosis and appraisal of specific speech or language disorders.

(iii) referral for medical or other professional attention to correct or ameliorate speech or language disorders.

(iv) provision of speech and language services for the correction, amelioration, and prevention of communicative disorders.

(v) counseling and guidance of children, parents, and teachers for speech and language disorders.

(13) *Transportation.* This term includes the following services rendered pursuant to the IEP of a handicapped child:

(i) Travel to and from school and between schools, including travel necessary to permit participation in educational and recreational activities and related services.

(ii) travel in and around school buildings.

(iii) specialized equipment (including special of adapted buses, lifts, and ramps), if required to provide special transportation from a handicapped child.

(p) *Separate Facility.* A school or a portion of a school, regardless of whether it is operated by DoDDS, that is only attended by handicapped children.

(q) *Special Education.* Specially designed instruction, at no cost to the child or parent, to meet the unique educational needs of a handicapped child, including education provided in a school, at home, in a hospital or in an institution, physical education programs, and vocational education programs.

(1) *At No Cost.* With respect to a child attending a DoDDS school on a nontuition basis, specially designed instruction and related services are provided without charge, but incidental fees that are normally charged to nonhandicapped students or their parents as a part of the regular educational program may be imposed. With respect to a child attending a DoDDS school on a tuition basis, the term does not preclude the imposition of additional charges to reflect the cost of special education and related services.

(2) *Physical Education.* The development of:

(i) Physical and motor fitness.

(ii) fundamental motor skills and patterns.

(iii) skills in aquatics, dance, and individual and group games and sports (including intramural and lifetime sports).

(3) *Vocational Education.* Organized educational programs directly related to the preparation for paid or unpaid employment or for additional training in a career requiring other than a baccalaureate or advanced degree.

Appendix 1.—Procedures for Educational Programs and Services for Handicapped Children

A. Identification and Screening

1. DoDDS shall locate, identify, and, with the consent of the child's parent, evaluate all children who are receiving or are entitled to receive an education from DoDDS and who need special education and related services because they are handicapped, as defined in this Part.

2. DoDDS shall:

a. Provide screening, by using basic skills tests in reading language arts, and mathematics, and by reviewing records of all children entering DoDDS schools for the first time, to determine whether a child may be in need of special education and related services.

b. Analyze school health data for those children who demonstrate possible handicapping conditions. Such data shall include:

(1) Results of formal hearing, vision, speech, and language tests.

(2) Reports from physicians and public health service personnel.

(3) Reports from other appropriate professional health personnel as may be necessary to aid in identifying possible handicapping conditions.

c. Analyze other pertinent information, including suspensions, exclusions, withdrawals, and disciplinary actions, compiled and maintained by schools that may aid in identifying possible handicapping conditions.

d. Provide direction and guidelines for child-find activities.

3. Each DoDDS regional office, in cooperation with the Military Departments, shall conduct ongoing child-find activities that are designed to identify all children with possible handicapping conditions who are or will be entitled to receive an education from DoDDS.

4. If an element of DoDDS, a qualified professional authorized to provide related services, or another source determines that a child has a possible handicapping condition, the child shall be referred to the appropriate CSC.

5. A school CSC consists of the participants in the child's IEP meeting as prescribed in paragraph C.6 of appendix, below. In addition, a school CSC shall contain the DoDDS school principal, or designee, and one or more persons selected by the principal from any or all of the following groups:

a. DoDDS or Military Department resource educators, including psychologists, guidance counselors, social workers, reading improvement specialists, school health personnel, occupational therapists, physical therapists, and speech therapists.

b. DoDDS regular classroom teachers.

c. DoDDS special education personnel.

6. Members of a regional CSC shall be appointed by the DoDDS Regional Director and shall include one or more persons belonging to either or both of the following groups: DoDDS or Military Department resource educators, such as psychologists, guidance counselors, social workers, reading improvement specialists, school health personnel, occupational therapists, physical therapists, and speech therapists; and DoDDS special education personnel. The regional CSC shall act in the absence of a school CSC, and members of a regional CSC may be assigned to a school CSC.

7. A school or regional CSC shall assist in identifying handicapped children.

B. Evaluation Procedures

1. Any child who is receiving or entitled to receive educational instruction from DoDDS and who is referred to a CSC for a possible handicapping condition shall receive a full

and comprehensive diagnostic evaluation of his or her educational needs. An evaluation in accordance with this Instruction shall be administered before any action is taken regarding development of the IEP or placement in a special education program.

2. A CSC shall:

a. Assess the nature and extent of the handicapping condition and determine if special education and related services are required.

b. Ensure appropriate involvement of parents.

c. Develop, review, and revise IEPs, and monitor their implementation.

d. Determine whether a handicapped child's conduct that either violates school rules and regulations or disrupts classroom activities results in whole or in part from a handicapping condition.

e. Use all locally available community, medical, and school resources to facilitate the implementation of a child's IEP before the Regional Director with educational responsibility for the child determines that the child's need for special education and related services exceeds local capabilities.

3. Assessment materials, evaluation procedures, and tests shall be:

a. Racially and culturally nondiscriminatory.

b. Administered in the native language or mode of communication of the child, unless it clearly is not feasible to do so.

c. Validated for the specific purpose for which they are used or intended to be used.

d. Administered by qualified personnel, such as a special educator, school psychologist, speech therapist, or a reading improvement specialist, in conformity with the instructions provided by the producers of the testing device.

e. Administered in a manner so that no single procedure is the sole criterion for determining an appropriate educational program for a handicapped child.

f. Selected to assess specific areas of educational need, not merely to provide a single general intelligence quotient.

4. The evaluation shall be conducted by a multidisciplinary team or group of persons, and shall include a teacher or other specialist with knowledge in the area of the suspected disability.

5. The child shall be evaluated in all areas related to the suspected disability. When necessary, the evaluation shall include:

a. The current level of functioning academically, socially, and within the family.

b. Visual and auditory acuity.

c. Observation in an educational environment.

d. Current physical status, including perceptual and motor abilities.

e. Vocational educational assessment.

6. The regional or school CSC shall issue a written report that contains, when necessary:

a. A description of the nature and severity of the child's handicapping condition.

b. A review of the formal and informal diagnostic evaluation findings of the multidisciplinary team.

c. A summary of information from the parents, the child, or other persons having significant previous contact with the child.

d. A description of the child's current academic progress, including a statement of the child's learning style.

7. The appropriate CSC shall meet as soon as practicable after the child's formal evaluation to determine whether he or she is in need of special education and related services. The child's parents shall be afforded the opportunity to participate in such a meeting.

8. A handicapped child shall receive an individual comprehensive diagnostic evaluation every 3 years, or more frequently if conditions warrant. The scope and nature of the reevaluation shall be determined individually, based upon the child's performance, behavior, and needs when the reevaluation is conducted.

C. Individualized Education Program

1. DoDDS shall ensure that an IEP is developed and implemented for each handicapped child enrolled in a DoDDS school or placed in another institution by DoDDS pursuant to this Instruction.

2. Each IEP shall include:

a. A statement of the present levels of educational performance of the child.

b. A statement of annual goals, including short-term instructional objectives.

c. A statement of specific special educational and recreational activities and related services to be provided to the child, and the extent to which the child may be able to participate in regular educational programs.

d. The projected date for the initiation and the anticipated length of such activities and services.

e. Appropriate objective criteria and evaluation procedures and schedules for determining, on an annual basis, whether educational objectives are being achieved.

f. A statement indicating the frequency (number of times per month) and intensity (amount of time each day) of related services.

3. The IEP of each handicapped child shall provide for the opportunity to participate, with adaptations when appropriate, in the regular physical education program available to nonhandicapped children unless:

a. The handicapped child is enrolled full-time in a separate facility; or

b. The handicapped child needs specially designed physical education, as prescribed in the child's IEP.

4. If specially designed physical education services are prescribed in a handicapped child's IEP, DoDDS shall provide such education directly, or shall make arrangements for the services to be provided through non-DoDDS schools or facilities.

5. DoDDS shall ensure that a handicapped child enrolled in a separate facility receives appropriate physical education services in compliance with this Part.

6. The IEP for each handicapped child shall be developed, later reviewed, and, if appropriate, revised at least annually in meetings that include the following participants:

a. The child's regular teacher.

b. A teacher of special education.

c. The principal or a representative of the DoDDS school, other than the child's teacher, who is qualified to provide, or supervise the provision of, special education.

d. One or both of the child's parents.

e. The child, if appropriate.

f. A member of the evaluation team, the child's teacher, or another person knowledgeable about the evaluation procedures used with the child and familiar with the results of the evaluation.

g. Other individuals, at the reasonable discretion of the parents or DoDDS.

7. Each DoDDS school shall:

a. Ensure that an IEP is in effect before a child receives special education and related services. If a child with a current IEP transfers to or from a school within DoDDS, the CSC of the receiving school or region may implement, at its discretion, the current IEP, initiate a meeting to revise the current IEP, or initiate an evaluation of the child.

b. Ensure that an IEP meeting is held following a determination by the school or regional CSC that the child needs special education and related services.

c. Afford the child's parents the opportunity to participate in every IEP meeting concerning their child by:

(1) Providing the parents adequate notice of the time and place of the meeting.

(2) Attempting to schedule the meeting at a mutually agreeable time and place.

8. A meeting may be conducted without a parent in attendance if the school is unable to convince a parent to attend. In this case, the school must have a written record of its attempts to arrange a mutually acceptable time and place.

9. If the parents attend the IEP meeting, the school shall take necessary action to ensure that at least one of the parents understands the proceedings at the meeting, including providing an interpreter for a parent who is deaf or whose native language is other than English.

10. If neither parent can attend the meeting, other methods to promote participation by a parent, such as telephone conversations and letters, shall be used.

11. The school shall give a parent a copy of the child's IEP.

12. Each DoDDS school shall provide special education and related services, in accordance with an IEP, provided that DoDDS, its constituent elements, or its personnel are not accountable if a child does not achieve the growth projected in the IEP.

13. DoDDS shall ensure that an IEP is developed and implemented for each handicapped child whom DoDDS places in a non-DoDDS school or other facility.

D. Placement Procedures and Least Restrictive Environment

1. The placement of a child in any special education program by DoDDS shall be effected only pursuant to an IEP after a determination, under this Instruction, has been made that a child is handicapped and needs special education and related services.

2. The appropriate CSC shall meet as soon as is practicable following the development of a handicapped child's IEP to identify the personnel who will provide the child with special education and related services pursuant to the IEP.

3. A placement decision may not be implemented without the consent of a parent

of the child, except as otherwise provided herein.

4. The placement decision must be designed to educate a handicapped child in the least restrictive environment so that the child is educated to the maximum extent appropriate with children who are not handicapped. Special classes, separate schooling, or other removal of handicapped children from the regular educational environment shall occur only when the nature or severity of the handicap is such that the child cannot be educated satisfactorily in regular classes with the use of supplementary aids and services.

5. Each handicapped child's educational placement shall be:

a. Determined at least annually by the appropriate CSD.

b. Based on the child's IEP.

c. Located as close as possible to the residence of the parent who is sponsoring the child for attendance in a DoDDS school.

d. Designed to assign the child to the school the child would attend if he or she were not handicapped, unless the IEP requires some other arrangement.

e. Predicated on the consideration of all factors affecting the child's well-being, including the effects of separation from parents.

f. To the maximum extent appropriate, designed such that the child participates in school activities, including meals and recess periods, with children who are not handicapped.

E. Handicapped Children in Non-DoDDS Schools

1. Handicapped children eligible to receive instruction in DoDDS who are referred to a non-DoDDS school or facility by DoDDS have all the rights of handicapped children who are enrolled in DoDDS schools.

a. If DoDDS places a handicapped child in a non-DoDDS school or facility as a means of providing special education and related services, the program of that institution, including nonmedical care, room, and board, as set forth in the child's IEP, must be at no cost to the child or the child's parents.

b. DoDDS may place a handicapped child in a non-DoDDS school or facility only if required by an IEP. An IEP for a student placed in a non-DoDDS school is not valid until signed by an authorized DoDDS official. The IEP shall include determinations that:

(1) DoDDS does not currently have an educational program appropriate to meet the needs of the handicapped child.

(2) The non-DoDDS school or facility and its educational program conform to this Part.

2. DoDDS is not responsible for the cost of a non-DoDDS placement, unless it is authorized by the appropriate DoDDS regional office in coordination with DoDDS Headquarters pursuant to a valid IEP or is directed by an impartial hearing officer or court of competent jurisdiction.

3. Non-DoDDS placements by DoDDS shall be:

a. In accordance with host nation requirements.

b. Subject to all treaties, executive agreements, and status of forces agreements between the United States and host nations, and all DoD and DoDDS regulations.

c. As close as possible to the DoDDS school that the handicapped child attends or would otherwise attend.

4. Before DoDDS places a handicapped child in a non-DoDDS school or facility, DoDDS shall conduct a meeting in accordance with this Part to develop an IEP for the child.

F. Procedural Safeguards

1. Parents shall be given written notice before DoDDS proposes to initiate or change, or refuses to initiate or change, either the identification, evaluation, or educational placement of a child receiving or entitled to receive special education and related services from DoDDS, or the provision of a free appropriate public education by DoDDS to the child. The notice shall fully inform a parent of the procedural rights conferred by this Part and shall be given in the parent's native language, unless it clearly is not feasible to do so.

2. The consent of a parent of a child who is handicapped or is suspected of having a handicapping condition shall be obtained before any:

a. Initiation of formal evaluation procedures.

b. Initial educational placement.

c. Change in educational placement.

3. If the parent refuses consent to any formal evaluation or initial placement in a special education program, DoDDS may initiate an impartial due process hearing under this Part to show cause why an evaluation or placement in a special education program should occur without such consent. If the hearing officer sustains the DoDDS position in the impartial due process hearing, the appropriate DoDDS school may evaluate or provide special education and related services to the child without the consent of a parent, subject to the parent's due process rights.

4. A parent is entitled to an independent evaluation of his or her child at DoDDS expense if the parent disagrees with the findings of an evaluation of the child conducted by the school and the parent successfully challenges the evaluation in an impartial due process hearing.

a. If an independent evaluation is provided at the expense of DoDDS, it must meet the following criteria:

(1) Conform to the requirements of this Part.

(2) Be conducted, when possible, within the area where the child resides.

(3) Follow all DoD regulations regarding the host nation.

(4) Meet DoDDS standards governing persons qualified to conduct an educational evaluation.

b. If the final decision rendered in an impartial due process hearing sustains the evaluation of the CSC, the parent has the right to an independent evaluation, but not at DoDDs expense.

5. The parents of a handicapped child shall be afforded an opportunity to inspect and review all educational records concerning not only the identification, evaluation, and educational placement of the child, but also the provision of a free appropriate public education to the child.

6. Upon complaint presented in a written petition, the parent of a handicapped child or DoDDs shall have the opportunity for an impartial due process hearing provided by DoDDS, in accordance with this Part.

7. During the pendency of any impartial due process hearing or judicial proceeding regarding the identification, evaluation, or educational placement of a handicapped child receiving an education from DoDDS or the provision of a free appropriate public education to such a child, unless DoDDS and a parent of the child agree otherwise, the child shall remain in his or her present educational placement, subject to the disciplinary procedures prescribed by this Part.

8. If a handicapped child who is entitled to receive educational instruction from DoDDS is applying for initial admission to a DoDDS school, the child shall enter the DoDDS system on the same basis as a nonhandicapped child. However, a handicapped child, with the consent of a parent and DoDDS, may receive an initial placement in a special education program comparable to the child's program prior to entering DoDDS, until all due process and judicial proceedings have been completed.

9. The General Counsel of the Department of Defense shall coordinate on modifications to Appendix 2 of this Part.

10. The parent of a handicapped child or a DoD employee may file a written complaint with the appropriate DoDDs regional office concerning a possible violation of this Instruction or Pub. L. 94–142.

G. Confidentiality of Records

DoDDS shall maintain all student records under this Part in conformity with 32 CFR 286a.

H. Disciplinary Procedures

1. All regular disciplinary rules and procedures applicable to children receiving educational instruction in DoDDS shall apply to handicapped children who violate school rules and regulations or disrupt regular classroom activities, subject to the provisions of this section.

2. Prior to the suspension or expulsion of a handicapped child, the appropriate CSC or, in the case of a handicapped child in a non-DoDDS school, authorized DoDDS officials shall determine whether the child's conduct is the result of the child's handicapping condition.

3. If the CSC or authorized DoDDS officials determine that the child's conduct results in whole or part from his or her handicapping condition, the child may not be subject to any regular disciplinary rules and procedures, and:

a. The child's parents shall be notified in accordance with this Part of the right to have an IEP meeting before any change in the child's educational placement.

b. The CSC or authorized DoDDS officials shall ensure that a meeting is held to determine the appropriate educational placement for the child in consideration of his or her conduct.

4. A handicapped child shall neither be suspended nor expelled, and his or her educational placement shall not otherwise be

changed for disciplinary reasons, unless in accordance with this section, except that:

a. This section shall be applicable only to children determined to be handicapped under this Part.

b. Nothing contained herein shall preclude the emergency suspension of any handicapped child who endangers or reasonably appears to endanger the health, welfare, or safety of himself or herself, or any other child, teacher, or school personnel, provided that:

(1) The appropriate CSC or authorized DoDDS officials shall immediately meet to determine whether the child's conduct results from his or her handicapping condition and what change in educational placement is appropriate for the child.

(2) The child's parents shall be notified immediately of the child's suspension, and of the time and location of, and their right to attend the meeting.

(3) The suspension of the child is only effective for the duration of the emergency.

Appendix 2.—Hearing Procedures

A. Purpose

This Appendix establishes adjudicative requirements whereby the parents of handicapped children and DoDDS are afforded impartial due process hearings with respect to the identification, evaluation, and educational placement of, and the free appropriate public education provided to, such children by the Department of Defense, in accordance with Pub. L. 94-142 and Pub. L. 95-561.

B. Administration

1. The DoDDS Regional Director with responsibility for the handicapped child whose education is at issue shall be responsible for the hearings conducted under this Part.

2. This Part shall be administered to ensure that the findings, judgments, and determinations made are prompt, fair, and impartial.

3. Impartial hearing officers shall be appointed by the ASD(MRA&L), or designee, and shall be attorneys who are independent of DoDDS and members in good standing of the bar of any state, the District of Columbia, or a territory or possession of the United States.

4. Counsel normally shall appear and represent DoDDS in proceedings conducted under this Part. A parent shall have the right to be represented in such proceedings at no cost to the government by counsel or a personal representative.

C. Mediation

1. Mediation can be initiated by either a parent or DoDDS in order to resolve informally a disagreement with respect to the identification, evaluation, or educational placement of, or the free appropriate public education provided to, a child. Mediation shall consist of but not be limited to an informal discussion of the differences between the parties in an effort to resolve those differences. The parents and the appropriate school officials may attend mediation sessions.

2. Mediation must be conducted, attempted, or refused in writing by a parent of the handicapped child whose education is at issue before a request for, or initiation of, a hearing authorized by this Part. Any request by DoDDS for a hearing under this Part shall state how this requirement has been satisfied. No stigma may be attached to the refusal of a parent to mediate or to an unsuccessful attempt to mediate.

D. Practice and Procedure

1. *Hearing.* a. Should mediation be refused or otherwise fail to resolve the issues concerning the provision of a free appropriate public education to a handicapped child or the identification, evaluation, or educational placement of the child, the child's parent or the school principal having jurisdiction over the child may request and shall receive a hearing before a hearing officer to resolve the matter. The parents of a handicapped child whose education is at issue and DoDDS shall be the only parties to a hearing conducted under this Part.

b. The party seeking the hearing shall submit a written request, in the form of a petition, setting forth the facts, issues, and proposed relief, to the DoDDS Regional Director who has responsibility for the handicapped child. The petitioner shall deliver a copy of the petition to the opposing party (that is, the parent or, on behalf of DoDDS, the school principal), either in person or by first-class mail, postage prepaid. Delivery is complete upon mailing. When DoDDS petitions for a hearing, it shall inform the other parties of the deadline for filing an answer under paragraph D.1.c., below, and shall provide the other parties with a copy of this Part.

c. An opposing party shall submit an answer to the petition to the appropriate Regional Director, with a copy to the petitioner, within 15 calendar days of receipt of the petition. The answer shall be as full and complete as possible, addressing the issues, facts, and proposed relief.

d. Within 10 calender days after receiving the petition, the Regional Director shall obtain the assignment of a hearing officer, who then shall have jurisdiction over the resulting proceeding. The Regional Director promptly shall forward all pleadings to the hearing officer.

e. The questions for adjudication shall be based on the petition and the answer, provided that a party may amend a pleading if the amendment is filed with the hearing officer and is received by the other parties at least 5 calendar days before the hearing.

f. The Regional Director shall arrange for the time and place of the hearing, and shall provide administrative support. Such arrangements shall be reasonably convenient to the parties.

g. The purpose of a hearing is to establish the relevant facts necessary for the hearing officer to reach a fair and impartial determination of the case. Oral and documentary evidence that is relevant and material may be received. The technical rules of evidence shall be relaxed to permit the development of a full evidentiary record, with the Federal Rules of Evidence, Title 28, U.S.C., serving as a guide.

h. The hearing officer shall be the presiding officer, with judicial powers to manage the proceeding and conduct the hearing. Those powers shall include the authority to order an independent evaluation of the child at the expense of DoDDS and to call and question witnesses.

i. Those normally authorized to attend a hearing shall be the parents of the child, the counsel and personal representative of the parents, the counsel and professional employees of DoDDS, the hearing officer, and an individual qualified to transcribe or record the proceedings. The hearing officer may permit other persons to attend the hearing, consistent with the privacy interests of the parents and the child, provided the parents have the right to an open hearing upon waiving in writing their privacy rights and those of the child.

j. A verbatim transcription of the hearing shall be made in written or electronic form and shall become a permanent part of the record. A copy of the written transcript or electronic recording shall be made available to a parent upon request and without cost. The hearing officer may allow corrections to the written transcript or electronic recording for the purpose of conforming it to actual testimony after adequate notice of such changes is given to all parties.

k. The hearing officer's decision of the case shall be based on the record, which shall include the petition; the answer; the written transcript or the electronic recording of the hearing; exhibits admitted into evidence; pleadings or correspondence properly filed and served on all parties; and such other matter as the hearing officer may include in the record, provided that such matter is made available to all parties before the record is closed under paragraph D.1.m., below.

l. The hearing officer shall make a full and complete record of a case presented for adjudication.

m. The hearing officer shall decide when the record in a case is closed.

n. The hearing officer shall issue findings of fact and render a decision in a case not later than 50 calendar days after being assigned to the case, unless a discovery request under subsection D.2., below, is pending.

2. *Discovery.* a. Full and complete discovery shall be available to parties to the proceeding, with the Federal Rules of Civil Procedure, Title 28, U.S.C., serving as a guide.

b. If voluntary discovery cannot be accomplished, a party seeking discovery may file a motion to accomplish discovery, provided such motion is founded on the relevance and materiality of the proposed discovery to the issues. An order granting discovery shall be enforceable as is an order compelling testimony or the production of evidence.

c. A copy of the written or electronic transcription of a deposition taken by DoDDS shall be made available free of charge to a parent.

3. *Witnesses; Production of Evidence.* a. All witnesses testifying at the hearing shall be advised that it is a criminal offense knowingly and willfully to make a false statement or representation to a department or agency of the United States Government as to any matter within the jurisdiction of that department or agency. All witnesses

shall be subject to cross-examination by the parties.

b. A party calling a witness shall bear the witness' travel and incidental expenses associated with testifying at the hearing. DoDDS shall pay such expenses when a witness is called by the hearing officer.

c. The hearing officer may issue an order compelling the attendance of witnesses or the production of evidence upon his own motion or, if good cause be shown, upon motion of a party.

d. When the hearing officer determines that a person has failed to obey an order to testify or to produce evidence, and such failure is in knowing and willful disregard of the order, the hearing officer shall so certify.

e. The party or the hearing officer seeking to compel testimony or the production of evidence may, upon the certification provided for in paragraph D.3.d., above, file an appropriate action in a court of competent jurisdiction to compel compliance with the hearing officer's order.

4. *Hearing Officer's Findings of Fact and Decision.* a. The hearing officer shall make written findings of fact and shall issue a decision setting forth the questions presented, the resolution of those questions, and the rationale for the resolution. The hearing officer shall file the findings of fact and decision with the appropriate Regional Director, with a copy to the parents, the school principal, and the Director of DoDDS.

b. The Regional Director shall forward a copy of the hearing officer's findings of fact and decision, with all personally indentifiable information deleted, to the National Advisory Panel.

c. The hearing officer shall have the authority to impose financial responsibility for educational placements, evaluation, and related services under his or her findings of fact and decision.

d. The findings of fact and decision of the hearing officer shall become final unless a notice of appeal is filed under subsection F.1., below. DoDDS shall implement a decision as soon as practicable after it becomes final.

E. Determination Without Hearing

1. At the request of a parent of the handicapped child whose education is at issue, the requirement for a hearing may be waived, and the case may be submitted to the hearing officer on written documents filed by the parties. The hearing officer shall make findings of fact and issue a decision within the period fixed by paragraph D.1.n., above.

2. DoDDS may oppose a request to waive the hearing. In that event, the hearing officer shall rule on the request.

3. Documents submitted to the hearing officer in a case determined without a hearing shall comply with paragraph D.1.g., above. A party submitting such documents shall provide copies to all other parties.

F. Appeal

1. A party may appeal the hearing officer's findings of fact and decision by filing a written notice of appeal with the ASD (MRA&L), or designee, within 5 calendar days of receipt of the findings of fact and decision. The notice of appeal must contain the appellant's certification that a copy of the notice of appeal has been provided to all other parties. Filing is complete upon mailing.

2. Within 10 calendar days of filing the notice of appeal, the appellant shall submit a written statement of issues and arguments to the ASD(MRA&L), or designee, with a copy to the other parties. The other parties shall submit a reply or replies to the ASD(MRA&L), or designee, within 15 calendar days of receiving the statement, and shall deliver a copy of each reply to the appellant. Submission is complete upon mailing.

3. The ASD(MRA&L), or designee, shall determine the matter on appeal, including the making of interlocutory rulings, within 20 calendar days of receiving timely submitted replies under subsection F.2., above. The ASD(MRA&L), or designee, may request oral argument at a time and place reasonably convenient to the parties.

4. The determination of the ASD(MRA&L), or designee, shall be a final administrative decision and shall be in written form. It shall address the issues presented and set forth a rationale for the decision reached. A determination denying the appeal of a parent in whole or in part shall state that the parent has the right under P.L. 94-142 to bring a civil action with respect to the matters in dispute in any state court of competent jurisdiction or in a district court of the United States without regard to the amount in controversy.

5. No provision of this Instruction or other DoD guidance may be construed as conferring a further right of administrative review. A party must exhaust all administrative remedies afforded by this Instruction before seeking judicial review of a determination made under this Instruction.

G. Publication and Indexing of Final Decisions

Final decisions in cases arising under this Part shall be published and indexed in accordance with 32 CFR 286 to protect the privacy rights of the parents and children who are parties in those cases.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

December 18, 1981.

[FR Doc. 81-36610 Filed 12-22-81; 8:45 am]

BILLING CODE 3810-01-M

Department of the Navy

32 CFR Part 701

[SECNAVINST 5211.5B]

Availability Records and Publication of Documents Affecting the Public

AGENCY: Department of the Navy, DoD.

ACTION: Final rule; correction.

SUMMARY: This document corrects a section heading contained in a rulemaking document relating to availability of records and publication of documents affecting the public in the December 10, 1981 final rule changing this Part of the CFR.

FOR FURTHER INFORMATION CONTACT: Mrs. Gwendolyn R. Aitken, Privacy Act Coordinator, Office of the Chief of Naval Operations (OP-09B1P) Department of the Navy, the Pentagon, Washington, D.C. 20350. Telephone 202/694-2004.

SUPPLEMENTARY INFORMATION:

PART 701—AVAILABILITY OF DEPARTMENT OF THE NAVY RECORDS AND PUBLICATION OF THE DEPARTMENT OF THE NAVY DOCUMENTS AFFECTING THE PUBLIC

Subpart F—Personal Privacy and Rights of Individuals Regarding Their Personal Records

The section heading for the changes to 32 CFR 701.104 as they appeared in the December 10, 1981 **Federal Register** (46 FR 60445) should have read as follows:

§ 701.104 Policy, responsibilities and authority.

* * * * *

December 18, 1981.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 81-36557 Filed 12-22-81; 8:45 am]

BILLING CODE 3810-AE-M

COPYRIGHT ROYALTY TRIBUNAL

37 CFR Part 307

[Requisition No: 100-82-42]

Adjustment of Royalty Payable Under Compulsory License for Making and Distributing Phonorecords

AGENCY: Copyright Royalty Tribunal.

ACTION: Final rule.

SUMMARY: This rule provides for three automatic stepped increases in the mechanical royalty rate based on data in the record of the 1980 mechanical royalty proceeding concerning recent trends in record prices, and deletes the existing regulations of the Tribunal providing for interim adjustments of the mechanical royalty.

EFFECTIVE DATE: January 31, 1982.

FOR FURTHER INFORMATION CONTACT: Frances Garcia, Chairman, Copyright Royalty Tribunal, 202-653-5175.

SUPPLEMENTARY INFORMATION: The Copyright Royalty Tribunal (Tribunal) published in the **Federal Register** of November 9, 1981 (46 FR 55276-7) a proposed rule to amend the regulations of the Tribunal providing for interim adjustments of the mechanical royalty. Information covering the background and purpose of the proposed rule is

contained in the November 9, 1981 notice.

The Tribunal received comments on the proposed rule from the Amusement and Music Operators Association (AMOA) and Shetland Sound.

AMOA restated its legal position that the Tribunal "is not authorized to prescribe interim rate adjustments, whether they are limited to automatic adjustments or not." The Tribunal concurs in the view of the United States Court of Appeals for the District of Columbia Circuit as found in *Recording Industry Association of America* v. *Copyright Royalty Tribunal* (No. 80-2545) that "we see nothing in the statute precluding the Tribunal from adopting a reasonable mechanism for automatic rate changes in interim years."

Shetland Sound maintained that the rate of the incremental increases provided in the rule are "distinctly inadequate and continues to reflect the injustices of the past 67 years." The Tribunal concludes that the rates provided in the rule are reasonable and promote the statutory objectives.

The Tribunal adopts as its findings in this proceeding the Statement in Support of Proposed Regulations contained in the November 9, 1981 publication.

The Tribunal at a public meeting on December 15, 1981 adopted the rule as published on November 9, 1981.

PART 307—ADJUSTMENT OF ROYALTY PAYABLE UNDER COMPULSORY LICENSE FOR MAKING AND DISTRIBUTING PHONORECORDS

Pursuant to 17 U.S.C. 801(b)(1) and 804, 37 CFR Part 307 is amended as follows:

§ 307.2 [Amended]

§ 307.4 [Removed]

By removing the words "§§ 307.3 and 307.4" from §307.2, and by adding in their place the words "§ 307.3"; by removing § 307.4; and by revising § 307.3 to read as follows:

§ 307.3 Adjustment of royalty rate

(a) For every phonorecord made and distributed on or after January 1, 1983, the royalty payable with respect to each work embodied in the phonorecord shall be either 4.25 cents, or .8 cent per minute of playing time or fraction thereof, whichever amount is larger, subject to further adjustment pursuant to paragraphs (b) and (c) of this section.

(b) For every phonorecord made and distributed on or after July 1, 1984, the royalty payable with respect to each work embodied in the phonorecord shall be either 4.5 cents, or .85 cent per minute of playing time or fraction thereof, whichever amount is larger, subject to further adjustment pursuant to paragraph (c) of this section.

(c) For every phonorecord made and distributed on or after January 1, 1986, the royalty payable with respect to each work embodied in the phonorecord shall be either 5 cents, or .95 cent per minute of playing time or fraction thereof, whichever amount is larger.

Frances Garcia,

Chairman.

December 17, 1981.

[FR Doc. 81-36539 Filed 12-22-81; 8:45 am]

BILLING CODE 1410-01-M

POSTAL SERVICE

39 CFR Part 111

E-COM Service

AGENCY: Postal Service.

ACTION: Interim rule with request for comments.

SUMMARY: E-COM (Electronic Computer Originated Mail) service is a new method of entering First-Class Mail that will begin on January 4, 1982. In E-COM service, mailers will be able to submit mail in electronic form to designated serving post offices and receive delivery of their mail within two business days. Interim implementing regulations have been developed and are set forth below for comment and suggested revision prior to adoption in final form.

DATE: The interim regulations will take effect on January 4, 1982. Comments must be received on or before January 31, 1982.

ADDRESS: Written comments should be directed to the Director, Office of Mail Classification, Rates and Classification Department, U.S. Postal Service, Washington, D.C. 20260. Copies of all written comments will be available for public inspection and copying between 9 a.m. and 4 p.m., Monday through Friday, in Room 8430, U.S. Postal Service Headquarters, 475 L'Enfant Plaza West, Washington, DC 20260-5360.

FOR FURTHER INFORMATION CONTACT: Don Mumma, Office of Mail Classification, (202) 245-4353.

SUPPLEMENTARY INFORMATION: On September 8, 1978, the Postal Service requested from the Postal Rate Commission a recommended decision on changing the Domestic Mail Classification Schedule to establish E-COM service. On April 8, 1980, following extensive hearings on the record and the rejection by the Governors of the Postal Service of a previous recommended decision, the Postal Rate Commission issued its recommended decision upon reconsideration, recommending that the Domestic Mail Classification Schedule be changed to establish E-COM service. On August 15, 1980, the Governors of the Postal Service issued a decision allowing the recommended decision upon reconsideration to take effect under protest. By resolution adopted on August 15, 1980, the Board of Governors of the Postal Service ordered the changes in the Domestic Mail Classification Schedule to become effective on January 4, 1982. The Postal Service hereby publishes interim regulations to implement the decision of the Governors pending receipt of public comments and issuance of final rules.

On June 19, 1981, the Postal Service published for comment in the **Federal Register** (46 FR 32111-32114) a description of E-COM service, a description of E-COM facilities, and proposed arrangements for telecommunications connection with E-COM serving post offices (SPOs). On October 15, 1981, after receiving and acting upon the comments received in response to the June 19, 1981, notice, the Postal Service published in the **Federal Register** (46 FR 50875-50882) a final description of E-COM service and final arrangements for telecommunications connection. The October 15, 1981, notice also invited interested carriers to meet with the Postal Service to discuss the details of connection. These interim regulations are published now to inform the public about E-COM service and to establish the procedures necessary for the Postal Service to administer the service when it starts on a permanent basis on January 4, 1982. The regulations were not published earlier because technical information about the E-COM system, which is still being deployed, was not available and because telecommunications connection arrangements with carriers based on the earlier notices had not been completed. The substance of the interim rule largely reflects the previously established mail classification and the details announced in the June and October notices.

These proposed regulations reflect the telecommunications connection arrangements previously published. They also provide additional information on the rates and classification structure for E-COM service and detailed operating procedures and rules for: (a) telecommunications common carriers to apply for dedicated access, (b) mailers to apply for an E-COM permit, (c) mailers and carriers to receive certification that their telecommunications connection

arrangements and/or data submission procedures are compatible with the E-COM technical interconnection standards, and (d) payment of postage by carriers or mailers. These interim regulations will be set forth in Chapter 5 of the Domestic Mail Manual.

In addition, section 325 has been added to Chapter 3 of the Domestic Mail Manual to identify E-COM as a subclass of First-Class Mail.

Following is a summary of the interim regulations.

E-COM service is a subclass of First-Class Mail. It consists of mail entered into the postal system at designated serving post offices (SPOs) by electronic means. These messages must be entered via communications common carriers whose facilities are connected to the SPOs. (The telecommunications common carriers' connection arrangements were previously detailed in the October 15, 1981 **Federal Register** notice and are reflected in section 560, "Preparation Requirements.") Mailers must enter at least 200 separately addressed messages for each transmission to a SPO, which is defined as the continuous input of electronic messages.

E-COM postage charges are based on the number of transmitted messages received, processed, and printed at a SPO. For one-page messages, the charge is $0.26 per message; for two-page messages, the charge is $0.31 per message. The minimum charge for each transmission is the rate per message for 200 messages less the charges for rejected messages.

There are two types of E-COM users. The first type has a direct relationship with the Postal Service under which the mailer must establish an advance deposit account with the Postal Service, receive certification that its interface equipment and procedures conform with the E-COM technical interconnection standards, pay a $50 annual fee, and prepay postage for transmitted messages received, processed and printed for each transmission. Each direct-relationship mailer must complete and submit a Form 5320, *E-COM Permit and Certification Application* to the local postmaster or E-COM sales and service representative. Once Form 5320 is processed by the Postal Service, an advance deposit account is automatically established at the management operations center (MOC). The mailer will be assigned a test E-COM access code and notified when its E-COM equipment and procedures will be tested. Once the mailer's equipment and procedures are certified, the mailer will be assigned a permanent E-COM access code. The E-COM annual permit fee will be automatically deducted from the mailer's advance deposit account as the first financial transaction after certification. Although E-COM mailers will have only one advance deposit account established at the MOC, postage deposits may be made to any of the SPOs or to other E-COM financial accounting post offices designated by the Director, Office of E-COM Operations. Mailers are responsible for ensuring that sufficient funds are on deposit in their advance deposit account at the MOC before transmitting messages to a SPO.

The second type of E-COM user has an indirect relationship with the Postal Service. These mailers deal only with authorized carriers acting as the mailers' agents for E-COM service. The carriers deal in a direct relationship with the Postal Service on behalf of their clients. A mailer who has an indirect relationship with the Postal Service does not have to establish an advance deposit account at the MOC and does not have to pay the annual permit fee. Each carrier serving as a mailer's agent for E-COM service, however, must establish an advance deposit account, be certified, and pay one annual permit fee which covers all of its clients. These carriers must complete a Form 5320.

The Postal Service expects that two separate administrative control forms will be used to certify that carriers wanting dedicated access to E-COM facilities meet the telecommunications connection arrangements as defined in the October 15, 1981 **Federal Register** notice. These are Form 5321, *E-COM Application for Dedicated Access Facilities* and Form 5322, *Standard Agreement for Dedicated Access to E-COM Serving Post Offices.*

These interim regulations include one provision concerning the arrangements for carriers' telecommunications connection to SPOs, which was not included in the October 15, 1981 **Federal Register** notice. This provision, which is included in section 525.3, Domestic Mail Manual, states that the Postal Service may require that each carrier having facilities and authority to render nationwide service connect its facilities to each SPO.

The interim regulations also provide that mailers may transmit messages 24 hours a day, seven days a week after February 1, 1982. After 8:00 a.m., January 4, 1982 and until February 1, 1982, mailers may transmit messages beginning at 8:00 a.m. each Monday 24 hours a day through Friday of each week. Messages which are received and successfully processed before 11:59 p.m. will be entered into the First-Class mailstream and will be subject to the following service objectives: Messages for 5-digit ZIP Code delivery areas near the SPOs will generally receive next business day service. Messages for other ZIP Code areas within the SPO service area will generally receive second business day service. Messages for ZIP Code areas not served by the SPO are subject to the service objectives for regular First-Class Mail entered at that post office. Undeliverable-as-addressed E-COM messages will receive the same forwarding and return service accorded to all First-Class Mail. No other ancillary services are available for E-COM messages.

PART 111—GENERAL INFORMATION ON POSTAL SERVICE

Although exempt from the requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rule making by 39 U.S.C. 410(a), the Postal Service invites comment on the following interim addition to the Domestic Mail Manual which is incorporated by reference in the **Federal Register.** See 39 CFR 111.1.

CHAPTER 3—FIRST-CLASS MAIL

320 *CLASSIFICATION*

Part 325—*E-COM Service*

1. Add new section 325 to read as follows:

325 *E-COM Service*

E-COM (Electronic Computer Originated Mail) is First-Class Mail entered into the postal system at designated serving post offices (SPOs) by electronic means via communications common carriers whose facilities are connected to the SPOs. Mailers must enter at least 200 separately addressed messages. The messages are checked for errors while in electronic form, printed, inserted and sealed in specially marked envelopes provided by the Postal Service, and entered into the First-Class mailstream. E-COM messages may be one or two pages in length and may be in any of the three following formats:

a. "Single Address Messages" (SAMs) are messages in which a unique text accompanies each address.

b. "Common Text Messages" (COTs) are messages in which a common text is accompanied by a list of addresses.

c. "Text Insertion Messages" (TIMs) are messages in which a common text is accompanied by both a list of addresses and unique text to be inserted in each printed message.

Each E-COM message will identify, in a form intelligible to the recipient, the communications common carrier over whose facilities the message was entered into the SPO. For reasons of

convenience, postage rates and fees and regulations governing the transmission of messages to SPOs are set forth in Chapter 5.

2. Add new Chapter 5 to read as follows:

CHAPTER 5—E-COM SERVICE

510 *RATES & FEES*

511 *RATES*

511.1 *General.* E-COM postage charges are based on the number of transmitted messages received, processed and printed at serving post offices (SPOs) and the number of pages in each message.

511.2 *Rate Per Message.* The postage rate per message received, processed, and printed is:

For 1 page messages—26 cents

For 2 page messages—31 cents

511.3 *Minimun Rate for Each Transmission.* The minimum postage charge for each transmission is the rate per message for 200 messages—$52.00 plus $0.05 for each two-page message included, less the charge for rejected messages.

512 *Fees.* The annual E-COM permit fee is $50.

520 *CLASSIFICATION*

521 *General*

E-COM (Electronic Computer Originated Mail) service is a subclass of First-Class Mail (see 325). It consists of mail entered into the postal system at designated serving post offices (SPOs) by electronic means via communications common carriers (hereinafter "carriers," see 525.1) whose facilities are connected to the SPOs. The messages are checked for errors while in electronic form, printed, inserted and sealed in specially marked envelopes provided by the Postal Service, and entered into the First-Class mailstream. E-COM messages may be one or two pages in length and may be in any of the three following formats:

a. "Single Address Messages" (SAMs) are messages in which a unique text accompanies each address.

b. "Common Text Messages" (COTs) are messages in which a common text is accompanied by a list of addresses.

c. "Text Insertion Messages" (TIMs) are messages in which a common text is accompanied by both a list of addresses and unique text to be inserted in each printed message. Each E-COM message must identify, in a form intelligible to the recipient, the communications common carrier over whose facilities the message was entered into the SPO.

522 *Eligibility*

522.1 *Electronic Transmission.* E-COM messages may only be entered by electronic means using a carrier. An E-COM transmission is the continuous input of electronic information (as defined in 563.3) to a single SPO. The currently available SPOs are listed in Exhibit 570.

522.2 *Minimum Volume.* Mailers must enter at least 200 separately addressed messages for each transmission. Exception: If fewer than 200 messages are entered, or if fewer than 200 messages are acceptable for processing, the Postal Service will process the messages, but the mailer will be assessed charges at the minimum rate for each transmission as defined in 511.3.

523 *Types of E-COM Mailers*

523.1 *General.* Mailers who use E-COM service enter messages through either a direct or indirect relationship with the Postal Service, depending on the role of the carrier used by the mailer.

523.2 *Direct Relationship.* In the direct relationship, mailers must establish an advance deposit account with the Postal Service, pay the annual fee described in 512, and prepay the Postal Service for the E-COM messages delivered by the Postal Service. Mailers may use the telecommunications transmission services of any carrier which offers such service to transmit messages to one or more SPOs. The mailer will deal directly with the carrier for these transmission services and pay the carrier for them. The carrier may also perform services such as protocol conversion for the mailer.

523.3 *Indirect Relationship.* In the indirect relationship, mailers deal only with a carrier, which acts as the mailers' agent for E-COM service in dealing with the Postal Service. The mailer may not have an account with the Postal Service and may not separately pay the Postal Service for E-COM messages delivered. The carrier transmits the mailer's messages to SPOs and may also provide services such as protocol or format conversion for the mailer. These carriers may also accept messages from many small mailers and aggregate them to meet the 200 message minimum. Each carrier acting for indirect-relationship mailers must establish an advance deposit account with the Postal Service, pay the annual fee described in 512, and prepay the Postal Service for the E-COM messages delivered by the Postal Service.

524 *Mailer Access to E-COM Facilities*

524.1 *Dial-up Access Facilities.* Dial-up access facilities are available to mailers through the public switched telephone network using whichever carrier or combination of carriers the customer chooses. The Postal Service makes available all of the telecommunications equipment and services required at each SPO to permit dial-up access. Mailers who establish E-COM accounts will be provided with the telephone numbers and transmission characteristics for each dial-up telecommunications port at each SPO.

524.2 *Dedicated Access Facilities.* Mailers may gain access to E-COM SPOs through carriers which have been granted dedicated access by the Postal Service. Only carriers can obtain dedicated access to E-COM facilities from the Postal Service. E-COM mailers must arrange for the use of dedicated facilities through an authorized dedicated carrier.

524.3 *Mailer Certification.* Mailers who intend to gain access to facilities at one or more SPOs under 523.2 must obtain certification from the Postal Service that their transmission arrangements, data submission and formats, and transmission protocols conform with E-COM technical interconnection standards. Certification procedures are set forth in 542.2.

525 *Communications Common Carriers*

525.1 *General.* A communications common carrier, with respect to E-COM service, is any entity which is in the business of transmitting electronic messages to SPOs for others, without regard to whether it also offers computer services or whether it is regulated by the Federal Communications Commission.

525.2 *Carrier Access to E-COM Facilities*

525.21 *Dial-up Access.* Dial-up access facilities are available through the public switched telephone network. The Postal Service provides all of the telecommunications equipment and services required at each SPO, including protocol boards, hardware, software, modems and network connections.

525.22 *Dedicated Access.* Dedicated access facilities are only available to authorized dedicated carriers who enter into a specific agreement with the Postal Service setting forth the terms and conditions of dedicated access. Form 5322, *Standard Agreement for Dedicated Access to E-COM Serving Post Offices* is this agreement. The Postal Service will provide and maintain the required interface circuit boards and lease this equipment to the dedicated carriers for a minimum of one year, after which the lease arrangement can be discontinued with 30 days written notice. A monthly charge will be assessed for this interface equipment based on relevant costs. Dedicated carriers must provide their own telecommunications circuits and connection equipment including modems and data service units. This

equipment must meet compatibility and performance requirements outlined in 560. Dedicated carriers authorized and certified by the Postal Service to use dedicated access facilities have exclusive access at all times to a port at those SPOs where they are authorized access. Their authorization allows them control over resale or shared use of their dedicated access facilities.

525.3 *Authorization and Certification of Carriers.* Carriers requesting dedicated access to SPO facilities must obtain Postal Service authorization and certification. The Postal Service provides certification if all electronic communications equipment required and supplied by dedicated carriers conforms to the technical interconnection standards defined in 560. The Postal Service may require that each carrier employ only one access port at each SPO to which the carrier is connected. Also, the Postal Service may require that each carrier having facilities and authority to render nationwide service connect its facilities to each SPO (see 542.1).

530 *Service Objectives*

Messages for 5-digit ZIP Code delivery areas near the SPOs generally receive next business day service. All other ZIP Code areas within the SPO service area in Exhibit 570 generally receive second business day service. Messages for ZIP Code areas not served by the SPO are subject to the service objectives for First-Class Mail set forth in 330.

540 *Authorizations (Certifications) and Permits*

541 *Permits.* The E–COM permit fee in 512 must be paid once each calendar year by any mailer or carrier which has a direct E–COM relationship with the Postal Service. Carriers authorized dedicated access may act as a mailing agent for their clients. In such cases, the carrier pays one E–COM fee which is applicable to all of its clients (see 523.3).

542 *Authorizations (Certifications)*

542.1 *Authorization and Certification of Carriers.* Any carrier desiring dedicated access at one or more SPOs must receive certification from the Postal Service that its telecommunications equipment and procedures conform with the E–COM technical interconnection standards in 560. Carriers must complete and return Form 5321, *E–COM Application For Dedicated Access Facilities,* to the Director, Office of E–COM Operations, USPS Headquarters, 475 L'Enfant Plaza, Washington, DC 20260–7140. Before dedicated access is granted, the carrier must sign Form 5322, *Standard Agreement For Dedicated Access to E–COM Serving Post Offices.* Carriers which also serve as the mailers' agent for E–COM service (i.e., agent for mailers with indirect relationships with the Postal Service as defined in 523.3) must complete and submit a Form 5320, *E–COM Permit and Certification Application.*

542.2 *Certification of E–COM Mailers.* Any mailer wishing to maintain a direct relationship with the Postal Service (as defined in 523.2) must: open an E–COM account; be certified by the Postal Service that its transmission arrangements, data submission and formats, and transmission protocols conform with the E–COM technical interconnection standards in 560; and pay the fee in 512. These mailers must complete and return Form 5320 to their local postmaster or E–COM sales and service representative. The mailer first will be assigned a test E–COM access code. After the mailer is certified, a permanent operating access code will be assigned and the E–COM permit fee (512) will be automatically deducted from the mailer's advance deposit account. (NOTE: Mailers who gain access to E–COM facilities through a carrier in an indirect relationship (see 523.3) are not required to submit a Form 5320, establish an advance deposit account, or pay the annual E–COM permit fee. In these cases, the carrier serving as the mailers' agent for E–COM service must submit a Form 5320 and pay the annual fee.)

550 *PHYSICAL LIMITATIONS*

E–COM service is limited to E–COM messages which are one or two pages in length and are in any of the three following formats:

a. "Single Address Messages" (SAMs) are messages in which a unique text accompanies each address.

b. "Common Text Messages" (COTs) are messages in which a common text is accompanied by a list of addresses.

c. "Text Insertion Messages" (TIMs) are messages in which a common text is accompanied by both a list of addresses and unique text to be inserted in each printed message.

Note.—The messages are printed on 8½ inch x 11 inch paper and enveloped and sealed in special envelopes provided by the Postal Service.

560 *PREPARATION REQUIREMENTS*

561 *General*

E–COM messages may be entered into the postal system only at a designated SPO through an authorized carrier.

562 *Telecommunications Connection Arrangements*

562.1 *Dial-up Facilities*

.11 *Equipment.* The Postal Service makes available all of the telecommunications equipment and services needed at each SPO to permit dial-up access via the public switched telephone network, including communications interface protocol hardware and software, modems, and network connections. Mailers with E–COM accounts are provided the telephone numbers and transmission characteristics for each dial-up telecommunications port at each SPO.

.12 *Transmission Protocols.* The following transmission protocols are available for dial-up access at each SPO:

a. *Binary synchronous,* compatible with the IBM 2780 and 3780 protocols using EBCDIC character code sets, operating in half-duplex mode at 2400 bits per second with Bell System 201C compatible modems, and at 4800 bits per second with Bell System 208B compatible modems; and

b. *Asynchronous,* using the Texas Instruments 700 series convention for data block transmission and the 96 character ASCII subset as defined by ANSI Standard X3.4–1977, operating at 300 or 1200 bits per second full-duplex with Bell System 212A compatible modems.

562.2 *Dedicated Facilities*

562.21 *Equipment.* Carriers authorized dedicated access after entering into an agreement with the Postal Service (see 525.2) must provide and maintain their own private telecommunications circuits and related equipment including modems or data service units for each SPO. The Postal Service provides and maintains the telecommunications interface circuit boards by lease to the dedicated carriers for a minimum lease period of one year, after which the lease arrangement can be discontinued by giving 30 days' written notice. A monthly charge is assessed for this interface equipment based on relevant costs. The terms of the leasing arrangement are defined in Form 5322, *Standard Agreement for Dedicated Access to E–COM Serving Post Offices.* Exception: Users may request authorization from the Director, Office of E–COM Operations, USPS Headquarters, 475 L'Enfant Plaza, Washington, DC 20260–7140 to use their own telecommunications circuit boards, provided they meet Postal Service compatibility and performance requirements.

.22 *Maintenance.* The Postal Service conducts routine performance and fault isolation checks on all equipment provided by the dedicated carrier which is located at the SPOs. The carrier is responsible for making repairs to or replacing malfunctioning equipment and

ensuring that the equipment meets the necessary compatibility and performance requirements.

.23 *Transmission Protocols.* The following transmission protocols are available for dedicated access at each SPO. (The Postal Service considers requests for additional arrangements. Written requests should be directed to the Director, Office of E-COM Operations, USPS Headquarters, 475 L'Enfant Plaza, Washington, DC 20260-7140.) These arrangements are:

a. *Binary synchronous,* compatible with the IBM 2780 and 3780 protocols using EBCDIC character code sets, operating in half-duplex mode at 2400 bits per second with Bell System 201C compatible modems; at 4800 bits per second with Bell System 208B compatible modems; and at 9600 bits per second and full duplex with Bell System 209A compatible modems;

b. *Asynchronous,* using the Texas Instruments 700 series convention for data block transmission and the 96 character ASCII subset as defined by ANSI Standard X3.4-1977, operating at 300 or 1200 bits per second full-duplex with Bell system 212A compatible modems;

c. *Pocket switched X.25,* with LAP data link protocol, binary synchronous framing, ASCII character sets, and full duplex operations at 2400, 4800, or 9600 bits per second; and

d. *DEC (Digital Equipment Corporation)* DDCMP serial synchronous byte-driented line protocol, using the ASCII character set, with full-duplex operation at 2400, 4800, 9,600 and 56,000 bits per second.

563 *Data Submission Requirements*

563.1 *General.* Each transmission must be transmitted entirely in The American Standard Code For Information Interchange (ASCII), or entirely in The Extended Binary-Code-Decimal Interchange Code (EBCDIC).

563.2 *User Data Formats*

.21 *General.* E-COM messages are submitted in group submissions consisting of three separate blocks, which must be submitted in the following order: a. E-COM GROUP LABEL; b. MESSAGE BLOCKS; and c. E-COM END BLOCK.

.22 *E-COM Group Label.* The E-COM Group Label provides and identifies the type of character code, customer identification number (ID), transmission group ID, postage estimate, common carrier ID, and return address.

.23 *Message Blocks.* The Message Blocks provide the data necessary to print the complete letters.

.24 *E-COM End Block.* The E-COM End Block consists of four bytes of data ($END) to establish the end point of the submission.

.25 *E-COM Users Technical Guide.* Handbook DM-501, E-COM Users Technical Guide, provides a detailed byte level description of these formats. DM-501 is available to interested potential users through E-COM sales and service representatives or by writing to: Director, E-COM Operations, 475 L'Enfant Plaza, Washington, DC 20260-7140.

563.3 *Continuous Transmission Required*

To insure the most efficient use of communication facilities, mailers must transmit data continuously while they are connected to access facilities. Mailers may be automatically disconnected from access facilities if, while connected, they do not transmit data for a period of 30 seconds.

564 *Multiple Mailer Submissions*

Messages from several mailers can be merged into a single transmission by a carrier provided that the combined group:

a. Has a single group header,

b. Uses a single character code,

c. Is billed to a single user,

d. Has a single End of Group Block, and

e. Has message identification numbers for the merged transmission arranged in increasing order without duplication.

565 *USPS E-COM Termination Equipment*

E-COM line termination equipment consists of one or more protocol device units (PDU) unique to each supported protocol. Compatibility requirements and a complete description of user's E-COM termination equipment is set forth in DM-501 Handbook.

566 *Mailer Certification*

Prior to initial entry to the E-COM system, all direct-relationship E-COM mailers must receive certification from the Postal Service that the customer interface equipment and procedures conform with the technical interconnection standards in this section. E-COM mailers' transmissions are certified by the USPS Test and Development facility. E-COM mailers are assigned a test E-COM access code and scheduled for testing upon completing and submitting Form 5320, E-COM Permit and Certification Application, to their postmaster or E-COM sales and service representative.

570 *MAILING*

Mailers may transmit messages 24 hours a day, seven days a week, to each SPO listed in Exhibit 570. Exception: During the period January 4, 1982 through January 31, 1982, mailers may only transmit messages beginning at 8:00 p.m. each Monday for 24 hours a day through Friday of each week. Acceptable transmissions received at a SPO prior to 11:59 p.m. are processed and delivered according to the E-COM service objectives in 530.

EXHIBIT 570

SPO Location	Service area (States and ZIP Codes)
Northeast Region (2)	
1. Boston, MA	Massachusetts (010-027), Rhode Island (028-029), New Hampshire (030-039), Maine (040-049), Vermont (050-059), Connecticut (060-067).
2. New York, NY	Puerto Rico and Virgin Islands (068-069), Connecticut (068-069), New Jersey (070-079, 088-089), New York (004-005, 090-098, 100-1129).
Eastern Region (4)	
3. Philadelphia, PA	New Jersey (080-087), Pennsylvania (169-196), Delaware (197-199).
4. Washington, DC	Washington, DC (200, 202-205), Maryland (206-212, 214-219), Virginia (220-223, 226-227), West Virginia (254-267).
5. Pittsburgh, PA	New York (130-149), Ohio (439), Pennsylvania (150-168), West Virginia (250-253, 255-266, 268).
6. Richmond, VA	Virginia (224-225, 228-245), West Virginia (246-249).
Southern Region (7)	
7. Charlotte, NC	North Carolina (270-289), South Carolina (290-297).
8. Atlanta, GA	South Carolina (298-299), Georgia (300-306), (308-319), Alabama (350-352, 354-355, 359-364, 367-368).
9. Nashville, TN	Georgia (307), Alabama (356-358), Tennessee (370-386), Mississippi (388), Kentucky (420-422), Arkansas (723).
10. Orlando, FL	Florida (320, 322-331, 333-340).
11. Dallas, TX	Arkansas (716-722, 724-729), Oklahoma (730-731, 734-738, 740-741, 743-749), Texas (750-767, 790-794).
12. San Antonio, TX	Texas (733, 768-789, 795-799).
13. New Orleans, LA	Alabama (365-366, 369), Mississippi (387, 389-397), Louisiana (700-701, 703-708, 710-714).
Central Region (7)	
14. Cincinnati, OH	Kentucky (400-418, 423-427), Ohio (430-433, 437-438, 440-459), Indiana (470-471).
15. Chicago, IL	Indiana (460-469, 472-479), Illinois (600-606, 609-611, 613-619).
16. Detroit, MI	Ohio (434-436), Michigan (480-482, 484-497).
17. Milwaukee, WI	Michigan (496-499), Wisconsin (530-532, 534-535, 537-539, 541-545, 549).
18. Minneapolis, MN	Wisconsin (540, 548-548), Minnesota (550-551, 553-554, 556-567), South Dakota (570-577), North Dakota (580-588).
19. Kansas City, MO	Iowa (500-508, 510-516, 520-528), Illinois (612), Missouri (640-641, 644-649, 653, 656-658), Kansas (660-662, 664-679), Nebraska (680-681, 683-693), Oklahoma (739).
20. St. Louis, MO	Illinois (620, 622-629), Missouri (630-631, 633-639, 650-652, 654-655).

EXHIBIT 570—Continued

SPO Location	Service area (States and ZIP Codes)
Western Region (5)	
21. Denver, CO	Colorado (800-816), Wyoming (820, 822-831), Utah (840-847), New Mexico (870-875, 877-884), Nevada (893, 898).
22. Phoenix, AZ	Arizona (850, 852-853, 855-857, 859-860, 863-865), Nevada (890-891).
23. Seattle, WA	Montana (590-599), Wyoming (821), Idaho (832-838), Oregon (970-979), Washington (980-994), Alaska (995-999).
24. San Francisco, CA	Nevada (894, 895, 897), California (936-941, 943-966), Hawaii (967-969).
25. Los Angeles, CA	California (900, 902-908, 910-916, 920-928, 930-935).

580 *PAYMENT OF POSTAGE*

581.1 *Method of Postage Payment*

581.1 *General.* Direct-relationship E-COM mailers (see 523.2) must have an advance deposit account at the management operations center (MOC) where all financial accounting for E-COM is done.

581.2 *Direct-Relationship Mailers.* An advance deposit account is automatically established when a mailer submits Form 5320, *E-COM Permit and Certification Application.* The advance deposit account is activated when the mailer is certified according to procedures in 566. The mailer will be notified of the account number and E-COM access code after certification.

581.3 *Dedicated Carriers.* Carriers which have authorized dedicated access at one or more SPOs and are also E-COM mailers or serve as the mailers' agent for E-COM service must establish an advance deposit account at the MOC. Postage is deducted from this account for all transmissions entered by the dedicated carrier on behalf of its clients (see 584). An advance deposit account is automatically established when the carrier submits Form 5320.

582 *Prepayment of postage*

Postage must be prepaid for all transmitted messages which are received, processed, and printed at SPOs. The mailer must ensure that sufficient funds are on deposit in the mailer's advance deposit account when messages are transmitted to SPOs. Mailers may make deposits directly to any SPO listed in Exhibit 570 and such other postal facilities designated by the Director, Office of E-COM Operations.

583 *Applicable Postage*

The postage payment is based on: a. the number of messages per transmission (minimum of 200) submitted, processed, and printed at each SPO; and b. the number of pages (maximum of two) for each message transmitted and processed at each SPO.

584 *Aggregation of Messages*

When messages from one or more clients are included in a carrier's transmission to a SPO, the total applicable postage for the transmission is deducted from the carrier's advance deposit account for all messages accepted and processed for that transmission.

585 *Unacceptable Messages*

When a transmission entered at a SPO includes messages which cannot be processed at the SPO for technical or other reasons, postage is not charged for the messages which cannot be processed. The mailer or dedicated carrier is notified of the problem by telephone and mailed a listing of those messages which cannot be processed for each transmission.

590 *ANCILLARY SERVICES*

591 *FORWARDING*

E-COM messages are forwarded in accordance with 391.

592 *RETURN*

E-COM messages that are undeliverable as addressed are returned in accordance with 392.11.

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. Notice of these changes will be published in the **Federal Register** as provided in 39 CFR 111.3. (39 U.S.C. 401(2), 403, 404(a)(2), 3621, 3625(d))

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 81-36618 Filed 12-22-81; 8:45 am]

BILLING CODE 7715-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 1992-8]

Ohio: Approval and Promulgation of Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On June 24, 1980, EPA promulgated two sets of sulfur dioxide (SO_2) emission limitations for Cleveland Electric Illuminating Company's Avon Lake and Eastlake power plants in Ohio. 45 FR 42279. The first set was immediately effective, and established limitations of 4.10 or 4.65 lbs. SO_2/MBTU for Avon Lake, depending on the sulfur content of the fuel burned, and of 5.64 lbs. SO_2/MBTU for Eastlake. The second set, based on a revised stack height policy, was to become effective one year later on June 24, 1981, and established limits of 3.43/3.93 lbs. at Avon Lake and 3.04 lbs. for Eastlake. EPA subsequently withdrew its revised stack height policy and stayed the second set of emission limitations. 46 FR 28650 (May 28, 1981). On August 4, 1981 (46 FR 39614) EPA proposed to withdraw the emission limits entirely. EPA is today taking final action to withdraw the second set of emission limits for the two plants.

EFFECTIVE DATE: December 23, 1981.

ADDRESSES: Docket No. 5A-79-1, containing information pertinent to EPA's June 24, 1980 promulgation, is available for inspection and copying during normal business hours at EPA's Public Information Reference Unit, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, and Room 2922, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Debra Marcantonio, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. 312/886-6088.

SUPPLEMENTARY INFORMATION: On June 24, 1980, the Administrator promulgated sulfur dioxide (SO_2) emission limitations for the Avon Lake and Eastlake Power Plants owned by the Cleveland Electric Illuminating Company (CEI). 45 FR 42279. EPA established limitations of 4.10 or 4.65 lbs. SO_2 per MBTU for Avon Lake, depending on the sulfur content of the oil burned, and 5.64 lbs. SO_2 per MBTU for Eastlake. In the same notice EPA announced a revision of its stack height policy. The revised policy required sources seeking to raise existing stacks to demonstrate through fluid modeling or field studies that any increased height was necessary to avoid excessive concentrations due to downwash, wakes or eddies.[1] Since CEI was replacing existing stacks at each of the two plants with taller stacks, EPA determined it was appropriate to apply the revised policy to the CEI plants. However, to allow CEI time to satisfy the new fluid modeling requirement, EPA promulgated two sets of emission limitations. The first set, 4.10/4.65 lbs. SO_2 MBTU for Avon Lake and 5.64 lbs. SO_2 MBTU for Eastlake, assumed credit for the plants' new taller stacks in accordance with EPA's proposed formula for determining good engineering practice (GEP) height. (See

[1] In contrast EPA's proposed stack height regulations generally allowed sources automatic credit for stack height up to a good engineering practice height, as determined by an EPA formula. *See* 44 FR 2608 (January 12, 1979).

44 FR 2608, January 12, 1979). This set was immediately effective. The second set, 3.43/3.93 lbs. for Avon Lake and 3.04 lbs. for Eastlake, assumed no credit for the new tall stacks. This set was made effective one year from the date of promulgation in order to provide CEI with an opportunity to demonstrate through fluid modeling that the stack height increases were necessary.

At the time EPA promulgated the limitations, the Agency expected to complete work within a few months on its proposed stack height regulations (44 FR 2608, January 12, 1979), and to resolve any issues related to the revised stack height policy in the context of that rulemaking. However, the need for further analyses has resulted in a postponement of final action on the stack height regulations. Consequently, EPA withdrew the stack height policy revision. 46 FR 28650 (May 28, 1981). EPA has since reproposed its stack height regulations. 46 FR 49814 (October 7, 1981). This reproposal does not include a requirement for fluid modeling demonstrations at existing sources.

In view of the withdrawal of the policy on which the second set of emission limitations was based, EPA determined it was also appropriate to stay the effectiveness of the second set of emission limitations. 46 FR 28650. For the same reason, EPA is now withdrawing the second set of emission limits altogether. The effect of this withdrawal is to lift the stay of these emission limits issued on May 28, 1981. Should the final stack height regulations incorporate a requirement for fluid modeling or field studies for plants such as CEI, CEI and any other affected sources will be given ample time to perform the modeling or studies. Based on the results of such modeling or studies, the emission limits for these two plants would be revised if necessary.

Response to Comments

EPA received three comments supporting the withdrawal of the second set of emission limits, on the grounds that the limits were more restrictive than necessary to maintain the NAAQS and that their withdrawal will prevent a loss of coal mining jobs in Ohio. Three northeastern states submitted a single set of comments objecting to their withdrawal. The states asserted that the currently effective emission limits are not based on a proper analysis of GEP height, and consequently CEI should be given no credit for its taller stacks. Since the second set of emission limits reflect no credit for the taller stacks, the commenters concluded that the Agency must allow them to come into effect. They argued that without analyzing fluid modeling studies submitted by CEI to demonstrate the necessity for taller stacks, EPA could not withdraw these emission limits.

However, as noted above EPA did in fact determine GEP height for the CEI stacks according to a formula contained in the stack height regulations proposed in January 1979. The currently effective emission limits are based on that GEP height formula. The fluid modeling studies submitted by CEI are no longer needed to support the GEP height determination since the stack height policy requiring the studies has been withdrawn. Therefore EPA had no reason to analyze those studies.

As noted, EPA has recently reproposed stack height regulations which include the GEP formula used to calculate the CEI emission limits. The Agency's technical support for the GEP formula has been presented for public comment in that rulemaking.

The commenters also submitted a recent report by the National Academy of Sciences (NAS) on the ecological consequences of fossil fuel combustion. According to the commenters, the NAS data suggest that EPA should control the long-range transport of air pollutants to the maximum degree possible under the Clean Air Act. First, EPA notes that the report submitted only provided general data on global and regional patterns of SO_2 emissions and on long-range transport. The authors stated that it is impossible at this time to pinpoint particular source contributions to long-range transport of emissions. The Agency is still reviewing the NAS report's conclusions carefully. Consequently it is not possible to use the report as a basis for regulatory decisions. Second, as stated above EPA has proposed stack height regulations to control the dispersion of emissions from tall stacks, pursuant to Section 123. Therefore, the Agency is presently fulfilling its statutory duty under that section.

The states additionally objected to the use of the CRSTER model without further information on pollutant concentrations caused by lakeshore fumigation at the CEI plants. This issue was addressed in EPA's reconsideration and reaffirmation of the CEI emission limits, 46 FR 37642 (July 22, 1981), and the discussion of lakeshore fumigation contained in that notice is incorporated herein. The Agency's position on the issue of lakeshore fumigation remains unchanged. However, EPA has not committed itself to a further fumigation analysis as the commenters suggest. Furthermore, the second set of emission limits that the states urge EPA to retain was also based upon CRSTER modeling.

This revision is effective upon publication. The Administrator finds good cause for making this revision effective immediately because it lifts a potential regulatory restriction and imposes no new burden on the rights or interests of any party.

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore subject to the requirement of a regulatory impact analysis. Today's action does not constitute a major rule because it withdraws regulatory requirements and thereby relieves potential economic burdens.

Pursuant to the provisions of 5 U.S.C. 605(B), I hereby certify that the attached rule will not have a significant economic impact on a substantial number of small entities. This action only applies to two facilities.

Under Section 307(b)(1) of the Clean Air Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under Section 307(b)(2) of the Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings. (Section 110 of the Clean Air Act, as amended 42 U.S.C. 7410)

Dated: December 14, 1981.

Anne M. Gorsuch,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

Subpart KK—Ohio

§ 52.1881 [Amended]

1. Section 52.1881 is amended by removing paragraphs (b)(35)(B)(vii) and (b)(38)(iv).

[FR Doc. 81-36529 Filed 12-22-81; 8:45 am]
BILLING CODE 6560-38-M

---

40 CFR Part 180

[PP 6F1672/R370; PH-FRL-2013-3]

Carbofuran; Tolerances and Exemptions From Tolerances for Pesticide Chemicals In or On Raw Agricultural Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the insecticide carbofuran and its metabolites in or on the raw agricultural commodity fresh corn. This regulation to establish the maximum permissible level for the combined residues of carbofuran and its metabolites in or on fresh corn was requested by FMC Corp.

EFFECTIVE DATE: Effective on December 23, 1981.

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

FOR FURTHER INFORMATION CONTACT: Jay Ellenberger, Product Manager (PM) 12, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 202, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–7238).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of March 12, 1976 (41 FR 10709 which announced that FMC Corp., 2000 Market St., Philadelphia, PA 19103, submitted a pesticide petition (PP 6F1672) proposing that 40 CFR 180.254 be amended by the establishment of a tolerance for the combined residues of the insecticide carbofuran (2,3-dihydro-2,2-dimethyl-7-benzofuranyl-*N*-methylcarbamate), its carbamate metabolite 2,3-dihydro-2,2-dimethyl-3-hydroxy-7-benzofuranyl-*N*-methylcarbamate, and the phenolic metabolites 2,3-dihydro-2,2-dimethyl-7-benzofuranol, 2,3-dihydro-2,2-dimethyl-3-oxo-7-benzofuranol and 2,3-dihydro-2,2-dimethyl-3,7-benzofurandiol in or on the raw agricultural commodity fresh corn, including sweet corn (kernel plus cobs with husk removed (K+CWHR)), at 1.0 part per million (ppm) of which not more than 0.2 ppm is carbamates.

There were no comments 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 2-year chronic feeding/oncogenicity study in the rat and the mouse with a no-observable-effect level (NOEL) of 20 ppm for cholinesterase-inhibition and a systemic NOEL of 20 ppm and 125 ppm, respectively; a 3-generation rat reproduction study with a NOEL of 20 ppm; two rat teratology studies which were negative at up to 160 ppm and 1.2 milligrams (mg)/kilogram (kg) of body weight (bw)/day and had a NOEL for fetotoxicity of 20 ppm and a 1.2 mg/kg bw/day respectively; a rabbit teratology study which was negative for terata and fetotoxicity at 2.0 mg/kg bw/day; and mutagenicity testing which showed carbofuran not to be mutagenic. Based on the 2-year chronic rat feeding/oncogenicity study with a systemic effects and cholinesterase-inhibition NOEL of 20 ppm and using a 200-fold safety factor, the acceptable daily intake (ADI) for man is 0.005 mg/kg bw/day.

Desirable data that are lacking from the petition is a 6-month (or longer) dog feeding study. In a letter of August 7, 1981, the petitioner agreed to conduct the study and to voluntarily remove fresh corn, including sweet corn, from the label should the results of the study be found to exceed the risk criteria for adverse effects. The study is expected to be submitted to the Agency by December 1982. The metabolism of carbofuran is adequately understood, and an adequate analytical method (gas chromatography using a nitrogen specific microcoulometric detector) is available for enforcement purposes. No actions are currently pending against the continued registration of carbofuran, nor are there any other relevant considerations involved in establishing the tolerance. The existing meat and milk tolerances are adequate to cover any residues resulting from the proposed use. There is no reasonable expectation of residues in poultry and eggs.

The pesticide is considered useful for the purpose for which the tolerance is sought, and it is concluded that the tolerance for the combined residues of carbofuran and the metabolites in or on fresh corn, including fresh corn (K+CWHR), will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, on or before January 22, 1982, file written objections with the Hearing Clerk at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

As required by Executive Order 12291, EPA has determined that this rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has exempted this rule from the OMB review requirements of Executive Order 12291, pursuant to section 8(b) of that Order.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Effective on: December 23, 1981.

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

Dated: December 10, 1981.

Robert V. Brown,

Acting Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.254 is amended by adding and alphabetically inserting the commodity fresh corn to read as follows:

§ 180.254 Carbofuran; tolerances for residues.

* * * * *

Commodity	Part(s) per million (ppm)
* * * * *	
Fresh corn including sweet corn (K+CWHR) (of which not more than 0.2 ppm is carbamates)	1.0
* * * * *	

[FR Doc. 81-36643 Filed 12-22-81; 8:45 am]

BILLING CODE 6560-32-M

40 CFR Part 180

[PP 6F1789/R371; PH–FRL 2012–8]

Carbofuran; Tolerances and Exemptions From Tolerances for Pesticide Chemicals In or On Raw Agricultural Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the insecticide carbofuran and its metabolites in or on certain raw agricultural commodities. This regulation to establish the maximum permissible level for the combined residues of carbofuran and its metabolites in or on certain raw

agricultural commodities was requested by FMC Corp.

EFFECTIVE DATE: Effective on December 23, 1981.

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

FOR FURTHER INFORMATION CONTACT: Jay Ellenberger, Product Manager (PM) 12, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 202 CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–2386).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of June 4, 1976 (41 FR 23998) which announced that FMC Corp., 2000 Market St., Philadelphia, PA 19103, submitted a pesticide petition (PP 6F1789) proposing that 40 CFR 180.254 be amended by the establishment of tolerances for the combined residues of the insecticide carbofuran (2,3-dihydro-2,2-dimethyl-7-benzofuranyl-*N*-methylcarbamate), its carbamate metabolite 2,3-dihydro-2,2-dimethyl-3-hydroxy-7-benzofuranyl-*N*-methylcarbamate, and the phenolic metabolites 2,3-dihydro-2,2-dimethyl-7-benzofuranol, 2,3-dihydro-2,2-dimethyl-3-oxo-7-benzofuranol and 2,3-dihydro-2,2-dimethyl-3,7-benzofurandiol in or on the raw agricultural commodities squash at 0.8 part per million (ppm) of which not more than 0.6 ppm is carbamates; melons at 0.6 ppm of which not more than 0.4 ppm is carbamates; and cucumber at 0.4 ppm of which not more than 0.2 ppm is carbamates.

The petition was subsequently amended by including the raw agricultural pumpkins at 0.8 ppm of which not more than 0.6 ppm is carbamates and decreasing the proposed tolerance for melons to 0.4 ppm of which not more than 0.2 ppm is carbamates.

There were no comments 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 2-year chronic feeding/oncogenicity study in the rat and the mouse with a no-observable-effect level (NOEL) of 20 ppm for cholinesterase-inhibition and a systemic NOEL of 20 ppm and 125 ppm, respectively; a 3-generation rat reproduction study with a NOEL of 20 ppm; two rat teratology studies which were negative up to 160 ppm and 1.2 milligrams (mg)kilogram(kg) of body weight (bw)/day and had a NOEL for fetotoxicity of 20 ppm and 1.2 mg/kg bw/day, respectively; a rabbit teratology study which was negative for terata and fetotoxicity at 2.0 mg/kg bw/day; and mutagenicity testing which showed carbofuran not to be mutagenic. Based on the 2-year chronic rat feeding/oncogenicity study with a systemic effects and cholinesterase-inhibition NOEL of 20 ppm and using a 200-fold safety factor, the acceptable daily intake (ADI) for man is 0.005 mg/kg bw/day.

Desirable data that is lacking from the petition is a 6-month (or longer) dog feeding study. In a letter of August 7, 1981, the petitioner agreed to conduct the study and to voluntarily remove squash, melons, pumpkins, and cucumbers from the label should the results of the 6-month (or longer) dog feeding study be found to exceed the risk criteria for unreasonable adverse effects. The study is expected to be submitted to the Agency by December 1982. The metabolism of carbofuran is adequately understood, and an adequate analytical method (gas chromatography using a nitrogen specific microcoulometric detector) is available for enforcement purposes. No actions are currently pending against the continued registration of carbofuran, nor are there any other relevant considerations involved in establishing the proposed tolerances. There is no reasonable expectation of residues in eggs, milk, or meat of livestock from the proposed uses.

The pesticide is considered useful for the purpose for which the tolerances are sought, and it is concluded that the tolerances for the combined residues of carbofuran and the metabolites in or on the raw agricultural commodities will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, on or before January 22, 1982, file written objections with the Hearing Clerk at the address given above. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

As required by Executive Order 12291 EPA has determined that this rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has exempted this rule from the OMB review requirements of Executive Order 12291, pursuant to section 8(b) of that Order.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Effective on: December 23, 1981.

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

Dated: December 10, 1981.

Robert V. Brown,

Acting Director, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, 40 CFR 180.254 is amended by adding and alphabetically inserting the commodities cucumbers, melons, pumpkins, and squash to read as follows:

§ 180.254 Carbofuran; tolerances for residues.

* * * * *

Commodity	Part(s) per million (ppm)
* * * * *	
Cucumbers (of which not more than 0.2 ppm is carbamates)	0.4
* * * * *	
Melons (of which not more than 0.2 ppm is carbamates)	0.4
* * * * *	
Pumpkins (of which not more than 0.6 ppm is carbamates)	0.8
* * * * *	
Squash (of which not more than 0.6 ppm is carbamates)	0.8
* * * * *	

[FR Doc. 81–36045 Filed 12–22–81; 8:45 am]

BILLING CODE 6560–32–M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 1–12

[FPR Amdt. 219]

Labor; Addition of Price Adjustment Clause for Service Contracts

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This amendment provides for the use of a price adjustment clause in contracts which are subject to the Service Contract Act of 1965 and include either option or multiyear provisions. It is based primarily on a need to address the issue of labor cost increases in option years as a result of the adoption of option provisions in the FPR. The intended effect is (1) to eliminate the need for offerors to include contingency allowances in fixed price service contracts as a defense against possible increases in wage determinations under the Service Contract Act of 1965 or minimum wages under the Fair Labor Standards Act of 1938 and (2) to protect the Government from windfall payments to Government contractors by reason of decreases in wage determinations and minimum wages.

EFFECTIVE DATE: January 25, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Philip G. Read, Director, Federal Procurement Regulations Directorate, Office of Acquisition Policy (703-557-8947).

1. The table of contents for Part 1-12 is amended by adding the following new entry under Subpart 1-12.9:

PART 1-12—LABOR

* * * * *

Subpart 1-12.9—Service Contract Act of 1965

1-12.904-3 Price adjustment clause for fixed-price multiyear service contracts and fixed-price service contracts with renewal options.

Subpart 1-12.9—Service Contract Act of 1965

2. Section 1-12.904-3 is added to read as follows:

§ 1-12.904-3 Price adjustment clause for fixed-price multiyear service contracts and fixed-price service contracts with renewal options.

(a) The clause set forth in paragraph (d) of this section provides procedures applicable to situations in which revised minimum wage rates are applied to contracts by operation of law (see Subpart 1-12.7), or by revision of a wage determination prior either to exercise of a contract option, or to extension of a multiyear contract into a new program year. Its purpose is to permit adjustment of service contract prices for option years or for the out-years of multiyear contracts so as to eliminate the need for contractors to include contingency allowances in the prices for these periods. It also gains for the Government, the benefit of reduced wages. As used herein, the term out-years refers to the years following the first year in a multiyear contract.

(b) When there are elements of cost, other than those discussed in paragraph (a) of this section, that are subject to wide fluctuations, the Contracting Officer may include a provision for economic price adjustment authorized by § 1-3.404-3. If such a provision is used, care should be taken to ensure that it does not conflict with, or overlap, the clauses discussed in paragraph (c) of this section.

(c) Contracting Officers shall include the clause set forth in paragraph (d) of this section, or another clause which accomplishes essentially the same purpose, in fixed-price type multiyear service contracts and fixed-price type service contracts with options to renew that contain the clause in § 1-12.904-1. However, the FPR clause must be used when contract prices are negotiated on the basis of certified cost or pricing data (see § 1-3.807-3). This flexibility is provided because the size and nature of certain service contracts may not warrant requirements for the type of cost breakdowns anticipated under the clause in paragraph (d) of this section. On low dollar value contracts and contracts where adequate cost data is likely to be difficult to obtain, other techniques for adjusting out-year prices to reflect changes in wage determinations or statutory minimum wages may be more appropriate.

(d) The following clause shall be used in accordance with the instructions set forth in paragraph (c) of this section. It is to be noted that the adjustments under paragraph (c) of the clause are applicable only to periods after the base period of multiyear contracts or the option years of contracts with renewal options.

Fair Labor Standards Act and Service Contract Act—Price Adjustment (Multiyear and Option Contracts)

(a) The Contractor warrants that the prices set forth in this contract do not include any allowance for any contingency to cover increased costs for which adjustment is provided under this clause.

(b) The minimum prevailing wage determination, including fringe benefits, issued pursuant to the Service Contract Act of 1965, as amended (41 U.S.C. 351 et seq.), by the Administrator, Wage and Hour Division, U.S. Department of Labor, current at the beginning of each renewal option period, shall apply to any renewal of this contract. When no such determination has been made as applied to this contract, the Federal minimum wage, as established by section 6(a)(1), of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201 et seq.), current at the beginning of each renewal option period, shall apply to any renewal of this contract.

(c) The contract price of contract unit price labor rates for the option or renewal periods of this contract will be adjusted to reflect the Contractor's actual increase or decrease in applicable wages and fringe benefits to the extent that these increases or decreases are made to comply with:

(i) The Department of Labor determination of minimum prevailing wages and fringe benefits applicable at the beginning of the option or renewal period, or

(ii) An amendment to the Fair Labor Standards Act enacted after the award of this contract, affecting the minimum wage, that becomes applicable to this contract under law prior to an option or renewal period.

Any adjustment will be limited to increases or decreases in wages or fringe benefits as described above, and the accompanying increases or decreases in social security and unemployment taxes and workmen's compensation insurance, but shall not otherwise include any amount for general and administrative costs, overhead, or profits.

(d) The Contractor shall notify the Contracting Officer of any increases claimed under this clause within 30 days after receiving a new wage determination for an option or renewal period, unless this notification period is extended in writing by the Contracting Officer. In the case of any decrease under this clause, the Contractor shall promptly notify the Contracting Officer of such decrease, but nothing herein shall prevent the Government from asserting a claim within the period permitted by law. The notice shall state the amount claimed and any other relevant data in support thereof, which may reasonably be required by the Contracting Officer. Upon agreement of the parties, the contract price or contract unit price labor rates shall be modified in writing. Pending agreement on or determination of any such adjustment and its effective date, the Contractor shall continue performance.

(e) The Contracting Officer or his authorized representative shall have access to and the right to examine any directly pertinent books, documents, papers and records of the Contractor until the expiration of 3 years after final payment under the contract or such lesser time specified in Part 1-20 of the Federal Procurement Regulations (41 CFR Part 1-20) and for such longer period if any, as is required by applicable statute, or by other clauses of this contract.

(End of clause)

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: December 14, 1981.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 81-36540 Filed 12-22-81; 8:45 am]

BILLING CODE 6820-61-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

41 CFR Ch. 7

[AIDPR Notice 82-2]

Miscellaneous Revisions to the AID Procurement Regulations

AGENCY: Agency for International Development, IDCA.

ACTION: Final rule.

SUMMARY: The Agency for International Development is amending its procurement regulations with respect to the review and approval authority of AID's Noncompetitive Review Board. The amendments raise the threshold for review of and approval of noncompetitive procurements, exempts contracts from unsolicited proposals, as authorized in 41 CFR 1-4.9 and 7-4.9 from review and approval by the Board, and raises the exception permitting noncompetitive negotiations by AID missions overseas to $100,000 for both services and commodities.

This rule also allows AID missions more flexibility regarding logistic support.

These amendments implement recommendations of a special AID task force established to review the project implementation process.

EFFECTIVE DATE: This AIDPR Notice is effective on December 8, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. J. M. Kelly, CM/SD/POL, Agency for International Development, Washington, D.C. 20523. Telephone: (703) 235-9107.

SUPPLEMENTARY INFORMATION: This AIDPR Notice implements recommendations of a special AID task force established to review the AID project implementation process. The recommendations were reviewed by AID senior staff, and were approved by the Administrator on September 30, 1981.

This AIDPR Notice is a procurement regulation, and has been exempted from the requirements of Executive Order 12291 of February 17, 1981, pursuant to section 8(b) of the order, by the Director, OMB, in a letter dated April 8, 1981.

The determination required by paragraph 4a of OFPP Policy Letter 80-5, and the certification required by the Regulatory Flexibility Act have been made and are included in the body of this AIDPR Notice.

PART 7-3—PROCUREMENT BY NEGOTIATION

Subpart 7-3.1—Use of Negotiation

1. Section 7-3.101-50, Justification for noncompetitive negotiation, is amended by revising paragraphs (b)(2), (c), and (d)(6) as follows:

§ 7-3.101-50 Justification for noncompetitive negotiation.

* * * * *

(b) * * *

(2) Contracts for goods or services by overseas procuring activities (AID Missions), where the estimated cost of the contract does not exceed $100,000.

* * * * *

(c) Use of the circumstances permitting noncompetitive negotiation specified in paragraph (b) of this section requires documentation, justification, and approval. Basic documentation and justification requirements are set forth in paragraph (d) of this section. Approval authority for the various circumstances in paragraph (b) are specified in paragraphs (c)(2), (3), (4) and (5) of this section.

(1) The authority to approve noncompetitive negotiation is separate from, *and in addition to*, any delegation of contracting authority. While a contracting official may have been delegated unlimited contracting authority, his/her authority to approve noncompetitive negotiation is limited by paragraphs (c)(3) and (c)(4) of this section.

(2) Authority to approve noncompetitive negotiation for procurements under paragraphs (b)(6) and (7) of this section rests with the Assistant Administrator having the program responsibility.

(3) Authority to approve noncompetitive negotiation, for procurements under paragraphs (b) (1), (3), (4) or (5) of this section executed by AID/Washington is based on the estimated cost of the procurement and is assigned as follows:

Dollar amount	Approving authority
(i) 0 to $25,000	The contracting officer.
(ii) $25,001 to $100,000	Cognizant SER/CM Division Chief.
(iii) $100,001 to $250,000	Director or Deputy Director, SER/CM.
(iv) over $250,000	The Noncompetitive Review Board.

(4) Authority to approve noncompetitive negotiation under paragraphs (b) (1), (2), (3), (4), or (5) of this section for procurements executed by an AID/Mission is also based on the estimated cost of the procurement, and is assigned as follows:

Dollar amount	Approving authority
(i) 0 to $25,000	The Mission contracting officer, if other than the Mission Director.
(ii) 0 to $100,000	The Mission Director.
(iii) over $100,000	The Mission Noncompetitive Review Board.

(5) The Mission Noncompetitive Review Board is appointed by the Mission Director, who serves as Chairman of the Review Board. As a minimum, Review Board membership must include in addition to the Chairman, the Mission or Regional Legal Advisor (or the Deputy Director if no Legal Advisor is available at the Mission), and a senior project officer not concerned with the procurement under consideration by the Review Board. The Mission Noncompetitive Review Board has jurisdiction over Mission procurements being awarded by the Area Contracting Officer (ACO) serving the Mission up to the limit of the ACO's contracting authority, or over any Mission procurement that exceeds the Mission Director's contracting authority; *provided*, that in the latter case, the Mission Director first obtains an ad hoc redelegation of contracting authority for the procurement from SER/CM.

(d) * * *

(6) For procurements under paragraph (b)(6) of this section, a copy of the cognizant Assistant Administrator's approval and project officer's certification required by § 7-4.910, together with a certification by the contracting officer that the procurement meets the criteria in paragraph (b)(6) of this section. No further documentation or approval related to noncompetitive procurement is required.

* * * * *

Appendices

Appendix E—Logistic Support Overseas to AID-Direct Contractors

2. AIDPR Appendix E to chapter 7 is amended by revising paragraph 2(b) to read as follows:

* * * * *

2. * * *

(a) * * *

(b) *Arrangements for Logistics Support.* Each mission should assess the local logistical support situation and determine which method is best suited for its program or individual projects. While the following three options are listed in descending order of preference, the Mission is encouraged to use the option which is in the best interest of the project:

(1) Arrangements by the contractor itself where feasible and reasonably economical. (It is assumed that this test will be met in the case of virtually all construction contracts and in most of the larger engineering and technical assistance contracts.)

(2) Arrangements by the cooperating country where these would be timely, adequate, and feasible in terms of the country's economic and administrative resources.

(3) Arrangements by the mission alone or jointly with either or both of the other parties, in those cases where the Mission Director determines that adequate and timely logistic support at reasonable cost cannot be assured through the other options. In such cases, and when direct hire resources are inadequate, the mission is encouraged wherever feasible, to contract for assistance in providing logistic support. Guidance on logistic support contracts should be obtained from SER/CM and GC.

* * * * *

Determination: As required by paragraph 4a of OFPP Policy Letter 80–5, I hereby determine that this AIDPR Notice has been reviewed against the policies set forth in paragraphs (1) through (8) of section 2 of the Office of Federal Procurement Policy Act (Pub. L. 93–400 as amended by Pub. L. 96–83, hereinafter referred to as the Act), and policy directives issued by OFPP under section 6(h) of the Act. Based on this review, I hereby determine that this AIDPR Notice is not inconsistent with the policies set forth in paragraphs (1) through (8) of section 2 of the Act, and policy directives issued by OFPP under section 6(h) of the Act.

Certification: Pursuant to the Regulatory Flexibility Act, I hereby certify as head of the Agency, under AIDPR 7–1.204, that this regulation will not have a significant economic impact on a substantial number of small entities, including small business, small organizational units and small governmental jurisdictions.

(41 CFR 7–1.104.4)

Dated: December 8, 1981.

John F. Owens,

Acting Assistant Administrator, Bureau for Program and Management Services.

FR Doc. 81–36631 Filed 12–22–81; 8:45 am]

BILLING CODE 4710–02–M

Proposed Rules

Federal Register
Vol. 46, No. 246
Wednesday, December 23, 1981

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 987

Domestic Dates Produced or Packed in Riverside County, California; Proposed Amendment of Administrative Rules

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal invites written comments on a revision of the container regulations prescribed for DAC dates of any variety handled in the United States and Canada under the Federal marketing order for California dates. This action would allow handlers to ship dates to Canadian markets free of the container regulations and give handlers more shipping flexibility.

DATE: Comments must be received by January 7, 1982.

ADDRESS: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250, where they will be available for public inspection during business hours.

FOR FURTHER INFORMATION CONTACT: J. S. Miller, Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202)447-5697.

SUPPLEMENTARY INFORMATION: This proposal has been reviewed under USDA guidelines implementing Executive Order No. 12291 and Secretary's Memorandum 1512-1 and has been classified a "non-major" rule under criteria contained therein.

William T. Manley, Deputy Administrator, Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities because it would result in only minimal costs being incurred by the regulated handlers.

J. S. Miller has determined that an emergency situation exists which warrants less than a 60-day comment period. The proposed revision would allow handlers to ship whole and pitted DAC dates to Canadian outlets free of container requirements and allow them to compete more effectively with other foreign suppliers. Therefore, the less restrictive regulations should be made available to handlers as soon as possible.

Information collection (reporting and recordkeeping) under this part are subject to clearance by the Office of Management and Budget and are in the process of review. These information requirements shall not become effective until such time as clearance by the OMB has been obtained.

This proposal would revise § 987.112a(b)(3) of Subpart — Administrative Rules (7 CFR 987.101-987.173). This section is issued under §§ 987.12, 987.43, and 987.48 of the marketing agreement and Order No. 987 (7 CFR 987), both as amended, regulating the handling of domestic dates produced or packed in Riverside County, California. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The proposal was recommended unanimously by the California Date Administrative Committee, hereinafter referred to as the Committee, which works with USDA in administering the order.

Section 987.112a(b)(3) prescribes consumer sizes of plastic containers, in terms of net weight content, that handlers must use when they package whole or pitted DAC dates in such containers for handling in domestic and Canadian markets. Some foreign competitors have been selling dates in consumer-sized plastic containers in Canada with a few less ounces than the sizes that domestic handlers are required to ship under the current regulation and this places domestic handlers at a competitive disadvantage.

Section 987.12 of the order defines DAC dates to be marketable whole or pitted dates that are inspected and certified as meeting the grade, size, container, and identification requirements established by the Committee, with the approval of the Secretary, for a specific variety for handling in the United States and Canada.

Section 987.43 of the order authorizes the Committee, with the approval of the Secretary, to modify the designations specified in § 987.12 to reflect new regulatory requirements needed because of changes in marketing conditions. To permit domestic handlers to compete more effectively in Canadian markets, it is proposed that the container regulation in § 987.112a(b)(3) not apply to whole or pitted DAC dates of any variety shipped to Canada.

PART 987—DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIFORNIA

Therefore, the proposal is to revise § 987.112a(b)(3) of Subpart — Administrative Rules (7 CFR 987.101-987.172) to read as follows:

§ 987.112a Grade, size, and container requirements for each outlet category.

* * * * *

(b) * * *

(3) DAC dates of any variety, when packed in plastic containers, other than bags and master shipping containers, shall contain a net weight (i) for whole dates, of either eight ounces, twelve ounces, 1 pound 8 ounces, or more than two pounds, and (ii) for pitted dates, of either ten ounces, one pound, one pound eight ounces, or more than two pounds. DAC dates packed in other than plastic containers may be handled without regard to the net weight content. For the purpose of this subparagraph, "plastic container" means any containers of any shape made from plastic and in which dates are packed without the use of cardboard boats, trays, or other like stiffening material: *Provided*, That DAC dates shipped for sale in Canada in plastic containers are exempt from the net weight requirements of this subparagraph.

* * * * *

Dated: December 18, 1981.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 81-36617 Filed 12-22-81; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1135

[Docket No. AO-380-A1]

Milk in the Southwestern Idaho-Eastern Oregon Marketing Area; Decision on Proposed Amendments to Marketing Agreement and Order

Correction

In FR Doc. 81-36068, appearing at page 61480 in the issue of Thursday, December 17, 1981, the citation in parentheses in lines 12 and 13 of the second paragraph of column two on page 61480 should have read, "(46 FR 32873)".

BILLING CODE 1505-05-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Interim Requirements Related to Hydrogen Control

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is considering amending its regulations to improve hydrogen control capability during and following an accident in light-water reactor facilities.

The amendments would require improved hydrogen control systems for boiling water reactors with Mark III type containments and for pressurized water reactors with ice condenser type containments. All light-water nuclear power reactors not relying upon an inerted atmosphere for hydrogen control would be required to show that certain important safety systems must be able to function during and following hydrogen burning.

DATES: Comment period expires February 22, 1982. Comments received after that date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before that date.

FOR FURTHER INFORMATION CONTACT: Morton R. Fleishman, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone 301-443-5981.

ADDRESS: Written comments or suggestions for considertion in connection with the proposed amendments should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments received may be examined in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

SUPPLEMENTARY INFORMATION: The accident at Three Mile Island, Unit 2 (TMI-2) resulted in a severely damaged or degraded reactor core, a concomitant release of radioactive material to the primary coolant system, and a fuel cladding-water reaction which resulted in the generation of a large amount of hydrogen. The Nuclear Regulatory Commission has taken numerous actions to correct the design and operational limitations revealed by the accident. Included in these actions are several rulemaking proceedings intended to improve the hydrogen control capability of light-water nuclear power reactors. On October 2, 1980, the Nuclear Regulatory Commission published in the **Federal Register** (45 FR 65466) a notice of proposed rulemaking on "Interim Requirements Related to Hydrogen Control And Certain Degraded Core Considerations" (Interim Rule). The notice concerned proposed amendments to 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities," to improve hydrogen management in light-water reactor facilities and to provide specific design and other requirements to mitigate the consequences of accidents resulting in a degraded reactor core.

On March 23, 1981, the Commission published in the **Federal Register** (46 FR 18045) a notice of proposed rulemaking on "Licensing Requirements for Pending Construction Permit and Manufacturing License Applications." The notice proposed a set of licensing requirements applicable to construction permit applications that stemmed from lessons learned from the TMI-2 accident. On May 13, 1981, the Commission published in the **Federal Register** (46 FR 26491) a notice of proposed rulemaking on "Licensing Requirements for Pending Operating License Applications" (OL Rule).

As a result of the various activities and considerations relative to the October 2, 1980 notice, the Commission decided to split the Interim Rule into two parts. One part was to be included in the OL Rule. The other part, limited only to hydrogen control, was to be issued separately. The details of this split are described in the companion **Federal Register** notice published on December 2, 1981 (46 FR 58484) concerning hydrogen control related to inerting, hydrogen recombiner capability and high point vents.

The Commission has also been considering the ability of all light-water reactors, particularly pressurized light-water reactor facilities with ice condenser type containments and boiling light-water reactor facilities with Mark III type containment, to withstand an accident with the concomitant generation of large amounts of hydrogen, such as the type which occurred at Three Mile Island, Unit 2 (TMI-2). As a result, three new amendments to the regulations are being proposed for public comment.

Hydrogen Control for Mark III BWRs and Ice Condenser PWRs [§ 50.44(c)(3)(iv)]

It is proposed that boiling water reactor (BWR) facilities with Mark III type containments and pressurized water reactor (PWR) facilities with ice condenser type containments, for which construction permits were issued prior to March 28, 1979, be required to install hydrogen control systems capable of accommodating an amount of hydrogen equivalent to that generated from the reaction of 75% of the fuel cladding (surrounding the active fuel region) with water, without loss of containment integrity. This new requirement is being contemplated as a result of safety issues raised during licensing reviews of new ice condenser and Mark III plants. In these reviews, it has become clear that additional protection is required to provide assurance that large amounts of hydrogen can be safety accommodated by these plants. The particular type of hydrogen control system to be selected is left to the discretion of the applicant or licensee; however, it must be found acceptable by the NRC based upon suitable programs of experiment and analysis. The selection should be supported by comparative analyses of alternative systems to show their relative advantages and disadvantages. These comparisons are to be submitted as part of the analyses required under § 50.44(c)(3)(vi). At present, a distributed igniter system has been found acceptable for the Sequoyah plant with an ice condenser containment, but only as an interim solution while the hydrogen control matter is studied further. A post-accident inerting system has also been discussed for the ice condenser and Mark III containments. Whatever systems are finally proposed and approved for the long term, large amounts of hydrogen must be safely accommodated, and operation of the system, either intentionally or inadvertently, must not further aggravate the course of an accident or endanger the plant during normal operations. The amount of hydrogen to be assumed in the design of the

hydrogen control system is that amount generated by assuming that 75% of the fuel cladding surrounding the active fuel region reacts with water. The 75% is judged to be representative of the maximum amount of hydrogen likely to be generated in an accident in which the threat to the containment is limited to the threat posed by the combustion of hydrogen. Events with metal-water reactions in excess of 75% are judged to be associated with core-melt accidents which could pose a threat to containment greater than the combustion of hydrogen. This 75% value also appears to be reasonable because it is sufficiently greater than the fuel cladding-water reaction analyzed to have occurred at TMI–2 to provide a conservative estimate for the cladding reaction that may occur during a TMI type degraded core accident. It is expected that the 75% value will permit plants that are either completed or are well along in the construction stage to have a hydrogen control system added without the need for major modifications to their containment structures. Research now in place will, over the next several years, yield data on the likelihood of termination of sequences with large amounts of cladding interaction.

The Commission would particularly welcome comments on whether the percent of fuel cladding that reacts with water should be less than, equal to, or greater than the 75 percent value being proposed for use in the rules covered by this notice. Supporting analyses, as available, would also be welcome.

Owners of Mark III BWR's now under construction have been surveyed by the NRC staff to determine the effect on their plant designs of the requirement that they do not exceed ASME Service Level A Limits or the Service Load Category during inadvertent full inerting of a post-accident inerting system. This survey was conducted because a post-accident inerting system (rather than a distributed ignition system) was thought to be the preferred approach for the Mark III containments. Based on their responses, the Commission has concluded that there would be no significant impact in specifying these requirements for inadvertent full inerting. Modest deviations from these ASME criteria will be permitted if good cause is shown. A comparable survey was not conducted for ice condenser plants because the distributed ignition system apparently is the approach preferred by the owners of these plants.

There are ongoing programs of reasearch in a number of areas of hydrogen generation, release, burning, and control. These include the analysis of accident sequences, the chronology of hydrogen and steam injection (from the primary system into containment), the analysis of operations to recover coolability, and an assessment of equipment survivability. These studies are expected to reveal the advantages and disadvantages of various hydrogen control systems, including those that involve deliberate burning of the hydrogen within containment. Based on the state of technology as of August 1981, the Commission believes that control methods that do not involve burning provide protection for a wider spectrum of accidents than do those that involve burning.

As a result of the review of the deliberate ignition systems installed at Sequoyah and McGuire, the staff has identified issues which need to be investigated further. A spectrum of degraded core accident scenarios, including those which may lead to inadvertent suppression of combustion in the lower compartment due to a steam rich atmosphere, and several hydrogen combustion phenomena are continuing to be reviewed. In addition, there is incomplete verification of analytical models and equipment survivability. These issues are being addressed in ongoing research by NRC and the nuclear industry. The Commission concludes, based on available information, that the issues are sufficiently resolved to warrant interim approval of deliberate ignition systems for ice condenser plants. However, the Commission has required in individual licensing proceedings and in the section of this rule on analyses (§ 50.44(c)(3)(vi)) that studies of alternative hydrogen management systems be performed prior to the long-term approval of any particular method.

Standards for Safety Systems and Components That Must Function During or After Hydrogen Burn [Sec. 50.44(c)(3)(v)]

The Commission is considering a two-step approach to address qualification of essential equipment during and after a hydrogen burn. As a first step, essential equipment must be demonstrated to "survive" the hydrogen burn and continue to be able to perform its safety function. In this context, the equipment would not have to meet the more rigorous standards of the NRC's equipment qualification program but a different standard as defined below. As a second step, the Commission would require "qualification" of essential equipment.

The Commission feels a two-step approach is justified in light of our lack of knowledge of the probabilities of hydrogen-producing accident scenarios, the environmental conditions during a hydrogen burn, and the effect this environment has on different equipment. The Commission will develop "survivability" criteria which are intended as an interim step to assure the quality of essential equipment until enough information is accumulated from ongoing research to suitably define what equipment performance standards are appropriate. After sufficient information is developed, the Commission may propose long-term standards that are more stringent than the short-term or "survivability" standard being proposed.

The differences in concept between equipment demonstrated to meet the "survivability" standard and equipment that meets the "qualification" standard are described below. The Commission specifically seeks comment on the use of the two step approach for defining equipment standards, the "survivability" and "qualification" standards themselves, and proposals for implementation schedules developed on a well informed basis. Equipment required to be qualified (Eq) and equipment for which survivability must be demonstrated (Es) can be compared as follows:

(a) *Environmental Conditions*—The environmental conditions under which Eq must operate would be calculated using a model that has been demonstrated to be conservative by comparison with numerous experiments and by a long history of usage. For Es, the calculational model contains some conservatisms, but the level of assurance is generally not comparable to that for the Eq model due to a lack of available experimental data for verification.

b. *Testing Conditions*—For Eq, the test conditions would be more severe than the environmental conditions due to extra margins added to account for uncertainties in the test environment, inaccuracies of the measuring devices, variability of the test specimens, etc. For Es, the test conditions need not provide margin beyond the conservatively calculated environmental conditions.

c. *Operability*—Eq and Es would both be required to perform their functions during and after being exposed to their respective test conditions.

d. *Performance*—During and following a test, Eq would be required to perform to specifications determined by accident analyses performed prior to the test; however, for Es, a relaxation of these specifications would be permitted, as defined on a case-by-case (e.g., more instrument drift would be tolerated

during a hydrogen burn than during normal operations).

Another possible difference is the criteria used to select test specimens, e.g., individual type testing for Eq versus generic testing for Es. It should also be noted that if the test condition for Eq for a LOCA can be shown to envelope the predicted test condition for a hydrogen burn then the LOCA qualification test would be sufficient to demonstrate survivability.

This requirement would apply to all BWRs and PWRs, for which construction permits were issued prior to March 28, 1979, that do not have an inerted containment atmosphere for hydrogen control. That is, plants for which there exists the possibility that substantial amounts of hydrogen can be burned in the containment will be covered by the proposed new requirement. Safety systems provided on these plants that are needed (a) to shut down the reactor and bring it to and maintain it in a safe cold shutdown condition, and (b) to prevent loss of containment integrity, must meet the "survivability" criteria in the near term and may be required to meet "qualification" criteria in the long term. Thus, for example, if a distributed igniter system is selected for controlling large amounts of hydrogen, the applicants or licensees must assure in the near term that the specified safety systems can survive and continue to perform their needed safety functions during and following hydrogen burning. In the long term the equipment may be required to meet a more stringent equipment qualification standard, considering the environmental effects of hydrogen burning. If no new hydrogen control system is required, as is likely to be the case for PWRs with large dry containments, these applicants and licensees would still have to perform analyses to: (1) Show containment structural integrity, as defined in § 50.44(c)(3)(iv) can be maintained; and (2) assure that the specified safety systems can continue to perform their needed safety functions during and following hydrogen burning and local detonations. The new criteria for certain identified essential systems are needed because the environmental pressures and temperatures associated with hydrogen burning and local detonations can be more severe than the conditions for which the equipment has been previously qualified.

Analyses [§ 50.44(c)(3)(vi)]

The proposed Interim Rule required that for all PWR and BWR plants, except the Mark I and II BWRs, design analyses must be performed for new hydrogen control measures. Many commenters indicated that the description of the design analyses was not precise enough to elicit the desired response. Furthermore, several commenters have suggested that it is inappropriate to have a regulation requiring hydrogen control design studies in view of the fact that unambigious event descriptions and acceptance criteria are not supplied. The Commission agrees with these comments in part. As a result, the Commission intends to provide supplementary guidance concerning acceptable procedures that should be used, both for design of the hydrogen control systems per § 50.44(c)(3)(iv), for the demonstration of equipment survivability per § 50.44(c)(3)(v), and for the analysis of containment structural integrity.

The Commission is considering three different approaches concerning the supplementary guidance to be provided for performing the analyses. In all of these approaches, licensees are not restricted to the specified scenarios. If because of unique plant design features, other scenarios are known to present a greater risk than those identified by the Commission, the analyses should be based on the scenarios known to present the greatest risk. For example, if for a particular plant an intermediate break LOCA results in a greater risk than the scenarios in Table I, the licensee should base his calculations on the intermediate break LOCA scenario.

In the first approach, the Commission would identify accident sequences or scenarios which are found by probabilistic risk assessment techniques to be significant contributors to the likelihood of core degradation and thus pose a significant hydrogen threat. The licensee would then perform analyses, using these sequences, to determine the time variation of the hydrogen and steam release rates to the containment building. The analyses, which would include the failure assumptions of the different scenarios as well as the accident recovery phase and allowances for uncertainties, would provide the pressure and temperature histories to which the containment would be exposed. A list of possible accident sequences being considered under this approach is given in Table I. The scenarios include the production of substantial amounts of hydrogen as part of core-melt sequences; they were selected, based on experience and engineering judgment, because they are the more probable severe accident sequences which could be terminated short of primary vessel melt-through with available recovery techniques.

In the second approach, a base sequence would be chosen by the Commission based on its significance and characteristics from the standpoint of hydrogen threat. Key aspects of this scenario would then be parametrically varied, by the licensee, in determining the acceptability of the hydrogen control system or the containment response. This would provide a wider range than that of the selected base sequence alone. The acceptability of the analyses used in this approach would depend on the selection and range of the parameters being varied. The range must be chosen to include the effects of physically realistic degraded core accident scenarios with recovery. If licensees have determined that because of their own plant design another scenario presents a greater risk than the small break LOCA, the scenario presenting the greater risk should be chosen for parametric study. The variables and values studied should be determined on a case-by-case basis depending on the particular scenario. Table II represents a preliminary list of parameter variations that appear to provide reasonable extensions of a PWR small-break scenario (Item 1 of Table I). A corresponding BWR list has not yet been prepared.

In the third approach, the Commission would use a set of accident sequences as in Table I, and perform analyses which would define a reasonable envelope of time histories of hydrogen and steam release rates into the containment building. This envelope definition could be based on variations in the progression of different sequences and/or variations due to uncertainties within a particular sequence. The envelope of hydrogen and steam source terms to the containment would then be provided to all licensees for use in subsequent analyses. This approach would avoid the need for case-by-case sequence analyses using codes like MARCH and involving extensive iterative review of the MARCH analyses with the Commission. The intent would be for the Commission to provide hydrogen and steam source terms generic to each reactor type (BWR or PWR) and let the licensees' and NRC's ensuing attention be on the containment analysis. (The staff intends to publish for comment these generic source term analyses during the comment period for this proposed rule.)

TABLE I.—ACCIDENT SEQUENCES LEADING TO A SIGNIFICANT HYDROGEN THREAT

PWR	1. Small LOCA with temporary loss of emergency core cooling (ECC) injection.
	2. Transient with temporary loss of all feedwater and the high pressure ECC system.
	3. Interruption of all AC electric power with failure of the auxiliary feedwater system.
BWR	4. Transient with reactor isolation and temporary failure of all coolant make-up systems.
	5. Small LOCA with temporary failure of ECC injection.
	6. Transient with failure of reactor shutdown systems and interruption of ECC systems.

TABLE II.—PARAMETRIC VARIATIONS OF A PWR SMALL-BREAK SCENARIO

Rate of H_2 release[2] (lb/min)	Timing of H_2 release	Rate of steam/enthalpy release (lb/min (missions of Btu/min))	Concurrent failures and recoveries
2	Starting at time.		
10	of Uncovering of Top.	600(1)	Fans.
30	of core	3,600(6)	Containment.
100	Prior to major steam release.	[1] 10,000(16)	Sprays.
1,000	Concurrent with major steam release.		AC power.
	Following major steam release.		Recirculation.

[1] This high rate of steam release may occur for about 10 min. during ECC recovery.
[2] These rates should be assumed to be constant during the period of release and represent release from the primary system to the containment building.

The Commission particularly welcomes comments concerning which of the above approaches is preferred as well as suggestions regarding improvements or other alternatives.

The proposed rule has also been modified to clarify the types of analyses required. They can be grouped into four classes, depending upon containment design, as follows:

1. BWRs with Mark I and II type containments are required to be inerted by the companion rule on inerted containments appearing elsewhere in this issue. (See Table of Contents under NRC Rules and Regulations.) There are no further anslyses required of these plants.

2. Effective [one year after the effective date of the rule], or the date of issuance of a license authorizing operation above 5 percent of full power, whichever is later, analyses would be required for BWRs with Mark III type containments and PWRs with ice condenser type containments to demonstrate that the installed hydrogen control system is adequate and will perform its intended function in a manner that provides adequate safety margins. Analyses should also be performed to assess the effectiveness of alternative systems.

3. Effective [one year after the effective date of the rule] or the date of issuance of a license authorizing operation above 5 percent of full power, whichever is later, additional analyses, described under item 4, would be required for BWRs with Mark III type containments and PWRs with ice condenser type containments, to show that safe shutdown will be assured and containment structural integrity maintained during degraded core accidents.

4. Owners of all other containments would be required to perform and submit by [two years after the effective date of the rule] or the date of issuance of a license authorizing operation above 5 percent of full power, whichever is later: (i) Analyses to assure that during degraded core accidents containment structural integrity will be maintained; and (ii) equipment survivability analyses to assure continued containment integrity and safe shutdown capability. These degraded core accidents will be assumed to produce hydrogen releases to the containment resulting from the containment reaction of up to and including 75% of the fuel cladding surrounding the active fuel region with water for a range of time periods consistent with the accident scenarios analyzed.

The analyses required by this section serve two purposes. First, they support continued reliance on the interim requirements of this rule. Second, the results will be considered in a longer term rulemaking on degraded cores.

Paperwork Reduction Act

The proposed rule will be submitted to the Office of Management and Budget for clearance of the application requirements that may be appropriate under the Paperwork Reduction Act (Pub. L. 96-511). The SF-83 "Request for Clearance," Supporting Statement, and related documentation submitted to OMB will be placed in the NRC Public Document Room at 1717 H Street NW., Washington, D.C. 20555. The material will be available for inspection and copying for a fee.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This proposed rule affects only the licensing and operation of nuclear power plants. The companies that own these plants do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR Part 121. Since these companies are dominant in their service areas, this proposed rule does not fall within the purview of the Act.

Accordingly, notice is hereby given that, pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of title 5 of the United States Code, adoption of the following amendments to 10 CFR Part 50 is contemplated.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 reads as follows:

Authority: Secs. 103, 104, 161, 182, 183, 189, 68 Stat. 936, 937, 948, 953, 954, 955, 956, as amended (42 U.S.C. 2133, 2134, 2201, 2232, 2233, 2239); secs. 201, 202, 206, 88 Stat. 1243, 1244, 1246 (42 U.S.C. 5841, 5842, 5846), unless otherwise noted. Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended; (42 U.S.C. 2234). Sections 50.100–50.102 issued under sec. 186, 68 Stat. 955; (42 U.S.C. 2236). For the purposes of sec. 223, 68 Stat. 958, as amended; (42 U.S.C. 2273). § 50.54(i) issued under sec. 161i, 68 Stat. 949; (42 U.S.C. 2201(i)). §§ 50.70, 50.71 and 50.78 issued under sec. 161o, 68 Stat. 950, as amended; (42 U.S.C. 2201(o)) and the Laws referred to in Appendices.

2. In § 50.44, paragraph (c) is amended by adding new subparagraphs (3) (iv), (v) and (vi) to read as follows:

§ 50.44 Standards for combustible gas control system in light water cooled power reactors.

* * * * *

(c) * * *

(3) * * *

(iv) Effective [one year after effective date of the rule], or the date of issuance of a license authorizing operation above 5 percent of full power, whichever is later, each boiling light-water nuclear power reactor with a Mark III type containment and each pressurized light-water nuclear power reactor with an ice condenser type containment, for which a construction permit was issued prior to March 28, 1979, shall be provided with an acceptable hydrogen control system justified by suitable programs of experiment and analysis. The hydrogen control system must be capable of handling an amount of hydrogen equivalent to that generated from the

reaction of 75% of the fuel cladding surrounding the active fuel region (excluding the cladding surrounding the plenum volume) with water, without loss of containment structural integrity (i.e., steel containments must meet the requirements of the ASME Boiler and Pressure Vessel Code, Section III, Division 1, Subsubarticle NE–3220, Service Level C Limits, except that evaluation of instability is not required, considering pressure and dead load alone. Concrete containments must meet the requirements of the ASME Boiler and Pressure Vessel Code, Section III, Division 2, Subsubarticle CC–3720, Factored Load Category, considering pressure and dead load alone. These subsubarticles have been approved for incorporation by reference by the Director of the **Federal Register**. A notice of any changes made to the material incorporated by reference will be published in the **Federal Register**. Copies of the ASME Boiler and Pressure Vessel Code may be purchased from the American Society of Mechanical Engineers, United Engineering Center, 345 East 47th Street, New York, N.Y. 10017. It is also available for inspection at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street NW., Washington, D.C.) If the hydrogen control system relies on post-accident inerting, the containment structure must be capable of withstanding the increased pressure (A) during the accident, where it must not exceed Service Level C Limits or the Factored Load Category (as previously specified in this paragraph) and (B) following inadvertent full inerting that may occur during normal plant operations, where it must not exceed either Service Level A Limits (for a steel containment) or the Service Load Category (for a concrete containment). Equipment required to establish and maintain safe cold shutdown and containment integrity must be designed and qualified for the environment caused by post-accident inerting. Furthermore, inadvertent full inerting during normal plant operations must not adversely effect systems and components needed for safe operation of the plant. Modest deviations from these criteria will be considered by the Commission if good cause is shown.

(v) Each light-water nuclear power reactor, for which a construction permit was issued prior to March 28, 1979, that does not rely upon an inerted atmosphere to control hydrogen inside the containment, shall be provided with systems necessary to establish and maintain safe cold shutdown and maintain containment integrity that are capable of performing their functions during and after being exposed to the environmental conditions created by the burning (or local detonation) of hydrogen. The amount of hydrogen to be considered is equivalent to that generated from the reaction of 75% of the fuel cladding surrounding the active fuel region (excluding the cladding surrounding the plenum volume) with water. This requirement shall be effective as follows: for each boiling light-water nuclear power reactor with a Mark III type containment and each pressurized light-water nuclear power reactor with an ice condenser type containment, on [one year after the effective date of the rule] or the date of issuance of a license authorizing operation above 5 percent of full power, whichever is later; for every other light-water nuclear power reactor that must meet this requirement, on [two years after the effective date of the rule] or the date of issuance of a license authorizing operation above 5 percent of full power, whichever is later.

(vi) Analyses shall be performed and submitted to the Director of Nuclear Reactor Regulation for each light-water nuclear power reactor, for which a construction permit was issued prior to March 28, 1979, to evaluate the consequences of large amounts of hydrogen generated after the start of an accident (hydrogen resulting from the reaction of up to and including 75 percent of the fuel cladding surrounding the active fuel region with water) including consideration of hydrogen control measures as appropriate. Each analysis must include the period of recovery from the degraded condition. The accident scenarios to be used in the analyses must be acceptable to the NRC staff. The scope and implementation requirements for the analyses for the various types of light-water nuclear power reactors are as follows:

(A) For each boiling light-water nuclear power reactor with a Mark III type containment and each pressurized light-water nuclear power reactor with an ice condenser type containment, analyses shall be performed that justify the selection of the hydrogen control system required by § 50.44(c)(3)(iv). These analyses shall be completed and submitted by [one year after the effective date of the rule], or the date of issuance of a license authorizing operation above 5 percent of full power, whichever is later.

(B) For each light-water nuclear power reactor that does not rely upon an inerted atmosphere to control hydrogen inside the containment, analyses shall be performed to show that containment structural integrity as defined in § 50.44(c)(3)(iv) will be maintained, and systems and components necessary to establish and maintain safe cold shutdown and maintain containment integrity will be capable of performing their functions during and after being exposed to the environmental conditions created by the burning of hydrogen, including the effect of local detonations. These analyses shall be completed and submitted as follows: for each boiling light-water nuclear power reactor with a Mark III type containment and each pressurized light-water nuclear power reactor with an ice condenser type containment, by [one year after the effective date of the rule] or the date of issuance of a license authorizing operation above 5 percent of full power, whichever is later; for every other light-water nuclear power reactor for which these analyses are required, by [two years after the effective date of the rule] or the date of issuance of a license authorizing operation above 5 percent of full power, whichever is later.

Dated at Washington, D.C., this 18th day of December 1981.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 81-36558 Filed 12-22-81; 8:45 am]

BILLING CODE 7590-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 250

[EDR-436; Economic Regulations Docket No. 39932]

Denied Boarding Compensation Rules; Comprehensive Review

December 9, 1981.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The CAB is initiating a comprehensive review of its oversales and denied boarding compensation rules as part of its examination of consumer protection regulations prior to sunset. The Board is seeking comment on, first, eliminating all governmental oversight in this area and, second, retaining the present rules with modifications. This rulemaking is at the Board's initiative.

DATES: Comments by: February 22, 1982; Reply comments by: March 9, 1982.

Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on the Service List: January 7, 1982.

The Docket Section prepares the Service List and sends it to each person listed on it, who then serves comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 39932, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Patricia Kennedy, Assistant to the Director for Programs, Bureau of Compliance and Consumer Protection, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5934, or Joanne Petrie, Office of the General Counsel, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5442.

SUPPLEMENTARY INFORMATION: Part 250 establishes minimum standards for the treatment of airline passengers holding confirmed reservations who are not accommodated because their flight has been oversold. In this notice of proposed rulemaking the Board is initiating a comprehensive review of part 250 as part of a general review of all consumer protection rules prior to sunset. Two distinct options are proposed. The first would eliminate all government regulation of oversales and denied boarding compensation as part of the transition to deregulation. Several suboptions as to timing are proposed. Alternatively, the Board proposes to retain the current rule with some modification to remove unnecessary burdens. In addition to inviting interested parties to submit written comments, the Board will entertain requests for an oral argument on the issues raised in this notice.

The Current Oversales Rule

The purpose of the Board's oversales rule is to balance the rights of ticket-holding passengers to transportation with the needs of air carriers to minimize the adverse economic effects of "no-shows" by passengers holding reservations. The focus of the rule is a carrier's failure to honor a confirmed reservation because of its overbooking practices. The rule sets up a two-part system. The first encourages passengers to voluntarily relinquish their confirmed reservations in exchange for some agreed-upon compensation. The second gives passengers who are involuntarily denied boarding some compensation. In addition, the Board requires carriers to state their practices in their tariffs, give passengers notice of those practices through signs and ticket inserts, and report the number of passengers denied boarding to the Board on a regular basis.

The Board first required payments to oversold passengers 20 years ago. In Order No. E-17914, dated January 8, 1962, the Board conditioned its approval of "no-show penalties" for confirmed passengers on the requirement that oversold passengers on those flights be compensated. An oversales rule was adopted in 1967 as 14 CFR Part 250, ER-503, 32 FR 11939, August 18, 1967, and revised substantially in 1978 after a comprehensive rulemaking proceeding, ER-1050, 43 FR 24277, June 5, 1978. The key features of the current requirements are as follows:

(a) In the event of an oversold flight, the airline must first seek volunteers who are willing to relinquish their seats in return for compensation offered by the airline;

(b) If there are not enough volunteers, the airline must deny boarding on the basis of non-discriminatory boarding priority procedures filed with the Board;

(c) Most passengers who are involuntarily bumped are eligible for denied boarding compensation, with the amount depending on the price of the ticket and the length of the delay. If the airline can arrange satisfactory alternate transportation scheduled to arrive at the passenger's destination within 2 hours of the oversold flight (4 hours on international flights), the compensation is the fare to the destination, with a $37.50 minimum and $200 maximum. If the airline cannot meet the 2-or 4-hour deadline, the amount of compensation doubles. This compensation is in addition to the value of the passenger's ticket, which the passenger keeps.

(d) There are a number of exceptions to the rule. If a passenger is denied boarding on an oversold flight because the government has requisitioned space or because equipment has been substituted for operational or safety reasons, the carrier has no duty to pay compensation. Passengers without confirmed reservations, and those who do not meet the airline's ticket purchase or check-in deadlines, are also ineligible.

(e) A passenger who is denied boarding involuntarily may refuse to accept the denied boarding compensation specified in the rule and seek additional compensation through negotiations with the carrier or by private legal action.

(f) Airlines must post counter signs and include notices with tickets to alert travelers of their overbooking practices. In addition, they must provide written notices explaining their oversales practices and boarding priority rules to each passenger involuntarily denied boarding, and to any person requesting a copy.

(g) Each U.S. airline must file with the Board a monthly report on the number of oversold passengers and the amount of compensation paid to them.

(h) Airlines must file tariffs with the Board describing their boarding priority rules and other practices relating to oversales.

In adopting the current rules, the Board wanted to reduce the number of passengers involuntarily denied boarding to the smallest practicable number without prohibiting deliberate overbooking or interfering unnecessarily with the airlines' reservations practices. Air travelers receive some benefit from controlled overbooking, in that it allows flexibility in making and cancelling reservations, as well as buying or refunding tickets. Overbooking makes possible a system of confirmed reservations that can almost always be honored, without the need for widespread use of advance purchase requirements or ticket refund penalties. It allows airlines to fill more seats, reducing the pressure for higher fares, and makes it easier for people to obtain reservations on the flights of their first choice. On the other hand, overbooking is the major cause of oversales, and the people who are inconvenienced are not those who do not show up for their flights, but passengers who have conformed to all carrier rules. The current rule allocates the risk of being denied boarding among travelers by requiring airlines to solicit volunteers and use a nondiscriminatory boarding priority procedure. The costs of overbooking are spread among all passengers.

In regulating oversales, the Board has been concerned about the potentially deceptive aspects of deliberate overbooking. The terms "confirmed" and "reservation" imply that the airline will provide air transportation on a specific flight. Part 250 attempts to limit the possibility that passengers will be deceived by requiring airlines to use counter signs and ticket notices informing passengers that reservations may not be honored due to overbooking. In addition, the Board and a number of airlines have undertaken passenger education programs to explain the rules, encourage volunteers, and explain the purpose of overbooking. We believe these efforts have increased public awareness that reservations are confirmed subject to occasional oversales.

The requirement that carriers file their boarding priority rules with the Board has discouraged airlines from selecting those to be bumped on an arbitrary or discriminatory basis. Most carriers deny boarding on a last come, last served basis, which allows some passengers to minimize the risks of being bumped by arriving at the boarding gate earlier than most others.

There are a number of other practices that airlines use to minimize their losses from confirmed passengers who do not show up for the flights. Air Florida offers a 20% discount to passengers who are willing to buy non-refundable tickets (which may be transferred to another passenger, if necessary) in order to limit the number of "no-shows." On certain flights, New York Air requires a passenger making a reservation by phone to provide a credit card number, and charges that account $20 if the passenger does not notify the airline at least 30 minutes before departure that the reservation will not be used. For almost 10 years Eastern Airlines has offered "conditional reservations" on fully booked flights, and has had one of the lowest involuntary bumping rates in the industry. World Airways subtracts substantial cancellation penalties from ticket refunds. Many carriers now combine advance purchase requirements and refund penalties with their discount fares. Some airlines rely heavily on stand-by passengers who pay lower fares than those with confirmed reservations.

The Board has been flexible in implementing Part 250. Airlines may offer passengers a choice of free tickets or cash payments as denied boarding compensation. The Board recently amended the rules in ER-1237, 46 FDR 42442, August 21, 1981, to exclude all operations using aircraft of 60 or fewer seats from the overbooking rules. Because of the disruption caused by the recent reduction in air traffic control personnel, the Board has temporarily relieved carriers of the double indemnity requirement (Orders 81-8-22, 81-8-86, 81-9-20 and 81-11-57).

In all, we believe the rules have served a useful purpose. They tend to reduce passenger inconvenience and financial loss occasioned by overbooking without imposing heavy burdens on the airlines or significant costs on the traveling public. In focusing only on the treatment of bumped passengers, we have avoided regulating carriers' reservations practices. As we consider the future of air transport regulations, however, the issue is whether detailed oversight of overbooking practices is justified in an increasingly deregulated industry and, if so, whether modifications of Part 250 are warranted in view of the more competitive environment.

Option 1: Revocation of the Oversales Rule.

Under this option, the Board would revoke part 250, *Oversales*, prior to sunset. This could be done at once, or the Board could adopt one of the two phased alternatives:

(1) Suspend Part 250 with automatic revocation in a year absent further Board action; or

(2) Retain Part 250 for one year with automatic revocation thereafter absent further Board action, but freely grant exemptions to allow any carrier to implement alternative means of handling oversales, provided carriers give adequate notice to passengers.

If we determined that the rules should be abolished, we would be reluctant to do so immediately. Rather, we would want to have some limited transition period during which we could monitor the impact on consumers of the relaxation of the oversales regulation and could act quickly to address any pervasive abuses that might occur.

The fundamental issue raised in this proceeding is whether the government or the marketplace should allocate the various risks and responsibilities relating to the practice of overbooking. Presently, Part 250 establishes the basic ground rules for allocating the various risks and responsibilities between carrier and passenger as well as among passengers.

Those advocating abolition of the rules argue that carriers should be given as much discretion as possible to make marketing decisions about various price and service quality options such as overbooking practices, free baggage allowances, and other amenities. Government involvement in determining reservations and oversales treatment may not be necessary in a competitive environment where carriers have incentives to alert passengers of risks and maintain customer goodwill. Where such market conditions exist, government regulation cannot allocate risks as efficiently or respond as quickly to changing conditions as can the competitive marketplace. Retaining the regulation may also inhibit competition among carriers and stifle innovation by lessening competitive uncertainty. Carriers may have some confidence that their competitors will continue to follow traditional overbooking practices and that they will have advance notice of any carrier's attempt to adopt innovative procedures.

Several factors indicate that the domestic airline industry has the market characteristics necessary to discontinue government regulation of oversales. The industry under deregulation has become increasingly competitive. Carriers should have a strong incentive to maintain customer goodwill, because slight changes in load factors have such a substantial impact on carrier profitability that financial success depends on the ability of carriers to attract and maintain repeat business. Reasonable treatment of passengers (including limiting the number of passengers involuntarily denied boarding to the smallest possible number) is an element of service quality that consumers consider in their choice of air carriers. If passengers feel they are not being treated well, they will use other airlines or alternative means of transportation.

In the event we decided to revoke Part 250, adequate notice to consumers of a carrier's reservations and denied boarding practices would be esential to minimize consumer confusion and possible deception. The use of the term "confirmed reservation" combined with deliberate overbooking is inherently misleading unless a clear explanation is provided to all passengers. Absent clear disclosure, we would have no confidence at all that the marketplace would satisfactorily allocate the risks and responsibilities between carrier and passenger.

Whether, absent our rules, airlines will provide sufficient information so that passengers will understand an individual carrier's reservations practices and the risks associated with them is uncertain. More specific notice than our regulations presently require may be insisted upon by the courts if the regulations are abolished. The Part 250 notice requires each carrier to state that it overbooks and is occasionally unable to accommodate all ticket holders. While this might be sufficient in the context of a regulation prescribing generous compensation to involuntarily bumped passengers, it may not be adequate where the carrier provides little or nothing to most bumped passengers. It may be difficult for an individual to determine if a specific flight is oversold, and most passengers are not sufficiently informed to know what questions they should ask about a carrier's boarding priorities or compensation procedures. Until the courts determine that greater disclosure is required, airlines may believe it is in their interest not to provide any more information about overbooking than they feel they absolutely have to.

However without tariffs, the threat of common law actions may provide a significant incentive for carriers to give adequate notice of the risks and responsibilities they place on passengers in order to limit their own liability. That incentive may be even stronger in the case of deliberate overbooking which, without reasonable disclosure, would almost certainly be considered deceptive. *See e.g., Nader v. Allegheny Airlines*, 426 U.S.C 290 (1976).

Continuation of the rule may be advisable if it appears that competition cannot adequately address the problems caused by involuntary oversales. Denied boarding compensation is a negative service element that is only called into play when something goes wrong. Under a competitive system, carriers may not want to highlight any service failure that occurs. Even prior to the Airline Deregulation Act when airline competition was largely restricted to service quality, carriers generally did not compete on their oversales and other consumer protection practices. Today, there continues to be little competition on negative service elements. With the competitive pressures to keep load factors as high as possible, carriers feel increased pressure to minimize costs, and may consider denied boarding practices a fruitless area of competitive endeavor.

In this connection, there are a number of other issues that concern us if Part 250 is revoked, in addition to the adequacy of disclosure discussed earlier. Specifically, we question whether, under the discipline of the market without Part 250: (1) Airlines might increase the extent to which they overbook and thereby increase a passenger's risk of being bumped; (2) those involuntarily bumped may not be treated fairly or compensated adequately; and (3) airlines might abandon the volunteer solicitation process and bump passengers on an arbitrary and discriminatory basis. We discuss each of these concerns individually below.

Although Part 250 does not directly regulate overbooking, the requirement for denied boarding compensation payments provides some regulatory incentives for carriers to overbook prudently. Proponents of eliminating Part 250 might argue that, without the rule, carriers will have competitive incentives to moderate overbooking and oversales because of the importance to airlines of repeat business. Moreover, word of mouth information about an airline's services is often an important factor in a prospective passenger's choice of carriers. But competition may, at the same time, increase the pressure on airlines to adopt new ways of keeping load factors up, which could lead to far more overbooking than occurs now and perhaps many more bumped passengers. The extent to which a carrier can overbook without losing sales due to a reputation for unreliability is uncertain.

There is also the possibility that people who are involuntarily denied boarding will receive less compensation than they do under the present rules or even no compensation at all. In addition to competitive pressures to keep load factors as high as possible, carriers will feel increased pressures to minimize costs, including the costs of compensating bumped passengers. Despite the incentives to attract repeat business, they may consider an involuntarily bumped passenger a lost cause no matter what they pay. Carriers may find it uneconomic to pay denied boarding compensation voluntarily to all bumped passengers, since the costs of doing so might not be offset by lower complaint handling expenses, fewer instances of litigation, and reductions in revenue losses that occur when dissatisfied passengers take future business to competing airlines.

If we eliminate Part 250, there may be changes in the way in which airlines select bumped passengers. Under the rules, the carriers have a regulatory and economic incentive to seek volunteers. By so doing, the airline can, in most cases, reduce significantly the amount of compensation payments it has to pay. Board-prescribed involuntary denied boarding compensation payments made during the first six months of 1981 were roughly twice as high as payments to volunteers, averaging $232 and $120 respectively. But absent Board regulation, there may be a temptation for airlines to select the people to be bumped in an arbitrary and discriminatory manner. Carriers might want to avoid bumping those who appear to be business travelers because of their greater potential as repeat passengers, or they may arbitrarily select people who appear to be relatively unsophisticated or unassertive.

On a more general level, we have some reservations about revoking a rule that, overall, seems to work well in balancing risks and benefits between airlines and passengers. The cost of compensation is spread among all passengers and amounts to about 10 or 11 cents per flight coupon. The rule is flexible yet provides relatively clear criteria for implementation. It has facilitated the responsive reservations system that travelers now enjoy, without substantial advance purchase or cancellation charge burdens for normal fare service. At the same time, the number of seats that would fly empty is minimized, which benefits both the carriers and consumers.

If the oversales rule were eliminated, there would be a range of possible effective dates, and the Board requests comment on which would be the most appropriate. Also, comment is invited on whether there should be a limited transition period so that the Board could monitor the effect of deregulation in this area and reenter the field if problems develop. As noted earlier, we tentatively believe that a transition period is desirable. A related issue is the best method to eliminate the rule if this option is chosen. Should revocation be outright, or should the rule's effectiveness be suspended for some stated period with automatic revocation absent further Board action? Alternatively, instead of revolting the rule itself, the Board could announce a policy of freely granting exemptions from Part 250 to any carrier on the condition that the carrier remove any mention of its overbooking and oversales practices from its tariffs.

If this option were adopted, carriers could follow whatever practices they chose. Airlines could design their own forms of notice and could deal with oversales situation in any way they thought best.

Arguments for suspending Part 250's application in domestic markets may not apply to many international operations, where significant barriers to entry and limited pricing flexibility still limit the role of competitive forces in determining carrier behavior. In addition, airlines will continue to file tariffs governing international services, including rules tariffs that limit their liability for service failures such as oversales. As long as airlines are protected by these tariffs, we believe that air travelers' interests must be protected by governmental monitoring of the tariff provisions. We are inclined to suspend Part 250 for foreign air transportation only if (1) we do so domestically, (2) U.S. and foreign air carriers agree to remove all rules tariffs relating to overbooking and oversales, and (3) the passengers have adequate notice of the carriers' overbooking policy. We are, however, proposing a modification for inbound traffic if the rule is retained under Option 2, as discussed below.

A final issue raised by this option is whether the present reporting requirements found in § 250.10, *Reports of unaccommodated passengers*, should

be continued. Form 251 provides the Board and the public with information concerning the number of passengers boarded, the number of volunteers, and the number of passengers denied boarding involuntarily by all U.S. carriers on domestic flights, and for international flights subject to Part 250. The information provided by this form has helped the Board gauge the level of oversales and the effectiveness of the regulation . According to the Board's recent staff report, "CAB Information Systems and Early Sunset," the reporting requirements of Form 251 are informally scheduled to terminate at sunset. As an alternative to immediate termination, the reports could be retained for a limited period to help the Board monitor the effects of this change and see if any problems result.

Option 2: Retain the Current Rule with Some Modification

If the Board decides against Option 1, and retains a rule on oversales, it proposes to make some modification to reflect changes that have taken place during the transition to deregulation, and to reduce the rule's costs and burdens while maintaining most of its effectiveness. The proposed changes would be as follows:

(a) *Denied Boarding compensation on inbound foreign flights.* Apart from certain tariff, reporting, and notice provisions, Part 250 does not apply on a mandatory basis to flights on foreign air carriers from a foreign country to the United States. On comparable flights on U.S. air carriers, however, the rules do apply. Foreign airlines that do not voluntarily comply with the requirements for U.S. airlines now file tariffs governing the alternate practices and must use Board-prescribed counter signs and ticket notices to alert passengers that they offer less protection against overbooking than that provided for by Part 250. Some U.S. carriers, who are not exempt from the rules, argue that the voluntary nature of this provision has given foreign competitors an unfair advantage. Some foreign airlines, on the other hand, have complained about the negative effect of the notices to passengers. In this notice, we propose to amend § 250.2, *Applicability,* to reflect these concerns. All U.S. and foreign air carriers operating inbound flights from foreign points would have a choice of structuring their oversales practices in one of three ways. First, carriers could adhere to Part 250 by providing the regulatory notices and substantive protection. Alternatively, a U.S. or foreign carrier could adopt oversales practices that did not meet all the Part 250 requirements. If such a carrier wanted to file rules tariffs on this subject, it would have to provide the Board-prescribed notices set forth in § 250.11, *Public disclosure of deliberate overbooking and boarding procedures* and § 250.12, *Disclosure on inbound flights.* The § 250.12 notice would be amended to reflect the fact that carriers may offer different consumer protections on their inbound flights and that passengers should check with the airline or their travel agent for further details. A U.S. or foreign air carrier that chose not to comply with all the requirements of Part 250 and that did not wish to provide the notices required by § 250.11 and § 250.12 woud be required to withdraw relevant tariff rules for in-bound flights and to provide actual notice of their oversales practices to people who purchase tickets in this country. Such carriers would develop their own notices to inform passengers of their practices and provide the reports required by § 250.10. Under all three options, carriers would still be required to provide the reports required by § 250.10, *Reports of unaccommodated passengers.*

(b) *Calculation of involuntary denied boarding compensation payments.* In other proceedings, several carriers have raised objections to basing the amount of the denied boarding compensation payment on the value of the flight coupons to the passenger's next stopover or final destination. The current requirement was based on the fact that passengers with connecting flights may be more severely inconvenienced by oversales than point to point travellers, if they miss their connection. The current rule strengthens an airline's incentive to solicit volunteers to order to reduce costs. The provision, however, is burdensome for carriers operating in short-haul markets with relatively few frequencies and a large proportion of interline connecting traffic. Although we believe the rule has worked well, we invite comments and the submission of specific data on whether compensation should be based only on the oversold flight.

(c) *Exceptions to eligibility for denied boarding compensation.* In EDR-400 (45 FR 30086, May 7, 1980), the Board sought comments on an exception to the oversales rule for persons accommodated on extra sections of oversold flights. We proposed to allow the exception if extra sections depart within 1 hour of the original flight, because this type of relatively short delay seemed to be a reasonable adjustment by anyone who travels by air. The same rationale may apply when bumped passengers can be accommodated at no extra charge on regularly scheduled flights that get them to their ultimate destination within an hour of their original arrival time. By this notice, we propose to add an exception to § 250.6, *Exceptions to eligibility for denied boarding compensation,* so that carriers would not be required to make payments to passengers who can be accommodated on alternate flights that are scheduled to arrive within 1 hour of the original flight. This addition would eliminate the windfall currently given to oversold passengers who are not seriously inconvenienced. We recognize, however, that this change may lower the number of volunteers since carriers would more often avoid liability for involuntary compensation.

(d) *Minimum denied boarding compensation payments.* The minimum involuntary denied boarding compensation payment set by Part 250 is currently $75, or $37.50 if alternate transportation within 2 hours (4 for foreign air transportation), is arranged. Several carriers have proposed or begun to offer low-cost service in short and medium-haul markets at fares below these amounts. As a result, there is a possibility that the net financial effect on those carriers is proportionately higher than is the effect on other carriers with comparable bumping rates. To correct this disparity, we propose to remove the minimum payments from the rule. We request comments on whether this proposed change would make the amount of compensation so small in some cases as to provide no meaningful recompense.

(e) *Exemptions from Part 250.* The Board has already adopted a liberal policy when considering exemption requests from airlines that have asked permission to experiment with alternatives to our rules. To date, however, a few carriers operating large aircraft have asked for such exemptions, and those requested have not involved substantial deviations from the substantive requirements of Part 250.

In a recent Petition for Rulemaking, (Docket 39376) which was denied in Order 81-8-98, August 17, 1981, Transamerica petitioned the Board to carve out special exceptions for low-fare carriers in Part 250. We are hesitant to treat airlines differently solely on the basis of fare level. Low-fare air service varies greatly, as do the characteristics of the markets in which the carriers operate. The availability of alternate transportation (or lack of it) will affect the potential for severely disrupted travel plans. The nature of the

alternative to involuntary denied boarding compensation is also an important consideration, since whatever is offered should be of sufficient value to adequately compensate non-volunteers. The interrelationship of an airline's other practices such as no-show or cancellation penalties is another significant factor for consideration.

We do, however, want to encourage airlines to experiment with innovative alternatives to our requirements. If we were to allow exemptions that provided for less protection than that required by Part 250, we would require carriers to remove any provisions relating to oversales and denied boarding compensation from their passenger rules tariffs. While we would not prescribe the language of actual notices to passengers, carriers would be expected to convey adequate information to passengers about their oversales practices, their boarding priority and what, if any, compensation oversold passengers would receive.

We solicit comments on the need for a liberal exemption policy, considering the large degree of flexibility airlines already have to minimize their denied boarding compensation payments. Since the rules only apply to "confirmed" reservations, any tickets that a carrier wants to sell on a conditional or some other non-reserved basis are no subject to Part 250 at all. Additionally, carrier scan reduce the costs of overbooking with effective volunteer solicitation.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96-354, the Board certifies that none of these proposed changes will, if adopted as proposed, have a significant economic impact on a substantial number of small entities. Board rules governing oversales and denied boarding compensation only include operations with large aircraft, which are the only operations that would be covered under any of the proposed options.

PART 250—OVERSALES

Accordingly, the Civil Aeronautics Board proposes to adopt one of the following two alternative options concerning 14 CFR Part 250, *Oversales*.

Option 1

Part 250, *Oversales*, would be removed. The Board would, by show cause order, cancel all tariff rules relating to overbooking and oversales. The Board specifically requests comments on an effective date, and whether the rule should be removed outright or suspended for a stated period with automatic revocation if the Board takes no further action. In addition, the Board request comments on whether the reporting requirements found in § 250.10, *Reports of unaccommodated passenger*, should be retained, and if so, in what form and for what period of time.

Option 2

1. Paragraph (b) of § 250.2, *Applicability*, would be amended as follows:

§ 250.2 Applicability.

* * * * *

(b) The requirements of this part other than §§ 250.10, 250.11, and 250.12 do not apply on a mandatory basis to flights from a foreign country to the United States. For those flights, only §§ 250.10, 250.11, and 250.12 are mandatory unless that carrier or foreign air carrier obtains an exemption according to the provisions set forth in §250.13.

2. Section 250.5 would be amended to remove the clauses describing the minimum level of compensation, so that it would read as follows:

§ 250.5 Amount of denied boarding compensation for passengers denied boarding involuntarily.

A carrier, as defined in §250.1, shall pay compensation to all passengers denied boarding involuntarily from its oversold flights at the rate of 200 percent of the value of the passenger's remaining flight coupons up to the passenger's next stopover, or if none, to the passenger's destination, with a $400 maximum. However, the compensation shall be one-half the amount described above, with a $200 maximum, if the carrier arranges for comparable air transportation, or other transportation, used by the passenger that, at the time either such arrangement is made, is scheduled to arrive at the airport of the passenger's next stopover or if none, at the airport of the passenger's destination, not later than 2 hours after the time the direct or connecting flight on which confirmed space is held is planned to arrive in the case of interstate and overseas air transportation, or 4 hours after such time in the case of foreign air transportation.

3. Section 250.6 would be amended by adding paragraph (d) as follows:

§250.6 Exceptions to eligibility for denied boarding compensation.

A passenger denied boarding involuntarily from an oversold flight shall not be eligible for denied boarding compensation if:

* * * * *

(d) The carrier arranges alternate air transportation at no extra cost to the passenger, or other transportation, used by the passenger that, at the time such arrangements are made, is scheduled to arrive at the passenger's next stopover or, if none, final destination within 1 hour after the scheduled arrival time of the passenger's original flight or flights.

4. The third and fourth portions of the written explanation that carriers must provide oversold passengers under §250.9 would be amended as follows:

§ 250.9 Written explanation of denied boarding compensation and boarding priorities.

* * * * *

Compensation for Denied Boarding

If you have been denied a reserved seat on (name of air carrier), you are probably entitled to monetary compensation. This notice explains the airline's obligations and the passenger's rights in the case of an oversold flight, in accordance with regulations of the U.S. Civil Aeronautics Board.

Volunteers and Boarding Priorities

If a flight is oversold (more passengers hold confirmed reservations than there are seats available), no one may be denied boarding against his or her will until airline personnel first ask for volunteers who will give up their reservation willingly, in exchange for a payment of the airline's choosing. If there are not enough volunteers, other passengers may be denied boarding involuntarily in accordance with the following boarding priority of (name of air carrier): (In this space carrier inserts its boarding priority rules or a summary thereof, in a manner to be understandable to the average passenger.)

Compensation for Involuntary Denied Boarding

If you are denied boarding involuntarily, you are entitled to a payment of "denied boarding compensation" from the airline unless: (1) You have not fully complied with the airline's ticketing, check-in, and reconfirmation requirements, or you are not acceptable for transportation under the airline's usual rules and practices, or (2) you are denied boarding because the flight is canceled; or (3) you are denied boarding because of government requisition of space or because a smaller capacity aircraft was substituted for safety or operational reasons; or (4) you are offered accommodations in a section of the aircraft other than that specified in your ticket, at no extra charge, (a

passenger seated in a section for which a lower fare is charged must be given an appropriate refund); or (5) the airline is able to provide another flight or flights that are scheduled to reach your destination within one hour of your original flight.

Amount of Denied Boarding Compensation

Passengers who are eligible for denied boarding compensation must be offered a payment equal to the sum of the face values of their ticket coupons, with a $200 maximum. However, if the airline cannot arrange "alternate transportation" (see below) for the passenger, the compensation is doubled. The 'value' of a ticket coupon is the one-way fare for the flight shown on the coupon including any surcharge and air transportation tax, minus any applicable discount. All flight coupons including connecting flights, to the passenger's destination or first 4-hour stopover are used to compute the compensation.

"Alternate transportation" is air transportation (by an airline licensed by the C.A.B.) or other transportation used by the passenger which, at the time the arrangement is made, is planned to arrive at the passenger's next scheduled stopover (of 4 hours or longer) or destination no later than 2 hours (for flights within U.S. points, including territories and possessions) or 4 hours (for international flights) after the passenger's originally scheduled arrival time.

Method of Payment

The airline must give each passenger who qualified for denied boarding compensation, a payment by check or draft for the amount specified above, on the day and place the involuntary denied boarding occurs. However, if the airline arranges alternate transportation for the passenger's convenience that departs before the payment can be made, the payment will be sent to the passenger within 24 hours.

Passenger's Options

Acceptance of the compensation may relieve (name of air carrier) from any further liability to the passenger caused by its failure to honor the confirmed reservation. However, the passenger may decline the payment and seek to recover damages in a court of law or in some other manner

5. Section 250.12 would be amended by removing the word "foreign" from the title and by revising paragraph (a), to read as follows:

§ 250.12 Disclosure by air carriers on inbound flights.

(a) Any air carrier engaged in foreign air transportation that does not have on file with the Board tariffs conforming with §§ 250.3 and 250.4 of this part for inbound traffic to the United States shall include the following statement at the end of the notices required by paragraphs (a) and (b) of § 250.11:

Although some airlines do not apply these consumer protections to travel from some foreign countries, other consumer protections may be available. Check with your airline or travel agent.

* * * * *

6. The title of § 250.12 would be amended by removing the phrase "by foreign air carriers," so that it would read, *Disclosure on inbound flights.*

7. A new § 250.13, which would allow for exemptions from Part 250, would be added as follows:

§ 250.13 Exemptions from this part.

(a) Any carrier that wishes to obtain an exemption from this part to experiment with alternative practices for compensating oversold passengers shall file a petition with the Board's Bureau of Domestic Aviation;

(b) Any U.S. or foreign air carrier, as a condition for obtaining such an exemption, shall remove from its passenger rules tariffs all provisions relating to its overbooking and oversales practices and provide actual notice to passengers of such practice;

(c) The granting of an exemption to this part in no way implies Board approval of the reasonableness of the exempt carrier's alternate practices or the adequacy of notice provided to passengers.

(Secs. 204, 401, 402, 403, 404, 407, 411, 416, 1002 of Publ. L. 85-726, as amended, 72 Stat. 743, 754, 757, 758, 760, 766, 769, 771, 788; 49 U.S.C. 1324, 1371, 1372, 1373, 1374, 1377, 1381, 1386, 1482)

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

[FR Doc. 81-36614 Filed 12-22-81; 8:45 am]

BILLING CODE 6320-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 239 and 274

[Release Nos. 33-6367, 34-18338, IC-12108; File No. S7-864]

Withdrawal of Proposed Amendments of Investment Company Report Forms

AGENCY: Securities and Exchange Commission.

ACTION: Withdrawal of proposals.

SUMMARY: The Commission is withdrawing two proposed form amendments concerning the annual reporting by management investment companies of portfolio transactions. Under the proposed amendments, reporting companies would have included in their annual updating amendments to their registration statements a table of portfolio information virtually identical to the table heretofore required by Item 1 of Form N-1Q.

DATE: Effective December 16, 1981.

FOR FURTHER INFORMATION CONTACT: Anthony A. Vertuno, Esq. (202) 272-2107, or Jane A. Kanter, Esq. (202) 272-2033, Division of Investment Management, Securities and Exchange Commission, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: On November 25, 1980, the Commission published for comment revisions to Form N-1Q [17 CFR 274.106] and amendments to Forms N-1 [CFR 239.15, 17 CFR 274.11] and N-2 [17 CFR 239.14, 17 CFR 274.11a-1].[1]

In conjunction with its proposal to eliminate Item 1 from Form N-1Q, the Commission had proposed to amend Form N-1, which is used by open-end management investment companies to update their registration statements under the Investment Company Act of 1940 [15 U.S.C. 80a-1-80a-64], and Form N-2, which is used by closed-end management investment companies for the same purpose. Under the proposed amendments, reporting companies would have included in Part II of their annual updating amendments to their registration statements a table of portfolio information virtually identical to the table heretofore required by Item 1 of Form N-1Q. Reporting companies would have been required to show in a tabular format: (a) The number of shares (or other units) of equity securities or principal amount of debt securities acquired or disposed of for their portfolios during the preceding fiscal year; (b) their holdings of such securities and cash at the end of the fiscal year; and (c) their holdings of all other securities as of the end of the fiscal year.

The Commission has determined to withdraw these proposed form amendments for the reasons stated in Release No. 33-6366 (December 16, 1981) published under Rules and Regulations in this issue.

1 Securities Act Release No. 6283 (November 17, 1980) [45 CFR 78158 (November 25, 1980)].

By the Commission.
George A. Fitzsimmons,
Secretary.
December 16, 1981.
[FR Doc. 81-36487 Filed 12-22-81; 8:45 am]
BILLING CODE 8010-01-M

INTERNATIONAL TRADE COMMISSION

19 CFR Part 210

Procedures for Initial Determination and Discretionary Review, Investigations of Unfair Practices in Import Trade

AGENCY: International Trade Commission.
ACTION: Notice of proposed rulemaking.

SUMMARY: The proposed rules would amend Part 210 of the Commission's rules of practice and procedure governing investigations under section 337, which covers investigations of unfair practices in import trade, of the Tariff Act of 1930 (19 U.S.C. 1337). The effect of the amended rules would be to provide procedures in section 337 investigations for an initial determination by the presiding officer regarding violation of section 337 and discretionary review of the initial determination by the Commission. This would alter current Commission practice, which requires the presiding officer to file a recommended determination that is reviewed by the Commission before it issues a final determination.

DATES: Comments will be considered if received on or before February 8, 1982.
ADDRESS: Comments should conform with Commission rule § 201.8 (19 CFR 201.8) and should be addressed to Kenneth R. Mason, Secretary, U.S. International Trade Commission, Washington, D.C. 20436.

FOR FURTHER INFORMATION CONTACT: Michael P. Mabile, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C., telephone 202-523-1626.

SUPPLEMENTARY INFORMATION: Authority for the proposed rulemaking is contained in 19 U.S.C. 1335, which authorizes the Commission to adopt such reasonable procedures and rules and regulations as it deems necessary to carry out its functions and duties, including those exercised under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Authority is also derived from the Administrative Procedure Act (5 U.S.C. 551, et seq.), which authorizes the adoption of certain procedures in an adjudicative proceeding when an agency does not preside over the hearing at which the evidenced is received. Under 5 U.S.C. 557, the agency may require the presiding officer to make an initial decision that becomes the decision of the agency without further proceedings unless the decision is appealed to, or reveiwed by, the agency. Alternatively, the agency may require that the entire record be certified to it for decision with a recommended decision by the presiding officer.

The purpose of these proposed amendments to the Commission's rules is to adopt an initial determination procedure, with discretionary Commission review, in section 337 investigations. Present Commission practice calls for the presiding officer to issue a recommended determination which is subject to full Commission review with regard to every issue arising in the investigation, regardless of its significance or potential impact upon Commission policies. It is believed that the proposed rules changes would permit the Commission to make better use of its time and resources by allowing it to focus its attention on the most substantial issues coming before it in unfair import trade practice investigations, and also would diminish the amount of time required for adjudication of less complex investigations.

Explanation of Proposed Rules

§ 210.21 The response.

Section 210.21 is amended to conform its provisions with the proposed initial determination procedure by changing "recommended determination" to read "initial determination."

§ 210.22 Amendments to pleading and notice of investigation.

The first sentence of paragraph (a) is amended to conform it to the procedures set forth in proposed § 210.53(c), under which the presiding officer is to grant a motion by filing an initial determination or deny the motion by issuing an order directing denial.

§ 210.36 Failure to make discovery; sanctions.

Paragraph (b)(5) is amended to conform its provisions with the proposed initial determination procedure by changing "recommended" to read "by initial determination" and "recommended determination" to read "initial determination."

§ 210.43 Record.

Paragraph (c) is amended to conform its provisions with the proposed initial determination procedure by changing "a recommended determination" to read "an initial determination."

§ 210.50 Summary determinations.

The second of paragraph (f) is amended to conform its provisions with the proposed initial determination procedure by changing "a recommended determination" to read "an initial determination."

§ 210.51 Termination of investigation.

The revisions of § 210.51 are technical in nature, designed to conform the section with the proposed initial determination procedure. In the final sentences of paragraph (c)(2), (d), and (e), the reference to "§ 210.55" is changed to read "§ 210.56(c)" to reflect that the rule governing Commission determinations is found in § 210.56(c) under the proposed rules. Paragraph (e) is also revised by changing "a recommended determination" to read "an initial determination."

§ 210.53 Initial Determination.

(Present §§ 210.53 through 210.55 are replaced by proposed §§ 210.53 through 210.56, and present §§ 210.56 through 210.58 are redesignated §§ 210.57 through 210.59).

Paragraph (a) and (b) are drafted to remove all intermediary deadlines to which the presiding officer is presently subject in the conduct of a hearing and the rendering of a determination in a section 337 investigation. The amended language makes reference only to a final deadline for filing an initial determination and removes all reference to hearing deadlines and the amount of time allowed for the drafting and filing of such a determination. This would allow the presiding officer to conduct the hearing according to a schedule appropriate to the nature and complexity of the investigation, while retaining a final deadline to insure timely conclusion of the investigation. The time periods stated are applicable to hearings on the violation phase of an investigation only. They do not take into account any additional time that may be necessary for the creation of a record on the public interest factors enumerated in 19 U.S.C. 1337(d), (e), and (f), and in 19 CFR 210.14(a)(2) in the event the presiding officer is ordered by the Commission to take evidence and hear argument on those matters.

Paragraph (c) provides for use of the initial determination procedure with respect to certain interlocutory motions that significantly affect the conduct of the investigation. It is intended to shorten the time required for resolution of these motions. The four motions

concerned are those under the current rules that require a recommended determination from the presiding officer. Proposed paragraph (c) also follows current practice with the exception of practice pertaining to motions for amendment of the complaint or notice), which provides that the presiding officer shall grant a motion by filing a recommended determination or deny the motion by issuing an order which is not certified to the Commission for further action.

Proposed paragraph (d) defines the contents of an initial determination more generally than do the current rules. The intent is to give the presiding officer the option of discussing the findings of fact and conclusions of law in a general manner throughout a written opinion. Section 210.53(b) of the present rules requires the recommended determination to set out in separate sections specific findings of fact and conclusions of law; these findings and conclusions usually must be repeated in the discussion of the written opinion. The proposed rule introduces flexibility in the format of an initial determination. The presiding officer may, depending on the complexity of the issues involved, either discuss the material facts in the body of an opinion or use the format presently required. The rule's description of contents is designed to encompass either broad treatment for initial determinations issued following the close of the hearing or narrow treatment for initial determinations on motions under proposed § 210.53(c). This section additionally provides for notice to the parties of the effect of the initial determination in the event it is not reviewed by the Commission.

Paragraph (e) is similar to current § 210.53(c), but alters the existing provision by requiring an initial determination from the presiding officer who presided over "the investigation" rather than "the hearing." This language change is intended to clarify that the presiding officer is required to render an initial determination on motions ruled upon without hearings as well as motions and determinations based on hearings. This subsection, like its counterpart in the current rules, is patterned after the provision of the Administrative Procedure Act in 5 U.S.C. 554(d).

Paragraph (f), with a minor change, tracks § 210.53(d) of the rules now in effect.

Proposed paragraph (g) is the heart of the initial determination procedure. Under it, the initial determination would become the determination of the Commission after the passage of a certain period of time if the Commission does not order a review on the petition of a party or on its own motion. The time period of thirty days in paragraph (g)(i) before an initial determination can become the determination of the Commission allows for the expedited conclusion of an investigation when there are no objections to the initial determination. It also provides adequate opportunity for the Commission to review an initial determination and decide whether to initiate review on its own motion or to grant a petition for review. The ten-day period allowed for filing a petition for review is the same as that provided under the present rules for the filing of exceptions to a recommended determination.

Paragraph (g)(2) provides fifteen days before an initial determination would become the Commission's determination with respect to rulings on requests for temporary relief and the four types of motions mentioned in paragraph (c). The fifteen-day period is intended to reflect the need for prompt resolution of the issues involved, while allowing adequate time for consideration and responsive action by the parties and the Commission.

Paragraph (h) provides for notice to the parties in the event that an initial determination becomes the determination of the Commission.

§ 210.54 Petition for review.

Paragraph (a) of proposed section 210.54 grants "any party to an investigation" the right to request review of an initial determination. As written, it does not exclude parties who are in default or otherwise did not participate in the evidentiary hearing. This extensive grant of authority to request review may be limited in the rule concerning default, Commission Rule 210.21(d), 19 CFR 210.21(d), in which default is deemed to constitute a waiver of a party's right to appear. Otherwise, the provision is consistent with the broad authority for seeking judicial review granted by 19 U.S.C. 1337(c), which extends to "[a]ny person adversely affected by a final determination."

Paragraphs (2) and (4) not only set forth portions of what the petition for review shall contain, but also establish standards for review. In addition to the other standards for review enumerated, paragraph (2) allows review when an initial determination on an issue is rendered without the benefit of controlling precedent or rule. This gives the Commission an express procedural vehicle for establishing policy in those areas not addressed or resolved in prior Commission determinations.

Paragraph (a) provides for waiver or abandonment of any issues not sought for review in the petition. The intent of this provision is to give final effect to all unreviewed portions of the initial determination. Paragraph (a) also establishes time limits for filing responses to the petition. No limitations on the contents of the response to the petition are set forth, as they are for the petition. The rule provides that any party, and not just those parties opposed to the petition for review, may file a response to the petition.

Paragraph (b) establishes a time limit of thirty days within which the Commission is to decide whether to grant review of an initial determination on the petition of a party. It is the same amount of time allowed the Commission by proposed rule § 210.55 for deciding whether to grant review on its own motion. This provision permits the Commission the option of requiring oral argument and written submissions with respect to the petition for review, if necessary.

Proposed paragraph (b) allows the Commission to grant a petition for review on the vote of at least one of the Commissioners participating in the vote. Should the Commission grant review, under this rule it shall issue an order establishing the issues to be reviewed and specifying provisions for briefs and oral argument, along with a notice to the parties that further action respecting the initial determination is being taken.

§ 210.55 Commission review on its own motion.

Proposed § 210.55 provides for Commission review *sua sponte* of an initial determination. The number of Commissioners' votes required for review of an initial determination on the Commission's own initiative is the same as that for granting a petition for review under proposed § 210.54(b). As in § 210.54(b), provision is made for an order establishing the issues to be reviewed and a notice to the parties of the Commission's action.

§ 210.56 Review by Commission.

Paragraph (a) leaves to Commission discretion the size, nature and timing of briefs on issues granted review, since the number and complexity of issues brought before the Commission will vary from case to case. The Commission has the option of requiring oral argument, if deemed appropriate.

Proposed paragraph (b) limits review to those issues specifically granted review by the Commission, and complements the third paragraph of

proposed § 210.54(a) concerning abandonment of issues.

Proposed paragraph (c) enumerates the actions the Commission may take upon review of an initial determination.

§ 210.60 Interlocutory appeals.

The first sentence of § 210.60 is revised to conform its provisions with the proposed initial determination procedure by changing "recommended determination" to read "initial determination."

PART 210—ADJUDICATION PROCEDURES

19 CFR Part 210 is proposed to be amended as set forth below.

1. In § 210.21, paragraph (d) is revised to read as follows:

§ 210.21 The response.

* * * * *

(d) *Default.* Failure of a respondent to file a response within the time provided for in paragraph (a) of this section may be deemed to constitute a waiver of its right to appear and contest the allegations of the complaint and of the notice of investigation, and to authorize the presiding officer, without further notice to that respondent, to find the facts to be as alleged in the complaint and notice of investigation and to enter an initial determination (or a determination if the Commission is the presiding officer) containing such findings.

2. In § 210.22, paragraph (a) is revised to read as follows:

§ 210.22 Amendments to pleadings and notice of investigation.

(a) *By leave.* If and whenever disposition of the issues in an investigation on the merits will be facilitated, the presiding officer, upon such conditions as are necessary to avoid prejudicing the public interest and the rights of the parties to an investigation, may allow appropriate amendments to pleadings: Provided, however, that a motion for amendment of a compliant after the institution of an investigation shall be made to the presiding officer, who shall grant the motion by filing with the Commission an initial determination, or shall deny the motion issuing an order directing denial; the motion shall be decided according to the standards of § 210.20(d) of this part. A motion for amendment of a notice of investigation shall be dealt with as provided for with respect to motions for amendment of a complaint.

* * * * *

3. In § 210.36, paragraph (b)(5) is revised to read as follows:

§ 210.36 Failure to make discovery; sanctions.

* * * * *

(b) * * *

(5) Rule that a motion or other submission by the party concerning the order or subpoena issued be stricken or rule (by initial determination where the presiding officer is not the Commission) that a determination in the investigation be rendered against the party, or both. Any such action may be taken by written or oral order issued in the course of the investigation or by inclusion in the initial determination of the presiding officer when the presiding officer is not the Commission. It shall be the duty of the parties to seek, and that of the presiding officer to grant, such of the foregoing means of relief or other appropriate relief as may be sufficient to compensate for the lack of withheld testimony, documents, or other evidence. If in the presiding officer's opinion such relief would not be sufficient, the presiding officer shall certify to the Commission a request that court enforcement of the subpoena or other discovery order be sought.

4. In § 210.43, paragraph (c) is revised to read as follows:

§ 210.43 Record.

* * * * *

(c) *Certification of record.* The record shall be certified to the Commission by the presiding officer upon his filing of a initial determination or at such earlier time as the Commission may order.

5. In § 210.50, paragraph (f) is revised to read as follows:

§ 210.50 Summary determinations.

* * * * *

(f) *Order of summary determination.* An order of summary determination shall constitute a determination of the Commission under § 210.56(c) of this part when the Commission is the presiding officer. An order of summary determination shall constitute an initial determination of the presiding officer under § 210.53 of this part when the presiding officer is not the Commission.

6. In § 210.51, paragraphs (c)(2), (d) and (e) are revised to read as follows:

§ 210.51 Termination of investigation.

* * * * *

(c) * * *

(2) The motion, licensing or other agreement and any agreements supplemental thereto, and affidavit shall be certified by the presiding officer to the Commission with a recommendation. The Commission shall promptly publish notice of such motion along with a nonconfidential summary of the licensing or other agreement in the **Federal Register** and, unless otherwise ordered, for a period of thirty (30) days thereafter receive and consider any comments that maybe filed by interested persons concerning the agreement. An order of termination based upon such licensing or other agreement shall not constitute a determination of the Commission under § 210.56(c).

(d) *Consent order settlement.* An investigation before the Commission may be terminated as provided in paragraph (a) of this section on the basis of a consent order settlement under §211.20(b). An order of termination based upon such a settlement shall not constitute a determination of the Commission under § 210.56(c).

(e) *Effect of termination.* Except as provided in paragraphs (c) and (d) of this section, an order of termination issued by the Commission shall constitute a determination of the Commission under § 210.56(c), and an order of termination issued by the presiding officer (when not the Commission) shall constitute an initial determination of the presiding officer under § 210.53.

7. Sections 210.53, 210.54, and 210.55 are revised to read as follows:

§ 210.53 Initial determination.

(a) *On issues concerning permanent relief.* Following a hearing for the taking of evidence and hearing of arguments and within nine months, or within fourteen months in a more complicated case, of the date of publication in the **Federal Register** of the notice instituting the investigation, the presiding officer shall certify the record to the Commission and shall file with the Commission an initial determination as to whether there is a violation of section 337 of the Tariff Act of 1930.

(b) *On issues concerning temporary relief.* Following a hearing for the taking of evidence and hearing of arguments and within four months of the date of publication in the **Federal Register** of the notice instituting the investigation, the presiding officer shall certify the record to the Commission and shall file with the Commission an initial determination as to whether there is reason to believe there is a violation of section 337 of the Tariff Act of 1930.

(c) *On motions for summary determination, termination, finding of default, or amendment to complaint or notice.* Following the filing of a motion for summary determination pursuant to § 210.50, motion for termination pursuant to § 210.51, motion for a finding of default pursuant to §§ 210.21(d) and § 210.51(b), or motion to amend the

complaint or notice of investigation pursuant to § 210.22(a), the presiding officer shall grant such motions by filing with the Commission an initial determination, or shall deny such motions by issuing an order directing denial.

(d) *Contents.* The initial determination shall include: an opinion stating findings (with specific page references to principal supporting items of evidence in the record) and conclusions and the reasons or bases therefor necessary for the disposition of all material issues of fact, law or discretion presented in the record; and a statement that pursuant to § 210.53(g) of these rules the initial determination shall become the determination of the Commission unless a party files a petition for review of the initial determination pursuant to § 210.54 of these rules, or the Commission pursuant to § 210.55 of these rules orders on its own motion a review of the initial determination or certain issues therein.

(e) *Initial determination made by the presiding officer.* The initial determination shall be made and filed by the presiding officer who presided over the investigation, except when that person is unavailable to the Commission.

(f) *Reopening of proceedings by the presiding officer.* At any time prior to the filing of the initial determination, the presiding officer may reopen the proceedings for the reception of additional evidence.

(g) *Effect.* (1) An initial determination filed pursuant to § 210.53(a) shall become the determination of the Commission thirty (30) days after the service thereof, except:

(i) The initial determination shall not become the determination of the Commission if any party shall have filed a petition for review of the initial determination within ten (10) days after the service thereof pursuant to § 210.54; or

(ii) The initial determination shall not become the determination of the Commission if within thirty (30) days after the date of filing of the initial determination the Commission shall have ordered review of the initial determination or certain issues therein pursuant to § 210.55, or by order shall have changed the effective date of the initial determination.

(2) An initial determination filed pursuant to § 210.53 (b) or (c) shall become the determination of the Commission fifteen (15) days after the service thereof, except:

(i) The initial determination shall not become the determination of the Commission if any party shall have filed a petition for review of the initial determination within five (5) days after the service thereof pursuant to § 210.54(a); or

(ii) The initial determination shall not become the determination of the Commission if within fifteen (15) days after the date of filing of the initial determination the Commission shall have ordered review of the initial determination or certain issues therein pursuant to § 210.55, or by order shall have changed the effective date of the initial determination.

(h) *Notice of determination.* In the event an initial determination becomes the determination of the Commission, the parties shall be notified thereof by the Secretary. The notice shall also state that the time for filing a petition for review of the initial determination has expired and that the Commission has decided not to review the initial determination on its own motion.

§ 210.54 Petition for review.

(a) *The petition and responses.* (1) Any party to an investigation may request a review by the Commission of an initial determination by filing with the Secretary a petition for review pursuant to § 210.53(g)(1)(i) or § 210.53(g)(2)(i). A petition for review shall:

(i) identify the party seeking review;

(ii) specify the issues presented for review regarding a finding or conclusion of material fact which is clearly erroneous, a legal conclusion which is erroneous or without governing precedent, rule or law, an abuse of discretion, or a decision affecting Commission policy;

(iii) set forth a concise statement of the facts material to the consideration of the stated issues; and

(iv) present a concise argument setting forth the reasons why review by the Commission is necessary or appropriate to resolve an important issue of fact, law or policy.

(2) Any issue not raised in the petition for review filed pursuant to this rule will be deemed to have been abandoned and may be disregarded by the Commission in reviewing an initial determination.

(3) Any party may file a response to the petition for review within five (5) days after service of the petition.

(b) *Grant or denial of review.* (1) The Commission shall decide whether to grant in whole or in part, a petition for review filed pursuant to § 210.53(g)(1)(i) within thirty (30) days of the filing of the initial determination, or a petition for review filed pursuant to § 210.53(g)(2)(i) within fifteen (15) days of the filing of the initial determination, or by such other time as the Commission may order.

(2) The Commission shall decide whether to grant a petition for review, based upon the petition and response thereto, without oral argument or further written submissions unless the Commission shall order otherwise.

(3) The Commission shall grant a petition for review and order review of an initial determination or certain issues therein when at least one of the participating Commissioners votes for ordering review. In its order, the Commission shall establish the scope of the review and the issues that will be considered and make provisions for filing of briefs and oral argument if deemed appropriate by the Commission. The order and notice that the Commission has granted the petition for review shall be served on all parties by the Secretary.

§ 210.55 Commission review on its own motion.

Within the time provided in § 210.53(g)(1)(ii) or § 210.53(g)(2)(ii), the Commission on its own initiative may order review of an initial determination or certain issues therein when at least one of the participating Commissioners votes for ordering review. In its order, the Commission shall establish the scope of the review and the issues that will be considered and make provisions for filing of briefs and oral argument if deemed appropriate by the Commission. The order and notice that the Commission has directed review on its own initiative shall be served on all parties by the Secretary.

§§ 210.56, 210.57 and 210.58 [Redesignated as §§ 210.57, 210.58 and 210.59].

8. Present §§ 210.56, 210.57, and 210.58 are redesignated §§ 210.57, 210.58, and 210.59, respectively.

9. A new § 210.56 is added to read as follows:

§ 210.56 Review by Commission.

(a) *Briefs and Oral Argument.* In the event the Commission orders review of an initial determination the parties may file review briefs concerning the issues on review at a time, and of a size and nature set forth in the order granting the petition for review. The parties within the time provided for filing the review briefs may submit a written request for a hearing to present oral argument before the Commission, which the Commission in its discretion may grant or deny.

(b) *Scope of review.* Only the issues set forth in the order granting review, and all subsidiary issues therein, will be considered by the Commission.

(c) *Determination on review.* On review the Commission may affirm, reverse, modify, set aside or remand for further proceedings, in whole or in part, the initial determination of the administrative law judge and make any findings or conclusions which in its judgment are proper based on the record in the proceeding.

10. In § 210.57 (formerly § 210.56), as redesignated, paragraph (a) is revised to read as follows:

§ 210.57 Implementation of Commission action.

(a) *Service of Commission determination upon the parties.* A Commission determination pursuant to § 210.56(c) or a termination on the basis of a licensing or other agreement or consent settlement pursuant to §§ 210.51 (c) and (d), respectively, shall be served upon each party to the investigation.

* * * * *

11. The introductory text of § 210.60 is revised to read as follows:

§ 210.60 Interlocutory appeals.

Rulings by the presiding officer on motions may not be appealed to the Commission prior to the presiding officer's issuance of his initial determination except in the following circumstances:

* * * * *

By order of the Commission.

Issued: December 15, 1981.

Kenneth R. Mason,

Secretary.

[FR Doc. 81-36674 Filed 12-22-81; 8:45 am]

BILLING CODE 7020-02-M

VETERANS ADMINISTRATION

38 CFR Part 1

Demand for Repayment, Offset, Refund, Committee on Waivers and Compromises Authority

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: The Veterans Administration proposes to change the procedures it uses to collect debts owed to it by beneficiaries of VA programs. These changes are necessary to comply with recent court decisions and laws which afford greater procedural protections to these beneficiaries. Some of these changes have already been implemented in order to afford beneficiaries an opportunity to exercise their legal rights. These regulations will principally affect the manner and timing of recoupment of an overpayment from other VA benefits. In addition, the procedures for considering a request for waiver of an indebtedness are revised to comply with recent court decisions which require that an agency afford a beneficiary the right to request an oral hearing on their waiver request.

DATE: Comments must be received on or before January 25, 1982. It is proposed to make these regulations effective upon final approval.

ADDRESS: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. Comments will be available for inspection at the above address only between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays) until February 8, 1982. Any person visiting Central Office for the purpose of inspecting such comments will be received by the Central Office Veterans Service Unit in room 132. Such visitors to any field station will be informed that records are available for inspection only in Central Office and furnished the above address and room number.

FOR FURTHER INFORMATION CONTACT: Peter T. Mulhern, (202) 389-3405.

SUPPLEMENTARY INFORMATION: Califano v. Yamasaki, 442 U.S. 682 (1979) and Pub. L. 96-466 "Veterans Rehabilitation and Education Amendments of 1980" require that benefit overpayments cannot be recouped from current or future benefit payments unless the debtor is first notified of the indebtedness and also of certain waiver, hearing, and appellate rights. In addition, recoupment cannot be initiated until after a decision is reached on either a waiver request or dispute concerning the indebtedness filed within a specified period of time after the initial notification of such rights. Recoupment from other VA benefit payments of a loan indebtedness arising from participation in the loan guaranty program is now permitted without the debtor's written consent.

In the event that recoupment is made either prior to a request for waiver or prior to a decision on a request for waiver, new Veterans Administration policy requires that the entire amount of the overpayment be considered for waiver and refunded in full if waiver is granted.

As the result of increased handling time and rising administrative costs, single signature waiver authority is now granted for debts of $1,000 or less, exclusive of interest. Such authority had previously been extended only to debts of $500 or less, exclusive of interest.

The Administrator hereby certifies that these proposed rules will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-602. Pursuant to 5 U.S.C. 605(b), these proposed rules are therefore exempt from the initial and final regulatory flexibility analyses requirements of Sections 603 and 604. The reason for this certification is that the proposed rules affect only those individuals indebted to the U.S. Government as a result of participation in Veterans Administration benefit payment programs. These proposed rules have also been reviewed under E.O. 12291 and have been determined to be nonmajor because they only revise Veterans Administration debt collection, refund, and waiver procedures and do not have any adverse economic impact on or increase costs to consumers, individual industries, Federal, State and local government agencies, or geographic regions. There is no Federal Catalog of Domestic Assistance Number.

Approved: December 4, 1981.

Robert P. Nimmo,

Administrator.

PART 1—GENERAL PROVISIONS

38 CFR Part 1 is amended as follows:

1. Section 1.911 is revised to read as follows:

§ 1.911 Demand for repayment.

(a) The Veterans administration shall make written demands for the payment of all debts which arise from its activities in terms which inform the debtor of the consequences of the failure to cooperate with collection efforts. The Veterans Administration shall normally make three written demands for repayment at not more than thirty day intervals. The initial demand letter shall be issued as soon as possible after the decision which causes the indebtedness. The third letter of demand for repayment shall normally be the agency's final demand for such repayment. Three demand letters will not be necessary if—

(1) The Administrator determines that further demand will be futile;

(2) The debtor has responded to a previous demand letter and indicated that he/she will not repay the indebtedness; or

(3) Prompt suit/attachment is indicated to protect the interest of the government.

(b) The initial notice of indebtedness shall—

(1) State the exact amount of the indebtedness;

(2) State the reasons for the establishment of the indebtedness;

(3) State that the debtor has the right to appeal the decision which causes the indebtedness or its amount;

(4) State that the debtor has the right to request a waiver of the collection of the indebtedness;

(5) State that the debtor has the right to request an oral hearing in conjunction with the waiver issue which would be held prior to a waiver determination;

(6) State the statutory time limit in which to request a waiver;

(7) State that offset from current or future awards will be initiated unless the debtor, within thirty days of the date of this notice of indebtedness, disputes the creation of the indebtedness or its amount or requests a waiver and/or a hearing in conjunction with such waiver request;

(8) State that if a dispute or a request for waiver is filed within thirty days, the time limit set forth in paragraph (b)(7) of this section, offset will not be initiated until a determination is rendered on the dispute or request for waiver, except in the circumstances specified in § 1.912(c);

(9) State that failure to repay the debt, in full, within thirty days of the initial notice of the indebtedness will result in the charging of interest or administrative costs or both by the Veterans Administration.

(c) Further explanation may be found for—

(1) Notification of appellate rights in § 19.109;

(2) Notification of any decision affecting the payment of benefits or granting relief in § 3.103(e);

(3) Right to appeal a waiver decision in § 1.958; and

(4) Repayment to a successful waiver applicant of money already withheld in § 1.967.

(d) Notification shall be considered sufficient when effected by ordinary mail, addressed to the last known address, and such notice is not returned as undeliverable by postal authorities.

(e) An individual may informally dispute the accuracy of an indebtedness or request additional information regarding it without filing an appeal in accordance with § 19.109. The Veterans Administration shall review the decision which is the basis of the dispute and either affirm or revise such decision. (38 U.S.C. 3102, 3114)

2. Section 1.912 is revised to read as follows:

§ 1.912 Collection by offset.

(a) The Veterans Administration shall initiate collection by offset against current or future benefit payments when an indebtedness is of record as a result of a payee's participation in a benefit program administered by the Veterans Administration.

(b) Offset shall not be initiated in accordance with paragraph (a) of this section unless the debtor is—

(1) Notified of the proposed offset;

(2) Notified of the right to dispute the existence or amount of the indebtedness in accordance with § 19.109;

(3) Notified of the right to request a waiver of collection of the indebtedness and a hearing in conjunction with the waiver request in accordance with §§ 1.955–1.970;

(4) Notified that if a dispute concerning the indebtedness or its amount or a waiver request and a hearing in conjunction with the waiver is received within thirty days of the notification of such rights, offset shall not be initiated until an initial station decision has been reached upon the dispute of the indebtedness or waiver request.

(c) Offset may be initiated prior to a decision described in paragraph (b)(4) of this section where recovery of the overpayment is jeopardized by delaying offset beyond the termination of a debtor's running award status. However, every effort should be made to reach an initial station decision on such dispute or waiver request prior to the termination of a running award status.

(d) If the Veterans Administration obtains a judgement against the debtor as the result of an indebtedness owed the Veterans Administration, the amount of such indebtedness shall be immediately offset from current or future benefit payments without providing the notice set forth in paragraph (b) of this section. However, a waiver request received within the statutory two year time limit will be considered even if received after a judgement has been obtained, and all amounts of the indebtedness that have been recouped will be refunded in event that waiver is granted.

(e) Collection by offset from persons receiving Veterans Administration pay or compensation for services rendered shall be effected over a period not greater than the period during which such pay or compensation is to be received. (See 5 U.S.C. 5514) Appropriate use should be made of the cooperative efforts of other agencies in effecting collection by offset, including utilization of the Army Holdup list. (38 U.S.C. 3114, ch. 37)

§ 1.916 [Amended]

3. Section 1.916 is revised by changing the word "his" to the words "his/her".

§ 1.930 [Amended]

4. Section 1.930 is revised by changing the word "his" to the words "his/her".

5. In § 1.955, paragraph (d) is revised to read as follows:

§ 1.955 Regional office committees on waivers and compromises.

* * * * *

(d) *Single signature authority.* Where a request is for waiver of collection of a debt of $1,000 or less, exclusive of interest, the Chairperson shall designate from members and/or alternates one person, with special competence in the program area where the debt arose, to consider the question. His/her signature alone to the decision will suffice. In compromise cases, however, three person panels are always required regardless of the amount of the debt. (38 U.S.C. 210(c)(1))

§ 1.966 [Amended]

6. In § 1.966, paragraph (b)(2)(ii) is removed.

7. Section 1.967 is revised to read as follows:

§ 1.967 Refunds.

(a) Except as provided in paragraph (c) of this section, any portion of an indebtedness which has been recovered by the U.S. Government will also be considered for waiver action, as long as such request for waiver is timely filed in accordance with § 1.963(b). If collection of an indebtedness is waived, such portions of the indebtedness previously collected will be refunded. Entitlement will be charged for any amounts of an educational benefits indebtedness which are waived.

(b) Any collected portions of an indebtedness arising from erroneous payment of pay or allowances shall be considered for waiver regardless of the date of request for waiver, as long as such request is filed timely in accordance with § 1.963a(c)(1). If collection is waived, refund will be made to the employee: *Provided,* That application for refund is made no later than two years following the date of the waiver.

(c) Refund of amounts collected will not be made when only a part of the debt is waived or when collection of the balance of a loan guaranty indebtedness by the Veterans Administration from obligors, other than a husband or wife of the person requesting waiver, will be adversely affected. Only where the amount waived exceeds the balance of the indebtedness still in existence will a refund be made in the amount of the difference between the two. Otherwise, refunds will be made in accordance with

paragraph (a) of this section. (38 U.S.C. 3102; 5 U.S.C. 5584)

[FR Doc. 81-36635 Filed 12-22-81; 8:45 am]
BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket No. AH300g/IVA; A-3-FRL 2001-3]

Commonwealth of Virginia; Proposed Revisions of the State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On July 3, 1981, and on August 10, 1981, the Commonwealth of Virginia submitted Rules and Regulations governing the State's automobile inspection and maintenance (I/M) program and mobile source emission standards for inclusion in its State Implementation Plan (SIP). These regulations will apply only to vehicles registered in the Northern Virginia ozone nonattainment area. EPA is today proposing to approve these regulations as part of the Virginia SIP.

DATE: Comments must be submitted on or before January 22, 1982.

ADDRESSES: Copies of the proposed SIP revisions and the accompanying support documents are available for inspection during normal business hours at the following addresses:

U.S. Environmental Protection Agency, Region III, Air Media & Energy Branch (3AH13), Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, ATTN: Ms. Eileen M. Glen

Public Information Reference Unit, Room 2922, EPA Library, U.S. Environmental Protection Agency, 401 M Street SW (Waterside Mall), Washington, D.C. 20460

Virginia State Air Pollution Control Board, Ninth Street Office Building, Room 1106, Richmond, Virginia 23219, ATTN: Mr. John M. Daniel, Jr.

All comments on the proposed revisions submitted within 30 days of publication of this Notice will be considered and should be directed to Mr. James E. Sydnor, Chief of the WVA/VA Section at the EPA, Region III address above. Please reference the EPA Docket number found in the heading of this Notice.

FOR FURTHER INFORMATION CONTACT: Ms. Eileen M. Glen at the EPA, Region III address or telephone 215/597-8187.

SUPPLEMENTARY INFORMATION: Under Section 172 of the Clean Air Act, nonattainment plans for major urban areas which require an extension beyond 1982 for attainment of a standard for ozone or carbon monoxide, are required to include a vehicle I/M program as an element of the 1979 SIP revision. Full implementation of that program, in accordance with EPA's established I/M policy, is required in all cases by December 31, 1982.

Virginia included I/M as an element in its 1979 SIP revision. EPA's evaluation of and action on the I/M portion of Virginia 1979 SIP revision is documented in 45 FR 55180 (August 19, 1980), 46 FR 22185 (April 16, 1981) and 46 FR 45628 (September 14, 1981).

On May 15, 1980, the Commonwealth submitted a schedule for implementation of the I/M program in Northern Virginia. EPA will be publishing full approval of that schedule, as revised by an April 3, 1981 submittal, shortly (EPA Docket No. AH300a/b/eVA). Two of the increments of progress in this schedule pertain to the adoption of Administrative and Procedural Regulations, and Motor Vehicle Emission Standards. The proposed SIP revisions which are the subject of today's Notice satisfy these increments. The I/M program itself will be implemented by January 1, 1982.

EPA published the 1982 SIP policy (part of which pertains to I/M programs) on January 22, 1981 (46 FR 7182). As discussed in that policy, states with areas that have I/M programs under development or operational as part of their 1979 SIP revisions were required to submit only qualitative descriptions of the I/M program elements in the 1979 SIP submittal. The 1982 SIP revision to be submitted to EPA on or before July 1, 1982, must include, unless already submitted and approved as part of a previous SIP submittal, rules and regulations and all other I/M elements which could affect the ability of the I/M program to achieve the minimum emission reduction requirements. More specifically, the 1982 submittal must include the following critical elements: (1) inspection test procedures; (2) emission standards; (3) inspection station licensing requirements; (4) emission analyzer specification and maintenance/calibration requirements; (5) recordkeeping and record submittal requirements; (6) quality control, audit, and surveillance procedures; (7) procedures to assure that non-complying vehicles are not operated on the public roads; (8) any other official program rules, regulations and procedures; (9) a public awareness plan; and (10) a mechanics training program, if additional emission reduction credits are being claimed for mechanics training.

EPA will determine the overall adequacy of the critical elements of each I/M program and, therefore, the approvability of the 1982 SIP by comparing those elements to established I/M policy. I/M program elements must be consistent with EPA policy or a demonstration must be made that the program elements are equivalent.

State or local governments that have I/M programs, but plan to increase the coverage and/or stringency of the programs in order to achieve greater reductions and to demonstrate earlier attainment of the standards, must submit the program modifications in legally enforceable form through the 1982 SIP revision process.

In the case of a partial submittal, EPA's action will be limited to the submitted program elements. Final action on the total I/M program must be reserved until all elements are submitted and reviewed in order to assure that the program satisfies the requirements of Part D of the Clean Air Act.

Virginia has submitted the following elements to satisfy part of the I/M requirements for the 1982 SIP revision:

(1) Inspection test procedures—Sections 3, 4 and 5 of the July 13, 1981 submittal require an idle exhaust emission test to be performed for initial inspections and reinspections.

(2) Emission standards—Part IV, Section 4.103 of the Virginia Regulations for the Control and Abatement of Air Pollution prescribes carbon monoxide and hydrocarbon emission limitations for the motor vehicles subject to the I/M regulations. This proposed revision to the Virginia SIP was submitted on August 10, 1981. EPA is proposing approval of these emission standards but, as part of the 1982 SIP revision, Virginia will have to demonstrate that these standards, in combination with other elements of the I/M program, will be adequate to attain the required emission reductions from the program.

(3) Inspection Station Licensing Requirements—Section 1 of the July 13, 1981 submital describes the Licensing requirements for private garage inspection facilities. These requirements include: (1) having an analyzer which meets State's specifications; (2) employing an inspector who has demonstrated proficiency and has been trained in the use of analyzers and their calibration, test procedures and I/M rules and regulations; and (3) maintaining and periodically submitting records on vehicle inspections.

(4) Emission analyzer specifications and maintenance/calibration requirements—Sections 2, 6, and 7 of the July 13, 1981 submittal prescribe the minimum instrument specifications and maintenance/calibration requirements.

(5) Recordkeeping and record submittal requirements—Section 1 of the July 13, 1981 submittal provides that garages maintain records on vehicle inspection and submit these records to the State for auditing and is acceptable to EPA. However, no information has yet been submitted to EPA concerning what inspection data will be collected and submitted to EPA to verify that the program is effective and adequately enforced. Therefore, although these regulations are approvable, this element will not be fully complete until the State has submitted, as part of the 1982 SIP revisions, an adequate description of the inspection data.

(6) Quality control, audit, and surveillance procedures—Sections 6 and 7 of the July 13, 1981 submittal prescribes the quality control procedures which must be followed by the garages and is acceptable to EPA. However, the procedures to be followed by the State in conducting unannounced, unscheduled audits have not yet been submitted and, therefore, this element will not be fully complete until these procedures are submitted.

(7) Procedures to assure that non-complying vehicles are not operated on the public roads—The Virginia I/M legislation prohibits the registration or re-registration of vehicles which have not passed the I/M test or have not received a waiver from passing the I/M test. In addition, Section 8 of the I/M regulations provide for the issuing of windshield stickers to those vehicles which have either passed or failed the I/M test or have received a waiver. Although the windshield sticker program will augment the procedures to prevent non-complying vehicles from operating on public roads, it is EPA's understanding that the primary procedure to prevent non-complying vehicles from operating on public roads is denial of registration, and it is on these basis that EPA is proposing approval of Virginia's procedures to prevent non-complying vehicles from operating on public roads.

(8) Other program rules, regulations and procedures—The geographic coverage area is described in the section entitled SCOPE. Mandatory I/M is scheduled to start January 1, 1982 as specified in House Bill No. 116 passed by 1980 Virginia General Assembly. The classes and ages of subject vehicles were also specified in House Bill No. 116 (the most recent eight model years of motor vehicles with a registered gross vehicle weight of less than 6,000 pounds). Provisions for referee stations, also required by House Bill 116, have also been submitted.

(9) Public Awareness Plan—Virginia is in the process of developing a public awareness plan, but it has not yet been submitted.

(10) Mechanics Training Plan—Virginia has not claimed any emission reduction credits for mechanics training and, therefore, a mechanics training plan does not have to be submitted.

The Commonwealth of Virginia submitted proof that appropriate public hearings were held with respect to these amendments.

In summary, EPA is proposing to approve all those completed elements described above, namely, the inspection test procedures, the emission standards, the inspection station licensing procedures, the emission analyzer specifications and maintenance/calibration requirements, the procedures to assure that non/complying vehicles are not operated on the public roads, and the other program rules, regulations and procedures describing the geographic coverage area, the start-up date, and the classes and ages of subject vehicles as well as the provisions for referee stations. We are also proposing to approve the regulations submitted by the Commonwealth on July 13, 1981 and August 10, 1981 which only partially satisfy the following elements: recordkeeping and record submittal requirements; and the quality control, audit, and surveillance procedures. Additional information, as outlined above, must be submitted before these elements will be fully satisfied. Furthermore, today's action is *not* intended, nor should it be interpreted, as complete approval of Virginia's total I/M program or the total I/M section of Virginia 1982 SIP revision. Approval of the total I/M program and the I/M section of the 1982 SIP revision can only be granted after all of the remaining elements, as specified above, required by the 1982 SIP policy (46 FR 7181, January 22, 1981) are submitted and reviewed in order to assure that Virginia's total I/M program and I/M section of Virginia's 1982 SIP satisfy the requirements of Part D of the Clean Air Act.

The public is invited to submit, to the address stated above, comments on whether the proposed revisions should be approved as revisions of the Virginia State Implementation Plan.

The Administrator's decision to approve or disapprove the proposed revisions will be based on the comments received and on a determination whether they meet the requirements of Sections 110 and 172 of the Clean Air Act and 40 CFR Part 51, Requirements for Preparations, Adoption, and Submittal of State Implementation Plans.

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because this action, if promulgated, only approves State actions and imposes no new requirements.

Pursuant to the provisions of 5 U.S.C. Section 605(b), the Administrator has certified that this action will not have a significant economic impact on a substantial number of small entities. (46 FR 8709) This action, if promulgated, constitutes a SIP approval under Sections 110 and 172 of the Clean Air Act and only approves State actions. It imposes no new regulatory burden on anyone.

Dated: October 19, 1981.

Alvin R. Morris,

Acting Regional Administrator.

[FR Doc. 81-36666 Filed 12-22-81; 8:45 am]

BILLING CODE 6560-38-M

---

40 CFR Part 180

[OPP-300054; PH-FRL-2013-7]

Dimethylformamide (DMF); Proposed Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that dimethylformamide (DMF) be exempted from the requirement of a tolerance. The exemption is limited to use by the U.S. Department of Interior (USDI) in formulations of the lamprecide sodium salt of alpha, alpha, alpha-trifluoro-4-nitro-meta-cresol or 4-nitro-3-(trifluoromethyl)phenol (also called TFM) in the Great Lakes.

DATE: Written comments must be received on or before January 22, 1982.

ADDRESS: Written comments to: Peter Gray, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Peter Gray (703-557-7110).

SUPPLEMENTARY INFORMATION: In 1976, the Fish and Wildlife Service, USDI, submitted a petition (6E1743) for an exemption from the requirement for a tolerance for sodium salt of alpha,

alpha, alpha-trifluoro-4-nitro-meta-cresol or 4-nitro-3-(trifluoromethyl)phenyl, (also called TFM) in water for control of the sea lamprey. Since DMF is solvent for the TFM, the USDI also requested an exemption for DMF.

In the course of scientific review, it was concluded that the DMF exemption should be announced simulataneously with the exemption of TFM. Since announcement by the agency of TFM exemption is imminent, the DMF exemption is necessary.

Inert ingredients are all ingredients which are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as water; baits such as sugar, starches, and meat scraps; dust carriers such as talc and clay; fillers; wetting and spreading agents; propellants in aerosol dispensers; and emulsifiers. The term inert is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

Preambles to proposed rulemaking documents of this nature include the common or chemical name of the substance under consideration, the name and address of the firm making the request for the exemption, and toxicological and other scientific basis used in arriving at a conclusion of safety in support of the exemption.

Name of Inert Ingredient. Dimethylformamide (DMF).

Name and Address of Requestor. U.S. Department of the Interior, Fish and Wildlife Service, Washington, DC 20240.

Basis for Approval

1. A 119-day mouse feeding study indicated that the no-observed-effect-level (NOEL) was 540 parts per million (ppm) (systemic).

2. A 13-week rat feeding study indicated that the NOEL (systemic) was 750 ppm.

3. Use of the DMF solvent is quite limited.

Based on the above information, and review of its use, it has been found that, when used in accordance with good agricultural practices, this ingredient is useful and does not pose a hazard to humans or to the enviornment. It is concluded, therefore, that the proposed amendment to 40 CFR Part 180 will protect the public health, and it is proposed that the regulation be established as set forth below.

Any person who has registered or submitted an application for the registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act, which contains this inert ingredient may request, on or before January 22, 1982, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. The comments must bear a notation indicating both the subject and the petition and document control number "[OPP-300054]". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the Process Coordination Branch (TS-767C), Rm. 514D, CM#2, 1921 Jefferson Davis Highway, Arlington, VA from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

As required by Executive Order 12291, EPA has determined that this proposed rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has exempted this regulation from the OMB review requirements of Executive Order 12291, pursuant to section 8(b) of that Order.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** on May 4, 1981 (46 FR 24950).

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

Dated: December 9, 1981.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, it is proposed that 40 CFR 180.1046 be amended by designating the existing text as paragraph (a) and adding paragraph (b) to read as follows:

§ 180.1046 Dimethylformamide; exemption from requirement of tolerance.

* * * * *

(b) Dimethylformamide (DMF) is exempted from the requirement of a tolerance, when used by the U.S. Department of Interior, Fish and Wildlife Service, as a solvent for the lamprecide, sodium salt of alpha, alpha, alpha-trifluoro-4-nitro-meta-cresol, or 4-nitro-3-(trifluoromethyl)phenol in the Great Lakes.

[FR Doc. 81-36642 Filed 12-22-81; 8:45 am]

BILLING CODE 6560-32-M

---

40 CFR Part 180

[PP 6E1856/P206; PH-FRL-2013-1]

MCPA; Proposed Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes that tolerances be established for the herbicide 2-methyl-4-chlorophenoxyacetic acid (MCPA). This proposed amendment to establish a maximum permissible level for residues of MCPA in or on certain raw agricultural commodities was submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments must be received on or before January 22, 1982.

ADDRESS: Written comments to: Donald R. Stubbs, Emergency Response Section, Registration Division (TS-767C), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Donald Stubbs (703-557-7123).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition number 6E1856 to EPA on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Illinois, Iowa, Michigan, Minnesota, South Dakota, and Wisconsin. This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug and Cosmetic Act, propose the establishment of a tolerance for residues of the herbicide MCPA in or on the forage legumes alfalfa, clovers, lespedeza, trefoils, and vetches at 20 parts per million (ppm). The petition was later amended to propose a tolerance of 0.1 ppm in or on alfalfa, clovers, lespedeza, trefoils, vetches, and the hay of each. Residues will be as a result of treatment of small grains underseeded with the named forage legumes.

The data submitted in the petiton, and all other relevant material, have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerances were: A 90-day rat

feeding study resulting in a NOEL of 8 mg/kg/day (80 ppm); a 13-week dog feeding study resulting in a NOEL of 4 mg/kg/day (160 ppm); two rat studies and a mouse teratology study negative for teratogenic effects; and a rat metabolism study showing no bioaccumulation.

Data which are lacking include the following studies: Acute neurotoxicity (chicken); 2-year feeding study in rats; a 6-month or longer feeding study in dogs; oncogencity in two species; and 3-generation reproduction (rat). No regulatory actions are pending against MCPA at this time.

The nature of the residues is adequately understood and an adequate analytical method (gas chromatography) is available for enforcement purposes. Residues of MCPA in milk, meat, fat, and meat byproducts resulting from the proposed use will be adequately covered by existing tolerances of 0.1 ppm for these food items. Consequently, human exposure to MCPA will not be affected by the requested tolerances.

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR 180.339 would protect the public health. It is proposed, therefore, that the tolerances be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, which contains any of the ingredients listed herein, may request on or before January 22, 1982, that this proposed rulemaking be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this proposed regulation. Comments must bear a notation indicating the document control number "[PP 6E1856/P206]". All written comments filed in response to this petition will be available in the Emergency Response Section, Registration Division at the address given above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

As required by Executive Order 12291, the EPA has determined that this proposed rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has exempted this proposed regulation from the OMB review requirements of Executive Order 12291, pursuant to section 8(b) of that Order.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels, or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Effective on: December 23, 1981.

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

Dated: December 10, 1981.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Therefore, it is proposed that 40 CFR 180.339 be amended by adding and alphabetically inserting in paragraph (a) the raw agricultural commodities "alfalfa", "clovers", "lespedeza", "trefoils", and "vetches" and the hay of each to read as follows:

§ 180.339 2-Methyl-4-chlorophenoxyacetic acid; tolerances for residues.

(a) * * *

Commodity	Part per million
Alfalfa	0.1
Alfalfa hay	0.1
* * * * *	
Clovers	0.1
Clover hay	0.1
* * * * *	
Lespedeza	0.1
Lespedeza hay	0.1
* * * * *	
Trefoils	0.1
Trefoil hay	0.1
* * * * *	
Vetches	0.1
Vetch hay	0.1
* * * * *	

[FR Doc. 81-36644 Filed 12-22-81; 8:45 am]

BILLING CODE 6560-32-M

GENERAL SERVICES ADMINISTRATION

Federal Property Resources Service

41 CFR Part 101-47

Airport Disposals

AGENCY: General Services Administration.

ACTION: Proposed rule.

SUMMARY: The General Services Administration proposes to provide clarification as to the proper statute under which federally owned real property may be disposed of for airport purposes.

DATE: Comments must be received on or before February 22, 1982.

ADDRESS: Written comments should be sent to the General Services Administration (DR), Washington, DC 20406.

FOR FURTHER INFORMATION CONTACT: James H. Pitts, Office of Real Property (703-557-2531).

SUPPLEMENTARY INFORMATION: GSA has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweight the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

PART 101-47—UTILIZATION AND DISPOSAL OF REAL PROPERTY

Accordingly, it is proposed to amend 41 CFR Part 101-47 as follows:

Subpart 101-47.3—Surplus Real Property Disposal

1. Section 101-47.308-2 is amended by adding a new subsection (i) immediately following (h). It should read as follows:

§ 101-47.308-2 Property for public airports.

* * * * * *

(i) It should be emphasized that section 23 of the Airport and Airway Development Act of 1970 (Airport Act of 1970) is not applicable to the transfer of airports to State or local agencies. The transfer of airports to State and local agencies may be made only under section 13(g) of the Surplus Property Act of 1944 which is continued in effect by the Act. Only property which the holding agency determines cannot be reported excess to GSA for disposition under the Act, but which, nevertheless, may be made available for use by a State or local public body for public airport purposes without being inconsistent with the Federal program of the holding agency, may be conveyed under section 23 of the Airport Act of 1970. In the latter instance, section 23 may be used for the transfer of nonexcess land for airport development purposes providing that such real property does not constitute an entire

airport. An entire, existing and established airport can only be disposed of to a State or eligible local government under section 13(g) of the Surplus Property Act of 1944.

(Sec. 205(c), 63 stat. 390; 40 U.S.C. 486(c))

Dated: Dec. 4, 1981.

Roy Markon,

Commissioner, Federal Property Resources Service.

[FR Doc. 81-36555 Filed 12-22-81; 8:45 am]

BILLING CODE 6820-96-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 638

Gulf of Mexico Fishery Management Council and South Atlantic Fishery Management Council; Public Hearings

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public hearings.

SUMMARY: The Gulf of Mexico and South Atlantic Fishery Management Councils will be holding public hearings for the purposes of public input on the Draft Environmental Impact Statement/Fishery Management Plan for Coral and Coral Reefs.

DATES: Written comments on the coral and coral reefs plan from members of the public may be submitted no later than January 31, 1982.

Individuals or organizations wishing to comment may do so at public hearings to be held as follows:

January 12, 1982—Houston, Texas
January 19, 1982—Marathon, Florida
January 20, 1982—Daytona Beach, Florida
January 21, 1982—St. Petersburg, Florida

All of the above hearings will start at 7:30 p.m. and adjourn at 10:00 p.m.

The hearings will be tape recorded and the tapes will be filed as an official transcript of the proceedings. A written summary will be prepared on each hearing.

ADDRESS: Send comments to:

Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, or

Chairman, South Atlantic Fishery Management Council, Southpark Building, Suite 306, 1 Southpark Circle, Charleston, South Carolina 29407, or

Harold B. Allen, Acting Regional Director, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

HEARING LOCATIONS:

January 12, 1982—Garden Center, 1500 Hermann Drive, Houston, Texas.

January 19, 1982—Marathon High School Cafeteria, Sombrero Beach Road, Marathon, Florida.

January 20, 1982—Holiday Inn Surfside, 2700 N. Atlantic Avenue, Daytona Beach, Florida.

January 21, 1982—Bayfront Center—Posno Room, 400 First Street South, St. Petersburg, Florida.

FOR FURTHER INFORMATION CONTACT:

Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, (813) 228-2815, or

David Gould, Executive Director, South Altantic Fishery Management Council, Southpark Building, Suite 306, 1 Southpark Circle, Charleston, South Carolina 29407, (803) 571-4366, or

Harold B. Allen, Acting Regional Director, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702, (813) 893-3141.

SUPPLEMENTARY INFORMATION: The hearings will deal with a proposal to implement a fishery management plan for coral and coral reefs in the geographical area of authority of the Gulf of Mexico and South Atlantic Fishery Management Councils under the Magnuson Fishery Conservation and Management Act (MFCMA).

The environmental impact statement is a review of the plan and a statement of its expected impacts. A fishery management plan is a major Federal action significantly affecting the human environment and requires the approval of the Secretary of Commerce prior to implementation.

The plan for coral and coral reefs, when approved, will manage the resource for optimum yield (OY) and therefore, contains regulatory measures applicable to domestic fishing. The fishery for coral and coral reefs as addressed in this plan is located in the Gulf of Mexico, and the waters of the Atlantic Ocean from the Texas-Mexican border through North Carolina.

The management unit consists of the coral and coral reefs of the fishery conservation zone (FCZ) of the Gulf of Mexico and South Atlantic Fishery Management Councils. Management measures in the plan will be recommended to adjacent States where appropriate.

Included in this management unit are:

A. Corals: The corals of the class Hydrozoa (stinging and hydrocorals) and the class Anthozoa (sea fans, whips, precious corals, sea pen, and stony corals).

B. Coral Reefs: The hard bottoms, deepwater banks, patch reefs, and outer bank reefs as defined in the plan.

With the existing data, a single maximum sustainable yield (MSY) for the entire management unit is incalculable.

The OY is the level of coral harvest as authorized pursuant to the permitting criteria established in this plan. Based on available data it is the Councils' intent to allow the existing level of legal, reported harvest consistent with the objectives of this plan.

The OY for stony corals is to be zero (0) except as may be authorized for scientific and educational purposes. The current level of harvest for this purpose is estimated to be 140 kilograms per year.

The OY for octocorals is the amount of harvest which is authorized pursuant to this plan. Octocorals, except for sea fans, are identified as presently being harvested without apparent stock damage. Present directed level of harvest is estimated to be about 5,845 colonies, 1,463 of which come from the FCZ.

The estimated domestic annual harvest is to be equal to OY.

The total allowable level of foreign fishing is to be zero.

Primary Management Objective

Optimize the benefits generated from the coral resource while conserving the coral and coral reefs.

Specific Management Objectives

1. Develop scientific information necessary to determine feasibility and advisability of harvest of coral.

2. Minimize, as appropriate, adverse human impacts on coral and coral reefs.

3. Provide, where appropriate, special management for coral habitat areas of particular concern.

4. Increase public awareness of the importance and sensitivity of coral and coral reefs.

5. Provide a coordinated management regime for the conservation of coral and coral reefs.

Management Measures

Catch Limitations

A. Total allowable level of foreign fishing—none. The expected domestic annual harvest will equal the OY.

B. Types of catch limitations:

(a) Prohibit the taking of stony coral and sea fans (*Gorgonia flabellum* or *G. ventalina*) or the destruction of these corals and coral reefs in the FCZ of the Gulf and South Atlantic Fishery Management Councils' geographical

area of authority, except as provided for in the plan.

(b) Stony corals and sea fans taken incidentally in other fisheries must be returned to the water in the general area of capture as soon as possible. An exception is provided for the groundfish, scallop, or other similar fisheries, where the entire unsorted catch is landed. In such instances the stony corals and sea fans may be landed but may not be sold.

(c) Should harvest of octocorals become accelerated and, in the Councils' judgment, is threatening the habitat in localized areas, the Councils may request the Secretary to take available measures designed to eliminate such threat of damage to the resource and fishery habitats.

Permits

Establish a permit system for:

A. The use of toxic chemicals in taking fish or other marine organisms which inhabit coral reefs.

B. For taking protected corals for scientific and educational purposes.

Types of Vessel, Gear, and Enforcement Devices

Prohibit the use of toxic chemicals in taking fish and other marine organisms which inhabit coral reef areas except under permit as may be specified in this or any other fishery management plan.

Identify habitat areas for corals which may be threatened or subject to degradation and provide a management program for them. These habitat areas of particular concern are recognized as providing habitat to valuable or special assemblages of corals or coral reefs. Some of these areas are presently under management programs, some are under consideration for inclusion in such programs, and others are presently without management. Identified coral habitat areas of particular concern and proposed measures are:

A. East and West Flower Garden Banks (nominated National Marine Sanctuary). The taking of all corals is prohibited except as authorized by permit. Bottom longlines, traps and pots, bottom trawls, and anchoring by vessels 100 feet or more in registered length are prohibited within the 100 meter isobath.

B. Florida Middle Grounds—the northernmost shallow reef-type coral community in the Gulf of Mexico. The area is bounded on the north by latitude 28°45' N.; on the south by latitude 28°11' N.; on the east by longitude 84°00' W.; and on the west by longitude 84°25' W. The taking of all corals is prohibited except as authorized by permit. Within the 34 by 22 mile area, bottom longlines, traps and pots, and bottom trawls are prohibited.

Special Recommendations

1. Recommended that the Secretary establish a communication/coordination system in support of the coral management program.

2. Recommended that the Secretary establish a procedure to coordinate coral management activities in the FCZ and territorial sea within the Councils' geographical area of authority.

3. Recommended that the States and NMFS monitor at least at the present level of effort the condition of the octocorals and report damage or threat of damage to their habitat. The Councils believe under existing monitoring regime, these agencies can effectively carry out this request without a significant increase in current expenditure.

Dated: December 17, 1981.

William H. Stevenson,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 81-36530 Filed 12-22-81; 8:45 am]

BILLING CODE 3510-22-M

---

50 CFR Part 661

Pacific Fishery Management Council and Its Salmon Subpanel Scientific and Statistical Committee; Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice of public meetings with a partially closed session.

SUMMARY: As required by the Federal Advisory Committee Act, this notice sets forth the schedule and proposed agendas of the forthcoming separate public meetings of the Pacific Fishery Management Council, its Scientific and Statistical Committee and Salmon Subpanel. The Pacific Fishery Management Council was established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265), and the Council has established a Scientific and Statistical Committee and Salmon Subpanel to assist the Council in carrying out its responsibilities.

DATES: January 25-28, 1982.

ADDRESS: All meetings will take place at the Holiday Inn, 17338 Pacific Highway South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 SW. Mill Street, Second Floor, Portland, Oregon 97201, Telephone: (503) 221-6352.

AGENDAS:

Council (open meeting)—January 26-28, 1982 (2 p.m. to 5 p.m. on January 26; 10 a.m. to 5 p.m. on January 27; 8 a.m. to 5 p.m. on January 28)—consideration of the draft 1982 amendment to the ocean salmon fishery management plan (FMP) and consideration of 1982 foreign fishery applications. Oral comments or questions by the public will be invited beginning at 4 p.m., on January 26, 1982.

Council (closed session)—January 27, 1982 (8 a.m. to 10 a.m.)—discussion of the status of maritime boundary and resource negotiations between the U.S. and Canada. Only those Council members and selected staff having security clearances will be allowed to attend this closed session.

Scientific and Statistical Committee (open meeting)—January 25-28, 1982 (1 p.m. to 5 p.m. on January 25; 8 a.m. to 5 p.m. on January 26-28). The Committee will consider the 1982 amendment to the ocean salmon FMP and an amendment to the anchovy FMP; evaluate and develop recommendations on issues referred to the Committee by the Council; conduct a public comment period beginning at 3:30 p.m. on January 26.

Salmon Subpanel (open meeting)—January 26, 1982 (8 a.m. to 5 p.m.). The Subpanel will meet to consider the 1982 amendment to the ocean salmon FMP and will also meet in joint session with the Scientific and Statistical Committee in the forenoon on January 26.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration of the Department of Commerce, with the concurrence of the General Counsel, formally determined on October 14, 1981, pursuant to Section 10(d) of the Federal Advisory Committee Act, that the agenda item covered in the closed session is exempt from the provisions of the Act relating to open meetings and public participation therein, because the meeting will be concerned with matters that are within the purview of 5 U.S.C. 552b(c)(1), as information which will disclose matters that are (A) specifically authorized under criteria established by an executive order to be kept secret in the interests of national defense or foreign policy and (B) in fact properly classified pursuant to such executive order. (A copy of the determination is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 5317, Department of Commerce.) All other portions of the Council's meeting will be open to the public.

Dated: December 17, 1981.

Jack L. Falls,

Chief, Administrative Support Staff, National Marine Fisheries Service.

[FR Doc. 81-36513 Filed 12-22-81; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 46, No. 246
Wednesday, December 23, 1981

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

Office of the Secretary

Agricultural Conservation Program (ACP) Payments; Determination of Primary Purpose for Amounts That May Be Excluded From Income Under Section 126 of the Internal Revenue Code of 1954 as Amended

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of Determination.

SUMMARY: The purpose of this notice is to announce the determination by the Secretary of Agriculture that certain Federal payments made to farmers under the Agricultural Conservation Program (ACP) are deemed by the Secretary to have been made primarily for purposes of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife. This determination by the Secretary is made in accordance with Section 126(b) of the Internal Revenue Code of 1954, as amended by Section 543 of the Revenue Act of 1978 and the Technical Corrections Act of 1979. The effect of this determination is to make it possible for recipients of these payments to exclude some or all of them from gross income for Federal income tax purposes if certain other conditions are met.

FOR FURTHER INFORMATION CONTACT: Dirctor, Conservation and Environmental Protection Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013, (202) 447–6221.

SUPPLEMENTARY INFORMATION: This action has been reviewed in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified as "not major." It has been determined that these program provisions will not result in an annual effect on the economy of $100 million or more; would not cause a major increase in costs or prices for consumers, individuals, industries, Federal, State or local government agencies or geographic regions; and would not cause significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign-based enterprises in domestic or export markets.

The titles and numbers of the Federal Assistance Program to which this notice applies are: Title Agricultural Conservation Program; Number—10.063; as found in the Catalog of Federal Domestic Assistance. This action will not have a significant impact specifically on area and community development. Therefore, review as established by OMB Circular A–95 was not used to assure that units of local governments are informed of this action.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice of determination since ASCS is not required to publish a notice of proposed rulemaking pursuant to 5 U.S.C. 553 or any other provision of law with respect to the subject matter of this determination.

Section 126 of the Internal Revenue Code of 1954, as amended by the Revenue Act of 1978 and the Technical Corrections Act of 1979, provides that certain payments which are made to persons under designated programs administered by the Department of Agriculture may be eligible for exclusion from gross income if certain determinations are made. One such determination involves the Secretary of Agriculture who must determine whether certain payments issued to persons under designated programs listed in Section 126(a) are "made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife." In making any such determination the Secretary of Agriculture must evaluate each of those designated programs based upon criteria set forth at 7 CFR Part 14.

One of the conservation programs listed in Section 126(a) is the Agricultural Conservation Program (ACP) authorized by the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590a). This program is funded annually by agriculture appropriations acts.

The ACP provides technical and financial assistance to agriculture through annual and long-term (3 to 10 years) agreements to assure the continued supply of food and fiber necessary for the maintenance of a strong and healthy people and economy, and to provide for environmental conservation or enhancement.

Cost-share payments are made to eligible producers under the program for the satisfactory installation of conservation practices developed primarily to meet a definite need to accomplish one or more of the following:

(a) Establish long-lasting protective cover to conserve soil and water resources and protect the environment.

(b) Improve or sustain existing protective cover to prevent soil erosion and excessive surface water runoff.

(c) Conserve or safely dispose of water to prevent soil erosion, protect the environment and prevent water pollution.

(d) Benefit wildlife by providing an improved habitat while conserving soil.

(e) Establish or improve stands of forest trees for soil protection, forestry purposes and enhance the environment.

(f) Give protection against soil erosion to conserve our soil and water resources and abate pollution.

(g) Prevent or abate agricultural related pollution of water, land and air to protect the environment.

(h) Meet special State or county conservation needs by conserving soil and water resources, protecting or restoring the environment, improving forests or providing a habitat for wildlife.

The ACP authorizing legislation, regulations, and operating procedures have been carefully examined using the criteria established by the Department of Agriculture under 7 CFR Part 14 for making "primary purpose" determinations. The Department has concluded that the payments under the ACP are made for the purpose of providing financial assistance to agricultural producers for carrying out enduring conservation and environmental enhancement measures. An "Agricultural Conservation Program (ACP) Record Decision: Primary Purpose Determination for Federal Tax Purposes" has been prepared and is

available upon request from the Conservation and Environmental Protection Division, ASCS.

Determination

Therefore, the Secretary of Agriculture has determined that in accordance with Section 126(b)(1) of the Internal Revenue Code of 1954, as amended, all payments made for those conservation practices approved by the Secretary under the ACP after September 30, 1979 are made primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife.

Signed at Washington, D.C. on December 16, 1981.

John R. Block,

Secretary, U.S. Department of Agriculture.

[FR Doc. 81-36577 Filed 12-22-81; 8:45 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service

Hop Marketing Advisory Board; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-436; 86 Stat. 770), notice is given of a meeting of the Hop Marketing Advisory Board at 9:00 a.m., local time, January 8, 1982, in Portland, Oregon, at the Imperial Hotel.

The purpose of the meeting is to discuss marketing policy, and related matters. The meeting will be open to the public.

The Hop Marketing Advisory Board is established under Marketing Order No. 991, as amended (7 CFR Part 991), regulating the handling of hops of domestic production. The marketing order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674).

The names of Board members, agenda, location of meeting, summary of the meeting and other information pertaining to the meeting may be obtained from Robert H. Eaton, Hop Administrative Committee, Room 1002, Corbett Building, 430 S.W. Morrison Street, Portland, Oregon 97204, telephone (503) 224-1823.

Dated: December 18, 1981.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 81-36622 Filed 12-22-81; 8:45 am]

BILLING CODE 3410-02-M

CIVIL AERONAUTICS BOARD

[Docket 31290; Order 81-12-107]

Establishment of Interim Standard Industry Fare Level

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 17th day of December, 1981.

The Airline Deregulation Act of 1978 requires that we compute a "standard industry fare level" (SIFL) based upon the fare level in effect on July 1, 1977, and, not less than semiannually, update the SIFL by increasing or decreasing it by the percentage in actual operating costs per available seat-mile (ASM) for interstate and overseas transportation combined. Once computed, the SIFL becomes the benchmark for measuring the statutory zone of reasonableness.

Applying our methodology to the year ended September 1981 financial data and October 1981 fuel costs[1] and projecting fuel and nonfuel costs to April 1, 1982 (the midpoint of the January-June period) results in a cost escalation factor of 1.8342 over July 1, 1977, or an increase over the last SIFL adjustment of about 2.9 percent. (See Appendix).

Revisions to the SIFL adjustment factor also control the upward flexibility in connection with the zone of limited suspension for domestic passenger fares. The calculation is described in 14 CFR 399, *Statements of Gneral Policy*. Section 399.32(d)(1) currently provides flexibility of up to 30 percent above the sum of the SIFL plus $16. These regulations also provide that each time we adjust the SIFL for cost increases, we will adjust the $16 figure by the same percentage rounded to the nearest whole dollar. However, the current SIFL adjustment of 2.9 percent does not result in any change in the current $16 amount.

TRUNK AND LOCAL SERVICE CARRIER, SCHEDULED SERVICE FUEL PRICE CALCULATION

[In cents]

Month	Price/gallon	Change from prior month
July	102.80	-0.77
August	102.48	-.32
September	101.99	-.49
October	101.54	-.45

Our usual methodololgy projects the average change in price over the last four months to the chosen future date, then adds the projected change to the current fuel price. However, in this case, due to the moderation of the downward trend of fuel prices and recent OPEC actions in moving toward a uniform price and cutting production to maintain price stability, we have based our current fuel projection on the latest actual fuel price—October. Consequently, we projected a cost of 101.54 cents per gallon as of April 1, 1982.

We intend to monitor closely fuel prices over the coming months and, if necessary, we shall revise the SIFL should the actual fuel prices fluctuate significantly, either up or down, from our projection.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly section 1002.

1. We set the cost adjustment factor for the Standard Industry Fare Level effective January 1, 1982, at 1.8342.

2. We set the Standard Industry Fare Level formula effective January 1, 1982, as follows:

Terminal charge, $29.64, plus $0.1621 per mile (0 to 500 miles); $0.1236 per mile (501 to 1,500 miles); $0.1189 per mile (over 1,500 miles).

This order shall be served on the Air Transport Association of America, all certificated carriers, and shall be published in the **Federal Register.**

By the Civil Aeronautics Board.[1]

Phyllis T. Kaylor,

Secretary.

[1] See table below.

APPENDIX A—METHODOLOGY FOR DETERMINING CHANGE IN OPERATING EXPENSE PER AVAILABLE SEAT-MILE

	Trunks	Local	Trunks plus locals	Total passenger/cargo[1,6]
Year ended September 1981:				
Total operating expense (mils)[1]	$22,254	$4,025	$26,279	$26,822
Less:				
All-cargo expenses[2]	329		329	329
Belly offset[3]	1,178	176	1,354	1,428
Nonscheduled[4]	98	35	133	152
Trans-related[5]	458	42	500	511

APPENDIX A—METHODOLOGY FOR DETERMINING CHANGE IN OPERATING EXPENSE PER AVAILABLE SEAT-MILE—Continued

	Trunks	Local	Trunks plus locals	Total passenger/cargo [14]
Plus: Capitalized lease adjustment [10]			23,963	24,402
Passenger operating expense			7,598	NA
Passenger fuel cost [11]			16,365	NA
Passenger nonfuel cost			319,789	326,260
Scheduled service ASM's (mils)			0.05117	NA
Passenger nonfuel operating expense per ASM (dollars)			0.02376	NA
Passenger fuel expense per ASM (dollars)			0.07493	0.07479
Total passenger expense per ASM (dollars)				
Year ended September 1980:				
Total operating expense (mils)[1]	$20,662	$3,299	$23,961	$24,489
Less:				
All cargo expense [2]	288		288	288
Belly offset [3]	1,125	155	1,280	1,344
Nonscheduled [4]	147	35	182	208
Trans. related [5]	424	41	465	475
Plus: Capitalized lease adjustment [10]				
Passenger operating expense	18,678	3,068	21,746	22,174
Passenger fuel cost [11]			7,035	NA
Passenger nonfuel cost			14,711	NA
Scheduled service ASM's (mils)			332,393	336,386
Passenger nonfuel operating expense per ASM (dollar)			0.04426	NA
Passenger fuel expense per ASM (dollar)			0.02116	NA
Total expense per ASM (dollar)			0.06542	0.06592
Percent change in Nonfuel operating expense per ASM (percent)			15.61	NA
Projected change in nonfuel expense from April 1, 1981 to April 1, 1982 [6]			15.61	NA
Estimated change in fuel cost, year ended September 1, 1981, average to April 1, 1982 [14]			2.86	NA
Nonfuel operating expense per ASM at April 1, 1982 (dollar)[7]			0.05916	NA
Fuel expense per ASM at April 1, 1982 (dollar)[7]			0.02444	NA
Total expense per ASM at April 1, 1982 (dollar)[7]			0.08360	[15] 0.08344
Year ended March 1977:				
Total operating expense (mils)[1]	$11,726	$1,590	$13,316	$13,601
Less:				
All-cargo expense [2]	238		238	238
Belly offset [3]	729	96	825	865
Nonscheduled [4]	220	35	255	266
Trans. related [5]	427	111	538	554
Passenger operating expense	$10,112	$1,348	$11,460	$11,678
Capitalized lease adjustment [10]				(112)
Revised passenger operating expense				$11,566
Scheduled service ASM's (mils)			263,021	265,837
Operating expense per ASM (dollars)				0.04351
Projected expense per ASM (dollars) as at July 1, 1977 [12]				0.04549
Projected operating expense per ASM as at April 1, 1982 (page 1) (dollar)				0.08344
Cost adjustment factor [8]				83.42
Change from prior SIFL				+2.94

[1] Total operating expense for all operations and service (in millions).
[2] Scheduled all-cargo operations expense.
[3] Total scheduled-service cargo revenue, less scheduled all-cargo operations revenue, carried as a by-product in aircraft belly compartments. Includes freight, express, priority and non-priority U.S. mail, and excess baggage.
[4] Total non-scheduled revenues times .95, assuming charter operations would only be conducted at a profit.
[5] Total transport-related expense, less any excess of expense over total transport-related revenues.
[6] We here project costs from April 1, 1981, (the midpoint of the data year ended September 1, 1981) to April 1, 1982 the resultant increase factor effective through June 30, 1982.
[7] Operating expense per ASM for year-ended September, 1981 times projected change.
[8] Projected operating expense per ASM on April 1, 1982 divided by the operating expense as at July 1, 1977.
[9] Adjustment results in a 2.94 percent increase.
[10] Now that all appropriate leases have been capitalized, we have discontinued our adjustment of current data by restating the base period.
[11] Total fuel cost, scheduled service, times complement of rate of All-Cargo expense to total Operating Expense.
[12] Order 77-7-26.
[13] Year ended March 1977 cost per ASM, times cost escalation factor of 1.04543 (to July 5, 1977). See DPFI workpapers, Y.E. March, 1977.
[14] Estimated average cost per gallon for the trunk plus local service carriers at April 1, 1982 divided by the average for the year ended September 1981 (98.72¢).
[15] Change in Trunks plus Locals cost per ASM as at April 1, 1982 to year ended September, 1981 times Total Passenger/Cargo cost for the year ended September, 1981.
[16] Includes Alaskan, Hawaiian and other regional carriers.

Notes:
D.P.F.I. Formula effective July 15, 1977 (Order 77-7-26). Terminal charge, $16.16; plus: $0.0884 per mile (0 to 500 miles); $0.0674 per mile (501 to 1,500 miles); $0.0648 per mile (over 1,500 miles).
SIFL formula through June 30, 1982. (Adjustment results in a 2.94 percent increase). Terminal charge, $29.64; plus: 0.1621 per mile (0 to 500 miles); 0.1236 per mile (501 to 1,500 miles); 0.1189 per mile (over 1,500 miles).

[FR Doc. 81-36837 Filed 12-22-81; 8:45 am]
BILLING CODE 6320-01-M

Availability of Orders Concerning Mail Rates

Order 81-12-105, December 17, 1981, Docket 37294, proposes new domestic final service mail rates for the period January 1 through June 30, 1982.

Order 81-12-106, December 17, 1981, Docket 37392, proposes new international final service mail rates for the period January 1 through June 30, 1982.

Copies of the orders are available from the C.A.B. Distribution Section, Room 100, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Persons outside the Washington Metropolitan area may send a postcard request.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 81-36838 Filed 12-22-81; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of

whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230, on or before January 12, 1982.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 a.m. and 5:00 p.m., Monday through Friday, in Room 2119 of the Department of Commerce Building, 14th and Constitution Avenue NW., Washington, D.C. 20230.

Docket No. 82–00042. Applicant: University of California, Lawrence Livermore National Laboratory, P.O. Box 5012, Livermore, CA 94550. Article: Mass Spectrometer, Model ISOMASS 54E and Accessories. Manufacturer: VG Isotopes Limited, United Kingdom. Intended use of article: The article is intended to be used for studies of lunar samples, meteorites, geological samples, and materials of interest to the nuclear weapons test program. The article will be used for high-precision measurements of the isotopic composition of various elements isolated from the above-cited materials. Elements to be analyzed shall include but not be limited to Li, K, Ca, Ti, Rb, Sr, Nd, Sm, Gd, Pb, U, and Pu. The experiments to be conducted will include the following:

(a) Studies of isotopic anomalies in extra-terrestrial materials.

(b) Studies of cosmic-ray irradiation effects in extra-terrestrial materials.

(c) Chronology studies in terrestrial and extra-terrestrial materials.

(d) Development of isotopic analysis techniques of use to the nuclear weapons test program.

Application received by Commissioner of Customs: November 9, 1981.

Docket No.: 82–00050. Applicant: Butterworth Hospital, 100 Michigan N.E., Grand Rapids, MI 49503. Article: Electron Microscope, Model EM 109 with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for the ultrastructural morphology/investigation of human surgical and autopsy tissue specimens. Experiments will be conducted to increase the capability of the surgical pathology department to make the correct diagnosis in those cases in which the light microscopic findings are equivocal. A second objective will be to examine and record the ultrastructural morphology of specific pathologic diseases in order to further increase knowledge and understanding of pathogenesis, cell type and morphology with the ultimate objective of increasing the specificity and accuracy of light microscopic diagnoses. The article will also be used in an electron microscopy training course which will provide the residents with the ability to interpret and understand the medical literature, to be able to eventually direct their own programs and apply electron microscopy to surgical pathology in their own institutions if they wish to specialize in this field or to understand when and if the use of electron microscopy is appropriate and applicable to an individual problem in surgical pathology, even if they do not choose to specialize in the field themselves. Application received by Commissioner of Customs: November 18, 1981.

Docket No.: 82–00051. Applicant: Baylor University Medical Center, 3500 Gaston Avenue, Dallas, Texas 75246. Article: TP–11 Radiotherapy Planning System. Manufacturer: Atomic Energy of Canada, Ltd., Canada. Intended use of article: The article is intended to be used for studies of the efficacy of the use of radiation in the treatment of cancer patients along with the various implications and attendant effects of the use of this modality. The interaction of a number of different types of radiation is to be investigated for the individual patient having a diagnosis of cancer and being treated in a medical center. In addition, the article will be used for educational purposes in the courses: Radiation Physics, Computer Applications in Medicine, Dosimetry of Treatment Planning, and Review of Radiation Physics for Residents. Application received by Commissioner of Customs: November 18, 1981.

Docket No. 82–00052. Applicant: Pacific Dental Research Foundation, University of the Pacific, School of Dentistry, 2155 Webster Street, San Francisco, CA 94115. Article: Titanium Product System for Osseointegration. Manufacturer: Bofors Nobelpharma, Sweden. Intended use of article: The article is intended to be used for a research project based upon the principle of osseointegration, developed by a team of Swedish scientists. The principle of osseointegration denotes permanent anchoring of the titanium implants by direct connection of the implants to vital remodelling jawbone without any intermediary connective tissue coat. This bio-mechanical connection requires a combination of surgical techniques and specialized instrumentation, based upon biological knowledge about optimization of the healing process of bone tissue in contact with the inert implant material with a special micro-structure. Application received by Commissioner of Customs: November 18, 1981.

Docket No. 82–00053. Applicant: Texas Tech University School of Medicine, Department of Anatomy, Texas Tech University Health Sciences Center, Lubbock, TX 79430. Article: Electron Microscope, Model H–600–3 and Accessories. Manufacturer: Hitachi Scientific Instruments, Japan. Intended use of article: The article is intended to be used for cell biological research primarily in the field of teratology. In these studies, material examined will be rat embryonic hearts from normal controls and animals with environmentally-induced cardiac malformations. Results will be compared with comparably staged defective human hearts obtained from stillborn or spontaneously aborted fetuses. Experiments conducted on rats include determination of the relationship of mucopolysaccharide metabolism to cardiac defects and intra-amniotic therapy with mucopolysaccharide precursors in preterm diagnosis of a defect. Additional experiments are designed to screen the ultrastructural effects of various drugs on cardiac developments. The overall objective of the research is to examine cogenital cardiac defects, induced by a variety of teratogens, as to their cellular mechanisms of formation.

In addition to the above research, the article may be used by other researchers whose work involves:

1. Morphological and histochemical studies of tanycytes in the third ventricle of the brain.

2. Morphological, histochemical and autoradiography studies into the development of smooth muscle implants in cardiac tissue.

3. Morphological studies into the development of the endocardium and extracellular matrix in developing systems.

The article will also be used to train graduate students working for the Ph.D. degree in Anatomy. Application received by Commissioner of Customs: November 18, 1981.

Docket No.: 82–00054. Applicant: Northwestern University Medical School, Department of Molecular Biology, 303 East Chicago Avenue Searle 4–541, Chicago, IL 60611. Article: Electron Microscope, JEM 100S with Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for studies

of the following materials or phenomena:

(a) Plasmid DNA molecules isolated from prokaryotic and eukaryotic cells.

(b) DNA-binding proteins from bacterial cells.

(c) RNA molecules during transcription.

(d) DNA—histone complexes from eukaryotic cells.

(e) Hormone receptors on cell membranes.

(f) Replicating DNA molecules from extrachromosomal genomes.

(g) Ultrastructural studies of differentiating cells.

The article will also be used for the training of Ph. D. candidates, postdoctoral students, and medical and dental students in molecular biology and biochemistry. Application received by Commissioner of Customs: November 18, 1981.

Docket No.: 82-00055. Applicant: Indiana University, Purchasing Department (for Fine Arts), 1101 East Seventeenth St., Bloomington, IN 47405. Article: Infrared Reflectography Equipment. Manufacturer: Grundig Nederland, B.V., The Netherlands. Intended use of article: The article will be used for the following purposes:

(1) to examine art works to reveal underdrawing and stages of the painting process in art historical research.

(2) to assist in determining the authenticity of works of art in the Indiana University Museum of Art.

(3) to determine the condition of works of art in problems of conservation

(4) to instruct undergraduate and graduate students in art history, conservation, and museology in the operation of the equipment and the interpretation of the technical documents obtained when using infrared reflectography. Application received by Commissioner of Customs: November 18, 1981.

Docket No.: 82-00056. Applicant: University of Minnesota, 111 Church Street, SE., Minneapolis, MN 55455. Article: Hexagonal Concave Mirrors. Manufacturer: Boussois, S.A., France. Intended use of article: The articles will be used to concentrate sunlight to a very high intensity so that it can be used to heat materials to very high temperatures. High temperature thermochemical properties of refractory metals and ceramic materials are to be studied. The properties to be investigated include vaporization rates, deformation characteristics, and chemical reactivity. Application received by Commissioner of Customs: November 18, 1981.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 81-36560 Filed 12-22-81; 8:45 am]

BILLING CODE 3510-25-M

[A-122-050]

Racing Plates (Aluminum Horseshoes) From Canada; Preliminary Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of antidumping finding.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping finding on racing plates (aluminum horseshoes) from Canada. The review covers the two known exporters of this merchandise to the United States during the review period, February 1, 1980 through January 31, 1981. There are no known unliquidated entries.

As a result of this review, the Department has preliminarily determined to require cash deposits equal to the calculated margin for the last shipments by that firm for which information was available. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: December 23, 1981.

FOR FURTHER INFORMATION CONTACT: E. Valerie Newkirk or John Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-5345/5289).

SUPPLEMENTARY INFORMATION:

Procedural Background

On December 29, 1980, the Department published in the **Federal Register** (45 FR 85494) the final results of its first administrative review of the antidumping finding on racing plates (aluminum horseshoes) from Canada (39 FR 54388, February 27, 1974). The Department announced in the **Federal Register** of March 16, 1981 (46 FR 16921) its intent to conduct the next administrative review by the end of February 1982. As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review of the finding on racing plates (aluminum horsehorses) from Canada.

Scope of the Review

The imports covered by this review are racing plates (aluminum horseshoes) that are used on race horses, polo, jumping, hunting, and other performing horses, as differentiated from pleasure any work horses, are made of aluminum, may have cleats or caulks, and come in a variety of sizes. Racing plates (aluminum horseshoes) are currently classifiable under item 652.4200 of the Tariff Schedules of the United States Annotated (TSUSA).

The Department knows of two Canadian exporters of racing plates (aluminum horseshoes) to the United States during the period of review, Canadian Racing Plate Co. Limited, and Equine Forgings Limited. The review covers the period February 1, 1980 through January 31, 1981.

There were several small shipments from each firm during this period. In each case the entries were inadvertently liquidated by the Customs Service. Since Canadian Racing Plate Co. Ltd. had no sales in Canada for the period we are unable to calculate a cash deposit rate based on this period; therefore, the best information for cash deposit purposes is the rate established in the prior review. The response received from Equine Forgings Limited was inadequate; therefore, we used the best information available to determine the estimated deposit rate. The best information available is the rate for Canadian Racing Plate Co. Limited. There are no known unliquidated entries for the review period.

Preliminary Results of the Review

As provided by §353.48(b) of the Commerce Regulations, we preliminary determine that a cash deposit of estimated duties of 31.94 percent of the entered value, based on the margin calculated on the last shipments by Canadian Racing Plate Co. Limited for which information was available, shall be required on all shipments of racing plates (aluminum horseshoes) from Canada entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of the administrative review. For any shipments from a new exporter not covered in this administrative review, unrelated to any covered firm, a cash deposit shall be required at the highest rate for responding firms with shipments during the most recent period in which shipments occurred. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

Interested parties may submit written comments on these preliminary results on or before January 22, 1982, and may request disclosure and/or a hearing on or before January 7, 1982. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

(Section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and §353.53 of the Commerce Regulations (19 CFR 353.53))

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

December 10, 1981.

[FR Doc. 81-36561 Filed 12-22-81; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Pacific Fishery Management Council's Anchovy/Jack Mackerel Subpanel; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

SUMMARY: The Pacific Fishery Management Council, established by Section 302 of the Magnuson Fishery Conservation and Management Act (Pub. L. 94-265), has established an Anchovy/Jack Mackerel Subpanel which will meet to discuss amendment #3 to the northern Anchovy Fishery Management Plan and the calibration of the 1982 biomass estimate. Information obtained at this meeting will be presented to the Council at its January 26-28, 1982, meeting in Seattle, Washington.

DATE: The public meeting will convene on Thursday, January 21, 1982, at approximately 10 a.m., and will take place in the auditorium of the California State University Headquarters, 400 Golden Shore, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 S.W. Mill Street—Second Floor, Portland, Oregon 97201, Telephone: (503) 221-6352.

Dated: December 17, 1981.

Jack L. Falls,

Chief, Administrative Support Staff, National Marine Fisheries Service.

[FR Doc. 81-36512 Filed 12-22-81; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Privacy Act of 1974; Deletions of Systems Notices

AGENCY: Office of the Secretary of Defense (OSD).

ACTION: Deletions of systems notices.

SUMMARY: The Office of the Secretary of Defense proposes to delete the notices for systems of records: DPA DXA.A 07, "Personnel Files," DPA DDI.B 03, "Portrait-Photograph File," DPA DDI.C 04, "Case Files," and DPA DDI.A 02, "Biography File" subject to the Privacy Act of 1974. It has been determined that the personnel data contained in these systems duplicates the information contained in Privacy Act systems of records maintained by the Military Services and by OPM/GOVT-1.

DATES: These deletions shall be effective January 22, 1982.

ADDRESS: Send any comments to the System Managers identified in the systems notices (44 FR 74088) December 17, 1979.

FOR FURTHER INFORMATION CONTACT: Norma Cook, Privacy Act Officer, ODASD(A), Room 5C315, Pentagon, Washington, D.C. 20301. Telephone: (202) 695-0970.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense (OSD) systems notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a) Pub. L. 93-579 were published in the **Federal Register.**

FR Doc. 81-897 (46 FR 6427) January 21, 1981
FR Doc. 81-5568 (46 FR 12772) February 18, 1981
FR Doc. 81-6246 (46 FR 14031) February 25, 1981
FR Doc. 81-6491 (46 FR 14154) February 26, 1981
FR Doc. 81-7597 (46 FR 16114) March 11, 1981
FR Doc. 81-8041 (46 FR 16926) March 16, 1981
FR Doc. 81-8127 (46 FR 17074) March 17, 1981
FR Doc. 81-8281 (46 FR 17243) March 18, 1981
FR Doc. 81-8282 (46 FR 17243) March 18, 1981
FR Doc. 81-10201 (46 FR 20260) April 3, 1981
FR Doc. 81-10722 (46 FR 21228) April 9, 1981
FR Doc. 81-11473 (46 FR 22257) April 16, 1981
FR Doc. 81-11785 (46 FR 22632) April 20, 1981
FR Doc. 81-12892 (46 FR 23967) April 29, 1981
FR Doc. 81-13225 (46 FR 24620) May 1, 1981
FR Doc. 81-14226 (46 FR 26365) May 12, 1981
FR Doc. 81-14406 (46 FR 26676) May 14, 1981
FR Doc. 81-14909 (46 FR 27373) May 19, 1981
FR Doc. 81-14975 (46 FR 27373) May 19, 1981
FR Doc. 81-15770 (46 FR 28470) May 27, 1981
FR Doc. 81-17763 (46 FR 31306) June 15, 1981
FR Doc. 81-19042 (46 FR 33074) June 26, 1981
FR Doc. 81-20404 (46 FR 35963) July 13, 1981
FR Doc. 81-21228 (46 FR 37306) July 20, 1981
FR Doc. 81-21498 (46 FR 37751) July 22, 1981
FR Doc. 81-23482 (46 FR 40788) August 12, 1981
FR Doc. 81-25853 (46 FR 44494) September 4, 1981
FR Doc. 81-28992 (46 FR 49177) October 6, 1961
FR Doc. 81-31994 (46 FR 54791) November 4, 1981
FR Doc. 81-32109 (46 FR 54979) November 5, 1981
FR Doc. 81-32239 (46 FR 55139) November 6, 1981
FR Doc. 81-32656 (46 FR 55555) November 10, 1981
FR Doc. 81-33756 (46 FR 57339) November 23, 1981
FR Doc. 81-34463 (46 FR 58546) December 2, 1981
FR Doc. 81-34875 (46 FR 59291) December 4, 1981

December 18, 1981.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

Deletions

DPA DXA.A 07

SYSTEM NAME:

Personnel Files.

Reason:

Data contained in this system duplicates information contained in Privacy Act systems of records maintained by the Military Services and by OPM/GOVT-1.

DPA DDI.B 03

SYSTEM NAME:

Portrait-Photograph File.

Reason:

Data contained in this system duplicates information contained in Privacy Act systems of records maintained by the Military Services and by OPM/GOVT-1.

DPA DDI.C 04

SYSTEM NAME:

Case Files.

Reason:

Data contained in this system duplicates information contained in Privacy Act systems of records maintained by the Military Services and by OPM/GOVT-1.

DPA DDI.A 02

SYSTEM NAME:

Biography File.

Reason:

Data contained in this system duplicates information contained in Privacy Act systems of records

maintained by the Military Services and by OPM/GOVT–1.

[FR Doc. 81–36553 Filed 12–22–81; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF EDUCATION

National Advisory Council on Bilingual Education; Meeting

AGENCY: National Advisory Council on Bilingual Education.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Bilingual Education. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES:

January 16, 1982—Public Hearings—9:00 a.m.–4:00 p.m.

January 28, 1982—Public Hearings—9:00 a.m.–5:00 p.m.

January 29–31, 1982—Business Meetings—9:00 a.m.–5:00 p.m.

ADDRESSES: The Public Hearings of January 16, 1982 will be held at the San Francisco Downtown Hilton Hotel, Mason & O'Farrell Streets, San Francisco, CA. The January 28, 1982 Public Hearings will be held at the HHS North Building Auditorium, 330 Independence Avenue, SW., Washington, DC. The Business Meetings of January 29–31, 1982 will be held at the Reporters Building, 300 7th Street, SW., Room 402, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ramon Ruiz, Designated Federal Official, Room 421, Reporters Building, 400 Maryland Avenue, SW., Washington, DC 20202 (202–245–2600).

SUPLEMENTARY INFORMATION: The National Advisory Council on Bilingual Education is established under Section 732(a) of the Bilingual Education Act (20 U.S.C. 3242). The Council is established to advise the Secretary of the Department of Education concerning matters arising in the administration of the Bilingual Education Act and other laws affecting the education of limited English proficient populations.

The meeting of the Council is open to the public. The proposed agenda includes the following:

January 16, 1982 and January 28, 1982

The Council will take testimony from 9:00 a.m. to 4:00 p.m. (January 16) and 9:00 a.m. to 5:00 p.m. (January 28) on the following topics:

(1) 1983 Reauthorization.

(2) Research.

(3) Reports of the Effectiveness of Bilingual Education.

(4) Structure of Education Foundation and the Role of the Office of Bilingual Education and Minority Languages Affairs and other language related programs.

(5) Interrelations and Interdependency of Bilingual Education and Modern Language Teachers.

(6) Importance of Bilingual Education on International Trade and Commerce.

The following procedures shall be observed during the public hearings:

(1) Witnesses shall be heard on a first come basis.

(2) Witnesses shall limit their testimony to twenty minutes.

(3) All testimony shall be tape recorded.

(4) Exceptions to the aforementioned procedures shall be at the discretion of the Chairperson.

January 29–31, 1982

The Business Meeting agenda includes the following:

I. Call to Order.

II. Approval of the Minutes.

III. Committee Reports.

IV. Other Reports.

V. Committee Reports & Action Items.

VI. Old Business.

VII. New Business.

VIII. Other.

IX. Adjournment.

Records are kept of all Council proceedings, and are available for public inspection at the Office of Bilingual Education and Minority Languages Affairs, Room 421, Reporters Building, 400 Maryland Avenue, SW., Washington, DC 20202 from the hours of 9:00 a.m. to 5:00 p.m.

Dated: December 18, 1981.

Jesse M. Soriano,

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 81–36619 Filed 12–22–81; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Extension of Comment Period for the Draft Northeast Regional Environmental Impact Statement

AGENCY: Department of Energy.

ACTION: Notice of extension of the comment period on the Draft Enviromental Impact Statement (DEIS).

SUMMARY: The Department of Energy (DOE) announced the availability of the Draft Northeast Regional Environmental Impact Statement (DOE/EIS–0083–D) on November 17, 1981 (46 FR 56494). In that notice written comments on the document were invited and receipt was requested by January 5, 1982, in order to insure consideration in preparing the final environmental impact statement. In response to requests for an extension of time, DOE is extending the comment period to February 5, 1982.

ADDRESS: Comments should be sent to: Ms. Marsha S. Goldberg, Department of Energy, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 6128, Washington, D.C. 20461, Phone No. (202) 653–3374.

Issued in Washington, D.C., December 17, 1981.

William A. Vaughan,

Assisant Secretary, Environmental, Protection, Safety, and Emergency Preparedness.

[FR Doc 81–36601 Filed 12–22–81; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

Summit Transportation Co.; Action Taken on Consent Order

Correction

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken on consent order—correction.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces notice of a correction to the **Federal Register** Notice published on June 1, 1981, which gave notice of a Consent Order issued as signed.

DATE: December 11, 1981.

FOR FURTHER INFORMATION CONTACT: William Harrison, Division Director, Crude Producers and Crude Resellers, Office of Special Counsel, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, (202) 633–9649.

SUPPLEMENTARY INFORMATION: On March 4, 1981, 46 FR 15203 (1981), the Office of Enforcement of the ERA published notification in the **Federal Register** that it had executed a Consent Order with Summit Transportation Company (Summit) on January 6, 1981. Interested persons were invited to submit comments concerning the terms, conditions or procedural aspects of the Consent Order.

On June 1, 1981, the Office of Enforcement of the ERA erroneously published notification in the **Federal Register**, "Although interested persons were invited to submit comments

regarding the Consent Order to the DOE, no comments were received." One comment, however, was received. The commentor recommended that the Consent Order be modified to require that refunds be paid to those customers which were directly overcharged by Summit. The terms of the Consent Order do not direct a specific distribution of the refunds and do not prevent the distribution suggested by the commentor. The ERA has therefore determined that the Consent Order should not be modified.

Issued in Washington, D.C. on the 11th day of December, 1981.

Robert D. Gerring,

Director, Program Operations Division, Economic Regulatory Administration.

[FR Doc 81-36016 Filed 12-22-81; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59074; TSH-FRL-2012-4]

Certain Chemicals; Premanufacture Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's revised statement of interim policy published in the **Federal Register** of November 7, 1980 (45 FR 74378). This notice, issued under section 5(h)(6) of TSCA, announces receipt of two applications for exemptions, provides a summary, and requests comments on the appropriateness of granting each of the exemptions.

DATE: Written comments by: January 7, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS-59074]" and the specific TME number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Management Support Division, Environmental Protection Agency, Rm. E-401, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M Street SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on TMEs received by the EPA:

TME 81-49

Close of Review Period. January 28, 1982.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:

Annual sales—Less than $1,000,000.

Manufacturing site—Pacific region.

Standard Industrial Classification Code—284.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Protein associated biopolymer.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used as a biosurfactant.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. Claimed confidential business information.

Toxicity Data

Acute oral toxicity LD_{50}—>5g/kg.

Acute dermal toxicity LD_{50}—>5g/kg.

Skin irritation—Mild dermal irritant.

Eye irritation—Mild to moderate irritant.

Environmental Test Data

Inhalation toxicity LC_{50} 1 hr. (rat)—>0.47 mg/1.

Exposure. The manufacturer states that the new chemical substance is biodegradable and the only adverse effect known from the manufacture and/or use of the new chemical is inhalation of dust of the new chemical substance when it is in a powdered form, may produce temporary flu-like systems. However, after initial exposure, persons have appeared to develop an immunity to the dust. Further, the dust problem will be substantially eliminated by use of breathing devices during manufacture and blending of the new chemical substance. The new chemical substance will be dispersed or dissolved in a liquid medium during use. Use of the compound will involve exposure to non-chemical industrial and commercial employees no more than 5 times per week with potential skin contact.

Environmental Release/Disposal. The manufacturer states that the substance will be used in an open use that will release from about 5,000 kg/yr to 50,000 kg/yr to the environment. There will be release in an industrial waste stream to a publicly owned treatment works (POTW).

TME 81-50

Close of Review Period. January 28, 1982.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:

Annual sales—$500,000,000.

Manufacturing site—Atlantic region.

Standard Industrial Classification Code—739.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Saturated dicarboxylic acid diamine polyamide.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used in an open use that will release less than 50 kg of the substance (landfill) during the test market period.

Production Estimates

	Kilograms	
	Minimum	Maximum
3 months	200	1,000

Physical/Chemical Properties.

Flash point, open cup—275°C.

Viscosity (Brookfield) at room temperature—610 poise.

Density—0.994.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that a maximum of 2 workers/day for 3 hrs/day for 25 days may have dermal exposure during packaging and clean-up operations at one site and 3 workers/week for 8 hrs/day for 26 days may have dermal exposure at another site. The use may also involve a restricted and minimal consumer exposure to the substance as part of an article.

Environmental Release/Disposal. The manufacturer states that less than 50 kg of the substance will be released to the environment (landfill) during the test marketing period.

Released material would be in the form of a viscous liquid from vessel cleanout and maintenance and would be disposed of at an EPA approved landfill.

Dated: December 15, 1981.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc 81-36648 Filed 12-22-81; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-51368; TSH-FRL-2012-2]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of two PMNs and provides a summary of each.

DATES: Written comments by:

PMN 81-630—February 7, 1982.

PMN 81-631—February 8, 1982.

ADDRESSES: Written comments, identified by the document control number "[OPTS-51368]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, DC 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, DC 20460, (202-426-2601).

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on the PMNs received by EPA:

PMN 81-630

Close of Review Period. March 9, 1982.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:

Annual sales—$450,000,000.

Manufacturing site—South Atlantic region.

Standard Industrial Classification Code—282.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Poly(ester)—Co-poly(ether).

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used in a commercial and consumer textile fiber.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. Claimed confidential business information.

Toxicity Data

Acute dermal toxicity LD_{50}—Non-irritating and non-sensitizing.

Skin irritation—Non-toxic.

Skin sensitization—Non-toxic.

Repeated insult patch test/photosensitization study in human subjects—Non-toxic.

Exposure. Claimed confidential business information.

Environmental Release/Disposal. Disposal is to an approved landfill.

PMN 81-631

Close of Review Period. March 10, 1982.

Manufacturer's Identity. Franklin Chemical Industries, Inc., 2020 Bruck Street, Columbus, OH 43207.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Polymer of mixed alkyl acrylates and methacrylates.

Use. The manufacturer states that the PMN substance will be used as a pressure-sensitive adhesive for packaging tapes, labels, etc.

PRODUCTION ESTIMATES

	Kilograms per year	
	Minimum	Maximum
1st year	250	15,000
2d year	15,000	50,000
3d year	50,000	100,000

Physical/Chemical Properties

PH—4-5.

Specific gravity—1.02-1.03.

Boiling point—210° F.

Viscosity—500-3,000 cps.

Solubility:

Water—Dispersible.

Percent solids—58-60.

Biodegradability—Very slow.

Chemical oxidation—Very slight.

Particle size—0.1 to 0.2 microns.

Hydrolysis—Slight.

Photochemical degradation—Very slight.

Toxicity data. No data were submitted.

Exposure. The manufacturer states that during manufacture, use and disposal 7 workers may experience dermal exposure up to 8 hrs/day, up to 37 days/yr.

Environmental Release/Disposal. The manufacturer states that 100-1,000 kg/yr will be released to water 0.5 hr/day, up to 37 days/yr. Disposal is by publicly owned treatment works (POTW) and approved landfill.

Dated: December 11, 1981.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 81-36646 Filed 12-22-81; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-51369; TSH-FRL-2012-3]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of two PMNs and provides a summary of each.

DATE: Written comments by: PMN 81-632, and 81-633, February 9, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS-51369]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Room, E-409, 401 M Street SW., Washington, DC 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Room E-216, 401 M Street SW., Washington, DC 20460, (202-426-2601).

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on the PMNs received by EPA:

PMN 81-632

Close of Review Period. March 11, 1982.

Manufacturer's Identity. S. C. Johnson & Son, Inc., 1525 Howe Street, Racine, WI 53403.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Methacrylate copolymer.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used in a highly dispersive manner.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. No data were submitted.

Toxicity Data

Oral toxicity LD_{50}—Very low order.

Dermal toxicity LD_{50}—Not dermally absorbed.

Skin sensitization—No known sensitizers.

Exposure. Claimed confidential business information.

Environmental Release/Disposal. Disposal is by landfill and incineration.

PMN 81-633

Close of Review Period. March 11, 1982.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:

Annual sales—$5,000,000,000.

Manufacturing site—Middle Atlantic region.

Standard Industrial Classification Code—285.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Hydroxy alkenyl borate.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used in a contained use.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties.

Appearance—Light tan liquid.

Flash point—354°F.

Viscosity Gardner-Hodlt @ 210F°—12.2 cSt.

Density (20°C)—0.95.

Vapor pressure @ 70°F—.002 Psia.

Toxicity Data

Acute oral toxicity LD_{50}—5 g/kg.

Acute dermal toxicity LD_{50}—2 g/kg.

Skin irritation—4.0/8.0.

Eye irritation—6.7 at 1 hr. decreasing to 0.0/110 by 72 hrs.

Ames salmonella—Negative.

Exposure. Claimed confidential business information.

Environmental Release/Disposal. Claimed confidential business information.

Dated: December 14, 1981.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 81-36647 Filed 12-22-81; 8:45 am]

BILLING CODE 6560-31-M

[OPTS-51370; TSH-FRL-2012-5]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the Federal Register of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of four PMNs and provides a summary of each.

DATE: Written comments by: PMN 81-634, 81-635, 81-636, and 81-637, February 12, 1982.

ADDRESS: Written comments, identified by the document control number "[OPTS-51370]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Room E-409, 401 M Street, SW., Washington, DC 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: David Dull, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Room E-216, 401 M Street, SW., Washington, D.C. 20460, (202-426-2601).

SUPPLEMENTARY INFORMATION: The following are summaries of information provided by the manufacturer on the PMNs received by EPA:

PMN 81-634

Close of Review Period. March 14, 1982.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:

Annaul sales—Under $1,000,000.

Manufacturing site—Pacific region.

Standard Industrial Classification Code—284.

Specific Chemical Identifty. Claimed confidential business information. Generic name provided: Protein associated biopolymer.

Use. Claimed confidential business information. Generic use information provided: The manufacturer states that the PMN substance will be used as a biosurfactant.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties. Claimed confidential business information.

Toxicity Data.

Acute oral toxicity LD_{50} (rat)—5 g/kg.

Acute dermal toxicity LD_{50} (rat)—2 g/kg.

Primary skin irritation (rabbit)—slight irritant.

Primary eye irritation (rabbit)—Moderate irritant.

Skin sensitization (guinea pig)—Non-sensitizing.

Exposure. The manufacturer states that during manufacture, processing, use, and disposal workers may experience dermal and inahlation exposure.

Environmental Release/Disposal. Claimed confidential business information.

PMN 81-635

Close of Review Period. March 14, 1982.

Manufacturer's Identity. E. I. du Pont de Nemours and Company, Inc., 1007 Market Street, Wilmington, DE 19898.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Metal salt of the coupling product of amino naphthalene sulfonic acid and β-oxynaphthoic acid.

Use. The manufacturer states that the PMN substance will be used in the paint and plastics market.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties

Appearance—Dry solid powder.

pH—8-9.

Specific gravity—1.52.

Solubility: water—Trace.

Color—Red.

% volatiles by weight—3-4%.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture a total of 120 workers may experience dermal and inhalation exposure 8 hrs/day, up to 10 days/yr.

Environmental Release/Disposal. Disposal is to a publicly owned treatment works (POTW), an off-site land disposal, and air emissions.

PMN 81-636

Close of Review Period. March 14, 1982.

Manufacturer's Identity. E. I. du Pont de Nemours and Company, Inc., 1077 Market Street, Wilmington, DE 19898.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Metal salt of the coupling product of amino naphthalene sulfonic acid and β-oxynaphthoic acid.

Use. The manufacturer states that the PMN substance will be used in the ink, paint, and plastics market.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties.

Appearance—Powder solid.
pH—6.0-9.5.
Specific gravity—1.6-2.1.
Boiling point—760 mm Hg decomposes.
Melting point—Decomposes.
Solubility: water—Not soluble.
Color—Red.
% volatiles by weight—< 4% (depending on code)

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture a total of 120 workers may experience dermal and inhalation exposure up to 8 hrs/day, up to 44 days/yr.

Environmental Release/Disposal. Disposal is to a POTW, an off-site land disposal, and air emissions.

PMN 81-637

Close of Review Period. March 14, 1982.

Manufacturer's Identity. Claimed confidential business information. Organization information provided:
Annual sales—Over $500,000,000.
Manufacturing site—Atlantic region.
Standard Industrial Classification Code—282.

Specific Chemical Identity. Claimed confidential business information. Generic name provided: Saturated dicarboxylic acid diamine polyamine.

Use. Claimed confidential business information.

Production Estimates. Claimed confidential business information.

Physical/Chemical Properties.

Flash point, (open cup)—275°C.
Solubility: water—Essentially insoluble.
Density—0.994.

Toxicity Data. No data were submitted.

Exposure. The manufacturer states that during manufacture and processing 9 workers may experience exposure 8 hrs/day, 75 days/yr during maintenance, packaging and cleanup operations.

Environmental Release/Disposal. Disposal is to an approved landfill.

Dated: December 15, 1981.

Woodson W. Bercaw,

Acting Director, Management Support Division.

[FR Doc. 81-36649 Filed 12-22-81; 8:45 am]

BILLING CODE 6560-31-M

[PF-160B; PH-FRL-2013-6]

Dow Chemical Co.; Amendments to Pesticide Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Dow Chemical Co. has amended a pesticide petition by proposing to increase established tolerances for the combined residues of chlorpyrifos and its metabolite in or on certain raw agricultural commodities.

ADDRESS: Written comments to: Jay S. Ellenberger, Product Manager (PM) 12, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Written comments may be submitted while the petition is pending before the agency. The comments are to be identified by the document control number "[PF-160B]" and the petition number. All written comments filed in response to this notice will be available for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Jay S. Ellenberger (703-557-2386).

SUPPLEMENTARY INFORMATION: EPA issued a notice of filing in the **Federal Register** of December 12, 1979 (44 FR 71895) that Dow Chemical Co., PO Box 1706, Midland, MI 48640, had submitted a pesticide petition (PP OF2281) to EPA. The petition proposed that 40 CFR 180.342 be amended by establishing tolerances for the combined residues of the insecticide chlorpyrifos [*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol in or on the raw agricultural commodities alfalfa green forage at 4.0 parts per million (ppm) and alfalfa hay at 15.0 ppm.

Dow Chemical Co. has submitted amendments to the petition by increasing the established tolerances for fat, meat, and meat byproducts of cattle from 1.5 ppm to 2.0 ppm and milk, fat with 0.01 ppm (N) in whole milk from 0.25 ppm to 0.5 ppm with 0.02 ppm (N) in whole milk. The proposed analytical method for determining residues is by gas chromatography equipped with a hydrogen flame ionization detector.

(Sec. 408(d); 21 U.S.C. 346a)

Dated: December 10, 1981.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 81-36651 Filed 12-22-81; 8:45 am]

BILLING CODE 6560-32-M

[PF-39B; PH-FRL-2013-5]

FMC Corp.; Pesticide Petition; Corporation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice corrects a pesticide petition proposing the establishment of a tolerance for residues of the insecticide carbofuran and its metabolites.

ADDRESS: Written comments to: Jay S. Ellenberger, Product Manager (PM) 12, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Jay S. Ellenberger (703-557-2386).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the Federal Register of October 15, 1981 (46 FR 50842) that FMC Corp. Agricultural Chemical Group, 2000 Market St., Philadelphia, PA 19103, had submitted an amendment to pesticide petition (PP 6F1789) by adding a tolerance proposal for the combined residues of the insecticide carbofuran (2,3-dihydro-2,2-dimethyl-7-benzofuranyl-*N*-methylcarbamate), its carbamate metabolite, 2,3-dihydro-2,2-dimethyl-3-hydroxy-7-benzofuranyl-*N*-methylcarbamate, and the phenolic metabolites, 2,3-dihydro-2,2-dimethyl-7-benzofuranol, 2,3-dihydro-2,2-dimethyl-3-oxo-7-benzofuranol, and 2,3-dihydro-2,2-dimethyl-3,7-benzofurandiol in or on the raw agricultural commodity squash at 0.8 part per million (ppm), of which not more than 0.6 ppm is carbamates.

In FR Doc. 81-29823, appearing in the third column of page 50842 under "SUPPLEMENTARY INFORMATION" under the petition number (PP 6F1789), line 15 the word "squash" is corrected to read "pumpkins" at the same tolerance levels.

(Sec. 408(d)(1), 68 Stat. 512, (7 U.S.C. 135))

Dated: December 10, 1981.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 81-36650 Filed 12-22-81; 8:45 am]

BILLING CODE 6560-32-M

FEDERAL COMMUNICATIONS COMMISSION

FCC Public-Use Forms Approved by OMB

The Paperwork Reduction Act of 1980 (Pub. L. 96-511) requires all agencies to submit public reporting requirements to the Office of Management and Budget (OMB) for approval. Forms used to report information to the Commission must have OMB approval numbers by 1 January 1982. The public protection clause of the Act (section 3512) states that "* * * no person shall be subject to any penalty for failing to maintain or provide any information * * * if the information collection request was made after December 31, 1981, and does not display a current control number assigned by the Director * * *"

Until the Paperwork Reduction Act was passed, the General Accounting Office (GAO) was responsible for reviewing FCC forms and all FCC forms have a GAO clearance number indicating their approval. Recently, all of the Commission's public use forms were given OMB approval numbers. However, many of these forms are printed and stocked in large quantities by the Commission to ensure availability. For this reason, the Commission holds supplies of these forms printed prior to OMB's review and approval, which do not show the appropriate numbers. These forms have been approved as required and should be used as before. Attached is a list of all FCC forms, showing the new OMB number assigned, the former GAO code, the FCC form number, and the title of the form. When current stocks are depleted, new forms showing the OMB numbers will be printed. Until that time, the current forms should be used. Unless directed otherwise, all forms on the list will continue to be required and should be submitted within established deadlines.

For further information, contact Richard D. Goodfriend, Office of Managing Director, (202) 632-7513.

William J. Tricarico,

Secretary, Federal Communications Commission.

OMB No.	GAO No.	FCC form No. or recordkeeping requirement	Title
3060-0001	B-180227 (RO001)	324	Annual Financial Report of Networks and Licensees of Broadcast Stations.
3060-0002	B-180227 (RO018)	L	Annual Report of Licensee in Domestic Public Land Mobile Radio Service.
3060-0003	B-180227 (RO036)	610	Application for Amateur Radio Station and/or Operator License.
3060-0004	B-180227 (RO086)	Sec. 1.1311 [1]	Environmental Information to be Submitted with Applications for Authority to Construct Major Communications Facilities.
3060-0005	B-180227 (RO100)	P	Annual Report of Miscellaneous Common Carriers.
3060-0006	B-180227 (RO102)	505	Application for Station License in the CB or R/C Service.
3060-0007	B-180227 (RO118)	435	Application for a New or Modified Common Carrier Microwave Radio Station Construction Permit under Part 21.
3060-0008	B-180227 (RO119)	129	Notice of Frequency to be Received by Radio Astronomy Station.
3060-0009	B-180227 (RO120)	316	Application for Consent to Assignment of Radio Broadcast Station Construction Permit or License or Transfer of Control of Corporation Holding Radio Broadcast Station Construction Permit or License.
3060-0010	B-180227 (RO122)	323	Ownership Report.
3060-0011	B-180227 (RO123)	330-L	Application for Instructional Television Fixed Station License.
3060-0012	B-180227 (RO125)	701	Application for Extension of Construction Permit or to Replace Expired Construction Permit.
3060-0013	B-180227 (RO126)	Sec. 73, 1800-1850 [1]	Standard Broadcast and FM Station Program Logging Rules.
3060-0014	B-180227 (RO127)	308	Application for Permit to Deliver Programs to Foreign Broadcast Stations.
3060-0015	B-180227 (RO128)	310 [2]	Application for an International, Experimental Television, Experimental Facsimile, or a Developmental Broadcast Station License.
3060-0016	B-180227 (RO129)	346	Application for Authority to Construct or Make Changes in a TV or FM Broadcast Translator Station.
3060-0017	B-180227 (RO130)	347	Application for TV or FM Broadcast Translator Station License.
3060-0018	B-180227 (RO131)	348	Application for Renewal of TV or FM Broadcast Translator Station License.
3060-0019	B-180227 (RO134)	403	Application for Radio Station License or Modification Thereof under Parts 21, 22, 23, and 25.
3060-0020	B-180227 (RO135)	406	Application for Ground Station Authorization in the Aviation Services.
3060-0021	B-180227 (RO136)	480	Civil Air Patrol Radio Station License.
3060-0022	B-180227 (RO138)	610-A	Application of Alien Amateur Radio Licensee for Permit to Operate in the United States.
3060-0023	B-180227 (RO139)	714	Supplement to Application for New or Modified Radio Station Authorization (Concerning Antenna Structure Notification to FAA).
3060-0024	B-180227 (RO143)	Sec. 76.29 [1]	Special Temporary Authority Rules in the Cable Television Service.
3060-0025	B-180227 (RO148)	755	Application for Restricted Radiotelephone Operator Permit by an Alien.
3060-0027	B-180227 (RO174)	301	Application for Authority To Construct a New Broadcast Station or Make Changes in an Existing Broadcast Station.
3060-0028	B-180227 (RO175)	313	Application for Authorization in the Auxiliary Radio Broadcast Services.
3060-0029	B-180227 (RO176)	302	Application for New Broadcast Station License.
3060-0030	B-180227 (RO177)	318	Request for Subsidiary Communications Authorization.
3060-0031	B-180227 (RO179)	314	Application for Consent to Assignment of Broadcast Station Construction Permit or License.
3060-0032	B-180227 (RO180)	315	Application for Consent to Transfer of Control of Corporation Holding Radio Broadcast Station Construction Permit or License.
3060-0033	B-180227 (RO181)	341	Application for a New Noncommercial Educational Broadcast Station License.
3060-0034	B-180227 (RO182)	340	Application for Authority To Construct or Make Changes in a Noncommercial Educational Broadcast Station.
3060-0035	B-180227 (RO183)	313-R	Application for Renewal of Auxiliary Broadcast License (Short Form).
3060-0037	B-180227 (RO185)	400-S	Supplemental Information for Trunked and Conventional Systems.
3060-0038	B-180227 (RO205)	326	Cable Television Annual Financial Report.
3060-0039	B-180227 (RO207)	436	Application for a New or Modified Common Carrier Microwave Radio Station License Under Part 21.
3060-0040	B-180227 (RO208)	404	Application for Aircraft Radio Station License.
3060-0041	B-180227 (RO214)	301-A	Application for Authority To Operate a Broadcast Station by Remote Control or To Make Changes in a Remote Control Authorization.
3060-0042	B-180227 (RO215)	130-A	Notice of Frequency Assignment to Earth Station—Receiving Earth Station.
3060-0043	B-180227 (RO216)	130-B	Notice of Frequency Assignment to Space Station—Receiving Space Station.
3060-0044	B-180227 (RO217)	130-E	Notice of Frequency Assignment to Earth Station—Transmitting Earth Station.
3060-0045	B-180227 (RO218)	130-S	Notice of Frequency Assignment to Space Station—Transmitting Space Station.
3060-0046	B-180227 (RO219)	401	Application for New or Modified Common Carrier Radio Station Construction Permit Under Parts 22 and 25.
3060-0047	B-180227 (RO220)	407 [2]	Application for Radio Station Construction Permit for Part 23.
3060-0048	B-180227 (RO221)	704	Application for Consent to Transfer of Control of Corporation Holding Common Carrier Radio Station Construction Permit or License.
3060-0049	B-180277 (RO222)	753	Restricted Radiotelephone Operator Permit Application.
3060-0050	B-180277 (RO224)	801	Application for Ship Radio Inspection.
3060-0051	B-180277 (RO234)	405-B	License Expiration Notice, Renewal Application Short Form.

OMB No.	GAO No.	FCC form No. or recordkeeping requirement	Title
3060-0052	B-180277 (RO236)	440-A	Supplemental Information for Applications in the Experimental Radio Service Involving Government Contracts.
3060-0053	B-180277 (RO239)	703	Application for Consent to Transfer of Control of Corporation Holding Construction Permit or Station License.
3060-0054	B-180277 (RO242)	820	Application for Exemption from Ship Radio Station Requirements.
3060-0055	B-180277 (RO279)	327	Application for Cable Television Relay Service Station Authorization.
3060-0056	B-180277 (RO337)	730	Application for Registration of Equipment to be Connected to the Telephone Network.
3060-0057	B-180277 (RO351)	731	Application for Equipment Authorization—Radiofrequency Devices.
3060-0058	B-180277 (RO363)	901	Monthly Report of Revenues, Expenses, and Other Items—Telephone Companies.
3060-0059	B-180277 (RO366)	740	Statement Regarding the Importation of Radio Frequency Devices Capable of Causing Harmful Interference.
3060-0060	B-180277 (RO367)	Sec. 73, 1800-1850 [1]	Television Broadcast Program Logging Rules.
3060-0061	B-180277 (RO368)	325	Annual Report of Cable Television Systems.
3060-0062	B-180277 (RO369)	330-P	Application for Authority to Construct or Make Changes in an Instructional Television Fixed and/or Response Station(s) and Low Power Relay Station(s).
3060-0064	B-180277 (RO375)	402	Application for License in the Private Operational Fixed Microwave Radio Service.
3060-0065	B-180277 (RO376)	442	Application for New or Modified Radio Station Authorization under Part 5 of FCC Rules, Experimental Radio Services (other than Broadcast).
3060-0066	B-180227 (RO384)	330-R	Application for Renewal of an ITFS and/or Response Station(s) and Low Power Relay Station(s) License.
3060-0067	B-180277 (RO389)	400	Application for Radio Station Authorization in the Safety and Special Radio Services.
3060-0068	B-180277 (RO393)	702	Application for Consent to Assignment of Radio Station Construction Permit or License (for Stations in Services other than Broadcasting).
3060-0069	B-180277 (RO394)	756	Application for Commerical Radio Operator License.
3060-0070	B-180277 (RO395)	757-B	Application for Re-examination for Commerical or Amateur Radio Operator License Prior to Expiration of Waiting Period (Waiver of Secs. 13.27 and 97.33 of Rules).
3060-0071	B-180277 (RO397)	809	Application for Periodic Survey (Great Lakes Agreement).
3060-0072	B-180277 (RO415)	409	Application for Individual Mobile Radio Telephone License in the Domestic Public Land Mobile Radio Service.
3060-0073	B-180277 (RO432)	808	Application for and Certificate of Overtime Services Involving Inspection of Ship Radio Equipment.
3060-0074	B-180227 (RO447)	309	Application for Authority to Construct or Make Changes in an International, Experimental Television, Experimental Facsimile, or a Developmental Broadcast Station.
3060-0075	B-180227 (RO448)	345	Application for Consent to Assignment of Broadcast Translator Station Construction Permit or License.
3060-0076	B-180227 (RO449)	395	Annual Employment Report.
3060-0077	B-180227 (RO450)	Report and Order 76-1169 [1]	Request for Supplemental Data for Application License on Domestic Satellite Earth Station for Applicant Whose Program Uses Small Dish Antenna.
3060-0078	B-180227 (RO458)	Secs. 90.119 and 90.242 [1]	Travelers' Information Stations.
3060-0079	B-180227 (RO464)	610-B	Application for Amateur Club or Military Recreation Station License.
3060-0080	B-180227 (RO465)	349-L [2]	Application for an FM Booster Station License.
3060-0081	B-180227 (RO466)	349-P [2]	Application for Authority to Construct or Make Changes in an FM Booster Station.
3060-0082	B-180227 (RO467)	349-R [2]	Application for Renewal of FM Booster Station License.
3060-0084	B-180227 (RO531)	323-E	Ownership Report for Noncommercial Educational Broadcast Station.
3060-0085	B-180227 (RO541)	65	Employment Inquiry.
3060-0086	B-180227 (RO542)	759	Verification of Radio Operator License or Permit for Additional Posting.
3060-0087	B-180227 (RO548)	453-B	Certificate of Special Temporary Authorization for Operation of Radio Station on Board New Aircraft or Aircraft with an Initial Radio Installation.
3060-0088	B-180227 (RO549)	402-A	Annual Report of Licensees of Private Operational Fixed Microwave Radio Service Stations.
3060-0089	B-180227 (RO550)	503	Application for Land Radio Station License in the Maritime Mobile Service or an Alaska Public Fixed Service.
3060-0090	B-180227 (RO551)	410	Registration of Canadian Radio Station Licensee and Application for Permit to Operate.
3060-0091	B-180227 (RO552)	410-B	Application for Permit to Operate a Canadian General Radio Service Station in the United States and Permit to Operate.
3060-0092	B-180227 (RO553)	812	Application for Periodic Inspection (Communications Act, Title III, Part III).
3060-0093	B-180227 (RO556)	405	Application for Renewal of Radio Station License in Specified Services.
3060-0094	B-180227 (RO570)	Sec. 22.501(1)(10)(ii) [1]	Common Carrier Land Mobile Channel Loading Measurement.
3060-0095	B-180227 (RO578)	395-A	Annual Employment Report—Cable Television.
3060-0096	B-180227 (RO588)	506/506-A	Application for Ship Radio Station License and Temporary Permit for Ship Radio Station.
3060-0097	B-180227 (RO631)	199-A/199-B	Fee Refund Program (Phase I), Refund Request Form and continuation page.
3060-0099	B-180227 (RO659)	M	Annual Report Form M.
3060-0100	B-180227 (RO679)	199-C	Fee Refund Program (Phase II), Refund Request Form.
3060-0101	B-180227 (RO691)	847	Examination Credit Certificate, Commercial Radio Operator.
3060-0102	B-180227 (RO197)	915	Priority Request and Certification.
3060-0103	B-180227 (RO694)	Sec. 97.423 [1] [2]	Amateur-Satellite Service Notifications Required.
3060-0104	B-180227 (RO702)	572	Temporary Permit to Operate a Business Radio Station.
3060-0105	B-180227 (RO117)	430	Common Carrier and Satellite Radio Licensee Qualification Report.
3060-0106	B-180227 (RO124)	336 [2]	Report of Overseas Telecommunications Traffic.
3060-0107	B-180227 (RO391)	405-A	Application for Renewal of Radio Station License and/or Notification of Change to License Information.
3060-0108	B-160227 (RO704)	201	Emergency Broadcast System (EBS) Activation Report.
3060-0109	(New approval)	303-C	Renewal Application Audit Form for Commercial TV Broadcast Stations.
3060-0110	(New approval)	303-S	Application for Renewal of License for Commercial and Noncommercial AM, FM or TV Broadcast Station.
3060-0111	(New approval)	303-N	Renewal Application Audit Form for Noncommercial Educational AM, FM, and TV Broadcast Stations.
3060-0113	(New approval)	396	Equal Employment Opportunity Program.

[1] Recordkeeping requirement only.
[2] Display of OMB number previously assigned no longer required (fewer than 10 respondents).

[FR Doc. 81-36524 Filed 12-22-81: 8:45 am]
BILLING CODE 6712-01-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-142]

Capitol Federal Savings and Loan Association, Oklahoma City, Oklahoma; Final Action Approval of Conversion Applications

Dated: December 18, 1981.

Notice is hereby given that on November 16, 1981, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 81-684 approved the application of Capitol Federal Savings and Loan Association, Oklahoma City, Oklahoma for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Topeka, 3 Townsite Plaza, 120 East 6th Street, Topeka, Kansas 66601.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 81-36652 Filed 12-22-81; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-144]

First Federal Savings and Loan Association, Arcadia, Florida; Final Action Approval of Conversion Applications

Dated: December 18, 1981.

Notice is hereby given that on November 16, 1981, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 81-685 approved the application of First Federal Savings and Loan Association, Arcadia, Florida for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Atlanta, Coastal States Building, 260 Peachtree Street, N.W., Atlanta, Georgia 30343.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 81-36653 Filed 12-22-81; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-143]

Northwestern Savings and Loan Association, Traverse City, Michigan; Final Action Approval of Conversion Applications

Dated: December 18, 1981.

Notice is hereby given that on November 16, 1981, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 81-683 approved the application of Northwestern Savings and Loan Association, Traverse City, Michigan for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Indianapolis, 1350 Merchants Plaza, South Tower, 115 West Washington Street, Indianapolis, Indiana 46206.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 81-36654 Filed 12-22-81; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-145]

Victor Federal Savings and Loan Association Muskogee, Oklahoma; Final Action Approval of Conversion Applications

Dated: December 18, 1981.

Notice is hereby given that on November 16, 1981, the Federal Home Loan Bank Board, as operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 81-687 approved the application of Victor Federal Savings and Loan Association, Muskogee, Oklahoma for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and at the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of Topeka, 3 Townsite Plaza, 120 East 6th Street, Topeka, Kansas 66601.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 81-36655 Filed 12-22-81; 8:45 a.m.]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10327; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after the date of the **Federal Register** in which this notice appears. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: T-4007.

Filing Party: Mr. Carl S. Parker, Jr., Traffic Manager, Port of Galveston, P.O. Box 328, Galveston, Texas 77553.

Summary: Agreement No. T-4007 between the Board of Trustees of the Galveston Wharves (Galveston Wharves) and Southern Stevedoring Co., Inc. (Lessee), provides for the lease by Galveston Wharves of premises located at Piers 19 and 21 in the Port of Galveston to be used as a public terminal for the handling of bananas, other tropical fruit and other general cargo. As rent Lessee shall pay to the Galveston Wharves $40,000 per annum. The term of the lease is for one year, with an option for one renewal period of one year. Rental for the option period will be renegotiated. Indemnity, insurance, liabilities, maintenance and repair are as agreed to by the parties.

Agreement No.: 17-41.

Filing Party: Mr. Elkan Turk, Jr., Burlingham Underwood and Lord, One Battery Park Plaza, New York, New York 10004.

Summary: Agreement No. 17-41 modifies the basic agreement of the Far East Conference to comply with the Commission's General Order 7 requirements.

Agreements Nos.: 4610-29 and 8120-22.

Filing Party: Mr. Nathan J. Bayer, Freehill, Hogan & Mahar, 21 West Street, New York, New York 10006.

Summary: Agreements Nos. 4610-29 and 8120-22 amend the basic agreement of the United States Atlantic & Gulf/Jamaica Conference and the United States Atlantic & Gulf-Haiti Conference to (1) allow the parties to vote to suspend self-policing provisions when there are less than three parties to the agreement and (2) provide for automatic reinstatement of the self-policing provisions thirty days from the effective date of membership of an additional party.

By order of the Federal Maritime Commission.

Dated: December 17, 1981.

Francis C. Hurney,

Secretary.

[FR Doc. 81-36599 Filed 12-22-81; 8:45 am]

BILLING CODE 6730-01-M

Filing and Approval of Agreement

The Federal Maritime Commission hereby gives notice that on November 30, 1981, the following agreement was filed with the Commission pursuant to section 15 of the Shipping Act, 1916, as amended by section 4 of the Maritime Labor Agreements Act of 1980, Pub. L. 96-325, 94 Stat. 1021, and was deemed approved that date, to the extent it constitutes an assessment agreement as described in the fifth paragraph of section 15, Shipping Act, 1916.

Agreement No. LM-82.

Filing Party: James Patrick Cooney, Esquire, Royston, Rayzor, Vickery & Williams, 2200 Texas Commerce Tower, Houston, Texas 77002.

Summary: Agreement No. LM-82 is a Resolution of the West Gulf Maritime Association (WGMA) establishing the Guaranteed Annual Income Program and Fringe Benefits Contract Administration Assessment. The Assessment will be collected and administered by WGMA for funding various agreements between WGMA and the South Atlantic and Gulf District, International Longshoremen's Association including, but not limited to, the Guaranteed Annual Income Program, the Manpower Development Program, implementation of the Stabilization and Decasualization Program, Safety Training Program, and general expenses of administering such agreements.

By order of the Federal Maritime Commission.

Dated: December 17, 1981.

Francis C. Hurney,

Secretary.

[FR Doc. 81-36600 Filed 12-22-81; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2077-R]

Jester International Forwarding 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 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Jester International Forwarding Company, Inc., 2408 Timberlock Place, D-2, Woodlands, TX 77380 was cancelled effective February 1, 1980.

Jester International Forwarding Company, Inc., has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised), § 10.01(f) dated November 12, 1981;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2077-R be and is hereby revoked effective February 1, 1980.

It is ordered, that Independent Ocean Freight Forwarder License No. 2077-R issued to Jester International Forwarding 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 Jester International Forwarding Company, Inc.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 81-36598 Filed 12-22-81; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Aktivbanken A/S; Formation of Bank Holding Company

Aktivbanken A/S, Vejle, Denmark, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares of National Bank of Long Beach, Long Beach, California. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than January 15, 1982. Any comment on an application that request a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 16, 1981.

Theordore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 81-36606 Filed 12-22-81; 8:45 am]

BILLING CODE 6210-01-M

Banks County Financial Corp.; Formation of Bank Holding Company

Banks County Financial Corporation, Homer, Georgia, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent (less directors' qualifying shares) of the voting shares of Bank of Banks County, Homer, Georgia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than January 15, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 16, 1981.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 81-36605 Filed 12-22-81; 8:45 am]

BILLING CODE 6210-01-M

Climbing Hill Bancshares, Inc.; Formation of Bank Holding Company

Climbing Hill Bancshares, Inc., Climbing Hill, Iowa, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Climbing Hill Savings Bank, Climbing Hill, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Climbing Hill Bancshares, Inc., Climbing Hill, Iowa, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire

the business of Hoyd Insurance Agency, Climbing Hill, Iowa.

Applicant states that the proposed subsidiary would engage in general insurance agency activities in a town with a population of under 5,000. These activities would be performed from offices in Climbing Hill, Iowa, and the geographic area to be served is Climbing Hill, Iowa. This activity has been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Reserve Bank not later than January 9, 1982.

Board of Governors of the Federal Reserve System, December 17, 1981.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 81-36602 Filed 12-22-81; 8:45 am]

BILLING CODE 6210-01-M

Deutsche Bank AG; Proposed Acquisition of Freightliner Credit Corporation

Deutsche Bank AG, Frankfurt, Federal Republic of Germany, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Freightliner Credit Corporation, Portland, Oregon, through its indirect subsidiary, Mercedes Benz North America, a Delaware corporation.

Applicant states that the proposed subsidiary would make or acquire for its own account loans and other extensions of credit such as would be made or acquired by a finance company; lease personal property or act as agent, broker, or adviser in leasing such property; and act as agent or broker for credit life insurance that is directly related to extensions of credit. The indirect subsidiary and Freightliner Credit Corporation also propose to engage *de novo* in dealer inventory financing for dealers of all present and future affiliates of Mercedes Benz North America; retail financing; full pay-out leasing with respect to products sold by its various automobile and truck retail affiliates; and to act as insurance agent or broker for credit accident and physical damage insurance that is directly related to extensions of credit by Freightliner Credit Corporation.

These activities will be conducted from offices in Portland, Oregon; Claymont, Delaware; Atlanta, Georgia; Oak Brook, Illinois; and through various retail subsidiary dealerships of the automobile and truck affiliates throughout the United States, servicing the entire United States. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received no later than January 3, 1982.

Board of Governors of the Federal Reserve System, December 15, 1981.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 81-36604 Filed 12-22-81; 8:45 am]

BILLING CODE 6210-01-M

Multi-Line, Inc.; Acquisition of Bank

Multi-Line, Inc., Tampa, Florida, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire an additional 10 percent of the voting shares of First Florida Banks, Inc., Tampa, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than January 15, 1982. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, indentifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, December 16, 1981.

Theodore E. Downing, Jr.,

Assistant Secretary of the Board.

[FR Doc. 81-36603 Filed 12-22-81; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

[E-81-36]

Delegation of Authority to the Secretary of Energy

1. *Purpose.* This delegation authorizes the Secretary of Energy to represent the consumer intersts of the executive agencies of the Federal Government in proceedings before the Nevada Public Service Commission involving electric rates, Docket No. 81-602.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Energy to represent the consumer interests of the executive agencies of the

Federal Government in proceedings before the Nevada Public Service Commission involving the application of the Nevada Power Company for an increase in its electric rates in Docket No. 81–602.

b. The Secretary of Energy may redelegate this authority to any officer, official, or employee of the Department of Energy.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration (GSA), and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

d. The Department of Energy shall add GSA to its service list in this case so that GSA will receive copies of testimony, briefs, and other Department of Energy filings.

Dated: December 14, 1981.

Ray Kline,

Deputy Administrator of General Services.

[FR Doc. 81-36640 Filed 12-22-81; 8:45 am]

BILLING CODE 6820-AM-M

[E-81-35]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Colorado Public Utilities Commission involving gas service rates, Advice Notice 83.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Colorado Public Utilities Commission involving the application of the Department of Public Utilities of the City of Colorado Springs for an increase in its gas service rates in Advice Notice 83.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration (GSA), and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

d. The Department of Defense shall add GSA to its service list in this case so that GSA will receive copies of testimony, briefs, and other Department of Defense filings.

Dated: December 14, 1981.

Ray Kline,

Deputy Administrator of General Services.

[FR Doc. 81-36641 Filed 12-22-81; 8:45 am]

BILLING CODE 6820-AM-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological and Communicative Disorders and Stroke; Neurological Disorders Program-Project Review B Committee; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Neurological Disorders Program-Project Review B Committee, National Institutes of Health, February 12, and 13, 1982, in Conference Room 7, Building 31, NIH Bethesda, Maryland 20205.

The meeting will be open to the public from 8:00 a.m. until 9:00 a.m. on February 12th, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(4), and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on February 12th from 9:00 a.m. to adjournment on February 13th, for the review, discussion and evaluation of individual grant applications. The applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which could constitute a clearly unwarranted invasion of personal privacy.

Sylvia Shaffer, Chief, Office of Scientific and Health Reports, Building 31, Room 8A03, NIH, NINCDS, Bethesda, MD 20205, telephone 301/496–5751, will furnish summaries of the meeting and roster of committee members.

Dr. Ellen G. Archer, Executive Secretary, Federal Building, Room 9C10B, Bethesda, MD 20205, telephone 301/496–9223, will furnish substantive program information.

(Catalog of Federal Domestic Assistance program No. 13.852, Neurological Disorders Program, National Institutes of Health)

NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

Dated: December 11, 1981.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 81-36552 Filed 12-22-81; 8:45 am]

BILLING CODE 4140-01-M

Arteriosclerosis, Hypertension, and Lipid Metabolism Advisory Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Arteriosclerosis, Hypertension, and Lipid Metabolism Advisory Committee, National Heart, Lung, and Blood Institute, January 29, 1982, Conference Room 9, 6th Floor, C-Wing, Building 31, National Institutes of Health, Bethesda, Maryland 20205. The entire meeting will be open to the public from 9:00 a.m. to 5:00 p.m. on Friday, January 29, to evaluate program support in Arteriosclerosis, Hypertension, and Lipid Metabolism. Attendance by the public will be limited on a space available basis.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–4236, will provide summaries of the meeting and rosters of the committee members.

Dr. G. C. McMillan, Associate Director, Arteriosclerosis, Hypertension, and Lipid Metabolism Program, NHLBI, Room 4C–12, Federal Building, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–1613, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research, National Institutes of Health)

NIH Programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

Dated: December 15, 1981.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc 81-36565 Filed 12-22-81; 8:45 am]

BILLING CODE 4140-01-M

Biomedical Research Support Subcommittee, General Research Support Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the

Biomedical Research Support (BRS) Subcommittee, General Research Support Review Committee, Division of Research Resources, February 2, 1982, Conference room 9, Bldg. 31, National Institute of Health, Bethesda, Maryland 20205.

The meeting will be open to the public from 9:00 a.m. to adjournment for the discussion of (1) changes in the eligibility threshold for admission to the BRSG Program; (2) an update on the status of the BRS Shared Instrumentation Program and the possible need to revise program guidelines for FY '83; (3) impact of President Reagan's FY '82 and FY '83 budget on both programs; and (4) updating the DRR Five-Year Plan. Attendance by the public will be limited to space available.

Mr. James Augustine, Information Officer, Division of Research Resources, Room 5B10, Bldg. 31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–5545, will provide summaries of the meeting and rosters of Committee members. Dr. Thomas G. Bowery, Program Director, Biomedical Research Support Program, Room 5B23, Bldg. 31, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–6743, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs, No. 13.337, Biomedical Research Support, National Institutes of Health)

NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

Dated: December 15, 1981.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 81–36566 Filed 12–22–81; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Allergy and Infectious Diseases and American Academy of Allergy; Symposium

The National Institute of Allergy and Infectious Diseases and the American Academy of Allergy will hold a symposium on February 25, 1982, entitled Occupational Immunologic Lung Disease. The program will cover immunologic aspects and other mechanisms of the disease and the state-of-the-art in hazard measurement, risk assessment, disease detection and measurement and patient evaluation. Participants will include medical scientists drawn from industry, health care delivery systems and government agencies, institutes and bureaus, and representatives of consumer, labor and industrial organizations.

The symposium, to be held in Washington, D.C. at the Department of Health and Human Services North Building Auditorium at 330 Independence Avenue, SW., is sponsored jointly by the Institute's Asthma and Allergic Disease Centers Program and the American Academy of Allergy. There is no registration fee, but pre-registration is required, and attendance will be limited.

For registration forms or additional meeting information call: Marsha Ryan at (301) 299–4380. For technical information call: Robert Goldstein at (301) 496–7104 or Janet Ayres at (301) 496–7551.

Dated: December 15, 1981.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 81–36567 Filed 12–22–81; 8:45 am]

BILLING CODE 4140–01–M

Neurological Disorders Program Project Review A Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Neurological Disorders Program Project Review A Committee, National Institutes of Health, February 16, 17 and 18, 1982 at the Monteleone Hotel, 214 Rue Royal, New Orleans, Louisiana 70140.

The meeting will be open to the public from 8:00 p.m. until 10:00 p.m. on February 16, 1982 to discuss program planning and program accomplishments. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(4), and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on February 17, 1982 from 8:00 a.m. to adjournment on February 18, 1982 for the review, discussion and evaluation of individual grant applications. The applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which could constitute a clearly unwarranted invasion of personal privacy.

Sylvia Shaffer, Chief, Office of Scientific and Health Reports, Building 31, Room 8A03, NIH, NINCDS, Bethesda, MD 20205, (Tel. No. 301/496–5751) will furnish summaries of the meeting and roster of committee members.

Dr. Leon Jack Greenbaum, Jr., Executive Secretary, Federal Building, Room 9C14, Bethesda, MD 20205, telephone 301/496–9223, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.852, Neurological Disorders Program, National Institutes of Health)

NIH programs are not covered by OMB Circular A–95 because they fit the description of "programs not considered appropriate" in section 8(b)(4) and (5) of that Circular.

Dated: December 11, 1981.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc. 81–36564 Filed 12–22–81; 8:45 am]

BILLING CODE 4140–01–M

National Advisory Child Health and Human Development Council; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Child Health and Human Development Council, January 25–26, 1982, in Building 31, Conference Room 10, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on January 25 from 9:00 a.m. to 5:00 p.m. with current status reports, review of the Reproductive Sciences Program, and scientific presentations. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on January 26 from 9:00 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. The applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie Neff, Council Secretary, NICHD, Landow Building, Room 6C08, National Institutes of Health, Bethesda, Maryland 20205, Area Code 301, 496–1485, will provide a summary of the meeting and a roster of Council members as well as substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.864, Population Research, and 13.865, Research for Mothers and Children, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A–95 because they fit the description of "program not considered appropriate" in section 8(b) (4) and (5) of that Circular.

Dated: December 9, 1981.

Thomas E. Malone,

Deputy Director, NIH.

[FR Doc. 81-36573 Filed 12-22-81; 8:45 am]

BILLING CODE 4140-01-M

National Advisory General Medical Sciences Council; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory General Medical Sciences Council, National Institute of General Medical Sciences, National Institutes of Health, on January 28 and 29, 1982, Building 31, Conference Room 10, Bethesda, Maryland.

This meeting will be open to the public on January 28, 1982, from 9:00 a.m. to 3 p.m. for opening remarks; report of the Director, NIGMS; and other business of the Council. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public for approximately the last two hours of the day on January 28, 1982, and eight hours on January 29, 1982. It is estimated that the closed session will occur on January 28 from approximately 3:00 p.m. to 5:00 p.m., and on January 29, 1982, from 9:00 a.m. until adjournment, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Ellen Casselberry, Public Information Officer, National Institute of General Medical Sciences, National Institutes of Health, Room 9A12, Westwood Building, Bethesda, Maryland 20205, Telephone: 301, 496-7301 will provide a summary of the meeting and a roster of council members. Dr. Ruth L. Kirschstein, Executive Secretary, NAGMS Council, National Institutes of Health, Building 31, Room 4A52, Bethesda, Maryland 20205, Telephone: 301, 496-5231 will provide substantive program information.

(Catalog of Federal Domestic Assistance Programs Nos. 13-821, Physiology and Biomedical Engineering; 13-859, Pharmacology-Toxicology Research; 13-862, Genetics Research; 13-863, Cellular and Molecular Basis of Disease Research; and 13-880, Minority Access to Research Careers (MARC))

Note.—NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Cicular.

Dated: December 9, 1981.

Thomas E. Malone,

Deputy Director, NIH.

[FR Doc. 81-36572 Filed 12-22-81; 8:45 am]

BILLING CODE 4140-01-M

National Advisory Neurological and Communicative Disorders and Stroke Council and the Planning Subcommittee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Neurological and Communicative Disorders and Stroke Council, January 28 and 29, 1982, at 9 a.m. in Building 31-C, Conference Room 6, National Institutes of Health, Bethesda, MD 20205. In addition, a meeting of the Planning Subcommittee of the above Council will be held on January 27, 1982, at 1 p.m. to approximately 5:30 p.m. in Building 31, Room 8A28, National Institutes of Health, Bethesda, MD 20205.

The meeting of the full Council will be open to the public from 9 a.m. until approximately 11:30 a.m. on January 28, 1982, to discuss administration, management and special reports. The meeting of the Planning Subcommittee will be open from 1 p.m. to approximately 3 p.m. on January 29 to discuss program planning and program accomplishments. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4), and 552b(c)(6) of Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the Advisory Council meeting will be closed to the public from approximately 11:30 a.m. on January 28, 1982, until the conclusion of the meeting that day, and from 8:30 a.m. until adjournment on January 29, 1982, for review, discussion and evaluation of Research Grant applications and applications for Teacher-Investigator Awards, Research Career Development Awards, and Institutional National Research Service Awards. The meeting of the Planning Subcommittee will be closed from approximately 3 p.m. to adjournment on January 29, 1982, also for the review, discussion and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Chief, Office of Scientific and Health Reports, Miss Sylvia Shaffer, Building 31, Room 8A06, NIH, NINCDS, Bethesda, Maryland 20205, telephone (301) 496-5751, will furnish summaries of the meeting and rosters of committee members.

Dr. John C. Dalton, Executive Secretary, Federal Building, Room 1016, Bethesda, Maryland 20205, telephone (301) 496-9248, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.851, Communicative Disorders Program; No. 13.852, Neurological Disorders Program; No. 13.853, Stroke and Nervous System Trauma; No. 13.854, Fundamental Neurosciences Program, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of that Circular.

Dated: December 9, 1981.

Thomas E. Malone,

Deputy Director, National Institutes of Health.

[FR Doc 81-36571 Filed 12-22-81; 8:45 am]

BILLING CODE 4140-01-M

National Arthritis Advisory Board; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Arthritis Advisory Board on January 13, 1982, 9:00 a.m. to 5:00 p.m., at the Bethesda Marriott, 1 Pooks Hill Road, Bethesda, Maryland, to discuss the Board's activities and to continue the evaluation of the implementation of the long-range plan to combat arthritis. The meeting will be open to the public. Attendance by the public will be limited to space available. Notice of the meeting room will be posted in the Hotel lobby.

Certain Subcommittees of the Board will meet the day before, January 12. Further information, times and meeting locations of the Subcommittees may be obtained by contacting Mr. William Plunkett, Executive Director, National Arthritis Advisory Board, P.O. Box 30286, Bethesda, Maryland 20205, (301) 496-1991. The agenda and roster of members can also be obtained from his Office. Summaries of the meetings may be obtained by contacting Carole A. Peters, Committee Management Office, NIADDK, National Institutes of Health, Room 9A46, Building 31, Bethesda, Maryland 20205, (301) 496-5765.

Dated: December 7, 1981.

Thomas E. Malone,
Deputy Director, NIH.

[FR Doc. 81-36570 Filed 12-22-81; 8:45 am]
BILLING CODE 4140-01-M

Pulmonary Diseases Advisory Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given to the meeting of the Pulmonary Diseases Advisory Committee, National Heart, Lung, and Blood Institute, on February 18 and 19, 1982 in Conference Room 4, Building 31 at the National Institutes of Health, Bethesda, Maryland.

The entire meeting, from 8:30 a.m. on February 18 to 4:00 p.m. on February 19, will be open to the public. The Committee will review the "10-year retrospective evaluation and 5-year forward plan of the Division of Lung Diseases" in order to plan a course of action to meet a final deadline date of summer 1982. Attendance by the public will be limited to the space available.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-4236, will provide summaries of the meeting and rosters of the Committee members.

Dr. Suzanne Hurd, Acting Executive Secretary of the Committee, Westwood Building, Room 6A16, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-7208, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.838, Lung Diseases Research, National Institutes of Health)

Note.—NIH programs are not covered by OMB Circular A-95 because they fit the description of "programs not considered appropriate" in section 8(b) (4) and (5) of the Circular.

Dated: December 7, 1981.

Thomas E. Malone,
Deputy Director, NIH.

[FR Doc. 81-36569 Filed 12-22-81; 8:45 am]
BILLING CODE 4140-01-M

Public Health Service

Orderly Closure, Transfer, and Financial Self-Sufficiency of Public Health Service Hospitals and Clinics; Delegation of Authority

Notice is hereby given that in furtherance of the November 23, 1981, delegation by the Secretary of Health and Human Services to the Assistant Secretary for Health of authority concerning the orderly closure, transfer, and financial self-sufficiency of Public Health Service hospitals and clinics, the Assistant Secretary for Health has made the following delegations:

1. Delegation by the Assistant Secretary for Health to the Director, Medical Facilities Conversion Staff, Office of the Assistant Secretary for Health, with authority to redelegate, the authority delegated to the Assistant Secretary for Health under section 987, Subtitle J, Title IX of Pub. L. 97-35, Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 248b), concerning proposals for transfer or financial self-sufficiency of Public Health Service hospitals and clinics.

2. Delegation by the Assistant Secretary for Health to the Administrator, Health Services Administration, with authority to redelegate, the authority delegated to the Assistant Secretary for Health under section 988, Subtitle J, Title IX of Pub. L. 97-35, Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 249 note), concerning the continued care for merchant seamen hospitalized in Public Health Service Hospitals.

The July 1, 1973 delegation made by the Assistant Secretary for Health to the Administrator, Health Services Administration, has been superseded insofar as it pertains to the authorities under section 321 of the Public Health Service Act relative to the operation of the Public Health Service hospitals and clinics but only to the extent of the operation of the Public Health Service hospitals and clinics during the transition period pertinent to the orderly closure, transfer, and self-sufficiency of Public Health Service hospitals and clinics provided for under Subtitle J, Title IX of Pub. L. 97-35 the Omnibus Budget Reconciliation Act of 1981. Provision has been made for delegations and redelegations to other officials within the Public Health Service of the authority under section 321 of the Public Health Service Act to continue in effect provided they are consistent with the delegation to the Director, Medical Facilities Conversion Staff, Office of the Assistant Secretary for Health.

The above delegations became effective on December 3, 1981.

Dated: December 3, 1981.

Edward N. Brandt, Jr.,
Assistant Secretary for Health.

[FR Doc 81-36613 Filed 12-22-81; 8:45 am]
BILLING CODE 4160-17-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-81-1103]

General Prototype Housing Costs for One- to Four-Family Dwelling Units

Correction

In FR Doc. 81-34801 appearing on page 59494 in the issue of Friday, December 4, 1981, make the following corrections to the tables beginning on page 59494 and ending on page 59503:

(1) In the column headings, the dollar signs appearing with "Low Range", "Medium Range" and "High Range" should be removed. (The numbers refer to square-foot areas and not to dollars.)

(2) All of the boldface designations for the Field Offices should be moved above the column headings for "Market Area—Low Range—Medium Range—High Range".

BILLING CODE: 1505-01-M

DEPARTMENT OF THE INTERIOR

Geological Survey

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Gulf of Mexico Outer Continental Shelf (OCS)

AGENCY: Geological Survey, Interior.

ACTION: Notice of availability of environmental documents prepared for OCS mineral exploration proposals on the Gulf of Mexico OCS.

SUMMARY: The USGS, in accordance with Federal Regulations (40 CFR Section 1501.4 and section 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related environmental assessments (EAs) and findings of no significant impact (FONSIs), prepared by the USGS for the following oil and gas exploration activities proposed on the Gulf of Mexico OCS. This listing includes all proposals for which environmental documents were prepared by the Gulf of Mexico OCS Region in the 3-month period preceding this Notice.

Activity/operator	Location	FONSI date
Sohio Production Co., EA No. 494, Plan Control No. N-0670.	OCS Block 563, Destin Dome Area; (44 mi from the Florida coast).	Aug. 5, 1981.

Persons interested in reviewing environmental documents for the proposals listed above or obtaining information about EAs and FONSIs prepared for activities on the Gulf of Mexico OCS are encouraged to contact the USGS office in the Gulf of Mexico OCS Region.

FOR FURTHER INFORMATION CONTACT: Deputy Conservation Manager, Offshore Operations Support, Gulf of Mexico OCS Region, U.S. Geological Survey, Post Office Box 7944, Metairie, Louisiana 70010, 504/837–4720.

SUPPLEMENTARY INFORMATION: The Conservation Division of the USGS prepares EAs and FONSIs for proposals which relate to exploration for oil and gas resources on the Gulf of Mexico OCS. The EAs examine the potential environmental effects of activities described in the proposals and present USGS conclusions regarding the significance of those effects. EAs are used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA § 102(2)(C). A FONSI is prepared in those instances where the USGS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

This notice constitutes the public notice of availability of environmental documents required under the NEPA Regulations.

Lowell G. Hammons,

Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 81-36595 Filed 12-22-81; 8:45 am]

BILLING CODE 4310-31-M

Bureau of Land Management

Miles City District Grazing Advisory Board; Meeting

December 14, 1981.

Notice is hereby given in accordance with Pub. L. 92–463 that a meeting of the Miles City District Grazing Advisory Board will be held January 25, 1982. The meeting will begin at 10:00 a.m. in the conference room at the Miles City District Bureau of Land Management Office, West Highway 10–12, Miles City, Montana.

The agenda is as follows:

(1) Maintenance Policy on Range Improvements;

(2) Categorizing Allotments;

(3) Wilderness EIS.

The meeting is open to the public. The public may make oral statements before the Grazing Advisory Board or file written statements for the board's consideration. Depending upon the number of persons wishing to make an oral statement, a per person time limit may be established.

Summary minutes of the meeting will be maintained in the Bureau of Land Management District Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

For further information contact District Manager, Miles City District, Bureau of Land Management, P.O. Box 940, Miles City, Montana 59301.

Ray Brubaker,

District Manager.

[FR Doc. 81-36596 Filed 12-22-81; 8:45 am]

BILLING CODE 4310-84-M

[M 059318]

Montana; Ordering Providing for Partial Opening of Public Lands

December 16, 1981.

The Federal Energy Regulatory Commission, in determination DA–206–Montana, issued April 7, 1981, found the withdrawal for Power Project No. 2188 would not be injured or destroyed for the purpose of power development by the disposal of 2.76 acres of land, subject to the provisions of Section 24 of the Federal Power Act and subject to the prior right of the licensee for Project No. 2188, its successors or assigns, to use the lands for project purposes as contemplated in the license for the project.

By virtue of the authority contained in Section 24 of the Federal Power Act of June 10, 1920 (41 Stat. 1075, 16 U.S.C. 818), as amended, and pursuant to Bureau Order No. 701 of July 23, 1964, as amended, it is ordered as follows:

1. The segregative effect of the withdrawal for Project No. 2188 is lifted, in part, as to 2.76 acres, described below:

Principal Meridian

T. 14 N., R. 3 W.,

Sec. 34, 2.22 acres in the S½SW¼ and 0.54 acres in the SW¼SE¼.

These lands are located in Lewis and Clark County.

2. Effective December 23, 1981, this order restores 2.76 acres of Power Project No. 2188 to the operation of the mining laws (Act of August 11, 1955, 30 U.S.C. 621 (1976)), and to the operation of the public land laws for direct non-competitive sales (Selection 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2750; 43 U.S.C. 1713).

3. The lands have been open to applications and offers under the minerals leasing laws.

Inquires concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, P.O. Box 30157, Billings, Montana 59107.

Roland F. Lee,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-36597 Filed 12-22-81; 8:45 am]

BILLING CODE 4310-84-M

Alaska Outer Continental Shelf; Availability of Draft Environmental Impact Statement and Intent to Hold Public Hearings Regarding Proposed Oil and Gas Lease Sale No. 71

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared a draft environmental impact statement relating to a proposed Outer Continental Shelf oil and gas lease sale of 372 tracts of submerged Federal lands in the Diapir Field region in Alaska.

Single copies of the draft environmental impact statement can be obtained from the Office of the Manager, Bureau of Land Management, Alaska OCS Office, P.O. Box 1159, Anchorage Alaska 99510 and from the Office of Public Affairs, Bureau of Land Management (130), Washington, D.C. 20240.

Copies of the draft environmental impact statement will also be available for review in the following public libraries: Alaska Federation of Natives, 1577 "O" Street, Suite 304, Anchorage, AK 99501; Anchor Point Public Library, Anchor Point, AK 99556; Department of the Interior Alaska Resources Library, 701 "C" Street, Box 36, Anchorage, AK 99513; Cordova Public Library, Box 472, Cordova, AK 99574; Kenai Community Library, Box 157, Kenai, AK 99611; Elim Learning Center, Elim, AK 99739; Haines Public Library, P.O. Box 36, Haines, AK 99827; North Star Borough Library, Fairbanks, AK 99701; University of Alaska, Institute of Social and Economic Research Library, Fairbanks, AK 99801; Homer Public Library, Box 356, Homer,

AK 99603; Z.J. Loussac Public Library, 427 F Street, Anchorage, AK 99801; Juneau Memorial Library, 114 W. 4th Street, Juneau, AK 99824; Alaska State Library, Documents Librarian, Pouch G, Juneau, AK 99811; Ketchikan Public Library, 629 Dock Street, Ketchikan, AK 99901; Department of Defense, Army Corps of Engineers Library, P.O. Box 7002, Anchorage, AK 99501; Kodiak Public Library, P.O. Box 985, Kodiak, AK 99615; Metlakatla Extension Center, Metlakatla, AK 99926; Department of Interior, Bureau of Mines Library, AF-F.O. Center, P.O. Box 550, Juneau, AK 99802; Petersburg Extension Center, Box 289, Petersburg, AK 99833; Seldovia Public Library, Drawer D, Seldovia, AK 99663; Seward Community Library, Box 537, Seward, AK 99664; University of Alaska Juneau Library, P.O. Box 1447, Juneau, AK 91447; Sitka Community Library, Box 1090, Sitka, AK 99835; Douglas Public Library, Box 469, Douglas, AK 99824; University of Alaska Anchorage Library, 3211 Providence Drive, Anchorage, AK 99504; University of Alaska Elmer E. Rasmusson Library, Fairbanks, AK 99701; Wrangell Extension Center, Box 651, Wrangell, AK 99929.

We anticipate that public hearings will be held during the period of February 2–5, 1982, for the purpose of receiving comments and suggestions relating to the draft statement. The exact locations and dates of these hearings will be announced at a later date. Comments concerning the draft environmental impact statement will be accepted until February 12, 1982, and should be sent to the Manager, Alaska OCS Office, at the above listed address.

After the public hearings are held and comments are received and considered, a final environmental impact statement will be prepared.

Approved:

Arnold E. Petty,

Director, Bureau of Land Management.

Bruce Blanchard,

Director, Environmental Project Review.

[FR Doc. 81-36576 Filed 12-22-81; 8:45 am]

BILLING CODE 4310-84-M

[OR 7771]

Oregon; Proposed Withdrawal and Reservation of Lands; Amendment

In a notice published in the **Federal Register** of September 27, 1979, FR Doc. 79-29979, Page 55668, an allowance of 40 days was made for comments concerning the proposal by the Fish and Wildlife Service to withdraw 200 acres of land for an addition to the Malheur National Wildlife Refuge in Harney County. An additional 50 days from the date of this publication (through February 11, 1982) is hereby provided for interested persons to comment ore request a public meeting. All communications in connection with this proposed withdrawal should be addressed to the undersigned officer, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: December 16, 1981.

Champ C. Vaughan, Jr.,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-36587 Filed 12-22-81; 8:45 am]

BILLING CODE 4310-84-M

[OR 9605]

Oregon; Proposed Withdrawal and Reservation of Lands; Amendment

In a notice published in the **Federal Register** of February 10, 1977, FR Doc. 77-4310, Page 8434-5, an allowance of 30 days was made for comments concerning the proposal by the U.S. Forest Service to withdraw 6,200 acres of land for the Rock Mesa Geologic Area within the Deschutes and Willamette National Forest in Deschutes and Lane Counties. An additional 60 days from the date of this publication (through February 22, 1982) is hereby provided for interested persons to comment or request a public meeting. All communications in connection with this proposed withdrawal should be addressed to the undersigned officer, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: December 16, 1981.

Champ C. Vaughan, Jr.,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-36592 Filed 12-22-81; 8:45 am]

BILLING CODE 4310-84-M

[OR 11158]

Oregon; Proposed Withdrawal and Reservation of Lands; Amendment

In a notice published in the **Federal Register** of July 18, 1979 FR Doc. 79-22163, Page 41968-9, an allowance of 33 days was made for comments concerning the proposal by the U.S. Forest Service to withdraw approximately 5,525 acres of land for a campground extension, streamside zone, and a roadside zone within the Umatilla and Whitman National Forest in Grant, Baker and Union Counties. An additional 57 days from the date of this publication (through February 18, 1982) is hereby provided for interested persons to comment or request a public meeting. All communications in connection with this proposed withdrawal should be addressed to the undersigned officer, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: December 16, 1981.

Champ C. Vaughan, Jr.,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-36593 Filed 12-22-81; 8:45 am]

BILLING CODE 4310-84-M

[ORE 016753]

Oregon; Proposed Withdrawal and Reservation of Lands; Amendment

In a notice published in the **Federal Register** of January 18, 1979, FR Doc. 79-1782, Page 3788-9, an allowance of 33 days was made for comments concerning the proposal by the U.S. Army Corps of Engineers to withdraw 840.59 acres of land for the Elk Creek Reservoir Project in Jackson County. An additional 57 days from the date of this publication (through February 18, 1982) is hereby provided for interested persons to comment or request a public meeting. All communications in connection with this proposed withdrawal should be addressed to the undersigned officer, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: December 16, 1981.

Champ C. Vaughan, Jr.,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-36591 Filed 12-22-81; 8:45 am]

BILLING CODE 4310-84-M

[OR 8008-WASH]

Washington; Proposed Withdrawal and Reservation of Lands; Amendment

In a notice published in the **Federal Register** of July 3, 1978, FR Doc. 78-18368, Page 28857, an allowance of 34 days was made for comments concerning the proposal by the U.S. Army Corps of Engineers to withdraw 40 acres of land for the Lower Monumental Lock & Dam Project in Franklin County. An additional 56 days from the date of this publication (through February 17, 1982) is hereby provided for interested persons to comment or request a public meeting. All communications in connection with this proposed withdrawal should be addressed to the undersigned officer, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: December 16, 1981.

Champ C. Vaughan, Jr.,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-36588 Filed 12-22-81; 8:45 am]

BILLING CODE 4310-84-M

[OR 11331-WASH]

Washington; Proposed Withdrawal and Reservation of Lands; Amendment

In a notice published in the Federal Register of January 18, 1980, FR Doc. 80-1602, Page 3672-3, an allowance of 33 days was made for comments concerning the proposal by the Bureau of Land Management to withdraw 24.65 acres of land for the Split Rock Recreation Site (formerly Palmer Lake Recreation Site) in Okanogan County. An additional 57 days from the date of this publication (through February 18, 1982) is hereby provided for interested persons to comment or request a public meeting. All communications in connection with this proposed withdrawal should be addressed to the undersigned officer, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: December 16, 1981.

Champ C. Vaughan, Jr.,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-36586 Filed 12-22-81; 8:45 am]

BILLING CODE 4310-84-M

[OR 11479-WASH]

Washington; Proposed Withdrawal and Reservation of Lands; Amendment

In a notice published in the Federal Register of April 17, 1979, FR Doc. 79-11827, Page 22820, an allowance of 28 days was made for comments concerning the proposal by the Bureau of Land Management to withdraw 80 acres of land for the Hot Lake Research Natural Area in Okanogan County. An additional 62 days from the date of this publication (through February 23, 1982) is hereby provided for interested persons to comment or request a public meeting. All communications in connection with this proposed withdrawal should be addressed to the undersigned officer, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: December 16, 1981.

Champ C. Vaughan, Jr.,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-36594 Filed 12-22-81; 8:45 am]

BILLING CODE 4310-84-M

[OR 16905 (Wash)]

Washington; Proposed Withdrawal and Reservation of Lands; Amendment

In a notice published in the Federal Register of January 24, 1980, FR 80-2151, Page 5843, an allowance of 39 days was made for comments concerning the proposal by the U.S. Forest Service to withdraw 1400 acres of land for the Steamboat Mountain Research Natural Area within the Gifford Pinchot national Forest in Skamania County. An additional 51 days from the date of this publication through (February 12, 1982) is hereby provided for interested persons to comment or request a public meeting. All communications in connection with this proposed withdrawal should be addressed to the undersigned officer, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: December 16, 1981.

Champ C. Vaughan, Jr.,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-36589 Filed 12-22-81; 8:45 am]

BILLING CODE 4310-84-M

[OR 18107-WASH]

Washington; Proposed Withdrawal and Reservation of Lands; Amendment

In a notice published in the Federal Register of January 24, 1978, FR Doc. 78-1980, Page 3316, an allowance of 30 days was made for comments concerning the proposal by the Fish and Wildlife Service to withdraw approximately 18 acres of land for the Flattery Rocks National Wildlife Refuge in Clallam County. An additional 60 days from the date of this publication (through February 22, 1982) is hereby provided for interested persons to comment or request a public meeting. All communications in connection with this proposed withdrawal should be addressed to the undersigned officer, Bureau of Land Management, P.O. Box 2965, Portland, Oregon 97208.

Dated: December 16, 1981.

Champ C. Vaughan, Jr.,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 81-36590 Filed 12-22-81; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

Delta Region Preservation Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Delta Region Preservation Commission will be held at 7:30 p.m. CST on February 1, 1982, at the Jefferson Parish Council Chambers, 3330 North Causeway Boulevard, Metairie, Louisiana.

The Delta Region Preservation Commission was established pursuant to Pub. L. 95-265, section 907(a) to advise the Secretary of the Interior in the selection of sites for inclusion in Jean Lafitte National Historical Park, and in the development and implementation of a general management plan and of a comprehensive interpretive program of the natural, historic, and cultural resources of the Region.

During this time there will be an election of officers for the Commission and a final review of the General Management Plan for Jean Lafitte National Historical Park.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come, first-serve basis. Any member of the public may file a written statement concerning the matters to be discussed with the Superintendent, Jean Lafitte National Historical Park.

Persons wishing further information concerning this meeting, or who wish to submit written statements may contact James Isenogle, Superintendent, Jean Lafitte National Historical Park, 400 Royal Street, Room 220, New Orleans, Louisiana 70130, telephone area code 504-589-3882. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of Jean Lafitte National Historical Park.

Dated: December 16, 1981.

Robert I. Kerr,

Regional Director, Southwest Region.

[FR Doc. 81-36687 Filed 12-22-81; 8:45 am]

BILLING CODE 4310-70-M

Gateway National Recreation Area; Gateway Advisory Commission Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Gateway National Recreation Area Advisory Commission will be held commencing at 3:00 p.m., Thursday, January 28, 1982, at the Peter W. Rodino, Jr. Federal Building, Room 730, 970 Broad Street, Newark, New Jersey.

The Commission was established by Pub. L. 92-952 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to

the development of Gateway National Recreation Area.

The matters to be discussed at this meeting include:

1. Discussion of public comments and reaction regarding formal proposal for Floyd Bennett Field development, at the January 11, 1982 public meeting.
2. Ferry Service: Coney Island—Gateway; Status of private funding request.
3. Sandy Hook: Plans and funding to resolve erosion problems.
4. Status of legislation extending Commission until 1992.
5. Fort Wadsworth: Status of litigation and impact of court decision.
6. Superintendent's report.
7. Set location for next Commission meeting.

The meeting will be open to the public. The facility at which the meeting will be held is considered physically accessible. If interpretive services are requested by deaf or hearing impaired individuals they should be sent to this agency within five working days before the meeting, and it will be provided. However, facilities and space to accommodate members of the public are limited, and persons will be accommodated on a first-come, first-served basis. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting or who wish to submit written statements, may contact John Guthrie, Acting Superintendent, Gateway National Recreation Area, Headquarters, Building No. 69, Floyd Bennett Field, Brooklyn, New York 11234, (212) 630-0363.

Minutes of the meeting will be available for inspection four weeks after the meeting at the Gateway National Recreation Area Headquarters Building in Brooklyn.

Dated: December 14, 1981.

John Guthrie,

Acting Superintendent, Gateway National Recreation Area.

[FR Doc. 81-36656 Filed 12-22-81; 8:45 am]

BILLING CODE 4310-70-M

Upper Delaware National Scenic and Recreation River; Meeting

AGENCY: National Park Service; Upper Delaware Citizens Advisory Council.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Upper Delaware Citizens Advisory Council. Notice of this meeting is required under the Federal Advisory Committee Act.

DATE: January 22, 1982, 7:00 p.m.

ADDRESS: Arlington Hotel, Narrowsburg, New York.

FOR FURTHER INFORMATION CONTACT: John T. Hutzky, Superintendent, Upper Delaware National Scenic and Recreation River, Drawer C, Narrowsburg, N.Y. 12764 (717/729-7135).

SUPPLEMENTARY INFORMATION: The Advisory Council was established under section 704(f) of the National Parks and Recreation Act of 1978, Pub. L. 95-625, 16 U.S.C. 1274 note, to encourage maximum public involvement in the development and implementation of the plans and programs authorized by the Act. The Council is to meet and report to the Delaware River Basin Commission, the Secretary of the Interior, and the Governors of New York and Pennsylvania in the preparation of a management plan and on programs which relate to land and water use in the Upper Delaware region. The agenda for the meeting will include (1) implementation of section 704 of Pub. L. 95-625, (2) new business, and (3) installation of new members.

The meeting will be open to the public. Any member of the public may file with the Council a written statement concerning agenda items. The statement should be addressed to the Council, c/o Upper Delaware National Scenic and Recreation River, Drawer C, Narrowsburg, N.Y. 12764. Minutes of the meeting will be available for inspection four weeks after the meeting at the new headquarters site of the Upper Delaware National Scenic Recreational River in Damascus Township, Wayne County, Pennsylvania.

Dated: December 14, 1981.

Homer L. Rouse,

Acting Regional Director, Mid-Atlantic Region.

[FR Doc. 81-36658 Filed 12-22-81; 8:45 am]

BILLING CODE 4310-70-M

Office of the Secretary

Meeting of the Commission on Fiscal Accountability of the Nation's Energy Resources

By notice published in the **Federal Register** on December 9, 1981 (46 FR 60277), it was announced that the Commission on Fiscal Accountability of the Nation's Energy Resources would hold a business meeting in Washington, D.C. on January 9, 1982. This amended notice announces that a business meeting will also be held on January 8, 1982. The specific location for the meeting is yet to be determined. For additional information including the site location for the meeting, interested parties should contact the Commission staff at the Commission on Fiscal Accountability of the Nation's Energy Resources, 1111 18th Street, N.W., Suite 403, Washington, D.C. 20036, telephone (202) 653-9051.

Dated: December 18, 1981.

William L. Carpenter,

Deputy Director, Office of Financial Management.

[FR Doc. 81-36563 Filed 12-22-81; 8:45 am]

BILLING CODE 4310-10-M

INTERSTATE COMMERCE COMMISSION

[Section 5b Application No. 2, 3 and 6]

Western, Eastern and Southern Railroads, Agreements

AGENCY: Interstate Commerce Commission.

ACTION: Clarification of prior notice of decision.

SUMMARY: The Commission issued a decision in this proceeding, served January 21, 1981 (46 FR 9218 January 28, 1981). Members of the major rail rate bureaus petitioned the Commission as to the status of newsprint delivery charge tariffs and the voting prohibitions of 49 U.S.C. 10706(a)(3)(A)(i). Except for certain affiliated carriers, where newsprint delivery charges are preceded by a joint line movement of this commodity tariffs containing these charges will not be considered single-line for the voting prohibitions.

FOR FURTHER INFORMATION CONTACT: Jane F. Mackall (202) 275-7656.

SUPPLEMENTARY INFORMATION: On October 22, 1981, petitioners, the Traffic Executive Association—Eastern Railroads (TEA), the Western Railroad Association (WRA), and the Southern Freight Association (SFA) sought clarification of our January 21, 1981 decision, 364 ICC 635, with regard to newsprint delivery charges and the single-line voting prohibitions of 49 U.S.C. 10706(a)(3)(A)(i). That provision prohibits a rate bureau from permitting a member carrier to discuss, to participate in agreements related to, or to vote on single-line rates proposed by another carrier.

In a 1978 decision [1] in this proceeding, we held that where carriers under the same management and control propose, establish, or change rates, allowances or charges between them, such proposals shall be considered single-line. Later, in our January 21, 1981 decision, we stated

[1] 358 ICC 662, 670-672 (1978).

that car compensation, demurrage and car allowance would not be considered single-line rates, but surcharges and contract rates would. We also found that government rates under 49 U.S.C. 10721 would be treated as single-line, in a later decision served April 24, 1981.

Newsprint delivery charge tariffs generally provide for rail carriers to absorb local cartage charges on shipments of this commodity delivered from railheads to the consignee's location or to give an allowance to consignees who do their own unloading at their sidings. These tariffs are published by individual carriers although most tariffs cannot be promulgated by a single carrier since most shipments of newsprint are via joint-line movements. Accordingly, because each carrier participating in the movement must absorb its proportional share of the allowance or cartage charge, all involved carriers must consider and approve the tariff. The tariffs are not usually published in agency tariffs since delivery costs vary from railhead to railhead, city to city. Petitioners claim it would be extremely difficult to formulate an agency tariff to cover all eventualities, although SFA does publish newsprint delivery charge tariffs in an agency tariff. They allege these delivery charge tariffs are similar to car allowances but involve more joint and collective activity than demurrage, car compensation and allowances do. Petitioners ask that we find all newsprint delivery charge tariffs joint-line for the purposes of 49 U.S.C. 10706(a)(3)(A)(i).

Congress defines a single-line rate as "a rate or allowance proposed by a single rail carrier that is applicable only over its line and for which the transportation (exclusive of terminal services by switching, drayage or other terminal carriers or agencies) can be provided by that carrier." 49 U.S.C. 10706(a)(1)(B). Additonally, Congress specifically named three items which would not be considered single-line rates. These are car compensation, demurrage and car allowances. H.R. Rep. No. 96-1430, 96th Cong., 2d Sess. 114 (1980). These areas are of nationwide importance and require a high degree of coordination.

Given the great emphasis on individual and flexible ratemaking in the Staggers Rail Act of 1980 (See our January 21, 1981 decision for discussion), the Commission will not authorize additional exceptions to voting prohibitions without adequate justification. That has not been presented here to the extent necessary to support a total exception. While it is true that newsprint delivery charge tariffs are published by individual carriers, they most often involve two or more carriers participating in the joint-line movement prior to the delivery. In such instances, concurrence on the level of charges is required and antitrust immunity is available. We see no compelling reason to expand immunity beyond this situation and, by so doing, allow anticompetitive behavior.

For purposes of 49 U.S.C. 10706(a)(3)(A)(i), the pivotal issue is not whether newsprint delivery charges are involved, but, rather what type of movement preceded the delivery, single-line or joint-line. Except for certain affiliated carriers discussed in our 1978 decision, *supra*, where newsprint delivery charges are applicable and are preceded by a joint-line movement, we find that tariffs containing these charges will not be considered single-line rates. We remind petitioners that 49 U.S.C. 10706(a)(3)(A) (ii) and (iii), as well as other provisions and Commission decisions, govern proper activity for joint-line rate poroposals.

This decision will not significantly affect either the quality of the human environment or conservation of energy resources.

Authority: 49 U.S.C. 10706.

Dated: December 16, 1981.

By the Commission, Chairman Taylor, Vice Chairman Clapp, Commissioners Gresham and Gilliam.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-36546 Filed 12-22-81; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-175

The following applications were filed in Region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St., Rm. 620, Philadelphia, PA 19106.

MC145890 (Sub-II-1-TA), filed December 10, 1981. Applicant: EUGENE W. BELL d.b.a. BELL TRUCKING, 1048 Shoemaker Ave., Shoemakersville, PA 19555. Representative: Milton W. Flack, 8383 Wilshire Blvd., Suite 900, Beverly Hills, CA 90211. *Contract Carrier,* Irregular routes: *Confectionery products* from West Reading, PA, to La Mirada and San Francisco, CA, Phoenix, AZ, Salt Lake City, UT, and Denver, CO, under continuing contract(s) with R. M. Palmer Company, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: R. M. Palmer Company, 77 Second Ave., West Reading, PA 19611.

MC159567 (Sub-II-1-TA), filed December 4, 1981. Applicant: BENNETT LOGGING CO., INC., S.R. Box 111, Nettie, WV 26681. Representative: John M. Friedman, 2930 Putnam Ave., P.O. Box 426, Hurricane, WV 25526. *Wood products, wood chips, sawdust, logs, brick, blocks and machinery* between Nicholas and Greenbrier Counties, WV, on the one hand, and, on the other, points in GA, KY, MD, NY, NC, OH, PA, SC, TN and VA, for 270 days. Supporting shipper: Highland Lumber Co., Inc., P.O. Box 536, Nettie, WV 26681.

MC 73865 (Sub-II-1TA), filed December 10, 1981. Applicant: HUGH F. GANNON TRUCKING, INC., 510 N. Front Street, Philadelphia, PA 19123. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19113. *Pulp, paper and related products; rubber and plastic products; non-wovens and non-wovens*

articles; metal products, between Philadelphia, PA, on the one hand, and, on the other points in PA on and east of U.S. Hwy 15, points in DE and NJ for 270 days. An underlying ETA seeks 120 days' authority. Supporting shipper: Fort Howard Paper Company, P.O. Box 130, Green Bay, WI 54305.

MC 158752 (Sub-II–2TA), filed December 10, 1981. Applicant: L. W. McCURDY, P.O. Box 694, Latrobe, PA 15650. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. *Contract: Irregular: Malt beverages, including materials, equipment and supplies,* between Washington, PA, including its commercial zone, on the one hand, and, on the other, Eden, NC; Fulton, NY; Milwaukee, WI and Trenton, OH, including their respective commercial zones, under a continuing contract or contracts with Washington Bottling Co., for 270 days. An underlying ETA seeks 120 days' authority. Supporting shipper: Washington Bottling Company, 31 Hanna St., Washington, PA 15301.

MC 138805 (Sub-II–5TA), filed December 10, 1981. Applicant: S&L SERVICES, INC., RD #1, Milton, PA 17847. Representative: Terrence D. Jones, 2033 K Street, NW., Washington, DC 20006. *Egg cartons, cases, trays, boxes and packaging* from Troy, Ohio to points in PA, NJ, NY, CT, RI, MA, NH, VT, DE, and MD for 270 days. An underlying ETA seeks 120 days' authority. Supporting shipper: Barlett's Egg Dispatch, Inc., 360 Merrimack St., Lawrence, MA 01843.

The following applications were filed in Region 4. Send protests to: Interstate Commerce Commission, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 129148 (Sub-4–1TA), filed December 14, 1981. Applicant: R. MIRR ENTERPRISES, INC., 202 N. Fulton St., Princeton, WI 54941. Representative: Michael J. Wyngaard, 150 E. Gilman St., Madison, WI 53703. (1) *Water heaters, parts and accessories* from Madison, WI to points in CT, DE, FL, ME, MA, MD, NH, NJ, NY, PA and RI. (2) *Tank heads* from Youngstown, OH to Princeton, WI. (3) *Tanks and water heaters* (a) from Princeton, Madison, Red Granite and Milwaukee, WI to Detroit, MI and (b) *tanks and water heaters* from Detroit, MI to points in NY, NJ, MD, WI, PA, TN and the District of Columbia. (4) *Metal products and machinery* from Conshohocken, PA to points in MI, OH, and IL. Supporting shippers: Bock Corporation, 110 S. Dickinson, Madison, WI; McDowell Tanks, Inc., 500 River Rd., Princeton, WI; Lochinvar Water Heater Corporation, 12151 Coyle, Detroit, MI; and Wood Industrial Products Company, 100 E. Washington St., Conshohocken, PA.

MC 142059 (Sub-4–22TA), filed December 14, 1981. Applicant: CARDINAL TRANSPORT, INC., 1230 Northern Illinois Dr., Channahon, IL 60410. Representative: Jack Riley (same as applicant). *Food and related products (except in bulk)* from Carroll, Cherokee, Denison, Des Moines, Fort Dodge, Iowa Falls and Sioux City, IA and Crete, Lincoln and Omaha, NE to points in the U.S. (except AK and HI). Supporting shipper, Farmland Foods, Inc., P.O. Box 403, Dension, IA 51442.

MC 143032 (Sub-4–8TA), filed December 14, 1981. Applicant: WALCO TRANSPORT, INC., 3112 Truck Center Dr., Duluth, MN 55806. Representative: William J. Gambucci, 525 Lumber Exchange Bldg., Minneapolis, MN 55402. *Metal products,* between Dane County, WI, on the one hand, and, on the other, Scott County, MN; Jasper County, IN; Rosebud County, MT; Bethlehem, PA; Gary, IN and Chicago, IL. Supporting shipper: Mid-States Steel, Inc., P.O. Box 279, 400 Industrial Circle, Stoughton, WI 53589.

MC 149308 (Sub-4–7TA), filed December 14, 1981. Applicant: VICTORY FREIGHTWAY SYSTEM, INC., P.O. Box P, Sellersburg, IN 47172. Representative: William P. Jackson, Jr., P.O. Box 1240, Arlington, VA 22210. *Contract* irregular: *Such commodities as are dealt in or utilized by a manufacturer of lead products (except in bulk),* between the facilities of RSR Corporation, at or near Indianapolis, IN, Dallas, TX, Middletown, NY, Seattle, WA, and City of Industry, CA, on the one hand, and, on the other, points in the U.S. (except AK and HI). Restriction: Restricted to the transportation of shipments handled under a continuing contract or contracts with RSR Corporation. Supporting Shipper: RSR Corporation, 1111 W. Mockingbird Lane, Dallas, TX 75247.

MC 153478 (Sub-4–2), filed December 9, 1981. Applicant: S & W MOTOR SERVICES, INC., 6128 W. 80th Place, Burbank, IL 60459. Representative: Donald E. Weishaar, Suite 202, 1301 W. 22nd St., Oak Brook, IL 60521. *Contract* irregular: *Such commodities as are dealt in by Drug, Health Food, Catalog, and General Department Stores* between terminals and warehouses within a fifty mile radius of Oak Brook, IL and points and places in the states of MN, ND, OH, OK, PA, and TX under continuing contract(s) with General Nutrition Corporation with return of out of date merchandise and raw materials, equipment, and supplies used in the preparation and manufacture of such articles. Supporting Shipper: General Nutrition Corporation, 3125 Preble Avenue, Pittsburgh, PA.

MC 156191 (Sub-4–4TA), filed December 9, 1981. Applicant: RAYMOND COSSETTE TRUCKING, 2202 5th Ave. North, Fargo, ND 58102. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Frozen potatoes,* between points in Otter Tail County, MN on the one hand, and, on the other, points in IL, IN, KS, AL, GA, FL, LA, MO, MD, NY, OH, PA, NC, SC, SD, MI, TN, TX, VA, and WI. An underlying ETA seeks 120 days authority. Supporting shipper: Chef Reddy Foods Corporation, P.O. Box 552, Park Rapids, MN 54670.

MC 157457 (Sub-4–8TA), filed December 14, 1981. Applicant: CONGOLEUM CARTAGE CORP., 2323 17th St. Elkhart, IN 46514. Representative: H. Barney Firestone, Sullivan & Assoc., Ltd., 10 S. LaSalle, Suite 1600, Chicago, IL 60603. *Metal products* between Mishawaka, IN on the one hand, and, on the other, Lancaster, PA; Snaford, NC; Carlsbad, CA and Princeton, IL. Supporting Shipper: Hart Indiana, Inc., 920 South Logan, Mishawaka, IN 46544.

MC 157523 (Sub-4–2TA), filed December 14, 1981. Applicant: REUBEN A. BRUE d.b.a. R. A. BRUE, P.O. Box 458, Ottawa, IL 61350. Representative: Albert A. Andrin, 180 North La Salle Street, Chicago, IL 60601. *Bananas, coconuts and pineapples,* from points in the State of FL to Terre Haute, IN. Supporting shipper: Drake Products, Inc., 325 North 2nd Street, Terre Haute, Indiana 47807.

MC 157755 (Sub-4–1TA), filed December 14, 1981. Applicant: MICHIANA NEWS SERVICE, INC., 2232 S. Eleventh St., Niles, MI 49120. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. *General commodities (except in bulk, Classes A and B explosives, and household goods as defined by the Commission)* between Cincinnati, OH and points in IN. Restricted to traffic originating at or destined to the facilities owned, utilized or operated by Triangle Publications. Supporting shipper: Triangle Publications, Four Radnor Corporate Center, Radnor, PA 19088.

MC 158511 (Sub-4–2TA), filed December 10, 1981. Applicant: WISCONSIN GENERAL CARTAGE AND WAREHOUSE, INC., 4080 North Port Washington Rd., Milwaukee, WI 53212. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719.

Automobile parts between the Milwaukee, WI, commercial Zone, on the one hand, and, on the other hand, the Chicago, IL, Commercial Zone. Restriction: restricted to transportation having a prior or subsequent movement by rail, moving on freight forwarder bills of lading of Intermodal Brokerage Services, Inc. Supporting shipper: Intermodal Brokerage Services, Inc., 952 Fargo, Elk Grove Village, IL 60007.

MC 159184 (Sub-4–1TA), filed December 10, 1981. Applicant: CLAUSEN CONSTRUCTION, INC., Box 192, Clark, SD 57225. Representative: A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101. *Contract:* irregular: *Frozen potato products* between points in the continental U.S., under continuing contract(s) with Chef-Reddy Foods, Inc. of Othello, WA. Supporting shipper: Chef-Reddy Foods, Inc., Clark, SD.

MC 159640 (Sub-4–1TA), filed December 10, 1981. Applicant: PHIL'S MOVERS, INC., 8455 South 77th Avenue, Bridgeview, IL 60455. Representative: Joel H. Steiner, 29 South LaSalle, Suite 905, Chicago, IL 60603. *Furniture and fixtures,* between Rock Island and Chicago, IL and points in their respective Commercial Zones, on the one hand, and, on the other, points in IN, MI and WI. *Supporting shipper:* Ther-A-Pedic Midwest, Inc., 23–55th Street, Rock Island, IL 61201.

MC 159641 (Sub-4–1TA), filed December 10, 1981. Applicant: LAWRENCE REILING d.b.a. REILING TRUCKING, R.R. 1, 651 W. County Lane, DeKalb, IL 60115. Representative: Daniel O. Hands, Suite 200–A, 205 W. Touhy Ave., Park Ridge, IL 60068. *Edible lard, inedible beef tallow, crushed bones, bone meal and meat scraps,* in bulk, (1) from the facilities of Dubuque Packing Company at Rochelle, IL to Davenport, Dubuque and Muscatine, IA and points in their commercial zones, (2) from the facilities of Dubuque Packing Company at or near Dubuque, IA to points in IL and (3) from the facilities of Dubuque Packing Company at or near Joslin, IL to Muscatine and Davenport, IA and Union Center, WI and points in their commercial zones. Supporting shipper: Dubuque Packing Company, P.O. Box 176, Genesco, IL 61254.

The following applications were filed in region 5. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, Post Office Box 17150, Fort Worth, TX 76102.

MC 123490 (Sub-5–2TA), filed December 11, 1981. Applicant: CHIP CARRIERS INC., 11218 Elm Street, Omaha, NE 68144. Representative: James F. Crosby & Associates, 7363 Pacific Street, Suite 210B, Omaha, NE 68114. Contract Irregular *Drums,* between Council Bluffs, IA (and points in its commercial zone) on the one hand, and, on the other, points in IA, MO, NE, MN and KS under a continuing contract(s) with McCollister Container Service, Inc. of Council Bluffs, IA. Supporting shipper: McCollister Container Service, Inc., P.O. Box 589, Council Bluffs, IA 51502.

MC 125299 (Sub-5–4TA), filed December 10, 1981. Applicant: WITTE BROTHERS EXCHANGE, INC., 690 E. Cherry Street, Troy, MO 63379. Representative: Harold C. Witte (same as applicant). *Wine* between CA and AL, CT, DE, FL, GA, IL, IN, KS, KY, LA, MA, MD, MI, MN, MO, MS, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA, WI, WV. Supporting shipper: Gonzales and Company Incorporated, 800 South Ata Street, Gonzales, CA 93926.

MC 145810 (Sub-5–1TA), filed December 11, 1981. Applicant: THREE L CORPORATION, Second and Siegel, Tama, IA 52339. Representative: James M. Hodge, 1000 United Central Bank Bldg., Des Moines, IA 50309. Contract irregular: *Meat and meat products,* from the facilities of Union-Marshall Packing Co. at Marshalltown, IA to Chicago, IL; Minneapolis, MN; and Omaha, NE under continuing contract(s) with Union-Marshall Packing Co. of Marshalltown, IA. Supporting shipper(s): Union-Marshall Packing Co., 816 Union Street, Marshalltown, IA 50158.

MC 146675 (Sub-5–2TA), filed December 9, 1981. Applicant: KINCAID COACH LINES, INC., 5639 Merriam Dr., Merriam, KS 66203. Representative: Michael T. Kincaid (same as applicant). Contract: Irregular. *Passengers and baggage of passengers* for charter operations between Wichita, KS, on the one hand, and, on the other, points in CO and NM. Supporting shippers: Wichita Ski Club, Box 2451, Wichita, KS 67201; and Education Overland II, Inc., Box 2366, Wichita, KS 67201.

MC 151504 (Sub-5–6TA), filed December 9, 1981. Applicant: PHELCO, INC., 11841 Missouri Bottom Road; St. Louis, MO 63042. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105. Contract, Irregular; *Such commodities as are dealt in by manufacturers and distributors of Pharmaceutical and Medical Supplies, Foods, and Products,* between Cleveland, MS, Mountain Home, AR, Hays, KS, Kingstree, SC, Easton, OH, Round Lake, IL, North Cove, NC, Memphis, TN and points in the United States (except AK and HI) under continuing contract(s) with Travenol Laboratories, Inc. Supporting shippers: Travenol Laboratories, Inc., 6301 Lincoln Avenue, Morton Grove, IL 60053.

MC 155371 (Sub-5–4TA), filed December 9, 1981. Applicant: JERRY L. ELLIS, d.b.a. JERRY L. ELLIS TRUCKING CO., 505 Metcalf, Mansfield, TX 76063. Representative: Clint Oldham, 623 S. Henderson, 2d Floor, Fort Worth, TX 76104. *Pipe,* from Port of Houston to Wichita, Tarrant and Dallas Counties, TX, and (2) from Wichita, Tarrant and Dallas Counties, TX, to points in AR, KS, LA, NM and OK. Supporting shippers: Intercontinental Pipe & Steel, 8340 Meadow Road, #150, Dallas, TX 75231; Robert R. McClanahan & Associates, 8609 Northwest Plaza, Suite 222, Dallas, TX 75225.

MC 156499 (Sub-5–5TA), filed December 10, 1981. Applicant: CIRCLE C TRUCKING, INC., P.O. Box 865, Grand Island, NE 68802. Representative: Robert D. Eklund, 175 W. Apple Avenue, Muskegon, MI 49443–0786. Contract irregular: *General commodities (except Classes A and B explosives and hazardous waste materials)* between all points in the U.S. Restricted to traffic under continuing contract with Country Home, Inc. and its subsidiaries. Supporting shipper: Country Home, Inc.

MC 156581 (Sub-5–3), filed December 10, 1981. Applicant: METROPLEX FREIGHT SERVICE, INC., 1804 Vantage St., Carrollton, TX 75006. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. Contract: Irregular, *Drugs and Medical Supplies* between Farmers Branch, TX on the one hand, and, on the other, points in Oklahoma. Restricted to shipments originating at or destined to facilities of Abbott Laboratories of Chicago, IL. Supporting shipper: Abbott Laboratories, 14th and Sheridan Rd., No. Chicago, IL 60064.

MC 157061 (Sub-5–8TA), filed December 10, 1981. Applicant: ATLAS CARRIERS, INC., 800 S. Main St., Searcy, AR 72143. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 909, Memphis, TN 38103. *Office furniture* from facilities of Eck-Adams Corporation at Osceola, AR, to points in the US. Supporting shipper: Eck-Adams Corporation, 10121 Paget Dr., St. Louis, MO 63132.

MC 157211 (Sub-5–2TA), filed December 10, 1981. Applicant: DI-MON, INC., P.O. Box 32834, Oklahoma City, OK 73123. Representative: Michael H. Lennox, P.O. Box 75613, Oklahoma City, OK 73147. *Oilfield Equipment, Materials and Supplies,* between NM on the one hand, and on the other, OK and TX. Supporting shipper(s): Mud Control Inc., Odessa, TX, American Coldset Corp.,

Midland, TX, Christensen Downhold Tool, Midland, TX.

MC 157819 (Sub-5–2TA), filed December 10, 1981. Applicant: TRUK-TRAK TRANSPORTATION, INC., P.O. Box 28655, Dallas, TX 75288. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062. Contract, Irregular; *General Commodities* (except classes A and B explosives or Hazardous Materials) Between Dallas, TX on the one hand, and, on the other, points in the United States. Restricted to shipments originating at or destined to the facilities of Sunbelt Consolidators, Inc. Supporing shipper: Sunbelt Consolidators, Inc., Dallas, TX.

MC 158708 (Sub-5–2TA), filed December 11, 1981. Applicant: BEST-WAY TRUCK LINE, INC., Highway 10 West, Richmond, MO 64085. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68106. *Filters* from Columbus, OH to Denver, CO, MO, NE, IL, TX, NY, NJ, and CT. Supporting shipper: Dust Stop Corporation, 2195 Broehm Road, Columbus, OH 43207.

MC 159629 (Sub-5–1TA), filed December 10, 1981. Applicant: CONSOLIDATED SHIPPERS, INC., P.O. Box 962, North Little Rock, AR 72115. Representative: James M. Duckett, 221 W. 2nd, Suite 411, Little Rock, AR 72201. *General Commodities (with the usual exceptions)*, between points in AR, on the one hand, and on the other, points in KS, KY, GA, AL, TN, MS, LA, OK, MO, TX and CA. There are 35 supporting shippers.

MC 159631 (Sub-5–1TA), filed December 10, 1981. Applicant: VER RON FARM SERVICE, INC., P.O. Box 299 Carlisle, AR 72024. Representative: James M. Duckett, 221 W. 2nd, Suite 411 Little Rock, AR 72201. *Agricultural grain carts and landlevelers*, between the facilities of Brandt, Inc., at Carlisle, AR, and points in KS, IA, LA, TX, MS, NE, CO, IL, KY, TN and OK. Supporting shipper: Brandt, Inc., Carlisle, AR.

MC 159658 (Sub-5–1TA), filed December 11, 1981. Applicant: L & R TRUCKING, INC., 802 West South Omaha Bridge Road, Council Bluffs, IA 51501. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Contract; Irregular. *Meats and packinghouse products* from pts in IA and NE to pts in the Los Angeles, CA commercial zone, under continuing contract(s) with Dominic Pesavento Co. of West Covina, CA. Supporting shipper: Dominic Pesavento Co., 1415 West Garvey Avenue North, West Clovina, CA 91790.

MC 117373 (Sub-5–3TA), filed December 14, 1981. Applicant: NU-WAY TRUCKING, INC., P.O. Box 1129-N, Rosebud, MO 63091. Representative: Michael C. Feagan (same address as applicant). *Metal Products*, between points in Franklin County, Mo, on the one hand, and, on the other, points in AR, IL, KS, OK and TX. Supporting shipper(s): Bull Moose Tube Co., P.O. Box 214, Gerald, MO 63037.

MC 117792 (Sub-5–3TA), filed December 14, 1981. Applicant: J.C. JACKSON, JR., d.b.a. FARM PRODUCTS, CO., P.O. Box 189, East Prairie, MO 68345. Representative: A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101. *Meat, meat products, meat byproducts and articles distributed by meat packinghouses* from (1) Marshall, MO and points in its commercial zone, to points in AL, AR, LA, MS, TN, and TX, and (2) from points in Iowa to points in TX. Supporting shippers: The Rath Packing Co., Waterloo, IA; Wilson Foods Corporation, Oklahoma City, OK.

MC 119741 (Sub-5–32TA), filed December 14, 1981. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same as applicant). *Modulane and bowling alley parts and equipment and related products*, between Polk County, FL, on the one hand, and, on the other, pts in the U.S. Supporting shipper: Perry Austen Mod-U-Lane, Sales Co., Des Moines, IA 50303.

MC 126600 (Sub-5–2TA), filed December 14, 1981. Applicant: EHRSAM TRANSPORT, INC., 108 North Factory, Enterprise, KS 67441. Representative: Bob W. Storey, 310 Columbian Title Building, 820 Quincy Street, Topeka, KS 66612. Contract, Irregular: *Construction equipment, all types and kinds of commercial and industrial machinery, agricultural machinery and implements, and semi-trailer units*, between Wichita, KS on the one hand, and all points and places within the U.S. except AK and HI, on the other. Supporting shipper: Murphy Machinery Company, 4200 West MacArthur, Wichita, KS 67200.

MC 135997 (Sub-5–5TA), filed December 14, 1981. Applicant: TEXAS TANK LEASING, INC., Route 5, Box 99, Conroe, TX 77301. Representative: Willam D. Lynch, P.O. Box 912, Austin, TX 78767. *Liquid Asphalt in tank truck vehicles*, Between Lubbock, Irving and Houston, TX on the one hand, and, on the other, points in NM, LA, OK, and Mobile, AL. Supporting shipper: Trumbull Asphalt Division, Owens-Corning Fiberglas Corporation, 59th & Archer Road, Summit, IL 60501.

MC 144117 (Sub-5–12TA), filed November 19, 1981. Applicant: TLC LINES, INC., 1666 Fabick Drive, Fenton, MO 63026. Representative: Jack H. Blanshan, Attorney at Law, 205 W. Touhy Ave., Suite 200–A, Park Ridge, IL 60068. *Wine (except commodities in bulk)*, from points in CA on, west and north of U.S. Highway 395, to points in CT, DE, DC, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MO, ND, NH, NJ, NY, OH, PA, RI, SD, VT, VA and WI. Supporting shipper: LDS Forwarding, Inc., 2211 Wood St., Oakland, CA 94607.

MC 145744 (Sub-5–3TA), filed December 14, 1981. Applicant: C. V. SOHN, INC., 142 Midland, Maryland Heights, MO 63043. Representative: B. W. LaTourette, Jr., 11 South Meramec, Suite 1400, St. Louis, MO 63105. *Food and Related Products* from points in IA, IL and NE on the one hand, to on the other, points in the U.S. except AK and HI. Supporting shipper(s): Farmland Foods, Inc., P.O. Box 403, Denison, IA 51442.

MC 147648 (Sub-5–1TA), filed December 14, 1981. Applicant: ROBERT L. PERKINS, d.b.a. PERKINS TRANSPORT, 4913 Maple Street, Omaha, NE 68104. Representative: James F. Crosby & Associates, 7363 Pacific Street, Suite #210B, Omaha, NE 68114. Contract; Irregular. *Such commodities as are manufactured, used, or distributed by manufacturers and distributors of recreational, travel, or mobile vehicles, including haulaway or towaway service, in initial or secondary movements.* Between points in the U.S., under a continuing contract(s) with Winnebago Industries, Inc., of Forest City, IA. Supporting shipper: Winnebago Industries, Inc., P.O. Box 152, Forest City, IA 50436.

MC 149616 (Sub-5–2TA), filed December 14, 1981. Applicant: R.C.R., INC., P.O. Box 157, Yutan, NE 68073. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. *Meats and packinghouse products*, from Omaha, NE to Daytona and Miami, FL, and points in their commercial zones. Supporting shipper: Armour & Co., Box 3680, Hialeah, FL 33013.

MC 151637 (Sub-5–9TA), filed December 14, 1981. Applicant: LARRY BREEDEN TRUCKING, INC., 1301 Fayetteville Road, Van Buren, AR 72956. Representative: Don Garrison, Esq., Post Office Box 1065, Fayetteville, AR 72702. *Paper Articles and Plastic Articles and Materials, Equipment and Supplies* used in the manufacture thereof—Between Sebastian County, AR, on the one hand, and, on the other, points in CA, OR and

WA. Supporting shipper: American Can Company, Inc., Post Office Box 428, Ft. Smith, AR 72902.

MC 152444 (Sub-5–5TA), filed December 14, 1981. Applicant: SHARP'S TRUCK & TRACTOR, INC., Business Hwy 36 and 69 West, Cameron, MO 64429. Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105–1961. *Chemicals and related products* from Ft. Madison, IA to all points in IL, MO, KS and NE. Supporting shipper: Chevron Chemical Company, P.O. Box 282, Ft. Madison, IA 52627.

MC 153323 (Sub-5–7TA), filed December 14, 1981. Applicant: IOWA-TEXAS EXPRESS, LTD., P.O. Box 283, Denison, IA 51442. Representative: James M. Hodge, 1000 United Central Bank Bldg., Des Moines, IA 50309. *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk),* from the facilities of Farmland Foods, Inc. at or near Denison, Iowa Falls, Carroll, Cherokee, Des Moines, Fort Dodge, and Sioux City, IA and Crete, Omaha, and Lincoln, NE to points in AL, FL, GA, KY, MS, NC, SC, TN and WV. Supporting shipper(s): Farmland Foods, Inc., P.P. Box 403, Denison, IA 51442.

MC 153799 (Sub-5–3TA), filed December 15, 1981. Applicant: EASON & SMITH ENTERPRISES, INC., P.O. Box 15463, Oklahoma City, OK 73155. Representative: Billy A. Gaines, P.O. Box 25186, Oklahoma City, OK 73125. Contract; irregular: *Hazardous chemical waste, from Oklahoma City, OK, to Union County, AR, Sumter County, AL, Harris County, TX, and Calcasieu Parish, LA. Supporting shipper: OC/ALC Tinker AFB, OC/ALC PMKFC Tinker AFB, OK 73145.*

MC 154696 (Sub-5–5TA), filed December 14, 1981. Applicant: SILLIMAN BROS. FREIGHT CO., INC., Route 2, BOx 10–A, Bernie, MO 63822. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105. *Liquid propane* from points in Stoddard County, MO, on the one hand, and, on the other, points and places in TN, AR, and KY. Supporting shipper: Dome Petroleum Limited, Suite 905, International Tower, 1900 West Loop South, Houston, TX 77027.

MC 155487 (Sub-5–3TA), filed December 15, 1981. Applicant: BUR–COLD EXPRESS, INC., P.O. Box 3192, Brownsville, TX 78520. Representative: Kenneth R. Hoffman, 1600 W. 38th Street, Suite 410, Austin, TX 78731. *Cheese and cheese products* between points in IL, IA, MN, MO, OH and WI, on the one hand, and, on the other, points in MO, O, and TX. Supporting shipper: Milkhouse Cheese Corp., Houston, TX.

MC 158101 (Sub-5–4TA), filed December 14, 1981. Applicant: DIRECT DELIVERY SERVICE, INC., 4204 N.E. 14th Street, Des Moines, IA 50313. Representative: Richard D. Howe, Myers, Knox & Hart, 600 Hubbell Building, Des Moines, IA 50309. Contract; irregular: *Paper and paper products,* from Des Moines, IA, to pts in Kansas City, KS, and its commercial zone and Omaha and Lincoln, NE. Supporting shipper: Leslie Paper Co., 2220 E. 17th Street, Des Moines, IA 50316.

MC 158928 (Sub-5–1TA), filed December 14, 1981. Applicant: D. J. WALTERS TRANSPORT CO., P.O. Box 416, Kearney, NE 68847. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Contract; irregular: *Petroleum products,* from pts in Phillips County, KS, to pts in Buffalo, Furnas, Phelps and Red Willow Counties, NE, under a continuing contract(s) with Landmark of Nebraska, Inc. and J & D Oil Co. Supporting shippers: J & D Oil Co. and Landmark of Nebraska, Inc., P.O. Box 416, Kearney, NE 68847.

MC 159050 (Sub–5–2TA), filed December 14, 1981. Applicant: MARATHON TRANSPORTATION SYSTEMS, INC., 318 E. Nakoma, San Antonio, TX 78216. Representative: Robert A. Wehage (same as applicant). *General Commodities, having a prior or subsequent movement by water, rail or air* between Bexar, Cameron, Galveston, Harris, Hidalgo, Nueces, Travis and Webb counties, TX, on the one hand, and, on the other points in TX on or east of US 277. Supporting Shippers: There are 12 supporting shippers.

MC 159245 (Sub–5–1TA), filed December 14, 1981. Applicant: SOUTH CENTRAL COORS OF ARKANSAS, INC., Post Office Box 8807, Pine Bluff, AR 71611. Representative: Janet L. James, One Riverfront Place, Suite 850, North Little Rock, AR 72114. Contract; Irregular. *Oak dimensional lumber and particleboard panels or sheets,* between Little Rock, AR; Denver and Colorado Springs, CO; Sioux Falls, SD; Cottonwood, Zumbrota, Minneapolis, Fergus Falls, MN. Supporting Shipper: Wrape Forest Industries, Inc., 519 East Capitol, Little Rock, AR 72203.

MC 159445 (Sub–5–1TA), filed December 14, 1981. Applicant: V. W. CRAVEN PRODUCE, INC., P.O. Box 673, Gonzales, TX 78629. Representative: Timothy Mashburn, P.O. Box 2207, Austin, TX 78768–2207. (1) *Malt beverages and related advertising materials;* and (2) *empty used beverage containers* between points in Lavaca County, TX, on the one hand, and, on the other, points in Los Angeles County, CA. Supporting Shipper: Bella Brands, 14934 Hesby Street, Sherman Oaks, CA 91403.

MC 159675 (Sub–5–1TA), filed December 14, 1981. Applicant: PAUL M. LUKE, d.b.a. L & B TRUCKING COMPANY, P.O. Box 225, Centerville, LA 70522.Representative: Fred W. Johnson, Jr., P.O. Box 1291, Jackson, MS 39205. *Contract* irregular *Paper and paper products* between Washington Parish, LA, on the one hand, and, on the other, points in the State of TX under continuing contract(s) with Crown-Zellerbach Corporation, Bogolusa, LA.

MC 159685 (Sub–5–1TA), filed December 14, 1981. Applicant: TWIN RIVERS TRUCKING, Rural Route #4 Box 169, Emporia, KS 66801. Representative: Ronald Ray Brammell (same as applicant). Contract; irregular. *Meat and Meat Products,* between points IA, NE, MO, KS. Supporting Shipper: Fanestil Packing Company, Rural Route #4 Box 629, Emporia, KS 66801.

MC 159687 (Sub–5–1TA), filed December 14, 1981. Applicant: ROBERT PIPPERT, d.b.a. PIPPERT TRUCKING, Box B, Gladbrook, IA 50635. Representative: James M. Hodge, 1000 United Central Bank Bldg., Des Moines, IA 50309. Contract irregular *meat and meat products,* from Marshalltown, IA and Omaha, NE to points in AL, AR, FL, GA, IL, KY, LA, MO, MS, NC, SC and TN, under continuing contract(s) with Union-Marshall Packing Co. Supporting shipper(s): Union-Marshall Packing Co., 816 Union Street, Marshalltown, IA 50158.

MC 159697 (Sub–5–1TA), filed December 15, 1981. Applicant: UNITED TRANSFER, INC., Highway 61–67, Imperial, MO 63052. Representative: Marion David Cox, Jr., (same as applicant). *General Commodities (except household goods as defined by the Commission, secret materials, and sensitive weapons)* between points in MO, on the one hand, and, on the other, points in the US (except AK, HI, NH, ND, VT, RI, SD and DE). Supporting shippers: 12.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission Region 6 Motor Carrier Board, P.O. Box 7413, San Francisco, CA 94120.

MC 158754 (Sub–6–1TA), filed December 7, 1981. Applicant: LLOYD C.

PIERCE, d.b.a., ASSOCIATED EXPRESS, 1539 Mines Ave., Montebello, CA 90640. Representative: Lloyd C. Pierce (same as applicant). (1) *Chemicals and related articles,* between points in Los Angeles and Orange Counties, CA and points in AZ, CO, ID, MT, NV, NM, OR, UT, WA, and WY; and (2) *Contractors equipment and building materials* between AZ, CA, CO, ID, MT, NM, OR, TX, WA, and WY; and (3) *Metal, metal products and metal scrap*, between Torrance, CA and points West of the Mississippi River and Memphis, TN and AZ, CO, KS, MO, OK, OR, TN, UT, and WA, for 270 days. Supporting shipper(s): Pacific Smelting Co., 22219 S. Western Ave., Torrance, CA; Hunt Process Co., 12767 E. Imperial Hwy., Santa Fe Springs, CA; Hunt Contracting Co., 1627 Chico Ave., South El Monte, CA 91733.

MC 134387 (Sub-6–29TA), filed December 9, 1981. Applicant: BLACKBURN TRUCK LINES, INC., 4998 Branyon Ave., South Gate, CA 90280. Representative: Patricia M. Schnegg, 707 Wilshire Blvd., Ste. 1800, Los Angeles, CA 90017. *Prepared animal feed,* from Ogden, UT to Phoenix, AZ, WA and OR; (2) from Phoenix, AZ to Los Angeles, Orange, San Diego, and San Bernardino, CA; (3) from Denver, CO to Flagstaff, AZ; and (4) from Flagstaff, AZ to points in and south of Kern, San Bernardino and San Luis Obispo Counties, CA, for 270 days. Supporting shippers: American Nutrition, Inc., 2890 Reeves Ave., Odgen, UT 84002; Ralston Purina Company, Checkerboard Sq., St. Louis, MO 63188.

Republication

MC 159211 (Sub-6–1TA), filed November 9, 1981. Applicant: CAMPUS LINK INC., P.O.B. 8536, Moscow, ID 83843. Representative: J. S. Overstreet, 858 Harold Ave., Moscow, ID 83483. *Common Carrier;* Regular Routes: *Passengers and express* Nezperce and Latah Counties, ID; Whitman and Spokane Counties, WA; Pullman and Colfax, WA and points in-between U.S. Hwy 95, ID SH 8, Airport Rd., WA, SH 270, U.S. Hwy 195, Interstate 90, U.S. Hwy 2, and Spokane Airport Rd. for 180 days. Supporting shipper(s): University Inn, Best Western, Moscow, ID; Pullman Travel Service, Pullman WA; Linda's World Travel, Inc., Pullman, WA; Travel by Thompson, Moscow, IA.

MC 148472 (Sub-6–3TA), filed December 10, 1981. Applicant: CLOVER CLUB FOODS COMPANY, P.O.B. 228, Kaysville, UT 84037. Representative: Bruce W. Shand, Ste. 280, 311 S. State St., Salt Lake City, UT 84111. *Contract carrier;* irregular routes: *Tallow and animal fats,* from Albuquerque, NM to Vernon, Los Angeles, and Long Beach, CA and Phoenix, AZ for 270 days. Supporting shipper: Baker Commodities, Inc., P.O.B. 332, 3300 Broadway, SE, Albuquerque, NM.

MC 159551 (Sub-6–1TA), filed December 3, 1981. Applicant: FLAMINGO TOURS, INC., 327 Wilshire Blvd., Suite 220, Santa Monica, CA 90401. Representative: Nelly G. Toomaru, 12120 Texas Ave., Apt. #203, Los Angeles, CA 90025. *Passengers and their baggage* in charter and special operations from Los Angeles County, CA to points in NV, AZ and return; from Los Angeles County, CA to the port of entry between the U.S. and Mexico at San Ysidro, CA, and return, on trips destined to the Republic of Mexico for 180 days. Supporting shippers: There are thirteen (13) supporting shippers. Their statements may be examined at the Regional Office listed.

MC 159612 (Sub-6–1TA), filed December 7, 1981. Applicant: TOM MONTE, d.b.a. MONTES TRUCKING, 2409 E. Lake Mead, N. Las Vegas, NV 89030. Representative: Clara Hewitt, 3615 Taylor Ave., N. Las Vegas, NV 89030. *Contract Carrier;* Irregular routes: *Dairy products and dairy by-products* from Logandale and Las Vegas, NV to Kingman, AZ and Needles and Los Angeles, CA; *Plastic articles, fiberboard other than corrugated* (empty milk containers) from Los Angles and Needles, CA to and between Las Vegas and Logandale, NV for 270 days for the account of Needles Cold Storage and Knudsen Dairy. An underlying ETA seeks 120 days authority. Supporting shipper(s): Needles Cold Storage, P.O.B. 276, Needles, CA 92363; Knudsen Dairy, P.O.B. 2335, Terminal Annex, Los Angeles, CA 90051.

MC 151683 (Sub-6–3TA), filed December 10, 1981. Applicant: NAVAJO NATION TRANSIT SYSTEM, Dept. of the Navajo Tribe of Indians, P.O.B. 1330, Window Rock AZ 86515. Representative: Willian Riordan (same as applicant). *Common Carrier:* Regular Route: *Passengers, baggage, newspapers and express materials* between points on and near the Navajo Nation as follows: Between Tuba City, AZ and Window Rock, AZ from Tuba City, AZ east on State Hwy 264 to Window Rock, AZ and return over the same route, serving all intermediate points. Between Kayenta, AZ and Window Rock, AZ from Kayenta, AZ east on U.S. Hwy 160 to JCT U.S. Hwy 160 with Navajo Route 59, thence south on Navajo Route 59 to Many Farms, AZ thence south on State Hwy 63 to Chinle, AZ, thence southeast on Navajo Route 64 to Tsaile, AZ, thence south on Navajo Route 12 to Window Rock, AZ and return over the same route, serving all intermediate points. Between Shiprock, NM and Window Rock, AZ from Shiprock, NM west on State Hwy 160 to Mexican Water, AZ, thence south on State Hwy 63 to Round Rock, AZ, thence south on Navajo Route 12 to Window Rock, AZ, and return over the same route, serving all intermediate points. Between Window Rock, AZ, and Crownpoint, NM, from Window Rock, AZ east on State Hwy 264 to Yatahey, NM thence north on U.S. Hwy 666 with Navajo Route 9, thence east on Navajo Route 9 to Crownpoint, NM, and return over the same route, serving all intermediate points. Between Window Rock, AZ and Gallup, NM from Window Rock, east on State Hwy 264 to Yahahey, NM, thence south on U.S. Hwy 666 to Gallup, NM, thence return on the same route, serving all intermediate points. Between Tuba City, AZ and Flagstaff, AZ from Tuba City, AZ east on State Hwy 264 JCT State 264 with State Hwy 87 to JCT State Hwy 87 with Navajo Route 60, thence south on Navajo Route 60 to JCT Navajo Route 60 with State 87, thence south on State Hwy 87 to JCT State Hwy 87 with U.S. Interstate 40, thence west on U.S. Interstate 40 to JCT U.S. Interstate 40 with State Hwy 99, thence on 99 to Leupp, AZ, thence west on Navajo Route 15 to JCT Navajo Route 15 with U.S. Hwy 89, thence west on U.S. Hwy 89 to Flagstaff, AZ, and return over the same route, serving all intermediate points for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: There are eleven (11) supporting shippers. Their statements may be reviewed in the Regional Office above.

Republication

MC 158586 (Sub-6–1TA), filed October 13, 1981. Applicant: PAY'N SAVE CORPORATION, 1511 Sixth Ave., Seattle, WA 98101. Representative: Robert G. Gleason, 1127 10th East, Seattle, WA 98102. *General commodities,* (except hazardous waste materials) in containers having prior or subsequent movement via rail, from Seattle and Auburn, WA to points in ID, UT, and WY and between points in the states of ID, UT and WY for 270 days. An underlying ETA requesting 120 days authority has been filed. Supporting shippers: Pay'n Save Corporation, 1511 Sixth Ave., Seattle, WA 98101; Pacific Northwest Perishable Shippers Association, 200 W. Thomas St., Seattle, WA 98119.

MC 158586 (Sub-6–2TA), filed December 10, 1981. Applicant: PAY'N SAVE CORPORATION, 1511 Sixth Ave.,

Seattle, WA 98101. Representative: Robert G. Gleason, 1127 10th East, Seattle, WA 98102. *General commodities*, in containers having had prior or subsequent movement via rail (except hazardous waste materials and household goods) between points in WA, OR, CA, NV and AK; and between points in CA and NV for 270 days. Supporting shippers: Pay'n Save Corporation, 1511 Sixth Ave., Seattle, WA 98101 and Pacific Northwest Perishable Shippers Association, 200 W. Thomas St., Seattle, WA 98119.

MC 147727 (Sub-6-3TA), filed December 10, 1981. Applicant: SCOTT DAVIS TRANSPORT, INC., 611 N. Front St., Yakima, WA 98901. Representative: Jerry R. Woods, 101 SW Main St., Rm 1600, Portland, OR 97204. *Wine in bulk*, from points in CA to points in WA on the international boundary line between the U.S. and Canada, for 270 days. Supporting shippers: Casabello Wines, Div. of Ridout Wines, Ltd., 2210 Main St., Penticton, B.C. Canada and Calona Wines Limited, 1125 Richter St., Kelowna, B.C., Canada.

MC 141867 (Sub-6-15TA), filed December 10, 1981. Applicant: SPECIALIZED TRUCKING SERVICE, INC., 2301 Milwaukee Wy., Tacoma, WA 98421. Representative: Ronald R. Brader (same as applicant). *Canned food products*, between Sonoma County, CA and points in WA, OR, AZ, NV and UT, for 270 days. Supporting shipper: M. J. McDonald Juice Co., Inc., 2999 Bowen Ave., Sebastopol, CA 95472.

MC 151471 (Sub-6-16TA), filed December 8, 1981. Applicant: STEINBECKER BROS, INC., P.O.B. 852, Greeley, CO 80632. Representative: Jack B. Wolfe, 1600 Sherman St., #665, Denver, CO 80203. *Contract Carrier*, Irregular routes: *Meat and meat products*, from Garden City and Dodge City, KS and their commercial zones and points in NE to Hyrum, UT, for the account of E. A. Miller & Sons Packing Co., Inc., for 270 days. Supporting shipper: E. A. Miller & Sons Packing Co., Inc., P.O.B. EA, Hyrum, UT 84319.

MC 159656 (Sub-6-1TA), filed December 7, 1981. Applicant: DAVID A. THOMPSON an individual d.b.a. TEC INDUSTRIES, 901 NE Gertz Rd., Portland, OR 97211. Representative: David A. Thompson (same as applicant). (1) *Lumber*, from points in Redmond and Bend, OR to points in NJ, MD, OH for 270 days. Supporting shipper(s): Bear Springs Forest Products, P.O. Box 5193, Portland, OR 97208.

MC 146794 (Sub-6-2TA), filed December 8, 1981. Applicant: WILLIAM V. THOMAS, P.O.B. 10238, Albuquerque, NM 87184. Representative: John P. Jennings (same as applicant). *Gypsum, gypsum wallboard, gypsum wallboard paper, joint system materials and supplies used in the application thereof*, from Albuquerque, NM to points in AZ and CO, for 270 days. An underlying ETA seeks 120 days authority. Supporting shippers: American Gypsum Company, P.O.B. 6345, Station B., Albuquerque, NM 87197; MYCO, 502 W. Royal Palm Rd., Phoenix, AZ 85021.

MC 153628 (Sub-6-5TA), filed December 9, 1981. Applicant: JIM LARSEN, d.b.a. WIND RIVER TRUCKING, 215 First Ave., SW., Park City, MT 59063. Representative: Charles M. Williams, 1600 Sherman St., #665, Denver, CO 80203. *Lumber* and *wood products* from points in WA, OR, ID, MT and those in CA in and north of Mendocino, Lake, Colusa, Sutter and Placer Counties, to points in PA, WV, and NY and those points in the U.S. in and west of MI, OH, KY, TN, AR and LA for 270 days. Supporting shippers: Shepard & Morse Lumber Company, Riverside Office Park, P.O.B. 600, Weston, MA 02193; Henry H. Ketcham Lumber Co., P.O.B. 9887, Seattle, WA 98109; and Simpson Timber Co. (Alberta) Ltd., Blude Ridge, Alberta, Canada TOE OBO. Permission to interline is requested with Canadian carriers at points on the International Boundary between the U.S. and Canada in WA, ID and MT.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-36544 Filed 12-22-81; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 28]

Motor Carriers; Applications, Alternate Route Deviations, and Intrastate Applications

Motor Carrier Alternate Route Deviations

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Passengers (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this Federal Register notice.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carriers of Passengers

MC 1934 (Deviation No. 6) THE ARROW LINE, INC., 105 Cherry St., E. Hartford, CT 06108, filed November 19, 1981. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers over a deviation route as follows: From Storrs, CT, over CT Hwy 195 to junction Interstate Hwy 86 to Tolland, CT, then over Interstate Hwy 86 to junction Interstate Hwy 84 in E. Hartford, CT, then over Interstate Hwy 84 to juction Interstate Hwy 684 in Brewster, NY, then over Interstate Hwy 684 to junction Interstate Hwy 287 in White Plains, NY, then over Interstate Hwy 287 to junction Interstate Hwy 87 in Elmsford, NY, then over Interstate Hwy 87 to New York, NY, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Storrs, CT, over CT Hwy 195 to junction CT Hwy 89, then over CT Hwy 89 to junction CT Hwy 32, then over CT Hwy 32 to junction CT Hwy 52, then over CT Hwy 52 to junction Interstate Hwy 95, then over Interstate Hwy 95 to New York, NY, and return over the same route.

Motor Carrier Intrastate Application(s)

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

New York Docket No. T-684, filed November 17, 1981. Applicant: WEST FARMS EXPRESS, INC., 1095 Close Ave., New York, NY 10472. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: General

commodities: Liquid petroleum products; forest products in packages.—Between New York City on the one hand, and, on the other, all points in Albany, Columbia, Delaware, Dutchess, Greene, Nassau, Ontario, Orange, Putnam, Rensselaer, Rockland, Suffolk, Sullivan, Ulster, Westchester Counties and New York City. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to the New York State Department of Transportation, 1220 Washington Avenue, State Campus, Albany, NY 12232, and should not be directed to the Interstate Commerce Commission.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-36550 Filed 12-22-81; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. OP1-322]

Motor Carriers; Permanent Authority; Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register.**

An original and one copy of opposing verified statements must be filed with the Commission within 45 days after the date of this **Federal Register** notice. Applicant may file a verified statement in rebuttal within 60 days. Such pleadings shall comply with 49 CFR 1100.247 (renumbered 1100.251) addressing specifically the issue(s) indicated as the purpose for republication. Special Rule 247 (renumbered 251) was published in the **Federal Register** of July 3, 1980, at 45 FR 45539.

MC 157441 (republication), filed July 31, 1981, published in the **Federal Register** August 13, 1981, and republished this issue. Applicant: TOM SORENSEN, d.b.a. SORENSEN ROCK AND GRAVEL, Rural Route Box 283–A, Weeping Water, NE 68463. Representative: Tom Sorensen (same address as applicant), (402) 267–4025. A decision by the Commission, Review Board #1, decided November 10, 1981, served November 23, 1981, finds that applicant is authorized to operate as a *common carrier*, by motor vehicle, in transporting over irregular routes, *sand, gravel, rock, dirt, and construction materials*, between points in Cass County, NE, on the one hand, and, on the other, points in Plymouth, Woodbury, Monona, Harrison, Pottawattamie, Mills, and Fremont Counties, IA, and Atchison and Holt Counties, MO. Applicant is fit, willing, and able properly to perform the granted service and to conform to statutory and administrative requirements. The purpose of this republication is to indicate that applicant has been granted authority in Atchison and Holt Counties, MO in lieu of Atchison and Holt Counties, IA.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 81-36547 Filed 12-22-81; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 212]

Motor Carriers; Permanent Authority Decisions; Restriction Removals; Decision-Notice

December 17, 1981.

The following restriction removal applications, filed after December 28, 1980, are governed by 49 CFR 1137. Part 1137 was published in the **Federal Register** of December 31, 1980, at 45 FR 86747.

Persons wishing to file a comment to an application must follow the rules under 49 CFR 1137.12. A copy of any application can be obtained from any applicant upon request and payment to applicant of $10.00.

Amendments to the restriction removal applications are not allowed.

Some of the applications may have been modified prior to publication to conform to the special provisions applicable to restriction removal.

Findings

We find, preliminarily, that each applicant has demonstrated that its requested removal of restrictions or broadening of unduly narrow authority is consistent with 49 U.S.C. 10922(h).

In the absence of comments filed within 25 days of publication of this decision-notice, appropriate reformed authority will be issued to each applicant. Prior to beginning operations under the newly issued authority, compliance must be made with the normal statutory and regulatory requirements for common and contract carriers.

By the Commission, Restriction Removal Board, Members Sporn, Ewing, and Shaffer.

Agatha L. Mergenovich,

Secretary.

MC 35358 (Sub-64)X, filed November 20, 1981. Applicant: BERGER TRANSFER & STORAGE, INC., 3720 Macalaster Dr. N.E., Minneapolis, MN 55421. Representative: Andrew R. Clark, 1600 TCF Tower, Minneapolis, MN 55402. Subs 23 and 40F and E34, E35, E36, E37, E38 and E46 letter notices broaden: (1)(a) Uncrated school, hospital and industrial furniture, cabinets, fixtures, sinks, and tops, Sub 23, (b) uncrated furniture, cabinets, fixtures, sinks, and tops, Sub 40, to "furniture and fixtures and machinery", from (a) uncrated furniture, uncrated fixtures, uncrated furnishings, and uncrated appliances, E34, E35, E36, E37 and E38, (b) uncrated household furniture, uncrated household furnishings and appliances, and uncrated household kitchen equipment, E46 to "furniture, fixtures, furnishings, and machinery"; (2) to radial authority, Subs 23 and 40F, (3) cities to county-wide authority: (a) Sub 23, Kane and DuPage Counties, for Geneva, IL; (b) Sub 40F, Lake, DuPage, Cook, Will Counties, IL and Lake and Porter Counties, IN, for Chicago, IL.

MC 39568 (Sub-15)X, filed December 11, 1981. Applicant: ARROW TRANSFER & STORAGE CO., 1116 Market Street, Chattanooga, TN 37402. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. Sub 12: (1) Broaden commodity description: self-propelled cranes and power shovels, in driveaway service, and parts and attachments for self-propelled cranes and power shovels to "commodities which because of size or weight require the use of special equipment"; (2) change authority to serve facilities at Chattanooga, TN, to county-wide authority of Hamilton County, TN; and (3) expand one-way to radial authority.

MC 116092 (Sub-10)X, filed December 1, 1981. Applicant: CHAMPLAIN EXPRESS TRANSPORT (INTERNATIONAL) INC., 411 Rivere, Cowansville, Quebec J2K 1N4. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. Subs 2, 5 and 7F. Broaden: in Sub 2, imported wool, paper makers' felts (except commodities in bulk), to "textile mill products"; in Sub 5, lumber and building materials to "lumber and wood products and building materials"; in Sub 7F, (1) synthetic resin and plastic articles and (2) toilet preparations, cosmetics (except in bulk), "chemicals and related products"; in Subs 2 and 5, replace ports of entry on United States and Canada boundary line at Champlain and Rouses Point, NY and Highgate Springs, Richford and Troy, VT and in Sub 7 at Champlain and Ogdensburg, NY and Norton Mills, Derby Line, Richford and Highgate Springs, VT, with

ports of entry located in NY and VT; in Sub 2, Albany to Albany County, NY and Gilbertville to Worcester County, MA and Hudson and Maynard to Middlesex County, MA; in Sub 7F, Chatham to Columbia County, NY and Stamford to Fairfield County, CT; in Sub 5 to radial service.

MC 123074 (Sub-21)X, filed December 9, 1981. Applicant: M. L. ASBURY, INC., 141 S. Main St., Romeo, MI 48065. Representative: Robert E. McFarland, 2855 Coolidge Rd., Ste. 201A, Troy, MI 48084. Sub 17, Broaden: (1) inedible tallow, in bulk, in tank vehicles to "commodities in bulk"; (2) Detroit to Wayne, Oakland, Macomb, Washtenaw and Monroe Counties, MI; and (3) one-way to radial.

MC 123601 (Sub-5)X, filed December 9, 1981. Applicant: E & F TRUCKING, INC., 445 Winding Road, Old Bethpage, NY 11804. Representative: Roy A. Jacobs, Esq., 550 Mamaroneck Avenue, Harrison, NY 10528. Sub 3 to (1) broaden to points in NJ and points in Columbia, Delaware, Dutchess, Greene, Nassau, Orange, Putnam, Rockland, Suffolk, Sullivan, Ulster, and Westchester Counties, NJ and New York, NY for those points in NY and NJ within 100 miles of Jersey City, NJ; and (2) from incandescent lamps and raw materials used in the manufacture of incandescent lamps to "such commodites as are dealt in by manufacturers and distributors of electric and electronic products and equipment, materials, and supplies used in the manufacture and distribution of such commodities."

MC 124004 (Sub-71)X, filed December 7, 1981. Applicant: RICHARD DAHN, INC., 620 West Mountain Road, Sparta, NJ 07871. Representative: Richard W. Dahn (same as applicant). Sub 63, broaden: general commodities, with exceptions to "general commodities" (except classes A and B explosives).

MC 124328 (Sub-146)X, filed December 7, 1981. Applicant: BRINK'S INCORPORATED, Thorndal Circle, Darien, CT 06820. Representative: Chandler L. Van Orman, 1729 H. Street, N.W., Washington, DC 20006. Lead permit, broaden to between points in the U.S. under continuing contract(s) with named shippers or classes of shippers.

MC 144057 (Sub-4)X, filed December 4, 1981. Applicant: WHITEHALL TRANSPORT, INC., P.O. Box 387, Whitehall, WI 54773. Representative: Eugene D. Anderson, 910 17th St. N.W., Suite 428, Washington, DC 20006. Sub 1 certificate: Broaden to (1) "food and related products" from foodstuffs; (2) county-wide authority: Lake and Cook Counties, IL (Deerfield); and (3) radial authority.

MC 144128 (Sub-4)X, filed December 7, 1981. Applicant: ELLIOTT, INC. OF CLARKSVILLE, P.O. Box 342, Clarksville, VA 23927. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. Lead and Subs 1 and 2 permits, (1) broaden lumber, pallets, and particle board, to "lumber and wood products," lead; steel and steel articles, to "metal products", both subs; and (2) to between points in the U.S. under contract(s) with named shippers, lead and all subs.

MC 146387 (Sub-5)X, filed December 7, 1981. Applicant: VANS BUILDERS SUPPLY, INC., 1422 Western Avenue, Las Vegas, NV 89102. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701. Sub 4, broaden to radial authority.

MC 150219 (Sub-2)X, filed December 7, 1981. Applicant: SILVER EAGLE SERVICES, INC., 577 Meadowlark Lane, Grand Junction, CO 81503. Representative: James A. Beckwith, 1365 Logan, Suite 100, Denver, CO 80203. Sub 1F: (1) broaden such commodities as are dealt in by drug and pharmaceutical supply houses to "such commodities as are dealt in by drug and pharmaceutical supply houses and materials, equipment and supplies used in the distribution, advertising and marketing thereof," and (2) change the territorial authority to between points in the U.S., under continuing contract(s) with named shipper.

MC 153207 (Sub-4)X, filed December 7, 1981. Applicant: NEBRASKA CARRIERS, INC., R.R. 2, P.O. Box 122-D, Grand Island, NE 68801. Representative: A. J. Swanson, P.O. Box 1103, Sioux Falls, SD 57101-1103. Sub 1 certificate: (A) Broaden to (1) "machinery, metal products and building materials" from grain storage, grain drying, and grain handling equipment, augers and conveyors, knocked down buildings (iron or steel), aeration pipe and irrigation systems, iron, steel and aluminum articles, and materials and equipment used in the manufacture of the above commodities; and (2) countywide authority: Montgomery County, IN (Crawfordsville) and Hamilton County, IA (Webster City), (part 3); (B) Remove (1) facilities restriction, (part 1); (2) "originating at or destined to" restriction; and (3) restriction prohibiting the transportation of traffic to Omaha, Seward, Beatrice, Norfolk, Valley, York, Columbus, Fremont, Lindsey and Gering, NE and points in their commercial zones, (part 4); and (C) Broaden to radial authority, (part 1).

[FR Doc. 81-36548 Filed 12-22-81; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs

December 17, 1981.

In our recent decisions, an 18.0-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

The weekly figures set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 18.0-percent. Accordingly, we are authorizing that the surcharge for this traffic remain at 18.0 percent. All owner-operators are to receive compensation at this level.

No change is authorized in the 2.0-percent surcharge for United Parcel Service, the 3.1-percent on less-than-truckload (LTL) traffic performed by carriers not using owner-operators, or the 6.7-percent surcharge for the bus carriers.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C. for public inspection and by depositing a copy to the Director, Office of the Federal Register, for publication therein.

It is ordered:

This decision shall become effective Friday, 12:01 a.m. December 18, 1981.

By the Commission, Chairman Taylor, Vice Chairman Clapp, Commissioners Gresham and Gilliam.

Agatha L. Mergenovich,

Secretary.

December 14, 1981.

APPENDIX—FUEL SURCHARGE

Base date and price per gallon (including tax)	
Jan. 1, 1979	63.5¢
Date of current price measurement and price per gallon (including tax)	
Dec. 14, 1981	131.0¢

	Transportation performed by—			
	Owner-operator [1]	Other [2]	Bus carrier	UPS
	1	2	3	4
Average percent fuel expenses (including taxes) of total revenue	16.9	2.9	6.3	3.3
Percent surcharge developed	18.0	3.1	6.7	[3] 2.8
Percent surcharge allowed	18.0	3.1	6.7	[4] 2.0

[1] Apply to all truckload traffic.
[2] Including less-than-truckload traffic.
[3] The percentage surcharge developed for UPS is calculated by applying 61 percent of the percentage increase in the current price per gallon over the base price per gallon to UPS average percent of fuel expense to revenue figure as of January 1, 1979 (3.3 percent).
[4] The developed surcharge is reduced 0.8 percent to reflect fuel-related increases already included in UPS rates.

[FR Doc. 81-36549 Filed 12-22-81; 8:45 am]
BILLING CODE 7035-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Housing Guaranty Program; Investment Opportunity

The Agency for International Development (A.I.D.) has authorized guaranties of loans to a number of developing countries as part of A.I.D.'s overall development assistance program. The proceeds of these loans will be used by these countries to finance shelter projects for low income families. Set forth below is the address of a country (the "Borrower") for which a loan has recently been authorized. The Borrower is interested in being advised of the terms and conditions at which financing would be available under current market conditions and requests proposals from U.S. lenders or investment bankers.

Dominican Republic

Project: 517-HG-009—$15,000,000, Gustavo Volmar, Financial Manager, Banco Nacional de la Vivienda, Apartado 1504, Santo Domingo, Dominican Republic, Telephone: 565-6621.

Additional projects will be advertised from time to time as they become ready for borrowing.

By this notice of investment opportunity, the Borrower is soliciting expressions of interest from U.S. lenders or investment bankers to counsel on loan timing, structure and features, and to manage the loans or underwritings. Interested investment bankers or lenders should contact the Borrower. Selection of an investment banker and/or lender and the terms of the loan are initially subject to the individual discretion of the Borrower and thereafter subject to approval by A.I.D. The lender and A.I.D. shall enter into a Contract of Guaranty covering the loan. Disbursements under the loan will be subject to certain conditions required of the Borrower by A.I.D. as set forth in an implementation agreement between A.I.D. and the Borrower.

The full repayment of the loan will be guaranteed by A.I.D. The A.I.D. guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to authority of Section 222 of the Foreign Assistance Act of 1961, as amended (the "Act").

Lenders eligible to receive an A.I.D. guaranty are those specified in Section 238(c) of the Act. They are: (1) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least ninety-five percent (95%) owned by U.S. citizens; and (4) foreign partnerships or associations wholly owned by U.S. citizens.

To be eligible for an A.I.D. guaranty, the loans must be repayable in full no later than the thirtieth anniversary of the disbursement of the principal amount thereof and the interest rates may be no higher than the maximum rate established from time to time by A.I.D.

Information as to the eligibility of investors and other aspects of the A.I.D. housing guaranty program can be obtained from: Director, Office of Housing, Agency for International Development, Room 625, SA/12, Washington, D.C. 20523, Telephone: (202) 632-9637.

Dated: December 16, 1981.

Fredrik A. Hansen,

Deputy Director, Office of Housing.

[FR Doc. 81-36585 Filed 12-22-81; 8:45 am]
BILLING CODE 6116-01-M

[Delegation of Authority No. 133]

Senior Assistant Administrator, Science and Technology Assistant Administrator, Program and Policy Coordination Assistant Administrator, Food and Voluntary Assistance Assistant Administrator, Private Enterprise Regional Assistant Administrators; Authorization of Project and Non-Project Assistance

AID Delegation of Authority No. 133, dated February 1, 1979 (44 FR 8050, February 8, 1979), as amended, is revised to read as follows:

Section 1. Issuance Authority

This delegation is issued pursuant to IDCA Delegation of Authority No. 1, dated October 1, 1979.

Section 2. Purpose

The purpose of this delegation is to delegate authority to approve project and non-project assistance. Authority to approve or to extend AID project and non-project assistance occurs principally at three levels of authority within the Agency. These levels are:

The Administrator (including the Deputy Administrator); Designated Assistant Administrators (including their Deputies); and

Designated Mission Directors or other principal officers of field posts and Designated AID/Washington officers.

Within the limits prescribed by law, the Administrator may approve any project, amend any project authorization, and approve any project extension. Assistant Administrators are given limited authority to approve and amend projects, to extend the life of projects, and to redelegate such authorities within their respective Bureaus.

Section 3. Definitions

a. "Project", for purposes of this delegation, includes project and non-project assistance.

b. "Project Assistance Completion Date" (PACD) is the estimated date by which all AID-financed goods are to have been delivered or all services performed under the Project Agreement. In non-project assistance, the equivalent date is the terminal date for requests for disbursement authorizatons.

c. "Life of Project" is the planned length of the project as determined in project preparation. The life of project runs from the estimated date of signature of the Project Agreement or other obligating document to the PACD.

Section 4. Authorities Delegated to Assistant Administrators

a. The following authorities are delegated to the Senior Assistant Administrator for Science and Technology, the Assistant Administrator for Program and Policy Coordination, the Assistant Administrator for Food and Voluntary Assistance, the Assistant Administrator for Private Enterprise, the Assistant Administrator for Near East, the Assistant Administrator for Latin America and the Caribbean, the Assistant Administrator for Africa, and the Assistant Administrator for Asia, within their respective areas of responsibility;

(1) The authority to authorize a project, if the project:

(a) Does not exceed $20 million over the approved life of project (except as provided in subparagraph (2) below);

(b) Does not present significant policy issues;

(c) Does not require issuance of waivers that may only be approved by the Administrator or if such waivers are required they are approved by the Administrator prior to such authorization; and

(d) Does not have a life of project in excess of ten years.

(2) The authority to amend project authorizations executed by any AID official, if the amendment:

(a) Does not result in a total life of project funding of more than $30 million;

(b) Does not present significant policy issues; and

(c) Does not require issuance of waivers that may only be approved by the Administrator or is such waivers are required they are approved by the Administrator prior to such authorizations.

(3) The authority to approve extensions of the life of a project, provided that the extension does not result in a total life of project (from point of initial obligation to revised PACD) of more than ten years.

b. Authorities delegated under this section may be exercised by persons performing the functions of the Assistant Administrator in an "Acting" capacity.

Section 5. Authorities That May Be Redelegated to AID/Washington Officers

Assistant Administrators may, each within their respective Bureaus, redelegate the authorities delegated to them under Section 4 to Deputy Assistant Administrators, and, in the case of the Bureau for Science and Technology, to the Agency Directors for Food and Agriculture, Energy and National Resources, Human Resources and Health and Population. Authorities so redelegated may be exercised by persons performing the functions of the designated AID/Washington officer in an "Acting" capacity but may not be redelegated.

Section 6. Authorities That May Be Redelegated to Principal Officers of Field Offices

a. Regional Assistant Administrators may, each within their area of responsibility, redelegate the authorities delegated to them under Section 4, at their discretion and in accordance with criteria established by the Bureau, to Mission Directors or other principal officers of field posts.

b. The Senior Assistant Administrator for Science and Technology, and Assistant Administrators for Program and Policy Coordination, Food and Voluntary Assistance and Private Enterprise may redelegate authorities delegated to them under Section 4 to Mission Directors or other principal officers of field posts for individual projects, with the concurrence of the relevant Regional Assistant Administrator.

c. Authorities redelegated hereunder may be exercised by persons performing the functions of the Mission Director in an "Acting" capacity and may be redelegated by the Mission Director to the principal deputy of the Mission Director, but may not be further redelegated. Authorities redelegated to principal officers of field posts other than Missions may be exercised by persons performing the functions of the principal officer in an "Acting" capacity, but may not be redelegated.

Section 7. Miscellaneous

a. Technical Review of Project Actions.—Technical review, including legal, shall be completed prior to the exercise of the authorities delegated herein, in accordance with procedures established by each Bureau.

b. Concurrent Authority and Instructions.—I retain for myself concurrent authority to exercise any of the functions herein delegated, and such authorities shall be exercised subject to instructions issued by me or my designee.

c. Effective Date.—This delegation is effective immediately.

Dated: December 11, 1981.

M. Peter McPherson,

Administrator.

[FR Doc. 81-36579 Filed 12-22-81; 8:45 am]

BILLING CODE 6116-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-92]

Certain Airtight Wood Stoves; Denial of Motion To Withdraw Action and Order of Termination and To Order Hearing

AGENCY: U.S. International Trade Commission.

ACTION: Denial of motion to withdraw action and order of termination and to order hearing.

SUPPLEMENTARY INFORMATION: On November 2, 1981, the Commission received a Motion to Withdraw Action and Order of Termination and Order Hearing (Motion 92-13) from Energy Harvesters Corp., the complainant in the above-captioned investigation. Complainant requests that the motion be granted because the Commission's ordering of the termination of the investigation without a hearing allegedly violates the Fifth Amendment to the U.S. Constitution and 5 U.S.C. 554.

This motion follows the termination of this investigation on October 9, 1981 based upon mootness. The Commission stated in its Memorandum Opinion of October 9, 1981, that as a result of the issuance of consent orders in investigation No. 337-TA-106 the stove under investigation in this case was no longer to be imported. Thus, Energy Harvesters had already received all of the relief that it could possibly receive under section 337.

On December 14, 1981, the Commission denied Energy Harvesters' motion. Copies of the Commission's Action and Order and all other nonconfidential documents in the record of this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, telephone 202-523-0161.

FOR FURTHER INFORMATION CONTACT: Jeffrey S. Neeley, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0359.

By order of the Commission.

Issued: December 17, 1981.

Kenneth R. Mason,

Secretary.

[FR Doc. 81-36626 Filed 12-22-81; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. TA-203-12]

Clothespins; Report to the President

December 7, 1981.

To the President:

In accordance with section 203(i)(2) and 203(i)(3) of the Trade Act of 1974 (19 U.S.C. 2253(i)(2) and (i)(3)), the United States International Trade Commission herein reports the results of an investigation concerning clothespins.

Summary of advice of the Commission

Commissioners Alberger, Calhoun, Stern, Eckes, and Frank advise, on the basis of information obtained in the investigation, that the termination or reduction of the import relief presently in effect will have an adverse economic

effect on the domestic industry producing clothespins and that such relief therefore should be extended at the level presently in effect for the full 3-year period allowed.

Background

The Commission instituted this investigation on July 20, 1981, following receipt, on July 10, 1981, of a petition filed on behalf of Diamond International Corp., Forster Manufacturing Co., National Clothespin Co., and Penley Corp. Public notice of the investigation and hearing was given by posting copies of the notice at the office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** of July 29, 1981 (46 FR 38779). A public hearing was held in connection with this investigation on October 5, 1981, in Portland, Maine. All interested persons were afforded an opportunity to be present, to present evidence, and to be heard.

The information in this report was obtained from field work, questionnaires sent to domestic producers and importers, the Commission files, other Government agencies, briefs filed by interested parties, and other

Statement of the Commission

Based on information presented to the Commission in this investigation, it is our judgment that termination or reduction of import relief for spring-type clothespins would have an adverse economic effect on the domestic clothespin industry.[1] We therefore recommend extending this relief at existing levels for an additional 3 years to provide the domestic industry more time to complete its orderly adjustment to import competition.

This advice is based on our assessment of several factors. These include the present condition of the industry, levels and trends of imports during the relief period, the effectiveness of further relief, efforts made by the industry to adjust during the relief period, and the factors set forth in section 202(c) of the Trade Act of 1974.

In essence, the Commission believes that the domestic clothespin industry can become efficient and profitable without the aid of import restraints if temporary protection is extended now to allow the industry to implement fully its adjustment plans.

The product

Import relief covers two categories of clothespins—spring-type clothespins of wood and spring-type clothespins of plastic. It does not cover spring-type clothespins of materials other than wood or plastic or nonspring-type clothespins (such as round-head clothespins).

Imported wooden clothespins are in two sizes, a small clothespin measuring 2⅞ inches in length and a larger "regular-sized" clothespin measuring 3 to 3¼ inches in length. The smaller clothespins are imported primarily from Taiwan and China, and the larger primarily from Poland, West Germany, and other European countries. Plastic clothespins are imported primarily from Taiwan and Hong Kong. The larger European clothespins are considered to be stronger and more durable than those from the Far East and are also considerably more expensive.

Domestic producers manufacture four types of clothespins—spring-type clothespins of wood, spring-type clothespins of plastic, roundhead (or square head) nonspring-type clothespins of wood, and roundhead nonspring-type clothespins of wood that are iron bound. The bulk of domestic production is in the form of spring-type clothespins of wood, which are the second least expensive of the four types. For their principal use the different types of imported and domestic clothespins are functionally interchangeable.

Imports during the relief period

Import relief has been effective. As a result of quantitative restrictions, imports have declined both in absolute terms and relative to U.S. consumption. The share of the U.S. market accounted for by imports declined from an average of 48 percent in 1976–77 to approximately * * * percent during the relief period.[2] Imports of wood spring clothespins exceeded 3 million gross in 1976 and 1977, declined to slightly over 2 million gross in 1978 and fell below 2 million gross as the quota became effective.[3]

The import quotas cover three price categories of clothespins (not over 80 cents per gross, over 80 cents but not over $1.35 per gross, and $1.35 but not over $1.70 per gross) and are on a fiscal-year basis (February 23 to February 22), with quarterly limitations. The quotas limit total imports for the three categories to 2 million gross annually. The quarterly quotas for each of the two lower price categories have been filled in each quarter since the relief went into effect, indicating that imports in those price categories could have been substantially higher in the absence of quotas. Quarterly quotas for the highest price category have been substantially filled in recent quarters.[4]

Taiwan has been the most important supplier of imported wood and plastic spring-type clothespins since 1976. Its share of imports during the relief period ranged from 47 percent in 1978 to 88 percent in 1979, 60 percent in 1980, and 62 percent in January-June 1981. The bulk of the imports from Taiwan enter in the two lower price categories. Imports from the traditional European suppliers of more expensive clothespins declined during the relief period in terms of quantity, value, and share of total imports.

Condition of the domestic industry

With the domestic industry's recapture of a 70 percent share of the U.S. market as a result of the relief, its condition has improved significantly. Production, capacity utilization, and employment have all increased, and the industry, which had operated at a loss in 1978, is once again profitable.

U.S. production of clothespins (including the nonspring types) increased from 4.4 million gross in 1978, the year prior to the imposition of relief, to 4.9 million gross in 1978, before declining slightly to 4.8 million gross in 1980.[5] Production increased from 2.5 million gross in January-June 1980 to 3.1 million gross in January-June 1981, an increase of 29 percent, largely due to a significant increase in spring-type wood clothespin production.[6]

Capacity utilization similarly increased during the period from 59 percent in 1978 to 65 percent in 1979, 64 percent in 1980, 65 percent in January-June 1980, and 84 percent in January-June 1981.[7] Industry capacity remained at a constant 7.5 million gross during the period.[8]

Employment rose irregularly during the relief period. The number of persons employed in producing clothespins rose from 387 in 1978 to 400 in 1979, declined to 388 in 1980, and increased to 427 in January-June 1981. Hours worked followed similar trends.[9] Hourly compensation increased modestly during the period from $4.14 per hour in 1978 to $4.40 per hour in 1979, $4.51 per

[1] The relief presently in effect is that provided for in Presidential Proclamation 4640 of Feb. 23, 1979.

[2] Report, p. A–86

[3] Id., pp. A–19, A–81.

[4] Report, p. A–28.

[5] Id., p. A–32.

[6] Id., pp. A–31 through A–32.

[7] Id., p. A–31. Capacity utilization data are helpful in measuring trends but are not necessarily accurate in measuring actual capacity utilization levels.

[8] Report, p. A–31.

[9] Id., p. A–42.

hour in 1980, and $4.93 per hour in January-June 1981.[10] Labor productivity, as measured in gross per hour, was at its highest level of the period in January-June 1981.[11]

The net operating profit (before income taxes) of wood spring-type clothespin operations of U.S. producers increased substantially from a negative (i.e., loss) of $614,000 in 1978 to a positive $499,000 in 1979 and $1.2 million in 1980.[12] The net profit in January-June 1980 was $487,000, and it increased to $895,000 in January-June 1981.[13] The ratio of net operating profit (before income taxes) to sales increased from a negative 8.2 percent in 1978 to a positive 5.6 percent in 1979, and 10.3 percent in 1980.[14] This ratio increased further from 8.6 percent in January-June 1980 to 12.8 percent in January-June 1981.[15]

In summary, the relevant economic indicators show the industry to be in considerably better condition at the present time than it was in 1978, the year before import relief was proclaimed. This improved condition is primarily the result of import relief.[16] The industry, however, clearly has not yet adjusted to import competition. As discussed more thoroughly below under "Extension of relief," the economic conditions indicating serious injury which existed just prior to the imposition of relief are likely to return quickly if import relief is terminated at this time.

Efforts to adjust

U.S. producers have invested approximately $700,000 in plant and equipment since January 1979.[17] However, this represents only about 20 percent of the domestic industry's total planned adjustment effort. Producers project an additional $3.3 million investment in 1982–84.[18] The magnitude of these investments is significant given the cash-generating capabilities of the industry today.

To date, most of the funds invested have been allocated to modify or repair existing equipment to improve machine efficiency.[19] The current relief period has also been used to develop plans for more substantial changes. There is no machine building industry oriented to the production of clothespins. Therefore, machinery improvements must be self-instituted and implemented by the clothespin producers. Future expenditures would be used to purchase and install new systems and equipment, simplify production methods, and improve productivity.[20] These changes would require several years for further planning and implementation.

If the domestic producers are to compete successfully with imports when restrictions are removed, the margin of import underselling must be reduced.[21] This will not be possible unless domestic industry costs are lowered through improved production methods. Profitability increases realized during import relief have underwritten improvements already made. Unless relief is continued, however, producers may not be willing or able to commit or attract funds for the more substantial changes envisioned.[22]

Reduction of the price differential is only one element in establishing a competitive posture. The domestic industry also reports that it has adopted or is devising new marketing strategies. As part of this effort, firms have improved their sales forces and changed their product mix.[23] Further improvements in this area along with reduction of the margin of import underselling should place the industry in a more competitive position at the end of the 3-year relief extension period.

Extension of relief

We believe relief should be extended for the maximum 3-year period at present levels for three reasons.

First, we believe that any effective long-term adjustment to import competition is contingent upon implementation of the industry's plan to bring on-stream new equipment and production techniques. In the absence of relief, the industry is unlikely to have adequate profits or the ability to attract capital to finance the acquisition of new equipment.[24]

Second, and corollary to the first point, we believe that there would be a substantial increase in clothespin imports, especially of those in the two lower price categories, if import relief were terminated. As noted above, the import quotas for the two lower priced categories have been filled in all of the quarterly periods under the relief program, and the quarterly quotas for the third category have been substantially filled in recent quarters.[25]

Imports exceeded 3 million gross in 1976 and 1977 and thus were more than 50 percent above the present annual quota level of 2 million gross.[26] We have no information that would lead us to believe that foreign producers are not capable of reestablishing the import levels they obtained in 1976 and 1977. In fact, if relief is terminated, imports may exceed the 1976–77 levels. If increases in imports since 1977 from countries included in the 1976 and 1977 figures are added to the 1976 and 1977 totals, one can easily conceive of imports doubling in the absence of quotas.[27]

Taiwan has clearly strengthened its position as a supplier of inexpensive clothespins during the relief period.[28] The largest supplier of imported clothespins since 1976, its 1979 exports to the U.S. market were fully double the 1976 levels. While imports from Taiwan declined in 1980 to 1.16 million gross from the 1979 level of 1.49 million gross, imports in January–June 1981 were running about 44 percent over the January–June 1980 level and, if continued for the duration of 1981, will nearly equal the 1979 level.[29]

China remains an important threat to the domestic industry. Imports from China, which had been nil as late as 1974, rose to 669,000 gross in 1976 before declining to 24,000 gross in 1979 and 48,000 gross in 1980.[30] However, imports from China of 89,000 gross in the first 6 months of 1981 have already exceeded total imports from China for calendar years 1978 and 1979, and China reportedly is committed to exporting several times that amount to the U.S. market in 1982.[31]

---

[10] Id., p. A–47.
[11] Id.
[12] Id., p. A–55.
[13] Id.
[14] Id.
[15] Id. Commissioner Stern points out that financial information is not evaluated in a vacuum. It is assessed in light of all relevant market conditions. For example, in investigation No. TA–203–7 on non-rubber footwear, the improved profitability of the domestic industry indicated some adjustment toward open trading conditions. Improvements in the profitability of footwear producers occurred despite the fact that imports did not decline over the relief period. In contrast, for clothespin producers, profitability rose as import levels fell and most likely reflects the assistance given the industry by the quotas.
[16] Commissioner Frank notes, notwithdtanding the industry's short-term improvement manifested by certain operational and profitability indices, that its overall financial condition remains hampered by an inability to attract outside equity investment and debt capital.
[17] Report, p. A–63.
[18] Id., p. A–65.
[19] Id., pp. A–63, A–115 through A–120.
[20] Id., pp. A–65, A–115 through A–120.
[21] Pricing data are set forth in the report at pp. A–67 through A–81.
[22] Report, p. A–87.
[23] Id., pp. A–63 through A–64.
[24] Id., p. A–87.
[25] Id., p. A–28. Commissioner Frank notes that during most recent 1981–82 quota year (running from Feb. 23, 1981, through Feb. 22, 1982) quarterly quotas for each of the two lower price categories were filled at the opening of each quarter.
[26] Report, pp. A–19 through A–20.
[27] Id., pp. A–81 through A–82.
[28] Id., p. A–82.
[29] Id., pp. A–19 through A–20, A–82.
[30] Id., pp. A–20, A–84.
[31] Id., pp. A–84 through A–85.

Other past significant suppliers such as Poland, Hong Kong, West Germany, Romania, and Czechoslovakia could pose a significant threat to the U.S. industry if they resume exporting to the U.S. market at the levels of the years preceding the imposition of relief.[32] There is also a potential for increased imports from Portugal.[33]

Third, we are convinced that the domestic clothespin industry could be viable, although we believe it is unlikely that its prices will match those of low-valued imports for the foreseeable future.[34, 35] Competition in the clothespin industry encompasses many factors besides price. These include service, quality, delivery, diversified product line, and long-term business relationships.[36] In these areas, the domestic industry often has a comparative advantage over imports.

Reduction of relief

In instituting the investigation under section 203(i)(2) as well as section 203(i)(3), the Commission indicated it would consider reduction of relief as an alternative to termination or full extension. Since apparent consumption of clothespins is relatively constant at 6.0 to 6.5 million gross a year, any reduction in import relief will most likely result in significantly increased market penetration by imports with a concomitant decrease in domestic market share.[37] As we have already indicated above (under extension of relief), a decline in market share would jeopardize the industry's impressive adjustment efforts planned for the next 3 years. We therefore advise against any reduction of relief.

We note that inflation is reducing the effective protection provided in the quota categories.[38] The extent of inflation-induced reduction cannot be quantified.[39] However, the large increases in imports in the $1.35–$1.70 per gross quota category and in imports outside the quota over the relief period indicate that this effect is occurring.

Recognizing that relief is already being phased down over time as a result of inflation, we advise against any further reduction. Possible actions that could reduce the effect of relief include: (1) increasing the size of the quota; (2) eliminating or reallocating the value categories; (3) substituting an annual for a quarterly restriction; or (4) exempting a product now covered by the quota, such as plastic clothespins.

Increasing the size of the quota obviously would increase the flow of imports and harm the domestic adjustment program.[40] These negative effects need no further explanation, but the other options warrant discussion. The second option, eliminating or reallocating the value categories, would result in increased imports of lower valued clothespins, the very ones that create the most competition for U.S. producers.[41] The third option, eliminating the quarterly provision, would put increasing downward price pressure on both domestic and imported clothespins of lower value during the peak selling season and would increase the volume of imported clothespins available at that time.[42] It would have no effect on the total annual volume of imports of clothespins valued under $1.35 per gross but possibly could lead to an increase in imports of clothespins valued at $1.35–$1.70 per gross.[43]

The fourth option, exempting plastic clothespins from relief, is the most difficult to assess.[44] Shipments of plastic clothespins comprise only a small volume of total industry shipments. However, planned adjustment efforts will increase domestic industry competitiveness in this market and import penetration is still quite high. Imports of plastic clothespins under the lower two quota categories have been limited,[45] and the third category has not had a restraining effect on imports. Information is not presently available concerning the potential of foreign producers to supply plastic clothespins at low prices. The extent to which plastic clothespins compete with wood clothespins also has not been documented. Domestic producers have stated that wood and plastic clothespins are often sold as companion products, leading to the conclusion that removing plastic clothespins from the quota would result in lost sales of both wood and plastic clothespins. Some producers have reported that plastic clothespins are an important part of their profit picture, although separate profitability data for plastic clothespins were not available. Since higher value plastic clothespins are not specifically limited by the quota and inflation causes an increasing number of plastic clothespin imports to fall outside the quotas, we have concluded that an exemption for plastic clothespins, while providing little additional benefit to U.S. consumers, could jeopardize the industry's adjustment plans.

Section 202(c) considerations

We have examined the considerations set forth in section 202(c) of the Trade Act and our detailed findings with respect to each of the nine considerations are set forth in the attached report.[46] In those findings, we conclude that the relief has been very effective in limiting imports, and that relief has had a minimal effect on consumers.[47] Also, because of the concentration of domestic production in four small towns in Maine and two in Vermont, we conclude that termination or reduction of relief could have a significant adverse impact on the communities involved.[48] We also noted that several of the largest exporters to the U.S. market are not signatories to the GATT and that there have been no requests for compensation under Article XIX of the GATT.[49]

Conclusion

Based on the information before us, the Commission advises that relief be extended at present levels for 3 years. The domestic industry needs additional time in which to complete its adjustment process. Termination or reduction in relief at this time is likely to lead to a large increase in imports. This result would seriously undermine the adjustment effort.

By Order of the Commission.

Issued: December 7, 1981.

Kenneth R. Mason,

Secretary.

[FR Doc. 81-36630 Filed 12-22-81: 8:45 am]

BILLING CODE 7020-02-M

[32] Id., p. A-85.

[33] Id.

[34] During the last few years the domestic firm that gained significant market share in wood spring clothespins advanced its delivered prices on these clothespins faster than any of the other three producers. This company has increased its sales despite the fact that its prices were frequently higher than those of its competitors. Report, p. A-89.

[35] Commissioner Frank believes, in the absence of detailed comparative production and other relevant cost data between such imported and domestic products and despite oft-recognized labor cost advantage held by certain imported products, such a view on future price differential patterns cannot be made with sufficient assurance at this time.

[36] See generally, report, pp. A-4 through A-5, A-7 through A-11.

[37] Report, p. A-86.

[38] Id., p. A-93.

[39] Id., pp. A-93 through A-94.

[40] Id., p. A-91.

[41] Id.

[42] Id., pp. A-91 through A-92.

[43] Id., p. A-92.

[44] Id., pp. A-92 through A-93.

[45] These quotas have been predominantly filled by wood clothespins, leaving little access for plastic clothespins.

[46] Report, pp. A-94 through A-99.

[47] Id., pp. A-95 through A-97.

[48] Id., pp. A-98 through A-99.

[49] Id., pp. A-97 through A-98.

[Investigation No. 337-TA-3]

Doxycycline; Motion To Modify Exclusion Order

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received a motion to modify the exclusion order issued at the conclusion of the above-captioned investigation. In conformity with § 211.57 of the Commission's Rules of Practice and Procedure (46 FR 17533, Mar. 18, 1981), the motion and this notice will be served on each former party to the investigation. Within 30 days of such service, any former party served may file an answer to the motion.

DATE: Answers to the motion will be considered if received within 30 days of service upon the former party. Answers should conform with § 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8), and should be addressed to Kenneth R. Mason, Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436.

SUPPLEMENTARY INFORMATION: On April 12, 1979, the Commission issued an order excluding the importation into the United States of doxycycline falling within claim 10 of U.S. Letters Patent 3,200,149 for the remaining term of the patent except under license. That order is now in force.

On November 5, 1981, Danbury Pharmacal, Inc., a former respondent in doxycycline investigation, filed a motion with the Commission seeking modification of the doxycycline exclusion order to permit the importation of small quantities of doxycycline to be used for testing or research purposes required to obtain Food and Drug Administration certification under 21 U.S.C. 357, and not for sale to the consuming public.

FOR FURTHER INFORMATION CONTACT: Lairold M. Street, Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436; telephone 202-523-3395.

By order of the Commission.

Issued: December 16, 1981.

Kenneth R. Mason,

Secretary.

[FR Doc. 81-36627 Filed 12-22-81; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-101]

Certain Hot Air Corn Poppers and Components Thereof; Settlement Agreements, Recommended Termination, and Request for Public Comments

AGENCY: U.S. International Trade Commission.

ACTION: Notice of settlement agreements and request for public comments on the recommended termination of certain parties as respondents to the investigation.

SUMMARY: Notice is hereby given that the presiding officer in this investigation has issued an order recommending that the Commission grant a joint motion by the complainant and certain respondents to terminate the investigation with respect to those respondents on the basis of settlement agreements entered into by the parties. Before taking final action on the motion, the Commission seeks written comments on the proposed termination from interested members of the public.

DEADLINE: All comments must be received on or before January 22, 1982.

SUPPLEMENTARY INFORMATION: The Commission is conducting investigation No. 337-TA-101 to determine whether there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States of certain hot air corn poppers and components thereof, or in the sale of such articles, which are alleged to infringe claims 1, 2, 3, and 5 of U.S. Letters Patent 4,178,843, the effect or tendency of which to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

On October 13, 1981, the complainant, Wear-Ever Aluminum, Inc., and respondents General Electric Co. (G.E.), K Mart Corp. (K Mart), and the Stop & Shop Companies, Inc. (Stop & Shop) filed a joint motion (Motion No. 101-19) to terminate the investigation with respect to those respondents under the provisions of § 210.51 of the Commission's Rules of Practice and Procedure (19 CFR 210.51). The grounds for the proposed termination are settlement agreements between the complainant and each of the respondents named above. The motion was supported by the Commission investigative attorney and opposed by respondent Sunbeam Corp. On November 19, 1981, the presiding officer issued an order recommending that Motion No. 101-19 be granted. The settlement agreements and the proposed termination are now before the Commission for final action.

The substantive provisions of the settlement agreement between Wear-Ever and G.E. are as follows:

1. G.E. warrants that (a) it ceased importing the accused corn poppers prior to the institution of the investigation, (b) it has not, since such time, placed any purchase orders for the importation of additional accused corn poppers, and (c) the total number of accused corn poppers imported by G.E. has not exceeded the amount reported to the complainant.

2. G.E. will not hereafter import, cause to be imported, purchase, sell, give, own, or consign additional units of the accused corn poppers, except pursuant to a duly granted license under U.S. Letters Patent 4,178,843.

3. G.E. will not hereafter import, cause to be imported, purchase, sell, give, own, or consign any device which infringes the subject patent or any component thereof which constitutes a material part of the invention claimed in the patent and is not a staple article or commodity of commerce.

4. G.E. admits that U.S. Letters Patent 4,178,843 is valid and enforceable.

5. The entire stock of accused corn poppers in the possession of or under the control of G.E. or its customers, K Mart and Stop & Shop, as of July 1, 1981, may be disposed of (by way of sale or otherwise) by G.E. or the said customers for and in consideration of each of the covenants contained in the agreement by G.E. and upon the payment of a certain sum to Wear-Ever within 10 days of the date of the agreement. The right to dispose of the accused corn poppers shall survive the termination of proceedings in the investigation, and any appeals thereof, including the issuance of an exclusion order at the conclusion of lthe investigation.

6. The parties to the agreement agree that the payment provided for in paragraph 5 above does not constitute and shall not be construed as a payment for royalty for a license under U.S. Letters Patent 4,178,843. Further, no license under that patent is granted to G.E. under the agreement.

7. With respect to the accused corn poppers which are subject to, or disposed of in conformity with, the terms and conditions of the agreement, Wear-Ever releases and discharges G.E., together with its officers, directors, agents, employees, purchasers, customers, successors, and assigns, from all causes of action and claims for damage that Wear-Ever may have against them relating to unfair methods of competition and unfair acts or any

other matter—including, without limitation, patent infringement—arising out of the importation, use, or sale of the accused corn poppers. The foregoing release and discharge may be extended to respondent Yamada Electric Industries, Ltd., to the extent that Yamada has made the accused corn poppers for G.E., at the option of Yamada and upon express acceptance by Yamada. The release and discharge also may be extended to respondent Maxim Associates Corp., to the extent that Maxim has any connection with the corn poppers made by Yamada for G.E., at the option of Maxim, upon express acceptance by Maxim. Acceptance by Yamada or by Maxim shall operate to extend the release and discharge only to those respective companies with respect to the corn poppers sold to G.E., and shall not constitute any admission by the acceptor with respect to either U.S. Letters Patent 4,178,843 or the accused corn poppers.

8. G.E. agrees to give Wear-Ever reasonable notice, not less than 4 months, of its intent to import hot air corn poppers, or components thereof, that are not staple articles or commodities of commerce. During the 4-month period, Wear-Ever and G.E. agree to exert their best efforts to resolve any issues relating to such importation, including any issue of alleged infringement of the subject patent by the proposed imported products. Further, in any further proceedings before any tribunal, the burden of establishing infringement with respect to any product made, sold, or imported by or on behalf of G.E. shall remain on Wear-Ever or the owner of U.S. Letters Patent 4,178,843.

9. G.E. and Wear-Ever agree that the agreement shall be binding upon and inure to the benefit of Wear-Ever and G.E., their respective officers, directors, agents, successors, and assigns, and all persons acting by, through, under, or in active concert or participation with them.

10. The obligation of G.E. under paragraphs 2, 3, 4, and 8 above shall cease upon any determination by the International Trade Commission or any final determination by any United States court of competent jurisdiction that U.S. Letters Patent 4,178,843 is invalid or unenforceable.

11. The agreement shall be considered as a contract made by and under the laws of the State of Ohio.

The substantive provisions of the settlement agreements between Wear-Ever and K Mart and between Wear-Ever and Stop & Shop are as follows:

1. K Mart and Stop & Shop warrant that (a) they did not import the accused corn poppers prior to the institution of the investigation, (b) they have not, since such time, placed any purchase orders for the importation of additional accused corn poppers, and (c) they have only purchased the accused corn poppers from G.E.

2. K Mart and Stop & Shop will not hereafter import, or cause to be imported, said accused corn poppers. Nothing in the agreements shall prohibit K Mart and Stop & Shop from selling or otherwise disposing of all imported accused corn poppers presently in inventory, the quantities of which have been disclosed to Wear-Ever by G.E. and may be disposed of pursuant to and in compliance with the written agreement between Wear-Ever and G.E.

3. K Mart and Stop & Shop will not hereafter import, or cause to be imported, any device adjudicated to be an infringement of U.S. Letters Patent 4,178,843, or component thereof which constitutes a material part of the invention claimed therein and is not a staple article or commodity of commerce, provided such adjudication is by the Commission or by any final determination of any United States court of competent jurisdiction. Furthermore, Wear-Ever shall have notified K Mart and Stop & Shop of any such adjudication prior to the time K Mart and Stop & Shop imported or caused to be imported that device.

4. No license under U.S. Letters Patent 4,178,843 is granted to K Mart or to Stop & Shop under the agreements.

5. With respect to the accused corn poppers which are subject to or disposed of in conformity with the agreements, Wear-Ever releases and discharges K Mart and Stop & Shop, only to the extent that they have sold accused corn poppers purchased from G.E., together with their officers, directors, agents, employees, purchasers, customers, successors, and assigns from all causes of action and claims for damage that Wear-Ever may have against them relating to unfair methods of competition and unfair acts arising out of the importation, use, or sale of the accused corn poppers. Wear-Ever also agrees to take no action against K Mart and Stop & Shop—only to the extent that K Mart and Stop & Shop have sold accused corn poppers purchased from G.E.—together with their officers, directors, agents, employees, purchasers, customers, successors, and assigns by reason of any prior use or sale of the accused corn poppers which were imported into the United States prior to the date of the investigation.

6. K Mart, Stop & Shop, and Wear-Ever agree that the agreements shall be binding upon and inure to the benefit of Wear-Ever, K Mart, and Stop & Shop, and all persons acting by, through, under, or in active concern or participation with them.

7. The agreements shall be considered as contracts made by and under the laws of the State of Ohio.

The settlement agreements (except for confidential business information contained therein) are available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202–523–0471.

All comments must conform to the requirements of § 201.8 of the Commission's rules (19 CFR 201.8) and must be addressed to the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

FOR FURTHER INFORMATION CONTACT:

P. N. Smithey, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Room 224, Washington, D.C. 20436, telephone 202–523–0350.

By order of the Commission.

Issued: December 17, 1981.

Kenneth R. Mason,

Secretary.

[FR Doc. 81-36625 Filed 12-22-81; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337–TA–111]

Certain Vacuum Cleaner Brush Rollers; Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on October 23, 1981, amended on November 5, 1981, and December 3, 1981 under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of The Scott & Fetzer Co., 14600 Detroit Ave., Lakewood, Ohio 44107. The amended complaint (hereinafter the complaint) alleges unfair methods of competition and unfair acts in the importation of certain vaccum cleaner brush rollers into the United States, or in their sale, by reason of the alleged infringement by said brush rollers of the claims of U.S. Letters Patent 3,367,728. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry,

efficiently and economically operated, in the United States.

The complainant requests that, after a full investigation, the Commission issue both an order excluding said articles from entry into the United States and an order directing respondents to cease and desist from engaging in said unfair acts.

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure.

SCOPE OF THE INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on December 10, 1981, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unauthorized importation of certain vaccuum cleaner brush rollers into the United States, or in their sale, by reason of the alleged infringement by said brush rollers of the claims of U.S. Letters Patent 3,367,728, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—The Scott & Fetzer Co., 14600 Detroit Ave., Lakewood, Ohio 44107.

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Hornleon Co., Ltd., P.O. Box 67–327, 11F, 150 Chi Lin Road, Taipei 104, Taiwan

Vacuum Parts Unlimited, Inc., 1403 Cherry Ave., Long Beach, CA 90813

(c) John Milo Bryant, Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good and sufficient cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both a recommended determination and a final determiation containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official working hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretay, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: John Milo Bryant, Unfair Import Investigations Division, U.S. International Trade Commission, telephone 202–523–0419.

By order of the Commission.

Issued: December 15, 1981.

Kenneth R. Mason,

Secretary.

[FR Doc. 81-36624 Filed 12-22-81; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 701-TA-82 (Preliminary)]

Hard-Smoked Herring Filets From Canada

Determination

On the basis of the record developed in investigation No. 701–TA–82 (Preliminary), the Commission determines that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports from Canada of hard-smoked herring filets, provided for under item 111.80 of the Tariff Schedules of the United States, which are allegedly being subsidized by the Canadian Government.[1]

Background

On November 2, 1981, the McCurdy Fish Co., Lubec, Maine, filed a petition with the U.S. International Trade Commission and the U.S. Department of Commerce (Commerce) alleging that the Canadian Government is providing subsidies for the processing of hard-smoked herring filets and that, by reason of imports of this allegedly subsidized product, an industry in the United States is being materially injured or threatened with material injury.[2] Accordingly, on November 17, 1981, the Commission instituted a preliminary countervailing duty investigation (No. 701–TA–82) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b). Notice of the institution of the Commission's investigation was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** on November 20, 1981 (46 FR 57144). A public conference was held in Washington, D.C., on November 30, 1981, at which all interested persons were afforded the opportunity to present information for consideration by the Commission.

Views of Chairman Alberger, Vice Chairman Calhoun, and Commissioners Stern and Eckes

Introduction

After considering all the available information, we conclude that there is no basis for continuing this investigation. Factors bearing on this decision include the current economic condition of the domestic hard-smoked herring filet industry, historic pattern of import penetration, and our assessment of recent marketing conditions.

Domestic industry

Section 771(4)(A) of the Tariff Act of 1930 defines the term "industry" as the "domestic producers as a whole of a like product or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product."[3] "Like product" is defined as a product which is like, or in the absence of like, most similar in characteristics and uses with, the article under investigation.[4]

The imported products which are the subject of this investigation are hard-

---

[1] Commissioner Frank determines that there is a reasonable indication of threat of material injury to the domestic industry by reason of these imports.

[2] McCurdy Fish Co. had previously filed a petition with the Commission and Commerce on September 30, 1981. The Commission instituted a preliminary countervailing duty investigation on October 2, 1981. After Commerce found that the information furnished in support of the alleged subsidies was insufficient, the McCurdy Fish Co. withdrew its petition, and the Commission terminated that investigation (No. 701–TA–81).

[3] Section 771(4)(A) of the Tariff Act of 1930.

[4] Section 771(10).

smoked herring filets[5] from Canada. Hard-smoking is a method of preserving and flavoring herring before consumption. The herring are immersed in a salt brine and then smoked for 4 to 6 weeks. The process gives the herring a distinct taste and reduces the need for refrigeration. After hard-smoking, the fish's head, tail, vital organs, backbone, and skin can be removed. The remaining halves are called filets. Herring is the only type of hard-smoked fish imported or produced in the United States.

Only one company produces hard-smoked herring filets in the United States. U.S. companies also produce "smoked" fish, but "smoking" is a different process, producing a smoke-flavored rather than smoke-cured product. Smoked herring has a relatively short preparation time and is much more perishable than hard-smoked fish.[6]

Therefore, we conclude that the only product like the imported product is hard-smoked herring filets and that the domestic industry consists of the only U.S. producer—the petitioner, the McCurdy Fish Company.

No Resonable Indication of Material Injury by Reason of Imports

Section 771(7) of the act directs the Commission to consider, among other factors, (1) the volume of imports of the merchandise under investigation, (2) their impact on domestic prices, and (3) the consequent impact on the domestic industry.[7]

Imports. For many years the 40 Canadian producers of hard-smoked herring filets have been a dominant factor in the U.S. market. During the period of this investigation, the volume of imports from Canada varied from 594,644 lbs. in 1978 to 1,019,449 lbs. in 1979, 693,350 lbs. in 1980, and 622,212 lbs. in the first nine months of 1981.[8] Canadian import market penetration also has shown no particular trend since 1978, moving from 74.9 percent in that year to 84.5 percent in 1979, 77.9 percent in 1980, and 84.2 percent in January–September 1981.[9]

Effect on domestic prices. From January 1979 to January 1981, the price of hard-smoked herring filets rose steadily, primarily due to shortages of fresh herring. From January to September 1981, producers' prices declined by 12 percent.[10] This decline was triggered by the buying practices of one large buyer in the New York area.[11] Since July of 1981, prices have increased again.

No precise price comparisons can be made between the U.S. and Canadian-produced product because prices change frequently in this industry and price information provided to the Commission on U.S. prices by importers is not complete as that provided by the petitioner. From 1978 to 1980 there were no reported incidents of price cutting attributable to imports from Canada. The 1981 buying practices of the New York purchaser, mentioned above, caused other New York area buyers to demand similar low prices for hard-smoked herring filets in order to remain competitive. This caused price reductions in the entire marketing area for both the domestic and Canadian producers. This situation appears to have reversed.[12]

Condition of the industry. Economic data indicate that the domestic industry is currently in good health. The petitioner's net sales increased by almost 50 percent from 1978 to 1980, and net operating profits doubled during the same period. Although reported on a calendar year basis, McCurdy estimates that its profits will remain at its 1980 level at least through September 1981.[13]

Domestic shipments were equal to production during the investigation period, dropping about 5 percent in 1979 and then holding relatively steady. In terms of value, however, shipments increased by nearly half between 1978 and 1980, and rose again in January–September 1981. As a result of this value increase, the shipment decrease in 1979 was not reflected in the profitably figures, which showed a significant increase in the ratio of net operating profit to new sales for that year.[14]

The 1980 data are surprising in that production, shipments and profits remained at approximately 1979 levels, despite a 26 percent drop in apparent U.S. consumption. (Consumption rose again in the first nine months of 1981, 19 percent over the comparable 1980 period.)[15]

Slight declines in production and shipments in January–September 1981 were in part the result of a raw herring shortage in September. This also affected the otherwise high capacity utilization figures, which declined 1.5 percent in that period after a 5 percent drop from 1978 to 1980.[16]

Employment levels also were affected by the shortage. Prior to 1981, however, the seasonal pattern of employment in the industry did not vary from year to year, and easing of the shortage has returned employment levels to normal.[17]

No Reasonable Indication of Threat of Material Injury

Congress directs that a Commission determination that a domestic industry is threatened with material injury "shall be based upon evidence showing that the threat is real and imminent and not upon mere supposition or conjecture."[18] The record in this investigation does not support such a determination.

Canadian producers are, like McCurdy Fish Co., small operations. They too are vulnerable to forces outside their control such as weather and fish availability. They purchase their fish from many of the same sources as the petitioner and are subject to the same shifts in the price of fresh fish. Canadian producers have for many years prior to 1978 supplied the bulk of U.S. consumption of hard-smoked herring filets, and there is no indication of any move to capture the rest of the U.S. market.

In our view, it is particularly significant that the recent narrow fluctuations in import share and price pressures did not adversely affect the domestic industry. To the contrary, the petitioner indicated that domestic profits which doubled from 1978–80 have been maintained in 1981. Though inherently vulnerable, the petitioner's position does not appear to be so precarious as to be materially affected by small fluctuations in imports or short periods of price competition.

Conclusion

All of the information available to the Commission indicates that petitioner's profits have increased substantially during the period investigated, despite both a decline in production and shipments and a temporary decline in prices during 1981. Accordingly, there is not reasonable indication that the industry is materially injured. Moreover, there is not information to reasonably indicate that a threat of material injury is imminent.

---

[5] "Fillets" and "filets" are different terms for the same product. The domestic industry, however, calls its product "filets" and we have adopted its terminology.

[6] Staff Report at A–3.

[7] Specific company-related data are confidential and cannot be discussed in this public document.

[8] Staff Report at A–3.

[9] *Id.* at A14.

[10] *Id.* at A–16.

[11] The petitioner, however, was able to maintain his profit margin during this decline because the price of fresh herring, which accounts for nearly a third of the cost of production of hard-smoked herring, also fell.

[12] Staff Report at A–12 and A–15 and A–16.

[13] *Id.* at A–10.

[14] *Id.* at A–11.

[15] *Id.* at A–14.

[16] *Id.* at A–8.

[17] *Id.* at A–9.

[18] House Rep. No. 96–317, 96th Cong., 1st Sess. at 47.

Views of Commissioner Frank

On the basis of the record developed in Investigation No. 701–TA–82 (Preliminary), I determine that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports from Canada of hard-smoked herring filets, provided for in item 111.80 of the Tariff Schedules of the United States, which are allegedly being subsidized by Canada.

Domestic industry

Section 771(4)(A) of the Tariff Act of 1930 defines the term "industry" as the "domestic producers as a whole of a like product or those producers whose collective output of the like product constitutes a major proporation of the total domestic production of that product."[19] "Like product" is defined as a product which is like, or in the absence of like, most similar in characteristics and uses with, the article under investigation.[20]

The imported products which are the subject of this investigation are hard-smoked herring filets [21] from Canada.

Hard-smoking is a method of preserving and flavoring herring before consumption. In the process of hard-smoking, the herring are immersed for 4 to 6 days in a salt brine, after which they are smoked in an enclosure for 4 to 6 weeks at room temperature. The process gives the herring a distinct salt-smoked taste and also reduces the need for refrigeration.

After hard-smoking, the herring can be fileted, that is, the fish's head, tail, vital organs, backbone, and skin can be removed. The remaining two halves of the fish are the filets.

One company produces hard-smoked herring in the United States. U.S. companies also produce "smoked" fish, but "smoking" is a different process from "hard-smoked" because a smoked fish is smoke flavored as opposed to a hard-smoked fish which is smoke cured. Smoking is also secondary to the processing, not primary. Unlike a hard-smoked herring which has been immersed in salt brine for 4 to 6 days and then cured by smoking for 4 to 6 weeks, a smoked herring has been prepared for 4 to 6 hours in ovens at 250 degrees and subjected to smoke while heating. A hard-smoked herring is salted, dehydrated, tough in consistency, and can be preserved with little refrigeration. A smoked herring is unseasoned, moist, brittle and perishable. Smoked herring will not keep indefinitely unless sealed in airtight containers.

Because of these differences, a smoked herring is not like a hard-smoking herring. Herring, moreover, is the only type of fish produced or imported into the United States that is hard-smoked. We, therefore, conclude that the only product like the imported product is hard-smoked herring.

The domestic industry, therefore, consists of the only producer of hard-smoked herring in the United States—the petitioner, the McCurdy Fish Company.

Conditions of the U.S. industry

The petitioner, the McCurdy Fish Company, Lubec, Maine, accounts for all the hard-smoked herring produced in the United States. Annual U.S. production of hard-smoked herring filets declined by 5.2 percent from 1978 to 1980, and declined further in January–September 1981, relative to the comparable 1980 record by 1.7 percent, although the latter decline was attributed mainly to difficulties in obtaining fresh herring for processing. Inventories were negligible or shipments were approximately the same as production during the period.[22] Likewise, industry capacity utilization showed substantial reduction during this period. These trends occurred during a period when apparent domestic consumption increased irregularly both in terms of quantity and value and from January–September 1980 to the comparable period of 1981 and apparent domestic consumption evidenced marked increases in quantity and value of 19 percent and 15 percent, respectively.[23] This is reflective of increased import penetration discussed later herein.

Employment data from 1978 to July of 1981 showed little change and continued to reflect the seaonal nature of the industry, although there was a marked drop-off in the following two months, attributed to lack of fresh herring available. Employment has since returned to normal levels since the arrival of fresh herring in late October. Total hours worked followed a similar trend and the hours worked per employee showed no change during the period.

The financial performance of the industry from the standpoint of sales, gross and net operating profit, reflected steady improvement during the 1978 through 1980 period for which quantitative financial information was available, and it is estimated that in 1981, at least through September, the industry was as profitable as in 1980.[24] However, this financial picture should be viewed in a proper perspective. Due to the relatively low capital intensiveness and concomitant fixed costs, the nature of labor and othe cost inputs such as recent lower costs for fresh herring affecting gross margins, the industry was able to adjust financially to reduced operating capacity rates and lower prices for hard-smoked herring in 1981. There is no assurance such a propitious scenario will reoccur in the future, however, should prices evidence a decline similar to 1981. Further, the industry's financial position should be viewed in the context of its relatively minor position in the U.S. market (it does not export) vis-a-vis particularly the Canadian imports and increased Canadian import penetration.

The domestic industry's condition, considering the size and scope of its operations relative to high levels of imports, and notwithstanding somewhat stable employment, trends, and slightly improved financial position, while not demonstrating reasonable indication of injury at present, causally linked to imports, shows, however, a reasonable indication of substantial susceptibility to import related injury.

Reasonable Indication of Threat of Material Injury

As the Senate Finance Committee report in the Trade Agreements Act of 1979 makes clear, an affirmative finding in the question of threat of material injury "must be based upon information showing that the threat is real and injury is imminent, not a mere supposition or conjecture." (S. Report 96–249, 96th Cong., 1st Session (1979) at 88–89.)

Since 1978, Canada has accounted for no less than 97 percent of U.S. imports of hard-smoked herring filets. U.S. imports from Canada increased irregularly over the period: over 70% from 1978 to 1979; down 32 percent in 1980; up 26 percent in the January–September 1981 period relative to the comparable 1980 period.[25] Although imports from Canada increased in 1981 from 1980, average unit values declined somewhat.[26] As a share of irregularly increasing domestic consumption, imports from Canada also registered substantial albeit irregular increases: increasing from 74.9 percent in 1978 to 84.5 percent in 1979; declining to 77.9

[19] Section 771(4)(A) of the Tariff Act of 1930.
[20] Section 771(10).
[21] "Fillets" and "filets" are different terms for the same product. The domestic industry, however, calls its product "filets" and we have adopted its terminology.
[22] Staff Report at A–9.
[23] *Id.* at A–14.
[24] *Id.* at A–10.
[25] *Id.* at A–7.
[26] *Id.*

percent in 1980; increasing in the January–September 1980–January–September 1981 period from 79.9 percent to 84.2 percent. Imports from other sources were relatively negligible compared to Canadian levels of penetration.[27]

Although in the preliminary investigation data on shipments, exports, capacity, and planned changes in capacity for the Canadian producers was not available, information on import penetration obtained to date and overall shipments to the U.S. market show without a doubt an increasing dominance in market presence over the domestic industry even assuming 100 percent domestic capacity utilization—for 1980 for example reflecting over 3 times domestic capacity.[28]

Notwithstanding the industry's continued profitability through September 1981, there appear certain elements in the market which may adversely affect its future performance. In New York where traditionally much of the industry's product has been sold, the effect of imports from Canada purchased by one large importer was to reduce prices substantially between January and May of this year. Prices declined in other markets also, although less severely.[29] As stated earlier, reduced average cost of fresh herring during this period mitigated this price decline and thus the industry's profitability was not adversely affected. However, fresh herring costs in October and November have risen substantially. In February of this year, at least one of petitioner's shipments (representing over 8% of its 1980 shipments) was rejected in favor of the Canadian product by a major purchaser for the sole reason of price.[30] Although no precise price comparisons of Canadian-produced filets can be made with the domestic industry, pricing patterns show mixed results in comparability that call for further inquiry. Although Canadian producers' net prices were approximately consistent with the domestic industry from January 1979 to January 1981, after January 1981 prices for the Canadian product fell in line with the domestic industry except in New York where the price fell more rapidly and to a lower level.[31] There appears to be indication of concentrated buying power exercised by a major import/buyer in the New York area, causing a general price decline throughout the Atlantic seaboard that is thought to explain this trend. Since July prices have again increased.[32] Yet it must be stated the Canadians' apparent acquiescence to this import-buyer dominance evidently exacerbated the general price decline in view of their high penetration already obtained in the U.S. market. Although prices have again increased since July, many importers report that Canadian producers' prices are currently about 10 percent below McCurdy's.[33]

Thus, despite conflicting signals derived from the pricing data obtained to date in this preliminary investigation, I am of the view that there appears to be a reasonable indication of potential price depression and distortion due to Canadian imports which warrants further investigation, that is further underscored by the massive and increasing presence of such imports in the U.S. market today.

Conclusion

The domestic industry, despite certain modest indications of financial health and stable employment, is in a fragile position relative to Canadian imports. The size and scope of the domestic industry's operations make the sole U.S. producer particularly vulnerable to variations in income, notwithstanding relatively low fixed costs. Canadian imports, previously having captured a significant share of the U.S. market, have continued to increase their penetration into the U.S. market. The dynamics of pricing patterns between domestic and Canadian imported products show reasonable indication of a potential further price depressive effect of imports on the domestic product. With possible onset of further concentrated buying power exercised by dominant importers/buyers in the New York area as long as a competitive product from Canada is available, future price depressive and suppressive actions may ensue to the detriment of the sole domestic producer. There is also testimony of significant general overall underselling by Canadian imports which warrants further scrutiny. The industry's profitability in 1981 was not adversely affected due to such trends primarily because while prices for the finished product declined, the cost of fresh herring—a substantial production cost factor—also declined. It is not likely such a coincidence would continue to occur in the future.

Therefore, in view of the above, I have determined that there is a reasonable indication of threat of material injury to the domestic hard-smoked herring filet industry be reason of imports of Canadian hard-smoked herring filets.

By order of the Commission.

Issued: January 17, 1981.

Kenneth R. Mason,

Secretary.

[FR Doc. 81-36823 Filed 12-22-81; 8:45 am]

BILLING CODE 7020-02-M

[27] *Id.* at A–14.
[28] *Id.* at A–8 and A–14.
[29] *Id.* at A–12.
[30] *Id.* at A–13.
[31] *Id.* at A–15.
[32] *Id.*
[33] *Id.*

[Investigation No. 751–TA–5]

Salmon Gill Fish Netting of Manmade Fibers From Japan; Public Hearing and Extension of Deadline for Completion of Investigation

AGENCY: United States International Trade Commission.

ACTION: Scheduling of public hearing and extension of deadline for completion of investigation No. 751–TA–5, Salmon gill fish netting of manmade fibers from Japan.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission will conduct a public hearing in connection with the subject investigation. The hearing will be held on February 16, 1982 in Portland, Oregon. The Commission also gives notice that it has waived the 120 day limit for completion of this investigation. The new administrative deadline for completion is March 31, 1982.

EFFECTIVE DATE: December 11, 1981.

SUPPLEMENTARY INFORMATION: On November 18, 1981, the Commission received a request to waive the 120 day time limit for completion of the subject investigation upon the condition that a public hearing be held in Portland, Oregon or Seattle, Washington subsequent to December 1981. On November 24, 1981, the Commission voted to postpone the December 17, 1981 hearing scheduled to be held in Washington, D.C. (46 FR 58618). Since salmon fishing is centered in the rivers and offshore waters of the Pacific Northwest the majority of importers and users of salmon gill fish netting are located in that area. A public hearing in Portland will provide these groups with the opportunity to present oral testimony to the Commission.

Written submissions.—Any person may submit to the Commission on or before February 24, 1982, written statements of information pertinent to the subject matter of the investigation. A signed original and nineteen true copies of such statements must be submitted in accordance with § 201.8 of the Commission's Rules of Practice and Procedure, 19 CFR 201.8 (1980).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately and each sheet must be clearly marked at the top "Confidential business data." Confidential submissions must conform with the requirements of § 201.6 of the Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except confidential business data, will be available for public inspection. A staff report containing preliminary findings of fact will be available to all interested parties on January 26, 1982.

Public hearing.—The Commission will hold a public hearing in connection with this investigation on February 16, 1982, beginning at 10:00 a.m., p.s.t., in room 223 of the New Federal Building, 1220 South West 3rd Street, Portland, Oregon. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m., e.s.t.) on January 29, 1982. All persons desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 2:00 p.m., e.s.t., on February 2, 1982, in Room 117 of the U.S. International Trade Commission Building and must file prehearing statements on or before February 10, 1982. For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subpart C (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

The Commission has waived Commission rule § 201.12(d), "Submission of prepared statements," in connection with this investigation. This rule states that "Copies of witnesses prepared statements should be filed with the Office of the Secretary of the Commission not later than 3 business days prior to the hearing and submission of such statements shall comply with §§ 201.6 and 201.8 of this subpart". It is nevertheless the Commission's request that parties submit copies of witnesses prepared testimony as early as practicable before the hearing in order to permit Commission review.

FOR FURTHER INFORMATION CONTACT: Daniel Leahy, investigator, Office of Investigations, U.S. International Trade Commission, (202) 523–1369 or Jane Albrecht, attorney, Office of the General Counsel, U.S. International Trade Commission, (202) 523–1627.

By Order of the Commission.

Issued: December 14, 1981.

Kenneth R. Mason,

Secretary.

[FR Doc. 81-36629 Filed 12-22-81; 8:45 am]

BILLING CODE 7020-02-M

[332-133]

Trends in International Trade in Printed Circuit Boards and Base Material Laminates

AGENCY: United States International Trade Commission.

ACTION: Following receipt on November 18, 1981, of a request from the Chairman of the Subcommittee on Trade of the Committee on Ways and Means of the U.S. House of Representatives, the Commission, on its own motion, instituted investigation No. 332–133 under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), for the purpose of gathering and presenting information on trends in international trade in printed circuit boards and base material laminates and the factors affecting the competitiveness of U.S. producers of such products. This study will present a profile of the United States market and industry, and to the extent possible, the Canadian, European, and Japanese markets and industries and their comparative technical and economic strengths.

EFFECTIVE DATE: December 10, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Nelson Hogge or Mr. Harold Graves, Machinery and Equipment Division, U.S. International Trade Commission, Washington, D.C. 20436, telephone 202–523–0377 or 202–523–0360, respectively.

PUBLIC HEARING: A public hearing in connection with the investigation will be held in the Commission Hearing Room, 701 E Street NW., Washington, D.C. 20436, beginning at 10:00 a.m., e.d.t., on May 12, 1982, to be continued on May 13, 1982, if required. All persons shall have the right to appear by counsel or in person, to present information, and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436, not later than noon, May 5, 1982.

WRITTEN SUBMISSION: In lieu of or in addition to appearance at the public hearing, interested persons are invited to submit written statements concerning the investigation. Commercial or financial information which a submitter desired the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. To be ensured of consideration by the Commission, written statement should be submitted at the earliest practicable date, but no later than May 20, 1982. All submissions should be addressed to the Secretary at the Commission's office in Washington, D.C.

By order of the Commission.

Issued: December 14, 1981.

Kenneth R. Mason,

Secretary.

[FR Doc. 81-36628 Filed 12-22-81; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket Nos. 81-7, 8, 9, 10, and 13]

Loyd B. Rapp, et al.; Approval of Limited Registrations

On March 11, 1981, the Administrator of the Drug Enforcement Administration issued Orders to Show Cause proposing to deny the application for registration submitted by Loyd B. Rapp, N.D., Ralph R. Weiss, N.D., Donald C. Walker, N.D., Edmonde G. Samuel, N.D., and Joseph A. Rombough, N.D. (Respondents). The Orders to Show Cause were issued because the Drug Enforcement Administration (DEA) was unable to determine whether the Respondents, Naturopathic Physicians licensed to practice naturopathic medicine by the Naturopathic Board of Examiners of the State of Oregon, were authorized to utilize controlled substances under the laws of the State of Oregon regulating the practice of naturopathic medicine and the use of controlled substances.

The Respondents, through counsel, requested hearings on the issues raised by the Orders to Show Cause and these matters were placed on the docket of Administrative Law Judge Francis L. Young. Since the issues involved in all five cases were identical, Judge Young consolidated them for hearing and other proceedings.

Prior to the scheduled hearing in these matters, counsel for the Government and counsel for the Respondents filed a Stipulation of Settlement which resulted in the termination of the proceedings pending before the Administrative Law

judge. Accordingly, these matters have been submitted to the Acting Administrator for his independent review and determination in light of the Stipulation of Settlement filed by the parties.

Naturopathy is an unusual branch of medicine, the practice of which is permitted in a dwindling number of states. The naturopathic physician practices a hearing art which appears to be a mixture of modern medicine and old world herbalism. The practice generally eschews the use of modern drugs which are usually of synthetic origin. The Oregon Naturopathic Board of Examiners defines the duties of a naturopathic physican in the following manner:

> Treats the patient by maintaining or restoring the human body to a normal physiological state of health. He prescribes and dispenses botanical medicines, nature's agents, forces, processes and products. He may also do minor surgery, treat fractures and practice obstetrics. He uses all recognized and accepted physical and laboratory diagnostic procedures which include X-ray and the taking of body fluids and tissues. His practice does not include major surgery, medical drugs, or radiation for therapeutic purposes.

The Acting Administrator finds that the Respondents are Doctors of Naturopathy or naturopathic physicians, licensed by the Naturopathic Board of Examiners of the State of Oregon to practice naturopathic medicine pursuant to the provisions of Chapter 685, Oregon Revised Statutes ("ORS"). Naturopathic, physicians are generally prohibited, pursuant to ORS 685.030(2), from administering, prescribing or dispensing "drugs," as that term is defined in ORS 685.010(2). However, these practitioners are permitted to use local anesthetics in connection with minor surgery as defined in ORS 685.010(3) and to otherwise use, prescribe and dispense in the usual course of their professional practice "nonpoisonous plant substances" as referred to in ORS 685.010(2) and as defined in section 850-10-005(5) of the Oregon Administrative Regulations ("OAR").

The Attorney General of the State of Oregon, in Opinion No. 7887, dated April 11, 1980, has determined that naturopathic physicians may, consistent with the intent of ORS Chapter 685, purchase and use in the course of their professional practice prescription drugs and controlled substances, to the extent that such substances are local anesthetics used in connection with the performing of minor surgery; and that naturopathic physicians may purchase and use, prescribe and dispense prescription drugs and controlled substances to the extent that such substances come within the definition of nonpoisonous plant substances.

The Drug Enforcement Administration is required to register "practitioners," as defined in 21 U.S.C. 802(20), to the extent that such practitioners are authorized to prescribe, administer, dispense or otherwise handle controlled substances under the laws of the state in which they practice; see 21 U.S.C. 823(f). The Respondents have individually applied for such registration. In some states, the fact of "state authorization" is easily determined, since practitioners and other legitimate handlers of controlled substances are required to obtain separate state registrations which document their authority to use these substances under state law. However, practitioners otherwise licensed under the laws of the State of Oregon, and authorized to dispense or administer controlled substances by their licensing authority, need not obtain separate state registrations from the Oregon Board of Pharmacy, the agency responsible for administering the Oregon Uniform Controlled Substances Act (ORS 475.005, *et seq.*). Unfortunately, neither the Naturopathic Board of Examines, which is the "licensing authority" in this instance, nor any other executive, legislative or judicial authority of the Sate of Oregon has definitely ruled which, if any, controlled substances may be considered to be nonpoisonous plant substances or local anesthetics medically appropriate for use in connection with minor surgery. These questions ought to be answered by responsible authorities in the State of Oregon. Such central questions of state law are not properly the subject matter for administrative determination by an agency of the Federal Government. State officials and the courts of the State of Oregon will, no doubt, eventually rule upon the issues which have been herein discussed. However, these issues have been unresolved for a number of years and it would be unfair for the Drug Enforcement Administration to deny registration to these Respondents while awaiting definitive state action. Accordingly, the Acting Administrator has decided to grant the Respondents limited registrations pursuant to the Stipulation of Settlement entered in the proceeding before the Administrative Law Judge.

For the limited purpose of settling this matter, the parties have stipulated that codeine sulfate tablets, codeine phosphate tablets, paregoric, tincture of opium and Dovert's powder, when dispensed or administered in usual dosages, may be considered to be nonpoisonous plant substances, and that solutions of cocaine hydrochloride may, in certain very limited situations, be appropriate for use as a local anesthetic in connection with minor surgery. To enable the Respondents to utilize the above-listed substances in their professional practices, the Acting Administrator has decided to issue to each of the Respondents a DEA registration limited to Schedules II (Narcotic) and III (Narcotic). The Respondents have agreed to withdraw such portions of their applications as pertain to controlled substances in Schedules other than II (Narcotic) and III (Narcotic).

State authorization is the key element of the Federal controlled substance registration system where practitioners are concerned. Accordingly, should the appropriate authorities of the State of Oregon, by way of statutory amendment, judicial determination, or administrative rule or regulation, determine that there are substances other than those listed above which may be lawfully utilized in the practice of naturopathy, the list of substances will be considered expanded accordingly. If such other substances are found in schedules other than II (Narcotic) and III (Narcotic), the Respondents may individually apply for modification of their registrations and the Drug Enforcement Administration will honor such requests for modification.

It is possible that the Oregon authorities may determine one or more of the substances discussed above is inappropriate for use by naturopathic physicians. If this occurs, the list of controlled substances will be dimished accordingly and the schedules for which the Respondents have been registered will be likewise adjusted. Furthermore, the Oregon authorities may ultimately determine that no controlled substance is appropriate for use by naturopaths. Should this occur, the Respondents have agreed that they will immediately surrender their registrations, obviating the necessity of formal revocation proceedings under 21 U.S.C. 824.

The Acting Administrator is aware of the fact that there are a number of additional naturopathic physicians in Oregon who have filed applications for registration under the Controlled Substances Act. Any of these other applicants who file with the Drug Enforcement Administration a written acknowledgement of the Stipulation of Settlement filed in this case, together with an agreement to accept a limited registration pursuant to the terms and conditions of the aforementioned Stipulation of Settlement, will be issued

a limited certificate of registration such as that previously discussed in this order.

In order to ensure that authorities in the State of Oregon are aware of these proceedings and to give those authorities an opportunity to resolve the ultimate question of naturopath's authorization to handle controlled substances under Oregon law, the Acting Administrator directs that copies of this order and of the Stipulation of Settlement filed herein be provided to the Oregon Naturopathic Board of Examiners, the Oregon Department of Human Resources, the Oregon Board of Pharmacy and the Office of the Attorney General of the State of Oregon.

Pursuant, therefore, to the authority vested in the Attorney General by Section 303 of the Controlled Substances Act, as redelegated to the Acting Administrator of the Drug Enforcement Administration, the Acting Administrator hereby directs that certificates evidencing registration in Schedule II (Narcotic) and Schedule III (Narcotic) be issued to Loyd B. Rapp, N.D., Ralph R. Weiss, N.D., Donald C. Walker, N.D., Edmonde G. Samuel, N.D., and Joseph A. Rombough, N.D.

Dated: December 18, 1981.

Francis M. Mullen, Jr.,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 81-36586 filed 12-22-81; 8:45 a.m.]

BILLING CODE 4410-09-M

LEGAL SERVICES CORPORATION

Grants and Contracts

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly . . . such grant, contract, or project. . . ."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by: Legal Services of North Florida, Inc., in Tallahassee to serve Okaloosa and Walton Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Atlanta Regional Office, 615 Peachtree Street, N.E., 9th Floor, Atlanta, GA 30308.

Dan J. Bradley,

President.

[FR Doc. 81-36608 Filed 12-22-81; 8:45 am]

BILLING CODE 6820-35-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-250 and 50-251]

Florida Power & Light Co.; Issuance of Amendment to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 74 to Facility Operating License No. DPR-31, and Amendment No. 68 to Facility Operating License No. DPR-41 issued to Florida Power and Light Company (the licensee), which revised Technical Specifications for operation of Turkey Point Plant, unit Nos. 3 and 4 (the facilities) located in Dade County, Florida. The amendments are effective as of the date of issuance.

The amendments add the option of using the ΔT versus reactor power curve during shift checks of the Nuclear Power Range instrument channels.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) The application for amendments dated January 25, 1977, as supplemented March 20 and May 1, 1980, (2) Amendments Nos. 74 and 68 to License Nos. DPR-31 and DPR-41, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Environmental and Urban Affairs Library, Florida International University, Miami, Florida 33199. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 7th day of December 1981.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Chief, Operating Reactors Branch No. 1, Division of Licensing.

[FR Doc. 81-36556 Filed 12-22-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-206]

Southern California Edison Co. and San Diego Gas & Electric Co.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 59 to Provisional Operating License No. DPR-13, issued to Southern California Edison Company and San Diego Gas & Electric Company (the Licensees), which revised the Technical Specifications for operation of the San Onofre Nuclear Generating Station Unit No. 1 (the facility) located in San Diego County, California. This amendment is effective as of its date of issuance.

The amendment approves changes to the Appendix A Technical Specifications which incorporate certain clarifications related to Amendment No. 58 dated November 6, 1981.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) The application for amendment dated December 8, 1981, (2) Amendment No. 59 to License No. DPR-

13, and (3) the Commission's transmittal letter which includes its evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Mission Viejo Branch Library, 24851 Chrisanta Drive, Mission Viejo, California. A single copy of items (2) and (3) may be obtained by request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Md., this 17th day of December 1981.

For the Nuclear Regulatory Commission.

Thomas V. Wambach,

Acting Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 81-36557 Filed 12-22-81; 8:45 am]

BILLING CODE 7590-01-M

Screening Committee for Lawyer Vacancies on the Atomic Safety and Licensing Board Panel; Meeting

Notice is hereby given in accordance with section 10 of the Federal Advisory Committee Act that the NRC's Screening Committee for Lawyer Vacancies on the Atomic Safety and Licensing Board Panel will hold a meeting on January 11, 1982 and if necessary the morning of January 12, 1982. The meeting will begin at 9:00 a.m. each day at East West Towers, 4350 East West Highway, Room 415, Bethesda, Maryland 20014.

The Committee will meet in order to interview and consider the qualifications of administrative law judges who may be assigned to the Atomic Safety and Licensing Board Panel. All sessions will be closed.

I have determined in accordance with Subsection 10(d) of Public Law 92-463 that it is necessary to close these meetings in order to protect information, the release of which would represent an unwarranted invasion of personal privacy under 5 U.S.C. 552b(c)(6). Any discussion not involving personal privacy will be inextricably intertwined with discussion of Exemption 6 matters.

For further information, contact Charles J. Fitti, Assistant Executive Secretary, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 (Telephone: 301/492-7816).

Issued at Washington, D.C., this 18th day of December 1981.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 81-36559 Filed 12-22-81; 8:45 a.m.]

BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

[Order No. 414; Docket No. A82-3]

West Barnet, Vt.; Order Granting Postal Service Extension of Time To File Brief

In the matter of: West Barnet, Vermont 05870, Richard Beardsworth, Petitioner, Docket No. A82-3; order granting Postal Service an extension of time to file brief (Issued December 17, 1981).

On December 16, 1981, the Postal Service filed a motion requesting that the Commission either dismiss the proceeding or, in the alternative grant an extension of time for the filing of the Postal Service's brief. The Postal Service explains that the Petitioner did not file his brief on schedule and the Postal Service did not receive a copy of it until December 15, 1981. The Postal Service also states that it has not received a copy of the Petitioner's appeal letter.

We believe that dismissal is too drastic a remedy for the procedural problems in this case. We agree, however, that the Postal Service should be given adequate time to review the Petitioner's pleadings and prepare its response. Therefore, we are granting the Postal Service's motion to extend the date for filing its answering brief until January 4, 1982. We are extending the time for the Petitioner's reply brief. We are also directing the Secretary of the Commission to provide the Postal Service with copies of the Petitioner's pleadings.

The Commission Orders.

(A) The schedule attached to this order is established for Docket No. A82-3.

(B) The Secretary of the Commission is to provide the Postal Service with copies of the Petitioner's pleadings.

By the Commission.

David F. Harris,

Secretary.

Appendix—West Barnet

October 26, 1981—Commission received Petition

November 1981—Notice and Order of Filing of Appeal

November 27, 1981—Last day for filing of petitions to intervene [see 39 CFR 3001.111(b)].

December 7, 1981—Petitioner's initial brief [see 30 CFR 3001.115(a)].

January 4, 1982—Postal Service answering brief [see 39 CFR 3001.115(a)].

January 19, 1982—(1) Petitioner's reply brief, should petitioner choose to file such brief [see 39 CFR 3001.115(c)].

(2) Deadline for motions by any party requesting oral argument. The Commission will exercise its discretion, as the interests of prompt and just decision may require, in scheduling or dispensing with oral argument.

[FR Doc. 81-36543 Filed 12-22-81; 8:45 am]

BILLING CODE 7715-01-M

SMALL BUSINESS ADMINISTRATION

Interest Rates

The interest rate on section 7(a) Small Business Administration direct business loans (as amended by Pub. L. 97-35) and the SBA share of immediate participation loans is fifteen and one-fourth (15¼) percent for the fiscal quarter beginning January 1, 1982.

On a quarterly basis, the Small Business Administration also publishes an interest rate called the optional "peg" rate (13 CFR 120.3(b)(2)(iii)). This rate is a weighted average cost of money to the government for maturities similar to the average SBA loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. For the January-March quarter of 1982, this rate will be fourteen and seven-eighths (14⅞) percent.

Dated: December 18, 1981.

Edwin T. Holloway,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 81-36636 Filed 12-22-81; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/468]

Advisory Committee on International Investment, Technology, and Development; Meeting

The Department of State will hold a meeting on January 12, 1982, of the Working Group on Transborder Data Flows of the Advisory Committee on International Investment, Technology, and Development. The Working Group will meet from 10:00 a.m. until 12:00 noon. The meeting will be held in the Loy Henderson Conference Room of the State Department, 2201 C Street, N.W., Washington, D.C. 20520. The meeting will be open to the public.

The purpose of the meeting will be to review positions for the meeting of the Experts Group on Transborder Data Flows scheduled for January 26-27 in Paris.

Requests for further information on the meeting should be directed to Philip T. Lincoln, Jr., Department of State, Office of Investment Affairs, Bureau of Economic and Business Affairs, Washington, D.C. 20520. He may be

reached by telephone on (area code 202) 632–2728.

Members of the public wishing to attend the meeting must contact Mr. Lincoln's office in order to arrange entrance to the State Department building.

The Chairman of the Working Group will, as time permits, entertain oral comments from members of the public attending the meeting.

Dated: December 11, 1981.

Philip T. Lincoln, Jr.,

Executive Secretary.

[FR Doc. 81-36580 Filed 12-22-81; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/469]

Advisory Committee on International Investment, Technology, and Development; Meeting

The Department of State will hold a meeting on January 12, 1982, of the Working Group on Accounting Standards of the Advisory Committee on International Investment, Technology, and Development. The Working Group will meet from 2:00 p.m. until 4:30 p.m. The meeting will be held in Room 2722A of the State Department, 2201 C Street, NW., Washington, D.C. 20520. The meeting will be open to the public.

The purpose of the meeting will be to discuss U.N. and OECD work on accounting standards; in particular, preparations for the next U.N. Ad Hoc Accounting Standrds Working Group.

Requests for further information on the meeting should be directed to Philip T. Lincoln, Jr., Department of State, Office of Investment Affairs, Bureau of Economic and Business Affairs, Washington, D.C. 20520. He may be reached by telephone on (area code 202) 632–2728.

Members of the public wishing to attend the meeting must contact Mr. Lincoln's office in order to arrange entrance to the State Department building.

The Chairman of the Working Group will, as time permits, entertain oral comments from members of the public attending the meeting.

Dated: December 11, 1981.

Philip T. Lincoln, Jr.,

Executive Secretary.

[FR Doc. 81-36581 Filed 12-22-81; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/472]

Oceans and International Environmental and Scientific Affairs Advisory Committee; Open Meeting

The General Panel of the Oceans and International Environmental and Scientific Affairs Advisory Committee will meet at 9:00 a.m. on Thursday, January 7, 1982, in Room 150, National Academy of Sciences, 2101 Constitution Avenue, N.W., Washington, D.C.

At this meeting, officers responsible for law of the sea and oceans affairs and international environmental affairs in the Department of State and members of the Advisory Committee will discuss U.S. activities and policies relating to polymetallic sulfides and acid rain problems. This session will be open to the public, which will be admitted to the limits of seating capacity. Individuals may be given the opportunity to participate in discussions according to the instructions of the Chairperson.

Requests for further information on the meeting may be directed to Felix Dorough, OES, Department of State (202) 632–3632.

Dated: December 15, 1981.

James L. Malone,

Chairman.

[FR Doc. 81-36574 Filed 12-22-81; 8:45 am]

BILLING CODE 4710-09-M

[Public Notice CM-8/467]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea; Meeting

The Working Group on Radiocommunication of the Subcommittee on Safety of Life at Sea will conduct an open meeting at 9:30 a.m. on January 7, 1982 in Room 9230 of the Department of Transportation Building, 400 7th St., S.W., Washington, D.C. 20590.

The purpose of the meeting is to prepare position documents for the Twenty-Fourth Session of the Subcommittee on Radiocommunications of the Intergovernmental Maritime Consultative Organization (IMCO) to be held in London on March 15, 1982. In particular, the working group will discuss the following topics:

—Maritime distress system
—Performance standards for shipboard radio equipment
—Life-saving radio equipment
—Digital selective calling
—Matters related to ITU WARC for Mobile Transportation
—Matters related to CCIR Study Group 8

For further information contact Mr. R. L. Swanson, USCG, (G–TTM–S/32), Washington, D.C. 20593. Telephone (202) 426–0517.

Dated: December 11, 1981.

John Todd Stewart,

Chairman, Shipping Coordinating Committee.

[FR Doc. 81-36584 Filed 12-22-81; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/470]

Study Group 5 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 5 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on January 12, 1982 from 9:00 a.m. until 2:00 p.m. in Room OT8–8 in the Engineering Building, University of Colorado Campus, Boulder, Colorado.

Study Group 5 deals with propagation of radio waves (including radio noise) at the surface of the earth, through the non-ionized regions of the earth's atmosphere, and in space where the effect of ionization is negligible. The purpose of the meeting is to review the conclusions of the international meeting of Study Group 5 in 1981 and the documents to be considered by the CCIR XVth Plenary Assembly, and to outline the program of work for the next Plenary cycle.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

Requests for further information should be directed to Mr. Gordon Huffcutt, State Department, Washington, D.C. 20520, telephone (202) 632–2592.

Dated: December 3, 1981.

Gordon L. Huffcutt,

Chairman, U.S. CCIR National Committee.

[FR Doc. 81-36582 Filed 12-22-81; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/471]

Study Group 6 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 6 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet January 12, 1982 at 9:00 a.m. in Room 3012 of the Department of

Commerce Boulder Laboratories Building, 325 Broadway, Boulder, Colorado.

Study Group 6 deals with matters relating to the propagation of radio waves in and through the ionosphere. The purpose of the meeting will be to review the work of the Study Group 6 final meeting held in the fall of 1981, and to plan the activities of the Study Group for the 1982–1986 period.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

Requests for further information should be directed to Mr. Gordon Huffcutt, State Department, Washington, D.C. 20520, telephone (202) 632–2592.

Dated: December 3, 1981.

Gordon L. Huffcutt,

Chairman, U.S. CCIR National Committee.

[FR Doc. 81-36583 Filed 12-22-81; 8:45 am]

BILLING CODE 4710-07-M

SYNTHETIC FUELS CORPORATION

Synthetic Fuels Projects; Supplement to the Initial Solicitation

AGENCY: Synthetic Fuels Corporation.

ACTION: Issuance of Supplement to Initial Solicitation for Synthetic Fuels Projects.

SUMMARY: Notice is hereby given that the United States Synthetic Fuels Corporation in accordance with the Energy Security Act of 1980 (Pub. L. 96–294) has published a supplement dated December 11, 1981 to its Initial Solicitation for Synthetic Fuels Projects which was dated November 21, 1980. The supplement to the Initial Solicitation is only applicable to those concerns that submitted proposals to the Corporation pursuant to the Initial Solicitation on or before March 31, 1981, the closing date under said solicitation.

EFFECTIVE DATE: December 11, 1981.

FOR FURTHER INFORMATION CONTACT: The Projects Office, United States Synthetic Fuels Corporation, 2100 M Street, NW, Suite 607, Washington, DC 20586, (202) 653–4530.

FOR COPIES OF THE SUPPLEMENT CONTACT: Catherine McMillan, Director of Public Disclosure, United States Synthetic Fuels Corporation, 2000 L Street, NW., Washington, DC 20586, (202) 653–4620.

United States Synthetic Fuels Corporation.

[FR Doc. 81-36620 Filed 12-22-81; 8:45 am]

BILLING CODE 6450-01-M

Synthetic Fuels Projects; Second Solicitation

AGENCY: Synthetic Fuels Corporation.

ACTION: Issuance of Second Solicitation for Synthetic Fuels Projects.

SUMMARY: Notice is hereby given that the United States Synthetic Fuels Corporation in accordance with the Energy Security Act of 1980 (Pub. L. 96–294) has published a Second Solicitation for Synthetic Fuels Projects addressed to concerns interested in applying for financial assistance for the construction and/or operation of such projects.

EFFECTIVE DATE: December 11, 1981.

FOR FURTHER INFORMATION CONTACT: The Project Offices, United States Synthetic Fuels Corporation, 2100 M Street NW., Suite 607, Washington, DC 20586, (202) 653–4530.

FOR COPIES OF THE SOLICITATION CONTACT: Catherine McMillan, Director of Public Disclosure, United States Synthetic Fuels Corporation, 2000 L Street NW., Washington, DC 20586, (202) 653–4620.

United States Synthetic Fuels Corporation.

Edward E. Noble,

Chairman of the Board of Directors.

[FR Doc. 81-36621 Filed 12-22-81; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular; Public Debt Series No. 38–81]

Interest Rate on Notes of Series Y–1983

December 17, 1981.

The Secretary announced on December 16, 1981, that the interest rate on the notes designated Series Y–1983, described in Department Circular—Public Debt Series—No. 38–81 dated December 10, 1981, will be 13 percent. Interest on the notes will be payable at the rate of 13 percent per annum.

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the departmental procedures applicable to such regulations.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 81-36562 Filed 12-22-81; 8:45 am]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 46, No. 246
Wednesday, December 23, 1981

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

FEDERAL RESERVE SYSTEM

BOARD OF GOVERNORS

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 46 FR 61199, Tuesday, December 15, 1981.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Friday, December 18, 1981.

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item(s) was added:

Federal Reserve Bank and Branch director appointments. (This matter was originally announced for a meeting on Monday, December 7, 1981.)

[S–1914–81 Filed 12–21–81; 11:44 am]

BILLING CODE 6210–01–M

2

NUCLEAR REGULATORY COMMISSION

DATE: Tuesday, December 22, 1981 (revised).

PLACE: Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED: *Tuesday, December 22:*

10:00 a.m.: Briefing on an Investigation and a Proposed Enforcement Action (closed meeting)

3:00 p.m.: Affirmation/Discussion Session (public meeting) (as announced; items revised)

Items to be affirmed and/or discussed:

a. Proposed Rulemaking, "Environmental Qualification of Electric Equipment for Nuclear Power Plants"

b. Final Rule for Pending CP/ML Applications

c. Review of Order Concerning Sua Sponte Issues (in the Matter of Texas Utilities Generating Company, et al.)

ADDITIONAL INFORMATION: Discussion of Policy and Planning Guidance, scheduled for December 16, was cancelled. Affirmations of Final Rule on Intransit Physical Protection of Special Nuclear Material of Moderate Strategic Significance and Proposed Amendment to 10 CFR Part 50, Appendix E, Frequency of Emergency Preparedness Exercises, scheduled for December 17, were cancelled. Briefing on Status and Plan for Severe Accident Rulemaking, announced for December 22, has been cancelled.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Gary Gilbert, (202) 634–1410.

December 18, 1981.

Gary Gilbert,

Office of the Secretary.

[S–1915–81 Filed 12–21–81; 4:05 pm]

BILLING CODE 7590–01–M

3

POSTAL SERVICE

Board of Governors

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting at 10:30 a.m. on Wednesday, December 23, 1981, in the Benjamin Franklin Room, 11th Floor, 475 L'Enfant Plaza, Washington, D.C. The meeting is open to the public. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at (202) 245–4632.

The only agenda item to be discussed at this meeting is the adjustment of rates for preferred rate mailers as a result of a decrease in Congressional appropriations, in accordance with section 108 of Pub. L. 97–92. The Board will consider increases in the rates for all preferred-rate categories except second-class within-county and fourth-class library rates for the full "step 16" level of the schedules contained in Appendix Two of the Governors Decision of September 29, 1981 (46 FR 51691–92). Second-class within-county rates and forth-class library rates are proposed to be adjusted to the "step 13" level.

By a recorded vote taken on December 21, 1981, the members of the Board determined that Postal Service business requires the instant meeting to be called on December 23. Section 108 of Pub. L. 97–92 requires that the Postal Service "promptly" adjust preferred rates in accordance with that section, and any unnecessary delay in making the adjustments may result in substantial financial losses to the Postal Service.

Louis A. Cox,

Secretary.

[S–1916–81 Filed 12–21–81; 4:19 pm]

BILLING CODE 7710–12–M

federal register

Wednesday
December 23, 1981

Part II

Environmental Protection Agency

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines: Certification and Test Procedures; Non-Methane Hydrocarbon Standards for Mobile Sources

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[AMS-FRL 1952-4]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines: Certification and Test Procedures; Non-Methane Hydrocarbon Standards for Mobile Sources

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: The proposed rule would establish non-methane hydrocarbon (NMHC) exhaust emission standards for light-duty vehicles, motorcycles, light-duty trucks and heavy-duty engines while also permitting vehicle manufacturers, at their choice, to continue to use total hydrocarbon (THC) exhaust emission standards. This proposed rule addresses one of the actions which the Environmental Protection Agency stated would be taken to reduce the regulatory burden on the motor vehicle industry (46 FR 21628, April 13, 1981). The purpose of the regulatory relief actions is the reduction of costs to manufacturers and consumers while incurring little or no air quality penalty.

Please note that EPA specifically requests comments on a number of items near the end of this preamble. EPA encourages all individuals and organizations which are interested in this rulemaking to participate in the public hearing and/or to submit their comments to the docket.

DATES: EPA will hold public hearings on this notice on January 22, 1982 beginning at 9:00 am. Pursuant to Section 307 of the Clean Air Act, the record of the public hearing will be kept open for 30 days following the close of the hearing, to provide an opportunity for submission of rebuttal and other information. Comments must be received, therefore, on or before February 22, 1982. The 1983 model year vehicles will be the first affected by the proposed action.

ADDRESSES: The public hearing will take place in the Conference Room at the EPA Motor Vehicle Emissions Laboratory, 2565 Plymouth Road, Ann Arbor, MI 48105. Interested persons may submit written comments on this rulemaking to the U.S. Environmental Protection Agency, Central Docket Section, (A-130), Attn: Docket No. A-81-24, 401 M Street SW, Washington, D.C. 20460. Two copies of comments are requested but not required.

Supporting material relevant to this proposal has been placed in the docket. Docket No. A-81-24 is open to the public and is located in the U.S. Environmental Protection Agency, Central Docket Section, West Tower Lobby, Gallery I, 401 M Street, SW, Washington, D.C. The docket may be inspected between 8 am and 4 pm on weekdays, and a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. F. Peter Hutchins, U.S. Environmental Protection Agency, Emission Control Technology Division, 2565 Plymouth Road, Ann Arbor, MI. 48105, (313) 668-4340.

SUPPLEMENTARY INFORMATION:

Continuation of Summary

The proposed non-methane hydrocarbon standards represent the same percentage reduction in non-methane hydrocarbon emissions from base year vehicles as is required by the corresponding total hydrocarbon standards for total hydrocarbon emissions from base year vehicles. The proposed non-methane hydrocarbon standards and the corresponding total hydrocarbon standards are tabulated as follows:

CURRENT TOTAL HYDROCARBON AND PROPOSED NON-METHANE HYDROCARBON EXHAUST EMISSION STANDARDS

Vehicle class	1983 model year		1984 model year and later	
	THC	NMHC	THC	NMHC
Light-duty vehicles	0.41 g/mi	0.39 g/mi	0.41 g/mi	0.39 g/mi.
Light-duty trucks	1.7 g/mi	1.62 g/mi	0.80 g/mi	0.76 g/mi.
Motorcycles	5.0 g/km	4.75 g/km	5.0 g/km	4.75 g/km.
Heavy-duty engines	(a) 1.5 g/BHP-hr and THC + NOx = 10 g/BHP-hr or, (b) THC + NOx = 5 g/BHP-hr.		1.30 g/BHP-hr	1.24 g/BHP-hr.

A non-methane hydrocarbon standard is not proposed for 1983 MY heavy-duty engines because of the incompatibility between sampling procedures applicable to that model year and analytical procedures used for determining the methane content.

If these regulations are promulgated as a final rule, EPA anticipates that there will be no significant difference in the ambient ozone level improvements achieved within the next ten years. By the year 2000, it is projected that the improvement in ambient ozone levels, relative to the levels which prevailed in 1979, will be approximately 1 percent less with non-methane hydrocarbon standards than with total hydrocarbon standards; i.e., a 17 percent reduction in ambient ozone levels rather than an 18 percent reduction at low altitude and a 20 percent reduction rather than a 22 percent reduction at high altitude.

I. Background

Background materials pertinent to this action are divided into three general areas. These areas cover: A. Factors leading to the existing total hydrocarbon standards; B. Procedures applicable to air quality impact determination and; C. Waiver of Federal Preemption for the State of California.

A. The material referred to as exhaust hydrocarbon emissions, while measured and reported as a single entity, is composed of dozens of separate and distinct hydrocarbon compounds or species. Each species, within the total, exhibits a different level of reactivity in the ozone (photochemical smog) formation process. The need to control hydrocarbon emissions from mobile sources was and is, therefore, based on the part played by each species in the formation of photochemical smog. Methane was recognized as being nonreactive in this process and was excluded, therefore, in the rollback model developed prior to 1970 by the National Air Pollution Control Administration for projecting future motor vehicle emission control requirements. These projections formed the basis for the 1970 Clean Air Act Amendments applicable to motor vehicles. The degree of hydrocarbon exhaust emission control required by the Clean Air Act Amendments of 1970 was expressed as a 90 percent reduction from the levels allowable for the 1970 model year.

The definition of hydrocarbon exhaust emission and, therefore, the standard applicable to any model year vehicle has historically been based upon the test procedure and the type of instrument used in routine analyses of vehicle exhaust hydrocarbon samples. In 1970, when the Clean Air Act was amended, and future control requirements specified, the type of analytical instrument used for measuring exhaust hydrocarbons was the non-dispersive infrared (NDIR) type. This type of instrument (NDIR) did not provide a uniform response (reported as carbon) to each species in the exhaust sample. The effects of this characteristic of the instrumentation were that hydrocarbon exhaust emissions allowable from 1970 model year light-duty vehicles were expressed neither as total hydrocarbons, non-methane hydrocarbons nor as reactive hydrocarbons and that the total amount of hydrocarbon in the exhaust gases was under-reported. Examples of hydrocarbons for which the NDIR gave low response were: methane, ethylene, propylene, acetylene, benzene, etc. Beginning with the 1972 model year, EPA required a change in the type of instrumentation used in the determination of vehicle exhaust hydrocarbon emissions. The type of instrument specified was the flame ionization detector (FID). This type of instrument (FID) provided an almost uniform response to each hydrocarbon species. As a result of this change in instrumentation, all hydrocarbons in the exhaust gases were and are fully reported (total hydrocarbon), both the nonreactive and the reactive species. EPA did not exclude the methane fraction at that time despite the change in instrumentation because: (1) The methane fraction of the baseline year exhaust hydrocarbons was taken to be inconsequentially low, and (2) emission control systems were expected to reduce all hydrocarbons equally. Additionally, techniques for the routine measurement of methane were not considered to be available when the change in instrumentation was required.

Introduction of catalyst technology to control vehicle exhaust emissions altered the composition of the exhaust hydrocarbons emitted into the atmosphere. This change in composition resulted from preferential oxidation of heavier species in the catalytic converter. Because methane is not readily oxidized in the catalytic converter, the methane fraction in the exhaust gases increases relative to the total hydrocarbon emissions.

In 1973, the Ford Motor Company petitioned EPA to exclude methane from the exhaust hydrocarbon standards for 1975 model year vehicles because of the anticipated use of catalysts to control emissions and because of the nonreactivity of methane. On May 10, 1974, EPA published an ANPRM pertaining to the exclusion of methane from the exhaust emission standards. On February 10, 1976, EPA distributed the summary and analysis of the comments to the ANPRM. EPA concluded that substantiation had not been provided for the benefits claimed by vehicle manufacturers for non-methane hydrocarbon standards. EPA could not justify, therefore, the allocation of Agency resources necessary for conversion to non-methane standards.

On October 20, 1978, the Ford Motor Company again petitioned EPA for exclusion of methane in hydrocarbon exhaust emission standards. This petition was directed to 1980 and 1981 model year vehicles. On February 16, 1979, EPA responded to this petition and elected to continue to include methane in the hydrocarbon standards. As a result of EPA's denial of its petition, Ford sought court review of the hydrocarbon exhaust emission regulations on the grounds that EPA had exceeded its authority by including methane in the regulations.

On July 3, 1979, the U.S. Court of Appeals for the District of Columbia Circuit found that the regulations, which included methane as a measured hydrocarbon, were within the scope of EPA's authority. *Ford Motor Company* v. *EPA*, 604 F. 2d 685 (D.C. Cir., 1979).

B. On July 8, 1977, EPA published a "Recommended Policy on Control of Volatile Organic Compounds" (42 FR 35314) which classified two hydrocarbons as having negligible photochemical reactivity. The hydrocarbons were methane and ethane. Because of their negligible reactivity, EPA concluded that these hydrocarbons should be exempt from regulations under State Implementation Plans. The effect of this recommended policy is that ambient concentrations of methane and ethane, irrespective of the source, are not included in determinations of compliance with National Ambient Air Quality Standards.

EPA policy on vehicle exhaust hydrocarbon emissions has been to obtain the maximum reduction in reactive species through the application of total hydrocarbon emission standards while using only the reactive hydrocarbon fraction in air quality impact calculations. Consistent with this policy, EPA computations of air quality benefits attributable to vehicle exhaust emission standards exclude the methane fraction of exhaust emissions.

C. Section 209(b) of the Clean Air Act requires EPA to waive Federal preemption of state emission standards for a state which had promulgated standards before March 30, 1966 unless the Administrator finds that the state's determination that its standards, in the aggregate, are at least as protective of public health and welfare as applicable Federal standards is arbitrary and capricious. EPA waived Federal preemption with respect to hydrocarbon exhaust emission standards for the State of California and permitted the adoption of California optional non-methane hydrocarbon standards for light-duty vehicles. Adoption of the optional standards became effective with the 1980 model year in California. The standards which California adopted for light-duty vehicles were 0.41 g/mile total hydrocarbons or 0.39 g/mile non-methane hydrocarbons. One result of the waiver of Federal preemption was the purchase of appropriate analytical equipment by vehicle manufacturers for measuring non-methane hydrocarbon emissions. Procurement leadtimes and cost of analytical equipment are, therefore, not significant factors in this action.

II. Option Selection

Selection of either the NMHC standard or the THC standard will be at the discretion of the vehicle manufacturer and will be made for each engine family. Option selection on the basis of engine families will maximize the flexibility provided by this action; i.e., manufacturers will not be required to select the same option for all of their products. The option selected will be applicable for all testing (Certification, Selective Enforcement Audit, Recall, etc.) performed in the determination of compliance with the emissions standards.

EPA does not anticipate any impact on state inspections (short tests) as a result of this action. The reasons for this conclusion are that: (1) Equipment employed in inspection stations usually utilizes NDIR analyzers with the associated low methane response, and (2) short test cut points are designed to identify those vehicles with very high emission levels and will, therefore, not be impacted by the small differences which may exist between the two options.

III. Alternatives Considered

The four alternatives to the existing standards which were considered were: (1) Non-methane hydrocarbon standards with optional total hydrocarbon standards, (2) hydrocarbon reactivity standards with optional total hydrocarbon standards, (3) adoption of non-methane hydrocarbon standards only and (4) adoption of hydrocarbon reactivity standards only. The factors considerd in comparing the alternatives were: (a) the effect on air quality, (b) availability, purchase costs and operational costs of instruments for rapid, routine analyses, (c) the data base for individual hydrocarbon species of base year vehicles, (d) reactivity scale for the hydrocarbon species, (e) development of reactivity indices where these did not exist, and (f) methodology for determining a composite reactivity index of base year vehicles.

Implementation of either the non-methane alternative or non-methane standards only would require a relatively simple and low cost instrument for measuring methane as an addition to existing equipment. These instruments are being marketed and most laboratories are using them. A usable methane fraction data base exists for most vehicles which will be affected (light-duty vehicles). Extrapolation of the mass fraction of one hydrocarbon species (non-reactive methane) from the light-duty vehicle data base to light-duty trucks and motorcycles involves only that component which is non-reactive. Any resulting error, if there is one, will tend to be small.

In the case of the hydrocarbon reactivity standard alternative, instrumentation for *low cost, rapid, routine* analysis of exhaust gases is not available (gas chromatographic analyzers are costly and the analyses are time consuming and, therefore, also costly). Even if appropriate instrumentation were available, there is no single, agreed-upon scale of reactivity for all of the species present in the exhaust gases. Additionally, the data base for light-duty vehicles is inadequate for establishing a reactivity index based on the reactivity of individual species for base year vehicles; i.e., a relatively small error in the assigned fraction of a highly reactive hydrocarbon will result in a relatively large change in the computed composite reactivity index.

Alternative 1, the non-methane hydrocarbon mass standards with optional total hydrocarbon mass standards, was selected because: (1) Essentially equal effects on air quality can be expected for each of the alternatives, (2) it offers essentially the same benefits to vehicle manufacturers as the other alternatives, (3) it allows each manufacturer to select the most cost-effective option for its individual situation, and (4) it can be rapidly implemented at low cost. It is anticipated that motorcycle and heavy-duty engine manufacturers will not choose the non-methane option and are, therefore, not expected to be affected by this action.

IV. Discussion of Issues

A. Interpretation of the Statute With Respect to the Inclusion/Exclusion of Methane as a Regulated Exhaust Hydrocarbon

As explained in Section I, Congress established the statutory standard for hydrocarbon exhaust emissions in 1970 for light-duty vehicles, requiring manufacturers to reduce those emissions by 90 percent from the level allowable for the 1970 model year. In 1977, Congress extended this standard to cover heavy-duty vehicles and motorcycles.

The legislative history of this provision shows that the need for controlling hydrocarbon exhaust emissions from vehicles was based upon the formation of photochemical smog (ozone) from oxides of nitrogen and hydrocarbons under the influence of sunlight.[1] It was recognized even in 1970 that methane did not react this way and was not a factor in the formation of smog: the rollback model used to project the required level of control for motor vehicles excluded methane, and methane was not treated as a controlled hydrocarbon in the preparation of air quality criteria documents for hydrocarbons. However, as explained in Section I, the instrument used in 1970 to measure vehicle exhaust hydrocarbon emissions did not uniformly measure each species present, both reactive and non-reactive species, and undercounted the total.

To provide more accurate measurements, in 1972 EPA required a change in the instrumentation used to determine vehicle exhuast hydrocarbon emissions. The new instrument fully and uniformly measures each species present in the exhaust gases (including methane). Nevertheless, there is no indication that Congress considered the implications of this new instrumentation. While Congress did subsequently alter the statutory deadlines for compliance with hydrocarbon emissions limitations, it did not change the standards themselves from the numbers originally promulgated in 1970.

In the case of *Ford Motor Company* v. *EPA supra*, the Court of Appeals found that the Clean Air Act permits EPA to regulate vehicle exhaust hydrocarbon emissions on the basis of total hydrocarbons, i.e., including methane. The court did not decide, however, whether EPA was *required* to regulate hydrocarbons in this way.

Certainly there is nothing in the legislative history of the 1970 statute or later amendments to suggest that Congress wished to limit EPA's flexibility to refine emission standards and make them more precise, as technical capabilities in this field improved. Hence, EPA has indicated in the past that it believes the Act gives it discretion to promulgate an alternative non-methane standard. 44 FR 20048 (April 4, 1979). The Agency believes that present circumstances make it proper to exercise this discretion.

Recognition by EPA of the need to control the cost of regulations has lead to the reevaluation of existing regulations. As a result of the reevaluation, EPA has concluded that provision of optional standards to permit exclusion of methane as a measured exhaust hydrocarbon: (1) Conforms with the need for control of reactive exhaust hydrocarbons, (2) is within the authority of the Agency, (3) provides the opportunity for a degree of cost reduction and (4) will have little or no significant impact on air quality.

B. Optional Non-Methane Hydrocarbon Standards vs. Either Optional Reactive Hydrocarbon Standards or Optional-Non Methane/Ethane Hydrocarbon Standards

As part of the reevaluation of the existing standards, EPA considered ethane for exclusion along with methane as well as the potential for adoption of reactive hydrocarbons standards.

The ethane content of exhaust gases from 1970 model year vehicles was on the order of ½ percent. With catalyst vehicles, the ethane content is on the order of 1 to 1½ percent. Because of these very low concentrations of ethane, it appears unlikely that there will be any benefits attainable through the exclusion of ethane which are not achieved by the exclusion of methane. Determination of the ethane content in vehicle exhaust gases would necessitate the introduction of gas chromatographic equipment capable of measuring each of the hydrocarbon species. This type of equipment is costly and sample analysis

[1] *A Legislative History of the Clean Air Act Amendments of 1970*, Volume 1, p. 425–28 and 761–772.

time is measured in hours rather than minutes. The implementation costs of non-methane/ethane hydrocarbon standards for analytical equipment, performance of analyses, equipment maintenance, etc., would be expected to be 5 to 10 times higher than the costs of non-methane standards. Additionally, the leadtime necessary for implementation would change from almost zero (analytical equipment for non-methane standards can be considered to be in place) to a few years. EPA has concluded, therefore, that the costs of non-methane/ethane standards exceed any possible benefits to vehicle manufacturers, but would welcome comments on this issue.

Because of the differences in the reactivities of the hydrocarbon compounds which collectively constitute hydrocarbon exhaust emissions, an exhaust hydrocarbon reactivity standard would be the ideal method for the control of these materials. Major problems associated with this approach to the control of hydrocarbon exhaust emissions are: (1) The lack of an adequate data base upon which to establish the composition of base year hydrocarbon exhaust emissions, (2) the lack of a universally accepted and proven reactivity scale for hydrocarbon compounds, and (3) the costs of the analytical equipment for determining the composition of each exhaust sample coupled with the time and, therefore costs of each analysis. For these reasons, EPA does not view an exhaust reactivity standard as being practical at this time.

It is the conclusion of EPA that the non-methane hydrocarbon standards option is the most cost-effective approach. Again comments are welcome on this point.

C. Determination of the Optional Non-Methane Standards

The procedure used in establishing the non-methane hydrocarbon standards is the same as that which was used for establishing the existing total hydrocarbon standards; i.e., the optional non-methane hydrocarbon standards represent the same percentage reduction in non-methane hydrocarbons from base year vehicles as are required by the total hydrocarbon standards for total hydrocarbons.

The data base for determining the methane content of base year, light-duty vehicles is not large. It consists of data compiled pursuant to the 1974 ANPRM [2], testing of two non-catalyst vehicles by Gulf Research and Development as part of a contract with EPA [3], and data collected by EPA contractors in tests of in-use vehicles [4]. The data base is adequate, however, for making the determination of the methane content in exhaust gases of base year light-duty vehicles. The average methane content was five percent.

While the emission standards for heavy-duty diesel engines are determined on the basis of emissions from base year gasoline engines, the data base for diesel engines was surveyed to identify any potential problems. In the case of heavy-duty diesel engines, the data base on methane is very small. Two sources are available. Reference [5] indicates that the average methane fraction in the exhaust of four heavy-duty diesel engines tested was approximately ⅓ that of the methane content of one industrial gasoline engine tested, on the test procedure used. The methane fraction reported for the industrial gasoline engine was, however, five to six times higher than the methane fraction determined for light-duty vehicles on the Federal Test Procedure. The second source [6], in-house testing of diesel engines, indicates methane contents approaching four to five percent.

EPA testing of heavy-duty gasoline engines [7], shows an average methane content in the exhaust gases of approximately seven percent.

Five percent was chosen as being representative of the methane fraction in the exhaust gases of heavy-duty engines (diesel and gasoline).

A data base does not exist for determining the base year methane fraction of hydrocarbons in the exhaust of light-duty trucks and motorcycles. The methane fraction was selected as five percent because of the similarities in: (1) Engine technologies between base year light-duty vehicles, light-duty trucks and motorcycles, (2) test cycles, and (3) because the same fuel (gasoline) is used in nearly all of these base year vehicles. It is recognized that, relative to light-duty vehicles and light-duty trucks, the higher average rotational speed of motorcycle engines may have some small effect on the size of the methane fraction.

D. Analytical Equipment for Routine Testing and Lead-time for Implementation

The adoption by the State of California of a non-methane hydrocarbon standard for light-duty vehicles has resulted in either the purchase and installation of appropriate test equipment or the securing of access to the use of the equipment by these vehicle manufacturers. Because light-duty vehicle manufacturers are often also manufacturers of light-duty trucks (e.g., General Motors, Ford, Chrysler, American Motors, VW, Nissan, Toyota) most, if not all, manufacturers of light-duty trucks have the required equipment in-use.

On the basis of the responses to the ANPRM (1974), it appears that most heavy-duty engine manufacturers would have chosen to use the total hydrocarbon option, thus removing the need to purchase the equipment necessary for determining methane. EPA is presently modifying the 1984 heavy-duty engine standard to levels not expected to require the use of catalysts. It is expected, therefore, that heavy-duty engine manufacturers will choose not to use the non-methane option. If a heavy-duty engine manufacturer wishes to use the non-methane option, equipment modifications will be similar to that made for light-duty vehicles and light-duty trucks; i.e., the addition of the methane analyzer. The samples would then be analyzed for total hydrocarbons and for methane.

In the case of motorcycles, it is anticipated that very few manufacturers would have the necessary analytical equipment on hand for determining methane. Honda and BMW would be expected to have the appropriate equipment because both companies also produce light-duty vehicles. However, when catalyst technology is not used in achieving the required emission levels (catalysts are not used on motorcycles), the methane fraction of exhaust gases from new vehicles is expected to be essentially the same as the methane fraction in base year vehicles. Using the existing total hydrocarbon standards would, therefore, permit these manufacturers to forego the purchase of equipment for determining methane.

---

[2] "Discussion of Major Comments on Individual Issues in Response to the Advanced Notice of Proposed Rulemaking of May 10, 1974 on Hydrocarbon Exhaust Emission Standards and Test Procedures to Prevent Exclusion of Methane." Office of Mobile Source Air Pollution Control; U.S. EPA, 1976.

[3] "Effect of Ambient Temperature on Vehicle Emissions and Performance Factors," Gulf Research and Development Co., 1979, EPA Contract No. EPA 68-03-2530; National Technical Information Service Nos. PB80-162-753, PB80-173-778, PB80-173-784.

[4] Computer printout of EPA data base compiled from tests on in-use vehicles.

[5] "Some Diesel Exhaust Reactivity Information Derived by Gas Chromatography," Lauden, E. W. and Perey, J. M., Caterpillar Tractor Co., SAE Paper No. 740530.

[6] Computer printout of EPA data base compiled from tests on base year heavy-duty diesel engines and 1972 MY heavy-duty gasoline engines.

[7] Computer printout of EPA data base compiled from tests on base year heavy-duty diesel engines and 1972 MY heavy-duty gasoline engines.

If motorcycle manufacturers were to choose the non-methane option, leadtime for purchasing and installing the necessary test equipment could become a factor. Instrument manufacturers are, however, producing the necessary equipment. Representative delivery times are two to four months for analytical equipment used in exhaust gas measurements.

In total, leadtime is not anticipated to be a problem for those manufacturers which might choose the non-methane option.

V. Environmental Impact

Under either the total hydrocarbon standards or the optional non-methane hydrocarbon standards the emission rates of reactive hydrocarbons from mobile sources are very low. In the case of light-duty vehicles, the emission rates of reactive hydrocarbons would be between 0.35 gm/mile and 0.29 gm/mile for a total hydrocarbon standard of 0.41 gm/mile vs. a rate of 0.39 gm/mile for the non-methane standard.

In 1982, mobile sources will contribute just over ⅓ of the total anthropogenic emissions of reactive hydrocarbons at low altitudes. At high altitudes, mobile source contributions will be just over one-half. The projections for mobile source contribution to the total reactive hydrocarbon emissions inventory in 1990 are for just under ⅙ at low altitude and just under ⅓ at high altitude. In the year 2000, the relative contributions from mobile sources are projected to be slightly lower than in 1990. For the U.S., the total anthropogenic and the mobile source contributions for the years 1982, 1990 and 2000, together with mobile source contributions expressed as a percentage of the total, are presented in tabular form below.

TOTAL NON-METHANE HYDROCARBONS EMISSIONS

(1000 tons/year)

	1982			1900			2000		
	Total	Mobile sources	Percent of total	Total	Mobile sources	Percent of total	Total	Mobile sources	Percent of total
Low Altitude									
THC Stds	4,119	1,400	34	3,514	516	15	3,935	524	13
NMHC Stds	4,119	1,400	34	3,586	588	16	4,040	629	16
High Altitude									
THC Stds	155	83	54	111	33	30	120	32	27
NMHC Stds	155	83	54	113	35	31	126	38	30

Comparison of the predicted effects on ambient ozone concentrations of total hydrocarbon and non-methane hydrocarbon standards (assuming 30 percent methane in the exhaust and Inspection and Maintenance) shows that there is negligible, if any, effect through the 1988 to 1990 timeframe. In the year 2000, the predicted effect is for a reduction (improvement) in ambient ozone concentrations relative to 1979 levels of 18 percent with total hydrocarbon standards and of 17 percent with non-methane hydrocarbon standards at low altitude. Comparable figures for high altitudes are 22 percent and 20 percent, respectively.

The projected effect of this proposed action on the ambient air, expressed in terms of air quality regions above standards and exceedances are as follows. In 1982 it is projected that there will be 17 low-altitude regions and two high-altitude regions which exceed standards. The projections for the year 2000 are for 15 low-altitude regions to exceed standards if the total hydrocarbon standards were maintained for mobile sources and the 16 low-altitude regions to exceed standards with non-methane hydrocarbon standards for mobile sources. With either the total hydrocarbon standards or the non-methane hydrocarbon standards, one high-altitude region is projected to exceed standards in the year 2000. The projected number of exceedances in 1982 are 95 at low altitude and eight at high altitude. The projections for the year 2000 are for four exceedances at high altitude with either the total hydrocarbon or the non-methane hydrocarbon standards for mobile sources. At low altitudes, the projections are for 85 exceedances with the total hydrocarbon standards and 90 exceedances with the non-methane hydrocarbon standards for the year 2000.

In the aggregate, reactive hydrocarbon emissions from mobile sources are projected to be a small fraction of the total and differences between THC standards or NMHC standards are not considered to be substantial.

VI. Economic Impact

This proposed rule will affect costs only for those manufacturers which choose the non-methane hydrocarbon option. Because the non-methane hydrocarbon standard is optional, only those manufacturers who can realize either a total savings from vehicle modifications or anticipate a marketing advantage, e.g., improved fuel economy or driveability, would be expected to adopt the option. It is anticipated that light-duty vehicle and light-duty truck manufacturers will choose the non-methane option because their products incorporate catalysts (gasoline-fueled vehicles) and that motorcycle and heavy-duty engine manufacturers will choose the existing total hydrocarbon standards. Light-duty vehicle and light-duty truck manufacturers are either already using methane analyzers or have access to that equipment because of the non-methane option adopted by California. Anticipated costs in this area are, therefore, judged to be negligible.

Some costs are expected for recalibration of the catalyst and other engine/emissions control components in the first model year following introduction of the optional NMHC standards. In subsequent years, these costs will not occur. It is expected, however, that these first year costs will be counterbalanced by savings attributable to the reduced use of catalytic materials or the substitution of lower cost components; e.g., use of a reed valve aspirator in place of an air pump. The cost of recalibrations and savings from reduced catalyst loading, etc., are expected to vary by engine family. EPA has not, therefore, attempted to quantify these values.

Vehicle manufacturers have indicated that some small improvements in vehicle driveability and fuel economy may result, for some vehicle specifications, from the adoption of a non-methane hydrocarbon option.

In the aggregate, it is expected that there will be no cost burden to the vehicle manufacturers who choose the option and that a small fuel savings

could result from the adoption of the non-methane hydrocarbon option.

Public Participation and Request for Comments

Interested persons may participate in this rulemaking by submitting written comments to the Administrator, by attending the public hearing, or both. To the extent possible the Agency requests that written comments be submitted prior to the public hearing. It is EPA's intention to assure all interested parties an opportunity to study all informtion which may become the basis for EPA's final action in this proceeding. Accordingly, the Agency will not consider in this rulemaking any material which cannot be made available to the public. Parties who wish to submit information in response to this Notice of Proposal Rulemaking are cautioned that EPA will not consider, but will return to the commenter, any comments which are claimed, in whole or in part, to be confidential.

All interested parties are encouraged to comment on this action. Comments are specifically requested on the subjects listed below. Identification of these specific subjects does not preclude the presentation of comments on other relevant subjects.

Please comments on or provide answers to each of the following:

1. Comment on the concept of optional non-methane and total hydrocarbon standards.

2. Comment on the relative benefits and costs associated with non-methane standards, non-methane/ethane standards and hydrocarbon reactivity standards. Please quantify either benefits or costs where possible.

3. Comment on the numerical values of the non-methane standards proposed.

4. Will there be a reduction in catalyst loading and by what amount as a result of choosing the non-methane option?

5. What are the projected cost savings to the manufacturer and to the consumer?

6. Will the benefits in fuel economy and driveability, previously indicated as potential benefits by manufacturers, be realized?

7. Will these benefits be realized with all vehicles or with only some of the vehicles meeting the non-methane option? What is the anticipated magnitude of the fuel economy benefit?

8. Will there be other benefits to the vehicle manufacturer or to the consumer?

9. Are there additional data which support/refute the methane fraction in base year vehicle exhaust gases for the four classes of vehicles?

10. Is the extrapolation from light-duty vehicle baseline data to light-duty trucks and motorcycles reasonable?

11. Do any manufacturers, other than light-duty vehicle and light-duty truck manufacturers, expect to use the non-methane option?

12. If there are others, will leadtime for instrumentation pose any significant problems?

13. Please comment on the legal authority to permit optional standards.

Administrative Designation

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a "Regulatory Impact Analysis." This regulation is not major because it invovles no negative cost impacts and has not significant effect on competition, productivity, investment, employment or innovation.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Impact on Small Entities

Section 605 of the Regulatory Flexibility Act requires that the Administrator certify regulations that do not have a significant impact on a substantial number of small entities. I certify that this regulation does not have such an effect because it affects motor vehicle and engine manufacturers, and among this group there are not a substantial number of small entities. Also, the primary effect of this regulation is the potential for a positive economic benefit to the industry, so no private parties should see any substantial adverse impact.

Impact of Recording Requirements

The information collection requirements in this proposed rule will be submitted to the Office of Management and Budget (OMB) for clearance under the Paperwork Reduction Act of 1980 (Pub. L. 95–511). The information requirements or recordkeeping in this proposed rule will not take place until it has been cleared by OMB. If OMB approves, the information collection requirements will take effect as set forth in this proposed rule. If not, EPA will revise the information requirements (and this rule, if appropriate) to comply with OMB's determination.

Authority

The statutory authority under which these actions are proposed are sections 202, 206, and 301 of the Clean Air Act.

Dated: December 11, 1981.

Anne M. Gorsuch,

Administrator.

PART 86—CONTROL OF AIR POLLUTION FROM NEW MOTOR VEHICLES AND NEW MOTOR VEHICLE ENGINES: CERTIFICATION AND TEST PROCEDURES

Part 86 of Chapter I, Title 40 of the Code of Federal Regulations is proposed to be amended as follows:

1. A new § 86.083–2 is proposed to read as follows:

§ 86.083–2 Definitions.

The following definitions apply beginning with the 1983 model year. Section 86.082–2 remains effective.

"Hydrocarbon(s)" (HC) and "total hydrocarbon(s)" (THC) means those substances as determined by a flame ionization detector (FID) as specified in: (1) Section 86.111–82 for Light-Duty Vehicles and Light-Duty Trucks; (2) § 86.1309–84, § 86.1310–84, § 86.1311–84 for Heavy-Duty Engines and (3) § 86.511–78 for Motorcycles.

"Non-methane hydrocarbon(s)" (NMHC) means those substances defined as hydrocarbon(s) or total hydrocarbon(s) less that part which is methane.

2. Section 86.084–2 is proposed to be amended by revising the introductory text to read as follows:

§ 86.084–2 Definitions.

The following definitions apply beginning with the 1984 model year. Sections 86.080–2 and 86.083–2 remain effective except those definitions which are hereby superseded.

* * * * *

3. A new § 86.083–3 is proposed to read as follows:

§ 86.083–3 Abbreviations.

The following abbreviations apply beginning with the 1983 model year. Section 86.078–3 remains effective.

THC—Total Hydrocarbon(s)
NMHC—Non-Methane Hydrocarbon(s)
CH_4—Methane
GC—Gas Chromatograph

4. A new § 86.084–3 is proposed to read as follows:

§ 86.084–3 Abbreviations.

(a) The abbreviations in this section are compiled from §§ 86.073–3 and 86.083–3 and apply to this subpart and also to Subparts B, D, H, I, J, N, O, and P of this part and have the following meanings:

accel.—acceleration.
AECD—auxiliary emission control device.
API—American Petroleum Institute.

ASTM—American Society for Testing and Materials.
BHP—brake horsepower.
BSCO—brake specific carbon monoxide.
BSHC—brake specific hydrocarbons.
BSNOx—brake specific oxides of nitrogen.
C—Celsius.
cfh—cubic feet per hour.
CFV—critical flow venturi.
CFV-CVS—critical flow venturi-constant volume sampler.
CH_4—methane.
CL—chemiluminescene.
CO_2—carbon dioxide.
CO—carbon monoxide.
conc.—concentration.
cfm—cubic feet per minute.
CT—closed throttle.
cu. in.—cubic inch(es).
CVS—constant volume sampler.
decel.—deceleration.
EP—end point.
evap.—evaporative.
F—Fahrenheit.
FID—flame ionization detector.
FL—full load.
ft.—feet.
g—gram(s).
gal.—U.S. gallon(s).
GC—gas chromatograph.
GVW—gross vehicle weight.
GVWR—gross vehicle weight rating.
h—hour(s).
H_2O—water.
HFID—heated flame ionization detector.
Hg—mercury.
hi—high.
hp—horsepower.
IBP—initial boiling point.
ID—internal diameter.
in.—inch(es).
K—kelvin.
kg—kilograms.
km—kilometer(s).
kPa—kilopascal(s).
lb.—pound(s).
lb.-ft.—pound-feet.
m—meter(s).
max.—maximum.
mg—milligram(s).
mi.—mile(s).
min.—minute(s).
ml—milliliter(s).
mm—millimeter(s).
mph—miles per hour.
mv—millivolt(s).
N_2—nitrogen.
NMHC—non-methane hydrocarbon(s).
NDIR—nondispersive infrared.
NO—nitric oxide.
NO_2—nityrogen dioxide.
NOx—oxides of nitrogen.
No.—number.
O_2—oxygen.
Pb—lead.
pct.—percent.
PDP-CVS—positive displacement pump-constant volume sampler.
ppm—parts per million by volume.
ppmC—part per million, carbon.
psi—pounds per square inch.
psig—pounds per square inch gauge.
PTA—part throttle deceleration.
R—rankin.
rpm—revolutions per minute.
RVP—Reid vapor pressure.
s—second(s).
SAE—Society of Automotive Engineers.
SI—International system of units.
sp.—speed.
TEL—tetraethyl lead.
THC—total hydrocarbon(s).
TML—tetramethyl lead.
UDDS—urban dynamometer driving schedule.
V—volt(s).
vs—versus.
W—watt(s).
WF—weighting factor.
WOT—wide open throttle.
wt.—weight.

5. A new § 86.083–8 is proposed to read as follows:

§ 86.083–8 Emission standards for 1983 and later light-duty vehicles.

(a)(1) Manufacturers may elect either a total hydrocarbons exhaust emission standard or a non-methane hydrocarbons exhaust emission standard. The standards set forth in paragraphs (a) through (c) of this section shall apply for vehicles sold for principal use at other than designated high-altitude locations. Exhaust emissions from 1983 and later model year light-duty vehicles shall not exceed:

(i) *Total hydrocarbons.* 0.41 grams per vehicle mile (0.255 grams per vehicle kilometer). *Non-Methane hydrocarbons.* 0.39 grams per vehicle mile (0.243 grams per vehicle kilometer).

(ii) *Carbon monoxide.* 3.4 grams per vehicle mile (2.11 grams per vehicle kilometer).

(iii) *Oxides of nitrogen.* 1.0 gram per vehicle mile (0.62 gram per vehicle kilometer).

(iv) *Particulate emissions (diesels only).* 0.60 gram per vehicle mile (0.373 gram per vehicle kilometer).

(2) The standards set forth in paragraph (a)(1) of this section refer to the exhaust emitted over a driving schedule as set forth in Subpart B of this part and measured and calcaluated in accordance with those procedures.

(b)(1) Fuel evaporative emissions from 1983 and later model year gasoline-fueled light-duty vehicles shall not exceed:

(i) *Hydrocarbons.* 2.0 grams per test.

(2) The standards set forth in paragraph (b)(1) of this section refer to a composite sample of the fuel evaporative emissions collected under the conditions set forth in Subpart B of this part measured in accordance with those procedures.

(c) No crankcase emissions shall be discharged into the ambient atmosphere from any 1983 and later model year gasoline-fueled light-duty vehicle.

(d)(1) Model year 1983 and later light-duty vehicles sold for principal use at a designated high-altitude location shall be capable of meeting the following exhaust emission standards when tested under high-altitude conditions.

(i) *Total hydrocarbons.* 0.57 grams per vehicle mile (0.35 grams per vehicle kilometer). *Non-methane hydrocarbons.* 0.54 grams per vehicle mile (0.34 grams per vehicle kilometer).

(ii) *Carbon monoxide.* 7.8 grams per vehicle mile (4.8 grams per vehicle kilometer).

(iii) *Oxides of nitrogen.* The allowable levels of oxides of nitrogen from light-duty vehicles which are sold for principal use at designated high-altitude locations are the same as set forth in paragraph (a)(1)(iii) of this section.

(2) The standards set forth in paragraph (d)(1) of this section refer to the exhaust emitted over a driving schedule as set forth in Subpart B of this part and measured and calculated in accordance with those procedures.

(e)(1) Fuel evaporative emissions from 1983 and later model year gasoline-fueled light-duty vehicles sold for principal use at designated high-altitude locations shall not exceed 2.6 grams per test when tested under high-altitude conditions.

(2) The standard set forth in paragraph (e)(1) of this section refers to a composite sample of the fuel evaporative emissions collected under the conditions set forth in Subpart B of this part and measured in accordance with those procedures.

(f) No crankcase emissions shall be discharged into the ambient atmosphere from any 1983 and later model year gasoline-fueled light-duty vehicles sold for principal use at designated high-altitude locations.

(g)(1) All light-duty vehicles shall be capable (by initial design, adjustment, or modification) of meeting the applicable emission standards set forth in this section for any altitude of operation. Such adjustments and modifications shall:

(i) Be capable of being effectively performed by commercial repair facilities.

(ii) All adjustments and modifications recommended by the manufacturer to be performed on vehicles to satisfy this requirement must be included in the manufacturer's application for certification, and be approved in advance by EPA in accordance with § 86.079–22.

(2) Exemptions for vehicles from the high-altitude emissions standards as set forth in paragraph (d) of this section may be granted by the Administrator for vehicles that are expected to have unsatisfactory performance under high-

altitude conditions. Such exemptions will be granted upon petition by the manufacturers that the vehicle falls within the definition of vehicles eligible for exemption. A vehicle shall be considered eligible for exemption if its design parameters (displacement-to-weight ratio (D/W) and engine speed-to-vehicle speed (N/V)) simultaneously fall within the exempted range for that manufacturer for that year. The exempted range is determined according to the following procedure:

(i) The manufacturer shall graphically display the D/W and N/V data of all vehicle configurations it will offer for the model year in question. The axis of the abscissa shall be D/W (where (D) is the engine displacement expressed in cubic centimeters and (W) is the equivalent vehicle test weight expressed in pounds), and the axis of the ordinate shall be N/V (where (N) is the crankshaft speed expressed in revolutions per minute and (V) is the vehicle speed expressed in miles per hour). At the manufacturer's option, either the 1:1 transmission gear ratio or the lowest numerical gear ratio available in the transmission will be used to determine N/V. The gear selection must be the same for all N/V data points on the manufacturer's graph. For each transmission/axle ratio combination, only the lowest N/V value shall be used in the graphical display.

(ii) The product line is then defined by the equation, $N/V = C(D/W)^{-0.9}$, where the constant (C), is determined by the requirement that all the vehicle data points either fall on the line or lie to the upper right of the line as displayed on the graphs.

(iii) The exemption line is then defined by the equation, $N/V = C(0.84\ D/W)^{-0.9}$, where the constant, (C) is the same as that found in paragraph (g)(2)(ii) of this section.

(iv) The exempted range includes all values of N/V and D/W which simultaneously fall to the lower left of the exemption line as drawn on the graph.

(3) The sale of a vehicle for principal use at a designated high-altitude location that has been exempted as set forth in paragraph (g)(2) of this section will be considered a violation of Section 203(a)(1) of the Clean Air Act.

6. In § 86.085–8, the introductory text of paragraph (a)(1) and paragraph (a)(1)(i) are proposed to be revised as follows:

§ 86.085–8 Emission standards for 1985 light-duty vehicles.

(a)(1) Manufacturers may elect either a total hydrocarbons exhaust emission standard or a non-methane hydrocarbons exhaust emission standard. Exhaust emissions from 1985 and later model year light-duty vehicles shall be exceed:

(i) *Total hydrocarbons.* 0.41 grams per vehicle mile (0.255 grams per vehicle kilometer). *Non-methane hydrocarbons.* 0.39 grams per vehicle mile (0.243 grams per vehicle kilometer).

* * * * *

7. In § 86.083–9, the introductory text of paragraphs (a)(1) and (d)(1) and paragraphs (a)(1)(i), and (d)(1)(i) are proposed to be revised as follows:

§ 86.083–9 Emission standards for 1983 light-duty trucks.

(a)(1) The standards set forth in paragraphs (a) through (c) of this section shall apply for trucks sold for principal use at other-than-designated high-altitude locations. Manufacturers of light-duty trucks may elect either a total hydrocarbons exhaust emission standard or a non-methane hydrocarbons exhaust emission standard. Exhaust emissions from 1983 model year light-duty trucks shall not exceed:

(i) *Total hydrocarbons.* 1.70 grams per vehicle mile (1.058 grams per vehicle kilometer). *Non-methane hydrocarbons.* 1.62 grams per vehicle mile (1.008 grams per vehicle kilometer).

* * * * *

(d)(1) 1983 model year light-duty trucks sold for principal use at designated high-altitude locations shall be capable of meeting the following exhaust emission standards when tested under high-altitude conditions. Manufacturers may elect either a total hydrocarbons standard or a non-methane hydrocarbons emission standard. Exhaust emissions from 1983 high-altitude, light-duty trucks shall not exceed:

(i) *Total hydrocarbons.* 2.0 grams per vehicle mile (1.24 grams per vehicle kilometer). *Non-methane hydrocarbon.* 1.90 grams per vehicle mile (1.18 grams per vehicle kilometer).

* * * * *

8. In § 86.084–9, it is proposed to revise the introductory text of paragraph (a)(1), and paragraph (a)(1)(i) and to remove paragraphs (d) and (e) as follows:

§ 86.084–9 Emission standards for 1984 and later model year light-duty trucks.

(a)(1) Manufacturers of light-duty trucks may elect either a total hydrocarbons exhaust emission standard or a non-methane hydrocarbons exhaust emission standard. Exhaust emissions from 1984 model year light-duty trucks shall not exceed:

(i) *Total hydrocarbons.* 0.80 grams per vehicle mile (0.498 grams per vehicle kilometer). *Non-methane hydrocarbons.* 0.76 grams per vehicle mile (0.473 grams per vehicle kilometer).

* * * * *

9. In § 86.084–10, the introductory text of paragraph (a)(1) and paragraph (a)(1)(i) are proposed to be revised as follows:

§ 86.084–10 Emission standards for 1984 and later model year gasoline-fueled heavy-duty engines.

(a)(1) Manufacturers of gasoline-fueled heavy-duty engines may elect either a total hydrocarbons exhaust emission standard or a non-methane hydrocarbons exhaust emission standard. Exhaust emissions from new 1984 and later model year gasoline-fueled heavy-duty engines shall not exceed:

(i) *Total hydrocarbons.* 1.3 grams per brake horsepower hour, as measured under transient operating conditions. *Non-methane hydrocarbons.* 1.24 grams per brake horsepower hour as measured under transient operating conditions.

* * * * *

10. In § 86.084–11, the introductory text of paragraph (a)(1) and paragraph (a)(1)(i)(A) are proposed to be revised as follows:

§ 86.084–11 Emission standards for 1984 diesel heavy-duty engines.

(a)(1) Manufacturers of diesel heavy-duty engines may elect either a total hydrocarbons exhaust emission standard or a non-methane hydrocarbons exhaust emission standard. Exhaust emissions from new 1984 model year diesel heavy-duty engine shall not exceed:

(i)(A) *Total hydrocarbons.* 1.3 grams per brake horsepower hour, as measured under transient operating conditions (Subpart N). *Non-methane hydrocarbons.* 1.24 grams per brake horsepower hour, as measured under transient operating conditions (Subpart N) or,

* * * * *

11. In § 86.085–11, the introductory text of paragraph (a)(1) and paragraph (a)(1)(i)(A) are proposed to be amended as follows:

§ 86.085–11 Emission standards for 1985 diesel heavy-duty engines.

(a)(1) Manufacturers of diesel heavy-duty engines may elect either a total hydrocarbons exhaust emission standard or a non-methane hydrocarbons exhaust emission standard. Exhaust emission from new

1985 model year and later diesel heavy-duty engine shall not exceed:

(i)(A) *Total hydrocarbons.* 1.3 grams per brake horsepower hour, as measured under transient operating conditions (Subpart N). *Non-methane hydrocarbons.* 1.24 grams per brake horsepower hour, as measured under transient operating conditions (Subpart N) or,

* * * * *

12. Section § 86.084–21, paragraph (a) is proposed to be revised as follows:

§ 86.084–21 Application for certification.

(a) A separate application for a certificate of conformity shall be made for each set of standards and each class of new motor vehicles or new motor vehicle engines. Such application shall be made to the Administrator by the manufacturer and shall be updated and corrected by amendment.

* * * * *

13. Paragraph (a)(3)(ii) of § 86.084–29 is proposed to be revised as follows:

§ 86.084–29 Testing by the Administrator.

(a) * * *

(3) * * *

(ii) Whenever the Administrator does not conduct a test on a test vehicle at a test point, the manufacturer's test data will be accepted as the official data for that point: *Provided,* That if the Administrator makes a determination based on testing under paragraph (a)(2) of this section, that there is a lack of correlation between the manufacturer's test equipment and the test equipment used by the Administrator, no manufacturer's test data will be accepted for purposes of certification until the reasons for the lack of correlation are determined and the validity of the data is established by the manufacturer: *And further provided,* That if the Administrator has reasonable basis to believe that any test data submitted by the manufacturer is not accurate or has been obtained in violation of any provisions of this part, the Administrator may refuse to accept that data as the official data pending retesting or submission or further information. If the manufacturer conducts more than one test on a vehicle, as authorized under § 86.084–26(a)(3)(i) or (b)(4)(i) the data from the last test in that series of tests on that vehicle, will constitute the official data.

* * * * *

14. In § 86.084–35, it is proposed to revise paragraphs (a)(1)(iii)(D) and (a)(2)(iii)(D) and to remove paragraphs (a)(1)(iii)(F) and (a)(2)(iii)(G) as follows:

§ 86.084–35 Labeling.

(a) * * *

(1) * * *

(iii) * * *

(D) Engine tune-up specifications and adjustments, as recommended by the manufacturer in accordance with the applicable emission standards, including but not limited to idle speed(s), ignition timing, the idle air-fuel mixture setting procedure and value (e.g., idle CO, idle air-fuel ratio, idle speed drop), high idle speed, initial injection timing, and valve lash (as applicable), as well as other parameters deemed necessary by the manufacturer. These specifications should indicate the proper transmission position during tune-up and what accessories (e.g., air conditioner), if any, should be in operation.

* * * * *

(2) * * *

(iii) * * *

(D) Engine tune-up specifications and adjustments, as recommended by the manufacturer in accordance with the applicable emission standards, including but not limited to idle speed(s), ignition timing, the idle air-fuel mixture setting procedure and value (e.g., idle CO, idle air-fuel ratio, idle speed drop), high idle speed, intial injection timing, and valve lash (as applicable), as well as other parameters deemed necessary by the manufacturer. These specifications should indicate the proper transmission position during tune-up and what accessories (e.g., air conditioner), if any should be in operation.

* * * * *

15. A new § 86.111–83 is proposed to read as follows:

§ 86.111–83 Exhaust gas analytical system.

(a) *Schematic drawings.* Figure B 83–1 is a schematic drawing of the exhaust gas analytical system. Figure B 83–2 is a schematic drawing of the instrument to measure methane. The schematic of the hydrocarbon analysis train for diesel fueled vehicles is shown as part of Figure B 82–3 (or Figure B 82–4). Because various configurations can produce accurate results, exact conformance with either drawing is not required. Additional components such as instruments, valves, solenoids, pumps and switches may be used to provide additional information and coordinate the functions of the component systems.

(b) *Major component description.* The analytical system, Figure B 83–1, consists of a flame ionization detector (FID) for the determination of total hydrocarbons, gas chromatograph (GC) with a flame ionization detector for methane determination (for the non-methane option), non-dispersive infrared analyzers (NDIR) for the determination of carbon monoxide and carbon dioxide, and a chemiluminescence analyzer (CL) for the determination of oxides of nitrogen. A heated flame ionization detector (HFID) is used for the continuous determination of total hydrocarbons from diesel-fueled vehicles, Figure B 82–3 (or B 82–4). The exhaust gas analytical system shall conform to the following requirements:

BILLING CODE 6560–26–M

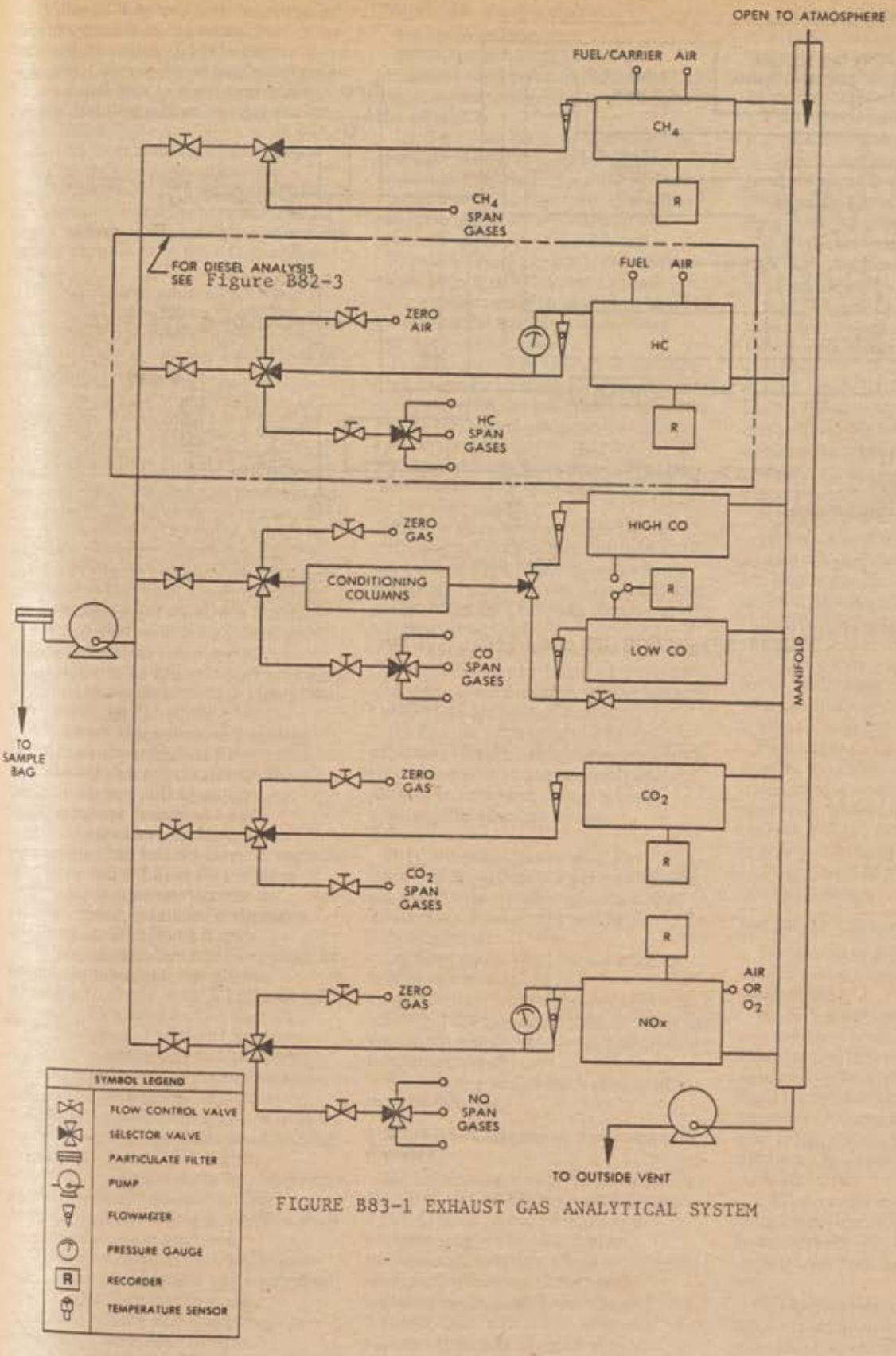

FIGURE B83-1 EXHAUST GAS ANALYTICAL SYSTEM

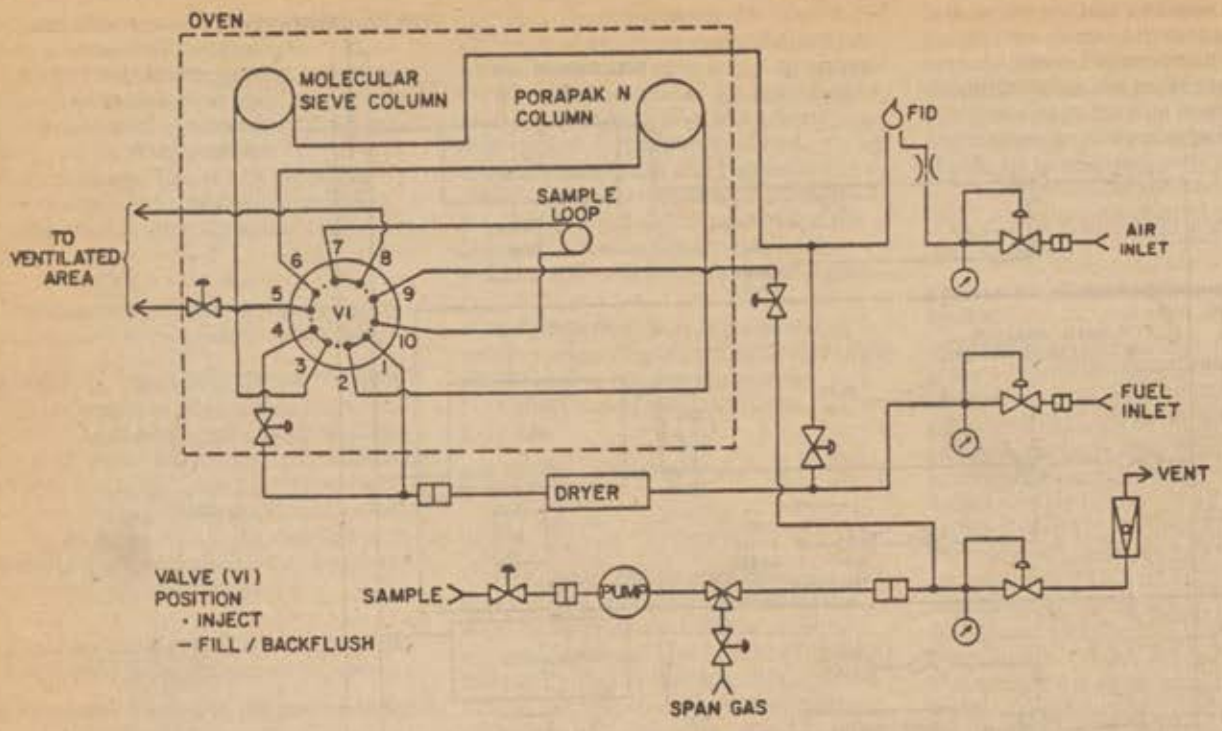

FIGURE B83-2 METHANE ANALYTICAL SYSTEM

BILLING CODE 6560-26-C

(1) The CL requires that the nitrogen dioxide present in the sample be converted to nitric oxide before analysis. Other types of analyzers may be used if shown to yield equivalent results and if approved in advance by the Administrator.

(2) The carbon monoxide (NDIR) analyzer may require a sample conditioning column containing $CaSO_4$, or indicating silica gel to remove water vapor and containing ascarite to remove carbon dioxide from the CO analysis stream.

(i) If CO instruments which are essentially free of CO_2 and water vapor interference are used, the use of the conditioning column may be deleted, see § 86.122 and § 86.144.

(ii) A CO instrument will be considered to be essentially free of CO_2 and water vapor interference if its response to a mixture of 3 percent CO_2 in N_2 which has been bubbled through water at room temperature produces an equivalent CO response, as measured on the most sensitive CO range, which is less than one percent of full scale CO concentration on ranges above 300 ppm full scale or less than 3 ppm on ranges below 300 ppm full scale, see § 86.122.

(3) For diesel vehicles a continuous total hydrocarbon sample shall be measured using a heated analyzer train as shown in Figure B82–3 (or Figure B82–4). The train shall include a heated probe, a heated continuous sampling line, a heated particulate filter, and a heated total hydrocarbon instrument (HFID) compete with heated pump, filter, and flow control system.

(i) The response time of this instrument shall be less than 1.5 seconds for 90 percent of full scale response.

(ii) Sample transport time from sampling point to inlet of instrument shall be less than four seconds.

(iii) The sample line and filter shall be heated to maintain a sample gas temperature of 375°±10° F (191±6° C) before the filter and before the HFID.

(4) The optional methane analyzer requires a conditioning column (dryer) containing silica gel or molecular sieve material (or an equivalent) to remove water and organic contaminants from the carrier gas stream. The conditioning column shall be reconditioned bimonthly or as necessary by observing a visible indicating medium. The methane impurity of the carrier gas shall not exceed 0.5 ppm methane.

(c) *Other analyzers and equipment.* Other types of analyzers and equipment may be used if shown to yield equivalent results and if approved in advance by the Administrator.

16. A new § 86.114–83 is proposed to read as follows:

§ 86.114–83 Analytical gases.

(a) Analyzer gases.

(1) Gases for the CO and CO_2 analyzers shall be single blends of CO and CO_2, respectively, using nitrogen as the diluent.

(2) Gases for the total hydrocarbon analyzer shall be single blends of propane using air as the diluent. Gases for calibration of the optional methan analyzer shall be single blends of methane using air as the diluent.

(3) Gases for NOx analyzer shall be single blends of NO named as NOx, with a maximum NO_2 concentration of 5 percent of the nominal value, using nitrogen as the diluent.

(4) Fuel for the evaporative emission enclosure FID shall be a blend of 40±2% hydrogen with the balance being helium. The mixture shall contain less than 1 ppm equivalent carbon response. Ninety-eight to 100 percent hydrogen fuel may be used with advance approval by the Administrator.

(5) The allowable zero gas (air or nitrogen) impurity concentrations shall not exceed 1 ppm equivalent carbon response, 1 ppm carbon monoxide, 0.04 percent (400 ppm) carbon dioxide and 0.1 ppm nitric oxide.

(6) "Zero grade air" includes artificial "air" consisting of a blend of nitrogen and oxygen with oxygen concentrations between 18 and 21 mole percent.

(7) The use of proportioning and precision blending devices to obtain the required analyzer gas concentration is allowable provided their use been approved in advance by the Administrator.

(b) Calibration gases shall be traceable to within one percent of NBS gas standards, or other gas standards which have been approved by the Administrator.

(c) Span gases shall be accurate to within two percent of true concentration, where true concentration refers to NBS gas standards, or other gas standards which have been approved by the Administrator.

17. A new § 86.116–83 is proposed to read as follows:

§ 86.116–83 Calibrations, frequency and overview.

(a) Calibrations shall be performed as specified in § 86.117 through § 86.126.

(b) At least yearly or after any maintenance which could alter background emission levels, evaporative enclosure background emmission measurements shall be performed.

(c) At least monthly or after any maintenance which could alter calibration, the following calibrations and checks shall be performed:

(1) Calibrate the total hydrocarbon analyzers (both evaporative and exhaust emission instruments), optional methane analyzer, carbon dioxide analyzer, carbon monoxide analyzer, and oxides of nitrogen analyzer.

(2) Calibrate the dynamometer. If the dynamometer receives a weekly performance check (and remains within calibration) the monthly calibration need not be performed.

(3) Perform a hydrocarbon retention check and calibration on the evaporative emission enclosure.

(4) Calibrate the gas meters or flow instrumentation used for providing total flow measurement for particulate sampling.

(d) At least weekly or after any maintenance which could alter calibration, the following calibrations and checks shall be performed:

(1) Check the oxides of nitrogen converter efficiency, and

(2) Perform a CVS system verification.

(3) Run a performance check on the dynamometer. This check may be omitted if the dynamometer has been calibrated within the preceding month.

(e) The CVS positive displacement pump or Critical Flow Vernturi shall be calibrated following initial installation, major maintenance or as necessary when indicated by the CVS system verification (described in § 86.119).

(f) Sample conditioning columns, if used in the CO analyzer train, should be checked at a frequency consistent with observed column life or when the indicator of the column packing begins to show deterioration.

18. A new § 86.125–83 is proposed to read as follows:

§ 86.125–83 Methane analyzer calibration.

The methane analyzer shall receive the following initial and periodic calibration:

(a) *Initial and periodic optimization of detector response.* Prior to its introduction into service and at least annually thereafter the FID detector shall be adjusted for optimum methane response. Alternate methods yielding equivalent results may be used if approved in advance by the Administrator.

(1) Follow the manufacturer's instructions for instrument start-up and basic operating adjustment, using the appropriate fuel, carrier, and zero grade air.

(2) Optimize on the most commonly used range. Introduce into the analyzer a methane in air mixture with a methane concentration equal to approximately 90 percent of the most common range.

(3) Select an operating FID fuel flow rate that will give near maximum response and least variation in response with minor variations in fuel flow rate.

(4) To determine the optimum FID air flow rate, use the FID fuel flow setting determined above and vary air flow rate for maximum response.

(5) After the optimum flow conditions have been determined, actual flow rates are measured and recorded for future reference.

(b) *Initial and periodic calibration.* Prior to its introduction into service and at least monthly thereafter the methane analyzer shall be calibrated on all normally used ranges. Use the same flow rates when analyzing samples.

(1) Adjust analyzer to optimum flow conditions as determined above.

(2) Obtain a stable baseline reading using carrier gas.

(3) Calibrate on each normally used operating range with methane in air calibration gases having nominal concentrations of 15, 30, 60 and 90 percent of that range. Additional calibration points may be generated. For each range calibrated, if the deviation from a least-squares best-fit straight line is 2 percent or less, or within 0.1 ppm methane of the value of each data point (excluding zero), a linear equation may be used to determine the methane concentration. If the deviation exceeds 2 percent or 0.1 ppm methane at any data point (whichever is highest), the best fit non-linear equation which represents the data to within 2 percent (or 0.1 ppm methane) of each point shall be used to determine the concentration. Use methane in air calibration gases having nominal concentrations of 15, 30, 45, 60, 75, and 90 percent of each range for the calibration of non-linear instruments.

(4) A stable baseline must be obtained before and after the methane peak elution. A stable baseline is defined as the time equal to or greater than 25 percent of the methane peak width at half peak height. The methane peak must be resolved from other gases, such as oxygen, nitrogen, and carbon monoxide. Methane concentration shall be determined by peak height measurement or area integration.

19. A new § 86.140–83 is proposed to read as follows:

§ 86.140–83 Exhaust sample analysis.

The following sequence of operations shall be performed in conjunction with each series of measurements:

(a) Gasoline fueled vehicles. Total hydrocarbons, CH (non-methane option), CO, CO_2 and NO_x.

(1) Zero the analyzers and obtain a stable zero reading. Recheck after tests.

(2) Introduce span gases and set instrument gains. In order to avoid errors, span and calibrate at the same flow rates used to analyze the test sample. Span gases should have concentrations equal to 75 to 100 percent of full scale. If gain has shifted significantly on the analyzers, check the calibrations. Show actual concentrations on chart.

(3) Check zeros; repeat the procedure in paragraphs (a) (1) and (2) of this section if required.

(4) Check flow rates and pressures.

(5) Measure: THC CH_4 (non-methane option), CO, CO_2 and NOx concentrations of samples.

(6) Check zero and span points. If difference is greater than 2 percent of full scale, repeat the procedure in paragraphs (a)(1) through (5) of this section.

(b) For diesel fueled vehicles, follow procedures for gasoline fueled vehicles except THC.

(1) Zero HFID analyzer and obtain a stable zero reading.

(2) Introduce span gas and set instrument gains. Span gas should have concentration equal to 75 to 100 percent of full scale.

(3) Check zero as in paragraph (b)(1) of this section.

(4) Introduction of zero and span gas into the analyzer can be accomplished by either of the following methods:

(i) Close heated valve in THC sample (see Figures B82–3 or B82–4), and allow gases to enter HFID. Extreme care should be taken not to introduce gases under high pressure.

(ii) Connect zero and span line directly to THC sample probe and introduce gases at a flow rate between 190 percent and 210 percent of the HFID flow rate (see Figures B82–3A or B82–4A). Excess flow must be allowed to exit probe inlet.

Note.—In order to minimize errors, HFID flow rate and pressure during zero and span (and background bag reading) must be exactly the same as that used during testing.

(5) Continuously record (integrate electronically if desired) dilute total hydrocarbon emissions levels during test. Background samples are collected in sample bags and analyzed as in paragraph (b)(4)(i) or (4)(ii) of this section.

(6) Check zero and span as in paragraph (b)(1) through (b)(4)(i) or (4)(ii) of this section. If difference is greater than two percent of full scale, void test and check for HC "hangup" or electronic drift in analyzer.

20. A new § 86.144–83 is proposed to read as follows:

§ 86.144–83 Calculations, exhaust emissions.

The final reported test results shall be computed by use of the following formula:

(a) For light-duty vehicles and light-duty trucks:

$$Y_{wm} = 0.43[(Y_{ct} + Y_s)/(D_{ct} + D_s)] + 0.57[(Y_{ht} + Y_s)/(D_{ht} + D_s)]$$

Where:

Y_{wm} = Weighted mass emissions of each pollutant, e.g., total HC or NMHC, CO, CO_2, or NO_x, in grams per vehicle mile.

Y_{ct} = Mass emissions as calculated from the "transient" phase of the cold start test, in grams per test phase.

Y_{ht} = Mass emissions as calculated from the "transient" phase of the hot start test, in grams per test phase.

Y_s = Mass emissions as calculated from the "stabilized" phase of the cold start test, in grams per test phase.

D_{ct} = The measured driving distance from the "transient" phase of cold start test, in miles.

D_{ht} = The measured driving distance from the "transient" phase of the hot start test, in miles.

D_s = The measured driving distance from the "stabilized" phase of the cold start test, in miles.

(b) The mass of each pollutant for each phase of both the cold start test and the hot start test is determined from the following:

(1)(i) Total Hydrocarbon mass:

$$THC_{mass} = V_{mix} \times Density_{THC} \times (THC_{conc}/1{,}000{,}000)$$

(ii) Non-methane Hydrocarbon mass:

$$NMHC_{mass} = (THC_{mass}) - (CH_{4\,mass}) - (THC_{mass}) - (V_{mix} \times Density_{CH4} \times (CH_{4\,conc}/1{,}000{,}000))$$

(2) Oxides of nitrogen mass:

$$Nox_{mass} = V_{mix} \times Density_{NO2} \times K_H \times (NO_{x\,conc}/1{,}000{,}000))$$

(3) Carbon monoxide mass:

$$CO_{mass} = V_{mix} \times Density_{CO} \times (CO_{conc}/1{,}000{,}000)$$

(4) Carbon dioxide mass:

$$CO_{2mass} = V_{mix} \times Density_{CO2} \times (CO_{2conc}/100)$$

(c) Meaning of symbols:

(1)(i) THC_{mass} = total hydrocarbon emissions, in grams per test phase.

$Density_{THC}$ = Density of total hydrocarbons is 16.33 g/ft³ (0.5767 kg/m³), assuming an average carbon to hydrogen ratio of 1:1.185, at 68°F (20°C) and 760 mm Hg (101.3 kPa) pressure.

THC_{conc} = Total Hydrocarbon concentration of the dilute exhaust sample corrected for total hydrocarbon background, in ppm carbon equivalent, i.e., equivalent propane X 3.

$THC_{conc} = THC_e - THC_d(1-1/DF)$

(ii) $NMHC_{mass}$ = Total hydrocarbon emissions less methane emissions, in grams per test phase.

Density C_3H_8 = Density of methane is 18.89 g/ft³ (0.6671 kg/m) at 68°F (20°C) and 760 mm Hg (101.3 kPa) pressure.

CH_{4conc} = Methane concentration in the dilute exhaust sample corrected for methane background in ppm carbon.

$CH_{4conc} = CH_{4e} - CH_{4d}$ (1-1/DF)

Where

THC_e = Total hydrocarbon concentration of the dilute exhaust sample or, for Diesel vehicles, average total hydrocarbon concentration of the dilute exhaust sample as calculated from the integrated total HC traces, in ppm carbon equivalent.

THC_d = Total Hydrocabon concentration of the dilution air as measured, in ppm carbon equivalent.

CH_{4e} = Methane concentration of the dilute exhaust sample in ppm carbon equivalent.

CH_{4d} = Methane concentration of the dilution air as measured in ppm carbon equivalent.

(2) NOx_{mass} = Oxides of nitrogen emissions, in grams per test phase.

Density $_{NOx}$ = Density of oxides of nitrogen in 54.16 g/ft³ (1.913 kg/m³), assuming they are in the form of nitrogen dioxide, at 68°F (20°C) and 760 mm HG (101.3 kPa) pressure.

NO_{xconc} = Oxides of nitrogen concentration of the dilute exhaust sample corrected for background in ppm.

$NO_{xconc} = NO_{xe} - NO_{xd}$ (1-1/DF)

Where:

NO_{xe} = Oxides of nitrogen concentration of the dilute exhaust sample as measured, in ppm. NO_{xd} = Oxides of nitrogen concentration of the dilution air as measured in ppm.

(3) CO_{mass} = Carbon monoxide emissions, in grams per test phase.

Density$_{CO}$ = Density of carbon monoxide is 32.97 g/ft³ (1.164 kg/m³) at 68°F (20°C) and 760 mm Hg (101.3 kPA) pressure.

CO_{conc} = Carbon monoxide concentration of the dilure exhaust sample corrected for background, water vapor, and CO_2 extraction, in ppm.

$CO_{conc} = CO_e - CO_d$ (1-1/DF)

Where:

CO_e = Carbon monoxide concentration of the dilute exhaust sample volume corrected for water vapor and carbon dioxide extraction, in ppm. The calculation assumes the carbon to hydrogen ratio of the fuel is 1:1.85.

$CO_e = (1\text{–}0.01925\ CO_{2e} - 0.000323\ R)\ CO_{em}$

Where:

CO_{em} = Carbon monoxide concentration of the dilute exhaust sample as measured, in ppm.

CO_{2e} = Carbon dioxide concentration of the dilute exhaust sample, in percent.

R = Relative humidity of the dilution air, in percent (see § 86.142(n)).

CO_d = Carbon monoxide concentration of the dilution air corrected for water vapor extraction, in ppm.

$CO_d = (1\text{–}0.000323R)\ C)_{dm}$

Where:

CO_{dm} = Carbon monoxide concentration of the dilution air sample as measured, in ppm.

Note.—If a CO instrument which meets the criteria specified in § 86.111 is used and the conditioning column has been deleted, CO_{em} can be substituted directly for CO_e, and CO_{dm} can be substituted directly for CO_d.

(4) CO_{2mass} = Carbon dioxide emissions, in grams per test phase.

Density CO_2 = Density of carbon dioxide is 51.85 g/ft³ (1.843 kg/m³) at 68°F (20°C) and 760 mm Hg (101.3 kPa) pressure.

CO_{2conc} = Carbon dioxide concentration of the dilute exhaust sample corrected for background, in percent.

$CO_{2conc} = CO_{2e} - CO_{2d}$ (1-1/DF)

Where:

CO_{2d} = Carbon dioxide concentration of the dilution air as measured, in percent.

(5) $DF = 13.4/[CO_{2e} + (HC_e CO_e)\ 10^{-4}]$

K_H = Humidity correction factor.

$K_H = 1/[1\text{–}0.0047\ (H\text{–}75)]$

for SI units $K_H = 1/[1\text{–}0.0329\ (H\text{–}10.71)]$

Where:

H = Absolute humidity in grains (grams) of water per pound (kilogram) of dry air.

$H = [(43.478)\ R_a \times P_d]/[P_B - (P_d \times R_a/100)]$

for SI Units, $H = [(6.211)R_a \times P_d]/[P_B - (P_d \times R_a/100)]$

R_a = Relative humidity of the ambient air, in percent.

P_d = Saturated vapor pressure, in mm Hg (kPa) at the ambient dry bulb temperature.

P_B = Barometric pressure, in mm Hg (kPa).

V_{mix} = Total dilute exhaust volume in cubic feet per test phase corrected to standard conditions (528°R) (293°K) and 760 mm Hg (101.3 kPa)).

For PDP–CVS, V_{mix} is:

$$V_{mix\times} = \frac{V_o \times N(P_B \times P_A)\ (528°R)}{(760\ mm\ Hg)\ (T_p)}$$

for SI units,

$$V_{mix} = \frac{V_o \times N(P_B - P_A)\ (293.15°K)}{(101.325\ kPa)\ (T_p)}$$

Where:

V_o = Volume of gas pumped by the positive displacement pump, in cubic feet (m³) per revolution. This volume is dependent on the pressure differential across the positive displacement pump.

N = Number of revolutions of the positive displacement pump diring the test phase while samples are being collected.

P_B = Barometric pressure, in mm Hg (kPa).

P_A = Pressure depression below atmospheric measured at the inlet to the positive displacement pump, in mm Hg (kPa) (during an idle mode).

T_P = Average temperature of dilute exhaust entering positive displacement pump during test, °R(°K).

(d) Example calculation of mass values of exhaust emissions using positive displacement pump:

(1) For the "transient" phase of the cold start test assume the following: V_o = 0.29344 ft³/revolution; N = 10,485; R = 48.0 percent; R_a = 48.2 percent; P_B = 762 mm Hg; P_d = 22.225 mm Hg; P_A = 70 mm Hg; T_p = 570°R; THC_e = 105.8 ppm, carbon equivalent; CH_{4e} = 21.2 ppm; NOx_e = 11.2 ppm; CO_{em} = 306.6 ppm; CO_{2e} = 1.43 percent; THC_d = 12.1 ppm; CH_{4d} = 1.8 ppm; NOx_d = 0.8 ppm; CO_{dm} = 15.3 ppm; CO_{2d} = 0.032 percent; D_{ct} = 3.598 miles.

Then:

$V_{mix} = (0.29344)\ (10{,}485)\ (762\text{–}70)\ (528)/(760)\ (570) = 2595.0$ ft³ per test phase.

$H = (43.478)\ (48.2)\ (22.225)/[762 - (22.225 \times 48.2/100)] = 62$ grains of water per pound of dry air.

$K_H = 1/[1\text{–}0.0047\ (62\text{–}75)] = 0.9424$

$CO_e = [1\text{–}0.01925\ (1.43)\text{–}0.000323\ (48)]\ 306.0 = 293.4$ ppm

$CO_d = [1\text{–}0.000323\ (48)]\ 15.3 = 15.1$ ppm

$DF = 13.4/[1.43 + (105.8 + 293.4) \times 10^{-4}] = 9.116$

$THC_{conc} = 105.8\text{–}12.1\ (1\text{–}1/9.116) = 95.03$ ppm

$THC_{mass} = (2595.0)\ (16.33)\ (95.03/1{,}000{,}000) = 4.027$ grams per test phase

$CH_{4conc} = 21.2\text{–}1.8(1\text{–}1/9.116) = 19.60$ ppm

$CH_{4mass} = (2595.0)\ (18.89)\ (19.60/1{,}000{,}000) = 0.961$ grams per test phase

$NMHC_{mass} = 4.027\text{–}0.961 = 3.066$ grams per test phase

$NOx_{conc} = 11.2\text{–}0.8\ (1\text{–}1/9.116) = 10.49$ ppm

$NOx_{mass} = (2595.0)\ (54.16)\ (10.49/1{,}000{,}000)\ (0.9424) = 1.389$ grams per test phase

$CO_{conc} = 293.4\text{–}15.1\ (1\text{–}1/9.116) = 280.0$ ppm

$CO_{mass} = (2595.0)\ (32.97)\ (280.0/1{,}000{,}000) = 23.96$ grams per test phase

$CO_{2conc} = 1.43\text{–}0.032\ (1\text{–}1/9.116) = 1.402$ percent

$CO_{2mass} = (2595.0)\ (51.85)\ (1.402/100) = 1886$ grams per test phase

(2) For the stabilized portion of the cold start test assume that similar calculations resulted in the following:

$THC_{mass} = 0.62$ grams per test phase
$NMHC_{mass} = 0.50$ grams per test phase
$NOx_{mass} = 1.27$ grams per test phase
$CO_{mass} = 5.98$ grams per test phase
$CO_{2mass} = 2346$ grams per test phase
$D_s = 3.902$ miles

(3) For the "transient" portion of the hot start test assume that similar calculations resulted in the following:

$THC_{mass} = 0.51$ grams per test phase
$NMHC_{mass} = 0.41$ grams per test phase
$NOx_{mass} = 1.38$ grams per test phase
$CO_{mass} = 5.01$ grams per test phase
$CO_{2mass} = 1758$ grams per test phase
$D_{ht} = 3.598$ miles

(4) Weighted mass emission results:

$THC_{wm} = 0.43\ [(4.027 + 0.62)/(3.598 + 3.902)] + 0.57\ [(0.51 + 0.62)/(3.598 + 3.902)] = 0.352$ grams total hydrocarbon per vehicle mile

$NMHC_{wm} = 0.43\ [(3.066 + 0.50)/(3.598 + 3.902)] + 0.57\ [(0.41 + 0.50)/(3.598 + 3.902)] = 0.274$ grams per vehicle mile

$NOx_{wm} = 0.43\ [(1.38 + 1.27)/(3.598 + 3.902)] + 0.57\ [(1.38 + 1.27)/(3.598 + 3.902)] = 0.354$ grams per vehicle mile

$CO_{wm} = 0.43\ [(23.96 + 5.98)/(3.598 + 3.902);\ + 0.57[5.01 + 5.98)/(3.598 + 3.902)] = 2.55$ grams per vehicle mile

$CO_{2wm} = 0.43\ [(1866+2346)/(3.598+3.902)] + 0.57\ [(1758+2346)/(3.598+3.902)] = 555$ grams per vehicle mile.

21. A new § 86.402–83 is proposed to read as follows:

§ 86.402–83 Definitions.

The following definitions apply beginning with the 1983 model year. Section 86.402–78 remains effective.

"Hydrocarbon(s)" (HC) and "total hydrocarbon(s)" (THC) means those substances as determined by a flame ionization detector (FID) as specified in: (1) § 86.111–82 for Light-Duty Vehicles and Light-Duty Trucks; (2) § 86.1309–84, § 86.1310–84, § 86.1311–84 for Heavy-Duty Engines; and (3) § 86.511–78 for Motorcycles.

"Non-methane hydrocarbon(s)" (NMHC) means those substances defined as hydrocarbon(s) or total hydrocarbon(s) less that part which is methane.

22. A new § 86.403–83 is proposed to read as follows:

§ 86.403–83 Abbreviations.

The abbreviations used in this subpart have the following meanings in both capital and lowercase:

ASTM—American Society for Testing and Materials.
C—Celsius.
cc—Cubic centimetre(s).
cfh—Cubic feet per hour.
cfm—Cubic feet per minute.
CH_4—Methane.
cm—Centimetre(s).
CO—Carbon monoxide.
CO_2—Carbon dioxide.
Conc—Concentration.
cu.—Cubic.
CVS—Constant volume sampler.
EGR—Exhaust gas recirculation.
EP—End point.
EPA—Environmental Protection Agency.
F—Fahrenheit.
GC—Gas chromatograph.
h—hour.
HC—Hydrocarbon(s).
Hg—Mercury.
H_2O—Water.
in.—Inch(es).
K—Kelvin.
kg—Kilogram(s).
km—Kilometre(s).
kpa—Kilopascal(s).
lb—Pound(s).
m—Metre(s).
mph—Miles per hour.
mm—Millimetre(s).
N_2—Nitrogen.
NMHC—Non-methane hydrocarbon(s).
NOx—Oxides of nitrogen.
No.—Number.
O_2—Oxygen.
Pa—Pascal(s).
Pb—lead.
ppm—Parts per million by volume.
psi—Pounds per square inch.
psig—Pounds per square inch gauge.
R—Rankine.
rpm—Revolutions per minute.
THC—Total hydrocarbon(s).
wt—Weight.
°—Degree(s).
%—Percent.

23. A new § 86.410–83 is proposed to read as follows:

§ 86.410–83 Emission standards for 1983 motorcycles.

(a)(1) Manufacturers of motorcycles may elect either a total hydrocarbons exhaust emission standard or a non-methane hydrocarbons exhaust emission standard. Exhaust emissions from 1983 and later model year motorcycles shall not exceed:

(i) *Total hydrocarbons.* 5.0 grams per vehicle kilometer. *Non-methane hydrocarbons.* 4.75 grams per vehicle kilometer.

(ii) *Carbon monoxide.* 12 grams per vehicle kilometer.

(2) The standards set forth in paragraph (a)(1) of this section refer to the exhaust emitted over driving schedules as set forth in Subpart F and measured and calculated in accordance with those procedures.

(b) No crankcase emissions shall be discharged into the ambient atmosphere from any new motorcycle subject to this subpart.

24. A new § 86.502–83 is proposed to read as follows:

§ 86.502–83 Definitions.

The definitions in § 86.402–78 and § 86.402–83 apply to this subpart.

25. A new § 86.503–83 is proposed to read as follows:

§ 86.503–83 Abbreviations.

The abbreviations in § 86.403–78 and § 86.403–83 apply to this subpart.

26. A new § 86.511–83 is proposed to read as follows:

§ 86.511–83 Exhaust gas analytical system.

(a) *Schematic drawings.* Figure F 83–1 is a schematic drawing of the exhaust gas analytical system. Figure F 83–2 is a schematic drawing of the instrument to measure methane. Because various configurations can produce accurate results, exact conformance with either drawing is not required. Additional components such as instruments, valves, solenoids, pumps and switches may be used to provide additional information and coordinate the functions of the component systems.

(b) *Major component description.* The analytical system, Figure F 83–1, consists of a flame ionization detector (FID) for the determination of total hydrocarbons, gas chromatograph (GC) with a flame ionization detector for methane determination (for the non-methane option), non-dispersive infrared analyzers (NDIR) for the determination of carbon monoxide and carbon dioxide, and a chemiluminescence analyzer (CL) for the determination of oxides of nitrogen. The exhaust gas analytical system shall conform to the following requirements:

BILLING CODE 6560-26-M

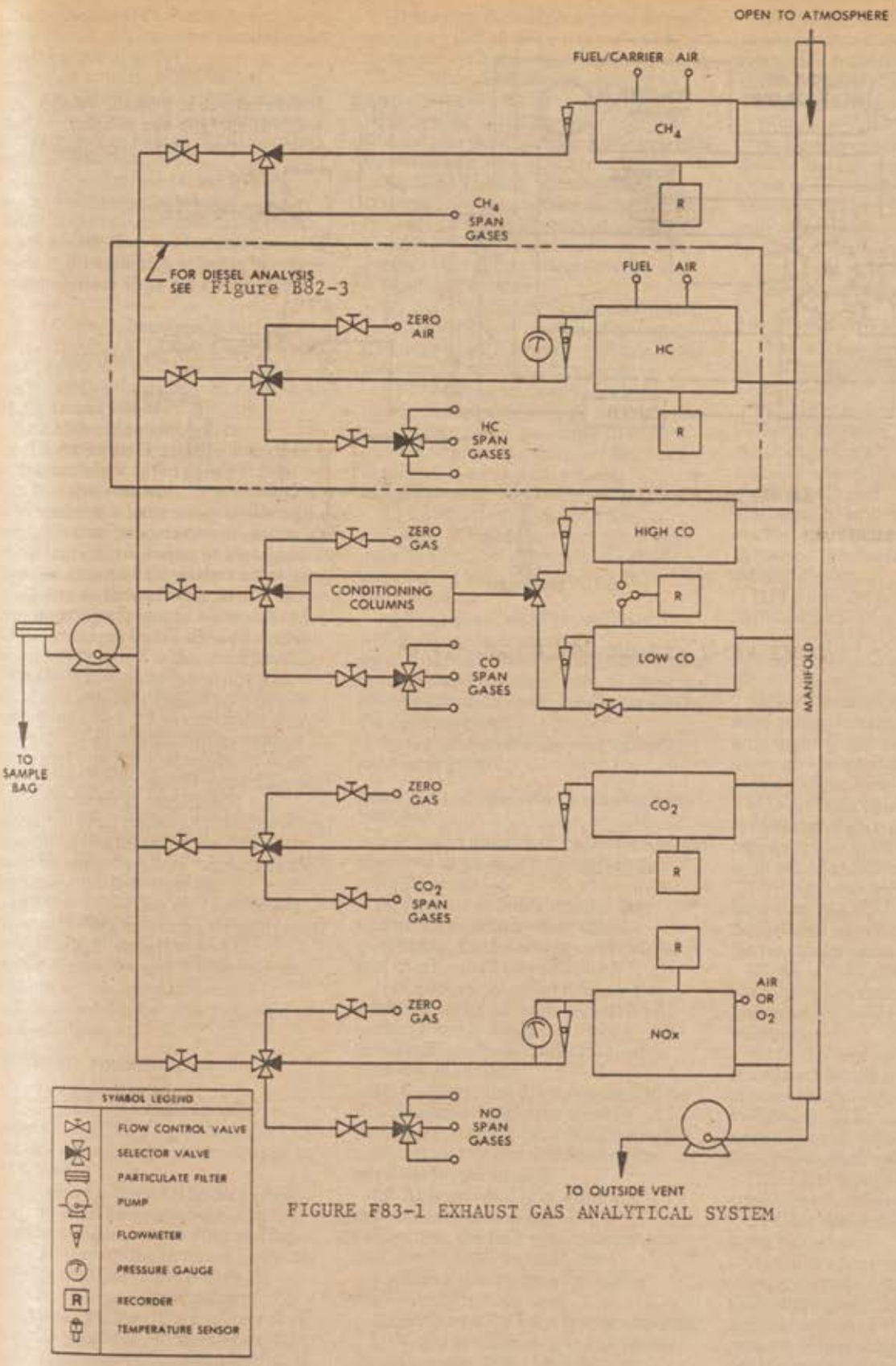

FIGURE F83-1 EXHAUST GAS ANALYTICAL SYSTEM

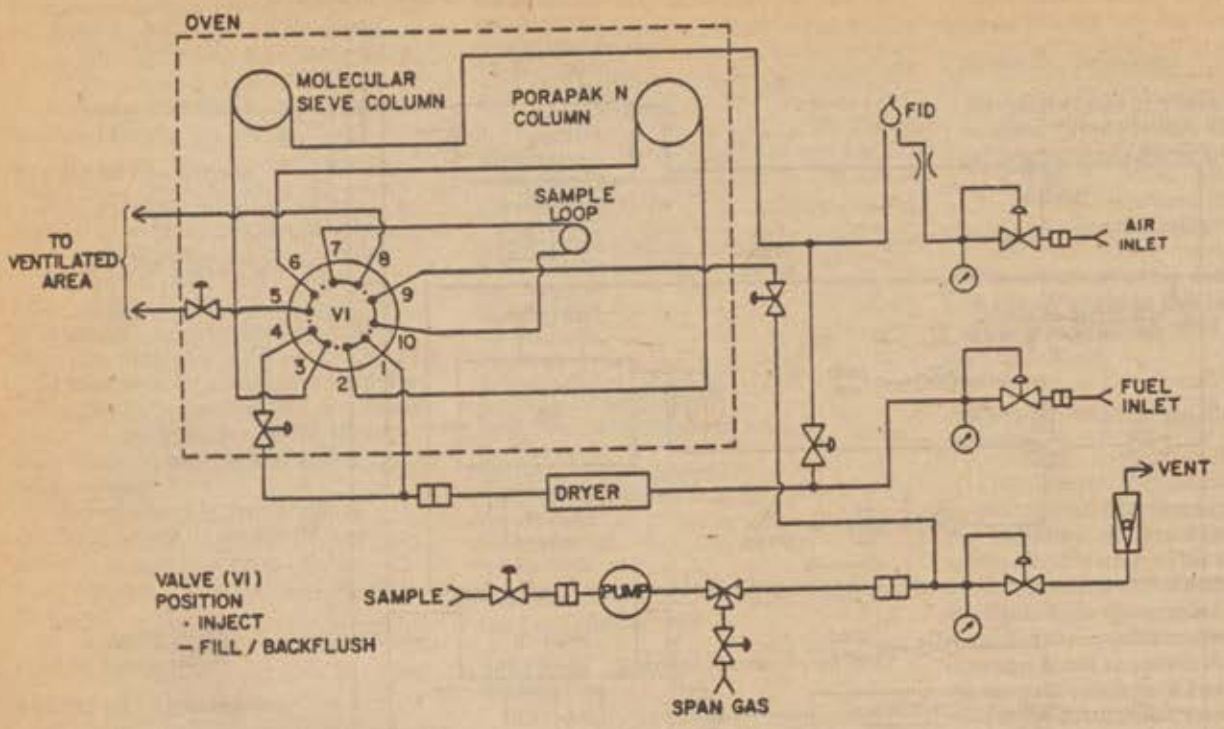

FIGURE F83-2 METHANE ANALYTICAL SYSTEM

BILLING CODE 6560-26-C

(1) The CL requires that the nitrogen dioxide present in the sample be converted to nitric oxide before analysis. Other types of analyzers may be used if shown to yield equivalent results and if approved in advance by the Administrator.

(2) The carbon monoxide (NDIR) analyzer may require a sample conditioning column containing $CaSO_4$, or indicating silica gel to remove water vapor and containing ascarite to remove carbon dioxide from the CO analysis stream.

(i) If CO instruments which are essentially free of CO_2 and water vapor interference are used, the use of the conditioning column may be deleted, see §§ 86.522 and 86.544.

(ii) A CO instrument will be considered to be essentially free of CO_2 and water vapor interference if its response to a mixture of 3 percent CO_2 in N_2 which has been bubbled through water at room temperature produces an equivalent CO response, as measured on the most sensitive CO range, which is less than one percent of full scale CO concentration on ranges above 300 ppm full scale or less than 3 ppm on ranges below 300 ppm full scale, see § 86.522.

(3) The optional methane analyzer requires a conditioning column (dryer) containing silica gel or molecular sieve material (or an equivalent) to remove water and organic contaminants from the carrier gas stream. The conditioning column shall be reconditioned bimonthly or as necessary by observing a visible indicating medium. The methane impurity of the carrier gas shall not exceed 0.5 ppm methane.

(c) *Other analyzers and equipment.* Other types of analyzers and equipment may be used if shown to yield equivalent results and if approved in advance by the Administrator.

27. A new § 86.514–83 is proposed to read as follows:

§ 86.514–83 Analytical gases.

(a) Analyzer gases.

(1) Gases for the CO and CO_2 analyzers shall be single blends of CO and CO_2 respectively using nitrogen as the diluent.

(2) Gases for the total hydrocarbon analyzer shall be single blends of propane using air as the diluent. Gases for calibration of the optional methane analyzer shall be single blends of methane using air as the diluent.

(3) Gases for the NOx analyzer shall be single blends of NO named as NOx, with a maximum NO_2 concentration of five percent of the nominal value, using nitrogen as the diluent.

(4) Fuel for the evaporative emission enclosure FID shall be a blend of 40±2% hydrogen with the balance being helium. The mixture shall contain less than 1 ppm equivalent carbon response. Ninety-eight to 100 percent hydrogen fuel may be used with advance approval by the Administrator.

(5) The allowable zero gas (air or nitrogen) impurity concentrations shall not exceed 1 ppm equivalent carbon response, 1 ppm carbon monoide, 0.04 percent (400 ppm) carbon dioixide and 0.1 ppm nitric oxide.

(6) "Zero grade air" includes artifical "air" consisting of a blend of nitrogen and oxygen with oxygen concentrations between 18 and 21 mole percent.

(7) The use of proportioning and precision blending devices to obtain the required analyzer gas concentration is allowable provided their use has been approved in advance by the Administrator.

(b) Calibration gases shall be traceable to within one percent of NBS gas standards, or other gas standards which have been approved by the Administrator.

(c) Span gases shall be accurate to within two percent of true concentration, where true concentration refers to NBS gas standards, or other gas standards which have been approved by the Administrator.

28. A new § 86.516–83 is proposed to read as follows:

§ 86.516–83 Calibrations, frequency and overview.

(a) Calibrations shall be performed as specified in §§ 86.517 through 86.526.

(b) [Reserved]

(c) At least monthly or after any maintenance which could alter calibration, the following calibrations and checks shall be performed:

(1) Calibrate the total hydrocarbon analyzer, optional methane analyzer, carbon dioxide analyzer, carbon monoxide analyzer, and oxides of nitrogen analyzer.

(2) Calibrate the dynamometer. If the dynamometer receives a weekly performance check (and remains within calibration) the monthly calibration need not be performed.

(d) At least weekly or after any maintenance which could alter calibration, the following calibrations and checks shall be performed:

(1) Check the oxides of nitrogen converter efficiency, and

(2) Perform a CVS system verification.

(3) Run a performance check on the dynamometer. This check may be omitted if the dynamometer has been calibrated within the preceding month.

(e) The CVS positive displacement pump or Critical Flow Venturi shall be calibrated following initial installation, major maintenance or as necessary when indicated by the CVS system verification (described in § 86.119).

(f) Sample conditioning columns, if used in the CO analyzer train, should be checked at a frequency consistent with observed column life or when the indicator of the column packing begins to show deterioration.

29. A new section 86.525–83 is proposed to read as follows:

§ 86.525–83 Methane analyzer calibration.

The methane analyzer shall receive the following initial and periodic calibration:

(a) *Initial and periodic optimization of detector response.* Prior to its introduction into service and at least annually thereafter the FID detector shall be adjusted for optimum methane response. Alternate methods yielding equivalent results may be used if approved in advance by the Administrator.

(1) Follow the manufacturer's instructions for instrument start-up and basic operating adjustment, using the appropriate fuel, carrier, and zero grade air.

(2) Optimize on the most commonly used range. Introduce into the analyzer a methane in air mixture with a methane concentration equal to approximately 90 percent of the most common range.

(3) Select an operating FID fuel flow rate that will give near maximum response and least variation in response with minor variations in fuel flow rate.

(4) To determine the optimum FID air flow rate, use the FID fuel flow setting determined above and vary air flow rate for maximum response.

(5) After the optimum flow conditions have been determined, actual flow rates are measured and recorded for future reference.

(b) *Initial and periodic calibration.* Prior to its introduction into service and at least monthly thereafter the methane analyzer shall be calibrated on all normally used ranges. Use the same flow rates when analyzing samples.

(1) Adjust analyzer to optimum flow conditions as determined above.

(2) Obtain a stable baseline reading using carrier gas.

(3) Calibrate on each normally used operating range with methane in air calibration gases having nominal concentrations of 15, 30, 60 and 90 percent of that range. Additional calibration points may be generated. For each range calibrated, if the deviation from a least-squares best-fit straight line

is two percent or less, or within 0.1 ppm methane of the value of each data point (excluding zero), a linear equation may be used to determine the methane concentration. If the deviation exceeds two percent or 0.1 ppm methane at any data point (whichever is highest), the best fit non-linear equation which represents the data to within two percent (or 0.1 ppm methane) of each point shall be used to determine the concentration. Use methane in air calibration gases having nominal concentrations of 15, 30, 45, 60, 75, and 90 percent of each range for the calibration of non-linear instruments.

(4) A stable baseline must be obtained before and after the methane peak elution. A stable baseline is defined as the time equal to or greater than 25 percent of the methane peak width at half peak height. The methane peak must be resolved from other gases, such as oxygen, nitrogen, and carbon monoxide. Methane concentration shall be determined by peak height measurement or area integration.

30. A new § 86.540–83 is proposed to read as follows:

§ 86.540–83 Exhaust sample analysis.

The following sequence of operations shall be performed in conjunction with each seies of measurements:

(a) Check flowrates and pressures. Adjust if required.

(b) Zero the analyzers and obtain a stable zero reading. Recheck after tests.

(c) Introduce span gases and set instrument gains. In order to avoid errors, span and calibrate at the same flow rates used to analyze the test sample. Span gases should have concentrations equal to 75 to 100 percent of full scale. If gain has shifted significantly on the analyzers, check the calibrations. show actual concentrations on chart.

(d) Check zeros; repeat the procedure in paragraphs (a) through (c) of this section if required.

(e) Check flow rates and pressures.

(f) Measure; THIC, CH_4 (non-methane option), CO, CO_2 and, optionally, NO_x concentrations of samples.

(g) [Reserved]

(h) Check zero and span points. If difference is greater than 2 percent of full scale, repeat the procedure in paragraphs (a) through (g) of this section.

31. A new § 86.544–83 is proposed to read as follows:

§ 86.544–83 Calculations, exhaust emissions.

The final reported test results, with oxides of nitrogen being optional, shall be computed by use of the following formulae:

(a) $Y_{wm} = 0.43\ [(Y_{ct}+Y_s)/(D_{ct}+D_s)] + 0.57\ [(Y_{ht}+Y_s)/(D_{ht}+D_s)]$

Where:

Y_{wm} = Weighted mass emission of each pollutant, e.g., total HC or NMHC, CO, CO_2, or NO_x, in grams per vehicle kilometer.

Y_{ct} = Mass emission as calculated from the "transient" phase of the cold start test, in grams per test phase.

Y_{ht} = Mass emissions as calculated from the "transient" phase of the hot start test, in grams per test phase.

Y_s = Mass emissions as calculated from the "stabilized" phase of the cold start test, in grams per test phase.

D_{ct} = The measured driving distance from the "transient" phase of the cold start test, in kilometers.

D_{ht} = The measured driving distance from the "transient" phase of the hot start test, in kilometers.

D_s = The measured driving distance from the "stabilized" phase of the cold start test, in kilometers.

(b) The mass of each pollutant for each phase of both the cold start test and the hot start test is determined from the following:

(1.)(i) Total Hydrocarbon mass:

$THC_{mass} = V_{mix} \times Density_{THC} \times (THC_{conc}/1{,}000{,}000)$

(ii) Non-methane Hydrocarbon mass:

$NMHC_{mass} = (THC_{mass}) - (CH_{4\,mass}) = (THC_{mass}) - (V_{mix} \times Density_{CH_4} \times (CH_{4\,conc}/1{,}000{,}000))$

(2) Oxides of nitrogen mass:

$NO_{x\,mass} = V_{mix} \times Density_{NO_2} \times K_H \times (NO_{x\,conc}/1{,}000{,}000))$

(3) Carbon monoxide mass:

$CO_{mass} = V_{mix} \times Density_{CO} \times (C_{conc}/1{,}000{,}000)$

(4) Carbon dioxide mass:

$CO_{2\,mass} = V_{mix} \times Density_{CO_2} \times (CO_{2\,conc}/100)$

(c) Meaning of symbols:

(1)(i) THC_{mass} = total Hydrocarbon emissions, in grams per test phase.

$Density_{THC}$ = Density of total hydrocarbons is 16.33 g/ft³ (0.5767 kg/m³), assuming an average carbon to hydrogen ratio of 1:1.85, at 68°F (20°C) and 760 mm Hg (101.3 kPa) pressure.

THC_{conc} = Total Hydrocarbon concentration of the dilute exhaust sample corrected for total hydrocarbon background, in ppm carbon equivalent, i.e., equivalent propane X 3.

$THC_{conc} = THC_e - THC_d\ (1-1/DF)$

(ii) $NMHC_{mass}$ = Total hydrocarbon emissions less methane emissions, in grams per test phase.

$Density_{CH_4}$ = Density of methane is 18.89 g/ft³ (0.6671 kg/m³) at 68° F (20° C) and 760 mm Hg (101.3 kPa) pressure.

CH_{4conc} = Methane concentration in the dilute exhaust sample corrected for methane background in ppm carbon.

$CH_{4conc} = CH_{4e} - CH_{4d}\ (1-1/DF)$

Where:

THC_e = Total Hydrocarbon concentration of the dilute exhaust sample or, for diesel vehicles, average total hydrocarbon concentration of the dilute exhaust sample as calculated from the integrated total HC traces, in ppm carbon equivalent.

THC_d = Total hydrocarbon concentration of the dilution air as measured, in ppm carbon equivalent.

CH_{4e} = methane concentration of the dilute exhaust sample in ppm carbon equivalent.

CH_{4d} = methane concentration of the dilution air as measured in ppm carbon equivalent.

(2) NO_{xmass} = Oxides of nitrogen emissions, in grams per test phase.

$Density_{NO_2}$ = Density of oxides of nitrogen is 54.16 g/ft³ (1.913 kg/m³), assuming they are in the form of nitrogen dioxide, at 68° F (20° C) and 760 mm HG (101.3 kPa) pressure.

NO_{xconc} = Oxides of nitrogen concentration of the dilute exhaust sample corrected for background in ppm.

$NO_{xconc} = NO_{xe} - NO_{xd}\ (1-1/DF)$

Where:

NO_{xe} = Oxides of nitrogen concentration of the dilute exhaust sample as measured, in ppm.

NO_{xd} = Oxides of nitrogen concentration of the dilution air as measured in ppm.

(3) CO_{mass} = Carbon monoxide emissions, in grams per test phase.

$Density_{CO}$ = Density of carbon monoxide is 32.97 g/ft³ (1.164 kg/m³) at 68° F (20° C) and 760 mm Hg (101.3 kPA) pressure.

CO_{conc} = Carbon monoxide concentration of the dilute exhaust sample corrected for background, water vapor, and CO_2 extraction, in ppm.

$CO_{conc} = CO_e - CO_d\ (1-1/DF)$

Where:

CO_e = Carbon monoxide concentration of the dilute exhaust sample volume corrected for water vapor and carbon dioxide extraction, in ppm. The calculation assumes the carbon to hydrogen ratio of the fuel is 1:1.85.

$CO_e = (1-0.01925\ CO_{2e} - 0.000323\ R)\ CO_{em}$

Where:

CO_{em} = Carbon monoxide concentration of the dilute exhaust sample as measured, in ppm.

CO_{2e} = Carbon dioxide concentration of the dilute exhaust sample, in percent.

R = Relative humidity of the dilution air, in percent (see § 86.542–78(n)).

CO_d = Carbon monoxide concentration of the dilution air corrected for water vapor extraction, in ppm.

$CO_d = (1-0.000323R)\ CO_{dm}$

Where:

CO_{dm} = Carbon monoxide concentration of the dilution air sample as measured, in ppm.

Note.—If a CO instrument which meets the criteria specified in § 86.511 is used and the

conditioning column has been deleted, CO_{em} can be substituted directly for CO_e, and CO_{dm} can be substituted directly for CO_d.

(4) CO_{2mass} = Carbon dioxide emissions, in grams per test phase.

Density CO_2 = Density of carbon dioxide is 51.85 g/ft³ (1.843 kg/m³) at 68° F (20° C) and 760 mm Hg (101.3 kPa) pressure.

CO_{2conc} = Carbon dioxide concentration of the dilute exhaust sample corrected for background, in percent.

$CO_{2conc} = CO_{2e} - CO_{2d}$ (1–1/DF)

Where:

CO_{2d} = Carbon dioxide concentration of the dilution air as measured, in percent.

(5) $DF = 13.4/[CO_{2e} + (HC_e + CO_e)10^{-4}]$

K_H = Humidity correction factor.

$K_H = 1/[1–0.0047\ (H–75)]$

for SI units $K_H = 1/[1–0.0329(H–10.71)]$

Where:

H = Absolute humidity in grains (grams) of water per pound (kilogram) of dry air.

$H = [(43.478)R_a \times P_d]/[P_B – (P_d \times R_a/100)]$

for SI Units, $H = [(6.211)R_a \times P_d]/[P_B – (P_d \times R_a/100)]$

R_a = Relative humidity of the ambient air, in percent.

P_d = Saturated vapor pressure, in mm Hg (kPa) at the ambient dry bulb temperature.

P_B = Barometric pressure, in mm Hg (kPa).

V_{mix} = Total dilute exhaust volume in cubic feet per test phase corrected to standard conditions (528° R) (293° K) and 760 mm Hg (101.3 kPa)).

For PDP–CVS, V_{mix} is:

$$V_{mix} = \frac{V_o \times N(P_B - P_A)\ (528°\ R)}{(760\ mm\ Hg)\ (T_p)}$$

for SI units,

$$V_{mix} = \frac{V_o \times N(P_B - P_A)\ (293.15°\ K)}{(101.325\ kPa)\ (T_p)}$$

Where:

V_o = Volume of gas pumped by the positive displacement pump, in cubic feet (m³) per revolution. This volume is dependent on the pressure differential across the positive displacement pump.

N = Number of revolutions of the positive displacement pump during the test phase while samples are being collected.

P_B = Barometric pressure, in mm Hg (kPa).

P_A = Pressure depression below atmospheric measured at the inlet to the positive displacement pump, in mm Hg (kPa) (during an idle mode).

T_p = Average temperature of dilute exhaust entering positive displacement pump during test, °R(K).

(d) Example calculation of mass values of exhaust emissions using positive displacement pump:

(1) For the "Transient" phase of the cold start test assume the following: V_o 0.0077934 m³/revolution; N = 12,115; R = 20.5 percent; R_a = 20.5 percent; P_B = 99.05 kPa; P_d = 3.382 kPa; P_A = 9.851 kPa; T_p = 309.8 °K; THCe = 249.75 ppm, carbon equivalent; CH_{4e} = 13.0 ppm; NOx_e = 38.3 ppm; CO_{em} = 311.23 ppm; CO_{2e} = 0.415 percent; THC_d = 4.90 ppm; CH_{4d} = 1.8 ppm; NOx_d = 0.3 ppm; CO_{dm} 8.13 ppm; CO_{2d} = 370 ppm; D_{ct} = 5.650 km.

Then:

$V_{mix} = (0.007934)(12.115)[(99.05 – 9.851)(293.15)/(101.325)(309.81)] = 78.651$ m³ per test phase.

$H = (6.211)(20.5)[3.382)/[(99.05) – (3.382 \times 20.5/100)]] = 4.378$ grams of water per kg of dry air.

$K_H = 1/[1–0.0329(4.378 – 10.71)] = 0.8276$

$CO_e = [1–0.01925(0.415) – 0.000323\ (20.5)]\ 311.23 = 306.68$ ppm

$CO_d = [1–0.000323(20.5)]8.13 = 8.08$ ppm

$DF = 13.4/[0.415 + (249.75 + 306.68) \times 10^{-4}] = 28.472$

$THC_{conc} = 249.75 – 4.9\ (1 – 1/28.472) = 245.02$ ppm

$THC_{mass} = (78.651)(576.7)(245.02/1,000,000) = 11.114$ grams per test phase

$CH_{4\ conc} = 13.0 – 1.8(1 – 1/28.472) = 11.26$ ppm

$CH_{4\ mass} = (78.651)(667.1)(11.26/1,000,000) = 0.591$ grams per test phase

$NMHC_{mass} = 11.114 – 0.591 = 10.523$ grams per test phase

$NO_{x\ conc} = 38.3 – 0.3\ (1 – 1/28.472) = 38.01$ ppm

$NO_{x\ mass} = (78.651)(1913)(38.01/1,000,000)\ (0.8276) = 4.733$ grams per test phase

$CO_{conc} = 306.68 – 8.08\ (1 – 1/28.472) = 298.88$ ppm

$CO_{mass} = (78.651)(1164)(298.88/1,000,000) = 27.362$ grams per test phase

$CO_{2\ conc} = 0.415 – 370\ (1 – 1/28.472)10^{-4} = 0.3703$ percent

$CO_{2\ mass} = (78.651)(1843)(0.3793/100) = 549.81$ grams per test phase

(2) For the stabilized portion of the cold start test assume that similar calculations resulted in the following:

$THC_{mass} = 7.184$ grams per test phase

$NMHC_{mass} = 6.9$ grams per test phase

$NO_{x\ mass} = 2.154$ grams per test phase

$CO_{mass} = 64.541$ grams per test phase

$CO_{2\ mass} = 529.52$ grams per test phase

$D_s = 6.070$ kilometers

(3) For the "transient" portion of the hot start test assume that similar calculations resulted in the following:

$THC_{mass} = 6.122$ grams per test phase

$NMHC_{mass} = 5.8$ grams per test phase

$NO_{x\ mass} = 7.056$ grams per test phase

$CO_{mass} = 34.964$ grams per test phase

$CO_{2\ mass} = 480.93$ grams per test phase

$D_{ht} = 5.660$ kilometers

(4) Weighted mass emission results:

$THC_{wm} 0.43\ [(11.114 + 7.184)/(5.650 + 6.070)] + 0.57\ [(6.122 + 7.184)/(5.650 + 6.070)] = 1.318$ grams total hydrocarbon per vehicle kilometer

$NMHC_{wm} = 0.43[10.523 + 6.90)/(5.650 + 6.070)] + 0.57[(5.80 + 6.90)/(5.650 + 6.070)] = 1.257$ grams per vehicle kilometer

$NO_{x\ wm} = 0.43[(4.733 + 2.154)/(5.650 + 6.070)] + 0.57[(7.056 + 2.154)/(5.650 + 6.070)] = 0.700$ grams per vehicle kilometer

$CO_{wm} = 0.43\ [(27.362 + 64.541)/(5.650 + 6.070): + 0.57[34.964 + 64.541)/(5.650 + 6.070)] = 8.207$ grams per vehicle kilometer

$CO_{2wm} = 0.43\ [(549.81 + 529.52)/(5.650 + 6.070)] + 0.57\ [(480.93 + 529.52)/(5.650 + 6.070): = 88.701$ grams per vehicle kilometer.

32. In § 86.1310–84, the introductory text of paragraphs (a) and (a)(2) are proposed to be revised as follows:

§ 86.1310–84 Exhaust gas sampling and analytical system; diesel engines.

(a) *General.* The exhaust gas sampling system described in this paragraph is designed to measure the true mass of gaseous emissions in the exhaust of heavy-duty diesel engines. This system utilizes the CVS concept (described in § 86.1309–84) of measuring mass emissions of CH_4 (optional), NO_x, CO, and CO_2. A continuously integrated system is required for THC measurement, and is allowed for NO_x, CO, and CO_2. The mass of gaseous emissions is determined from the sample concentration and total flow over the test period. General requirements are as follows:

* * * * *

(2) The THC analytical system for diesel engines requires a heated flame ionization detector (HFID) and heated sample system. The methane analytical system (optional) requires a gas chromatograph with a flame ionization detector (FID) for methane detection:

* * * * *

33. In § 86.1311–84, paragraph (a) and the introductory text of paragraph (b), are proposed to be revised as follows:

§ 86.1311–84 Exhaust gas analytical system. CVS bag sample.

(a) *Schematic drawings.* Figure N84–5 (N84–5(a)) is a schematic drawing of the exhaust gas analytical system used for analyzing CVS bag samples from either gaosline-fueled or diesel engines. Since various configurations can produce accurate results, exact conformance with the drawing is not required. Additional components such as instruments, valves, solenoids, pumps and switches may be used to provide additional information and coordinate the functions of the component systems.

(b) *Major component description.* The analytical system, Figure N84–5 (N84–5(a)) consists of a flame ionization detector (FID) for the determination of total hydrocarbons, gas chromatograph and flame ionization detector for determination of methane, nondispersive infrared analyzers (NDIR) for the determination of carbon monoxide and carbon dioxide and a chemiluminescence analyzer (CL) for the determination of oxides of nitrogen. The exhaust gas analytical system shall conform to the following requirements:

* * * * *

BILLING CODE 6560–26–M

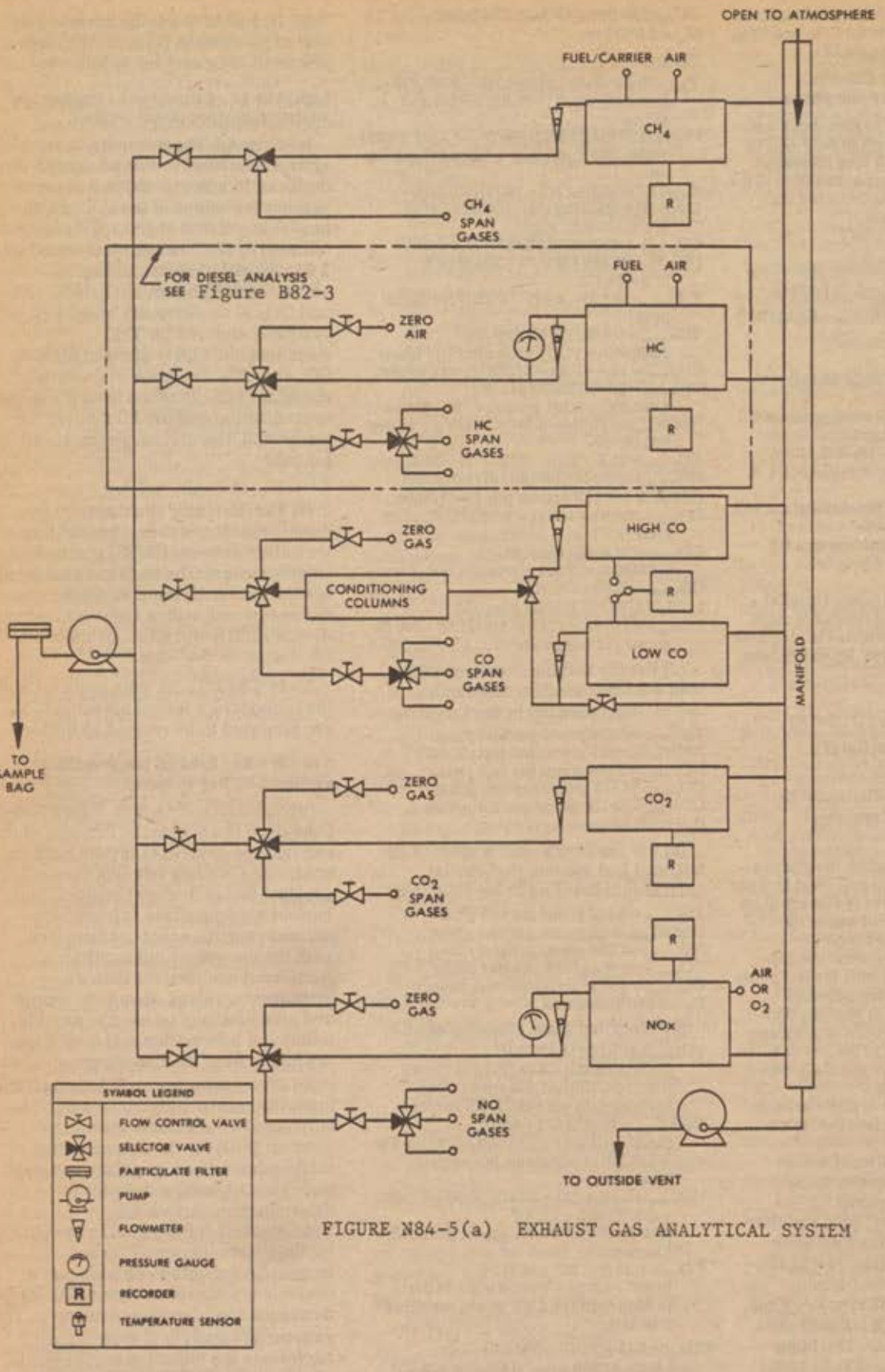

FIGURE N84-5(a) EXHAUST GAS ANALYTICAL SYSTEM

BILLING CODE 6560-26-C

34. In § 86.1314–84, paragraph (a)(2) is proposed to be revised as follows:

§ 86.1314–84 Analytical gases.

(a) * * *

(2) Gases for the total hydrocarbon analyzer shall be single blends of propane using air as the diluent. Gases for the methane analyzer shall be single blends of methane using air as the diluent.

* * * * *

35. In § 86.1316–84, paragraph (b)(1) is proposed to be revised as follows:

§ 86.1316–84 Calibrations; frequency and overview.

* * * * *

(b) * * *

(1) Calibrate the total hydrocarbon analyzer, methane analyzer, carbon dioxide analyzer, carbon monoxide analyzer and oxides of nitrogen analyzer.

* * * * *

36. Section 86.1321–84 is proposed to be revised to read as follows:

§ 86.1321–84 Hydrocarbon analyzer calibration.

(a) *Total hydrocarbon analyzer.* The FID total hydrocarbon analyzer shall receive the following initial and periodic calibration. The HFID shall be operated to a set point ±10° F (±5.5° C) between 365 and 385° F (185 and 197° C).

(1) Initial and periodic optimization of detector response. Prior to its introduction into service and at least annually thereafter the FID hydrocarbon analyzer shall be adjusted for optimum hydrocarbon response. Alternate methods yielding equivalent results may be used, if approved in advance by the Administrator.

(i) Follow the manufacturer's instructions for initial instrument start-up and basic operating adjustment using the appropriate fuel (see § 86.1314–84) and zero-grade air.

(ii) Optimize on the most common operating range. Introduce into the analyzer, a propane in air mixture with a propane concentration equal to approximately 90% of the most common operating range.

(iii) One of the following procedures is required for FID or HFID optimization.

(A) The procedures outlined in Society of Automotive Engineers (SAE) paper No. 770141, "Optimization of Flame Ionization Detector for Determination of Hydrocarbons in Diluted Automobile Exhaust"; author, Glenn D. Reschke.

(B) The HFID optimization procedures outlined in 40 CFR Part 86, Subpart D.

(C) Alternate procedures are allowed, if approved in advance by the Administrator.

(D) After the optimum flow rates have been determined, they are recorded for future reference.

(2) Initial and periodic calibration. Prior to its introduction into service and monthly thereafter the FID or HFID hydrocarbon analyzer shall be calibrated on all normally used instrument ranges. Use the same flow rate as when analyzing samples.

(i) Adjust analyzer to optimize performance.

(ii) Zero the hydrocarbon analyzer with zero-grade air.

(iii) Calibrate on each used operating range with propane in air calibration gases having nominal concentrations of 15, 30, 45, 60, 75 and 90 percent of that range. For each range calibrated, if the deviation from a least-squares best-fit straight line is 2% or less of the value at each data point, concentration values may be calculated by use of a single calibration factor for that range. If the deviation exceeds 2% at any point, the best-fit non-linear equation which represent the data to within 2% of each test point shall be used to determine concentration.

(b) *Methane analyzer.* The methane analyzer shall receive the following initial and periodic calibration:

(1) *Initial and period optimization of detector response.* Prior to its introduction into service and at least annually thereafter the FID detector shall be adjusted for optimum methane response. Alternate methods yielding equivalent results may be used if approved in advance by the Administrator.

(i) Follow the manufacturer's instructions for instrument start-up and basic operating adjustment, using the appropriate fuel, carrier, and zero grade air.

(ii) Optimize on the most commonly used range. Introduce into the analyzer a methane in air mixture with a methane concentration equal to approximately 90 percent of the most common range.

(iii) Select an operating FID fuel flow rate that will give near maximum response and least variation in response with minor variations in fuel flow rate.

(iv) To determine the optimum FID air flow rate, use the FID fuel flow setting determined above and vary air flow rate for maximum response.

(v) After the optimum flow conditions have been determined, actual flow rates are measured and recorded for future reference.

(2) *Initial and periodic calibration.* Prior to its introduction into service and at least monthly thereafter the methane analyzer shall be calibrated on all normally used ranges. Use the same flow rates when analyzing samples.

(i) Adjust analyzer to optimum flow conditions as determined above.

(ii) Obtain a stable baseline reading using carrier gas.

(iii) Calibrate on each normally used operating range with methane in air calibration gases having nominal concentrations of 15, 30, 60 and 90 percent of that range. Additional calibration points may be generated. For each range calibrated, if the deviation from a least-squares best-fit straight line is two percent or less, or within 0.1 ppm methane of the value of each data point (excluding zero), a linear equation may be used to determine the methane concentration. If the deviation exceeds two percent or 0.1 ppm methane at any data point (whichever is highest), the best fit non-linear equation which represents the data to within two percent (or 0.1 ppm methane) of each point shall be used to determine the concentration. Use methane in air calibration gases having nominal concentrations of 15, 30, 45, 60, 75, and 90 percent of each range for the calibration of non-linear instruments.

(iv) A stable baseline must be obtained before and after the methane peak elution. A stable baseline is defined as the time equal to or greater than 25 percent of the methane peak width at half peak height. The methane peak must be resolved from other gases, such as oxygen, nitrogen, and carbon monoxide. Methane concentration shall be determined by peak height measurement or area integration.

37. In § 86.1340–84, paragraph (d)(9) is proposed to be revised as follows:

§ 86.1340–84 Exhaust sample analysis.

* * * * *

(d) * * *

(9) Measure THC (except diesels), CH_4, CO, CO_2, and NOx concentrations in the sample bag(s) with approximately the same flow rates and pressures used in paragraphs (d)(5) of this section. Constituents measured continuously do not require bag analysis.

* * * * *

38. In § 86.1342–84, paragraph (a) is proposed to be amended by revising the definition of the term "A_{wm}" immediately following the word "where:" and paragraphs (b)(1), (c)(1), (d)(1), (e), (f), (g), (h) and (i) are proposed to be revised as follows:

§ 86.1342–84 Calculations; exhaust emissions.

(a) * * *

Where:

A_{wm} = Weighted mass emissions level (THC, NMHC, CO, CO_2, or NO_x) in grams per brake horsepower hour.

* * * * *

(b) The mass of each pollutant for the cold start test and the hot start test for bag measurements and diesel heat exchanger sample system measurements is determined from the following equations:

(1) Total hydrocarbon mass:

$$THC_{mass} = V_{mix} \times Density_{THC} \times (THC_{conc} / 1{,}000{,}000)$$

Non-methane hydrocarbon mass:

$$NMHC_{mass} = (THC_{mass}) - (CH_{4\ mass} = THC_{mass} - (V_{mix} \times Density_{CH_4} \times (CH_{4\ conc} / 1{,}000{,}000))$$

* * * * *

(c) The mass of each pollutant for the cold start test and the hot start test for flow compensated sample systems is determined from the following equations:

(1)

$$THC_{mass} = p \sum_{i=1} [(THC_e)_i \times (V_{mix})_i \times (Density_{THC}) \times gt] / 10^6$$

$$THC_d \frac{(1-1)}{10_4} / DF \times V_{mix} \times Density_{THC}$$

$$NMHC_{mass} = (THC_{mass}) - (CH_{4mass}\{bag\ measurement\})$$

* * * * *

(d) Meaning of the Symbols:

(1) THC_{mass} = Total Hydrocarbon emissions, in grams per test phase.

Density = Density of total hydrocarbons is 16.33 gm/ft_3 (0.5787 kg/m^3 assuming a carbon to hydrogen ratio of 1:1.85 at 68°F (20°C) and 760 mm Hg (101.3 kPa) pressure.

THC_{conc} = Total hydrocarbon concentration of the dilute exhaust sample corrected for background, in ppm carbon equivalent, i.e. equivalent propane ×3.

$THC_{conc} = THC_e - THC_d(1-1/DF)$.

$CH_{4\ mass}$ = Methane emissions, in grams per test phase.

Density = Density of Methane is 16.89 g/ft^3 (0.6671 kg/m^3 at 68°F (20°C) and 760 mm Hg (101.3 kPa) pressure.

$CH_{4\ conc}$ = Methane concentration of the dilute exhaust sample corrected for methane background, in ppm carbon.

$CH_{4\ conc} = CH_{4e} - CH_{4d}(1-1/DF)$.

Where:

THC_e = Total hydrocarbon concentration of the dilute exhaust bag sample, or for diesel heat exchanger systems, average hydrocarbon concentration of the dilute exhaust sample as calculated from the integrated THC traces in ppm carbon equivalent. For flow compensated sample systems THC_e is the instantaneous concentration.

THC_d = Total hydrocarbon concentration in the dilution air as measured, in ppm carbon equivalent.

CH_{4e} = Methane concentration of the dilute exhaust sample in ppm carbon equivalent.

CH_{4d} = Methane concentration of the dilution air as measured in ppm carbon equivalent.

* * * * *

(e) Sample calculation of mass values of exhaust emissions:

(1) Assume the following test results for gasoline engine:

	Test results	
	Cold start cycle	Hot start cycle
Vmix	6,924 ft^3	6,873 ft^3.
R	30.2 pct	30.2 pct.
R_e	30.2 pct	30.2 pct.
P_B	735 mm Hg	735 mm Hg.
P_1	22.676 mm Hg	22.676 mm Hg.
THC_e	132.07 ppm C equivalent.	86.13 ppm C equivalent.
CH_{4e}	8.00 ppm C equivalent.	5.00 ppm C equivalent.
NO_{xe}	7.86 ppm	10.96 ppm.
CO_{em}	171.22 ppm	114.28 ppm.
CO_{2e}	0.178 pct	0.381 pct.
THC_d	3.60 ppm C equivalent.	8.70 ppm C equivalent.
CH_{4d}	1.80 ppm C	1.90 ppm C.
NO_{xd}	0.0 ppm	0.0 ppm.
CO_{dm}	0.89 ppm	0.89 pct.
CO_{2d}	0.0 pct	0.038 pct.
BHP-HR	0.259	0.347.

Then:

Cold start test:

$H = [(43.478)(30.2)(22.676)]/[735 - (22.676)(30.2)/100]$
$= 41$ grains of water per pound of dry air.

$K_H = 1/[1-0.0047(41-75)] = 0.862$

$CO_e = [1-0.01925(0.178) - 0.000323(30.2)]171.22 = 169.0$ ppm

$CO_d = [1-0.000323(30.2)]0.89 = 0.861$ ppm

$DF = 13.4/[0.178 + (132.1 + 168.9)(10^{-5})] = 64.392$

$THC_{conc} = 132.1 - 3.6[1-(1/64.392)] = 128.6$ ppm

$THC_{mass} = 6924\ (16.33)(128.6/1{,}000{,}000) = 14.53$ grams

$CH_{4\ conc} = 8.00 - 1.80\ [1-(1/64.392)] = 6.23$ ppm

$CH_{4mass} = 6924\ (18.89)(6.23/1{,}000{,}000) = 0.81$ grams

$NMHC_{mass} = 14.53 - 0.81 = 13.72$ grams

$NO_{xconc} = 7.86 - 0.0\ [1-(1/64.392)] = 7.86$ ppm

$NO_{xmass} = 6924\ (54.16)(0.862)(7.86)/1{,}000{,}000 = 2.54$ grams

$CO_{conc} = 169.0 - 0.861\ [1-(1/164.392)] = 168.13$ ppm

$CO_{mass} = 6924\ (32.97)(168.13/1{,}000{,}000) = 38.38$ grams

$CO_{2\ conc} = 0.178 - 0.0\ (1-1/64.392) = 0.178\%$

$CO_{2\ mass} = 6924\ (51.85-85)(0.178/100) = 639$ grams

Hot start test:

Assume similar calculations result in the following:

$THC_{mass} = 8.72$ grams

$NMHC_{mass} = 8.28$ grams

$NO_{x\ mass} = 3.49$ grams

$CO_{mass} = 25.70$ grams

$CO_{2\ mass} = 1226$ grams

(2) Weighted mass emission results:

$$THC_{wm} = \frac{1/7\ (14.53) + 6/7\ (8.72)}{1/7\ (0.279) + 6/7\ (0.347)} =$$

28.6 grams/BHP-HR

$$NMHC_{wm} = \frac{1/7\ (13.72) + 6/7\ (8.28)}{1/7\ (0.259) + 6/7\ (0.347)} =$$

27.1 grams/BHP-HR

$$NO_{x_{wm}} = \frac{1/7\ (2.54) + 6/7\ (3.49)}{1/7\ (0.259) + 6/7\ (0.347)} =$$

10.0 grams/BHP-HR

$$CO_{wm} = \frac{1/7\ (38.35) + 6/7\ (25.70)}{1/7\ (0.259) + 6/7\ (0.347)} =$$

82.2 grams/BHP-HR

$$CO_{wm} = \frac{1/7\ (639) + 6/7\ (1226)}{1/7\ (0.259) + 6/7\ (0.347)} =$$

3415 grams/BHP-HR

(f) The final report brake-specific fuel consumption (BSFC) shall be computed by use of the following formula:

$$BSFC = \frac{1/7\ (M_c) + 6/7\ (M_h)}{1/7\ (BHP\text{-}HR_c) + 6/7\ (BHP\text{-}HR_H)}$$

Where:

BSFC = Brake specific fuel consumption in pounds of fuel per brake horsepower-hour (lbs/BHP-HR).

M_c = Mass of fuel, in pounds, used by the engine during the cold start test.

M_H = Mass of fuel, in pounds, used by the engine during the hot start test.

$BHP\text{-}HR_c$ = Total brake horsepower-hours (brake horsepower integrated with respect to time) for the cold start test.

$BHP\text{-}HR_H$ = total brake horsepower-hours (brake horsepower integrated with respect to time) for the hot start test.

(g) The mass of fuel for the cold start and hot start test is determined from the following equation:

$$M = (G_s/R_s)\ (1/453.6)$$

(h) Meaning of symbols:

M = Mass of fuel, in pounds, used by the engine during the cold or hot start test.

G_s = Grams of carbon measured during the cold or hot start test.

$G_s = [12.011/(12.011 + a(1.008))]THC_{mass} + 0.429\ CO_{mass} + 0.273\ CO_{2\ mass}$

Where:

THC_{mass} = Total hydrocarbon emissions, in grams for cold or hot start test.

CO_{mass} = Carbon monoxide emissions, in grams for cold or hot start test.

$CO_{2\ mass}$ = Carbon dioxide emissions, in grams for cold or hot start test.

a = The measured hydrogen to carbon ratio of the fuel.

R_s = The grams of carbon in the fuel per gram of fuel.

$R_s = 12.011/[12.001 + a\ (1.008)]$.

(i) Sample calculation of brake-specific fuel consumption:

(1) Assume the following test results:

	Test results	
	Cold start cycle	Hot start cycle
BHP-HR	6.945	7.078.
a	1.85	1.85.
THC_{mass}	37.06 grams	28.62 grams.
CO_{mass}	357.69 grams	350.33 grams.

	Test results	
	Cold start cycle	Hot start cycle
$CO_{2\ mass}$	5419.62 grams	5361.32 grams.

Then:

G_s for cold start test = [12.011/(12.011 + (1.85)(1.008))](37.08) + 0.429(357.69) + 0.273(5419.62) = 1665.10 grams

G_s for hot start test = [12.011/(12.011 + (1.85)(1.008))](28.32) + 0.429(350.33) + 0.273(5261.32) = 1638.88 grams

$R_c = 12.011/[12.011 + 1.85(1.008)] = 0.866$

$M_c = (1665.10/0.866(1/453.6) = 4.24$ lbs.

$M_H = (1638.88/0.866(1/453.6) = 4.17$ lbs.

(2) Brake-specific fuel consumption results:

BSFC =
1/7 (4.24) + 6/7 (4.17)
1/7 (6.945) + 6/7 (7.078)
= 0.592 lbs. of fuel/BHP-HR

[FR Doc. 81-36255 Filed 12-22-81; 8:45 am]
BILLING CODE 6560-26-M

Reader Aids

Federal Register

Vol. 46, No. 246

Wednesday, December 23, 1981

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Public Inspection Desk	523-4986
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235
Privacy Act Compilation	523-3517
United States Government Manual	523-5230

SERVICES

Agency services	523-3408
Automation	523-3408
Dial-a-Reg	
Chicago, Ill.	312-663-0884
Los Angeles, Calif.	213-688-6694
Washington, D.C.	202-523-5022
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-4986
Regulations Writing Seminar	523-5240
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, DECEMBER

58271-58480	1
58481-58638	2
58639-59226	3
59227-59526	4
59527-59940	7
59941-60172	8
60173-60410	9
60411-60564	10
60565-60798	11
60799-61064	14
61065-61244	15
61245-61440	16
61441-61632	17
61633-61832	18
61833-62044	21
62045-62238	22
62239-62390	23

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Administrative Orders:

Presidential Determinations:

No. 73-10 of January 2, 1973 (Amended by Presidential Determination No. 82-2 of November 23, 1981) 58481

No. 82-2 of November, 23 1981 58481

No. 82-3 of December 5, 1981 62241

Proclamations:

4885 60173

4886 61245

Executive Orders:

May 27, 1913 (Revoked by PLO 6094) 59974

February 7, 1933 (Revoked in part by PLO 6093) 58491

12036 (Revoked by EO 12333) 59941

12050 (Revoked in part by EO 12336) 62239

12135 (Revoked by EO 12336) 62239

12258 (Revoked in part by EO 12336) 62239

12333 59941

12334 59955

12335 61633

12336 62239

5 CFR

213 58271

316 61065

550 58271

890 ..... 59227, 61066

1201 62045

Proposed Rules:

213 60590

890 61132

891 61132

1252 60591

1253 60591

7 CFR

Ch. XVIII 61988

2 ..... 59227, 62046

201 59527

271 60160

272 60160

273 60160

274 60160

278 60160

301 ..... 60799, 61066, 61833

725 62047

729 62048

800 ..... 58277, 60411

904 61833

905 ..... 58483, 60170, 60411, 61441

907 ..... 58278, 58639, 60412, 61442

910 ..... 59228, 60565, 61635

912 61833

913 61833

928 ..... 58639, 59228, 61833

944 60170

959 59228

966 ..... 60175, 61833

971 61833

982 62243

984 ..... 59228, 59229

987 59228

989 ..... 58640, 59228

991 60177

993 61635

1001 58641

1030 58278

1032 59230

1065 60800

1133 60412

1403 61442

1421 ..... 59957, 61247, 61833

1427 61834

1443 61248

1446 61637

1701 ..... 61639, 61640, 62049

1822 60179

1863 60179

1872 60179

1910 60801

1924 ..... 60179, 60801

1927 60179

1941 60801

1943 60801

1951 60179

1955 60179

1960 61640

2555 62244

2856 ..... 58643, 62244

2859 62244

2870 62244

Proposed Rules:

102 59930

225 ..... 60592, 62081

272 60614

442 58492

701 60616

959 61664

987 62280

1004 58337

1135 ..... 61480, 62281

1427 60210

1438 62081

1904 61291

1924 58497
1944 ..... 58497, 61291

9 CFR

51 ..... 60565, 61641
71 59527
83 59527
91 59959
92 60806
201 60414
202 60414
203 60414
204 60414

10 CFR

2 58279
11 58281
14 62081
19 58281
20 58281
21 58281
25 58281
50 58484
72 58281
75 58281
95 58281
170 58281
378 62226
500 59872
501 59872
503 59872
504 59872
505 59872
1504 61222

Proposed Rules:

Ch. I 58340
20 60005
50 ..... 61132-61136, 61484, 61894, 62281
70 61136
73 61136
430 61485
456 ..... 58340, 58341
478 58500
500 59924
501 59924
503 59924

12 CFR

5 59232
201 ..... 60189, 61249
204 62053
205 60190
226 ..... 58644, 60190, 61067
329 61067
335 61641
338 61641
523 59234
563f 61249
614 ..... 58284, 59959, 59960
615 59960
1204 58285

Proposed Rules:

Ch. VII 61136
225 61297
309 60827
543 60005
544 60005
545 ..... 58341, 59256, 60005
552 60005
577 60005
614 61485

13 CFR

123 61642

Proposed Rules:

122 58701

14 CFR

25 59528
39 ..... 58285, 58644-58647, 59529, 60417-60419, 60807, 60808, 61443-61447, 61835-61837
71 ..... 59529-59530, 60810-60812, 61448, 61449, 61838
73 58649
93 60420
97 ..... 58650, 60808
121 ..... 58651, 61450
127 58651
135 58651
145 58651
171 61560
250 ..... 61068, 62285
294 62054

Proposed Rules:

1 60461
21 ..... 60461, 61486
25 58702
36 61486
39 60828
43 60461
45 60461
47 60461
61 60461
63 60461
65 60461
71 ..... 59547, 60462-60464, 60829, 61487-61489
73 60465
75 60466
91 60461
93 60461
99 60461
121 ..... 60461, 61489
123 60461
125 60461
127 60461
133 60461
135 60461
137 60461
141 60461
373 58501

15 CFR

4 62285
399 58286
806 60191
904 61643
922 61643
970 61643
981 61643

Proposed Rules:

2009 59547

16 CFR

13 ..... 58652-58654, 59532
1201 60812

Proposed Rules:

13 ..... 59258, 60211
1145 ..... 58702, 59548
1201 60830

17 CFR

15 59960
16 ..... 59960, 61250
17 59960
18 59960
21 59960
200 ..... 59532, 60192
230 58287
231 60421
240 ..... 58291, 58654, 60193, 61454
241 60421
249 62246
271 60421
274 62246

Proposed Rules:

1 61140
12 60834
180 60834
190 60007
210 58505-58511
229 ..... 58507, 58511
230 58511
239 ..... 58511, 62291
240 58511
249 58511
260 58511
274 62291

18 CFR

34 60420
154 ..... 58292, 60429
157 60429
250 60429
260 60429
271 ..... 58293-58295, 59533, 60193
282 58296
300 60813

Proposed Rules:

Ch. X 60406
2 60466
141 60214
271 ..... 60467, 60468, 62086
357 60617

19 CFR

Proposed Rules:

12 61142
210 62292

20 CFR

214 61251
218 61251
232 61251
237 61251
416 58664

Proposed Rules:

416 60470

21 CFR

5 59234
81 59235
172 ..... 58297, 59968
173 59235
175 60566
177 58297
178 ..... 59235, 60566
193 58486
312 59968
430 ..... 58297, 61068, 61071
431 ..... 60567, 61071
436 ..... 58297, 60567, 61068, 61071
440 ..... 58297, 61071
444 ..... 60567, 61071
446 60567
448 ..... 60567, 61071
450 60567
452 61071
453 60567
455 ..... 60567, 61068
460 60569
510 60569
520 ..... 60569, 60570, 61653
522 ..... 60569, 61072, 62054
526 60569
540 60567
544 60567
546 60567
548 60571
555 59969
558 ..... 58300, 61073
561 ..... 58487, 51533
808 59236
1308 ..... 59969, 60572

Proposed Rules:

50 61666
135 ..... 60007, 62087
148 58343
168 60625-60628
193 58343
452 62087
455 62087
555 62087
1308 60008

22 CFR

22 60572
124 60820
126 60820
134 58301
213 58488

Proposed Rules:

22 61298
203 60009

23 CFR

511 59533
520 59533
522 59533
524 59533
530 59533
542 59533
544 59533
560 59533

Proposed Rules:

772 59550

24 CFR

200 61839
235 61455
420 59971

26 CFR

14a 61839
301 60435

Proposed Rules:

1 61144
31 61144

27 CFR

9 59237-59241

Proposed Rules:

9 59273-59276

28 CFR

16 61455
503 59506
522 59506
527 59506
543 59506
551 59506

Proposed Rules:

571 59510

29 CFR

1601 62055
1910 60758
2204 59243
2520 61074
2530 ..... 59243, 60572
2619 61084

Proposed Rules:

1910 61671
2670 62087
2672 62087

30 CFR

221 58304
602 60435
801 59934
806 59934
934 62253
946 ..... 61085, 61088

Proposed Rules:

211 61424
221 61298
730 59482
731 59482
732 59482
733 59482
736 59482
840 ..... 58464, 61676
842 ..... 58464, 61676
843 ..... 58464, 61676
845 ..... 58464, 61676
870 60778
872 60778
874 60778
875 60778
877 60778
879 60778
882 60778
884 60778
886 60778
888 60778
920 61145
946 60216
948 61897

31 CFR

341 60572
346 60577
535 59939

32 CFR

57 62256
166 60821
210 58306
288 61254
504 60194
505 61115
701 ..... 60445, 62267
1287 61116
1289 61116

Proposed Rules:

199 61299
1608 62093
1662 62093
1665 62093

33 CFR

82 61456
85 61845
86 61845
110 61457
117 ..... 58665, 60445, 61458, 61459
207 61116

Proposed Rules:

87 59533
117 ..... 59534, 60477

34 CFR

Proposed Rules:

642 61060
643 61060
644 61060
645 61060
646 61060
776 59555

35 CFR

Proposed Rules:

10 60216
103 60013

36 CFR

272 62056

37 CFR

201 58307
202 58671
307 62267

38 CFR

1 62056
3 59971
21 ..... 59246, 62059

Proposed Rules:

1 62296

39 CFR

111 ..... 59247, 60200, 60201, 61460, 62264
601 61117

Proposed Rules:

111 61897

40 CFR

51 61612
52 ..... 58673, 59536, 59971–59973, 60202, 60204, 61117–61124, 61254–61270, 61612, 61653, 61849, 62060–62064, 62273
60 ..... 61125, 62065–62067
81 ..... 59974, 61126, 61271, 61655
122 60446
123 58488
136 58489
180 ..... 58314, 58490, 59248, 61272, 62274, 62275
260 59537
261 61272
262 60446

Proposed Rules:

1 62098
51 61613
52 ..... 60015–60017, 60217, 61490, 61491, 61613, 62298
65 61676
81 60017
86 62366
122 61145
123 ..... 60477, 61145
141 58345
180 ..... 60020, 60217, 62299, 62300
264 61145
267 61145
403 62098

41 CFR

Ch. 1 61852
Ch. 7 62278
Ch. 101 60204
1–3 61127
1–12 62276
1–15 61127
8–1 60823
8–74 60823
14 61462
101–7 58315
101–11 60204

Proposed Rules:

101–47 62301

42 CFR

52 58674
55 58675
86 58675
87 58675
100 61287
401 59249
447 58677

Proposed Rules:

52d 58706
86 58706

43 CFR

7 58420
20 58420
1820 58316
3110 62038
3200 62038
3500 62038

Public Land Orders:

5173 (Amended by PLO 6098) 61472
5180 (Amended by PLO 6098) 61472
5184 (Amended by PLO 6098) 61472
5804 62068
6090 59542
6093 58491
6094 59974
6098 61472

Proposed Rules:

Subtitle A 58346, 60022
3400 61390
3410 61390
3420 61390
3430 61390
3440 61390
3450 61390
3460 61390
3470 61390
8350 61677

44 CFR

64 ..... 60448–60451, 62068
65 ..... 58316, 60453, 62070
67 ..... 58319, 60206, 60581, 61871
70 ..... 60207, 61873–61878

Proposed Rules:

67 ..... 59278, 60218–60220, 61898–61907, 62099, 62113
68 61299
80 61146
81 61146
82 61146
83 61146
84 61146

45 CFR

Proposed Rules:

74 58706
400 60629
401 60629
1336 58706

47 CFR

0 ..... 58681, 59975
1 ..... 58681, 60402, 60403
22 60403
63 ..... 58682, 59976
64 59976
73 ..... 58688–58691, 59542–59544, 60454–60456, 61288, 61289, 61658, 62073
81 ..... 60457, 61879
83 61879
90 ..... 58691, 59996

Proposed Rules:

1 60022
2 ..... 60221, 60633
22 60022
64 60839
73 ..... 58710–58727, 59555–59563, 60023, 60478, 60480, 60851, 61301–61305, 61677, 61679, 62113
74 ..... 60024, 60222
81 ..... 58347, 60022, 60633, 62113
83 ..... 60022, 60633, 62113
90 ..... 58728, 59564, 60031
97 ..... 60033, 60859

48 CFR

Proposed Rules:

7 60634
22 60634
34 60634

49 CFR

23 60458
172 58693
173 58693
175 58693
176 58693
178 58693
571 ..... 61473, 61887
1016 61659
1033 ..... 58491, 58697, 59996
1201 59249
1206 59545
1207 59545
1241 59249
1310 60208

Proposed Rules:

172 61908
173 61908
175 61908
571 60481
580 60482
1207 60035
1240 60035

50 CFR

20 ..... 58335, 62077
23 60589
32 60825
33 60825
216 61643
218 61643
246 61643
258 58804
285 61643

296 59998
611 ..... 58336, 58698, 60002, 60209
621 61643
652 60826
671 58699

Proposed Rules:

Ch. VI 60483
16 58348
611 ..... 59278, 59565, 61911
638 62302
657 61911
661 62303
672 59565

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/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

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.

Deadlines for Comments on Proposed Rules for the Week of December 27, 1981 through January 2, 1982

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

54919 11-5-81 / Increase in fees for Federal livestock grading and certification services; comments by 12-31-81

50509 10-14-81 / Increase in fees for Federal meat grading and certification services; comments by 12-31-81

Food and Nutrition Service—

35629 7-10-81 / National School Lunch Program and State Administrative Expense Fund; Assessment, Improvement and Monitoring System (AIMS); comments by 12-31-81

60592 12-11-81 / Summer Food Service Program; limitation of sponsor and geographic area eligibility; comments by 12-31-81

Soil Conservation Service—

52119 10-26-81 / Support activities; compliance with NEPA; comments by 12-28-81

CIVIL AERONAUTICS BOARD

52585 10-27-81 / Aircraft accident liability insurance; Canadian Charter Air Taxi Operators; classification and exemption of air taxi operators; comments by 12-28-81

53195 10-28-81 / Removal of "comments air carrier" classification form cargo and mail carriers; comments by 12-28-81

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

55732 11-12-81 / Foreign Fishing; reports and record keeping; comments by 12-28-81

EDUCATION DEPARTMENT

53716 10-30-81 / Post employment conflicts of interest; comments by 12-29-81

ENERGY DEPARTMENT

Economic Regulatory Administration—

58052 11-27-81 / Powerplant and industrial fuel use; comments by 12-28-81

ENVIRONMENTAL PROTECTION AGENCY

56464 11-17-81 / Connecticut application for interim authorization, Phase 1, Hazardous Waste Management Program; comments by 12-30-81

53704 10-30-81 / Fluoroalkenes; response to Interagency Testing Committee; comments by 12-29-81

FEDERAL COMMUNICATIONS COMMISSION

60022 12-8-81 / Amendment to allow the selection from among mutually exclusive competing applications using random selection or lotteries instead of comparative hearings; reply comments by 12-30-81

[*See also* 46 FR 58110, 11-30-81]

56473 11-17-81 / Calculation of necessary bandwidth for frequency modulation microwave radio relay systems; comments by 12-29-81

60222 12-9-81 / Experimental, auxiliary, and special broadcast and other program distributional services; current policy and procedures; comments by 1-2-82

50990 10-16-81 / FM broadcast station in Pittsburg, Kansas; changes in table of assignments; reply comments by 12-28-81

50989 10-16-81 / FM broadcast station in Williams, Ariz.; changes in table of assignments; reply comments by 12-28-81

55279 11-9-81 / Formulation of policies relating to broadcast renewal applicant; comments by 12-28-81

60031 12-18-81 / Specialized mobile radio system; revision of contour measurement; comments by 12-30-81

50988 10-16-81 / TV broadcast station in Cape Coral, Fla., changes in table of assignments; reply comments by 12-28-81

56831 11-19-81 / TV broadcast station; changes in table of assignments; Greenwood, S.C.; comments by 12-31-81

FEDERAL RESERVE SYSTEM

54565 11-3-81 / Bank holding companies (Regulation Y); Nonbanking activities; application by Bank America Corp. to provide management consulting services to nonbank depository institutions; comments by 12-30-81

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration—

58297 12-1-81 / Food additives permitted for direct addition to food for human consumption; zinc methionine sulfate tablets; objections by 12-31-81

Deadlines for Comments on Proposed Rules for the Week of January 3 through January 9, 1982

Next Week's Meetings

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing December 22, 1981

Documents Relating to Federal Grant Programs

This is a list of documents relating to Federal grant programs which were published in the **Federal Register** during the previous week.

Applications Deadlines

The Federal Register

Regulations appear as agency documents which are published daily in the **Federal Register** and codified annually in the **Code of Federal Regulations**

The **Federal Register**, published daily, is the official publication for notifying the public of proposed and final regulations. It is the tool to use to participate in the rulemaking process by commenting on the proposed regulations. And it keeps people up to date on the Federal regulations currently in effect.

The **Federal Register** contains many reader's aids—Highlights, Grant information, list of hearings and Sunshine meetings—which simplify the user's job.

The **Code of Federal Regulations** (CFR) contains the annual codification of the final regulations printed in the **Federal Register**. Each of the 50 titles is updated annually.

Subscription Prices:

Federal Register
One year: $75 domestic; $145 foreign
Six months: $45 domestic; $90 foreign

Code of Federal Regulations
One year: $525 domestic; $656.25 foreign
Single volumes: Individually priced.

ORDER FORM

Mail To: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Enclosed is $ _____ ☐ check, ☐ money order, or charge to my Deposit Account No.

☐☐☐☐☐☐☐–☐

Order No. _____

VISA

MasterCard

Credit Card Orders Only

Total charges $ _____ Fill in the boxes below.

Credit Card No. ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Expiration Date Month / Year ☐☐☐☐

Please send me

. . . . . **Federal Register:** $75 per year domestic; $145 foreign
$45 per six-month domestic; $90 foreign

. . . . . **Code of Federal Regulations:** $525 per year domestic; $656.25 foreign

Name—First, Last

Company name or additional address line

Street address

City State ZIP Code

(or Country)

PLEASE PRINT OR TYPE

FOR OFFICE USE ONLY	
Quantity	Charges
Enclosed	
To be mailed	
Subscriptions	
Postage	
Foreign handling	
MMOB	
OPNR	
UPNS	
Discount	
Refund	